



# REGULAR SELECTIVE INFORMATION FLOW

## FOR THE ATTENTION OF THE NATIONAL HUMAN RIGHTS STRUCTURES

ISSUE N°111  
(16 July – 31 August 2013)

Information **selected** by the « Versailles St-Quentin Institutions Publiques » research centre (Versailles St-Quentin-en-Yvelines University, France), under the responsibility of the Directorate of Human Rights (DG I) of the Council of Europe

For any queries please contact:  
[eugen.cibotaru@coe.int](mailto:eugen.cibotaru@coe.int)

# TABLE OF CONTENTS

(click on a title to reach the corresponding section)

<b>Introduction</b> .....	<b>3</b>
<b>Part I: The activities of the European Court of Human Rights</b> .....	<b>4</b>
A. Judgments.....	4
1. Judgments deemed of particular interest to the NHRSS.....	4
2. Other judgments issues in the period under observation.....	13
3. Repetitive cases.....	15
4. Length of proceedings cases .....	16
B. The communicated cases .....	17
<b>Part II: The execution of the judgments of the Court</b> .....	<b>19</b>
<b>Part III: Events, visits and reports</b> .....	<b>20</b>
<b>Part IV: The work of other Council of Europe monitoring mechanisms</b> .....	<b>22</b>
A. European Social Charter (ESC) .....	22
B. European Committee for the Prevention of Torture and inhuman or Degrading Treatment or Punishment (CPT).....	23
C. European Committee against Racism and Intolerance (ECRI).....	23
D. Framework Convention for the Protection of National Minorities (FCNM).....	23
E. Group of States against Corruption (GRECO) .....	23
F. Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL).....	23
G. Group of Experts on Action against Trafficking in Human Beings (GRETA) .....	24
<b>Part V: The inter-governmental work</b> .....	<b>25</b>
A. The new signatures and ratifications of the Treaties of the Council of Europe.....	25
B. Recommendations and Resolutions adopted by the Committee of Ministers .....	26
C. Other news of the Committee of Ministers .....	26
<b>Part VI: The parliamentary work</b> .....	<b>27</b>
A. Resolutions and Recommendations of the Parliamentary Assembly of the Council of Europe (PACE) .....	27
B. Other news of the Parliamentary Assembly of the Council of Europe (PACE).....	27
<b>Part VII: The work of the Office of the Commissioner for Human Rights</b> .....	<b>28</b>
<b>Index</b> .....	<b>29</b>

## 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 one month 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 four to eight weeks old.

The selection of the information included in the Issues is made by the "Versailles-St-Quentin Institutions Publiques" research centre (VIP – University of Versailles-St-Quentin-en-Yvelines, France) under the responsibility of 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, which has been funded so far by the Council of Europe, is supported this year by the "Directoire des Relations Internationales" and the "Versailles St-Quentin Institutions Publiques" research centre of the University of Versailles St-Quentin-en-Yvelines. It is entrusted to Alix Motais de Narbonne, Barbara Sanchez-Cadinot, Sarah Kaczmarczyk, Mariella Sognigbé, Pavlos Aimilios Marinatos and Yohann Ralle, under the supervision of Thibaut Fleury Graff, Ph.D, Associate Professor at Versailles St-Quentin-en-Yvelines University.**

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

[Back to Table of contents](#) – [Back to Index](#)

### A. Judgments

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

- **III-treatment / Conditions of detention / Deportation (Art. 3)**

#### **HORSHILL V. GREECE ([IN FRENCH ONLY](#)) (No.70427/11) – Importance 2 – 1 August 2013 – Violation of Article 3 – Poor conditions of detention – No violation of Article 5 § 1 – Lawful detention of the applicant**

The case concerned the placement of the applicant, who was due to be deported, in detention, and the conditions in which he was detained.

#### Article 3

The applicant had been held successively for fifteen days in two police stations, during which he had suffered from overcrowding. In addition, the cells in one of the police stations were located in the basement and had been deprived of natural light. Moreover, the cells did not have adjoining showers and did not provide the detainees with the possibility to walk outside or to take part in physical activity.

The Court held that the detention in police stations of people who are facing deportation procedures is inappropriate, a practice that had already been criticised by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and one that is against domestic legislation which prohibits the detention of defendants and convicted persons in police

stations, expect for such periods deemed necessary pending their transfer to prison since police stations are designed to accommodate people for short durations. There had therefore been a violation of Article 3.

#### Article 5 § 1

The Court noted that according to the directive of the Council of the European Union, an asylum seeker cannot be detained on the sole ground that he or she applied for asylum while allowing for the possibility of detention in exceptional circumstances. In this case, the detention of the applicant was authorised because he had no travel documents. In addition, the president of the administrative court had pointed out that the application of measures other than detention was impossible in the applicant's case since he had neither a fixed residence nor stable means of subsistence in the relevant state. The applicant had been immediately released when the authorities had been assured that he would be accommodated in a hostel run by a non-governmental organisation. Therefore, the Court considered that the applicant's detention had not been arbitrary and that it could not be concluded that it had not been lawful within the meaning of Article 5 § 1 (f) of the Convention.

#### Article 41 (just satisfaction)

The applicant did not submit any claim for just satisfaction.

#### **ABDULLAH YASA AND OTHERS V. TURKEY – No. 44827/08 – Importance 2 – 16 July 2013 – Violation of Article 3 – Domestic authorities' failure to prove the proportionality of the police's response to disperse a violent demonstration**

The case concerned the applicant's complaint that the police had used unjustified force during a violent demonstration that led him to be injured in the head by a tear-gas grenade.

#### Article 3

While admitted that the demonstration was not a peaceful one, the Court held that it was not established that the use of force against the applicant had been an appropriate response to the situation or that it had been proportionate to the aim sought to be achieved, namely the dispersal of a non-peaceful gathering. There had therefore been a violation of Article 3 of the Convention.

#### Article 46

The Court observed that the domestic law at the relevant time had not contained any provisions regulating the use of tear gas grenades during demonstrations, or any guidelines concerning their use. Therefore, the Court held that the safeguards surrounding the proper use of tear-gas grenades needed to be strengthened in order to minimise the risk of death and injury resulting from their use.

#### Article 41 (just satisfaction)

The Court held that Turkey was to pay the applicant EUR 15,000 to cover all heads of damage and EUR 5,000 in respect of costs and expenses.

#### **ADEN AHMED V. MALTA – No. 55352/12 – Importance 2 – 23 July 2013 – Violation of Article 3 – Degrading condition of detention in an immigrant detention centre – Violation of Article 5 § 1 – Unlawful detention – Violation of Article 5 § 4 – Lack of effective and speedy remedy under domestic law to challenge the lawfulness of detention**

The case concerned the applicant's living conditions in an immigrant detention context after entering the country irregularly

#### Article 3

The Court noted the conditions in which the applicant was detained in the domestic detention centre, notably the possible exposure of detainees to cold conditions, the lack of female staff in the detention centre, the lack of access to open air and exercise for periods up to three months as well as the applicant's personal situation, namely her fragile health and personal emotional circumstances. The cumulative effect of those conditions has amounted to degrading treatment within the meaning of Article 3 of the Convention.

#### Article 5 § 1

As the domestic authorities had not taken steps to pursue the applicant's deportation while she was being detained, it could not be said that deportation was the legitimate purpose of her detention. Consequently her detention was unlawful.

#### Article 5 § 4

The applicant's proceedings before the relevant domestic court had failed to produce a decision after more than six months. The Court concluded that she had not had an effective and speedy remedy under domestic law to challenge the lawfulness of her detention.

#### Article 41 (just satisfaction)

The Court held that domestic authorities were to pay the applicant EUR 30,000 in respect of non-pecuniary damage and EUR 3,000 in respect of costs and expenses.

#### **IZCI V. TURKEY – No. 42606/05 – Importance 2 – 23 July 2013 – Violation of Article 3 (substantive and procedural aspect) – (i) Disproportionate use of force by police against the applicant; (ii) Domestic authorities' failure to find and punish the responsible of the applicant's injuries – Violation of Article 11 – Disproportionate use of violence amounting to a dissuasive effect on people's willingness to demonstrate – Article 46 – Need of general measures in order to prevent further similar violations**

The case concerned the applicant's complaint that the police attacked her following her participation in a peaceful demonstration.

#### Article 3

The Court held that the excessive use of violence against the applicant, who had injuries severe enough to amount to ill-treatment, coupled with the failure of the domestic authorities to find and punish those responsible, had amounted to a violation of Article 3 both in its substantive and procedural aspect.

#### Article 11

The violence used towards the applicant by the police officers had been disproportionate to the aim pursued, namely preventing disorder and maintaining public order, and therefore had had a dissuasive effect on people's willingness to demonstrate, in violation of Article 11.

#### Article 46

The Court classified the failure of the domestic investigating authorities to carry out effective investigations into allegations of ill-treatment by law enforcement personnel during demonstrations as "systemic". Therefore, the Court requested the domestic authorities to adopt general measures in order to prevent further similar problems in the future.

#### Article 41 (just satisfaction)

The Court held that Turkey was to pay the applicant EUR 20,000 in respect of non-pecuniary damages.

- **Right to liberty and security (Art. 5)**

#### **SUSO MUSA V. MALTA – No. 42337/12 – Importance 1 – 23 July 2013 – Violation of Article 5 § 1 – Unlawful detention – Violation of Article 5 § 4 – Lack of effective and speedy remedy under domestic law to challenge the lawfulness of detention – Article 46 – Domestic authorities requested to adopt new measures to improve the conditions of detained asylum seekers and allow them to obtain speedy review of the lawfulness of their detention**

The case concerned an asylum seeker who complained in particular that his detention has been unlawful and that he had not had an effective means to have the lawfulness of his detention reviewed.

### Article 5 § 1

Even though the Court was prepared to accept that the applicant's detention had a sufficiently clear legal basis, it found that the detention of the applicant had been arbitrary. Indeed, the conditions of his place of detention had been highly problematic from the standpoint of Article 3. Moreover, it had taken the authorities an unreasonable amount of time to determine whether the applicant should have been allowed to remain in the domestic country. Finally, the Court found that the deportation proceedings had not been prosecuted with due diligence. Therefore, there has been a violation of Article 5 § 1.

### Article 5 § 4

The Court found that there had been a breach of Article 5 § 4 of the Convention on account of the absence of a remedy enabling the applicant to have a speedy review of the lawfulness of his detention.

### Article 46

The Court requested the domestic authorities to establish a mechanism to allow individuals seeking a review of the lawfulness of their immigration detention to obtain a determination of their claim with a reasonable time limit.

### Just satisfaction (Article 41)

The Court held that domestic authorities were to pay the applicant EUR 24,000 in respect of non-pecuniary damage, and EUR 3,000 in respect of costs and expenses.

- **Right to a fair trial (Art. 6)**

**SFEZ V. FRANCE ([IN FRENCH ONLY](#)) – No. 53737/09 – Importance 3 – 25 July 2013 – No violation of Article 6 § 3 (c) – Domestic authorities' entitlement to refuse to grant adjournment of a hearing**

**RIVIÈRE V. FRANCE ([IN FRENCH ONLY](#)) – No. 46460/10 – Importance 3 – 25 July 2013 – Violation of Article 6 §§ 1 and 3 (c) – Domestic authorities' failure to explain their refusal to grant adjournment to the applicant**

Both cases concerned a refusal by the judicial authorities to grant a request for the adjournment of a hearing.

#### The Sfez case

The Court emphasised that Article 6 § 3 (c) only obliged the authorities to intervene if a failure by legal-aid counsel to provide effective representation was manifest or was brought to their attention with sufficient notice. However, the Court found that the applicant did not use the ten days he had before the hearing to contact another lawyer after his failed him. He also did not show much interest in his file that he only consulted once. Furthermore, despite the refusal of adjournment, the applicant was effectively heard.

The Court then gives details about the concrete application of Art. 6 § 3 (c) by concluding that there is no breach of this article when the applicant clearly shows no diligence in finding a lawyer to represent him.

#### The Rivière case

The Court pointed out that the Domestic Court of Appeal did not give reasons to refuse the adjournment. Therefore, the Court of Appeal did not prove it examined the validity of the applicants' excuses. The Court concluded this was a breach of Art. 6 §§ 1 and 3 (c).

The Court thus gives details about the concrete application of Art. 6 § 3 (c): even if the Domestic Court of Cassation cannot check the validity of the decision of a Court of Appeal to reject an adjournment, European Court is always supposed to be able to verify it. This means the Court of Appeal has to show diligence in explaining the reasons of such a refusal.

### Article 41 (just satisfaction)

The court held that France was to pay the second applicants and their son EUR 300 each in respect of non-pecuniary damage, and EUR 4,784 jointly in respect of costs and expenses.

**ÜRFI CETINKAYA V. TURKEY ([in French only](#)) – No. 19866/04 – Importance 2 – 23 July 2013 – No violation of Article 3 – Distress caused by domestic authorities to the applicant did not reach the threshold of severity required to constitute an ill-treatment – Violation of Article 5 § 3 – Domestic authorities’ failure to justify the lengthy period of the applicant’s detention – Violation of Article 6 § 2 – Domestic authorities’ failure to respect the principle of presumption of innocence**

The case notably concerned the infringement by the domestic authorities of the principle of presumption of innocence, on account of a press release issued by the domestic authorities referring to the applicant as an international drug trafficker.

#### Article 3

The Court concluded that neither the applicant’s state of health nor the distress he claimed to be experiencing had attained the threshold of severity required to constitute a breach of the right protected by Article 3 of the Convention.

#### Article 5 § 3

The Court held that the justifications given by the trial court judges could not be said to have been relevant and sufficient. Therefore, there had been a violation of Article 5 § 3 of the Convention.

#### Article 6 § 2

The Court held that there has been an infringement by the domestic authorities of the applicant’s right to be presumed innocent on account of a press release issued by the authorities referring to him by name and describing him as an “international drug trafficker”. The Court criticised in particular the use of the term “international drug trafficker”, which had been used in an unqualified manner to describe the applicant in the press release and which had been reproduced without qualification by certain newspapers. The Court therefore held that there had been a violation of Article 6 § 2 of the Convention.

#### Just satisfaction (Article 41)

The court awarded the applicant EUR 10,000 in respect of non-pecuniary damage.

- **No punishment without law (Art. 7)**

**[MAKTOUF AND DAMJANOVIC V. BOSNIA AND HERZEGOVINA](#) – No. 2312/08 and 34179/08 – Importance 1 – 18 July 2013 – Violation of Article 7 – Domestic authorities’ failure to justify the retroactive application of a criminal code to the applicants**

The case concerned complaints by the two applicants, convicted by the domestic court of war crimes, that a more stringent criminal law had been applied to them retroactively than that which had been applicable at the time they committed the offences.

Contrary to crimes against humanity, the war crimes committed by the applicants constituted criminal offences under national law at the time they were committed. Therefore, the Court could answer the question whether the applicants could have received lower sentences if the 1976 Domestic code had been applied. Since there was a real possibility that the retroactive application of the 2003 domestic code operated to the applicant’s disadvantage in the special circumstances of this case, the Court held that they had not been afforded effective safeguards against the imposition of a heavier penalty, in breach of Article 7. The Court thus reiterated the importance of the rule of non-retroactivity within the Convention.

Under Article 41 (just satisfaction), the Court ruled that, since it was not certain that the applicants would indeed have received lower sentences had the 1976 Code been applied, the finding of a violation of the Convention constituted in itself sufficient just satisfaction for any non-pecuniary damage suffered. The Court further held domestic country was to pay each applicant EUR 10,000 in respect of costs and expenses.



- **Right to respect for private and family life (Art. 8)**

**BERISHA V. SWITZERLAND (No. 948/12) – Importance 3 – 30 July 2013 – No violation of Article 8 – No failure of the relevant state to strike a fair balance between the applicants’ interest in family reunification and its own interest in controlling immigration**

The case concerned the domestic authorities’ refusal to grant residence permits to the applicants’ three children who were born in their country of origin and entered the relevant state illegally and the domestic authorities’ decision to expel them back to their country of origin.

The Court considered that the applicants had always intended to reunite with their children in the relevant state. However their conscious decision to not remain in their home country did not prevent them from maintaining the same degree of family life that they had had many years before; the applicant had returned to visit his wife and children on numerous occasions, had a third child with her and was supporting them financially. Furthermore, the length of stay of the three children in the relevant state had not been long enough to lose the strong social and linguistic ties that they had to their home country.

Concerning the illness of one of the children and the applicants’ claim that this was the reason that necessitated their moving to the relevant state, the Court held that the child’s health had improved to the extent that it would not hinder her return to her country of origin. In addition, with respect to the other two children who were 19 and 17 years old, the Court held that they could also be supported from a distance; regarding the youngest child who was 10 years old, the Court established that nothing prevented the applicants from travelling to or even staying with their youngest child in their home country to ensure that she was provided with the necessary care and education.

Lastly, the Court noted that the liability of the applicants in the domestic proceedings had not been flawless, and that although they would have preferred to maintain and intensify family links in the relevant state, Article 8 of the Convention did not guarantee a right to choose the most suitable place to develop family life. Therefore the domestic authorities had not gone too far in refusing to grant the children residence permits and no violation had occurred.

**WĘGRZYŃSKI AND SMOLCZEWSKI V. POLAND – No 33846/07 – Importance 2 – 16 July 2013 – No violation of Article 8 – Fair balance struck by domestic courts between the public’s right to access to information and the applicant’s right to have his reputation protected**

The case concerned the complaint by two lawyers that a newspaper article damaging their reputation – which the Polish courts, in previous libel proceedings, had found to be based on insufficient information and in breach of their rights – remained accessible to the public on the newspaper’s website.

The Court noted that the applicant had not requested for a reference to the judgements in his favour to be added to the article online. The Court held that completely removing the contested article from the newspaper’s archive would have been disproportionate. Therefore, the Court found that domestic courts had complied with their obligation to strike a balance between the rights guaranteed under Article 10 (freedom of expression) and Article 8 (right to respect for private life) of the Convention. Accordingly, there had been no violation of Article 8.

- **Freedom of expression (Art. 10)**

**NAGLA V. LATVIA – No. 73469/10 – Importance 2 – 16 July 2013 – Violation of Article 10 – Domestic authorities’ failure to properly balance the interest of the investigation in securing evidence against the public interest in protecting the journalist’s freedom of expression**

The case concerned the search by the domestic investigating authorities of a well-known broadcast journalist’s home, and their seizure of data storage devices, capable of identifying the source of information.

The Court emphasised that the right of journalists not to disclose their sources could not be considered a privilege, dependent on the lawfulness or unlawfulness of their sources, but rather an intrinsic part of the right to information that should be treated with the utmost caution. Although the investigating judge reviewed the lawfulness of, and grounds for, the applicant's search after it had actually taken place, as provided for in domestic legislation, that judge failed to establish that the interests of the investigation in securing evidence were sufficient to override the public interest in the protection of the journalist's freedom of expression, including source protection and protection against the handing over of research material. There had accordingly been a violation of Article 10.

Under Article 41 (just satisfaction), the court held that Latvia was to pay the applicant EUR 10,000 euros in respect of non-pecuniary damage, and EUR 10,000 in respect of costs and expenses.

- **Right to an effective remedy (Art. 13)**

**M.A. v. CYPRUS – No. 41872/10 – Importance 2 – 23 July 2013 – Violation of Article 13 (taken together with Articles 2 and 3) – Lack of effective remedy with automatic suspensive effect to challenge the applicant's deportation – Violation of Article 5 § 1 and 4 – Unlawful detention – No violation of Article 5 § 2 – reasons and grounds of the applicant's detention were known by the applicant – No violation of Article 4 of Protocol No. 4 – No collective expulsion**

The case concerned the detention of the applicant, who had been granted refugee status, by domestic authorities and his intended deportation to his home country.

Article 13

Although the applicant was no longer at risk of deportation to his home country, his complaint under Article 13 in conjunction with Articles 2 and 3 of the Convention remained a live issue and was unaffected by the inadmissibility of the substantive claims under Articles 2 and 3. The Court noted that there was a lack of effective safeguards, which could have protected the applicant from wrongful deportation. The applicant was not deported to his home country only because of an interim measure issued by the European Court under Rule 39. Therefore, the Court held that there had been a violation of Article 13 of the Convention.

Article 5 § 1

After having noted that there had been a de facto deprivation of liberty, the Court held that the authorities had not justified the applicant's detention in accordance with any particular domestic law that could have offered legal certainty. Moreover, the applicant's detention on the ground that he was an immigrant staying unlawfully on the relevant country, when this was not in fact the case, was unlawful. The Court thus concluded that there had been a violation of Article 5 § 1 of the Convention.

Article 5 § 2

The Court accepted that the applicant was either informed that he had been arrested on grounds of unlawful stay or at least understood the reason of his arrest and detention. Therefore, there was no violation of Article 5 § 2 of the Convention.

Article 5 § 4

The Court held that the average length of the proceeding recourse in domestic law, standing at eight months, was too long for the purpose of Article 5 § 4. Accordingly, there had been a violation of Article 5 § 4 of the Convention.

Article 4 of Protocol No. 4

The measures in question did not have the appearance of a collective expulsion.

Article 41 (Just satisfaction)

The Court held that domestic authorities were to pay the applicant EUR 10,000 in respect of non-pecuniary damage.

- **Cross-articles case**

**KHODORKOVSKIY (NO. 2) AND LEBEDEV (NO. 2) V. RUSSIA** – Respectively No. 11082/06 and 13772/05 – Importance 2 – 25 July 2013 – No violation of Article 3 – Appropriate conditions of one applicant in remand prison - Violation of Article 3 - Applicant being placed in a metal cage during court hearings - Violation of Article 5 §§ 3 and 4 - Length of the applicant's detention on remand and delayed examination of a detention order - No violation of Article 6 § 1 - Impartiality of the judge, appropriate time and facilities given for the preparation of the applicants' defence - Violation of Article 6 §§ 1 and 3(c) and (d) - Breaches of the lawyer-client confidentiality and unfair taking and examination of evidence by the trial court - No violation of Article 7 - Reasonable application of the tax law to convict the applicants - Violation of Article 8 - Applicants' transfer to penal colonies thousand kilometres away from their families - Violation of Article 1 of Protocol No. 1 - Arbitrary way in which one applicant had been ordered to reimburse tax arrears following his conviction - No violation of Article 18 - Prosecution not politically motivated - Violation of Article 34 - Domestic authorities' harassment of one applicant's lawyers

The case concerned criminal proceedings, in which the applicants, two former top-managers and major shareholders of a large industrial group, were found guilty of large-scale tax evasion and fraud.

Article 3 (regarding one applicant's conditions in the remand prison)

The Court acknowledged that the conditions were tough. However, the applicant has spent not enough time there to reach the threshold of severity required by the Article 3.

Article 3 (regarding one applicant's conditions in the courtroom)

The Court found that there was no consistent reasons to place one applicant in a metal cage during the hearings, all the more so as there were plenty mass media attending the hearings.

Article 5 § 3 (length of detention on remand for one applicant)

The Court examined the applicant's situation features when the decision of detention was taken: the applicant was inoffensive in many ways (no possibility to tamper evidence, no influence in the company). Furthermore, the domestic court did not clearly justify its decision of detention. Therefore the Court concluded that the domestic courts had failed to conduct a genuine judicial review of the need for Mr Lebedev's continued detention.

Article 5 § 4 (conduct of the detention proceedings)

The Court found that a 26-day delay in examination of the appeal against the detention order was unjustified.

Article 6 § 1 (impartiality of the judge)

The applicants suggested that a judge had been biased because of his previous findings in the case of another top-manager of the company involved, case in which the applicants were involved too. The Court noted that the judge involved, under the domestic law, had not been formally bound by his or her earlier findings and had not made any statements which would prejudice the question of the applicants' guilt in the other judgment.

Article 6 § 1 (fairness of the proceedings)

Regarding the time and facilities for the preparation of the defence, the Court acknowledged the difficulties for the applicants in studying their respective cases. However, they were helped by a team of renowned lawyers. Furthermore, in spite of the acceleration of the trial course, the applicants could ask for adjournments, which were granted. Finally, the Court noted that if there had been inaccuracies in the trial record, this did not make the conviction unsafe.

Regarding the lawyer-client confidentiality, the Court found that there had been an unlawful search into the lawyer's office. Moreover, the Court condemned the fact that the prison administration perused all the written documents exchanged between the lawyer and the applicants. Indeed, there

was no reasonable cause to believe that the professional privilege is being abused. Finally, all the meetings between the lawyer and the applicants were overheard or attended by prison officers.

Regarding the taking and examination of evidence, the Court found that there was a breach of the Article as the judges refused to hear key witnesses and to examine evidence provided by the applicants. Thus, the defence had been unable to challenge the opinions of experts invited by the prosecution. It had therefore perturbed the equality of arms between the parties.

#### Article 7 (foreseeability of the tax law)

The Court observed that forms of economic activity are in constant development, and so are the methods of tax evasion. The law in this area may be sufficiently flexible to adapt to new situations, without, however, becoming unpredictable. However, the Court accepted as reasonable the national courts' conclusion that all operations of the trading companies had been sham. It considered that the scheme mounted by the applicants had to be distinguished from a bona fide tax minimisation technique. Consequently, the Court concluded that even if the application of the law in the applicants' case had been novel and unprecedented, it was not unreasonable and corresponded to the common-sense understanding of tax evasion in the domestic Criminal Code.

#### Article 8: transfer to remote penal colonies

Domestic Code of Execution of Sentences established that it allowed the sending of a convict to the next closest region, but not several thousand kilometres away from their families. As there was no proof that the closest regions penal colonies were overcrowded at the time, the Court concluded to a breach of Article 8.

#### Article 1 of Protocol No. 1 to the Convention (damages one applicant had been required to pay)

The Court observed that there was no domestic Code at the time permitting the recovery of company tax debts from the company's managers and never have the domestic courts interpreted differently. Finally, the Court stressed that the award of damages in favour of the state had been made in an arbitrary fashion, in violation of Article 1 of Protocol No. 1 to the Convention.

#### Article 18 (Political motivation of the prosecution)

The Court recalled that the whole structure of the Convention rested on the general assumption that public authorities in the member states acted in good faith, instead a very exacting standard of proof had to be applied. Thus, the Court was prepared to admit that some government officials had their own reasons to push for the applicants' prosecution. However, it was insufficient to conclude that the applicants would not have been convicted otherwise.

#### Article 34 (harassment of the applicants' lawyers)

The Court found there was evidence to show that the government harassed lawyers in order to bully them into not complaining to Strasbourg.

#### Article 41 (just satisfaction)

The court held that Russia was to pay to the applicants EUR 10,000 in respect of non-pecuniary damage. The applicants' pecuniary claims were rejected in full.

## 2. Other judgments issues 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<sup>1</sup>. For more detailed information, please refer to the cases.

STATE	DATE	CASE TITLE	IMP.	CONCLUSION	KEY WORDS
BELGIUM	25 July 2013	<b>CASTELLINO</b> ( <a href="#">IN FRENCH ONLY</a> ) (No. 504/08)	3	Violation of Art. 6 § 1	Unreasoned conviction of the applicant
BULGARIA	16 July 2013	<a href="#">HADZHIGEORGIEVI</a> (No. 41064/05)	3	Violation of Art. 1 of Prot. 1	Non-enforcement of domestic court's final judgement to restore the expropriated plot to the applicants
CROATIA	18 July 2013	<a href="#">BREŽEC</a> (No. 7177/10)	2	Violation of Art. 8	Eviction of the applicant while her flat was formerly a publicly-owned tenancy
		<a href="#">KLAUZ</a> (No. 28963/10)	3	Violation of Articles 6 § 1 and 1 of Prot. No.1	National authorities' failure to grant compensation high enough to compensate legal costs of civil proceedings
CZECH REPUBLIC	25 July 2013	<a href="#">KUMMER</a> (No. 32133/11)	?	Two violations of Art. 3	Degrading treatment and ineffective investigation into allegations of ill-treatment in police custody
ESTONIA	18 July 2013	<a href="#">VRONCHENKO</a> (No. 59632/09)	3	Violation of Art. 6 § 1 and § 3 (d)	Applicant's inability to question the main witness
LIECHTENSTEIN	18 July 2013	<a href="#">SCHÄDLER-EBERLE</a> (No. 56422/09)	2	No violation of Art. 6 § 1	Domestic Administrative Court's justified refusal to hold a public oral hearing
MOLDOVA	16 July 2013	<b>B.</b> (No. 61382/09) <b>MUDRIC</b> (No. 74839/10)	2	Violation of Art. 3 (positive obligations) (concerning both applicants)	Domestic authorities' failure to satisfy their positive obligation to protect the applicants from ill-treatment (domestic violence)
				Violation of Art. 8 (concerning the first applicant)	Domestic authorities' failure to strike a fair balance between the rights of the applicant and those of her ex-husband to the family house, resulting in the submission of the applicant to the risk of ill-treatment
				Violation of Art. 14 in conjunction with Art. 3 (concerning the second applicant)	Domestic authorities' failure to apply domestic legislation in order to protect the applicant against domestic violence on the grounds of preconceived and discriminatory ideas concerning the role of women in the family

<sup>1</sup> The “Key Words” in the various tables of the RSIF are elaborated under the sole responsibility of the Directorate of Human Rights

POLAND	16 July 2013	<a href="#">REMUSZKO</a> (No. 1562/10)	2	No violation of Art. 10	No breach of the applicant's freedom of expression on account of the refusal of a domestic newspaper to publish his advertisement
ROMANIA	16 July 2013	<a href="#">BALTEANU</a> (No. 142/04)	3	Violation of Art. 8	Lack of safeguards in the procedure authorising the interception and the recording of communications and inability of the applicant to seek the destruction of the recordings according to the domestic Code of Criminal Procedure or to seek compensation for the unlawful interception under the domestic general tort law
		<a href="#">STOLERIU</a> ( <a href="#">IN FRENCH ONLY</a> ) (No. 5002/05)	3	Violation of Art. 3	Poor conditions of detention (overcrowding and lack of hygiene); degrading treatment during hospitalisation (handcuffing of the applicant to his bed despite not having any violent precedents in his file)
RUSSIA	18 July 2013	<a href="#">NASAKIN</a> (No. 22735/05)	3	Two violations of Art. 3	Applicant's ill-treatment in police custody and domestic authorities' failure to carry out an effective investigation into the applicant's related allegations
				Violation of Art. 5 § 1	Unlawful pre-trial detention
				Violation of Art. 6 § 1	Unfairness of the criminal proceedings against the applicant (confessions under duress)
		<a href="#">TAZIYEVA AND OTHERS</a> (No. 50757/06)	3	Violation of Art. 8	Domestic authorities' inappropriate search of the applicant's home
SWEDEN	25 July 2013	<a href="#">ROUSK</a> (No. 27183/04)	2	Violation of Articles 8 and 1 of Prot. No. 1	Domestic authorities' disproportionate decision to sale the applicant's house while appeal was in progress
"THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"	18 July 2013	<a href="#">STOILKOVSKA</a> (No. 29784/07)	3	Two violations of Art. 6	Domestic Court of Appeal's failure to apply the principle of legal certainty Length of the civil proceedings
TURKEY	16 July 2013	<a href="#">ABIK</a> ( <a href="#">IN FRENCH ONLY</a> ) (No. 34783/07)	3	No violation of Art. 2	Absence of sufficient evidence attesting that the police officers had fired at the applicants' son
				Violation of Art. 2	Ineffective investigation into the death of the applicants' son
		<a href="#">BELEK AND OZKURT</a> ( <a href="#">IN FRENCH ONLY</a> ) (No. 1544/07)	3	Violation of Art. 10	Unjustified interference regarding the applicants' right to freedom of expression

<b>TURKEY</b> (CONTINUED)	16 July 2013	<b>MATER</b> ( <a href="#">IN FRENCH ONLY</a> ) (No. 54997/08)	2	No violation of Art. 8	The criticisms to which the applicant had been submitted were not of a violent, insulting or threatening character to her or her family and did not exceed the threshold of acceptable criticism
<b>UKRAINE</b>	25 July 2013	<a href="#">KOBERNIK</a> (No. 45947/06)	3	Violation of Art. 3	Poor conditions of detention (overcrowding and sanitary facilities)
				Violation of Art. 5 § 3	Length of the applicant's pre-trial detention
				Violation of Art. 6 § 1	Length of the criminal proceedings against the applicant
<b>THE UNITED KINGDOM</b>	16 July 2013	<a href="#">MCCAUGHEY AND OTHERS</a> (No. 43098/09) <a href="#">COLLETTE AND MICHAEL HEMSWORTH</a> (No. 58559/09)	1 and 2	Violation of Art. 2 (procedural investigation obligations)	Excessive length of investigation

[Back to Table of contents](#) – [Back to Index](#)

### 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	CONCLUSIONS	KEYWORDS
<b>PORTUGAL</b>	16 July 2013	RAMOS FERREIRA AND OTHERS ( <a href="#">IN FRENCH ONLY</a> ) (Nos. 23321/11, 71007/11 AND 71014/11)	Violation of Art. 1 of Prot. No. 1	Unfair compensation following expropriation
<b>UKRAINE</b>	18 July 2013	<a href="#">MOSKALENKO AND OTHERS</a> (No. 1270/12 AND 249 OTHER APPLICATIONS)	Violation of Articles 6 § 1, 13, and 1 of Prot. No. 1	Lengthy non-enforcement of domestic decisions in the applicants' favour
	25 July 2013	<a href="#">KHVOROSTYANOY AND OTHERS</a> (No. 54552/09 AND 249 OTHER APPLICATIONS)	Violation of Articles 6 § 1, 13, and 1 of Prot. No. 1	Lengthy non-enforcement of domestic decisions in the applicants' favour



#### 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
ITALY	16 July 2013	CORRADO AND OTHERS ( <a href="#">IN FRENCH ONLY</a> ) (Nos. 32850/02 AND 10 OTHERS)
		FIOCCA ( <a href="#">IN FRENCH ONLY</a> ) (No. 32968/02)
		GAGLIARDI ( <a href="#">IN FRENCH ONLY</a> ) (No. 29385/03)
		GALASSO AND OTHERS ( <a href="#">IN FRENCH ONLY</a> ) (Nos. 32740/02 AND 4 OTHERS)
SLOVENIA	18 July 2013	<a href="#">GRESOVNIK</a> (No. 31594/08)
		<a href="#">PLUT AND BICANIC-PLUT</a> (No. 7709/06)
TURKEY	16 July 2013	AKTAS AND KIRTAY ( <a href="#">IN FRENCH ONLY</a> ) (Nos. 36463/08 AND 53948/09)

- Back to [Table of contents](#) – Back to [Index](#) -



## B. 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. A **selection** of those cases is proposed below. 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.

STATE	DATE OF DECISION TO COMMUNICATE	CASE TITLE	SUMMARY OF ALLEGATIONS
CROATIA	17 July 2013	<b>GUBERINA</b> <a href="#">(No. 23682/13)</a>	Unfairness of domestic tax legislation enforcement, leading to a discriminatory situation.
		<b>LETINCIC</b> <a href="#">(No. 7183/11)</a>	Unfairness of administrative proceedings concerning the applicant's pension entitlement.
		<b>LUKIC</b> <a href="#">(No. 78705/12)</a>	Deprivation of the applicants right of access to a court due to the manner domestic courts applied the time-limits.
DENMARK	11 July 2013	<b>NAZARI</b> <a href="#">(No. 64372/11)</a>	Arbitrary refusal by the authorities to grant the applicant Danish citizenship. Lack of any adversarial process.
GEORGIA	11 July 2013	<b>SHANIDZE AND 2 OTHER APPLICATIONS</b> <a href="#">(No. 56080/10)</a>	Ill-treatment by the police, unfair criminal proceedings, decisions by the authorities based on unlawfully obtained evidence (drugs planted on the applicants). Lack of access to the Supreme Court.
LIECHTENSTEIN	11 July 2013	<b>A.K</b> <a href="#">(No. 38191/12)</a>	Partiality of the judges.
POLAND	9 July 2013	<b>HUSAYN (ABU ZUBAYDAH)</b> <a href="#">(No. 7511/13)</a>	Ill-treatment, unrecorded detention of the applicant, failure of the state to protect him from torture while on Polish territory, absolute ban on contact with family members or with the outside world, failure of the authorities to conduct an effective investigation.
ROMANIA	11 July 2013	<b>COJOCARU</b> <a href="#">(No. 74114/12)</a>	Death of the applicant's daughter and granddaughter due to medical staff's negligence. Ineffective criminal investigation in that regard.
		<b>LAZARESCU</b> <a href="#">(No. 3014/12)</a>	Unfairness of the proceedings. Breach of the property right of the applicant and her right to be compensated for the inability to use her property.
		<b>M.G.C.</b> <a href="#">(No. 61495/11)</a>	Breach by the Romanian authorities of their obligation to protect the applicant from inhuman and degrading treatment -in this case, rape and sexual abuse- and to protect her private life. No consideration of her young age to prove her lack of consent. Decisions of the authorities based on incomplete evidence.
RUSSIA	10 July 2013	<b>IVANOVA AND YEROKHINA</b> <a href="#">(No. 35124/09)</a>	Domestic authorities' failure to take measures to prevent the death of the applicant's son. Ineffective investigation about his death.

<b>SWEDEN</b>	10 July 2013	<b>B.N. AND O.N.</b> <a href="#">(No. 32384/11)</a>	Violation of the right to respect for the applicant's family life and discrimination through the refusal of the authorities to delete medical records and not transfer the information to a special medical record.
<b>THE NETHERLANDS</b>	12 July 2013	<b>SELIMANI AND GYATSO</b> <a href="#">(Nos 50108/11 AND 10642/13)</a>	Lack of compensation for the applicants' unlawful detention.
		<b>TELEGRAAF MEDIA NEDERLAND LANDELIJKE MEDIA B.V. AND VAN DER GRAAF</b> <a href="#">(No. 33847/11)</a>	Illegal search of the second applicant's (journalist) house and the negative effect of it on potential sources.
<b>TURKEY</b>	9 July 2013	<b>ZENGIN AND CAKIR</b> <a href="#">(No. 57069/09)</a>	Breach of the applicants' right to freedom of expression. Unnecessary proceedings against them for shouting slogans since the applicants rely on the fact that they live in a democratic society.

- Back to [Table of contents](#) – Back to [Index](#) -

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

Back to [Table of contents](#) – Back to [Index](#)

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

The Committee of Ministers of the Council of Europe published the [resolutions](#) adopted at its 1179th meeting (DH) (24-26 September 2013).

### **Publication of the annual report on the supervision of the execution of judgements and decisions of the Court (10.04.2013)**

The Committee of Ministers made public on 10 April 2013 the annual report for 2012 on its supervision of the execution of judgments and decisions of the Court. In accordance with the European Convention on Human Rights, the Committee of Ministers is responsible for supervising the execution of the Court's judgments by the states concerned.

The statistics reveal a steady decrease in the number of judgments brought before the Committee concerning repetitive cases which are well-founded. At the same time, the number of closed cases is up. This positive trend seems linked with various factors including the emphasis placed on the need to guarantee the effectiveness of domestic remedies as an integral part of every process of executing a judgment.

The year 2012 also features improvements in the payment of just satisfaction.

At the same time, it emerges that the overall workload of the Committee of Ministers is growing and consequently raises major challenges for the Committee and the national authorities.

The report illustrates the positive impact of the reform process commenced at Interlaken and continued at Izmir and Brighton by the [high-level conferences of the Council of Europe](#) held at those venues. It also emphasises the need to carry on the efforts in hand, the importance of the co-operation programmes, and the continued dedication of all stakeholders in the process of implementing the Court's judgments and decisions.

[READ THE REPORT](#)  
[PDF]

## Part III: Events, visits and reports

Back to [Table of contents](#) – Back to [Index](#)

This part presents events, visits and reports that either took place or were announced<sup>2</sup> during the period under observation (16 July – 31 August 2013) for this RSIF. For more details, click on the provided link or refer to the parts of this RSIF dedicated to the concerned body.

JULY 2013		
9-19	Visit of the CPT to Russia	<a href="#">More information</a>
18	Publication of a report by the CPT on the United Kingdom	<a href="#">Report - Response of the United Kingdom authorities</a> - <a href="#">More information</a>
	Publication of a report by the GRECO on the Netherlands	<a href="#">Report</a> - <a href="#">More information</a>
19	Publication of a report by the CPT on Slovenia	<a href="#">Report - Response of the Slovenian authorities</a> - <a href="#">More information</a>
	Publication of a report by the MONEYVAL on the use of online gambling for money laundering and the financing of terrorism purposes	<a href="#">See more below</a>
	Publication of a report by the MONEYVAL on the postponement of financial transactions and monitoring of bank accounts	<a href="#">See more below</a>
31	Publication of a report by the CPT on Georgia	<a href="#">Report - Response of the Georgian authorities</a> - <a href="#">More information</a>
AUGUST 2013		
21	Publication of the Dutch Government's response to the CPT's report on the 2011 visit	<a href="#">Response of the Dutch Government - CPT's report on the 2011 visit</a>
27	Publication of a report by the CPT on Latvia	<a href="#">Report - Responses of the Latvian authorities</a> - <a href="#">More information</a>

<sup>2</sup> These are subsequently due to take place.

SEPTEMBER 2013		
30	4th part of the 2013 Ordinary Session of the PACE (until 4 October). Announcement of the Václav Havel Human Rights Prize's winner.	<a href="#">More Information - Václav Havel Human Rights Prize</a>
OCTOBER 2013		
3	Debate on "Missing persons from Europe's conflicts: the long road to finding humanitarian answers"	<a href="#">Announcement of the debate</a>

- Back to [Table of contents](#) – Back to [Index](#) -

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

[Back to Table of contents](#) – [Back to Index](#)

### A. European Social Charter (ESC)

#### **Publication of the decision on admissibility in the case: Conference of European Churches (CEC) v. The Netherlands (16.07.2013)**

[Complaint No. 90/2013](#) - [Decision on admissibility No. 90/2013](#).

#### **Publication of the decision on admissibility in the case: European Federation of National Organisations working with the Homeless (FEANTSA) v. The Netherlands (16.07.2013)**

The complainant organisation alleged that The Netherlands' legislation, policy and practice regarding sheltering the homeless was incompatible with Articles 13 (right to social and medical assistance), 16 (right of the family to social, legal and economic protection), 17 (right of children and young persons to social, legal and economic protection), 19 (right of migrant workers and their families to protection and assistance), 30 (right to protection against poverty and social exclusion), 31 (right to housing), taken alone or in conjunction with Article E of the European Social Charter. On 1 July 2013 the European Committee of Social Rights declared the complaint admissible ([Complaint No. 86/2012](#) - [Decision on admissibility No. 86/2012](#)).

#### **Publication of the collective complaints related to the former published decisions (12-17.07.2013)**

- Association pour la protection des enfants (APPROACH) Ltd v. France, [Complaint No. 92/2013](#) - [Decision on admissibility \(more information\)](#).
- Association for the Protection of All Children (APPROACH) Ltd v. Ireland, [Complaint No. 93/2013](#) - [Decision on admissibility \(more information\)](#).
- Association for the Protection of All Children (APPROACH) Ltd v. Italy, [Complaint No. 94/2013](#) - [Decision on admissibility \(more information\)](#).
- Association for the Protection of All Children (APPROACH) Ltd v. Slovenia, [Complaint No. 95/2013](#) - [Decision on admissibility \(more information\)](#).
- Association for the Protection of All Children (APPROACH) Ltd v. Czech Republic, [Complaint No. 96/2013](#) - [Decision on admissibility \(more information\)](#).
- Association for the Protection of All Children (APPROACH) Ltd v. Cyprus, [Complaint No. 97/2013](#) - [Decision on admissibility \(more information\)](#).
- Association for the Protection of All Children (APPROACH) Ltd v. Belgium, [Complaint No. 98/2013](#) - [Decision on admissibility \(more information\)](#).

#### **Publication of the decision on admissibility in the case: Federation of Catholic Family Associations in Europe (FAFCE) v. Ireland (18.07.2013)**

The complainant organisation, the FAFCE, alleged that Ireland had failed to protect child victims of human trafficking. The FAFCE submitted that these weaknesses of the Irish authorities are in breach of Article 17 (the right of mothers and children to social and economic protection) of the ESC. On 1 July 2013 the European Committee of Social Rights declared the complaint admissible ([Complaint No. 89/2013](#) - [Decision on the admissibility No. 89/2013](#)).

## **Publication of the decision on the merits of the complaint lodged by International Federation for Human Rights (FIDH) against Belgium (29.07.2013)**

The complainant organisation alleged that the failure to offer a sufficient number of care and accommodation solutions deprived highly dependent adults with disabilities and their families of effective access to social and medical assistance, social services and housing, and of their autonomy, social integration and opportunities to take part in community life, in violation of Articles 13§3, 14 and 16, taken alone or in conjunction with Article E. Moreover, according to the FIDH, this lack of legal and social protection exposed them to lasting poverty and exclusion in violation of Article 30, taken alone or in conjunction with Article E.

In its decision, the European Committee of Social Rights concluded unanimously that:

- there was a violation of Article 14§1 of the Charter;
  - no separate question was raised under Article 13§3 of the Charter;
  - there was no violation of Article 15§3 of the Charter;
  - there was a violation of Article 16 of the Charter;
  - there was a violation of Article 30 of the Charter;
  - there was a violation of Article E taken in conjunction with Article 14§1 of the Charter, due to the fact that Belgium was not creating sufficient day and night care facilities to prevent the exclusion of many highly dependent persons with disabilities from this form of social welfare service appropriate to their specific, tangible needs.
  - there was no violation of Article E taken in conjunction with Article 14§1 of the Charter due to the fact that the Brussels-Capital Region had no institutions giving advice and personal help to people with disabilities;
  - there was no violation of Article E taken in conjunction with Article 13§3 of the Charter;
  - there was no violation of Article E taken in conjunction with Article 15§3 of the Charter;
- ([Complaint No. 75/2011](#) - [Decision on the merits No. 75/2011](#) - [Summary of the decision on the merits](#)).

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

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

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

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

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

*[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)**

### **Typologies report on the postponement of financial transactions and monitoring of bank accounts (19.07.2013)**

This report examined the experience of competent authorities in participating countries in effectively postponing suspicious financial transactions and monitoring bank accounts. It analysed the use of available procedures and mechanisms and set out practical problems encountered by relevant authorities in this context. It included a number of cases, red flags and indicators and formulates recommendations aimed at assisting competent authorities in making a more efficient use of their powers. The report concluded that the monitoring of bank accounts had proved to be an effective tool

in tracing criminal assets, and that in cases of suspicion of terrorist financing this was probably one of the most effective investigative instruments. Better knowledge of the methods and practices successfully used in this context by various financial intelligence units and law enforcement agencies and strengthened exchange of experiences and cooperation with the private sector could only lead to more effective financial investigations and successful identification, seizure and subsequent confiscation of proceeds of crime ([read the report](#)).

#### **Typologies report on the use of online gambling for money laundering and the financing of terrorism purposes (19.07.2013)**

The report provided an overview of the online gambling sector in MONEYVAL countries, including the extent and type of gambling offered and the ML/FT risks and vulnerabilities associated with online gambling and the methods of payment used. A list of typologies, red-flag indicators and vulnerabilities was presented, based on the experiences shared by public and private stakeholders with the project team. The report concluded that one of the major vulnerabilities was directly linked to unregulated online gambling. Additionally, given that online gambling, by its nature, was conducted anonymously, the use of false or stolen identities was less likely to be detected. The use of alternative payment systems to credit online gambling accounts systems might also augment the risk of ML/FT. Challenges also arose due to the cross-border nature of online gambling. The regulation and supervision of online gambling remained the strongest mitigating factors to prevent abuse ([read the report](#)).

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

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

- Back to [Table of contents](#) – Back to [Index](#) -



## Part V: The inter-governmental work

Back to [Table of contents](#) – Back to [Index](#)

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

COUNTRY	CONVENTION	RATIF.	SIGN.	DATE
ALBANIA	Convention on Mutual Administrative Assistance in Tax Matters <b>as amended by its 2010 Protocol</b> ( <a href="#">ETS No. 127</a> )	X		8 August 2013
	Fourth Additional Protocol to the European Convention on Extradition ( <a href="#">CETS No. 212</a> )	X		14 August 2013
CZECH REPUBLIC	Convention on Cybercrime ( <a href="#">ETS No. 185</a> )	X		22 August 2013
CHINA	Convention on Mutual Administrative Assistance in Tax Matters <b>as amended by its 2010 Protocol</b> ( <a href="#">ETS No. 127</a> )		X	27 August 2013
MOLDOVA	Additional Protocol to the Convention on Human Rights and Biomedicine, concerning Biomedical Research ( <a href="#">CETS No. 195</a> )	X		7 August 2013
	Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters ( <a href="#">ETS No. 182</a> )	X		8 August 2013
RUSSIA	Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse ( <a href="#">CETS No. 201</a> )	X		9 August 2013
SLOVAKIA	Framework Convention on the Value of Cultural Heritage for Society ( <a href="#">CETS No. 199</a> )	X		16 August 2013
SPAIN	Convention on the counterfeiting of medical products and similar crimes involving threats to public health ( <a href="#">CETS No. 211</a> )	X		5 August 2013

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

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

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

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

- Back to [Table of contents](#) – Back to [Index](#) -

## Part VI: The parliamentary work

Back to [Table of contents](#) – Back to [Index](#)

### 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 (PACE)

- *Themes*

**Tineke Strik criticised delay in investigating the fate of missing persons from Europe's conflicts (30.08.2013)**

On the occasion of the International Day of the Disappeared, Tineke Strik, Vice-Chairperson for the Migration Committee of the PACE, stressed the importance of speeding up the solution to the problem of missing persons in all relevant states in order to prevent future armed conflicts in Europe ([Read more](#)).

- *Countries*

**Bulgaria: Execution of the Judgments of the European Court does not require the introduction of domestic remedies allowing impunity (19.07.2013)**

The rapporteur of the PACE on the execution of the judgments of the ECtHR commented a bill debated in the Bulgarian Parliament, providing, inter alia, for the possibility to terminate criminal investigations if they lasted more than two years. He underlined that the length of the criminal proceedings must not be the pretext for criminals to get away with their crimes ([Read more](#)).

**Russia: “The judicial procedure against Mr Navalny has all features of political process” said co-rapporteurs (19.07.2013)**

The co-rapporteurs for monitoring of Russia have expressed their deep concern at the Court's decision in Kirov to jail Mr Navalny, Russian protest leader for five years on the charges of embezzlement from a timber firm ([Read more](#)).

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

Back to [Table of contents](#) – Back to [Index](#)

- *Countries*

### **Azerbaijan should ease restrictions on freedom of expression and assembly (06.08.2013)**

The Commissioner for Human Rights Nils Muižniek, releasing a report on his visit to Azerbaijan, underlined the harassment of journalists, and others expressing critical views, as a serious human rights concern and recommended the decriminalisation of defamation ([Read more-Read the report-Read the comments of the Azerbaijani authorities](#)).

- *Themes*

### **Child labour in Europe: a persisting challenge (20.08.2013)**

The Commissioner for Human Rights pointed out that there are strong indications that child labour remains a serious problem, which might be growing in the wake of the economic crisis. He asked governments to monitor this situation and to use the UN Convention on the Rights of the Child and the European Social Charter as guidance for preventive and remedial action ([Read more](#)).

## INDEX

Albania, 25  
Azerbaijan, 28  
Belgium, 13, 22, 23  
Bosnia and Herzegovina, 8  
Bulgaria, 13, 27  
China, 25  
Croatia, 13, 17  
Cyprus, 10, 22  
Czech Republic, 13, 22, 25  
Denmark, 17  
Estonia, 13  
France, 1, 3, 7, 16, 22  
Georgia, 17, 20  
Greece, 4  
Ireland, 22  
Italy, 16, 22  
Latvia, 9, 10, 20  
Liechtenstein, 13, 17  
Malta, 5, 6  
Moldova, 13, 25  
Netherlands, 18, 20, 22  
Poland, 9, 14, 17  
Portugal, 15  
Romania, 14, 17  
Russia, 11, 12, 14, 17, 20, 25, 27  
Slovakia, 25  
Slovenia, 16, 20, 22  
Spain, 25  
Sweden, 14, 18  
Switzerland, 9  
“the former Yugoslav Republic of Macedonia”, 14  
Turkey, 5, 6, 8, 14, 15, 16, 18  
Ukraine, 15  
United Kingdom, 15, 20