



REGULAR SELECTIVE INFORMATION FLOW

for the attention of the National Human Rights Structures

Issue#114

1 - 30 November 2013

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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

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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 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 feedback that may allow for the improvement of the format and the contents of this tool.

The preparation of the RSIF has been supported as from 2013 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, Mariella Sognigbé, Pavlos Aimilios Marinatos, Guillaume Verdier, Mahaliana Ravaloson and Léa Guémené, under the supervision of Thibaut Fleury Graff, Ph.D, Associate Professor at Versailles St-Quentin-en-Yvelines University.

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PartOne

GENERAL INFORMATION

This part presents a selection of information of general importance for the National Human Rights Structures.

This information was issued during the period under observation (1-30 November 2013) by the European Court of Human Rights, the European Committee of Social Rights, the Committee of Ministers, the Parliamentary Assembly and other Council of Europe monitoring mechanisms.

PartOne

§1 - EUROPEAN COURT OF HUMAN RIGHTS

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.

- **Right to life (Art. 2)**

BENZER AND OTHERS V. TURKEY (No. 23502/06) - Importance 2 - 12 November 2013 - Violation of Article 2 (substantive) - Domestic authorities’ failure to protect the life of the applicants’ relatives by bombing their two villages - Violation of Article 2 (procedural) - Inadequate investigation into the incident - Violation of Article 3 - Applicants forced to witness the deaths of their relatives and the destruction of their homes and domestic authorities’ failure to provide for aid in order to deal with the aftermath of the attack - Violation of Article 38 - Domestic authorities’ failure to provide all vital evidence, namely the flight log of the planes which had carried out the bombing

The case concerned the applicants’ allegations that the domestic military bombed their two villages by aircraft in March 1994, killing more than 30 of their close relatives, injuring some of the applicants themselves, and destroying most of the property and livestock. The domestic authorities claimed that this attack was carried out by the PKK, an illegal organisation.

Violation of Article 38

The Court noted that, although the domestic authorities had been asked to provide a full copy of the case file in 2009, they had not included the relevant flight log, which was supplied by the applicants in 2012. Even though the domestic authorities did not dispute the authenticity of the flight log, they argued that they were unaware of its existence and could not provide any explanation as to why it had not previously been supplied to the Court. Taking into consideration the importance of the State's co-operation in Convention proceedings, the Court held that the failure of the domestic authorities' failure to provide the flight had amounted to a violation of Article 38.

Violation of Article 2

The Court noted that the domestic authorities' statements that the attack had been carried out by an illegal organisation relied only on witness statements and investigations of domestic prosecutors. However, people who were neither resident in either of the applicants' two villages nor present at the incident had written all but one of the statements. Moreover, most of those villagers had been questioned by members of the military and not by an independent authority, as for the only statement written by an eyewitness was authored by a village guard employed by the State, rendering its independence and impartiality questionable. Moreover, the Court noted that the applicants had consistently maintained over a numbers of years that the attack had been carried out by a domestic aircraft, an allegation confirmed by the flights logs drawn up by the Civil Aviation Directorate that had established that missions had been flown to the villages' locations at the time that the applicants claim the attack had occurred. In the light of the foregoing, the Court concluded that the domestic authorities had conducted an aerial attack killing 33 of the applicants' relatives and injuring three of the applicants themselves. It had therefore been a violation of Article 2 under its substantive limb.

The Court also took in consideration that after the attack, the domestic authorities had failed to take any action immediately after the incident and when the investigations started, they had been deprived of their independence and thus formed baseless conclusions and attempted to withhold the investigation documents from the applicants. The domestic prosecutors hastily blamed the killings on the illegal organisation without any basis and the flight log, being the key element for the possible identification and prosecution of those responsible had been ignored. The Court could only consider that the inadequacy of the investigation had been the result of the domestic investigating authorities' unwillingness to officially establish the truth and punish those responsible. It had therefore been another violation of Article 2 under its procedural limb.

Violation of Article 3

The Court noted that the bombing had been ordered and carried out without the slightest concern for human life by the pilots or by their superiors. A number of applicants had had to witness the killing of their relatives and the destruction of their homes and had been forced to deal with the after-effects of the incident without even the minimum of humanitarian assistance from the domestic authorities. Moreover, in the aftermath of their relatives' death, the applicants had had to personally collect what was left of the bodies and take them to nearby villages for burial, even having to place the bodies in plastic bags for burial in a mass grave. The three applicants who were critically injured had to be taken to hospital on tractors by neighbouring villagers. The Court considered that the anguish and distress suffered by the applicants had been sufficiently severe as to be categorised as inhuman and degrading. Therefore, the Court held that there had been a violation of Article 3.

Article 46 (implementation of judgments)

Having regard to the fact that the investigation file was still open at the domestic level, the Court considered that new investigatory steps should be taken under the supervision of the Committee of Ministers in order to carry out an effective criminal investigation and punish those responsible for the bombing of the applicants' villages.

Article 41 (Just satisfaction)

The Court held that the Turkey was to pay the 38 applicants whose applications were admissible a total of EUR 2,305,000 of non-pecuniary damage and EUR 5,700 jointly in respect of costs and expenses.

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

BLOKHIN V. RUSSIA (No. 47152/06) - Importance 2 - 14 November 2013 - Violation of Article 3 - Lack of medical treatment - Violation of Article 5 §1 - Lack of justified provision by the domestic authorities - Violation of Article 6 §§ 1 and 3 - Lack of legal assistance, inability of the applicant to cross-examine the witnesses.

The case concerned a detention of 30 days in a juvenile temporary detention centre of a 12-year old boy that suffered from attention-deficit hyperactivity disorder and enuresis.

Violation of Article 3

The domestic authorities alleged they were unable to produce a copy of the medical care records of the applicant while he was in detention because the limit to store such data is three years. The Court noted that the limit was actually ten years regarding the officially published instructions. It found then, due to the conduct of the domestic authorities that the allegation of the applicant were well founded.

Indeed, he had not received adequate medical care for his attention-deficit hyperactivity disorder and enuresis in the temporary detention centre. This fact is amounted to inhuman and degrading treatment, in violation of Article 3.

Violation of Article 5 §1

The Court observed that the detention centre had been closed and guarded so that it was impossible to leave the premises without authorisation.

The domestic authorities alleged that the detention of the applicant was justified by Article 5 §1-(d), serving the purpose of educational supervision. However, the Court noted that the applicant had not received any regular and systematic educational supervision while he was in the centre. In fact, the domestic authorities could not refute the submission that the class had been irregular, the curriculum, incomplete, and those children of different ages were taught together in the same class.

Then, the Court found the detention could not be justified by the Article 5 §1-(d).

The domestic authorities also alleged that the detention had been justified by Article 5 §1-(b) and (c), preventing the applicant from committing new delinquent act. Again, the Court could not conclude that way because the provision only applies while preventing concrete and specific offence, in particular as regards the place and time of its commissions and victims; but no concrete and specific delinquent acts had been mentioned.

So the Court held there was a violation of Article 5 §1.

Violation of Article 6 §§1-3

The Court found that the applicant could neither see his family, nor obtain legal assistance while the police questioned him in spite of his young age. Moreover, he did not cross-examine the witnesses against him.

As it was the first time that the Court examined the procedures applicable to minors in Russia, it observed that no effort had been made to ensure the appearance of the witnesses at the Court. Then, there had been no counterbalancing factors for the applicant.

In conclusion, Article 6 was breached.

Article 41 (Just satisfaction)

The Court held that Russia was to pay the applicant EUR 7,500 in respect for non-pecuniary damage and EUR 1,493 in respect of costs and expenses.

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

GLIEN V. GERMANY (No. 7345/12) - Importance 2 - 28 November 2013 - Violation of Article 5 §1 - Inappropriate detention of a person “of unsound mind” - Violation of Article 7 §1 - Preventive detention amounting to a retrospective punishment

The case concerned the preventive detention of the applicant, extended beyond the maximum period of ten years permissible at the time of his offences and conviction.

Violation of Article 5 §1

Domestic authorities had argued that the preventive detention was justified by the Article 5 §1 (e) as a detention of a person “of unsound mind”. Indeed, it was established that the applicant suffered from a mental disorder for the purpose of the German Therapy Detention Act.

However, the Court noted that the permissible grounds for deprivation of liberty were to be interpreted narrowly. Then, mental condition had to be of certain gravity, seen as a “true” mental disorder.

And the Court doubted that the applicant’s dissocial personality could be considered as a sufficiently serious mental condition so as to be classified as a “true” mental disorder. In fact, domestic authorities found that the applicant had been diagnosed with a non-pathological paedophilia.

Moreover, the Court found the lack of medical or therapeutic environment appropriate to a person detained as a mental health patient. It was not convinced that domestic authorities would not have had the possibility to adapt his detention conditions so as to be appropriate for a person “of unsound mind”.

Then, no subparagraph of Article 5 §1 could justify the continued preventive detention of the applicant.

Violation of Article 7 §1

In the case of *M v. Germany* ([No. 19359/04](#)), the Court found that the applicant’s preventive detention was to be classified as a “penalty” for the purpose of Article 7, although it was not according to German criminal law. His right not to have a heavier penalty than the one applicable at the time of his offence was then breached.

In order to know if the measure is a penalty, it has to be known if it had been imposed following the conviction of criminal offence. And the applicant’s detention had been imposed together with his conviction of criminal offences.

In addition, the Court was not convinced that his preventive detention had substantially changed. His preventive detention remained among the most severe measures, which may be imposed under German criminal law. That is why it has to be considered as a penalty.

Article 7 §1 had then been breached.

Article 41 (Just satisfaction)

The Court held that Germany was to pay EUR 3,000 to the applicant in respect of non-pecuniary damage.

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

AL-DULIMI AND MONTANA MANAGEMENT INC. V. SWITZERLAND ([IN FRENCH ONLY](#)) - Importance 1 - 26 November 2013 - Violation of Article 6 - Applicants’ assets had been frozen and then confiscated without giving the opportunity to the applicants to have the measures taken examined by domestic courts

The case concerned the freezing of assets in the relevant State belonging to the applicant and to the company in which he was managing director following the United Nations Security Council’s adoption of two resolutions inviting UN member and non-member States to impose a general embargo on Iraq after it invaded Kuwait in 1990.

Violation of Article 6 § 1

The Court reiterated that the Convention could not be interpreted in a vacuum but had to be interpreted in harmony with the general principles of international law. Moreover, the Convention did

not prevent the Contracting Parties from transferring sovereign powers to an international organisation for the purposes of cooperation in certain fields of activity. State actions taken in compliance with such legal obligations was justified as long as the relevant organisation was considered to protect fundamental rights in a manner which could be considered at least equivalent to that provided under the Convention. However, the States remained responsible under the Convention for all actions and omissions of their bodies under the domestic law or under their international legal obligations. The Court noted that the domestic authorities had acknowledged that the system in place did not provide equivalent protection to that required by the Convention, in fact, the UN's Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism confirmed this conclusion when he stated that the sanctions regime against Al-Qaida, set up by Resolution 1267 (1989), did not always guarantee respect for international standards. In the present case, the State alleged that the restriction on the applicant's right to access to a court pursued a legitimate aim, namely the maintenance of international peace and security. In particular it was to guarantee that the assets and property of high-ranking officials in the former Iraqi authorities were transferred to the Development Fund for Iraq and thus returned to the Iraqi people for their benefit. However, the Court considered that, despite the fact that the domestic courts' refusal to examine the merits of the applicants' complaints had been motivated by their wish to ensure effective implementation of the obligations arising from the Security Council's Resolution, the applicants had been deprived of their assets for a considerable period of time while they should have been entitled to have their merits examined by a domestic court.

The Court considered that the lack of an effective and independent judicial review at United Nations level of the legitimacy of including persons and entities on the UN's list, should grant to the targeted persons and entities the right to present before domestic courts in order to examine any measure taken in application of the sanctions regime. There had therefore been a violation of Art. 6 § 1

Article 41 (Just satisfaction)

The assets in question had not yet been physically confiscated and the applicants pointed out that at this stage they had not yet sustained pecuniary damage as a result of violations capable of giving rise to compensation by way of just satisfaction. The Court considered that there was no causal link between the finding of a violation of Article 6 § 1 and the allegation of pecuniary damage, which was purely hypothetical for the time being. Thus, as the applicants had not requested compensation for non-pecuniary damage or reimbursement of their costs and expenses, the Court did not make any award under those heads.

VLAD AND OTHERS V. ROMANIA (No. 40756/06, 41508/07, 50806/07) - Importance unspecified - 26 November 2013 - Violation of Article 6 §1 - Excessive length of proceedings - Violation of Article 13 in conjunction with Article 6 §1 - Lack of an effective remedy in that respect

The case concerned the length of legal proceedings that three applicants had been involved in before domestic authorities, and the remedy available for their excessive length.

Violation of Article 6 §1

The Court observed that the proceedings against the first applicant had been involved in had lasted more than twelve years, due to the failure of the authorities to serve documents or obtain reports; and that the case had been referred to the authorities three times for further investigations.

It observed that the proceedings against the second applicant had been involved in had been on-going for approximately sixteen years and were still pending, due to the way in which domestic courts had handled the case, with numerous procedural errors, even though they were not particularly complex.

As to the third applicant, the Court noted that the proceedings had lasted for nine years. The domestic authorities had not attempted to justify the delays though hearings were postponed almost forty times.

The Court concluded that the length of the cases of all applicants had been excessive and failed to meet the "reasonable time" requirement under Article 6.

Violation of Article 13

The domestic authorities alleged that there had been changes made to the national legal system so that there was now an effective remedy for proceedings that had lasted for an excessive time. The

Court observed that there had been a law passed in 2010 and a new civil code of procedure, which came into force in February 2013.

However, the Court found that the domestic authorities had failed to produce one single example of a case that showed that litigants were now able to access an effective remedy; and that both the change to the law and the new civil code of procedure came in force after the Court had dealt with the majority of proceedings brought by the last two applicants. Then, they had no effective remedy for the length of time it took to process their cases.

Article 46 (Implementation of judgments)

The Court found the existence of a systemic problem within the domestic authorities. In spite of the progress that had been made, consistent and long-term measures should continue under the supervision of the Committee of Ministers.

Article 41 (Just satisfaction)

The Court held that Romania was to pay the applicants EUR 3,600, EUR 7,800 and EUR 2,340 respectively for non-pecuniary damage.

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

PUTISTIN V. UKRAINE (No. 16882/03) - Importance 2 - 21 November 2013 - No violation of Article 8 – Fair balance struck by domestic authorities between the applicant’s right to respect for his private life and the right to freedom of expression

The case concerned an article entitled “the truth about the Death Match”. It included a discussion about the possibility to make a film about that football game, which opposed in 1942 the FC Start – a team mostly composed of professional football players of FC Dynamo Kyiv who were working in a bakery in Kyiv at that time - and a team of pilots from the German Luftwaffe, air defence soldiers and airport technicians. The article also contained the match poster and a quotation about the execution of four players. The applicant alleged that it discredited his father, who had played in the game, suggesting that he had been a collaborator. He claimed that, by rejecting his requests for the article to be rectified, the domestic authorities had failed to protect his and his family’s reputation.

No violation of Article 8

As stated before in previous case law, the Court accepted that the reputation of a deceased member of a person’s family might affect one’s private life and identity, provided that there was a sufficiently close link between them.

However, as the domestic courts, the Court found that the applicant had been affected, but not directly, by the publication. Indeed, none of the pictures or words of the article referred to his father. Only a reader who already knew his father’s name on the poster might think that he had been a collaborator. Nevertheless, names of the players were not legible in the newspaper.

The Court also noted that the article informed the public of a proposed film on a historical subject, and it was neither provocative nor sensationalist. The effect on the applicant was then, indirect and marginal.

Moreover, the domestic authorities struck a fair balance between the applicant’s right to respect for his private life, and the right of the newspaper and journalist to freedom of expression.

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

ÖSTERREICHISCHE VEREINIGUNG ZUR ERHALTUNG, STÄRKUNG UND SCHAFFUNG V. AUSTRIA (No. 39534/07) - Importance 1 - 28 November 2013 - Violation of Article 10 - Disproportionality of the complete refusal to the legitimate aim - No violation of Article 13 - The setting aside the previous decision of domestic court.

The case concerned the refusal by domestic authority of a non-governmental organisation’s request for access to documents concerning agricultural and forest land transaction.

Violation of Article 10

The Court first observed that the Act that created the Real Property Transaction Commission pursued subjects of general interests; and that the applicant association had been involved in the legitimate gathering of information of public interests. The refusal of the association's request to be provided with the domestic authorities' decision had therefore constituted an interference with its right to receive information under Article 10.

The Court had been satisfied that the refusal had been "prescribed by law" within the meaning of Article 10; it agreed that the interference had pursued the legitimate aim of the protection of the rights of others. However, it found that the refusal had been unconditional although the association had proposed to reimburse the costs arising from the production and mailing of the requested copies.

The Court also found it striking that such a public authority deciding disputes over civil rights did not publish any of its decision. Further, it noted that the applicant association received anonymized copies of the equivalent decisions from all over Austrian regions without any particular difficulty.

So, the Court stated that even if the reasons on which the domestic authorities had based the refusal were relevant, they were not sufficient. A complete refusal had been disproportionate to the legitimate aim pursued.

The Court found that the domestic authority which held an information monopoly by its own choice, made it impossible to the applicant association to carry out its research. Then, Article 10 had been breached.

No violation of Article 13

The Court found that the domestic court had set aside its previous decision refusing to deal with the case. Following a subsequent application by the applicant association, seeking a ruling of the negative conflict of jurisdiction between the two domestic courts, the Constitutional court had finally decided on the applicant association's complaint.

The Court was therefore satisfied that the association had had an effective remedy in respect of its complaint under Article 10. There had accordingly been no violation of Article 13.

Article 41 (Just satisfaction)

The applicant association did not claim any compensation for pecuniary and non-pecuniary damage. The Court held that Austria was to pay the applicant association EUR 7,500 in respect of costs and expenses.

- **Freedom of assembly and association (Art. 11)**

KUDREVICIUS AND OTHERS V. LITHUANIA (No. 37553/05) - Importance unspecified - 26 November 2013 - Violation of Article 11 – Disproportionate conviction of the applicants for having protested against the fall of prices of agricultural products

The case concerned the conviction of five farmers for public order offence committed between 21 and 23 May 2003, who protested against the fall in prices of agricultural products by carrying out the blocking of major roads.

Violation of Article 11

The Court noted that an interference with the freedom of assembly will constitute a breach of Article 11 if it was not prescribed by law, did not pursue a legitimate aim and was not necessary in a democratic society for the achievement of that aim. Then, the main issue was to determinate if the punishment had been a proportionate way of achieving those aims.

It stated that domestic authorities had to show a degree of tolerance towards disruption during protests in order for the right of assembly to be upheld. Moreover, the applicants had permits to hold peaceful protests and the demonstration had not been violent. They also had acted reasonably by allowing passengers and dangerous goods vehicles to pass during the blockade. And as punishment, the domestic authorities had imposed convictions and custodial sentences, which had involved a twelve-month restriction on the applicants leaving their place of residence.

That is why the Court had held that the measure was not necessary and not proportionate in order to achieve a legitimate aim of preventing disorder, in breach of Article 11.

The Court found that it had already considered the main legal issue and that it was not necessary to examine the applicant's complaint under Article 7 separately.

Article 41 (Just satisfaction)

The Court held that Lithuania had to pay the applicants EUR 2,000 each in respect of non-pecuniary damage.

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 judgment¹. For more detailed information, please refer to the cases.

STATE	DATE	CASE TITLE	IMP.	CONCLUSION	KEY WORDS
ALBANIA	5 November 2013	IZET HAXHIA (No. 34783/06)	3	Violation of Art. 6	Unfairness of proceedings concerning the applicant's conviction in his absence while he did not have sufficient knowledge of the incriminating proceedings against him as well as applicant's impossibility under the domestic law to request a review of his case
AUSTRIA	7 November 2013	E. B. AND OTHERS (Nos. 31913/07, 38357/07, 48098/07, 48777/07 AND 48779/07)	2	Violation of Art. 14 in conjunction with Art. 8	Dismissal of the applicants' request to have their respective convictions, which had been found unconstitutional under the domestic law and not in accordance with the provisions of Art. 14 and Art. 8 of the Convention, deleted from their criminal record
				Violation of Art. 13	Lack of an effective remedy concerning the applicants' request
AZERBAIJAN	14 November 2013	CHANKAYEV (No. 56688/12)	2	No violation of Art. 3	Absence of substantial grounds suggesting that the applicant would face a real risk of ill-treatment in case of his extradition to Russia
				Violation of Art. 13 in conjunction with Art. 3	Lack of an effective domestic remedy by which the applicant could have challenged his extradition on the grounds of the risk of ill-treatment (domestic courts' failure to consider his allegations)
BELGIUM	14 November 2013	M.D. (IN FRENCH ONLY) (No. 56028/10)	3	Violation of Art. 5 § 4	Lack of a prompt judicial review concerning the lawfulness of the applicant's detention

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

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 Part One: General Information - §1 : European Court of Human Rights

BULGARIA	12 November 2013	STOYANOV AND TABAKOV (IN FRENCH ONLY) (No. 34130/04)	3	Violation of Art. 6 § 1	Domestic authorities' failure to enforce final court decisions in favour of the applicants
				Violation of Art. 1 of Prot. No. 1	Domestic authorities' failure to enforce the final judgment
				Violation of Art. 13	Lack of sufficient remedies
CROATIA	14 November 2013	TOPCIC-ROSENBERG (No. 19391/11)	1	Violation of Art. 14 in conjunction with Art. 8	Rejection of the applicant's request for 1 year of paid maternity leave on the grounds that this provision was applied to biological mothers and adoptive mothers only until the child's first birthday, while adoptive parents of a child under the age of twelve were entitled to paid leave of 270 days, a provision that did not recognise the fact that the position of a biological mother at the time of birth corresponds to the adoptive mother's position after the adoption
	28 November 2013	DVORSKI (No. 25703/11)	2	No violation of Art. 6 §§ 1 and 3 (c)	Adequate protection of the applicant's rights during the trial; Fairness of proceedings despite the non-representation of the applicant by a lawyer of his choice
FRANCE	14 November 2013	Z.M. (IN FRENCH ONLY) (No. 40042/11)	2	Violation of Art. 3	Real risk of ill-treatment in case of the applicant's extradition to his country of origin
GREECE AND POLAND	7 November 2013	MATRAKAS AND OTHERS (No. 47268/06)	2	Violation of Art. 6 § 1	Excessive length of civil proceedings
ITALY	26 November 2013	QUATTRONE (IN FRENCH ONLY) (No. 13431/07)	2	Violation of Art. 6	Excessive length of proceedings (5 years and 7 months and 3 years and 6 months)
				Violation of Art. 6	Order made to the applicant to pay the costs of the proceedings before the domestic court of cassation, a sum deemed excessive after taking into consideration the nature of the proceedings

Regular Selective Information Flow #114 (1-30 November 2013)
 Part One: General Information - §1 : European Court of Human Rights

LITHUANIA	5 November 2013	JGK STATYBA LTD AND GUSELNIKOVAS (No. 3330/12)	3	Violation of Art. 6 § 1	Excessive length of proceedings (9 years and 10 months)	
				Violation of Art. 1 of Prot. No. 1	Seizure of the disputed property and prohibition of ownership transfer for over 10 years	
	12 November 2013	PAULIUKIENE AND PAULIUKAS (No. 18310/06)	3	No violation of Art. 8	No failure of the domestic courts to protect the second applicant's right to respect to his private life and reputation given that the allegations made in the published article were accurate and that the article concerned a matter of general interest	
				2	Violation of Art. 6 § 1	Unfairness of proceedings on account of the administrative court's failure to assist the applicant in obtaining evidence and to consider it or at least provide reasons why further evidence was not necessary
	12 November 2013	JOKSAS (No. 25330/07)	2		No violation of Art. 10 taken alone or in conjunction with Art. 14	No interference with the exercise of the applicant's rights to freedom of expression on account of his discharge from professional military service once he had reached retirement age
				2	Violation of Art. 1 of Prot. No. 1	Domestic authorities' failure to strike a fair balance between the general interest and the applicant's right to peaceful enjoyment of her possessions given the disproportion between the land's market value and the compensation that had been awarded to her
					3	Violation of Art. 6 § 1
	12 November 2013	VARNIENE (No. 42916/04)	3	Violation of Art. 1 of Prot. No. 1		Deprivation of the applicant's property without a proper legal basis

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LITHUANIA (CONTINUED)	24 November 2013	BOGDEL (No. 41248/06)	2	No violation of Art. 1 of Prot. No. 1	No failure of domestic authorities to strike a fair balance between the general interest of the community land and the protection of the applicants' right to the peaceful enjoyment of their possessions by awarding the applicants the same amount of money their relative had paid for the plot of land while they remained the owners of the property built on this plot of land and continued to use that property to pursue professional activities
				No violation of Art. 6 § 1	Fairness of proceedings
POLAND	24 November 2013	BLAJA NEWS SP Z O. O. (No. 59545/10)	2	No violation of Art. 10	Justified interference with the applicant company's right to freedom of expression (the article had insufficient factual basis and defamatory character and had targeted a public prosecutor thus jeopardizing her office)
		WEREDA (No. 54727/08)	2	Violation of Art. 5 § 1	Lack of a prompt release of the applicant following the domestic supreme court's release order
				No violation of Art. 5 § 3	No failure of the domestic authorities to handle the applicant's case with due diligence
ROMANIA	5 November 2013	BRANISTE (IN FRENCH ONLY) (No. 19099/04)	3	Violation of Art. 1 of Prot. No. 1	Domestic authorities' failure to strike a fair balance between the general interest and the applicant's right to full enjoyment of his property which had been occupied by premises belonging to two cooperative societies
	24 November 2013	COJOACA (IN FRENCH ONLY) (No. 19548/04)	3	Violation of Art. 3	Poor conditions of detention (overcrowding)
				No violation of Art. 34	Applicant's failure to indicate precisely the documents he had been seeking so that he could file his petition before the Court when questioned justifiably by the domestic court while his allegations that the direction of the prison had hindered his right to respect for correspondence with the Court had been found unsubstantiated when he brought this matter before the domestic courts

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<p>ROMANIA (CONTINUED)</p>	<p>24 November 2013</p>	<p>EMILIAN-GEORGE IGNA (No. 21249/05)</p>	<p>3</p>	<p>Violation of Art. 5 § 4</p>	<p>Ignorance by domestic court of the applicant's lawyer's request to have access to the rest of the evidence thus depriving the applicant of the opportunity to adequately challenge the findings as required by the principle of equality of arms</p>
<p>RUSSIA</p>	<p>7 November 2013</p>	<p>BOPAYEVA AND OTHERS (No. 40799/06)</p>	<p>3</p>	<p>Violation of Art. 2 (substantive)</p>	<p>Unacknowledged detention of the applicants' relatives by State agents</p>
				<p>Violation of Art. 2 (procedural)</p>	<p>Domestic authorities' failure to carry out an effective criminal investigation into the circumstances of the disappearance and the death of the applicants' relatives</p>
				<p>Violation of Art. 3</p>	<p>Applicants' inability to ascertain the fate of their family members and the manner in which their complaints had been dealt by the domestic authorities caused them mental distress and anguish</p>
				<p>Violation of Art. 5</p>	<p>Unlawful and unacknowledged detention of the applicants' relatives by State agents</p>
				<p>Violation of Art. 13 in conjunction with Art. 2 and 3</p>	<p>Lack of remedies and absence of the results of the criminal investigations into the disappearance of the applicants' relatives</p>
		<p>ERMAKOV (No. 43165/10)</p>	<p>2</p>	<p>Violation of Art. 3</p>	<p>Authorities' failure to protect the applicant against a real and imminent risk of ill-treatment by preventing his forcible extradition to his country of origin and lack of an effective investigation in that respect</p>
				<p>No violation of Art. 5 § 1 (f)</p>	<p>Justified length of applicant's detention during the extradition proceedings given their importance while no particular delay attributable to the domestic authorities had been found</p>
				<p>No violation of Art. 5 § 4</p>	<p>Lawfulness of the review proceedings concerning the applicant's detention</p>
				<p>Violation of Art. 5 § 4</p>	<p>Domestic court's failure to address the detention issue in the proceedings</p>

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RUSSIA (CONTINUED)	7 November 2013	ERMAKOV (No. 43165/10) (CONTINUED)	2	No violation of Art. 5 § 4	Absence of any new relevant factors requiring the review of the lawfulness of the applicant's detention while the length of the interval between the latest extension of his detention and the proceedings had not been unreasonable		
				Violation of Art. 34	Domestic authorities' failure to comply with the interim measure preventing the applicant's extradition to his country of origin		
	14 November 2013	KASYMAKHUNOV (No. 29604/12)	2	Violation of Art. 3	Domestic authorities' failure to protect the applicant against a real and imminent risk of ill-treatment by preventing his forcible extradition to his country of origin and lack of an effective investigation in that respect		
				No violation of Art. 5 § 1 (f)	Justified length of applicant's detention during the extradition proceedings in accordance with the domestic law while no particular delay attributable to the domestic authorities had been found		
				Violation of Art. 34	Domestic authorities' failure to comply with the interim measure preventing the applicant's extradition to his country of origin		
	14 November 2013	KOZLITIN (No. 17092/04)	3	Violation of Art. 6 § 1 in conjunction with Art. 6 § 3 (c)	Unfairness of proceedings on account of the domestic supreme court's dismissal of the applicant's request to take part in the hearing without providing him with any other alternative opportunity to effectively defend himself		
				RYABTSEV (No. 13642/06)	2	Violation of Art. 3 (substantive)	Ill-treatment of the applicant during his arrest and in police custody
						Violation of Art. 3 (procedural)	Ineffective investigation in that respect
				Violation of Art. 6 § 1	Unfairness of proceedings regarding the applicant's confessions obtained under duress which were then used against him during the criminal proceedings		

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RUSSIA (CONTINUED)	28 November 2013	ALEKSANDR DEMENTYEV (No. 43095/05)	3	No violation of Art. 6 §§ 1 and 3 (c)	No failure of the domestic authorities to inform the applicant of the date and purpose of the sentencing hearing while the applicant had waived, tacitly and unequivocally his right to attend the hearing without alerting the domestic authorities about any difficulties encountered resulting in the conduction of the proceedings in his absence
		ALEKSANDR NOVOSELOV (No. 33954/05)	3	Violation of Art. 3 (substantive)	Ill-treatment of the applicant during his time in police custody
				Violation of Art. 3 (procedural)	Ineffective investigation into the applicant's allegations of ill- treatment
		SERGEY BABUSHKIN (No. 5993/08)	3	Violation of Art. 13	Lack of an effective and accessible remedy concerning the conditions of the applicant's detention
				Violation of Art. 3	Poor conditions of detention (overcrowding)
TARAKANOV (No. 20403/05)	3	Violation of Art. 5 § 1 (c)	Unlawful detention of the applicant		
SWITZERLAND	24 November 2013	VASQUEZ (No. 1785/08)	3	No violation of Art. 8	No failure of the domestic authorities to strike a fair balance between the refusal of the applicant's residence permit and his expulsion with the aims pursued in a democratic society (the applicant had been convicted for sexual offences, still had some familial and linguistic ties with his country of origin, could re-enter the State as a tourist or request the re- examination of the decision regarding the entry-ban and his residence had been close to the State's borders thus his social ties had not been seriously disrupted by distance)

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TURKEY	5 November 2013	ERTUS (No. 37871/08)	3	No violation of Art. 3 (substantive)	Absence of evidence to prove applicant's allegations of ill-treatment during his arrest (medical reports had revealed no signs of injury) while the force used against him during his arrest did not attain the minimum level of severity in order to constitute a violation
				Violation of Art. 3 (procedural)	Ineffective investigation into the applicant's allegations of ill-treatment
		MESUT DENİZ (No. 36716/07)	3	Violation of Art. 3 (substantive)	Ill-treatment amounted to the torture of the applicant during police custody
				Violation of Art. 3 (procedural)	Inadequacy of the investigation proceedings into the applicant's allegations and of the ensuing criminal proceedings against the police officers
				Violation of Art. 13	Lack of an effective remedy concerning the criminal proceedings which lasted longer than 9 years and resulted in the acquittal of the accused police officer
		NEZİR ADIYAMAN (No. 6042/09)	3	No violation of Art. 3	No failure of the domestic authorities to conduct an effective investigation into the applicant's allegations and absence of evidence to prove that the applicant had been ill-treated during police custody (medical reports revealed no signs of injury) while the force used against him during his arrest had been proportionate and necessary due to his resistance
		TUZUN (No. 24164/07)	3	No violation of Art. 3 (substantive)	Proportionate and necessary use of police force due to the applicant's resistance
				Violation of Art. 3 (procedural)	Ineffective investigation into the applicant's allegations (the public prosecutor failed to obtain the applicant's statement in person, to take statements from the accused police officers and did not question any witnesses including the applicant's fiancée who had been with the applicant at the time of his arrest)

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TURKEY (CONTINUED)	12 November 2013	HALIL GOCMEN (IN FRENCH ONLY) (No. 24883/07)	3	Violation of Art. 1 of Prot. No. 1	Unlawful expropriation of the applicant's plot of land without any reasons in the public interest while the amount of damages that he had been awarded had not been proportionate
		SEPIL (No. 17711/07)	2	Violation of Art. 6 § 1	Domestic courts' failure to establish the reasons of the undercover operation and to analyse the relevant elements which would have permitted to establish that the police officers had incited the applicant to commit the offence of which he was convicted
		YABANSU AND OTHERS (IN FRENCH ONLY) (No. 43903/09)	3	Violation of Art. 6 § 1	Applicant's appeal had been dismissed by the domestic supreme military administrative court for failure to comply with the time-limit for lodging it without taking into consideration that the deadline for submitting applications begins when the parties are truly aware of the contents of the decision
	Violation of Art. 2 (substantive)			Domestic authorities' failure to follow the preventive measures recommended by the army doctors concerning a conscript, responsible for the death of the applicants' son, who had been declared unfit to use firearms	
	24 November 2013	SILAHYUREKLI (IN FRENCH ONLY) (No. 16150/06)	3	Violation of Art. No. 1 of Prot. No. 1	Disproportionate interference with the applicant's right to the peaceful enjoyment of his possessions and failure of the domestic authorities to compensate him
					Violation of Art. 2 (procedural)
		TAYDAS (No. 52534/09)	3	Violation of Art. 2 (substantive and procedural)	Unnecessary and disproportionate use of lethal force against the applicant and inadequate investigation in that respect

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UKRAINE	7 November 2013	BELOUSOV (No. 4494/07)	3	Violation of Art. 3 (procedural)	Ineffective investigation into the allegations of ill-treatment made by the applicant
				Violation of Art. 3 (substantive)	Ill-treatment amounted to the torture of the applicant during police custody
				Violation of Art. 5 § 1	Unlawful detention of the applicant under police custody
				Violation of Art. 5 § 3	Lack of a prompt judicial review of the applicant's detention
				Violation of Art. 8	Unlawful inspection of the applicant's residence by police officers (the applicant had been forced to give his consent)
		GERASHCHENKO (No. 20602/05)	3	Violation of Art. 3	Ill-treatment of the applicant by police
				Violation of Art. 5 § 1 (c)	Unlawful continuation of the applicant's detention (domestic court of appeal provided no reasons for his detention and set no time-limit on it)
				Violation of Art. 5 § 3	Excessive pre-trial detention without the consideration of any alternative preventive measure by the domestic courts
				Violation of Art. 5 § 4	Domestic court's denial to re-examine the lawfulness of the applicant's detention
				Violation of Art. 8	Disproportionate interference with the applicant's right to respect his home to the legitimate aim pursued
				No violation of Art. 34	No hindrance to the applicant's right of individual petition
		LOBAS (No. 21380/04)	3	Violation of Art. 34	Domestic authorities' failure to provide the applicant with copies of the documents from his case file
		PICHKUR (No. 10441/06)	2	Violation of Art. 14 in conjunction with Art. 1 of Prot. No. 1	Applicant's deprivation of his pension on the grounds that he permanently lived abroad

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UKRAINE <i>(CONTINUED)</i>	14 November 2013	<u>ALEKSANDR NIKONENKO</u> (No. 54755/08)	3	Violation of Art. 3 (procedural)	Ineffective and excessively lengthy investigation on account of the applicant's allegations of ill-treatment that led to the time-limit expiring making it impossible to pursue the prosecution any further
		<u>SHMUSHKOVYCH</u> (No. 3276/10)	3	Violation of Art. 11	Unlawful interference with the applicant's right to freedom to peaceful assembly (the interference had not been prescribed by the domestic law)
				No violation of Art. 6 § 1	Fairness of proceedings on account of the fact that the domestic court of appeal pronounced its decision in public and repeated the finding and the reasoning of the first-instance court, a judgment which had failed to be pronounced publicly, thus enabling the public to study the manner in which the domestic courts had approached this type of case
	28 November 2013	<u>SKOROKHODOV</u> (No. 56697/09)	3	Violation of Art. 3 (procedural)	Ineffective investigation into the applicant's allegations of ill-treatment
		<u>GORBATENKO</u> (No. 25209/06)	3	Three violations of Art. 3	Poor conditions of detention (overcrowding, sleep deprivation and lack of natural light and air)
				Violation of Art. 6 § 1	Excessive length of proceedings (more than 9 years and still not completed)
		<u>NIKOLAY VOLKOGONOV AND IGOR VOLKOGONOV</u> (No. 40525/05)	3	Violation of Art. 2 (procedural)	Ineffective and excessive long investigation (7 years) into the death of the applicants' wife and mother respectively

B. The decision on admissibility

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 1 to 31 October 2013. Those decisions are selected to provide 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 VIOLATION	DECISION
POLAND	22 October 2013	DZIEDZIC (No. 62637/11)	Art. 8 (lack of possibility for the applicant to visit his detained wife and new-born baby in detention centre), Art. 13 (lack of an effective remedy in this regard)	Partly struck out of the list (concerning claim under Art. 8), partly inadmissible as manifestly ill-founded (concerning claim under Art. 13)
TURKEY	15 October 2013	KESER [IN FRENCH ONLY] (Nos 29321/11)	Art. 10 (the applicant's sentence for speech calling for violence), Art. 5 (unlawful pre-trial detention), Art. 6 (excessive length and unfairness of the criminal proceeding), Art. 14 (the applicant stood trial before a special assizes court and was condemned on the basis of a domestic law on combating terrorism, what deprived him of a suspended measure after the judgement)	Partly struck out of the list (concerning claim under Art. 10), partly inadmissible for introduction of the complaint out of time (concerning claim under Art. 5), partly inadmissible as manifestly ill-founded (concerning claims under Articles 6 and 14)

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. A **selection** of those cases is proposed below. Those decisions are published with a delay on the Court's website. Therefore the decisions listed below cover only the period from 2 to 10 September 2013.

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	KEY WORDS OF QUESTIONS SUBMITTED TO THE PARTIES
AUSTRIA	4 September 2013	GENNER (No. 55495/08)	Alleged violation of the applicant's right to freedom of expression by accusing him of defamation for an article about the recently past Minister for Interior Affairs' point of view on foreigners and asylum seekers.
BOSNIA AND HERZEGOVINA	2 September 2013	PILAV (No. 41939/07) ŠLAKU (No. 56666/12)	Ineligibility of the applicants to stand for national election and impossibility to vote for a member of the Bosniaks living in the Republika Srpska community.
BULGARIA	2 September 2013	DIMITROVI (No. 12655/09)	Allegedly unfair forfeiture of the applicants' properties based on a legislation passed during the Communist period which was no longer legitimate.
CROATIA	5 September 2013	JURIĆ (No. 29843/13) REMPEŠIĆ (No. 6525/13)	Inability for the applicants to purchase the flat they occupy since the Protected Tenancies (Sale to Occupier) Act of 1991.
	5-10 September 2013	BEKIĆ (No. 67499/12) AND 3 OTHER APPLICATIONS GOJEVIĆ-ZRNIĆ AND MANČIĆ (No. 5676/13) NJEŽIĆ AND ŠTIMAC (No. 29823/13) PERIŠIĆ (No. 80553/12)	Allegedly inefficient application of criminal law mechanisms concerning the killing of the applicants' relatives by the national army or Serbian paramilitary forces, depending on cases.

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DENMARK	9 September 2013	LARSEN (No. 52629/11)	Domestic authorities' refusal to reopen the paternity cases of the applicants.
FINLAND	2 September 2013	S. B. (No. 17200/11)	The applicant fears her removal to Morocco because of her bad health status and her father who threatens to kill her for having married an Algerian man.
	10 September 2013	T. AND OTHERS (No. 56580/13)	Risk of ill-treatment if expelled to Russia and breach of the applicants' family rights if expelled without their minor son who has gone missing.
FRANCE	3 September 2013	A. M. IN FRENCH ONLY (No. 43963/13)	The applicant fears inhuman treatments if he is sent back to Sudan where he is suspected of connections with rebel forces.
	5 September 2013	BIDART IN FRENCH ONLY (No. 52363/11)	Restriction of the applicant's freedom of expression due to his conditional release, including prohibition of taking part in a peaceful demonstration.
		VERSINI-CAMPINCHI AND CRASNIANSKI IN FRENCH ONLY (No. 49176/11)	Interception and transcript of telephonic conversations between the applicants who are lawyers and their client. Use of a report of a conversation for disciplinary aims against the applicants.
GERMANY	10 September 2013	KUPPINGER (II) (No. 62198/11)	Domestic authorities' failure to implement the applicant's access rights to his son.
HUNGARY	6 September 2013	CSÁSZY (No.14447/11)	Domestic authorities' refusal to let the applicant attend the funeral of a close relative which took place on the same day of the applicant's arrest.

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LATVIA	2 September 2013	A. B AND C (No.30808/11)	Domestic authorities' failure to prevent the applicants from sexual harassment acts committed by a pedagogue at a state-run education establishment and failure to carry out an effective investigation afterwards.
MOLDOVA	2 September 2013	BARBANT IN FRENCH ONLY (No. 2050/07)	Domestic authorities' refusal to let the applicant's daughter emigrate with her to South Africa.
	2 September 2013	CLIPA IN FRENCH ONLY (No. 43242/13)	Domestic authorities' refusal to deliver a new passport to the applicant.
ROMANIA	2 September 2013	CARLOS IONESCU (No. 41317/08)	Domestic authorities' failure to provide the applicant with adequate clothing and shoeing for an entire winter.
RUSSIA	10 September 2013	AKIMENKOV (No. 60882/1) AND 6 OTHER APPLICATIONS	Allegedly neither reasonable suspicion nor sufficient and relevant reasons for the applicants' pre-trial detention.
SPAIN	2 September 2013	BARIK EDIDI IN FRENCH ONLY (No. 21780/13)	Eviction of the applicant from the courtroom because she wore a hijab, a headscarf hiding her face.
		LEON MADRID IN FRENCH ONLY (No. 30306/13)	Alleged discrimination of the applicant by attributing the father's name to their child in absence of any agreement between the parents.
SWITZERLAND	5 September	A. S. (No. 39350/13)	Considering the applicant's health status and his alleged dependency on his two sisters in Switzerland, his removal to Italy would cause a serious deterioration of his mental health status through inappropriate medical assistance and lack of emotional support.

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TURKEY	6 September 2013	SAYAN IN FRENCH ONLY (No. 81277/12)	Death of the applicants' relatives allegedly due to the refusal of the hospital to provide medical treatments without the payment of the medical costs.
	9 September 2013	ARSLAN (No. 45169/10)	Excessive length of the applicant's pre-trial detention for having participated in a demonstration concerning the problems of the Kurdish people.
		VARHAN (No. 2433/12)	Conviction of the applicant for carrying a flag attributed to the PKK, an illegal organisation.
UKRAINE	5 September 2013	ABUHMAID (No. 31183/13)	If removed to the Hamas-controlled Gaza Strip, the applicant fears ill-treatment for political and discriminative reasons. He would also leave a life he established in Ukraine.

PartOne

§2 - EUROPEAN COMMITTEE OF SOCIAL RIGHTS

A. Reclamations and Decisions

1. Reclamations

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

2. Decisions

STATE	COMPLAINANT	RECLAMATION NUMBER	SUBJECT MATTER	DECISION
SWEDEN	Swedish Trade Union Confederation (LO) and Swedish Confederation of Professional Employees (TCO)	No. 85/2012	Impacts of the amendments to Swedish legislation on the right to organise and collective bargaining, in particular, following the judgment of the European Union Court of Justice in the Laval case (C-341/05)	Admissible; Violation of Articles 6§2, 6§4, 19§4a, 19§4b

B. Other information

Ensuring the rights of undocumented migrant children and their families: a conference in Brussels (15.11.2013)

A conference entitled "A child is a child. How can the European Union ensure the rights of undocumented migrant children and families" was held in Brussels, Belgium, on 14 November 2013. Mr Petros Stangos, Vice President of the ECSR, participated in this conference ([Background paper and programme](#)).

PartOne

§3 - RECOMMENDATIONS & RESOLUTIONS

A. Recommendations

AUTHOR	DATE	TEXT NUMBER	SUBJECT MATTER	DECISION
PACE	22 November 2013	2028	Monitoring the return of irregular migrants and failed asylum seekers by land, sea and air	The PACE believed that there is an urgent need to reinforce the human rights dimension of returning irregular migrants and failed asylum seekers (More)

B. Resolutions

AUTHOR	DATE	TEXT NUMBER	SUBJECT MATTER	DECISION
PACE	22 November 2013	1963	Violence against women in Europe	Violence against women is a widespread human rights violation, thus the PACE called on the member States to sign and/or ratify the Istanbul Convention without delay.

PartOne

§4 - OTHER INFORMATION OF GENERAL IMPORTANCE

A. Information from the Committee of Ministers

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

B. Information from the Parliamentary Assembly

■ Opinion on the draft Convention against Trafficking in Human Organs (06.11.2013)

The committee on Legal Affairs and Human Rights has unanimously adopted three amendments to the opinion on the draft Convention against Trafficking in Human Organs ([Read more - Committee's Opinion on the Draft Convention - PACE's Opinion 286 - Draft Convention on organ trafficking: the criminal aspects take precedence over prevention](#)).

■ International organisations must be held accountable for human rights violations (06.11.2013)

Concerns about the “absolute legal immunity” to which international organisations are often entitled have prompted the committee on Legal Affairs and Human Rights to call for these organisations to be made subject to binding mechanisms to monitor their compliance with human rights norms and, where such mechanisms already exist, to ensure that their decisions are enforced ([Read more](#)).

■ Assunção Esteves: “Parliaments are the gateway to every Spring” (08.11.2013)

Assunção Esteves, the speaker of Portugal's Parliament, addressing the conference organised by the PACE Political Affairs Committee on “Political changes in the South Mediterranean and the Middle East: the role of representative institutions”, qualified the Council of Europe as the “human rights organisation par excellence” ([Read more](#)).

■ Millennium Development Goals (MDGs): Europe can make a contribution (13.11.2013)

Despite the progress made since the United Nations set its MDGs, many problems remain to be solved, as Sir Alan Meale pointed out in his report, which draws attention in particular to inequalities between men and women, the lack of prospects for young people, continuing violence against women and children and insufficient rights for women in matters of sexual and reproductive health ([Read more](#)).

■ Author of the ‘Sweetie’ online sting: “the internet should be free, but not lawless” (13.11.2013)

“The Internet should be free, but not lawless” said the man behind the “Sweetie” online sting to unmask sexual predators. “Sweetie” is a virtual girl developed by the NGO for children's rights “Terre des Hommes”, and used to identify over 1,000 adults willing to pay children in developing countries to perform sexual acts in front of webcams, information which were handed to the police ([Read more](#)).

■ Show “generosity and solidarity” to Syrian refugees (20.11.2013)

Council of Europe member and observer states should show “generosity and solidarity” in admitting Syrian refugees to their territory, and ensure a balanced distribution among countries, said the PACE's Migration committee ([Read more](#)).

■ Migrants should never be refused entry or expelled because of their HIV status (21.11.2013)

According to PACE's Migration Committee, everyone, including migrants or irregular migrants, living with HIV/AIDS in Council of Europe member states should have free access to treatment ([Read more](#)).

■ 2013: a turning point in combating violence against women (22.11.2013)

The PACE Standing Committee stated that no efforts should be spared to achieve the 10 ratifications that are necessary for the entry into force of the Istanbul Convention by the end of 2013, convention

which is the most comprehensive international, legally binding instrument for the prevention of violence against women ([Read more](#)).

■ **Austrian Chair of the Committee of Ministers called for closer co-operation (22.11.2013)**

The Austrian Foreign Affairs Minister and Chairman of the Committee of Ministers called for closer co-operation with the PACE, and set out the priorities of the Austrian Chairmanship for the coming six months: they include initiatives to promote effective application of the judgments of the ECHR, promoting social cohesion in Europe, action against trafficking in human beings and combating violence against women ([Read more](#) - [Jean-Claude Mignon: "Our Organisation suffers from a lack of recognition"](#)).

■ **Pieter Omtzigt appointed rapporteur on "massive eavesdropping in Europe" (28.11.2013)**

Pieter Omtzigt has been appointed by the Committee on Legal Affairs and Human Rights to lead PACE's inquiry into "massive eavesdropping in Europe". He talked in a video about his coming report ([Read more](#)).

C. Information for the Commissioner for Human Rights

■ **EU border control policies negatively affect human rights (06.11.2013)**

The EU externalisation of border control policies has a deleterious effect on human rights, in particular the right to leave a country, which is a prerequisite to the enjoyment of other rights such as the right to seek asylum, stated the Commissioner, while releasing a research paper on the right to leave a country ([Read more](#) - [Research paper](#)).

■ **Freedom of expression and democracy in the digital age - Opportunities, rights, responsibilities (07.11.2013)**

In his keynote speech at the Council of Europe Conference of Ministers responsible for Media and Information Society, the Commissioner highlighted restrictions to media freedom on grounds of national security as particularly serious ones ([Read more](#)).

D. Information from the monitoring mechanisms

■ **CPT: The committee urged European States to improve reporting of evidence of ill-treatment (06.11.2013)**

The European Committee for the Prevention of Torture has urged the 47 Council of Europe member States to ensure the accurate and timely reporting of medical evidence of ill-treatment of detained persons, in order to facilitate investigations ([Read more](#)).

■ **FCNM: 15th Anniversary of the Framework Convention (22.11.2013)**

The Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities will hold a high-level round-table event on Monday, 25 November 2013, to celebrate the 15th anniversary of the Framework Convention ([Read more](#)).

■ **GRETA 18th meeting (04-08.11.2013)**

The Group of Experts on Action against Trafficking in Human Beings (GRETA) held its 18th meeting from 4 to 8 November 2013 at the Council of Europe in Strasbourg ([Read more](#)).

PartTwo

INFORMATION BY COUNTRY

This part presents a selection of information, which is deemed to be mainly relevant for only one country.

Please, refer to the index above (p.3) to find the country you are interested in. Only countries concerned by at least one piece of information issued during the period under observation are listed below.

Andorra

A. Execution of the judgments of the European Court of Human Rights

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

B. Resolutions, signatures and ratifications

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

C. Other information

■ **GRECO: Publication of a compliance report (22.11.2013)**

[\(Read more\)](#).

Azerbaijan

A. Execution of the judgments of the European Court of Human Rights

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

B. Resolutions, signatures and ratifications

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

C. Other information

■ PACE: Fundamental freedoms still a serious concern (22.11.2013)

Although describing the electoral process observed around the presidential election day in Azerbaijan as “free, fair and transparent”, PACE observers considered that fundamental freedoms remain “a serious concern” ([Read more](#)).

Belarus

A. Execution of the judgments of the European Court of Human Rights

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

B. Resolutions, signatures and ratifications

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

C. Other information

■ **PACE: the Nordic Council wants to keep contact with both members of the opposition and human rights defenders (22.11.2013)**

Following the events after the presidential election in Belarus in 2010, the Nordic Council has suspended contact with the regime, said the President of the Nordic Council, addressing the Standing Committee. However, she added that the Nordic Council "wants to keep the contact with both members of the opposition and human rights groups based in Belarus and in Vilnius" ([Read more](#)).

Croatia

A. Execution of the judgments of the European Court of Human Rights

CASE	DATE	RESOLUTION	CONCLUSION
Gluhaković (No. 21188/09)	12 April 2011	CM/ResDH(2013)225	Examination closed

B. Resolutions, signatures and ratifications

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

C. Other information

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

Czech Republic

A. Execution of the judgments of the European Court of Human Rights

CASE	DATE	RESOLUTION	CONCLUSION
Day S.R.O and others (No. 48203/09)	16 December 2012	CM/ResDH(2013)226	Examination closed
Wallova and Walla (No. 23848/04)	26 March 2007	CM/ResDH(2013)218	Examination closed
Havelka and others (in French only) (No. 23499/06)	21 September 2007		

B. Resolutions, signatures and ratifications

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

C. Other information

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

Denmark

A. Execution of the judgments of the European Court of Human Rights

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

B. Resolutions, signatures and ratifications

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

C. Other information

■ Commissioner for Human Rights: Children's rights should be better respected in migration and asylum (22.11.2013)

Following his three-day visit to Copenhagen, the Commissioner stated that more systematic consideration should be given to the best interests of the child in migration and asylum policies and procedures ([Read more](#)).

France

A. Execution of the judgments of the European Court of Human Rights

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

B. Resolutions, signatures and ratifications

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

C. Other information

■ Commissioner for Human Rights: Commissioner's reaction to racist attacks on French Minister of Justice Taubira (14.11.2013)

The Commissioner expressed his solidarity to the French Minister and stressed that racist speech and, more broadly speaking, the rejection of diversity, seriously undermines human rights, human dignity and the values on which today's Europe is founded ([Read more](#)).

■ GRECO: Publication of Second Compliance Report (26.11.2013)

[\(Read more\)](#).

Italy

A. Execution of the judgments of the European Court of Human Rights

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

B. Resolutions, signatures and ratifications

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

C. Other information

■ CPT: Publication of two reports on Italy (19.11.2013)

The Council of Europe's CPT has published the report on its most recent periodic visit to Italy, which took place in May 2012, together with the Italian Government's response. The Committee has also published the report and response concerning its ad hoc visit to Italy in June 2010 ([Read more](#)).

Lithuania

A. Execution of the judgments of the European Court of Human Rights

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

B. Resolutions, signatures and ratifications

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

C. Other information

■ **FCNM: The advisory committee opinion has been restricted (28.11.2013)**

No more information available at the moment

Moldova

A. Execution of the judgments of the European Court of Human Rights

CASE	DATE	RESOLUTION	CONCLUSION
Carpala (No. 23258/06)	16 October 2012	CM/ResDH(2013)219	Examination closed
Craciuneac (No. 77407/11)	6 November 2012		
Gospodinov (No. 17934/08)	12 February 2013		
Roman Usenco (No. 24359/12)	12 March 2013		

B. Resolutions, signatures and ratifications

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

C. Other information

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

Montenegro

A. Execution of the judgments of the European Court of Human Rights

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

B. Resolutions, signatures and ratifications

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

C. Other information

■ PACE: The Monitoring Committee made public an information note (13.11.2013)

The Committee made public an information note by the co-rapporteurs on the honouring of obligations and commitments by Montenegro, following their fact-finding visit to the country. The note focuses notably on the rights of minorities and the fight against discrimination and the situation of refugees and IDPs ([Read more](#)).

Poland

A. Execution of the judgments of the European Court of Human Rights

CASE	DATE	RESOLUTION	CONCLUSION
Klamecki No. 2 (No. 31583/96)	3 July 2003	CM/ResDH(2013)228	Examination closed
Andrulewicz (No. 43120/05)	24 September 2007		
Andrysiak (No. 31038/06)	20 August 2008		
Bartosinski (No. 13637/03)	13 January 2010		
Bereza No. 2 (No. 42332/06)	19 October 2010		
Bobel (No. 20138/03)	22 April 2008		
Bogusław Krawczak (No. 24205/06)	31 August 2011		
Cwiertniak (No. 26846/05)	22 October 2008		
Dochnal (No. 31622/07)	18 November 2012		
Drozdowski (No. 20841/02)	6 March 2006		
Dzitkowski (No. 35833/03)	27 February 2008		
Felinski (No. 31116/03)	6 November 2009		
Ferla (No. 55470/00)	20 August 2008		
Friendensberg (No. 44025/08)	27 July 2010		
G.K. (No. 38816/97)	20 April 2004		
Gradek (No. 39631/06)	8 September 2010		
Hinczewski (No. 34907/05)	5 January 2011		
Jakubiak (No. 36161/05)	7 July 2008		
Janulis (No. 20251/04)	4 February 2009		

Regular Selective Information Flow #114 (1-30 November 2013)
Part Two: Information by Country

Janus (No. 8713/03)	21 October 2009	CM/ResDH(2013)228	Examination closed
Jarkiewicz (No. 23623/07)	6 October 2010		
Jasinski (No. 72976/01)	6 March 2008		
Kisielewski (No. 26744/02)	7 October 2009		
Kliza (No. 8363/04)	6 December 2007		
Knyter (No. 31820/06)	1 May 2011		
Kolodzinski (No. 44521/04)	7 July 2008		
Kotowski (No. 12772/06)	29 December 2009		
Kozimor (No. 10816/02)	12 July 2007		
Kozlowski Eryk (No. 12269/02)	4 February 2009		
Krawiecki (No. 49128/06)	9 September 2009		
Kwiek (No. 51895/99)	30 August 2006		
Lesiak (No. 19218/07)	1 May 2011		
Lewak (No. 21890/03)	31 March 2008		
Luczko (No. 73988/01)	3 January 2007		
Maksym (No. 14450/02)	19 March 2007		
Matwiejczuk (No. 37641/97)	2 March 2004		
Mazgaj (No. 41656/02)	21 December 2010		
Mglosik (No. 8403/02)	16 October 2009		
Mianowski (No. 42083/98)	16 March 2004		
Misiak (No. 43837/06)	3 September 2008		
Najdecki (No. 62323/00)	6 May 2007		

Regular Selective Information Flow #114 (1-30 November 2013)
Part Two: Information by Country

Nowicki (No. 6390/03)	27 May 2007	CM/ResDH(2013)228	Examination closed
Nurzynski (No. 46859/06)	21 March 2011		
Ochlik (No. 8260/04)	29 October 2008		
Oleksy (No. 64284/01)	28 February 2007		
Owsik (No. 10381/04)	16 January 2008		
Panusz (No. 24322/02)	1 December 2008		
Pasternak (No. 42785/06)	10 December 2009		
Pawlak (No. 39840/05)	15 April 2008		
Pisk-Piskowski (No. 92/03)	14 September 2005		
Przyjemski (No. 6820/07)	5 October 2010		
Stepniak (No. 29366/03)	29 April 2008		
Tomczyk Prokopyszyn (No. 64283/01)	28 June 2006		
Warsinski (No. 38007/02)	4 March 2008		
Wasilewski (No. 63905/00)	6 March 2006		
Wegera (No. 141/07)	19 April 2010		
Zborowski (No. 45133/06)	15 April 2010		
Zborowski No. 3 (No. 39519/05)	22 July 2008		

B. Resolutions, signatures and ratifications

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

C. Other information

■ **FCNM: The advisory committee opinion has been restricted (28.11.2013)**

No more information available at the moment

Portugal

A. Execution of the judgments of the European Court of Human Rights

CASE	DATE	RESOLUTION	CONCLUSION
Santos Nunes (No. 61173/08)	22 May 2012	CM/ResDH(2013)229	Examination closed
Antunes Rocha (No. 64330/01)	12 October 2005	CM/ResDH(2013)230	
Laranjeira Marques da Silva (No. 16983/06)	19 April 2010	CM/ResDH(2013)231	

B. Resolutions, signatures and ratifications

[No work deemed relevant for NHRSs during the period under observation]

C. Other information

■ CPT: Publication of a report on Portugal (26.11.2013)

The CPT has published the report on its ad hoc visit to Portugal, carried out in May 2013, together with the response of the Portuguese authorities ([read more](#)).

Romania

A. Execution of the judgments of the European Court of Human Rights

CASE	DATE	RESOLUTION	CONCLUSION
Androne (No. 54062/00)	6 June 2005	CM/ResDH(2013)232	Examination closed
M. and C. (No. 29032/04)	27 December 2011		
C.A.S. and C.S. (No 26692/05)	24 September 2012	CM/ResDH(2013)233	
R.I.P. and D.L.P. (No. 27782/10)	10 August 2012		
Granitul S.A. (No. 22022/03)	24 July 2012	CM/ResDH(2013)234	
Samoila and Cionca (No. 33065/03)	4 June 2008	CM/ResDH(2013)235	
Lapusan (No. 29723/03)	3 September 2008		
Vitan (No. 42084/02)	1 December 2008		
Bolos (No. 33078/03)	12 April 2010		
G.C.P. (No. 20899/03)	4 June 2012		
Catana (No. 10473/05)	29 April 2013		
Creanga (No. 29226/03)	23 February 2012		
Dimon (No. 29117/05)	27 February 2013	CM/ResDH(2013)221	
Miu (No. 7088/03)	6 February 2013	CM/ResDH(2013)222	

B. Resolutions, signatures and ratifications

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

C. Other information

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

Russian Federation

A. Execution of the judgments of the European Court of Human Rights

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

B. Resolutions, signatures and ratifications

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

C. Other information

■ Commissioner for Human Rights: Russia must strengthen the independence and the impartiality of the judiciary (12.11.2013)

Substantial reforms should continue in order to remedy the systemic deficiencies in the administration of justice and strengthen the independence and impartiality of the judiciary in the Russian Federation, stated the Commissioner, releasing a report following his visit to the country ([Read more](#)).

■ PACE: 'The record of Russia's participation in our organisation is positive' said President (14.11.2013)

At the close of his visit to the Russian Federation, the PACE President underlined the major role played by the State at the European and international levels, and said to be pleased that Russia is assuming to the full its due role within the Council of Europe. He also expressed the need of Russia's support to make progress on certain strategic issues, notably EU accession to the European Convention on Human Rights and the development of a comprehensive and effective pan-European system for safeguarding fundamental rights and freedoms in Europe.

Concerning the reform of PACE's monitoring procedure, the President drew attention to the urgent need to take stock of the implementation of this key function ([Read more](#)).

Serbia

A. Execution of the judgments of the European Court of Human Rights

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

B. Resolutions, signatures and ratifications

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

C. Other information

■ **FCNM: The advisory committee opinion has been restricted (28.11.2013)**

No more information available at the moment

Sweden

A. Execution of the judgments of the European Court of Human Rights

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

B. Resolutions, signatures and ratifications

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

C. Other information

■ GRECO: Sweden encouraged to further sharpen its tools for preventing corruption (12.11.2013)

Swedish measures to prevent corruption among members of parliament, judges and prosecutors appear to be quite effective in practice. However, there is still room for improvement – particularly with regard to conflicts of interest among parliamentarians ([Read more](#)).

Switzerland

A. Execution of the judgments of the European Court of Human Rights

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

B. Resolutions, signatures and ratifications

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

C. Other information

■ **GRECO: Publication of a compliance report (21.11.2013)**

[\(Read more\)](#).

Turkey

A. Execution of the judgments of the European Court of Human Rights

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

B. Resolutions, signatures and ratifications

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

C. Other information

■ Commissioner for Human Rights: Police misconduct in Turkey raised serious human rights concerns (26.11.2013)

The police's handling of demonstrations in Turkey exposed once again the long-standing, serious human rights problem of the misconduct of law enforcement officials, underlined the Commissioner, releasing a report on his visit ([Read more](#)).

Ukraine

A. Execution of the judgments of the European Court of Human Rights

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

B. Resolutions, signatures and ratifications

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

C. Other information

■ CPT: Preliminary observations concerning police issues after visit to Ukraine in October 2013 (15.11.2013)

The most recent visit to Ukraine by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) took place from 9 to 21 October 2013. One of the objectives of the visit was to re-examine the situation of persons held by law enforcement officials, in particular in the light of the provisions of the new Code of Criminal Procedure, which entered into force in November 2012 ([Read more](#)).

■ Co-rapporteurs regretted Ukraine's negative decisions on EU agreement and Yulia Tymoshenko treatment (22.11.2013)

The co-rapporteurs for the monitoring of Ukraine by the PACE have expressed their deep regret at the decision of the State not to sign an Association Agreement between the EU and Ukraine, and the rejection of a bill that would have allowed Yulia Tymoshenko to receive medical treatment abroad ([Read more](#)).

United Kingdom

A. Execution of the judgments of the European Court of Human Rights

CASE	DATE	RESOLUTION	CONCLUSION
Ncube (No. 4428/12)	4 December 2013	CM/ResDH(2013)236	Examination closed
Buckland (No. 40060/08)	18 November 2012	CM/ResDH(2013)237	
Redfearn (No. 47335/06)	6 February 2013	CM/ResDH(2013)223	

B. Resolutions, signatures and ratifications

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

C. Other information

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