SUPERVISION OF THE EXECUTION OF JUDGMENTS AND DECISIONS OF THE EUROPEAN COURT OF HUMAN RIGHTS

8th Annual Report
of the Committee of Ministers
2014

COUNCIL OF EUROPE
COMMITTEE OF MINISTERS

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I. Introduction by the Chairs of the Human Rights meetings

The past year has again seen positive results in the execution of the judgments of the European Court of Human Rights. The number of judgments awaiting execution has continued to decrease as a result of the record number of cases closed this year, including many cases involving important structural problems.

The execution process continues to benefit from the working methods introduced in 2011. The Committee has been able to focus its attention and contribution on cases raising complex, important and structural issues and, notably, pilot judgments. Indeed, the implementation of pilot judgments has been particularly positive and fruitful. In the majority of such cases, the domestic response following the execution process has been considered adequate by the Court, so that the Court has effectively been able to return new applications to be examined by the new domestic structures established.

In addition, significant efforts have been made over the last number of years, in several countries including those with large numbers of applications, to improve the domestic response to the Court's judgments, whether through better incorporation of the Convention, guidelines from superior courts or new Convention oriented remedies. This important contribution to the execution process is welcomed and its continuation is encouraged.

The participation of Ministers and other high-level government officials in the Committee's debates is a further positive development which is it hoped will continue.

However, while the above-noted trends are positive, problems remain which require creative, determined and long-term action. This annual report refers to a number those issues. Of considerable concern is the number of important systemic/structural problems, in respect of which the domestic remedial response has been slow given the sheer size of the problem or the underlying economic or political sensitivities. The consequent repetitive case burden remains a considerable one for the Court, even if the Court is developing speedy and efficient procedures for such cases, which are facilitated by unilateral declarations and friendly settlements.

The development of better synergies, between the domestic and European actors, remains crucial, as is better coordination between the execution process and the Council of Europe's cooperation activities. This remains a central theme in the on-going Interlaken – Izmir – Brighton process. The additional support for these activities, by the Human Rights Trust Fund and by a number of individual States through their voluntary contributions, has been much appreciated.

The High Level Conference on 26-27 March 2015, organised by the Belgian Chair of the Committee of Ministers in Brussels on the theme "Implementation of the Convention : Our shared responsibility", is a timely one given the challenges facing the Convention system. It is hoped that this conference will provide an important political impetus to review the execution process and, notably, will identify means by which all actors can fulfil their respective responsibilities in the important collective endeavour that is the execution of judgments of the European Court.

Azerbaïdjan	Belgique	Bosnie-Herzégovine
Mr Emin EYYUBOV	Mr Dirk VAN EECKHOUT	Mr Almir ŠAHOVIĆ

II. Remarks by the Director General of the Directorate General of Human Rights and Rule of Law

Introduction

1. The role of the Convention system in the European architecture and the efficiency of its procedures have, since the beginning, been key issues for the European governments. This is clearly demonstrated notably by the 16 protocols adopted and the numerous high level conferences organised by successive chairs of the Committee of Ministers. It is thus with great interest that we are awaiting, on 26 and 27 March next, the High Level Conference organised by the Belgian Chair of the Committee of Ministers on the theme "Implementation of the European Convention, our shared responsibility".

2. The Annual Report 2014 provides interesting information for the on-going discussions, especially statistics which demonstrate that the efforts deployed in order to guarantee the long term effectiveness of the Convention system continue to yield positive and concrete results.

A continuing positive development

3. As regards the state of the supervision of the execution of the Court's judgments by the Committee of Ministers, it emerges in particular that there is a new decrease in the number of pending cases, a considerable increase in the number of judgments executed and also further improvements of the Committee of Ministers' capacity to respond to the questions under examination.

4. The reasons for this positive evolution are multiple and are analysed in different *fora* within the framework of the on-going Interlaken – Izmir - Brighton process, and now also Brussels. I will not here go further into these questions. I will limit myself to developing certain key aspects which emerge from the present annual report and in the first place that the new working methods put in place in 2011 have had considerable positive effects.

5. The report thus evidences an *increased capacity of response on the part of the Committee of Ministers* to the problems which may arise, in particular in respect of cases placed under enhanced supervision. Since 2012 the number of interventions made in order to assist the execution has accordingly increased by 20%. In absolute terms there were 118 interventions in 2014, mainly in form of detailed examinations of the state of execution followed by recommendations or other indications in order to support the execution processes under way. This figure reveals its full importance when considered in the light of the some 120 main cases or groups of cases pending before the Committee and presented in appendix 2.

6. *The dynamic interaction between the two supervision tracks* – enhanced and standard – is also illustrated by the more and more frequent transfers which take place

between the two tracks. The transfers are in the great majority towards standard supervision as a result of progress achieved in the execution of cases while under enhanced supervision, something which is a source of satisfaction.

7. *The reactivity of the governments* has also increased. Thus, this year has seen a clear increase in the number of action plans and action reports received from the authorities. The number has in fact almost doubled since 2012 (see part C of appendix 1). In addition, the participation of high-level experts, even ministers, at the Human Rights meetings has become more frequent in order to assist in overcoming obstacles which may have arisen in the course of execution.

8. *The transparency* introduced by the 2011 working methods (including rapid publication of all information received as well as of the Committee's decisions) has also improved *the capacity of reaction of all other actors concerned*, whether at national or European level. Moreover, in order to improve the possibilities to follow the development of the different execution processes under way, the Department for the execution of the Court's judgments put online in 2014 an overview, case by case, of all decisions and interim resolutions adopted by the Committee since 2010.

9. The statistics show, on a more general level, a decrease of almost 20 % in the number of cases pending since less than 5 years, a trend which suggests that the cases dealt with since the new working methods and Recommendation (2008)2 (see chapter 3) are solved more rapidly than those where the supervision started before 2011.

10. An observation is nevertheless necessary with respect to national practices as regards the payment of just satisfaction. The statistics show, *prima facie*, a level of payments within deadlines of about 84%. However, the number of cases awaiting necessary payment information is reaching worrying proportions. In 2014 the necessary information was submitted in 1094 cases whereas this information was missing in 1141 cases. In two thirds of these, the information was awaited although more than six months had passed since the payment deadline expired. In the light of this situation I would like to make an appeal to the authorities of the states concerned to improve their procedures, if necessary in cooperation with the Department for the execution of the Court's judgments, in order to settle this matter as quickly as possible. The credibility of the new simplified system for the supervision of payments depends thereon.

11. As regards *the nature of the cases* brought before the Committee of Ministers, it is noteworthy that the number of reference cases classified under enhanced supervision decreased to almost half the number of the two preceding years. It is too early to draw any long-term conclusions from this development, but the trend is encouraging. The rapid decrease in the number of repetitive cases (approximately 300 less in 2013 as compared to 2011) did not confirm itself in 2014 (100 cases more than in 2013). However, this situation appears, to be linked to the fact that one of the recent priorities of the Court is to eliminate by different means (mainly friendly settlements and unilateral declarations) these cases from its list.

12. The 2014 statistics are thus encouraging. They confirm the reversal of the tendency during the years 2000 of an ever-increasing number of new and pending cases which was a major source of concern. The key question today is whether

this reversal is sufficient in order to allow the Convention to efficiently play its role within the European architecture. This question will certainly be at the heart of the oncoming Brussels Conference.

Major outstanding questions

13. One can immediately note that this positive evolution does not preclude, as the Chairs have observed in their introduction, that a number of significant problems remain, which demand creative, determined and, often, long-term actions. The statistics show, for example, that the number of cases under enhanced supervision for more than 5 years has increased from 128 in 2014 to 160 in 2015. Certain cases reveal important « pockets of resistance », sometimes linked to an entrenched social prejudice (for example concerning Roma or certain minority groups) or particular political considerations. However, most concern wide-range technical or economic problems which are, as a consequence, difficult to solve quickly (for example, problems linked to the control and regulation of the actions of security forces; situations of prison overpopulation; a slow or ineffective justice system, excessive use of pre-trial detention in criminal proceedings, or different and complex questions relating to property rights or the handling of asylum requests).

14. This situation reveals that new tools are probably needed in order to improve the national capacity to ensure execution of judgments within necessary time-frames. Experience underlines, in particular, the importance of national structures capable of rapidly bringing together the necessary information to draft realistic action plans, ensure the follow-up of their implementation and react speedily in case of problems - whilst preserving at the same time close contacts with the Committee of Ministers. Such a development is in line with the general logic of favouring an ever-closer interaction between the different actors at the national and European levels, in order to ensure a creative and dynamic framework for the execution process.

15. The basic elements of such a dynamics already exist and the Committee of Ministers has been able to note with satisfaction the resolution in recent years of a number of large-scale problems and also sometimes considerable improvements in the search for lasting solutions of numerous others. The thematic overviews of the annual reports provide clear examples.

16. Many states have thus made significant progress in putting an end to the excessive length of judicial proceedings, notably Turkey (final resolution CM/ResDH(2014)298 in the case of *Ormanci*). Reforms are also underway in many other countries such as Bulgaria, Greece, Italy, Portugal and Romania, countries in which progress has been registered notably as regards the effectiveness of remedies, whether through the reinforcement of existing remedies or the establishment of new ones. Interesting advances can also be noted in the resolution of a number of problems linked to the dissolution of the former Socialist Federal Republic of Yugoslavia, in particular the problem of « erased » persons in Slovenia (case *Kurić*, transferred to the standard procedure), or problems related to pensions in a number of countries in the region following population movement during and after the Balkan wars. The resolution of very complex problems linked to the restitution of nationalised property during communist regimes also appears be progressing

– notably in Romania (decisions of the Committee of December 2014 in the group *Străin and Maria Atanasiu*, including a final resolution in *Preda* (CM/ResDH(2014)274). Complex reforms are also underway in many countries in response to endemic situations of prison overcrowding. Italy has here found interesting solutions, including as regards the establishment of an effective remedy (case of *Torreggiani* transferred to standard supervision). Respect for domestic judicial decisions has improved in a number of countries, notably Greece, the Republic of Moldova and in the Russian Federation.

17. In view of the persistence of numerous important structural and/or complex problems, all possible interactions must be exploited. In view of the Brussels Conferences, I would here like to briefly highlight the current situation concerning some key interactions, i.e. interaction with the Court, the co-ordination between execution needs and co-operation programmes, improvement of remedies and the growing contribution of national parliaments.

A strengthening of the dynamics

18. A preliminary remark: an efficient interaction can develop only if exchanges of information are also in place. On this point, I welcome the additional resources recently allocated to the Department for the execution of judgments to reinforce its information technology. The presentation of the status of execution on the website will thus be improved, highlighting information essential for the development of more efficient synergies with other actors in the system. With the mass of information to manage, the technical challenges to be addressed and the deployment of necessary staff to this end - the task is a demanding one. We hope for the first tangible results during 2015.

19. Concerning the interaction with the Court, one can note the considerable effort deployed by the Committee of Ministers to ensure the execution of pilot judgments and the concrete results obtained, notably as regards the establishment of effective remedies and the management of repetitive cases. This being said, the Committee received only two *pilot judgments* in 2014, out of which only one aimed at supporting an ongoing execution process. This development would appear to indicate that the problem of repetitive cases is on its way to being resolved. However, it is too soon to draw peremptory conclusions.

20. In any event, in recent years, the Court has considerably developed *judgments with a special part on Article 46 containing indications/recommendations relevant for the execution*. In 2013, 16 judgments of this type were identified. 24 were identified in 2014 (see Appendix 4 of the Annual Report). The judgments which support an ongoing execution process show also a more detailed consideration of the supervision results and of the indications and recommendations already given by the Committee of Ministers, thereby allowing a better understanding of the execution requirements in their globality. In this respect, I note with interest that the Court considers, in its contribution for the Brussels Conference, that it could contribute even more to the supervision if the execution of its judgments, by developing its relations with the Department for the execution of judgments. In parallel with the regular contacts between the Registry and their counterparts from the Department for the execution

of judgments, Department representatives were thus invited in 2014 to meet certain issues of the Court in order to inform the judges on current questions concerning execution of judgments. The Court welcomes the idea of holding such meetings on a regular basis. The necessary contacts are underway.

21. The efficiency of the co-ordination between the cooperation programmes of the Council of Europe and the execution of judgments is today one of Secretary General's priorities. Experience shows that the needs of execution are twofold: on the one hand *integration of the demands of execution in the establishment and implementation of wide-range cooperation programmes which aim to solve significant or persistent structural problems* and necessitate long-term investment at the political, economic or technical level, and on the other hand, *the maintaining and the development of a capacity for dialogue and for a rapid and focussed expertise* for other kinds of problems where such an assistance is sufficient in order to assure a viable execution process.

22. The Directorate General is engaged in an important action in order to meet these two needs. Intense activities have thus been undertaken in order to improve the coordination between the execution requirements and the implementation of the Council of Europe's general cooperation programs. The Department for the execution of the Court's judgments is closely associated in these efforts.

23. As regards the need for rapid and targeted dialogue and expertise, the Department for the execution of judgments is since the beginning very much solicited. Indeed, responding to such needs is a very important part of its mandate. The activities, largely supported by the Human Rights Trust Fund, can be very rapidly organised and can relate to all areas covered by the Convention. They normally take the form of expertise of different kinds, notably of action plans and draft legislations, of different forms of counselling and/or training activities (often in the country concerned), of the organisation of round tables gathering national and European experts, etc.. The activities supported by the Human Rights Trust Fund address specific themes. In 2014, a special emphasis has been put on round tables in order to bring together all the actors involved in the improvement of detention conditions and in the establishment of effective remedies (see e.g. Chapter III and appendix 6). The first echoes of these round tables are very positive.

24. The Department's terms of reference encompass another essential mission, that of advising and assisting the Committee of Ministers in exercising its function of supervising the execution of the Court's judgments. Striking a balance between these two, in practice equally important missions of the Department, becomes increasingly difficult.

25. Important measures have been taken over the past few years, frequently prompted by the on-going execution processes, with a view to reinforcing the interaction with the domestic courts and the authorities. This interaction has enhanced the effectiveness of the domestic remedies and ensured a better integration of the Convention and the well-established jurisprudence of the Court into national law and practices. This development has been largely supported by the Interlaken-Izmir-Brighton processes. In this context, I would like to highlight the important translation efforts undertaken with the support of the Human Rights Trust Fond to ensure that important Court judgments are available in many European languages and, on

the other hand, the concurrent efforts to develop the HELP training programme. The statistics related to Turkey, be it before the Court or before the Committee of Ministers, bespeak the very positive impact of the improved remedies, notably as a result of the setting-up of a new general remedy before the Constitutional Court (see also the annual report 2013), supplemented by a new specialised remedy for the excessive length of judicial proceedings. The importance of individual applications before the European constitutional courts was highlighted during an important Conference organised in Strasbourg on 7 July 2014.

26. Just as at the European level, it is important that the setting-up of effective remedies is accompanied by national structures and procedures, capable of inspiring the reflections on further necessary actions necessary to remedy underlying structural problems with information gathered in the context of the examination of complaints.

27. It is finally interesting to note the increasing role undertaken by national parliaments as catalysts of the execution process, notably by means of regular exchanges with governments, hearings and other more punctual measures. Information on the latest developments in this respect has been provided by Greece and Bulgaria (see Appendix 6). In parallel, an improvement in the training of the legal counsels of the parliaments has been recently under way under the auspices of the Parliamentary Assembly of the Council of Europe.

Conclusions

28. I have mentioned different examples of interactions between some of the key actors of the system in order to illustrate the important dynamics which are already today inherent in the execution process and the Committee of Ministers' supervision thereof. These dynamics convey well that, even if the challenges facing the system are important, the system's capacity to meet them is also important. Experience demonstrates nevertheless that the dynamics can yet be improved. It would notably be useful to further develop national structures capable of providing coordinated, rapid and efficient responses to the judgments in the State party to a case, as well as new forms of interaction between the national and European levels in order to overcome persistent «pockets of resistance ».

29. The Interlaken – Izmir - Brighton process has clearly shown the political will to support the reforms necessary to solve outstanding problems. The initiative of the Belgian Chair of the Committee of Ministers to organise a High Level Conference in order to support and invigorate this process will afford an opportunity to reiterate this political commitment on the part of the European States.

III. Improving the execution process: a permanent reform work

A. Guaranteeing long – term effectiveness: main trends

1. The main developments of the Convention for the Protection of Human Rights and Fundamental Freedoms (the Convention), leading to the present system, put in place by Protocol No. 11 in 1998, leading in 1998 to Protocol N° 11, merging the old Court and Commission of Human Rights (both working half-time) into a permanent Court, and abolishing the Committee of Ministers' competence to decide whether or not the Convention had been violated, have been briefly described in the Annual reports 2007-2009.

2. The pressure on the Convention system due to the success of the right to individual petition and the enlargement of the Council of Europe led rapidly, however, to the necessity of further efforts to ensure the longterm effectiveness of the system. The starting point for these new efforts was the Ministerial Conference in Rome in November 2000 which celebrated the 50th anniversary of the Convention. The three main avenues followed since then have been to improve:

- the domestic implementation of the Convention in general;
- the efficiency of the procedures before the European Court of Human Rights (the Court);
- the execution of the Court's judgments and its supervision by the Committee of Ministers.

3. The importance of these three lines of action has been regularly emphasised at ministerial meetings and also at the Council of Europe's 3rd Summit in Warsaw in 2005 and in the ensuing plan of action. A big part of the implementing work was entrusted to the Steering Committee on Human Rights (CDDH). Since 2000 the

CDDH has presented a number of different proposals. These in particular led the Committee of Ministers to:

- adopt seven Recommendations to states on various measures to improve the national implementation of the Convention[1], including in the context of the execution of judgments of the Court;
- adopt Protocol No. 14[2], both improving the procedures before the Court and providing the Committee of Ministers with certain new powers for the supervision of execution (in particular the possibility to lodge with the Court requests for the interpretation of judgments and to bring infringement proceedings in case of refusal to abide by a judgment);
- adopt new rules for the supervision of the execution of judgments and of the terms of friendly settlements (adopted in 2000, with further important amendments in 2006) in parallel with the development of the Committee of Ministers' working methods[3];
- reinforce subsidiarity by inviting states in 2009 to submit (at the latest six months after a certain judgment has become final) Action Plans and/or Action Reports (covering both individual and general measures), today regularly required in the context of the new 2011 supervision modalities agreed.

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1. Recommendation No. R(2000)2 on the re-examination or reopening of certain cases at domestic level following judgments of the European Court of Human Rights*;*
   – Recommendation Rec(2002)13 on the publication and dissemination in the member states of the text of the European Convention on Human Rights and of the case-law of the European Court of Human Rights;
   – Recommendation Rec(2004)4 on the European Convention on Human Rights in university education and professional training;
   – Recommendation Rec(2004)5 on the verification of the compatibility of draft laws, existing laws and administrative practice with the standards laid down in the European Convention on Human Rights;
   – Recommendation Rec(2004)6 on the improvement of domestic remedies.
   The status of implementation of these five Recommendations has been evaluated by the CDDH. Civil society was invited to assist the governmental experts in this evaluation (see doc. CDDH(2006)008 Add.1). A certain follow-up also takes place in the context of the supervision of the execution of the Court's judgments. Subsequently the Committee of Ministers has adopted a special Recommendation regarding the improvement of execution:
   – Recommendation CM/Rec(2008)2 on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights.
   – Recommendation CM/Rec(2010)3 on effective remedies for excessive length of proceedings.
   In addition to these Recommendations to member states, the Committee of Ministers has also adopted a number of Resolutions addressed to the Court:
   – Resolution Res(2002)58 on the publication and dissemination of the case-law of the Court;
   – Resolution Res(2002)59 concerning the practice in respect of friendly settlements;
   – Resolution Res(2004)3 on judgments revealing an underlying systemic problem,
   as well as in 2013 the following non-binding instruments intended to assist national implementation of the Convention:
   - a Guide to good practice in respect of domestic remedies;
   - a Toolkit to inform public officials about the State's obligations under the Convention.
2. This Protocol, now ratified by all contracting parties to the Convention, entered into force on 1st June 2010. A general overview of major consequences of the entry into force of the Protocol No. 14 is presented in the information document DGHL-Exec/Inf(2010)1.
3. Relevant texts are published on the web site of the Department for the Execution of Judgments of the Court. Further details with respect to the developments of the Rules and working methods are found in the Appendix 7 and also in previous Annual reports.

4. In addition, the Parliamentary Assembly started in 2000 to follow the progress of the execution on a more regular basis, notably by introducing a system of regular reports, coupled with country visits in orderto assess progress in more important cases encountering problems of different kinds. The reports notably led to Recommendations and other texts for the attention of the Committee of Ministers, the Court and national authorities.

B. The Interlaken - Izmir - Brighton – Brussels process

5. Shortly after the adoption of Protocol no. 14, the Warsaw Summit (2005) invited a Group of Wise Persons to report to the Committee of Ministers on the long-term effectiveness of the Convention control mechanism. The follow-up to this report, presented in November 2006, was impaired by the continuing non-entry into force or Protocol no. 14. Fresh impetus was, however, received as a result of the High Level Conference on the future of the Court, organised by the Swiss Chairmanship of the Committee of Ministers in Interlaken in February 2010. On the eve of the conference, the final ratification of Protocol 14 was received, so that the Protocol could enter into force. The declaration and Action Plan adopted at the Interlaken Conference have had an important follow-up, supported and developed by the Izmir Conference organised in 2011 by the Turkish Chairmanship of the Committee of Ministers, and the Brighton Conference, organised in 2012 by the Chairmanship of the United Kingdom. The results of these conferences have been endorsed by the Committee of Ministers at its ministerial sessions, including a number of operational decisions following the Brighton Conference.

6. The national dimension of this development has been underlined by special conferences and other activities organised by several Chairs of the CM, notably by the Ukrainian Chairmanship (Kyiv Conference, 2011), the Albanian Chairmanship (Tirana Conference, 2012) and by the Azerbaijan Chairmanship (Baku Conference for supreme courts of the member states organised in 2014). The Andorran, Armenian and Austrian Chairs had as a common priority to bring the Council of Europe closer to the citizens, notably by ensuring transparent information, rigorous training and education in human rights.

7. On a practical level, the new reform process has dealt with a wide range of issues. Among the first results was the Ministers' Deputies' adoption in December 2010 of new working methods as of 1 January 2011, notably resting on a new twin-track system for better prioritisation of supervision, emphasising in particular judgments revealing important structural problems, including pilot judgments and judgments requiring urgent individual measures. Further details about the new modalities are given in Appendix 7[4].

8. In parallel, the CDDH started reflections on possible further measures, both measures possible without changing the Convention (final report of December 2010) and measures requiring amendments to the Convention (final report of February 2012.

4. The documents at the basis of the reform are available on the Committee of Ministers web site and on the web site of the Department for the Execution of Judgments of the Court (see notably CM/Inf/DH(2010)37 and CM/Inf/DH(2010)45 final).

Proposals considered related to the supervision of the respect of unilateral declarations, the means of filtering applications, the Court's handling of repetitive applications, the introduction of fees for applicants and other forms regulating access to the Court, changes to the admissibility criteria, and allowing the Court to render advisory opinions at the request of domestic courts. A separate report of June 2012 examined the possible introduction of a simplified procedure for amending certain provisions of the Convention.

9. Following the political guidance given at the Brighton Conference in April 2012, the reform work accelerated and the CDDH was notably mandated to prepare *two draft protocols* to the Convention (preparatory work carried out by working group GT-GDR-B). The two protocols were adopted by the CM in 2013 and are now open for signature and ratification. *Protocol No. 15* (ratified by 10 states at the end of 2014) concerns notably the principle of subsidiarity and the States' margin of appreciation in implementing the Convention, certain admissibility criteria (reduction of the time limit for submitting applications from 6 to 4 months, the safeguards for rejecting applications because the applicant is not found to have suffered any « significant disadvantage », repealing of the requirement that the complaints must have been duly examined by a domestic court) and questions related to the Court (age limits for judges, simplified relinquishment of jurisdiction in favour of the grand chamber). Protocol No. 16 (not yet ratified by any state) allows the highest courts and tribunals of a High Contracting Party, as specified by the latter, to request the Court to give advisory opinions on questions of principle raised in cases pending before the former, relating to the interpretation or application of the rights and freedoms defined in the Convention.

10. The CDDH was moreover mandated to examine the measures taken by the member States *to implement the relevant parts of the Interlaken and Izmir declarations* (preparatory work carried out by working group GT-GDR-A). This examination culminated in a series of Recommendations as regards notably awareness raising, effective remedies and the execution of the Court's judgments, including pilot judgments, the drawing of conclusions from judgments against other states and provision to applicants of information on the Convention and the Court's case-law. The Recommendations directly addressing the execution of the Court's judgments were reproduced in the 2012 annual report. A second mandate related to the effects of Protocol No. 14 and the implementation of the Interlaken and Izmir Declarations on the situation of the Court. Certain statistics regarding the impact of this Protocol on the CM are presented in the statistical part of the annual reports (see Appendix 1).

11. The Committee of Ministers also gave mandates to the CDDH to examine a series of other questions, some of which had close links to the execution and the Committee of Ministers' supervision thereof[5].

5. Further mandates to the CDDH related to the development of a toolkit for public officials on the State's obligations under the Convention and the preparation of a guide to good practices as regards effective remedies. The work carried out under these mandates did not, however, cover the obligations linked to execution or the question of remedies necessary to ensure execution – cf. CM Recommendation (2000)2 cited above (the work carried out by working group GT-GDR-D).

12. One of the questions examined related to the advisability and modalities of a *representative application procedure* before the Court in case of numerous complaints alleging the same violation of the ECHR against the same state (preparatory work carried out by the working group GT-GDR-C). The CDDH's conclusion was that, taking into account in particular the Court's existing tools, there would be no significant added value to such a procedure in the current circumstances, although subsequent developments could render a re-examination of the question necessary.

13. Another question related to the means to resolve *large numbers of applications resulting from systemic problems* (preparatory work carried out by working group GT-GDR-D). The CDDH underlined that full, prompt and effective execution of judgments of the Court, friendly settlements or unilateral declarations and full co-operation of the respondent State with the CM were the most urgent measures to be implemented. In particular, the introduction by the respondent State of a carefully designed, effective domestic remedy allows the 'repatriation' of applications pending before the Court. The CDDH noted that recent experience had shown that this response could have an extremely powerful impact, but stressed, as frequently done by the CM in the context of its supervision of the execution, that such 'repatriation' did not absolve the respondent State from resolving the underlying systemic problem.

14. The Committee of Ministers also decided to examine the question of *whether more efficient measures are required vis-à-vis states that fail to implement judgments in a timely manner*. This work supplements the one previously undertaken relating to the problem of slowness and negligence in the execution[6], including the question of how best to prevent such situations from arising[7]. The CM started its examination of this question in September 2012, in parallel to the mandate previously given to the CDDH to examine the same question. The results of the Committee's first examination were presented in December 2012, and those of its working group GT-REF.ECHR in April 2013. Both were communicated to the CDDH to assist the special working group set up for this purpose (GT-GDR-E). This working group also benefitted from an exchange of views with representatives of civil society and other independent experts. The ensuing CDDH report of November 2013 noted the excessively large and growing number of judgments pending before the CM (on the basis of the statistics available until 2012) and found this to be a cause of serious concern, requiring remedial action. The report indicated that such action could include the more effective application of existing measures within the CM's new working methods, or the introduction of genuinely new, more effective measures, or both. Alongside this, the CM could consider whether there was a need to reinforce the staff and the information technology capacity of the Department for the execution of judgments of the Court. Before continuing its own examination, the CM requested an opinion from the Court on the proposals contained in the CDDH report.

6. In the context of this work the Secretariat has also presented several memoranda on the issue see notably CM/Inf(2003)37rev6, CM/Inf/DH(2006)18, CDDH(2008)14 Addendum II.
7. See for example the CDDH proposals in document CDDH(2006)008. The CDDH has also subsequently presented additional proposals – see document CDDH(2008)014 relating notably to Action Plans and Action Reports.

15. The Court's opinion was received in May 2014. The Court stressed the importance of adequate and timely execution and highlighted the continuing problem of repetitive cases, in particular in respect of a number of states. In response to a request for comments on the pilot judgment procedure, the Court notably indicated that its approach proceeded from the concern – clearly expressed in the Brighton Declaration – to safeguard the effectiveness of the Convention proceedings, while respecting the competences and prerogatives of the different actors in the system. It also indicated that it could only agree that it is in the interest of the overall Convention system that its two institutional pillars – the Court and the CM – act in a mutually reinforcing way. The Court concluded by noting that very few of the CDDH proposals appeared to find much support and that it was hard to see how they could significantly improve the current system – yet such improvement was undoubtedly needed. Reflection thus had to continue.

16. In the meantime, the issue of the efficiency of the execution was among the themes discussed at the Oslo Conference organised between 7-8 April 2014 by the *Norwegian Institute PluriCourts* and the CDDH and supported by the Norwegian Government. Several avenues for future development were discussed, both at the Council of Europe level and at national level (e.g. the creation of an independent national mechanism entrusted with ensuring that governments draw the full conclusion of the Court's judgments). The general conclusion, as expressed notably by the Director General of Human Rights and Rule of Law, was, however, that further reflections were also necessary in this respect.

17. Subsequently, in November 2014, the Belgian Chair of the CM announced that it intended to hold a high level conference on the implementation of the Convention and the execution of the Court's judgments in Bruxelles on 26-27 March 2015 entitled "The implementation of the Convention: Our shared responsibility".

18. The CDDH prepared at its November meeting a contribution for the conference dealing notably with the further development of the CM's working methods, new sources of information for states, interaction between the Court and the CM, new possibilities for the Council of Europe's cooperation activities, streamlining of national procedures for the implementation of the Convention and international cooperation on major issues.

19. In parallel to the above developments, the Parliamentary Assembly of the Council of Europe continued its efforts to heighten the knowledge about the Convention requirements, notably in execution matters, among the legal advisers attached to competent parliamentary commissions and also to encourage all national parliaments to contribute to the execution of the Court's judgments, notably by setting up, as already done in a number of states, special parliamentary mechanisms to supervise the timely progress of the execution. In this context, an overview of existing mechanisms was published in October 2014.

C. Development of cooperation activities

i. The targeted cooperation activities organised with the Department for the execution of judgments of the Court

20. The Committee of Ministers has since 2006 provided special support for the further development of the special targeted co-operation activities carried out by the Department for the execution of judgments of the Court to support domestic execution processes in different ways. Among the most frequent forms of support figure legal expertise, round tables and other events to share experiences between interested states and training programmes.

21. As part of these activities, for instance an important multilateral conference was held in October 2012, in Antalya (Turkey), to allow states to share experiences, including with the CEPEJ, as to ways and means to resolve the important and complex problem of the excessive length of proceedings. The conclusions of this conference are available on the Department's web site. Numerous activities, in the form of expert missions, training activities and legislative advice took place in 2013. Among these, the targeted cooperation activities related to the implementation of the pilot judgment in the *Maria Atanasiu* case, received particular attention – see the Committee of Ministers' decision of June 2013 referred to in the thematic overview. In 2014, a big multilateral round table was held in Strasbourg in October to discuss problems encountered in the drafting of Action Plans and Action Reports and share good practices among member states. A further important project relating to the problem of restitution of properties nationalised under the former communist regime in Albania is under way. A number of activities are also engaged, since 2009, with important support from the Human Rights Trust Fund. These activities are presented in section ii below.

22. These activities are supplemented by regular visits to Strasbourg by officials from different countries, in order to take part in specific activities such as study visits, seminars or other events where the work of the Committee of Ministers on execution supervision is presented and/or specific questions on execution problems are discussed. Such visits have continued and have been further developed in 2014.

23. The Committee of Ministers' Recommendation CM/Rec(2008)2 to the member states on efficient domestic capacity for the rapid execution of judgments of the Court continues to be, together with the other Committee Recommendations cited above, an important contribution to the execution process and a constant source of inspiration in the current regular bilateral relations established between different national authorities and the Department for the execution of judgments of the Court[8].

8. Important positive developments in the different areas covered by this recommendation were noted at the multi-lateral conference organised in Tirana in December 2011(see further below under ii). The conclusions are available on the Department's web site.

ii. The special support provided by the Human Rights Trust Fund

24. Targeted co-operation projects to assist ongoing domestic execution processes have been widely supported by the Human Rights Trust Fund, set up in 2008 by the Council of Europe, the Council of Europe Development Bank and Norway, with contributions from Germany, the Netherlands, Finland, Switzerland and the United Kingdom. The fund supports in particular activities that aim to strengthen the sustainability of the Court in the different areas covered by the Committee of Ministers' seven Recommendations regarding the improvement of the national implementation of the Convention and by ensuring the full and timely national execution of the judgments of the Court.

25. The execution related projects managed by the Department for the execution of judgments of the Court started in 2009. They have all included an important component of experience sharing between states in areas of special interest.

26. The first projects related to the non-execution of domestic court decisions (HRTF 1) and actions of security forces (HRTF 2).

27. The HRTF 1 aimed at supporting the beneficiary countries' efforts to design and adopt effective norms and procedures at national level for a better enforcement of national courts' judgments. The project has been implemented in Albania, Azerbaijan, Bosnia and Herzegovina, the Republic of Moldova, Serbia and Ukraine. The HRTF 2 project aimed to contribute to the execution of judgments of the European Court of Human Rights finding violations of the Convention concerning actions of security forces in the Chechen Republic (Russian Federation). Activities were developed from 2010 to 2012, and included the organisation of several important round tables, notably addressing issues concerning effective remedies against the non-execution or the delayed execution of domestic court decisions; restitution/compensation for properties nationalised by former communist regimes; and the development of the effective domestic capacity to ensure the rapid execution of the judgments of the European Court, a particularly important problem when structural shortcomings such as the non-execution of domestic court judgments are revealed by the Court's judgments. These projects terminated at the end of 2012.

28. Further projects have been agreed on, notably a project developed with the Turkish authorities on the Freedom of expression and the Media in Turkey (HRTF 22), which aims at enhancing the implementation of the Convention in this field and another, multi-lateral, relating to detention on remand and effective remedies to challenge detention conditions (HRTF 18).

29. Project HRTF 22, which ended in April 2014, has sought to contribute to changing the practice of domestic courts, in particular of the Court of Cassation and the Constitutional Court in its new role as guarantor of the Convention rights, to better ensure that it is in line with the Convention requirements. It also aimed at preparing the ground for legislative changes in order to align Turkish law with the Convention standards. 2013 activities notably included a High Level Conference on Freedom of Expression and Media Freedom in Turkey in Ankara on 5 February 2013. 2014 saw two conferences in Turkey and a study visit for judges and prosecutors in Strasbourg. The project HRTF 18 is intended to enable the beneficiary states to share good

practices which are instrumental for the execution of the Court's judgments in the area at issue. The States which have joined the project are Bulgaria, Poland, the Republic of Moldova, Romania, the Russian Federation and Ukraine. 2013 activities have included the elaboration of a number of expert reports, including legislative advice. 2014 saw three major conferences, one in Romania in March, one in Bulgaria in December and a multilateral one, in Strasbourg in July 2014.

30. The conclusions of the seminars and conferences cited above (and other relevant documentation) are available on the web site of the Department for the execution of judgments of the Court (www.coe.int/execution).

31. The HRTF also supports a number of more general projects of relevance for the implementation of the Convention. A full list of projects supported by the Fund is available on its web site (www.coe.int/t/dghl/humanrightstrustfund).

iii. More general cooperation programs

32. The importance of technical assistance and cooperation programs was also highlighted at the Brighton Conference and in the follow-up to the Conference, notably during the discussions within the Committee of Ministers' working group GT-REF.ECHR and the CDDH (e.g. in its contribution to the high-level Conference to be held by the Belgian Chair in Brussels in March 2015 - see also section B above). In parallel, action has been undertaken by the SG to ensure that co-operation and technical assistance take better into account the findings of the monitoring bodies and the judgments of the Court. The SG also indicated in his statement to the CM in September 2014 that these efforts will continue to be reinforced.

33. In line with herewith, action has been taken in 2014 to better target the Council of Europe's more general cooperation programs to ensure that the development and implementation of these take into account structural problems revealed by the judgments of the Court. In the same vein, CM Decisions in individual cases invite currently states to frequently take advantage of the different co-operation programs offered by the Council of Europe. National Action Plans developed have also contained, where appropriate, important components aimed at facilitating the execution of the Court's judgments, whether in general, or in specific areas. The Action Plans developed with Azerbaijan and Ukraine are examples of this development.

iv. Additional support for cooperation programs

34. In addition to the support provided through the HRTF, the UE, individual states and other organisations provide support for programs of relevance for the execution of the Court's judgments. In 2014 cooperation projects with close links with the execution of the Court's judgments were engaged, notably with support from the Danish government, the government of the Netherlands, the Swedish development agency SIDA and Norway Grants.

Appendix 1 – Statistics 2014

Introduction

The data presented in this appendix are based on the internal database of the Department for the Execution of Judgments of the European Court of Human Rights. The presentation has been revised in accordance with the Committee of Ministers' decision at its 1208th meeting (September 2014). An analysis of statistics, in particular the 2014 results, is contained in the Remarks by the Director General of the Directorate General I Human Rights and Rule of Law.

This appendix is now divided in 5 sections.

- **Section A** provides an **overview of the main developments since 1996**
- **Section B** focuses on **statistics on the classification of cases by the Committee of Ministers, i.e. under standard or enhanced supervision:**
  - Overview of classification of cases
    - New cases
    - Pending cases
    - Cases closed
  - Detailed statistics - State by State
    - New cases
    - Pending cases
    - Cases closed
- **Section C** covers other statistics relating to the **Committee of Ministers' new working methods:**
  - Main structural problems under enhanced supervision – overviews by themes and by State
  - Transfers
  - Action Plans / Reports
  - Number of cases / groups of cases with a Committee of Ministers' decision
- **Section D** presents statistics on **the timely execution of the Court's judgments:**
  - Respect of payment deadlines
  - Average duration of the execution of pending cases
  - Average duration of the execution of closed cases
- **Section E** includes a number of **additional statistics**
  - Overview according to the nature of cases: leading or repetitive
  - Detailed statistics according to the nature of cases - State by State
  - Cases decided under Protocol n° 14, Article 28 (1) (b), i.e. by a committee of 3 judges as the underlying questions are already the subject of well-established case-law of the Court
  - Just satisfaction awarded

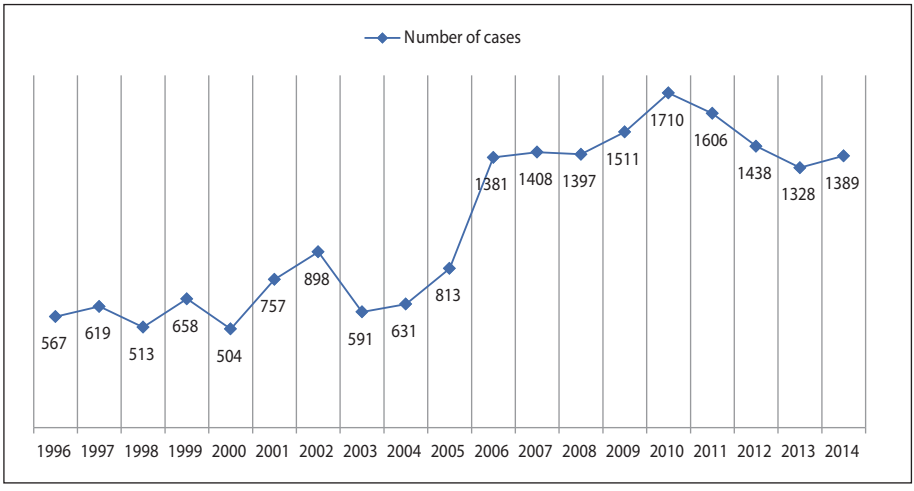
Friendly settlements are included in the group which best corresponds to the terms of the settlement. A settlement with an undertaking to adopt legislative measures will, for example, be identified as **"leading"**.

Note: For various practical reasons, information on judgments which have become final in a specific year may still be incomplete when the statistics are produced. For some judgments/decisions this information will only arrive and be registered later with some minor consequences for the exactness and comparability of statistics regarding new and pending cases. In addition, as regards the comparability of statistics within a certain year, it must be borne in mind that the new cases, born and closed the same year (146 in 2013 and 200 in 2014), are not included among the "pending cases" at the end of the year.

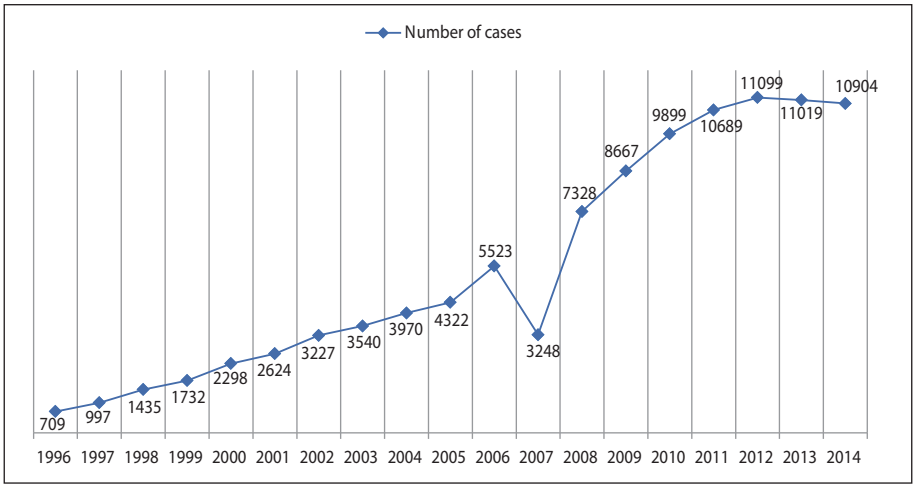
A. General overview of developments in the number of cases from 1996 to 2014

The data presented also include cases where the Committee of Ministers decided itself whether or not there had been a violation under former Article 32 of the Convention (even if this competence disappeared in connection with the entry into force of Protocol No.11 in 1998, a number of such cases remain pending under former Article 32).

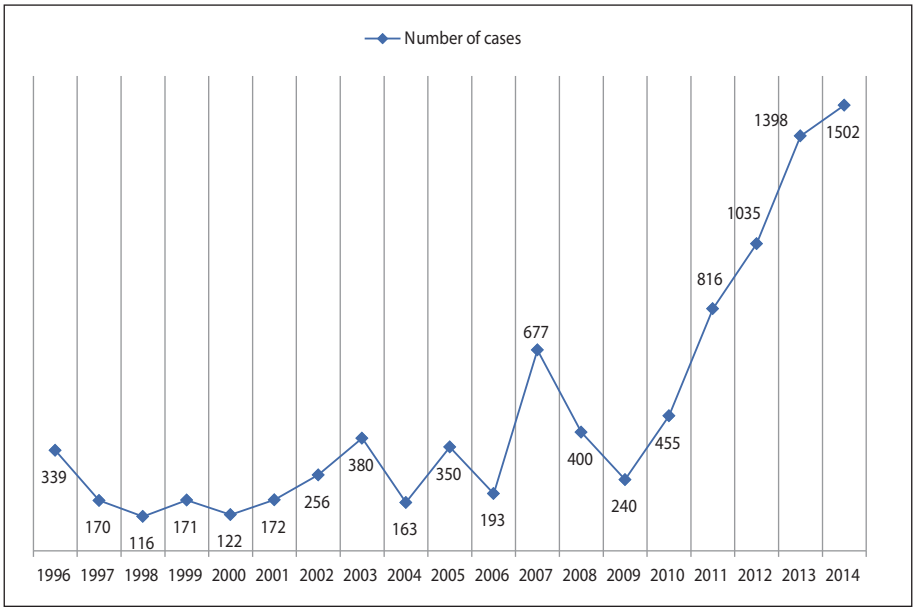
Development in the number of new cases that became final from 1996 to 2014



Development in the number of cases pending at the end of the year, from 1996 to 2014



Development of the number of closed cases, from 1996 to 2014



B. Main statistics relating to the Committee of Ministers' action

The reform of the Committee of Ministers' working methods in 2011 introduced a prioritisation scheme for the supervision procedure. Under this scheme, the Committee will follow closely, under an **enhanced supervision** procedure, developments in certain types of cases. Among these figure cases implying a need to take urgent individual measures, or deemed by the CM to concern important structural or complex problems, whether the problem has been identified by the Court or the CM itself. Pilot judgments are automatically under enhanced supervision, so are also inter-state cases. All other cases follow a standard supervision procedure. When enhanced supervision is no longer deemed necessary, cases will be transferred to **standard supervision**. Conversely, cases under standard supervision may be transferred to enhanced supervision if deemed appropriate in the light of developments.

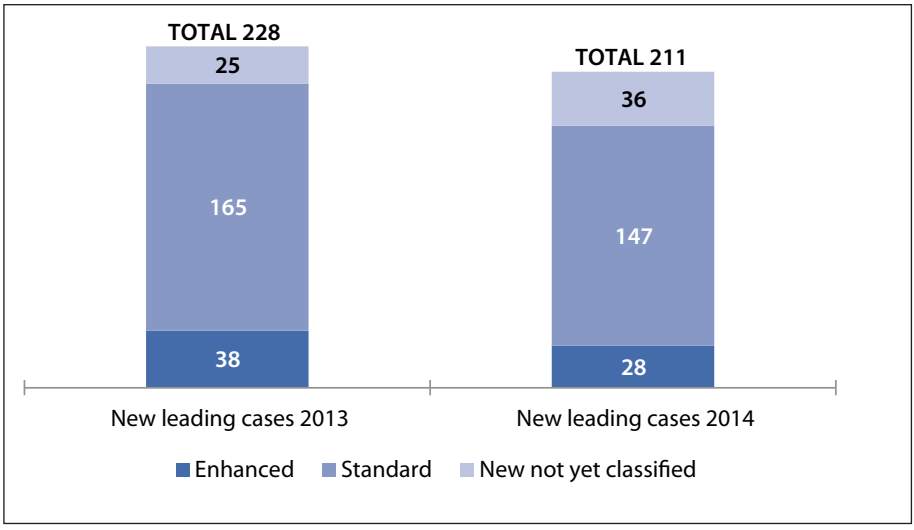
The first case which reveals a new structural problem, whether important or not, is called "**leading case**". The following cases concerning the same problem are called "**repetitive cases**". These notions are further developed in sub-section E. In order to facilitate the supervision of execution, several interconnected leading cases may be grouped together (see notably Appendix 2).

B.1. Overview of the classification of cases (standard / enhanced)

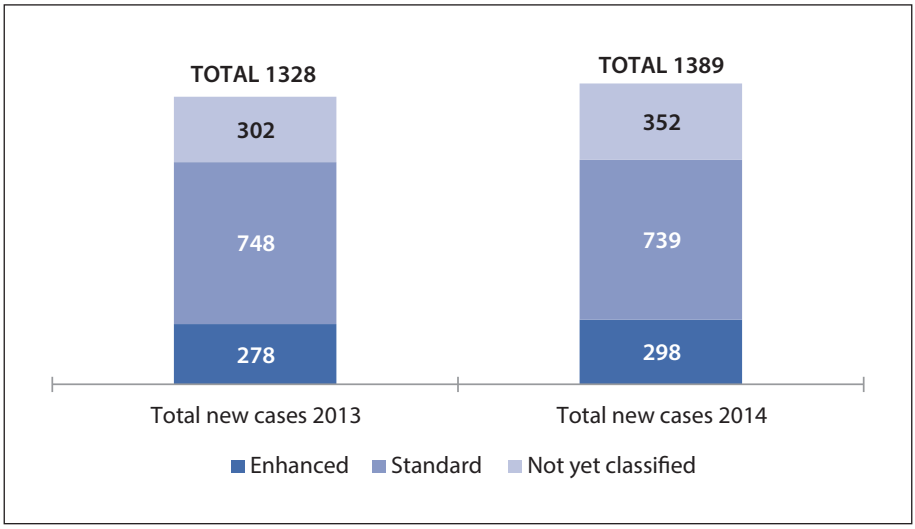
Note: The presentation of new cases awaiting classification as leading or repetitive is only provisional awaiting the classification decision.

B.1.a. New cases: 1st January – 31 December

i. New leading cases

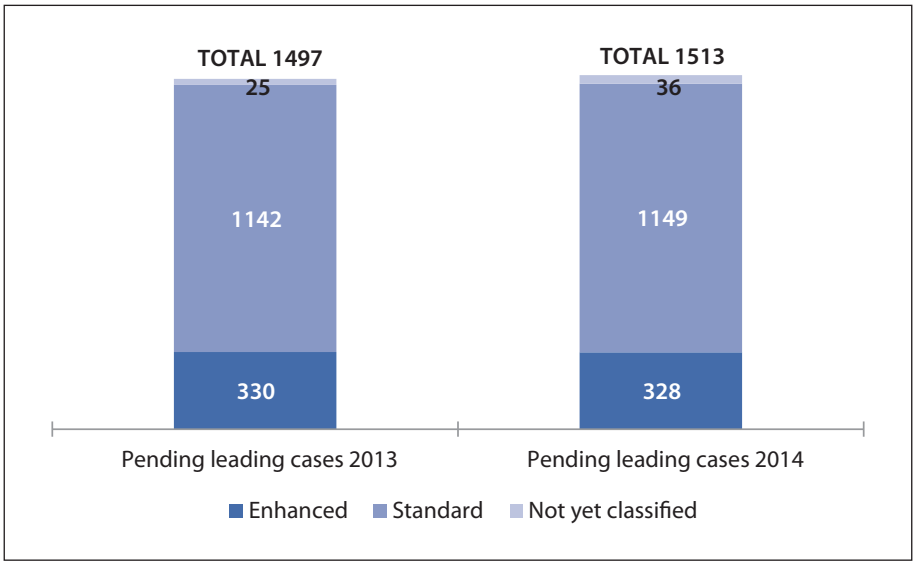


ii. Total number of cases: leading and repetitive

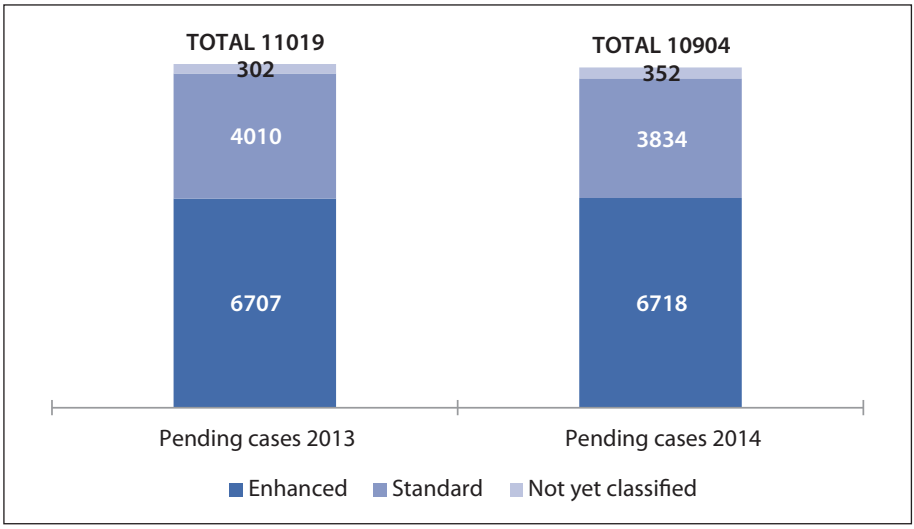


B.1.b. Pending cases: situation on 31 December 2014

i. Leading cases



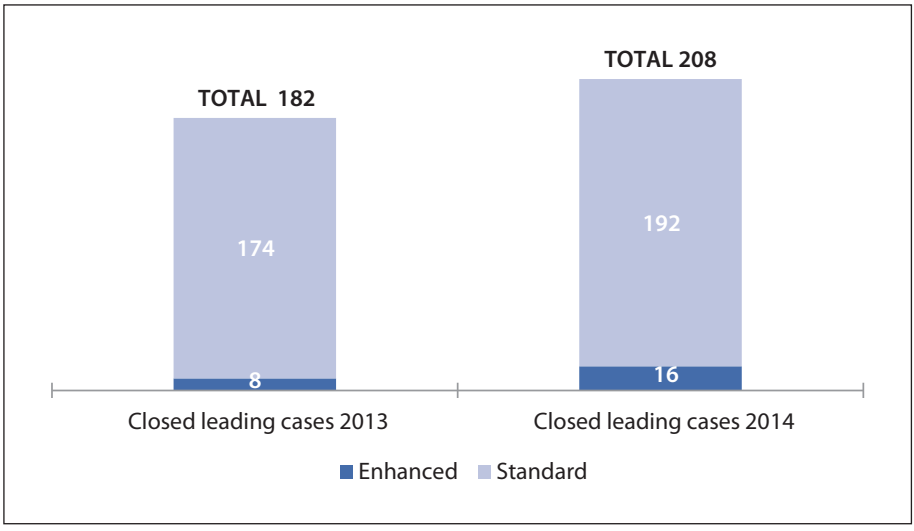
ii. Total number of cases: leading and repetitive



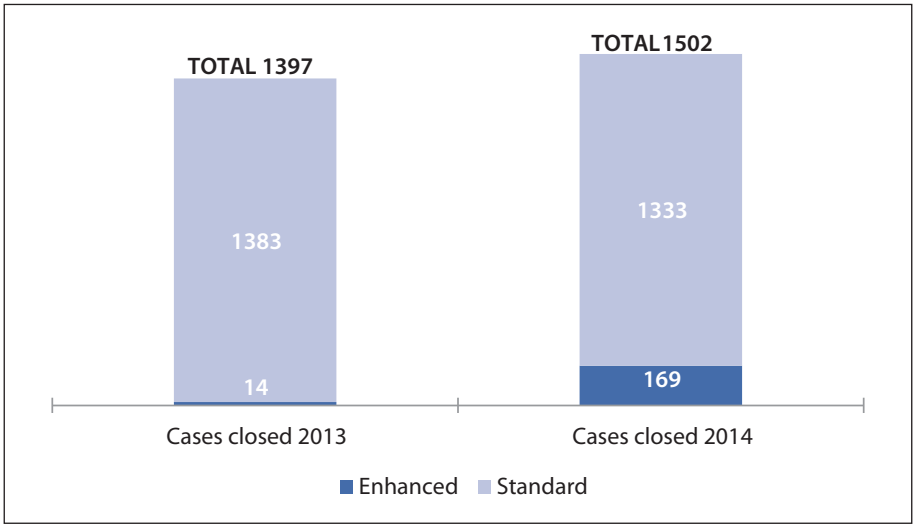
B.1.c. Cases closed

Note: Cases closed have all been classified. Cases referred to as "enhanced" comprise all cases which at one moment or another during the supervision process have been classified under enhanced supervision.

i. Leading cases



ii. Total number of cases: leading and repetitive



B.2. Detailed statistics – State by State

B.2.a. New cases

State	ENHANCED						STANDARD						NEW – NOT YET CLASSIFIED					
	Leading cases		Repetitive cases		Total		Leading cases		Repetitive cases		Total		Leading cases		Repetitive cases		Total	
	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014
Albania		1	1	2	1	3			2	1	2	1		1	2		2	1
Andorra																		
Armenia	1		2		3		4			1	4	1						
Austria							3	2	3	6	6	8			4	5	4	5
Azerbaijan	1	1	1	2	2	3	11		1	13	12	13	2		3	17	5	17
Belgium	1		3	8	4	8	4		1	2	5	2			3		3	
Bosnia and Herzegovina			4	2	4	2	1	2	2	1	3	3			2	1	2	1
Bulgaria	1	1	14		15	1	9	9	20	9	29	18		3	5	4	5	7
Croatia							8	16	25	22	33	38		2	18	25	18	27
Cyprus													1				1	
Czech Republic							4	4	9	1	13	5	1	1	6		7	1
Denmark															1		1	
Estonia							1	2	1	4	2	6	2	1			2	1
Finland								2	3	3	3	5			2	1	2	1
France	1	1		1	1	2	9	10	9	3	18	13		3	4	4	4	7
Georgia			2		2		4	3	12	11	16	14				1		1

State	ENHANCED						STANDARD						NEW – NOT YET CLASSIFIED					
	Leading cases		Repetitive cases		Total		Leading cases		Repetitive cases		Total		Leading cases		Repetitive cases		Total	
	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014
Germany		1		1		2	2	1	2	1	4	2				1		1
Greece	3		14	14	17	14	1	3	11	34	12	37	2		11	39	13	39
Hungary	2		13	26	15	26	5	2	76	32	81	34	1		19	15	20	15
Iceland																		
Ireland		1				1			2		2		1		1		2	
Italy	5		8	11	13	11	1	12	12	15	13	27	1	4	8	10	9	14
Latvia							10	7	2	3	12	10	3	1		2	3	3
Liechtenstein																		
Lithuania							4	6			4	6	1		1		2	
Luxembourg							1				1							
Malta							3		3		6		3	1	1		4	1
Republic of Moldova	3	1	9	6	12	7	1	3	8	6	9	9		2	7	13	7	15
Monaco								1				1						
Montenegro							5		2	1	7	1		1	1	1	1	2
Netherlands							1	1	1	3	2	4			1	2	1	2
Norway							2	1			2	1				1		1
Poland	2		7	4	9	4	4	1	101	74	105	75			20	17	20	17
Portugal			8	10	8	10	1	3	4	33	5	36			3	9	3	9
Romania	1	3	27	31	28	34	15	15	35	62	50	77	2	7	22	22	24	29
Russian Federation	3	6	62	67	65	73	9	4	27	36	36	40		2	22	35	22	37

State	ENHANCED						STANDARD						NEW – NOT YET CLASSIFIED					
	Leading cases		Repetitive cases		Total		Leading cases		Repetitive cases		Total		Leading cases		Repetitive cases		Total	
	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014
San Marino																		
Serbia	1	1	4	10	5	11	3	4	14	57	17	61		1	27	22	27	23
Slovak Republic		1				1	6	5	30	12	36	17		1	3	2	3	3
Slovenia		1		7		8		3	25	11	25	14			5	9	5	9
Spain		1				1	5		1	1	6	1			2		2	
Sweden							1	2	1		2	2	2			1	2	1
Switzerland							1	5			1	5		1	3	2	3	3
"The former Yugoslav Republic of Macedonia"							2	1	15	22	17	23			5	9	5	9
Turkey	4	1	31	43	35	44	6	10	103	92	109	102		4	49	31	49	35
Ukraine	7	7	30	25	37	32	8	4	18	9	26	13	1		15	14	16	14
United Kingdom	2				2		10	3	2	11	12	14	2		1	1	3	1
Total	**38**	**28**	**240**	**270**	**278**	**298**	**165**	**147**	**583**	**592**	**748**	**739**	**25**	**36**	**277**	**316**	**302**	**352**

B.2.b. Pending cases

State	ENHANCED						STANDARD						NEW – NOT YET CLASSIFIED					
	Leading cases		Repetitive cases		Total		Leading cases		Repetitive cases		Total		Leading cases		Repetitive cases		Total	
	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014
Albania	10	9	11	15	21	24	8	8	3	5	11	13		1	2		2	1
Andorra							1	1			1	1						
Armenia	4	4	8	8	12	12	15	12	11	10	26	22						
Austria							23	23	36	44	59	67			4	5	4	5
Azerbaijan	11	12	28	33	39	45	20	30	17	22	37	52	2		3	17	5	17
Belgium	6	4	27	35	33	39	15	9	7	11	22	20			3		3	
Bosnia and Herzegovina	6	5	5	7	11	12	6	5	14	6	20	11			2	1	2	1
Bulgaria	25	26	170	171	195	197	74	66	83	55	157	121		3	5	4	5	7
Croatia	3	3	1	1	4	4	52	62	84	79	136	141		2	18	25	18	27
Cyprus	1	2			1	2	4	3			4	3	1				1	
Czech Republic	1	1			1	1	7	8	12	4	19	12	1	1	6		7	1
Denmark															1		1	
Estonia							3	6	3	2	6	8	2	1			2	1
Finland							11	13	29	27	40	40			2	1	2	1
France	3	4		1	3	5	24	28	19	14	43	42		3	4	4	4	7
Georgia	5	5	2	2	7	7	16	14	7	7	23	21				1		1
Germany	2		12		14		15	15	2	3	17	18				1		1
Greece	17	10	366	196	383	206	42	46	57	267	99	313	2		11	39	13	39

State	ENHANCED						STANDARD						NEW – NOT YET CLASSIFIED					
	Leading cases		Repetitive cases		Total		Leading cases		Repetitive cases		Total		Leading cases		Repetitive cases		Total	
	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014
Hungary	5	3	195	231	200	234	29	34	36	48	65	82	1		19	15	20	15
Iceland							5	5	1	1	6	6						
Ireland	1	1			1	1	3	1	7	4	10	5	1		1		2	
Italy	29	26	2364	2370	2393	2396	39	48	152	164	191	212	1	4	8	10	9	14
Latvia							35	43	9	12	44	55	3	1		2	3	3
Liechtenstein																		
Lithuania		2				2	18	21	16	3	34	24	1		1		2	
Luxembourg							2		8		10							
Malta	1	2		1	1	3	9	7	8	6	17	13	3	1	1		4	1
Republic of Moldova	24	25	100	107	124	132	47	49	60	60	107	109		2	7	13	7	15
Monaco									1		1							
Montenegro							10	12	4	3	14	15		1	1	1	1	2
Netherlands							13	9	2		15	9			1	2	1	2
Norway	1	1			1	1	2	2			2	2				1		1
Poland	14	10	414	399	428	409	46	30	269	47	315	77			20	17	20	17
Portugal	3	2	98	78	101	80	5	8	8	25	13	33			3	9	3	9
Romania	18	21	452	407	470	428	64	55	144	127	208	182	2	7	22	22	24	29
Russian Federation	48	54	869	952	917	1006	124	131	265	300	389	431		2	22	35	22	37
San Marino							2	1			2	1						
Serbia	10	11	16	33	26	44	19	21	51	106	70	127		1	27	22	27	23

State	ENHANCED						STANDARD						NEW – NOT YET CLASSIFIED					
	Leading cases		Repetitive cases		Total		Leading cases		Repetitive cases		Total		Leading cases		Repetitive cases		Total	
	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014
Slovak Republic	1	2			1	2	16	17	39	27	55	44		1	3	2	3	3
Slovenia	1	2	2	9	3	11	16	19	247	263	263	282			5	9	5	9
Spain		1				1	17	14	12	14	29	28			2		2	
Sweden							2	2	1		3	2	2			1	2	1
Switzerland	1				1		7	15			7	15		1	3	2	3	3
"The former Yugoslav Republic of Macedonia"	2	2			2	2	22	24	68	78	90	102			5	9	5	9
Turkey	34	28	487	549	521	577	154	136	1004	752	1158	888		4	49	31	49	35
Ukraine	38	45	744	778	782	823	88	90	71	82	159	172	1		15	14	16	14
United Kingdom	5	5	6	7	11	12	12	6	1	7	13	13	2		1	1	3	1
Total	**330**	**328**	**6377**	**6390**	**6707**	**6718**	**1142**	**1149**	**2868**	**2685**	**4010**	**3834**	**25**	**36**	**277**	**316**	**302**	**352**

B.2.c. Cases closed

State	ENHANCED						STANDARD					
	Leading cases		Repetitive cases		Total		Leading cases		Repetitive cases		Total	
	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014
Albania		1				1						
Andorra												
Armenia								3		2		5
Austria							1	2	1	2	2	4
Azerbaijan									1		1	
Belgium		1				1	1	6		1	1	7
Bosnia and Herzegovina								4	1	11	1	15
Bulgaria	1			1	1	1	16	16	41	41	57	57
Croatia	1				1			5	15	46	15	51
Cyprus							3	1	24		27	1
Czech Republic							15	5	89	14	104	19
Denmark									7	1	7	1
Estonia							4	1		5	4	6
Finland							2		15	7	17	7
France	1				1		23	10	12	8	35	18
Georgia							3	5	9	11	12	16
Germany							4	5	72	12	76	17
Greece							4	5	20	22	24	27
Hungary									83	29	83	29
Iceland												
Ireland		1				1		2	1	5	1	7
Italy		2		9		11		8	9	4	9	12
Latvia								2	1		1	2
Liechtenstein												
Lithuania								2	1	14	1	16
Luxembourg							2	2		8	2	10
Malta		1				1	6	3	1	2	7	5
Republic of Moldova								2	21	11	21	13
Monaco								1		1		2
Montenegro							2			1	2	1
Netherlands								5	1	6	1	11
Norway							1	1			1	1
Poland		3	2	20	2	23	20	20	256	313	276	333

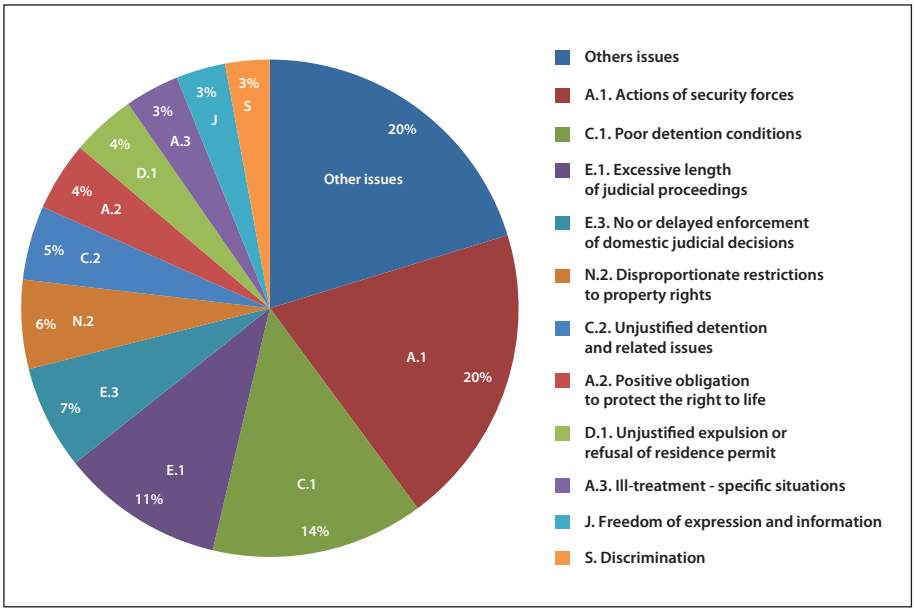
State	ENHANCED						STANDARD					
	Leading cases		Repetitive cases		Total		Leading cases		Repetitive cases		Total	
	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014
Portugal		1		30		31	8	1	15	18	23	19
Romania		2		83		85	25	28	41	90	66	118
Russian Federation								1	9	2	9	3
San Marino								1	1		1	1
Serbia							2	3	29	21	31	24
Slovak Republic	1		3		4		5	5	19	26	24	31
Slovenia												
Spain							2	3		1	2	4
Sweden							7	4	1	1	8	5
Switzerland		1				1	1				1	
"The former Yugoslav Republic of Macedonia"									47	16	47	16
Turkey	3	2	1	10	4	12	5	18	318	379	323	397
Ukraine								3	31	4	31	7
United Kingdom	1	1			1	1	12	9	17	6	29	15
Total	**8**	**16**	**6**	**153**	**14**	**169**	**174**	**192**	**1209**	**1141**	**1383**	**1333**

Note: The number of isolated cases is presented in table E.2.

C. Other statistics related to the Committee of Ministers' new working methods

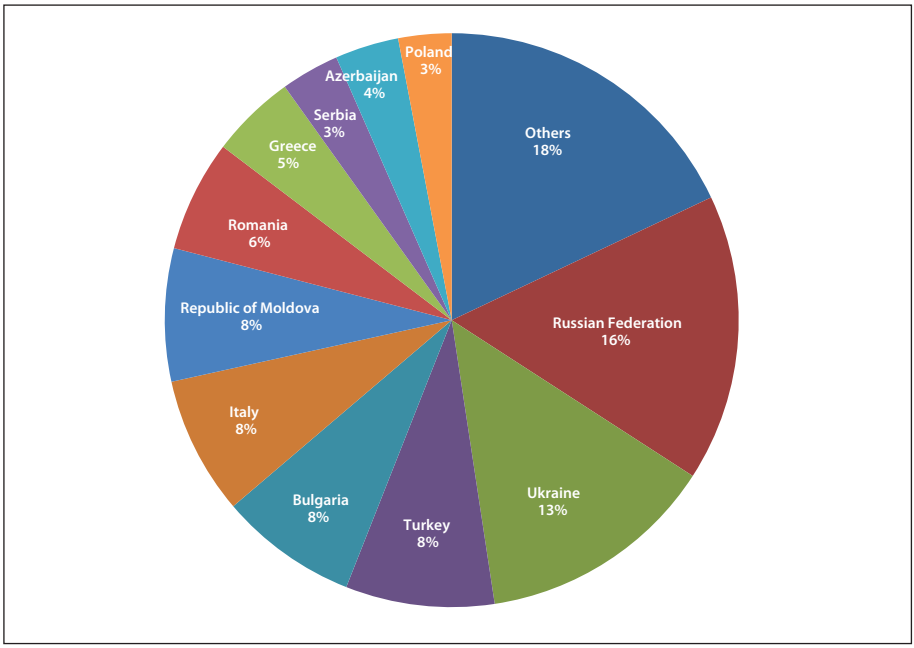
C.1. Main themes under enhanced supervision (on the basis of the number of leading cases)

The presentation below relates to the main themes under enhanced supervision. The themes correspond to those used in the thematic overview.



C.2. Main States with cases under enhanced supervision (on the basis of the number of leading cases)

This presentation shows the distribution of main structural and/or complex problems.



C.3. Transfers

Standard supervision procedure to enhanced procedure: In 2014, 2 groups of cases concerning 2 States (Bulgaria and Poland) were transferred from standard to enhanced supervision. In 2013, 2 groups concerning 2 States (Italy and Turkey) were transferred.

Enhanced supervision procedure to standard procedure: In 2014, 9 leading cases or groups of cases, concerning 5 States (Bosnia and Herzegovina, Germany, Greece, Hungary and Italy), were transferred from enhanced to standard supervision. In 2013, 7 leading cases or groups of cases, concerning 3 States (Russian Federation, Slovenia and Turkey), were transferred.

C.4. Action plans / reports

From 1st January to 31st December 2014, the Committee received 266 action plans and 481 action reports. For the same period in 2013, 229 action plans (158 in 2012) and 349 action reports (262 in 2012) had been submitted to the Committee.

According to the new working methods, when the six-month deadline for States to submit an action plan / report has expired and no such document has been transmitted to the Committee of Ministers, the Department for the Execution sends a reminder letter to the delegation concerned. If a member State has not submitted an action plan / report within three months after the reminder, and no explanation of this situation is given to the Committee of Ministers, the Secretariat is responsible for proposing the case for detailed consideration by the Committee of Ministers under the enhanced procedure (see CM/Inf/DH(2010)45final, item IV).

In 2014, 60 reminder letters were addressed to 24 States (29 in 2013) concerning 103 cases/groups of cases (125 in 2012). For 68 of these cases/groups of cases (105 in 2012), an action plan / report has been sent to the Committee of Ministers.

C.5. Number of cases / groups of cases with a Committee of Ministers' decision

In 2014, 26 States[9] have had cases included in the Order of Business of the Committee of Ministers for detailed examination (27[10] in 2013) – initial classification issues excluded. This, out of a total of 31 States with cases under enhanced supervision (31 in 2013).

a. Number of interventions of the Committee of Ministers

Year	Number of interventions by CM during the year[11]	States concerned	Total of States with cases under enhanced supervision
2014	118	26	31
2013	114	27	31
2012	110	26	29
2011	97	24	26
2010	75	21	-

9. 2013 : Albania, Armenia, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, France, Georgia, Greece, Hungary, Ireland, Italy, Malta, Republic of Moldova, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Slovenia, Spain, Turkey, Ukraine and United Kingdom.
10. 2012 : Albania, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Georgia, Germany, Greece, Hungary, Ireland, Italy, Republic of Moldova, Poland, Romania, Russian Federation, Slovak Republic, Serbia, Slovenia, "The former Yugoslav Republic of Macedonia", Spain, Turkey, Ukraine and United Kingdom.
11. Some of the cases included in these figures have also been examined at the Committee of Ministers' ordinary meetings (OM); notably, the case *Sejdić and Finci v. Bosnia and Herzegovina* was examined twice in 2012 (at the 1137th and the 1147th OM) and twice in 2013 (at the 1169th and 1170th OM); also, the case of *Garabayev v. Russian Federation* was examined once in 2013 at the 1176th OM.

b. Details on the frequency of interventions of the CM (cases or groups of cases)

Cases	2014	2013	2012
Total	**69**	**76**	**65**
Examined four times	6 Mahmudov and Agazade v. Azerbaijan (group) Fatullayev v. Azerbaijan Catan and Others v. Russian Federation Garabayev v. Russian Federation M.C. and Others v. Italy Varnava and Others v. Turkey Xenides-Arestis v. Turkey (group) Oleksandr Volkov v. Ukraine	5 Sejdic and Finci v. Bosnia and Herzegovina Garabayev v. Russian Federation Michelioudakis v. Greece Diamantides N°2 v. Greece (group) Grudic v. Serbia Kuric and Others v. Slovenia	6 Mahmudov and Agazade v. Azerbaijan (group) Sejdic and Finci v. Bosnia and Herzegovina Garabayev v. Russian Federation Hulki Gunes v. Turkey (group) Ulke v. Turkey Zhovner v. Ukraine (group) Yuriy Nikolayevich Ivanov v. Ukraine
Examined three times	4	4	9
Examined twice	11	15	9
Examined once	48	52	41

C.6. Contributions from civil society

In 2014, 80 contributions from NGOs and NHRI (National Human Rights Institutions) were received and circulated by the Committee of Ministers. In 2013, the figure was 81. In 2012 and 2011, the figure was 47 for each year.

D. Timely execution of the Court's judgments

D.1. Payment of just satisfaction

State	RESPECT FOR PAYMENT TERMS (based on payments recorded during the year)							
	Payments on time (during the year)		Payments out of time (during the year)		Awaiting confirmation of payments at 31 December (in parenthesis only awaiting default interest)		Cases awaiting this information for more than 6 months (after the deadline of payment)	
	2013	2014	2013	2014	2013	2014	2013	2014
Albania	1		3		7(7)	13(7)	5	12
Andorra	1							
Armenia	14	1						
Austria	6	10	4		2	7		3
Azerbaijan	1	4		1	33	56	21	42
Belgium	3	5	2	2	11(3)	14(2)	6	14
Bosnia-Herzegovina	7	4	1	5	4(3)	3	3	3
Bulgaria	36	21	7	7	6(2)	7	5	2
Croatia	32	57	2		9(1)	16(1)	1	1
Cyprus	3	1			1			
Czech Republic	17	16			16	2	10	
Denmark	1				1			
Estonia	2	9			2			
Finland	8	9		2	11	6	8	5
France	3	8	15	11	9(1)	8(1)	3	1
Georgia	20	13			2	3	2	2
Germany	13	4	1			1		
Greece	38	24	8	18	41(2)	74(1)	25	34
Hungary	82	67	1	1	11(1)	20(2)	6	11
Island					2	2	2	2
Ireland	8	3			2			
Italy	32	11	51	15	89(10)	102(11)	79	79
Latvia	10	11			1	2		
Liechtenstein								
Lithuania	5	6			1			
Luxembourg	1							
Malta	7	5	2	4	3(3)	1		1

State	RESPECT FOR PAYMENT TERMS (based on payments recorded during the year)							
	Payments on time (during the year)		Payments out of time (during the year)		Awaiting confirmation of payments at 31 December (in parenthesis only awaiting default interest)		Cases awaiting this information for more than 6 months (after the deadline of payment)	
	2013	2014	2013	2014	2013	2014	2013	2014
Republic of Moldova	24	30	1	1	10(1)	10	1	
Monaco		1			1		1	
Montenegro	3	4			3	1(1)	2	
Netherlands	4	4				2		
Norway	2	2			1	1		
Poland	207	147	11	1	79(2)	38(2)	51	16
Portugal	26	25	9	3	3	4	1	1
Romania	79	117	17	14	46(2)	46(1)	18	18
Russian Federation	42	30	16	27	170(17)	236(13)	123	186
San Marino								
Serbia	26	15	2	27	41	93(2)	22	60
Slovak Republic	37	21			3	1		
Slovenia	25	26		3	8(3)	10(1)	3	2
Spain	1	1	1	5	7(3)	5	4	5
Sweden	6	2			2			
Switzerland	2	6			4	5		3
"The former Yugoslav Republic of Macedonia"	44	11			9	27	1	14
Turkey	170	177	24	2	159(127)	165(109)	94	107
Ukraine	80	5	12	15	126(32)	160(30)	104	141
United Kingdom	14	17	1		2			
Total	**1143**	**930**	**191**	**164**	**938(220)**	**1141(184)**	**601**	**765**

D.2. Average execution time

D.2.a. Pending cases

State	ENHANCED						STANDARD						NOT YET CLASSIFIED	
	Leading cases pending < 2 years		Leading cases pending 2-5 years		Leading cases pending >5 years		Leading cases pending < 2 years		Leading cases pending 2-5 years		Leading cases pending >5 years		Leading cases pending < 2 years	
	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014
Albania	3	1	3	3	4	5	1		5	5	2	3		1
Andorra							1			1				
Armenia	1		3	3		1	9		4	9	2	3		
Austria							8	5	9	10	6	8		
Azerbaijan	1	2	8	3	2	7	9	13	5	8	8	9		
Belgium	2		2	3	2	1	7		4	4	4	5		
Bosnia and Herzegovina	3	1	3	3		1	3	2	2	3	1			
Bulgaria	4	2	9	11	12	13	18	13	38	27	18	26		3
Croatia	1		1	2	1	1	16	20	23	22	13	20		2
Cyprus		1	1	1					3	1	1	2	1	
Czech republic					1	1	5	6	2	2			1	1
Denmark														
Estonia							3	5		1	1		1	1
Finland							1	2	5	3	5	8		
France	3	2		2			13	14	9	12	2	2		3

State	ENHANCED						STANDARD						NOT YET CLASSIFIED	
	Leading cases pending < 2 years		Leading cases pending 2-5 years		Leading cases pending >5 years		Leading cases pending < 2 years		Leading cases pending 2-5 years		Leading cases pending >5 years		Leading cases pending < 2 years	
	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014
Georgia			4	3	1	2	6	4	5	4	5	6		
Germany	1		1				9	4	6	11				
Greece	5	2	6	3	6	5	8	3	18	11	16	32	2	
Hungary	5	1		1		1	12	8	17	20	1	6		
Iceland							2		1	2	2	3		
Ireland		1	1				1		1	1	1		1	
Italy	9	3	6	7	14	16	8	15	14	12	17	21	1	4
Latvia							16	17	11	12	9	14	2	1
Liechtenstein														
Lithuania				1		1	9	10	7	8	3	3		
Luxembourg							1				1			
Malta	1	2					2	3	5	2	2	2	3	1
Republic of Moldova	6	3	5	6	13	16	5	5	22	17	20	27		2
Monaco														
Montenegro							6	4	4	7		1		1
Netherlands							7	1	2	5	4	3		
Norway	1			1			2	2						
Poland	4		6	3	4	7	9	3	25	13	12	14		
Portugal					3	2	2	4	2	3	1	1		

State	ENHANCED						STANDARD						NOT YET CLASSIFIED	
	Leading cases pending < 2 years		Leading cases pending 2-5 years		Leading cases pending >5 years		Leading cases pending < 2 years		Leading cases pending 2-5 years		Leading cases pending >5 years		Leading cases pending < 2 years	
	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014
Romania	2	4	7	7	9	10	22	18	27	18	15	19	2	7
Russian Federation	13	10	12	16	23	28	23	17	58	45	43	69		2
San Marino							1				1	1		
Serbia	3	2	1	3	6	6	8	7	7	7	4	7		1
Slovak Republic	1	1		1			13	6	3	11				1
Slovenia	1	1		1			4	4	6	6	6	9		
Spain		1					7	3	9	9	1	2		
Sweden							1	1	1	1			2	
Switzerland	1						3	9	3	4	1	2		1
"The former Yugoslav Republic of Macedonia"	1		1	1		1	5	4	10	10	7	10		
Turkey	11	5	8	6	15	17	21	19	68	44	65	73		4
Ukraine	15	13	12	17	11	15	21	13	44	43	22	34	2	
United Kingdom	2	2	2	2	1	1	8	4	1	1	3	1	1	
Total	**100**	**60**	**102**	**110**	**128**	**158**	**336**	**268**	**486**	**435**	**325**	**446**	**19**	**36**

D.2.b. Average duration of the execution in leading cases closed (number of years)

State	CASES CLOSED					
	General average		Enhanced supervision		Standard supervision	
	2013	2014	2013	2014	2013	2014
Albania		5,6		5,6		
Andorra						
Armenia		3,4				3,4
Austria	1	2			1	2
Azerbaijan						
Belgium	4,5	3,5		6,2	4,5	3,1
Bosnia and Herzegovina		3,6				3,6
Bulgaria	4,4	3,9	2,1		4,6	3,9
Croatia	2,4	2,3	2,4			2,3
Cyprus	5,5	3,7			5,5	3,7
Czech republic	3,8	2,4			3,8	2,4
Denmark						
Estonia	1,6	6,9			1,6	6,9
Finland	4,8				4,8	
France	2,6	2,3	2,8		2,6	2,3
Georgia	0,9	3,5			0,9	3,5
Germany	4,3	3,6			4,3	3,6
Greece	3,3	2			3,3	2
Hungary						
Iceland						
Ireland		5,9		4		6,9
Italy		5,2		4,6		5,3
Latvia		4,4				4,4
Liechtenstein						
Lithuania		3,1				3,1
Luxembourg	5,4	5,7			5,4	5,7
Malta	4,4	3,8		2,1	4,4	4,3
Republic of Moldova		8,3				8,3
Monaco		0,9				0,9
Montenegro	1,2				1,2	
Netherlands		4,1				4,1
Norway	1,7	1,6			1,7	1,6
Poland	4,5	5,1		4,7	4,5	5,2
Portugal	2,5	5,8		8	2,5	3,5
Romania	3,8	4,1		8,1	3,8	3,8

State	CASES CLOSED					
	General average		Enhanced supervision		Standard supervision	
	2013	2014	2013	2014	2013	2014
Russian Federation		9,7				9,7
San Marino		2				2
Serbia	1,7	2,4			1,7	2,4
Slovak Republic	2,8	1,8	4		2,6	1,8
Slovenia						
Spain	2,5	4,4			2,5	4,4
Sweden	2,2	1,3			2,2	1,3
Switzerland	1	2,3		2,3	1	
"The former Yugoslav Republic of Macedonia"						
Turkey	5,7	6,2	6,7	3,9	5,1	6,5
Ukraine		7,4				7,4
United Kingdom	2,2	3,5	1,4	1,2	2,3	3,8
Total	**3,5**	**4,1**	**4,1**	**4,8**	**3,4**	**4,1**

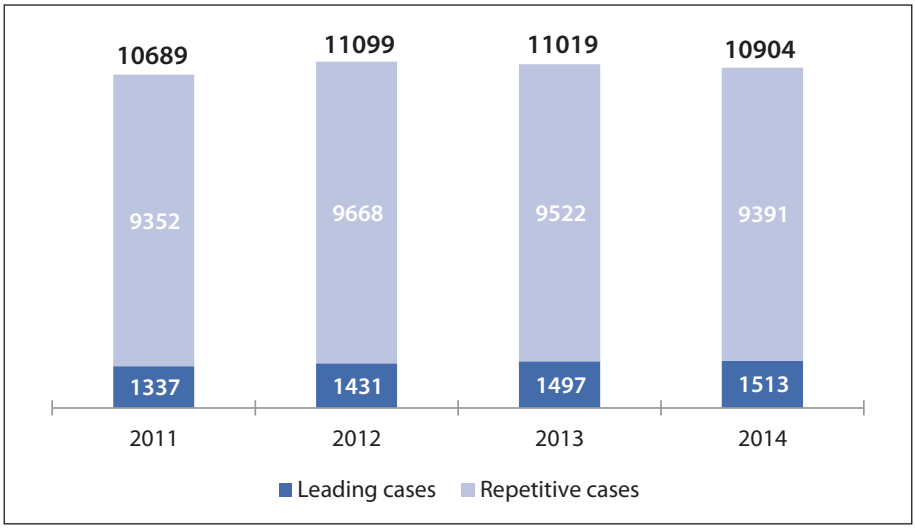
E. Additional statistics

The identification of all cases revealing structural problems, whether important or not, commonly called **leading** cases has since the beginning been an essential element of execution supervision. This process has also allowed the identification of **repetitive** cases, and, at least at the end of the supervision process, cases which eventually turn out to be based on **isolated** errors or shortcomings. For the purposes of statistics regarding new and pending cases, possibly isolated cases are usually included among leading cases. Under the new working methods, the classification is included in a CM Decision.

E.1. Overview of nature of cases: leading and repetitive

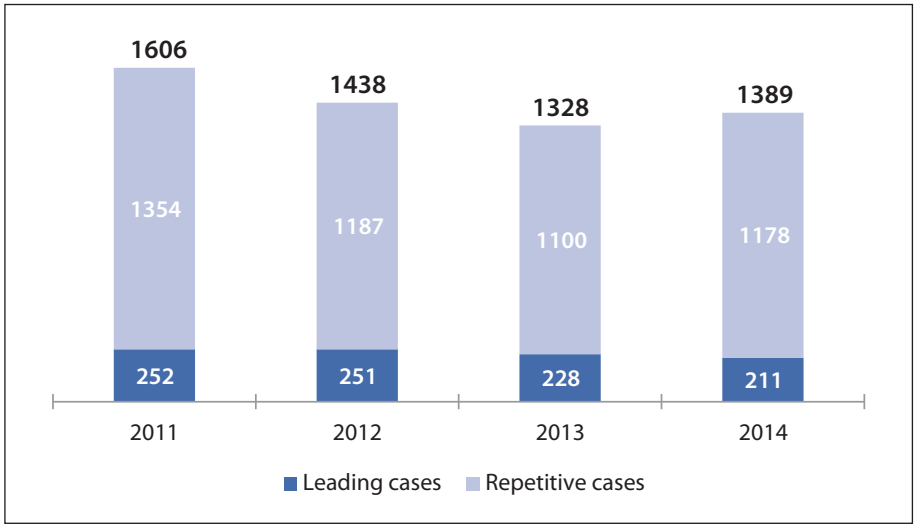
E.1.a. Pending cases

Evolution of pending cases on 31 December 2014



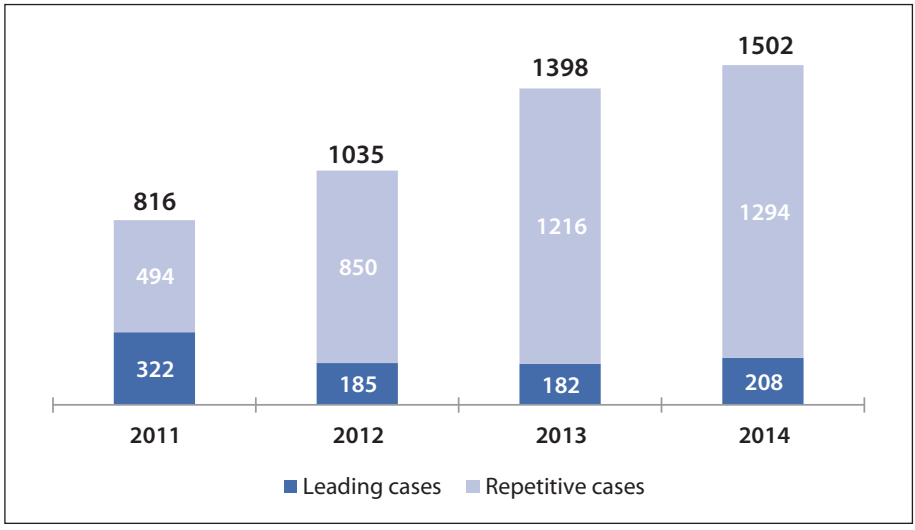
E.1.b. New cases

New cases which became final between 1st January and 31st December



E.1.c. Cases closed

Cases closed by the adoption of a final resolution between 2011 and 2014



E.2. Detailed statistics according to nature of cases - State by State

The table below presents the total number of cases and specifies the number of "leading cases", i.e. cases revealing structural problems (more or less important). Leading cases, however, include also the potentially isolated cases. As mentioned in the introduction, these cases were for the moment only qualified as such at the closure of supervision by the Committee of Ministers. The number of cases closed accepted as isolated cases at the closure of supervision by the Committee of Ministers, is indicated in parentheses in the corresponding column.

Certain additional statistics can be found in sections D.1, D.2 and D.3.

State	NEW CASES				FINAL RESOLUTIONS				PENDING CASES			
	TOTAL No. of cases		of which leading cases		TOTAL No. of cases		of which leading cases		TOTAL No. of cases		of which leading cases	
	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014
Albania	5	5		2		1		1	34	38	18	18
Andorra									1	1	1	1
Armenia	7	1	5			5		3	38	34	19	16
Austria	10	13	3	2	2	4	1	2 (1)	63	72	23	23
Azerbaijan	19	33	14	1	1				81	114	33	42
Belgium	12	10	5		1	8	1	7	58	59	21	13
Bosnia and Herzegovina	9	6	1	2	1	15		4 (1)	33	24	12	10
Bulgaria	49	26	10	13	58	58	17 (2)	16 (3)	357	325	99	95
Croatia	51	65	8	18	16	51	1	5	158	172	55	67
Cyprus	1		1		27	1	3 (1)	1 (1)	6	5	6	5
Czech Republic	20	6	5	5	104	19	15 (1)	5	27	14	9	10
Denmark	1				7	1			1			
Estonia	4	7	3	3	4	6	4 (2)	1	8	9	5	7
Finland	5	6		2	17	7	2		42	41	11	13
France	23	22	10	14	36	18	24 (3)	10 (5)	50	54	27	35
Georgia	18	15	4	3	12	16	3 (1)	5 (1)	30	29	21	19
Germany	4	5	2	2	76	17	4	5 (3)	31	19	17	15
Greece	42	90	6	3	24	27	4	5 (1)	495	558	61	56
Hungary	116	75	8	2	83	29			285	331	35	37
Iceland									6	6	5	5
Ireland	4	1	1	1	1	8		3	13	6	5	2
Italy	35	52	7	16	9	23		10 (5)	2593	2622	69	78
Latvia	15	13	13	8	1	2		2	47	58	38	44
Liechtenstein												

State	NEW CASES				FINAL RESOLUTIONS				PENDING CASES			
	TOTAL No. of cases		of which leading cases		TOTAL No. of cases		of which leading cases		TOTAL No. of cases		of which leading cases	
	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014	2013	2014
Lithuania	6	6	5	6	1	16		2 (1)	36	26	19	23
Luxembourg	1		1		2	10	2	2 (1)	10		2	
Malta	10	1	6	1	7	6	6 (1)	4	22	17	13	10
Republic of Moldova	28	31	4	6	21	13		2	238	256	71	76
Monaco		1		1		2		1	1			
Montenegro	8	3	5	1	2	1	2 (1)		15	17	10	13
Netherlands	3	6	1	1	1	11		5 (1)	16	11	13	9
Norway	2	2	2	1	1	1	1	1 (1)	3	4	3	3
Poland	134	96	6	1	278	356	20 (5)	23 (3)	763	503	60	40
Portugal	16	55	1	3	23	50	8 (2)	2	117	122	8	10
Romania	102	140	18	25	66	203	25 (4)	30 (5)	702	639	84	83
Russian Federation	123	150	12	12	9	3		1	1328	1474	172	187
San Marino					1	1		1	2	1	2	1
Serbia	49	95	4	6	31	24	2 (1)	3 (2)	123	194	29	33
Slovak Republic	39	21	6	7	28	31	6	5	59	49	17	20
Slovenia	30	31		4					271	302	17	21
Spain	8	2	5	1	2	4	2 (2)	3 (2)	31	29	17	15
Sweden	4	3	3	2	8	5	7	4 (2)	5	3	4	2
Switzerland	4	8	1	6	1	1	1	1	11	18	8	16
"The former Yugoslav Republic of Macedonia"	22	32	2	1	47	16			97	113	24	26
Turkey	193	181	10	15	327	409	8	20 (1)	1728	1500	188	168
Ukraine	79	59	16	11	31	7		3 (1)	957	1009	127	135
United Kingdom	17	15	14	3	30	16	13	10 (1)	27	26	19	11
Total	**1328**	**1389**	**228**	**211**	**1397**	**1502**	**182(26)**	**208(46)**	**11019**	**10904**	**1497**	**1513**

E.3. Cases in which the underlying questions are already the subject of well-established case-law of the Court (hereafter "WECL" cases* - Article 28§1b) and Friendly settlements (Article 39§4)

* In previous Annual Reports, these cases were referred to as "Protocol 14 cases".

State	PROTOCOL NO. 14 NEW CASES "WECL" cases Article 28§1b			FRIENDLY SETTLEMENTS (ART. 39§4)		
	2012	2013	2014	2012	2013	2014
Albania	1	2	2		1	
Andorra						
Armenia						
Austria	1	3	3	1	1	8
Azerbaijan	6	2		1	11	22
Belgium	1				3	1
Bosnia and Herzegovina		5	3	8	4	
Bulgaria	16	5		15	8	7
Croatia	4	5	4	18	30	36
Cyprus						
Czech republic	1	2		3	9	1
Denmark				7	1	
Estonia			2		1	
Finland			1	8	3	1
France		2		2	1	3
Georgia				4	9	15
Germany				2	2	1
Greece	30	10	27	3	14	38
Hungary	9	24	33	53	73	31
Iceland						
Ireland	2	1		1	3	
Italy	17	18	17	17	2	9
Latvia				1		
Liechtenstein						
Lithuania	1	1				
Luxembourg	1					
Malta						
Republic of Moldova	2	4	2	14	7	9
Monaco				1		
Montenegro				1	1	2

State	PROTOCOL NO. 14 NEW CASES "WECL" cases Article 28§1b			FRIENDLY SETTLEMENTS (ART. 39§4)		
	2012	2013	2014	2012	2013	2014
Netherlands				1	2	4
Norway						
Poland	7	5	12	111	93	81
Portugal	12	6	12	10	4	39
Romania	11	8	2	17	27	51
Russian Federation	4	17	30	5	9	24
San Marino				1		
Serbia		11	6	47	32	75
Slovak Republic	8	12	2	9	21	9
Slovenia	5	11	24	1		1
Spain	1	2				
Sweden				1		
Switzerland						
"The former Yugoslav Republic of Macedonia"		1	3	46	16	24
Turkey	34	34	8	98	83	84
Ukraine	25	24	13	35	23	11
United Kingdom				5	4	11
Total	**199**	**215**	**206**	**547**	**498**	**598**

E.4. Just satisfaction awarded

State	Total awarded (euros)	
	2013	2014
Albania	2 054 700	8 224 100
Andorra	0	0
Armenia	287 191	6 030
Austria	102 387	235 126
Azerbaijan	293 344	289 583
Belgium	191 810	147 500
Bosnia and Herzegovina	224 579	16 663
Bulgaria	397 750	209 317
Croatia	303 759	458 795
Cyprus	10 000	0
Czech Republic	107 533	9 781
Denmark	11 394	0
Estonia	67 522	39 876
Finland	33 000	37 783
France	4 444 114	312 097
Georgia	119 847	113 500
Germany	100 430	64 021
Greece	1 465 960	1 745 055
Hungary	1 126 100	750 015
Iceland	0	0
Ireland	74 000	115 000
Italy	71 284 302	29 540 589
Latvia	102 000	1 319 122
Liechtenstein	0	0
Lithuania	52 635	39 340
Luxembourg	5 635	0
Malta	2 358 000	217 000
Republic of Moldova	513 896	411 432
Monaco	0	0
Montenegro	272 599	51 750
Netherlands	68 675	85 261
Norway	56 000	158 000
Poland	833 867	456 269
Portugal	2 586 068	750 540
Romania	1 426 511	2 538 767
Russian Federation	4 089 564	1 879 542 229
San Marino	0	0
Serbia	1 644 180	2 697 399

State	Total awarded (euros)	
	2013	2014
Slovak Republic	319 250	170 026
Slovenia	126 856	424 988
Spain	130 592	24 000
Sweden	134 500	20 000
Switzerland	54 223	89 880
"The former Yugoslav Republic of Macedonia"	353 408	301 240
Turkey	8 232 823	99 849 159
Ukraine	32 967 437	7 684 574
United Kingdom	1 139 706	50 050
Total	**135 420 274**	**2 039 195 858**

Appendix 2 – Main cases pending or groups of cases involving important structural and/or complex problems

(Classification by State on 31 December 2014)

The table below is limited to cases originating in **individual applications**. Interstate cases are presented in the Thematic overview of the Appendix 5.

The structural and/or complex problems presented have been identified either directly by the Court in its judgments or by the Committee of Ministers in the course of the supervision process. The corresponding cases or groups of cases are, in principle, dealt with under enhanced supervision. This table also comprises, however, recent "pilot" judgments, as these should automatically be classified under enhanced supervision.

Recent unclassified judgments with indications (under Article 46) regarding new structural problems are presented in Appendix 4. The fact that some groups contain relatively few cases does not lessen the importance of underlying structural problems, in particular in view of their potential to generate repetitive cases and/or because of the general importance of the problem at issue.

State	Main cases, including pilot judgment when appropriate	Application No. (first case)	Date of final judgment	Number of cases pending before the Committee of Ministers	Violation *Note : The state of execution can be found in Appendix 5 - Thematic overview*
Albania	**Caka** (group)	44023/02	08/03/2010	6	Unfair criminal proceedings (see Appendix 5, page 150)
	Driza (group) **Manushaqe Puto and Others** –*pilot judgment*	33771/02	02/06/2008	12	Various problems linked to the restitution of properties nationalised under former communist regimes, including non-enforcement of restitution and compensation decisions (see Appendix 5, page 145)
	Dybeku/Grori	41153/06	02/06/2008	2	Poor detention conditions in prison and unlawful detention (see Appendix 5, page 110)
	Luli and Others	64480/09	01/07/2014	1	Excessive length of civil proceedings and absence of a remedy in that respect (see Appendix 5, page 137)
	Puto (group)	609/07	22/11/2010	7	Non-enforcement of judicial decisions in general (see Appendix 5, page 146)
Armenia	**Kirakosyan** (group)	31237/03	04/05/2009	4	Degrading treatment on account of poor conditions of detention in temporary detention facilities under the authority of the Ministry of the Interior (see Appendix 5, page 111)
	Minasyan and Semerjyan (group)	27651/05	07/09/2011	5	Unlawful expropriations or termination of leases (see Appendix 5, page 175)
	Virabyan	40094/05	02/01/2013	1	Ill-treatment and torture in police custody and absence of effective investigations (see Appendix 5, page 96)
Azerbaijan	**Ilgar Mammadov**	15172/13	13/10/2014	1	Imprisonment for reasons other than those permitted by Article 5, namely to punish the applicant for having criticised the government (see Appendix 5, page 154)

State	Main cases, including pilot judgment when appropriate	Application No. (first case)	Date of final judgment	Number of cases pending before the Committee of Ministers	Violation *Note : The state of execution can be found in Appendix 5 - Thematic overview*
Azerbaijan	**Mahmudov and Agazade** (group)	35877/04	18/03/2009	2	Unjustified convictions for defamation and/ or unjustified use of imprisonment as a sanction for defamation; arbitrary application of anti-terror legislation (see Appendix 5, page 168)
	Mammadov (Jalaloglu) (group) **/Mikayil Mammadov**	34445/04	11/04/2007	3	Action of security forces (police): excessive use of force and torture or ill-treatment in police custody and/ or absence of effective investigations (see Appendix 5, page 96)
	Mirzayev (groupe)	50187/06	03/03/2010	17	Non-execution of final judicial decisions ordering the eviction of internally displaced persons unlawfully occupying apartments to the detriment of the rights of lawful tenants or owners (see Appendix 5, page 146)
	Muradova (group)	22684/05	02/04/2009	3	Excessive use of force by the police against journalists during demonstrations, and lack of an effective investigation (see Appendix 5, page 97)
	Namat Aliyev (group)	18705/06	08/07/2010	9	Various breaches connected with the right to stand freely for elections, and the control of the legality of decisions by electoral commissions (see Appendix 5, page 182)
Belgium	**Dumont** (group)	49525/99	28/07/2005	24	Excessive length of civil and criminal proceedings (see Appendix 5, page 137)
	L.B. (group)	22831/08	02/01/2013	12	Detention for long periods of time in institutions which do not offer the care and support required by a specific psychiatric condition (see Appendix 5, page 111)

State	Main cases, including pilot judgment when appropriate	Application No. (first case)	Date of final judgment	Number of cases pending before the Committee of Ministers	Violation *Note : The state of execution can be found in Appendix 5 - Thematic overview*
Belgium	**M.S.**	50012/08	30/04/2012	1	Continuation of detention of foreigners notwithstanding the findings that expulsion was impossible because of risks in the receiving State (see Appendix 5, page 131)
Bosnia and Herzegovina	**Čolić** (group)	1218/07	28/06/2010	10	Non-enforcement of final judgments ordering the state to pay certain sums in respect of war damage (see Appendix 5, page 146)
	Đokić Mago and Others	6518/04 12959/05	04/10/2010 24/09/2012	2	Military apartments taken from members of the former Yugoslav People's Army ("YPA") in the aftermath of the war in Bosnia and Herzegovina (see Appendix 5, page 176)
	Maktouf and Damjanović	2312/08	17/07/2013	1	War crimes cases : retroactive application of new criminal law with more severe sanctions (see Appendix 5, page 156)
	Sejdić and Finci (group)	27996/06	22/12/2009	1	Ethnic-based discrimination on account of the ineligibility of persons non-affiliated with one of the "constituent peoples" (Bosnians, Croats or Serbs) to stand for election to the House of Peoples (the upper chamber of Parliament) and the Presidency (see Appendix 5, page 183)
Bulgaria	**C.G. and Others** (group)	1365/07	24/07/2008	5	Shortcomings of the judicial review of expulsion and deportation of foreign nationals based on national security grounds (cf. Al-Nashif, see AR 2012) (see Appendix 5, page 127)

State	Main cases, including pilot judgment when appropriate	Application No. (first case)	Date of final judgment	Number of cases pending before the Committee of Ministers	Violation *Note : The state of execution can be found in Appendix 5 - Thematic overview*
Bulgaria	**Djangozov** (group) **Finger** – *pilot judgment* **Kitov** (group) **Dimitrov et Hamanov** – *pilot judgment*	45950/99 37346/05 37104/97 37346/05	08/07/2004 10/08/2011 03/07/2003 10/08/2011	60 65	Excessive length of civil and criminal proceedings; absence of effective remedies (see Appendix 5, page 137)
	Association for European Integration and Human Rights and Ekimdzhiev (group	62540/00	30/01/2008	7	Insufficient guarantees against the arbitrary use of the powers assigned by the law on special surveillance means; absence of an effective remedy (see Appendix 5, page 157)
	Kehayov (group)	41035/98	18/04/2005	22	Poor detention conditions in prisons and remand centres; absence of an effective remedy (see Appendix 5, page 111)
	Nachova and Others / Velikova (groups)	43577/98 41488/98	06/07/2005 04/10/2000	2 25	Excessive use of fire-arms or force by police officers during arrests; ineffective investigations (see Appendix 5, page 97)
	Stanev	36760/06	17/01/2012	1	Placement in social care homes of persons with mental disorders: lawfulness, judicial review, conditions of placement; also impossibility for partially incapacitated persons to request the restoration of their legal capacity directly before a court (see Appendix 5, page 120)
	UMO Illinden and Others **UMO Illinden and Others No. 2**	59491/00 34960/04	19/04/2006 08/03/2012	2	Unjustified refusals to register an association aiming at achieving "the recognition of the Macedonian minority in Bulgaria"(see Appendix 5, page 172)

State	Main cases, including pilot judgment when appropriate	Application No. (first case)	Date of final judgment	Number of cases pending before the Committee of Ministers	Violation *Note : The state of execution can be found in Appendix 5 - Thematic overview*
Bulgaria	**Yordanova and Others**	25446/06	24/09/2012	1	Eviction of persons of Roma origin, on the basis of a legislation not requiring an adequate examination of the proportionality of the measure (see Appendix 5, page 158)
Croatia	**Šečić**	40116/02	31/08/2007	1	Failure to carry out an effective police investigation into a racist attack on a Roma person (see Appendix 5, page 186)
	Skendžić and Krznarić (group)	16212/08	20/04/2011	3	Lack of effective and independent investigations into crimes committed during the Croatian Homeland War (1991-1995) (see Appendix 5, page 97)
Cyprus	**M.A.**	41872/10	23/10/2013	1	Lack of effective remedy with automatic suspensive effect in deportation proceedings + absence of speedy review of lawfulness of detention) (see Appendix 5, page 127)
Czech Republic	**D.H.**	57325/00	13/11/2007	1	Discriminatory assignment of children of Roma origin to special schools for children with special needs or suffering from a mental or social handicap, without any objective and reasonable justification (see Appendix 5, page 180)
France	**M.K.**	19522/09	18/07/2013	1	Collection and retention of fingerprints, taken in the context of criminal investigations even in the absence of decision to prosecute (see Appendix 5, page 161)
Georgia	**Gharibashvili** (group)	11830/03	20/10/2008	6	Ineffective investigations into allegations of excessive use of force by the police (see Appendix 5, page 108)

State	Main cases, including pilot judgment when appropriate	Application No. (first case)	Date of final judgment	Number of cases pending before the Committee of Ministers	Violation *Note : The state of execution can be found in Appendix 5 - Thematic overview*
Greece	**Beka-Koulocheri** (group)	38878/03	06/10/2006	21	Failure or considerable delay in the enforcement of final domestic judgments and absence of effective remedies (see Appendix 5, page 146)
	Bekir-Ousta and Others (group)	35151/05	11/01/2008	3	Refusal to register or dissolution of associations from the Muslim minority in Thrace (see Appendix 5, page 146)
	Makaratzis (group)	50385	20/12/2004	11	Degrading treatment by police/port authorities; lack of effective investigations (see Appendix 5, page 99)
	M.S.S. (group)	30696/09	21/01/2011	20	Shortcomings in the examination of asylum requests, including risks involved in case of direct or indirect return to the country of origin; poor detention conditions of asylum seekers and absence of adequate support when they are no longer detained; absence of an effective remedy (see Appendix 5, page 133)
	Nisiotis (group)	34704/08	20/06/2011	7	Inhuman and degrading treatment on account of poor detention conditions in prison (see Appendix 5, page 113)
	Vallianatos	29381/09	07/11/2013	1	Discrimination against same sex couples as they were excluded from the scope of the law establishing civil unions for different-sex couples (see Appendix 5, page 187)

State	Main cases, including pilot judgment when appropriate	Application No. (first case)	Date of final judgment	Number of cases pending before the Committee of Ministers	Violation *Note : The state of execution can be found in Appendix 5 - Thematic overview*
Hungary	**Horváth and Kiss**	11146/11	29/04/2013	1	Discriminatory assignment of children of Roma origin to schools for children with mental disabilities during their primary education (see Appendix 5, page 187)
	Istvan Gabor and Kovacs (group)	15707/10	17/04/2012	3	Overcrowded pre-trial detention facilities amounting to ill-treatment (see Appendix 5, page 113)
	Tímár (group)	36186/97	09/07/2003	233	Excessive length of proceedings (see Appendix 5, page 140)
Ireland	**O'Keeffe**	35810/09	28/01/2014	1	Responsibility of the Irish State for sexual abuse in 1970's in National School and lack of effective remedy (see Appendix 5, page 109)
Italy	**Ceteroni** (group) **Luordo** (group) **Mostacciuolo** and **Gaglione** (group) **Abenavoli** (group)	22461/93 32190/96 64705/01 45867/07 25587/94	15/11/1996 17/10/2003 29/03/2006 20/06/2011 02/09/1997	2067 25 163 118	Longstanding problem of excessive length of civil (including bankruptcy proceedings), criminal and administrative proceedings; problems related to the functioning of the domestic remedy put in place in 2001: insufficient amounts and delays in the payment of compensation, excessively lengthy compensation proceedings (see Appendix 5, page 140)
	Costa and Pavan	54270/10	11/02/2013	1	Inconsistency in the Italian legal system in the field of medically-assisted procreation (see Appendix 5, page 159)
	Di Sarno and Others	30765/08	10/04/2012	1	Prolonged inability of the authorities to ensure the proper functioning of the waste collection, treatment and disposal service in Campania and lack of an effective remedy in this respect (see Appendix 5, page 167)

State	Main cases, including pilot judgment when appropriate	Application No. (first case)	Date of final judgment	Number of cases pending before the Committee of Ministers	Violation *Note : The state of execution can be found in Appendix 5 - Thematic overview*
Italy	**Godelli**	33783/09	18/03/2013	1	Impossibility for a person abandoned at birth by her biological mother, to have access to information on her origins (see Appendix 5, page 162)
	M.C. – *pilot judgment*	5376/11	03/12/2013	1	Legislative provision annulling retrospectively the annual reassessment of a supplementary component of an allowance for accidental contamination through blood transfusion (HIV, hepatitis…) (see Appendix 5, page 177)
Lithuania	**L.**	27527/03	31/03/2008	1	Lack of legislation governing the conditions and procedures relating to gender reassignment medical treatment (see Appendix 5, page 166)
	Paksas	34932/04	06/01/2011	1	Permanent and irreversible nature of the applicant's disqualification from standing for elections to Parliament as a result of his removal from presidential office following impeachment proceedings (see Appendix 5, page 185)
Malta	**Suso Musa** (group)	42337/12	23/07/2013	3	Various problems related to the detention pending asylum proceedings, notably lack of effective and speedy remedies against arbitrary detention in precarious conditions (see Appendix 5, page 135)
Republic of Moldova	**Corsacov** (group)	18944/02	04/07/2006	28	Ill-treatment and torture during police detention; ineffective investigations; absence of an effective remedy (see Appendix 5, page 99)
	Eremia (group)	3564/11	28/08/2013	4	Authorities' failure to provide protection from domestic violence (see Appendix 5, page 159)

State	Main cases, including pilot judgment when appropriate	Application No. (first case)	Date of final judgment	Number of cases pending before the Committee of Ministers	Violation *Note : The state of execution can be found in Appendix 5 - Thematic overview*
Republic of Moldova	**Genderdoc-M**	9106/06	12/09/2012	1	Ban on a gay march; lack of an effective remedy; discrimination on account of the authorities' disapproval of demonstrations deemed to promote homosexuality (see Appendix 5, page 173)
	Paladi (group) **Becciev** (group) **Ciorap** (group)	39806/05 9190/03 12066/02	10/03/2009 04/01/2006 19/09/2007	3 11 22	Poor conditions of detention in facilities under the authority the Ministries of the Interior and of Justice, including lack of access to adequate medical care; absence of an effective remedy (see Appendix 5, page 114)
	Şarban (group)	3456/05	04/01/2006	27	Violations mainly related to unlawful detention on remand (lawfulness, duration, justification) (see Appendix 5, page 120)
Norway	**Lindheim and Others**	13221/08	22/10/2012	1	Legislation failing to strike a fair balance between the interests of landowners and holders of long land leases to the detriment of the former (see Appendix 5, page 179)
Poland	**Dzwonkowski** (group)	46702/99	12/07/2007	8	Ill-treatment inflicted by the police and lack of effective investigation (see Appendix 5, page 100)
	Fuchs (group) **Kudla** (group) **Podbielski** (group)	33870/96 30210/96 27916/95	11/05/2003 26/10/2000 30/10/1998	82 107 268	Excessive length of judicial administrative, criminal and civil proceedings; absence of an effective remedy (see Appendix 5, page 141)
	Horych (group)	13621/08	17/07/2012	4	Strict, rigid rules for the imposition of a special "dangerous detainee" regime and severity and duration of regime in practice (see Appendix 5, page 115)

State	Main cases, including pilot judgment when appropriate	Application No. (first case)	Date of final judgment	Number of cases pending before the Committee of Ministers	Violation *Note : The state of execution can be found in Appendix 5 - Thematic overview*
Poland	**Kaprykowski** (group)	23052/05	03/05/2009	9	Inhuman and degrading treatment in different detention facilities (remand centres and prisons), mainly due to lack of adequate medical care (see Appendix 5, page 115)
	Orchowski (group)	17885/04	22/01/2010	8	Poor detention conditions in prisons, particularly due to overcrowding (see Appendix 5, page 116)
	P. and S.	57375/08	30/10/2012	1	Problems of access to information regarding lawful abortion, confidentiality of personal data and detention (see Appendix 5, page 160)
Portugal	**Martins Castro** (group) **Oliveira Modesto** (group)	33729/06 34422/97	10/09/2008 08/09/2000	29 51	Excessive length of civil proceedings; ineffectiveness of the compensatory remedy (procedures too lengthy and case-law in need of harmonisation) (see Appendix 5, page 141)
Romania	**Association "21 décembre 1989" and Others** (group)	33810/07	28/11/2011	3	Ineffectiveness of criminal investigations into violent crackdowns on anti-governmental demonstrations (see Appendix 5, page 100)
	Barbu Anghelescu No. 1 (group)	46430/99	05/01/2005	25	Inhuman and degrading treatment or torture by the police in particular during arrests and detention in custody; ineffective investigations, including concerning possible racist motives (see Appendix 5, page 101)
	Bragadireanu (group)	22088/04	06/03/2008	94	Overcrowding and poor conditions in police detention facilities and prisons, including failure to secure adequate medical care and lack of an effective remedy (see Appendix 5, page 116)

State	Main cases, including pilot judgment when appropriate	Application No. (first case)	Date of final judgment	Number of cases pending before the Committee of Ministers	Violation *Note : The state of execution can be found in Appendix 5 - Thematic overview*
Romania	**Bucur and Toma**	40238/02	08/04/2013	1	Conviction of a whistle-blower for having disclosed information on the illegal secret surveillance of citizens by the intelligence service; lack of safeguards in the statutory framework governing secret surveillance (see Appendix 5, page 170)
	Centre for Legal ressources on behalf of Valentin Câmpeanu	47848/08	17/07/2014	1	Lack of appropriate judicial protection and medical and social care for a seropositive young man of Roma origin who suffered from mental health problems and died in a psychiatric facility (see Appendix 5, page 107)
	Enache	10662/06	01/07/2014	1	Detention regime of prisoners classified as "dangerous" (see Appendix 5, page 116)
	Nicolau (group) **Stoianova and Nedelcu** (group)	1295/02 77517/01	03/07/2006 04/11/2005	53 29	Excessive length of civil and criminal proceedings; absence of an effective remedy (see Appendix 5, page 142)
	Săcăleanu (group)	73970/01	06/12/2005	29	Failure or significant delay of the administration or of legal persons under the responsibility of the State in abiding by final domestic court decisions (see Appendix 5, page 148)
	Străin (group) **Maria Atanasiu** – *pilot judgment*	57001/00 15204/02	30/01/2005 17/04/2008	180	Ineffectiveness of the mechanism set up to afford restitution or compensation for properties nationalised during the communist period (see Appendix 5, page 176)
	Ţicu (group)	24575/10	01/01/2014	2	Inadequate management of psychiatric conditions of detainees in prison (see Appendix 5, page 117)

State	Main cases, including pilot judgment when appropriate	Application No. (first case)	Date of final judgment	Number of cases pending before the Committee of Ministers	Violation *Note : The state of execution can be found in Appendix 5 - Thematic overview*
Russian Federation	**Alekseyev**	4916/07	11/04/2011	1	Repeated bans on the holding of gay-rights marches and pickets; lack of effective remedies; discrimination on grounds of sexual orientation in the exercise of the right to freedom of peaceful assembly (see Appendix 5, page 189)
	Anchugov and Gladkov	11157/04	09/12/2013	1	Automatic blanket ban on prisoners' voting rights (see Appendix 5, page 125)
	Catan and Others	43370/04	19/10/2012	1	Violation of the right to education of children and parents from Moldovan/Romanian language schools in the Transdniestrian region of the Republic of Moldova (see Appendix 5, page 181)
	Garabayev (group)	38411/02	30/01/2008	50	Various violations related to extradition; including in some cases abduction and illegal transfer to Tajikistan and Uzbekistan, in violation of Rule 39 indications from the Court (see Appendix 5, page 190)
	Kalashnikov (group) **Ananyev and Others** *– pilot judgment*	47095/99 42525/07	15/10/2002 10/04/2012	140	Poor conditions of detention, mainly on remand; absence of an effective remedy (see Appendix 5, page 102)

State	Main cases, including pilot judgment when appropriate	Application No. (first case)	Date of final judgment	Number of cases pending before the Committee of Ministers	Violation *Note : The state of execution can be found in Appendix 5 - Thematic overview*
Russian Federation	**Khashiyev and Akayeva** (group)	57942/00+	06/07/2005	214	Violations resulting from, or relating to, the Russian authorities' actions during anti-terrorist operations in the Northern Caucasus, mainly Chechnya, in 1999-2006 (particularly unjustified use of force, disappearances, unacknowledged detentions, torture and ill-treatment, unlawful search and seizure and destruction of property); ineffective investigations and absence of effective domestic remedies (see Appendix 5, page 102)
	Klyakhin (group)	46082/99	06/06/2005	181	Different violations of Article 5 mainly related to detention on remand (lawfulness, procedure, length) (see Appendix 5, page 123)
	Liu No. 2 (group)	29157/09	08/03/2012	2	Shortcomings of the system for judicial review of expulsion of foreign nationals based on national security grounds (see Appendix 5, page 130)
	Mikheyev (group)	77617/01	26/04/2006	69	Torture and ill-treatment by the police and ineffective investigations; irregularities related to arrest and detention in police custody; use in criminal proceedings of confessions obtained under duress; lack of an effective remedy to claim compensation for the ill-treatment inflicted (see Appendix 5, page 103)
	Timofeyev (group) **Gerasimov and Others** *– pilot judgment*	58263/00 29920/05	23/01/2004 01/10/2014	257	Failure or serious delay of authorities in abiding by final domestic judicial decisions and lack of a remedy in respect of decisions ordering in - kind obligations (see Appendix 5, page 148)

State	Main cases, including pilot judgment when appropriate	Application No. (first case)	Date of final judgment	Number of cases pending before the Committee of Ministers	Violation *Note: The state of execution can be found in Appendix 5 - Thematic overview*
Serbia	**Ališić and Others** *– pilot judgment*	60642/08	16/07/2014	1	Failure by the governments of the successor States of the SFRY to pay "old" foreign-currency savings deposited outside Serbia and Slovenia (see Appendix 5, page 179)
	EVT Company (group)	3102/05	21/09/2007	40	Non-enforcement of final court and administrative decisions, including against "socially-owned" companies (see Appendix 5, page 148)
	Grudić	31925/08	24/09/2012	1	Suspension, for more than a decade and in breach of domestic law, of payment of pensions earned in Kosovo* (see Appendix 5, page 180)
	Zorica Jovanović	21794/08	09/09/2013	1	Continuing authorities' failure to provide information as to the fate of new-born babies alleged to have died in maternity wards (see Appendix 5, page 163)
Slovenia	**Ališić and Others** *– pilot judgment*	60642/08	16/07/2014	1	Failure by the governments of the successor States of the SFRY to pay "old" foreign-currency savings deposited outside Serbia and Slovenia (see Appendix 5, page 179)
	Mandić and Jović (group)	5774/10	20/01/2012	11	Poor conditions of detention due to overcrowding and lack of effective remedy (see Appendix 5, page 118)
Slovakia	**Bittó and Others**	30255/09	28/04/14	1	Unjust limitations of the use to property through the rent control scheme (see Appendix 5, page 180)
	Labsi	33809/08	24/09/2012	1	Expulsion notwithstanding risk of ill-treatment and disrespect of Rule 39 indications (see Appendix 5, page 192)

* All reference to Kosovo in this document, whether the territory, institutions or population, shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

State	Main cases, including pilot judgment when appropriate	Application No. (first case)	Date of final judgment	Number of cases pending before the Committee of Ministers	Violation *Note : The state of execution can be found in Appendix 5 - Thematic overview*
Spain	**A.C. and Others**	6528/11	22/07/2014	1	Risk of ill-treatment on account of lack of automatic suspensive effect of appeals against decisions to deny international protection taken in the framework of an accelerated procedure (see Appendix 5, page 108)
"The former Yugoslav republic of Macedonia"	**El-Masri**	39630/09	13/12/2012	1	Abduction, unlawful detention, torture and inhuman and degrading treatment during and following the "secret rendition" operation to CIA (see Appendix 5, page 109)
Turkey	**Ahmet Yildirim**	3111/10	18/03/2013	1	Restriction of access to Internet and wholesale blocking of Internet sites (see Appendix 5, page 170)
	Batı and Others (group)	33097/96	03/09/2004	108	Ill-treatment by the police and the gendarmerie; ineffective investigations (see Appendix 5, page 104)
	Inçal (group)	2267/93	09/06/1998	111	Unjustified interferences with freedom of expression, owing notably to criminal convictions by state security courts (see Appendix 5, page 171)
	Oya Ataman (group)	74552/01	05/03/2007	45	Violation of the right to freedom of assembly, ill-treatment as a result of excessive force used during demonstrations, ineffectiveness of investigations (see Appendix 5, page 173)
	Soyler	29411/07	20/01/2014	1	Ban on the convicted prisoners' voting right (see Appendix 5, page 126)

State	Main cases, including pilot judgment when appropriate	Application No. (first case)	Date of final judgment	Number of cases pending before the Committee of Ministers	Violation *Note : The state of execution can be found in Appendix 5 - Thematic overview*
Ukraine	**Afanasyev** (group) / **Kaverzin**	38722/02 23893/03	05/07/2005 15/08/2012	37	Ill-treatment by police; lack of an effective investigation and/ or of an effective remedy (see Appendix 5, page 104)
	Kharchenko (group)	40107/02	10/05/2011	33	Violations related to detention on remand. (see Appendix 5, page 125)
	Lutsenko **Tymoshenko**	6492/11 49872/11	19/11/2012 30/07/2013	2	Circumvention of legislation by prosecutors and judges in the context of criminal investigations in order to restrict liberty for reasons other than those permissible under the Convention (see Appendix 5, page 155)
	Svetlana Naumenko (group) **Merit** (group)	41984/98 66561/01	30/03/2005 30/06/2004	200 68	Excessive length of civil and criminal proceedings; absence of an effective remedy (see Appendix 5, page 144)
	Nevmerzhitsky / Yakovenko / Melnik / Logvinenko / Isayev (groups)	54825/00	12/10/2005	17 15 / 5 7 / 11	Conditions of detention and medical care issues (see Appendix 5, page 119)
	Oleksandr Volkov	21722/11	27/05/2013	1	Serious systemic problems as regards to the functioning of the Ukrainian judiciary (see Appendix 5, page 155)
	Vyerentsov	20372/11	11/07/2013	1	Absence of clear and foreseeable legislation laying down the rules for holding of peaceful assemblies (see Appendix 5, page 174)
	Zhovner (group) **Yuriy Nokolayevich Ivanov** – *pilot judgment*	56848/00 40450/04	29/09/2004 15/01/2010	419	Non-enforcement of final domestic judgments, mostly delivered against the State or State enterprises; absence of an effective remedy (see Appendix 5, page 149)

State	Main cases, including pilot judgment when appropriate	Application No. (first case)	Date of final judgment	Number of cases pending before the Committee of Ministers	Violation *Note : The state of execution can be found in Appendix 5 - Thematic overview*
United-Kingdom	**Hirst No.2** **Greens and M.T. –** *pilot judgment*	74025/01 60041/08	06/10/2005 11/04/2011	2	Blanket ban on voting imposed automatically on convicted offenders serving their sentences (see Appendix 5, page 126)
	McKerr (group)	28883/95	04/08/2001	8	Actions of security forces in Northern Ireland in the 1980s and 1990s: shortcomings in subsequent investigation of deaths; lack of independence of investigating police officers; lack of public scrutiny and information to victims' families on reasons for decisions not to prosecute (see Appendix 5, page 105)
	M.M.	24029/07	29/04/2013	1	Indefinite retention and disclosure of police cautions (warnings issued to less serious offenders) on criminal records (see Appendix 5, page 164)

Appendix 3 - Main cases closed by final resolution during the year

The table below comprises a selection of cases closed in 2014 by final resolution. The summaries of the final resolutions are presented in Appendix 5 – Thematic overview.

State	Case	Application No.	Judgment final on	Description
Albania	**Xheraj**	37959/02	01/12/2008	Acquittal quashed after an appeal out of time – breach of legal certainty (see Appendix 5, page 149)
Armenia	**Bayatyan**	23459/03	07/07/2011	Refusal to allow conscientious objector alternative service (see Appendix 5, page 167)
	Melikyan	9737/06	19/05/2013	Undue court refusal to control legality government decree (see Appendix 5, page 144)
	Sarukhanyan	38978/03	27/08/2008	Breach of the right to free elections through annulment of candidacy (see Appendix 5, page 182)
Austria	**X and Others**	19010/07	19/02/2013	Discriminatory distinction in law of same-sex couples with regard to second-parent adoption (see Appendix 5, page 186)
Belgium	**El Haski**	649/08	18/03/2013	Conviction based on evidence obtained in breach of Article 3 (see Appendix 5, page 151)
	M.S.S.	30696/09	21/01/2011	Transfer of asylum seeker to Greece despite shortcomings in Greek asylum procedures and reception conditions (see Appendix 5, page 131)
	Mubilanzila Mayeka and Kaniki Mitunga	13178/03	03/10/2012	Detention and deportation of an unaccompanied minor (see Appendix 5, page 132)
	Stagno	1062/07	07/10/2009	Statute-barred civil action non-suspended during the children's minority (see Appendix 5, page 144)

State	Case	Application No.	Judgment final on	Description
Bosnia and Herzegovina	Al Hamdani	31098/10	09/07/2012	Arbitrary detention on security grounds without valid deportation order (see Appendix 5, page 132)
	Tokić and Others Halilović	12455/04+ 23968/05	08/10/2008 01/03/2010	Arbitrary compulsory detention in the prison psychiatric unit (see Appendix 5, page 119)
Cyprus	Shchukin and Others	14030/03	29/10/2010	Lack of effective investigation into ill-treatment of crew of impounded ship (see Appendix 5, page 98)
Estonia	Saarekallas OÜ	11548/04	08/02/2008	Excessively lengthy proceedings and absence of remedy (see Appendix 5, page 138)
France	Agnelet	61198/08	01/02/2013	Lack of reasons of assize court judgment (see Appendix 5, page 151)
	Medvedyev and Others	3394/03	29/03/2010	Control of custody on board of a French naval vessel on high seas (see Appendix 5, page 120)
Georgia	Davtyan	73241/01	27/10/2006	Lack of effective investigations into allegations of ill-treatment in police custody (see Appendix 5, page 98)
	Ghavtadze	23204/07	03/06/2009	Failure to protect detainees' health and to administer adequate medical treatment (see Appendix 5, page 112)
	Jashi	10799/06	08/04/2013	Failure to provide care in prison for mental health problems (see Appendix 5, page 112)
Germany	Gäfgen	22978/05	01/06/2010	Threats of torture by police to secure information from a suspected child abductor (see Appendix 5, page 99)
	M.	19359/04	10/05/2010	Retroactive extension or ordering of preventive detention (to offenders deemed dangerous) (see Appendix 5, page 157)
	Schüth	1620/03	23/12/2010	Deficient labour court proceedings after dismissal of church employees (see Appendix 5, page 161)

State	Case	Application No.	Judgment final on	Description
Germany	**Zaunegger**	22028/04	03/03/2010	Discrimination of fathers of children born out of wedlock with regard to custody (see Appendix 5, page 164)
Greece	**Anonymos Touristiki Etairia**	35332/05	21/05/2008	Interference with property rights, excessive length of proceedings and lack of effective remedy (see Appendix 5, page 177)
	Mathloom	48883/07	24/07/2012	Unforeseeable duration of detention pending expulsion; lengthy detention review proceedings (see Appendix 5, page 133)
Ireland	**A. B. and C.**	25579/05	16/12/2010	Absence of legislative or regulatory regime to establish constitutional right to abortion (see Appendix 5, page 160)
Italy	**Bracci**	36822/02	15/02/2006	Unfair criminal proceedings (hearing of witness) (see Appendix 5, page 152)
	Saadi	37201/06	28/02/2008	Deportation to Tunisia that would be in violation of Article 3 (see Appendix 5, page 128)
	Sneersone and Kampanella	14737/09	12/10/2011	Disrespect of best interests of a child in custody proceedings (see Appendix 5, page 164)
Latvia	**Adamsons**	3669/03	01/12/2008	Ineligibility for election of a former member of a military unit affiliated to the KGB (see Appendix 5, page 185)
	Longa Yonkeu	57229/09	15/02/2012	Deficient legal framework and practice in respect of detention pending expulsion (see Appendix 5, page 135)
Lithuania	**Šulcas** (group)	35624/04	05/04/2010	Lengthy proceedings and lack of an effective remedy (see Appendix 5, page 140)
Malta	**Camilleri**	42931/10	27/05/2013	Unforeseeable sentence (see Appendix 5, page 157)
	Gatt	28221/08	27/10/2010	Disproportionate detention for breach of bail conditions (see Appendix 5, page 121)
	M.D. and Others	64791/10	17/10/2012	Absence of judicial review of public care order (see Appendix 5, page 165)

State	Case	Application No.	Judgment final on	Description
Poland	**Grzelak**	7710/02	22/11/2010	Discrimination on account of the failure to provide alternative ethics classes instead of religious ones (see Appendix 5, page 187)
	Jasińska	28326/05	22/09/2010	Absence of measures to prevent suicide in prison (see Appendix 5, page 107)
	Matyjek	38184/03	24/09/2007	Unfair lustration proceedings (see Appendix 5, page 152)
	Trzaska (group)	25792/94	11/07/2000	Excessive length of detention on remand and deficiencies in the review procedure (see Appendix 5, page 122)
Romania	**Calmanovici**	42250/02	01/10/2008	Unlawful detention on remand and refusal of Court of Cassation to hear the accused in person (see Appendix 5, page 122)
	Driha (group)	29556/02	21/05/2008	Unlawful and discriminatory taxation of an allocation due to reserve officers (see Appendix 5, page 188)
	Lafargue	37284/02	13/10/2006	Non-enforcement of court decisions granting visiting rights to parents (see Appendix 5, page 147)
	Rotaru	28341/95	04/05/2000	Unsatisfactory legal framework for handling of information kept by the Intelligence Service (see Appendix 5, page 162)
Spain	**Del Rio Prada**	42750/09	21/10/2013	Retroactive application of a new Supreme Court's case-law postponing foreseen release dates (see Appendix 5, page 156)
the Netherlands	**G.R.**	22251/07	10/04/2012	Refusal to allow exemption from administrative charge preventing access to effective remedy (see Appendix 5, page 129
	Morsink (group)	48865/99	10/14/2004	Unlawful detention in remand centre while awaiting a place in a custodial clinic (see Appendix 5, page 121)

State	Case	Application No.	Judgment final on	Description
Turkey	**Ormancı and Others**	43647/98	21/03/2005	Lengthy judicial proceedings and lack of effective remedy (see Appendix 5, page 142)
United-Kingdom	**Al-Jedda**	27021/08	07/07/2011	Preventive detention without legal basis of an Iraqi civilian by British forces in Iraq (see Appendix 5, page 124)
	Aswat	17299/12	09/09/2013	Extradition to the USA of person with severe mental health problems (see Appendix 5, page 136)
	C.N.	4239/08	13/02/2013	Insufficient legal framework dealing with domestic servitude (see Appendix 5, page 110)
	Hode and Abdi	2341/09	06/02/2013	Discrimination of refugees marrying post-flight as compared to those marrying pre-flight (see Appendix 5, page 190)
	James, Well and Lee	25119/09+	11/02/2013	Arbitrary detention of dangerous offenders after having served the tariff periods (see Appendix 5, page 124)

Appendix 4 – New judgments with indications of relevance for execution

As reflected in the constant practice of the Committee of Ministers and as underlined by the Court, the respondent State remains free, subject to the supervision of the Committee of Ministers, to choose the means by which it will discharge its legal obligation under Article 46 of the Convention, provided that such means are compatible with the conclusions set out in the Court's judgment (see, notably, the case Gülay Çetin v. Turkey, No. 44084/10, final on 05/06/2013, §143, cited below).

The Committee of Ministers has, in this context, invited the Court to identify, as far as possible, "in its judgments finding a violation of the Convention, what it considers to be an underlying systemic problem and the source of this problem, in particular when it is likely to give rise to numerous applications, so as to assist states in finding the appropriate solution and the Committee of Ministers in supervising the execution of judgments" (Resolution Res(2004)3). In the same spirit, the Court has added that "with a view to helping the respondent State to fulfil its obligations under Article 46, (it) may seek to indicate the type of individual and/or general measures that might be taken in order to put an end to the situation it has found to exist" (see the case *Suso Musa* v. Malta, No. 42337/12, final on 23/07/2013, §120, cited below).

Whereas such indications were sporadically given in the past[12], over the last 10 years, the Court has given them more regularly. In the framework of the pilot judgment procedure (see Rule 61 of the Rules of Court), these indications receive expression also in the operative part of the judgments. This has usually not been the case in judgments where the Court has not applied this procedure, except for certain indications of relevance for ensuring redress to the individual applicant.

Pilot judgments and other Judgments with indications of relevance for the execution (under Article 46) are normally identified, in view of their importance for the execution, as leading cases.

12. See the case "*relating to certain aspects of the laws on the use of languages in education in Belgium*" v. Belgium, No.1474/62 final on 23/07/1968; *Marckx* v. Belgium, No. 6833/74, final on 13/06/1979; or Silver and others v. United Kingdom, No. 5947/72, final on 25/03/1983.

A. Pilot Judgments final in 2014

State	Case	Application No.	Judgment final on	Nature of indications given by the Court in the operative part of the judgment
Russian Federation	**Gerasimov and Others**	29920/05 3553/06 18876/10 61186/10 21176/11 36112/11 36426/11 40841/11 45381/11 55929/11 60822/11	01/07/2014	*New problem: Non-enforcement of Russian courts' order to provide housing, utility services and various benefits in kind without effective redress (see Appendix 5, page 148)* **GM :** The judgment underlines the legal obligation of the respondent State to set up an effective domestic remedy or combination of such remedies accessible to all persons in the applicants' position. There are several avenues by which this goal can be achieved in Russian law and the Court did not impose any specific option, having regard to the respondent State's discretion to choose the means it will use to comply with the judgment. The Russian authorities may obviously choose the most straightforward solution, extending the scope of the Compensation Act introduced in 2010 to all cases concerning non enforcement of judgments delivered against the State and the Court welcomed the legislative initiatives to that end. The authorities may nonetheless choose to introduce changes to other legal texts to the same effect.

State	Case	Application No.	Judgment final on	Nature of indications given by the Court in the operative part of the judgment
Serbia and Slovenia	**Ališić and Others**	60642/08	16/07/2014	*New problem: Absence of repayment of foreign currency savings made in the offices of the Ljubljanska Banka not on the territory of Slovenia, 1977-1991(see Appendix 5, page 179)* **GM:** "Notably, Slovenia must make all necessary arrangements, including legislative amendments, within one year and under the supervision of the Committee of Ministers, so as to allow Ms Ališić, Mr Sadžak and all others in their position to recover their "old" foreign-currency savings under the same conditions as those who had such savings in the domestic branches of Slovenian banks (...). Within the same time-limit and under the supervision of the Committee of Ministers, Serbia must make all necessary arrangements, including legislative amendments, in order to allow Mr Šahdanović and all others in his position to recover their "old" foreign-currency savings under the same conditions as Serbian citizens who had such savings in the domestic branches of Serbian banks (those conditions have been set out in paragraph 45 above).The Court clarified that Serbia is responsible for "old" foreign-currency savings in all branches of Serbian banks and Slovenia in all branches of Slovenian banks, regardless of the citizenship of the depositor concerned and of the branch's location (§147 of the judgment)."

B. Judgments with indications of relevance for the execution (under Article 46) final in 2014[13]

Note: If the judgment has already been classified, the corresponding supervision procedure is indicated.

State	Case	Application No.	Judgment final on	Nature of indications given by the Court
Albania	**Luli and Others**	64480/09	01/07/2014	*New problem : Excessive length of civil proceedings (see Appendix 5, page 137) –* ***enhanced supervision*** **GM :** The Court found that general measures at the national level were undoubtedly called for. Concerning the required elements of an effective remedy for excessive length of proceedings, the optimal solution being a combination of a remedy designed to expedite the proceedings and another to afford compensation, although a suitable compensatory remedy alone might suffice.
Bosnie-Herzégovine	**Zornić**	3681/06	15/12/2014	*Support for the execution of Sejdić and Finci case (see Appendix 5, page 183) –* ***enhanced supervision*** **GM :** The Court found that the violation was a direct result of the respondent State's failure to introduce measures to ensure compliance with the judgment *Sejdić and Finci*. This failure to introduce constitutional and legislative proposals to put an end to the current incompatibility of the Constitution and the electoral law with the Convention was an aggravating factor as regards the State's responsibility under the Convention as well as a threat to the future effectiveness of the Convention machinery.

13. The texts followed by an asterisk (*) are translated by the Department for the execution of Judgments of the Court (*).

State	Case	Application No.	Judgment final on	Nature of indications given by the Court
				In the execution of the *Sejdić and Finci* judgment, the Committee of Ministers had regularly called for a speedy end to the existing situation of non-compliance. Despite three interim Resolutions adopted, the respondent State had not yet changed the legislation. The Court encouraged the speedy and effective Resolution of the situation in a Convention-compliant manner. Eighteen years after the end of the tragic conflict in the respondent State, the political system should provide every citizen with the right to stand for elections to the Presidency and the House of Peoples without discrimination based on ethnic affiliation.
Bulgaria	**Harakchiev and Tolumov**	15018/11 61199/12	08/10/2014	*New problem: prison regime applicable to persons sentenced to life imprisonment* **GM :** The judgment underlines the necessity to reform, preferably by means of legislation, the legal framework governing the prison regime applicable to persons sentenced to life imprisonment with or without parole. In particular, the Court recommended the removing of the automatic application of the highly restrictive prison regime for an initial period of at least five years. In addition, it recommended the adoption of provisions envisaging that a special security regime can only be imposed – and maintained – on the basis of an individual risk assessment of each life prisoner, and applied for no longer than strictly necessary.
Croatie	**Statileo**	12027/10	10/10/2014	*New problem: Obligation under protected tenancy legislation for landlord to let property for indefinite period without adequate rent.* **GM :** The Court identified the main shortcomings in the current legislation, namely, the inadequate level of protected rent in view of statutory financial burdens imposed on landlords, restrictive conditions for the termination of protected lease, and the absence of any temporal limitation to the protected lease scheme.

State	Case	Application No.	Judgment final on	Nature of indications given by the Court
Hungary	**Barta and Drajkó**	35729/12	17/03/2014	*Support for the execution of the TIMAR group of cases. Excessive length of criminal proceedings – **enhanced supervision*** **GM:** The Court indicated that the violation of the applicant's right to a fair trial within reasonable time constitutes a systemic problem resulting from inadequate legislation and inefficiency in the administration of justice. It further observed that general measures at national level, which must take into account the large number of persons affected, are undoubtedly called for and that the respondent State should therefore take all appropriate steps, preferably by amending the existing range of legal remedies or creating new ones, to secure genuinely effective redress for similar violations.
	László Magyar	73593/10	13/10/2014	*New problem: Life imprisonment de jure and de facto irreducible despite provision for presidential pardon* **GM:** The Court underlined that the respondent State was required to put in place a reform, preferably by means of legislation, of the system of review of whole life sentences. The mechanism of such a review should guarantee the examination in every particular case of whether continued detention was justified on legitimate penological grounds and should enable whole life prisoners to foresee, with some degree of precision, what they must do to be considered for release and under what conditions.
Italy	**Cusan and Fazzo**	77/07	07/04/2014	*New problem: Inability for married couple to give their legitimate child the wife's surname – **standard supervision*** **GM:** The Court had found a violation of Article 14 of the Convention, taken together with Article 8, on account of the fact that it was impossible for the applicants, when their daughter was born, to have her entered in the register of births, marriages and deaths under her mother's surname. This impossibility arose from a flaw in the Italian legal system, whereby every "legitimate child" was entered in the register of births, marriages and deaths under the father's surname as his/her own family name, without the option of derogation, even where the spouses agreed to use the mother's surname. In consequence, reforms to the Italian legislation and/or practice were to be adopted.

State	Case	Application No.	Judgment final on	Nature of indications given by the Court
Italy	**Grande Stevens**	18640/10 18647/10 18663/10 18668/10 et 18698/10	07/07/2014	*New problem: Breach of the applicant's right not to be tried or punished twice (Article 4 Prot. No. 7).* – ***standard supervision*** **IM:** "The Court considers that the respondent State must ensure that the new set of criminal proceedings brought against the applicants in violation of that provision and which, according to the most recent information received, are still pending, are closed as rapidly as possible and without adverse consequences for the applicants".
Romania	**Blaga**	54443/10	01/10/2014	*New case: International child abduction.* **IM:** Given the special circumstances of the present case, in particular, the subsequent developments in the children's and their family's situation, the Court does not consider that its judgment should imply the return of the applicant's children to the U.S.
	Centre for legal resources on behalf of Valentin Câmpeanu	47848/08	14/07/2014	*New problem: Non-governmental organisation allowed to bring a case before the Court on behalf of a young Roma man who died in psychiatric hospital* – ***enhanced supervision*** **GM:** "The Court recommends that the respondent State envisage the necessary general measures to ensure that mentally disabled persons in a situation comparable to that of Mr Câmpeanu, are afforded independent representation, enabling them to have Convention complaints relating to their health and treatment examined before a court or other independent body."
	Foundation hostel for students of the reformed church and Stanomirescu	2699/03 43597/07	07/04/2014	*Support for the SACALEANU group of cases (see Appendix 5, page 148)* – ***enhanced supervision*** **GM:** The Court identified a systemic situation. The State had first and foremost to guarantee through appropriate statutory and/or administrative measures that binding and enforceable judgments against it, whether requiring monetary payments or specific performance, would be complied with automatically and promptly. The measures also had to take into account possible situations where strict compliance was objectively impossible and equivalent means of compliance were required.

State	Case	Application No.	Judgment final on	Nature of indications given by the Court
Romania	**Vlad and Others**	40756/06, 41508/07 et 50806/07	26/02/2014	*Support for the execution of the NICOLAU and STOIANOVA and NEDELCU group of cases (see Appendix 5, page 142) –* ***enhanced supervision*** **GM :** "The Court takes note of the fact that the respondent State has taken certain general steps, including legislative amendments, to remedy the structural problems related to the excessive length of civil and criminal proceedings The Court cannot but welcome these developments. However, in view of the extent of the recurrent problem at issue, and in the light of the identified weaknesses and shortcomings of the legal remedies indicated by the respondent State, consistent and long-term efforts, such as the adoption of further measures, must continue in order to achieve complete compliance with Articles 6, 13 and 46 of the Convention. To prevent future findings of infringement of the right to a trial within a reasonable time, the Court encourages the State to either amend the existing range of legal remedies or to add new remedies, such as a specific and clearly regulated compensatory remedy, in order to provide genuine effective relief for violations of these rights."
Russian Federation	**Biblical centre of the Chuvash republic**	33203/08	13/10/2014	*Support for the MOSCOW BRANCH OF THE SALVATION ARMY group of cases* **IM :** As the Court's finding of a violation is a ground for reopening civil proceedings under Article 392 §§ 2(2) and 4(4) of the Code of Civil Procedure and for a review of the domestic judgments, the Court considers such a review the most appropriate means of remedying the violation it has identified in the judgment.
	Kim	44260/13	17/10/2014	*New problem: detention of stateless persons for breach of residence regulations –* **GM :** The Court considered that Russia had to provide for a mechanism in its legal order allowing individuals to bring proceedings for the examination of the lawfulness of their detention pending expulsion in the light of the developments in the expulsion proceedings. It recommended to take measures to limit detention periods, so that they remained connected to the ground of detention applicable in an immigration context.

State	Case	Application No.	Judgment final on	Nature of indications given by the Court
Russian Federation				**IM :** The applicant being stateless and without fixed residence and no identity documents was at risk of a new round of prosecution following his release. The Government was therefore required to take steps to prevent him from being re-arrested and put in detention for offences resulting from his status as a stateless person.
	Lagutin and Others	6228/09 19123/09 19678/07 52340/08 et 7451/09	24/07/2014	*Support for the VANYAN group of cases (see Appendix 5, page 153) –* ***standard supervision*** **GM :** The Court pointed out that the failure to conduct an effective judicial review of the entrapment plea was intrinsically linked to the structural failure of the Russian legal system to provide for safeguards against abuse in the conduct of test purchases. The Court indicated that in the absence of a clear and foreseeable procedure for authorising test purchases and operational experiments, the system was in principle inadequate and prone to abuse and calls for the adoption of general measures by the respondent State.
Slovak Republic	**Bittó and Others**	30255/90	28/04/2014	*New problem: Rent-control scheme imposing low levels of rent on landlords –* ***enhanced supervision*** **GM :** The Court' noted that, whilst the respondent State had taken measures with a view to gradually improving the situation of landlords, the measures provided for a complete elimination of the effects on rent-controlled flat owners only as from 2017 and did not address the situation existing prior to their adoption. The Court therefore invited the respondent State to introduce, as soon as possible, a specific and clearly regulated compensatory remedy in order to provide genuine effective relief for the breach found.
Slovenia	**Kurić and Others (just satisfaction)**	26828/06	26/06/2012 (Merits) 12/03/2014 (Just satisfaction)	*Article 41 judgment containing also indications of relevance for the execution (Article 46) –* ***standard supervision*** **GM :** On 25 July 2013 the Government had sent the Bill on the setting up of an ad hoc compensation scheme to Parliament. The Bill was passed on 21 November 2013, with some amendments. The resulting Act was published in the Official Gazette on 3 December 2013 and entered into force on 18 December 2013 and became applicable on 18 June 2014.

State	Case	Application No.	Judgment final on	Nature of indications given by the Court
				This statute introduces compensation on the basis of a lump sum for each month of the "erasure" and the possibility of claiming additional compensation under the general rules of the Code of Obligations. In the exceptional circumstances of the present case, the basic solution of awarding a lump sum in respect of the non-pecuniary and pecuniary damage sustained by the "erased" – which is the approach taken by the Grand Chamber – appears to be appropriate.
Spain	**A.C.**	6528/11	22/07/2014	*New problem: Lack of suspensive effect of judicial-review proceedings when applications for international protection are examined under an accelerated procedur.* – ***enhanced supervision*** **IM:** Regard being had to the special circumstances of the case, to the fact that the violation of Article 13 resulted from the non-suspensive effect of judicial proceedings concerning the applicants' applications for international protection, and to the fact that those applications were still pending, the respondent State was to ensure that, the applicants remained within Spanish territory while their cases were being examined, pending a final decision by the domestic authorities on their applications for international protection.
Turkey	**Ataykaya**	50275/08	22/10/2014	*Support for the execution of the ATAMAN group of cases (see Appendix 5, page 173)* **GM:** The Court insisted on the need to reinforce, without further delay, the guarantees on the proper use of tear-gas grenades, in order to minimise the risks of death and injury stemming from their use. In this connection, it emphasised that, so long as the Turkish system did not comply with the requirements of the Convention, the inappropriate use of these potentially fatal weapons in the course of demonstrations was likely to give rise to violations similar to that found in the present case.
	Atiman	62279/09	23/12/2014	*New problem: Excessive use of force by the security forces and deficient investigation* **GM:** "The Court considers that the respondent State will have to make the relevant legislative amendments to prevent similar violations in the future. To that end, the Court considers that section 39 of the Regulation on the Powers and Duties of the Gendarmerie should be amended to ensure that the relevant provisions are in compliance with Article 22 of Law No. 5607 on the Prevention of Smuggling."

State	Case	Application No.	Judgment final on	Nature of indications given by the Court
Turkey	**Benzer and Others**	23502/06	24/03/2014	*Support for the ERDOGAN group of cases (see Appendix 5, page 104) – **enhanced supervision*** **GM :** The Court found the killings and injuries as a result of the aerial bombardment of the applicant's villages in breach of Articles 2 and 3 of the Convention and that no effective investigation had been conducted. Thus new investigatory steps should be taken in order to prevent impunity, including the carrying out of an effective criminal investigation with the help of the flight log, with a view to identifying and punishing those responsible for the bombing.
	Cyprus v. Turkey (just satisfaction)	25781/94	12/05/2014	*Article 41 judgment containing also indications of relevance for the execution (Article 46) (see Appendix 5, page 194) – **enhanced supervision*** **GM :** The Court recalled the continuing violation of the right of property of the displaced Greek-Cypriots and indicates that it "falls to the CM to ensure that this holding which is binding in accordance with the [ECHR], and which has not yet been complied with, is given full effect by the respondent Government. Such compliance could not, in the Court's opinion, be consistent with any possible permission, participation, acquiescence or otherwise complicity in any unlawful sale or exploitation of Greek Cypriot homes and property in the northern part of Cyprus. Furthermore the Court's decision in the case of Demopoulos and Others … cannot be considered, on its own, to dispose of the question of Turkey's compliance with section III of the operative provisions of the principal judgment in the inter-State case.
	Tekçi and Others	13660/05	10/03/2014	*Support of the ERDOGAN group of cases (see Appendix 5, page 104)* **IM :** The Court indicated that the respondent State should ensure that the accused - the two alleged perpetrators of the death of the applicants' relative - would be subjected to a fair trial, in compliance with the requirements of Art 6 and that the criminal proceedings should be completed with due diligence in line with the procedural requirements of Art 2.

Appendix 5 – Thematic overview of the most important developments occurred in the supervision process in 2014[14]

Introduction

The thematic overview presents the major developments that occurred in the execution of different cases in 2014. Events presented include interventions of the Committee of Ministers in the form of:

- **Final resolutions** closing the supervision process as the Committee of Ministers finds that adequate execution measures have been adopted, both to provide redress to individual applicants and to prevent similar violations;
- **Committee of Ministers decisions or interim resolutions** adopted in order to support the on-going execution process;
- **Transfers** from enhanced to standard supervision or vice versa.

In addition, the overview presents other relevant developments, notably:

- **Action plans** detailing the execution measures planned and/or already taken;
- **Action reports** indicating that the respondent government considers that all relevant measures have been taken and inviting the Committee of Ministers to close its supervision;
- **Developments** in the execution process.

The main emphasis is on cases requiring important general measures (cf. cases cited in Appendix 2), individual measures being less detailed. Indeed, in almost every Member State of the Council of Europe, the violations found can today be redressed by reopening criminal proceedings, or even civil proceedings, to the extent possible, taking into account the right to legal certainty and res judicata. Where the reopening of civil proceedings is not possible, compensation for loss of opportunity remains the main alternative, whether awarded by the European Court or through domestic proceedings. Besides reopening, there are, in most cases, important possibilities to obtain a re-examination of the matter incriminated by the European Court in order to obtain redress.

Standard measures, such as the payment of just satisfaction or the publication and dissemination of judgments to competent authorities (without special instructions), taken in order to ensure, through the direct effect accorded by domestic authorities to the judgments of the Court, adaptations of domestic practices and case-law, are not specially mentioned.

14. Classification decisions adopted at the CM DH 1193rd meeting (March 2014) are indicated by an asterisk (*).

This presentation takes into account the grouping of cases as indicated in the Committee of Ministers' order of business and in the table in Appendix 2, above. Consequently, indications are limited to the leading cases in the groups.

Information on cooperation programs of importance for the execution of specific problems, which have received the support of the Human Rights Trust Fund, can be found in part III-C of the present report.

The Human Rights meetings of the Committee of Ministers are referred to by the indication of the month they were held:

March: 1193rd meeting of the Ministers' Deputies – start 4 March 2014

June: 1201st meeting of the Ministers' Deputies – start 5 June 2014

September: 1208th meeting of the Ministers' Deputies – start 23 September 2014

December: 1214th meeting of the Ministers' Deputies – start 2 December 2014

A. Right to life and protection against torture and ill-treatment

A.1. Actions of security forces

ARM / Virabyan
Application No. 40094/05 Judgment final on 02/01/2013, Enhanced supervision
(See Appendix 2)

> **Ill-treatment in police custody:** Torture of the applicant, at the material time member of one of the main opposition parties in Armenia (People's Party of Armenia), while in police custody (April 2004) and ineffective investigation; violation of the presumption of innocence on the ground that the prosecutor's decision was couched in terms leaving doubt that the applicant had committed an offence (Articles 3, 6§2, Article 14 taken in conjunction with Article 3)

Action plan: An action plan has been transmitted by the authorities in February 2014. In November 2014, they have also provided information in response to the submissions of an NGO (Helsinki Citizens' Assembly –Vanadzor).

AZE / Mammadov (Jalaloglu) (group) - AZE / Mikayil Mammadov
Application Nos. 34445/04 and 22062/07, Judgments final on 11/04/2007 and on 10/07/2014
Application No. 4762/05, Judgment final on 17/03/2010, Enhanced supervision
(See Appendix 2)

> **Ineffective investigations on police actions:** lack of effective investigations into torture/ill-treatments in police custody *(Mammadov (Jalaloglu)* group) and into a death that occurred during an evacuation by the police *(Mikayil Mammadov);* lack of effective remedy; unfair proceedings *(Layijov)* (procedural limb of Article 2, procedural and substantial limbs of Article 3, Articles 13 and 6§1)

Developments: As regards individual measures, information is awaited on the reopening of the investigations and/or the developments of the reopened investigations. Further detailed information is also awaited on the general measures aiming at dealing with the shortcomings identified by the Court at all stages of the proceedings (investigations and judicial proceedings).

AZE / Muradova (group)
Application No. 22684/05, Judgment final on 2/7/2009, Enhanced supervision
(See Appendix 2)

- **Police force against journalists:** excessive use of force by the police, notably against journalists, during authorised and unauthorised demonstrations by the opposition parties; lack of effective investigations (Article 3 substantive and procedural limbs, Article 10)

Developments: Information remains awaited on the reopening of the investigations and on the developments thereof, as well as on measures taken by the authorities to ensure that these investigations fully comply with the Convention requirements and the Court's case-law. Is also being awaited a consolidated and updated action plan on the measures taken or envisaged to prevent excessive use of force by law enforcement officials during demonstrations, notably to the detriment of the exercise of journalistic activity, and to ensure that effective investigations into allegations of ill-treatment are carried out without delay.

BGR / Nachova and Others - BGR / Velikova (group)
Application Nos. 43577/98 and 41488/98, Judgments final on 06/07/2005 and on 04/10/2000, Enhanced supervision
(See Appendix 2)

- **Excessive use of force by the police:** death and/or ill-treatments occurred under the responsibility of law enforcement agents between 1993 and 2004, failure to provide timely medical care in police custody; lack of domestic remedy to claim damages (Articles 2, 3 and 13)

Action plan: The additional information provided by the authorities in the updated action plan of November 2014 is being assessed.

CRO / Skendžić and Krznarić - CRO / Jularić
Application Nos. 16212/08 and 20106/06, Judgments final on 20/04/2011, Enhanced supervision.
(See Appendix 2)

- **Crimes committed during the Croatian Homeland War:** lack of adequate, effective and independent investigations into crimes committed during the Croatian Homeland War (1991-1995) (Article 2, procedural limb)

CM Decision: When pursuing examination of these cases at its September 2014 meeting, the CM noted with concern, as regards individual measures, that no tangible investigatory steps have been taken apart from obtaining statements from possible witnesses, despite the fact that more than three years have passed since the judgments in both cases became final. To that end, it urged the authorities to take the necessary steps to establish the identity of the perpetrators and to bring the ongoing investigations to an end.

The CM noted with interest, as regards general measures, the amendments introduced in the Criminal Procedural Code to ensure that investigations into war crimes are concluded expeditiously and invited the Croatian authorities to provide information on the impact of these measures on the ongoing investigations into war crimes by 31 December 2014. The CM also invited the Croatian authorities to provide information on the content of the draft legislative amendments aimed at ensuring the independence of investigations into war crimes and a calendar for their adoption. In view of the large number of pending investigations into war crimes at domestic level and of the risk of new applications being brought before the Court, the CM urged the authorities to intensify their efforts with a view to accelerating the progress and completion of these investigations, in accordance with the relevant Convention standards.

CYP / Shchukin and Others

Application No. 14030/03, Judgment final on 29/10/2010, CM/ResDH(2014)93
(See Appendix 3)

> **Ineffective investigations into alleged ill-treatment by the police:** allegations of excessive use of force when Ukrainian crew members of a Ukrainian ship, impounded in Cyprus, were arrested and deported to Ukraine: the Attorney General refused to conduct any investigations and those conducted by the Cypriot Ombudsman could not be effective because of the Ombudsman's limited investigation powers (procedural limb of Article 3)

Final resolution: Before the European Court's judgment was rendered, a new body, the *Independent Authority for the Investigation of Allegations and Complaints Against the Police*, was established by law (Law 9(I)/2006). From 2006 onwards, this Authority has been in charge of criminal investigations into complaints and allegations against members of the police. Following the Court's judgment, the Attorney General assigned to the abovementioned authority the investigation into the applicant's allegations. The Authority completed the investigation and concluded that it was not possible to obtain evidence disclosing that a criminal offence had been committed. Taking note of the Authority's view, the Attorney General decided on 25 November 2013 not to proceed with any criminal prosecution.

GEO / Davtyan – GEO / Danelia

Application Nos. 73241/01 and 68622/01, Judgments final on 27/10/2006 and 17/01/2007, CM/ResDH(2014)208
(See Appendix 3)

> **Lack of effective investigations into allegations of ill-treatment in police custody:** failure to order a medical expertise, failure to question certain witnesses, absence of confrontation between applicants and relevant police officers, denial of access to independent forensic examination (Article 3, substantial and procedural limbs)

Final resolution: Investigations were re-opened in both cases and special investigation teams established, witnesses examined, etc. The new investigations did not, however, establish the fact of ill-treatment due to the absence of sufficient and tangible proofs some 10 and 11 years post factum, respectively. General measures are examined in the *Gharibashvili* group of cases.

GER / Gäfgen

Application No. 22978/05, Judgment final on 01/06/2010, CM/ResDH (2014)289
(See Appendix 3)

> **Inhuman treatment:** police interrogators threatening a suspect of child abduction with physical harm to secure information on the missing child's whereabouts; modest and suspended fines as well as lacking disciplinary sanctions for police officers involved; inadequate and inefficient reaction by domestic courts failing to decide on appropriate redress (Article 3)

Final resolution: The Frankfurt Regional Court awarded compensation as a result of official liability proceedings. Federal and Länder police authorities evaluated the judgment, which figures in a report of the Ministry of Justice and organised appropriate training to prevent similar violations.

GRC/ Makaratzis (group)

Application No. 50385/99, Judgment final on 20/12/2004, Enhanced supervision
(See Appendix 2)

> **Ill-treatment by the police authorities:** ill-treatment and treatment by coastguards amounting to torture and lack of effective investigations (Article 3, substantial and procedural limbs)

Action report: The supervision of the problem of the absence of an adequate legislative and administrative framework governing the use of firearms was closed by decision of the CM adopted at its 1157 th meeting, following the adoption in 2012 of a new law regulating the use of firearms by the police (see also AR 2012).

Concerning the substantial and procedural limbs of Article 3 of the Convention, whose execution supervision is still pending before the CM, the authorities have provided an action report in November 2014, which is being assessed.

MDA / Corsacov

Application No. 18944/02, Judgment final on 04/07/2006, Enhanced supervision
(See Appendix 2)

> **Ill treatment by the police and ineffective investigations:** group of cases mainly concerning ill-treatment and torture in police custody, including with a view to extorting confessions; violations of the right to life in police custody; lack of effective investigations and of an effective remedy (Articles 2 and 3 - substantial and procedural limbs; Article 13)

CM Decision: In addition to the information previously transmitted (see AR 2013), referring mainly to the general measures taken, in 2014, the Moldovan authorities have also provided information on individual measures. Pursuing its supervision of this group of cases at the September 2014 meeting, the CM noted in this respect that following the investigations carried out, the responsible police officers were found guilty and dismissed (*Corsacov*) or convicted (*Buzilo*). The CM further urged the Moldovan authorities to speedily finalise the reopened investigations. It also strongly encouraged them to reopen the investigations in other cases, irrespective of the applicants' initiatives, and to keep the CM informed of all relevant developments.

As regards general measures, the CM noted with satisfaction the important legislative changes introduced by the Moldovan authorities, aiming at fighting impunity and reinforcing guarantees against ill-treatment, and invited them to evaluate their concrete impact and to provide detailed statistics on the number of torture complaints, the number of cases sent to trial and of the convictions or sentences imposed. The CM noted with interest the creation, within the Prosecutor General's Office, of a special prosecution unit mandated to investigate exclusively into ill-treatment allegations and strongly encouraged the authorities to provide it with sufficient financial and human resources and to inform the CM on the possibility of transforming it into an independent specialised structure. It has finally strongly encouraged the authorities to take initiatives in view of enhancing the judicial control over the effectiveness of investigations and to take full benefit of any future co-operation opportunities offered by the Council of Europe in this field.

POL / Dzwonkowksi (group)
Application No. 46702/99, Judgment final on 12/07/2007, Transfer to enhanced supervision
(See Appendix 2)

> **Ill-treatment by the police between 1997 and 2006 and delays in investigations** (Article 3, substantial and procedural limbs)

CM Decision / Transfer: In its *Przemyk* judgment (Application No. 22426/11), the Court considered the above problem as a structural one on account of the recurrent complaints brought before it concerning excessively lengthy proceedings and delays in investigating alleged violations of Articles 2 and 3. In the light of this judgment, the CM decided, at its June meeting, to transfer the *Dzwonkowski* group from the standard to the enhanced supervision procedure.

In spite of the information provided by the authorities in 2012 and 2013 on individual and general measures taken, comprehensive information is necessary to allow a thorough assessment of the current situation. During the bilateral consultations that took place in December 2014 between the authorities and the representatives of the Department for the execution of judgments of the Court, the authorities informed that a new action plan is to be provided by March 2015.

ROM / Association "21 December 1989" and Others
Application Nos. 33810/07 and 18817/08, Judgment final on 28/11/2011, Enhanced supervision
(See Appendix 2)

> **Anti-government demonstrations - delayed investigations:** significant delay in the conduct of an investigation into the violent crackdown on anti-government demonstrations in December 1989 and early 1990, which resulted in a risk of statutory limitations; lack of safeguards under Romanian law applicable to secret surveillance measures in the event of any alleged threat to national security (Article 2 , procedural limb, Article 8)

CM Decision: For a presentation of the reforms previously carried out, notably the repealing of statutory limitations, refer to the information provided in AR 2013.

Pursuing the examination of this group of cases in 2014, the CM noted at its June meeting, that the European Court found that certain aspects of the national legislation governing the status of the military magistrates cast doubt on the institutional and hierarchical independence of military prosecutors, when the persons under investigation belong to the armed forces or to other military forces. In their action plan of April 2014, the Romanian authorities did not consider it necessary to adopt specific general measures in response to these findings, underlining, in particular that the status of the military magistrates is, in general terms, similar to that of their civilian counterparts, including with regards to disciplinary responsibility, and that the links between these magistrates and the Ministry of Defence only concern matters of financial nature. However, the elements highlighted by the authorities do not appear to counter all the particular aspects of the status of military prosecutors questioned by the Court. Consequently, the CM invited the authorities to rapidly carry out a thorough assessment of the consequences to be drawn from these findings, as regards the general and individual measures and to keep the CM informed of the conclusions and of the measures that might be defined and adopted in the light of this assessment.

As regards the effectiveness of investigations into acts contrary to Article 2, the CM invited the authorities to present an assessment of the general measures that might be necessary to ensure that, in the future, bodies holding information on facts that are the subject of such investigations co-operate fully with the investigators. With respect to safeguards applicable to secret surveillance measures based on national security grounds, the CM invited once again the Romanian authorities to clarify, by the end of September 2014, whether they hold personal data concerning Mr. Mărieş, that was collected and stored under the national security laws, and, if so, to indicate what measures they intend to take in respect of such data.

ROM / Barbu Anghelescu n°1 (group)
Application No. 46430/99, Judgment final on 05/01/2005, Enhanced supervision
(See Appendix 2)

> **Ill-treatment by the police and ineffective investigations:** excessive use of force by the police resulting in death and lack of effective remedy; in some cases - racially motivated ill-treatment; ineffective investigations into possible racial motives (Articles 2 and 3 substantive and procedural limbs, Article 13, Article 14 taken in conjunction with Articles 3 and 13)

Developments: Bilateral consultations have been pursued during 2014, notably in the light of the information regarding progress in the adoption of individual measures provided by the Romanian authorities to the CM in response to the CM's decision in March 2013 and taking into account the far-reaching criminal law reform which resulted in the entry into force of a new Criminal Code and a new Code of Criminal Procedure on 1/02/2014.

RUS / Khashiyev and Akayeva (group) - RUS / Isayeva - RUS / Abuyeva and Others
Application Nos. 57942/00, 57950/00 and 27065/05, Judgments final on 06/07/2005, 06/07/2005 and 11/04/2011, Enhanced supervision
(See Appendix 2)

> **Anti-terrorist operations between 1999-2006 in Chechnya:** unjustified use of force, disappearances, unacknowledged detentions, torture and ill-treatment, lack of effective investigations into the alleged abuses and absence of effective domestic remedies, failure to co-operate with the Court, unlawful search, seizure and destruction of property, (Articles 2, 3, 5, 6, 8 and Article 14 of the Protocol No.1)

CM Decisions: The new action plan of August 2013 (summarised in the 2013 annual report), was examined in March 2014 in the light of the longstanding nature of the important systemic problems raised and the assessments and indications previously made by the CM (see earlier annual reports), notably, in its Interim Resolution of December 2011 (CM/ResDH(2011)292) and the additional indications subsequently provided by the Court in its *Aslakhanova* and Others judgment of December 2012 (final on 29 April 2013).

As regards the situation of disappeared persons and their families, the CM urged the Russian authorities to consider including in their strategy measures to create a single and high-level body mandated with the search for missing persons as well as ensuring the allocation of the necessary resources required for large-scale forensic and scientific work within a centralised and independent mechanism. The authorities were also urged to reinforce their efforts to improve the procedures for payment of compensation by the State to the victims' families.

As regards investigations into abuses committed, the CM reiterated its concerns about the absence of progress in the criminal investigations in the test cases it had previously identified and about the application of amnesty legislation in certain situations. It urged the authorities to take into account the Court's conclusions in the *Aslakhanova* and Others judgment when reshaping their respective strategy, including the application of statutes of limitations.

More generally, the CM highlighted the necessity for the authorities to set clear time-frames for the implementation of the different elements of the new comprehensive strategy developed.

When examining anew the situation at its September meeting, the CM decided, in view of the special importance of making rapid progress in the search for missing persons, to focus on this issue.

As the information submitted by the authorities at the meeting on the results of the criminal investigations engaged did not attest to any improvement in the system's capacity of criminal investigations to handle this problem, notwithstanding the efforts deployed, the CM insisted that the authorities take, without delay and with due regard to the indications given by the Court and the CM, the necessary measures to create the single and high level body called for.

RUS / Mikheyev (group)

Application No. 77617/01, Judgment final on 26/04/2006, Enhanced supervision
(See Appendix 2)

> **Ill-treatment by the police and lack of effective investigations:** torture or inhuman and degrading treatment in police custody with a view to extracting confessions and lack of effective investigations; irregular arrest and detention in police custody, including unacknowledged detention; use in criminal proceedings of confessions obtained in breach of Article 3 and lack of an effective remedy to claim compensation for ill-treatment suffered (Articles 3, 5 §1, 6§1 and 13)

CM Decision: on the information provided by the Russian authorities in their new comprehensive action plan of August 2013, the CM continued its examination of the execution measures taken in this group of cases at its meeting in June 2014. During this meeting, it noted the information provided with respect to general measures and the steps taken to improve the legislative and administrative framework for the action of the police, and, in particular, the adoption of the Law on Police and the creation of specialised investigation units within the Investigative Committee of the Russian Federation responsible for the investigation of ill-treatment and torture by the police. It noted however that, for a global assessment of the progress made, statistical data are necessary on the impact of the measures taken so far, as well as more detailed information on trainings, review of instructions, organisation of official monitoring of incidents of ill-treatment and on the functioning of special units responsible for the investigation of torture and ill-treatment. As regards the prevention of ill-treatment by the police, bearing in mind the CPT findings after its visit to Russia in 2012, the CM invited the authorities to adopt additional measures aimed at delivering, at a high political level, a clear and firm message of "zero tolerance" of torture and ill-treatment, at improving safeguards against such acts and at reinforcing the judicial control over investigations. In this context, the CM strongly urged the Russian authorities to address, without delay, the problem of the expiration of limitation periods, in particular in the case of serious crimes such as torture committed by state agents. It further urged the Russian authorities to adopt effective measures to ensure that the domestic courts exclude any evidence found to have been obtained in breach of Article 3 of the Convention.

As regads individual measures, the CM noted with grave concern that no tangible progress has been made in the majority of cases in this group and called for an intensification and acceleration of investigation efforts with a view to identifying and punishing those responsible and to ensure that the CM receives information regarding all cases in this group. It further noted with concern the allegations made by the applicant in case of *Tangiyev* about intimidation when exercising his right to seek the re-opening of the criminal proceedings in which he was found by the European Court to have been convicted on the basis of evidence obtained through torture and urged the Russian authorities to provide necessary clarifications.

TUR / Batı (group)

Application No. 33097/96, Judgment final on 03/09/2004, Enhanced supervision
(See Appendix 2)

- **Ineffective investigations:** ineffectiveness of national procedures for investigating alleged abuses by members of the security forces (Articles 2, 3, and Article 13)

Developments: Further to the developments reported in 2013, bilateral contacts have continued with a view to prepare an action report.

TUR / Erdoğan and Others (group) - TUR / Kasa (group) – TUR / Oyal (group)

Application Nos. 19807/92+, 48902/99+ and 4864/05+, Judgments final on 13/09/2006, 20/08/2008 and 23/06/2010, Transfer to enhanced supervision
(See Appendix 4)

- **Ineffective investigations:** ineffectiveness of investigations into excessive use of force by security forces (Erdoğan and Kasa groups) or medical negligence (Oyal group) leading to death; lack of effective remedy (Article 2, 6§1 and 13)

Developments / Transfer: When resuming consideration of these cases at its June 2014 meeting and having noted the similarities between the cases in the *Erdoğan, Kasa* and *Oyal* groups, the CM decided to examine them jointly and to transfer them to enhanced supervision.

The authorities have already submitted several action plans. However, in the light of the re-grouping and the transfer of these groups of cases to the enhanced supervision procedure, a comprehensive action plan/report is awaited.

UKR / Afanasyev (group) - UKR / Kaverzin

Application Nos. 23893/03 and 38722/02, Judgments final on 15/08/2012 and 05/07/2005, Enhanced supervision
(See Appendix 2)

- **Ill-treatment in various detention facilities - absence of effective investigations:** use of physical or psychological force, mostly in order to obtain confessions and lack of effective investigations into such complaints and of an effective remedy; systematic handcuffing; in some cases, inadequate medical assistance; irregularities in detention on remand; excessive length of proceedings and lack of effective remedies; non-enforcement of judicial decisions ; unfair trial (Articles 3, 5§1, 5§3, 5§5, 6§1, 6§3, 13, and of Article 1 of Protocol No. 1)

CM Decision: As indicated in the AR 2013, the necessity of remedying the complex problems revealed by the above group of cases, stressed by the CM on numerous occasions and by the Court in 2012 in the *Kaverzin* judgment under Article 46 of the Convention, led to a number of measures, in particular a new Code of Criminal Procedure adopted in April 2012. In the context of the implementation of the UN's Convention against torture, a national protection mechanism was set up. In response to the CM's assessment of the situation in June 2013, a further action plan was presented in April 2014 and assessed by the CM in June 2014.

As regards individual measures, the CM invited the Ukrainian authorities to ensure the acceleration of pending investigations and to provide, by October 2014, further

information on the reasons for not conducting some further investigations and for closing the majority of investigations without further action.

Concerning general measures, the CM reiterated its satisfaction with the significant improvements brought about by the new Code of Criminal Procedure, which entered into force on 20 November 2012, and the Law on Free Legal Aid providing fundamental safeguards against the ill-treatment of persons deprived of liberty. The CM invited the authorities to provide, by October 2014, an updated action plan containing their assessment of the practical impact of the reforms and the additional measures envisaged in the light of this assessment and of the relevant CPT Recommendations. The CM encouraged, in addition, that members of police forces be regularly reminded by their respective hierarchy at all levels, that ill-treatment is not tolerated and that abuses will be severely punished.

The CM decided finally to concentrate the next examination on the issues related to the effectiveness of investigations and on effective remedies.

As requested by the CM, in October 2014, the Ukrainian authorities provided an updated action plan with information on the points previously raised. The plan is currently under assessment.

In addition, on 17/12/2014, a targeted activity on effective investigations was organized in Kyiv in order to support the authorities in their efforts to remedy the shortcomings revealed by the Court's judgments in this respect. This activity was organised jointly by the Office of the Government Agent, the Department for the Execution of Judgments of the Court and the Human Rights Policy and Development Department of the Directorate of Human Rights of the Council of Europe.

UK / McKerr (group)

Application No. 28883/95, Judgment final on 04/08/2001, Enhanced supervision
(See Appendix 2)

> **Actions of security forces in Northern Ireland in the 1980s and 1990s:** shortcomings in investigations of deaths; lack of independence of investigating police officers; lack of public scrutiny and information to victims' families on reasons for decisions not to prosecute (Article 2, procedural limb)

CM Decision: The measures adopted by the authorities in response to these judgments have been regularly followed by the CM and several aspects of the general problems identified have been closed (see also earlier AR). Further information has mainly been awaited on the progress of the investigations in a number of cases and on the practical consequences to be drawn from the five-yearly review report on the functioning of the Police Ombudsman for Northern Ireland presented in 2012, an important element in the structures put in place to ensure effective investigations. A number of significant domestic developments took place in 2013 and 2014. A consolidated action plan covering these issues was received in February 2014, and an update in May 2014.

In June 2014 the CM noted the progress achieved in one of the inquest proceedings (Hemsworth) and found no further individual measures necessary in the case concerned. The CM recalled, however, that, notwithstanding its calls, the investigations

in a number of other cases (McKerr, Shanaghan, Jordan and Kelly and Others) were still outstanding and expressed serious concern in this respect. It strongly urged the authorities to ensure their conclusion as soon as possible.

As regards general measures, the CM noted with interest the Haass process, an all Northern Ireland Party Group established to consider issues relating to the past, and welcomed, in particular, the proposal to create a single, investigative mechanism (the Historical Investigations Unit). It considered that the establishment of such a body would be a significant development with the potential to bring meaningful and positive change to the investigation of legacy cases and strongly encouraged the authorities to use all necessary means to pursue it.

The CM also noted, however, the efforts being made in the meantime to improve the current system of investigations. It underlined, in that regard, the importance of the independent domestic review and reform of the Police Ombudsman and the Historical Enquiries Team. It thus urged the authorities to ensure the completion of this work as soon as possible.

As regards inquest proceedings, the CM noted with interest the authorities' commitment to reduce delay and the measures proposed to improve case management, legal expertise, disclosure management, and the efficiency of such proceedings. It, however, considered that further measures might be needed to address excessive delay and noted, in this respect, the announced review of Northern Ireland coronial law. The CM invited the authorities to provide information on any timetable or concrete steps planned for that review.

The CM also decided to declassify the Secretariat's Memorandum CM/Inf/DH(2014)16rev.

A.2. Positive obligation to protect the right to life

HUN / R.R.

Application No. 19400/11, Judgment final on 29/04/2013, Transfer to standard supervision

> **Exclusion from witness protection programme:** authorities' failure to protect the right to life of four of the five applicants, on account of their exclusion from the witness protection programme, without ensuring that the risk for the applicants' lives had ceased to exist and without taking the necessary measures to protect them, thus potentially exposing them to life-threatening vengeance from criminal circles (Article 2)

CM Decisions / Transfer: Continuing the examination of this case at its September 2014 meeting, the CM noted with concern that, more than one year after the Court's judgment became final, the Hungarian authorities have not yet completed the assessment of the risks faced by the second applicant and her three minor children. Having stressed that the information provided so far continued to be insufficient to assess if "measures of adequate protection" were secured for the applicants by the Hungarian authorities, the CM strongly urged them to provide this information by 1 October 2014 at the latest, and instructed the Secretariat to prepare a draft interim resolution for their consideration at the December 2014 meeting, should no tangible information be provided by then.

At that meeting, the CM noted that the assessment of the risks faced by the applicants, completed in July 2014, was comprehensive and convincing. It also noted with satisfaction that, on the basis of the findings in that assessment, the authorities have secured "measures of adequate protection" in the sense of the Court's indications under Article 46, by providing for the relevant applicants a "personal protection" by the local police authorities. Given that the situation of the second applicant and her children no longer called for the adoption of urgent individual measures, the CM decided to continue the examination of this case under the standard procedure while inviting the authorities to submit a consolidated action plan/report setting out the individual and general measures taken and/or still envisaged, to fully execute the present judgment.

POL / Jasińska

Application No. 28326/05, Judgment final on 22/09/2010, CM/ResDH(2014)27
(See Appendix 3)

> **Failure to protect the life of a prisoner:** deficiency in the prison system that allowed a first-time prisoner, who was mentally fragile, to gather a lethal dose of psychotropic drugs to commit suicide (Article 2)

Final resolution: With respect to individual measures, the Court awarded just satisfaction to the applicant (the victim's grandfather) who did not seek the re-opening of investigations.

As regards general measures, new provisions were introduced since 18/06/2009 to the Code of Execution of Criminal Sentences, providing for the possibility to monitor the detainees' behaviour, in justified cases, upon a decision of the Director of the Prison, based on medical or personal security reasons. This decision can be subject to appeal.

Two other regulations were adopted on 13/08/2010 by the Director General of Prison Service: the Instruction No. 16/2010 on the *prevention of suicides of persons deprived of liberty* and the Ordinance No. 43/2010 on *methods and activities for the protection of the organizational units* of the Prison Service. The Instruction unifies the existent practice and sets clear criteria of conduct in case of risk of suicide by a prisoner.

The Minister of Justice adopted on 23/12/2010 an Ordinance on the provision of medical services by the health-care establishments to persons deprived of liberty. This ordinance indicates that drugs with a very strong or intoxicating effect should be distributed to the detainees in single doses. Moreover, the so-called "extraordinary incidents" which occurred in prison and detention centres, are regularly monitored and investigated by the Ministry of Justice.

ROM / Centre for Legal resources on behalf of Valentin Câmpeanu

Application No. 47848/08, Judgment final on 17/7/2014, Enhanced supervision
(See Appendixes 2 and 4)

> **Medical care of an orphan in a psychiatric facility:** placement of a HIV positive orphan with severe mental disabilities, following his release from public care upon turning 18, in a psychiatric hospital under appalling conditions leading to his untimely death shortly afterwards; failure to carry out an effective investigation into the circumstances surrounding the death and failure to secure and implement an appropriate legal framework that would have enabled complaints to be examined by an independent authority (Articles 2 and 13)

Action plan: Under Article 46, the Court made a number of recommendations as regards the execution of the present judgment (see Appendix 4). An action plan was provided on 29/01/2015 and is under assessment.

A.3. Ill-treatment – specific situations

ESP/ A.C. and Others

Application No. 6528/11, Judgment final on 22/07/2014, Standard supervision
(See Appendix 2)

> **International protection requests:** risk of ill-treatment on account of the lack of automatic suspensive effect of appeals against decisions to deny international protection taken in the framework of an accelerated procedure (Article 13 in conjunction with Article 3)

Action plan: The action plan submitted by the authorities on 8/07/2014 is being assessed.

GEO / Gharibashvili (group)

Application No. 11830/33, Judgment final on 29/10/2008, Enhanced supervision
(See Appendix 2)

> **Lack of effective investigations into breaches of the right to life or into ill-treatment** (procedural limb of Articles 2 and 3, substantial limb of Article 3)

CM Decision: When resuming consideration of these cases at its September 2014 meeting, and having noted that the cases of *Khaindrava and Dzamashvili, Tsintsabadze, Enukidze and Girgvliani, Gharibashvili, Mikiashvili, Dvalishvili* reveal similar complex issues concerning the effectiveness of investigations into alleged violations of the right to life or of ill-treatment, the CM decided to examine them jointly under a single group.

In light of the action plan provided on 17 July 2014, the CM noted with interest the re-opening of investigations in all the cases in this group following the Court's judgments and the effective access afforded to the applicants to the investigative process. In this respect, it invited the authorities to explain how the re-opened investigations are in line with Convention requirements and to provide precise information on institutional independence of investigative bodies. Having further noted that these investigations have not been brought to an end yet, the CM urged the authorities to ensure that they are carried out promptly and with reasonable expedition, and to keep the Committee informed about their progress, including about the outcome of all investigations.

As regards the *Enukidze and Girgvliani* case, after having noted with concern that no information has been provided on the steps taken in the fresh investigation despite the fact that it was re-opened in November 2012, the CM urged the Georgian authorities to submit to the Committee without delay exhaustive information on the investigative measures already taken and/or envisaged in light of the findings of the European Court in this judgment. It also noted with concern that, despite the announcement, in December 2012, of general measures to address the shortcomings

identified by the Court in this case, the authorities did not since provide any information to the CM in that respect.

The authorities have thus been urged to submit a comprehensive action plan on the work in progress and/or completed with a view to addressing all the deficiencies identified by the Court in this group of cases, at all stages of the proceedings (investigative and judicial), and to include therein a thorough analysis of the general measures that might be necessary to fight impunity and prevent similar violations in the future. The CM has also invited them to submit the further information awaited, to permit a full evaluation of this group of cases at the DH meeting in March 2015.

IRL / O'Keeffe

Application No. 35810/09, Judgment final on 28/1/2014, Enhanced supervision
(See Appendix 2)

> **Failure to protect children against sexual abuse:** responsibility of the State for the sexual abuse of the applicant in 1973 by a lay teacher in a National School: the state had entrusted the management of the primary education to National Schools, without putting in place any mechanism of effective State control against the risks of such abuse; absence of effective remedies (substantive limb of Article 3 in conjunction with Article 13)

Action plan: An updated action plan was submitted on 28 January 2015 and is currently under assessment.

MKD / El-Masri

Application No. 39630/09, Judgment final on 13/12/2012, Enhanced supervision
(See Appendix 2)

> **Secret "rendition" operation to CIA agents:** German national, of Lebanese origin, victim of a secret "rendition" operation during which he was arrested, held in isolation, questioned and ill-treated in a Skopje hotel for 23 days, then transferred to CIA agents who brought him to a secret detention facility in Afghanistan, where he was further ill-treated for over four months (Articles 3, 5 and 13 – the latter also in conjunction with Article 8)

CM Decision: Despite the repeated reminders from the Secretariat to the authorities to provide an action plan or a report to the CM, information has not been received so far on the general measures taken or envisaged for the execution of this judgment. At its meeting in March, the CM noted with concern the absence of information on the measures taken or envisaged for the execution of this judgment and urged the authorities to provide without further delay, an action plan or an action report.

Bilateral consultations between the representatives of the Department for the execution of judgments of the Court and the respondent State authorities', dedicated specifically to this case, took place in Skopje in October. An action plan/report remains awaited.

B. Prohibition of slavery and forced labour

UK / C.N.
Application No. 4239/08, Judgment final on 13/02/2013, CM/ResDH(2014)34
(See Appendix 3)

> **Domestic servitude and ineffective investigations of related complaints:** inadequate legislative provisions to afford practical and effective protection against treatment falling within the scope of "forced labour" (Article 4)

Final resolution: A reopening of the criminal proceedings engaged against the persons allegedly responsible for the applicant's domestic servitude up to 2006 would not be possible in the circumstances of the case as the new criminal legislation was only brought into effect in 2010 and has no retroactive effect. As acknowledged by the Court, this new legislation (section 71 of the Coroners and Justice Act 2009) currently makes holding someone in slavery or servitude, or requiring a person to perform forced or compulsory labour, a criminal offence. Similar amendments were made to Section 47 of the *Criminal Justice and Licensing (Scotland)* Act 2010. Guidance on the new laws has been widely circulated to criminal justice agencies, prosecutors and the courts.

C. Protection of rights in detention

C.1. Poor detention conditions

ALB / Dybeku - ALB / Grori
Application Nos. 41153/06, 25336/04, Judgments final on 02/06/2008 and 07/10/2009, Enhanced supervision
(See Appendix 2)

> **Inadequate medical care in prison for seriously ill prisoners, amounting to ill-treatment:** delays in the provision of health care; incompatibility of conditions of detention with the state of health; failure to prescribe adequate medical treatment; non-compliance with the European Court's interim measure regarding the transfer of the applicant to a civilian hospital *(Grori)* (Articles 3, 5§1 and 34)

CM Decision: Resuming the examination of these cases at its 2014 meeting, the CM took note of the information provided on the overall legal framework governing the medical treatment of detainees, in particular the provisions which appear to aim at ensuring the timely provision of medical care, the appropriate placement of prisoners with mental disorders and an effective remedy in cases of lack or delay in medical treatment. The CM has, however, considered that without more detailed information on these provisions, it was not possible to evaluate whether they address the specific concerns raised by the Court in its judgments. Therefore, it invited the authorities to inform it on the application and the impact of measures adopted, notably as regards the prevention of delays in the provision of medical assistance in prisons; the timely examination of complaints concerning medical care, the existence, under the new legal framework, of an explicit prohibition to detain mentally-ill prisoners in the same cells with healthy inmates.

The CM further noted with interest, in respect of the violation of Article 5 § 1, the entry into force of the relevant international legal instruments which should avoid similar violations in the future and invited the authorities to clarify what measures have been adopted to ensure that indications under Rule 39 of the Rules of the European Court are fully respected in the future.

ARM / Kirakosyan (group)
Application No. 31237/03, Judgment final on 04/05/2009, Enhanced supervision
(See Appendix 2)

> **Temporary detention facilities:** Cases mainly concerning severe overcrowding amounting to degrading treatment in temporary detention facilities under the authority of the Ministry of the Interior (Article 3, Article 6§1 combined with Article 6§3 (b), Article 2 of Protocol No. 7)

Action report: The Authorities submitted an action report on 18/11/2014 and afterwards have also provided further information on the reforms undertaken to improve conditions of detention. In 2014, several NGOs communicated information related to certain cases in this group (Helsinki Citizens' Assembly-Vanadzor and Spitak Helsinki Group).

BEL / L.B. (group)
Application No. 22831/08, Judgment final on 02/01/2013, Enhanced supervision
(See Appendix 2)

> **Prison facility unsuited for psychiatric pathologies:** applicants kept for long periods of time in institutions which do not offer the care required by their psychiatric pathologies (Article 5§1; Articles 3 and 5§)

Action plan: In February 2014, the Belgian authorities have provided an action plan providing inter alia information on the measures envisaged to put an end to the applicants' situations contrary to the Convention, as well as on general measures taken or envisaged. This data, together with the additional information provided in June 2014, are being currently assessed.

BGR / Kehayov (group)
Application No. 41035/98, Judgment final on 18/04/2005, Enhanced supervision
(See Appendix 2)

> **Investigative detention facilities and prisons:** cases mainly concerning inhuman and degrading treatment due to overcrowding and poor sanitary and material conditions; lack of appropriate medical care; lack of effective remedies (Article 3, Article 13 taken in conjunction with Article 3, Articles 5, 6§1, 6§3 (e), 8 and 13)

Developments: Echoing the CM's decision of June 2013 (see AR 2013), the outstanding questions concerning the general measures were discussed during meetings in Sofia in December 2013, organised within the framework of the HRTF 18 project. A seminar, also within the framework of the HRTF project, was organised on 18 - 19 December 2014, in Sofia (see Conclusions of this seminar in Appendix 6). Moreover, a revised action plan was submitted by the authorities in December 2014 and is being currently assessed. Finally, in its pilot judgment *Neshkov and Others* of January 2015,

the Court indicated to the authorities to make available, within eighteen months from the date on which this judgment becomes final, a combination of effective domestic remedies in respect of conditions of detention that have both preventive and compensatory effects.

GEO / Ghavtadze (group) (pilot judgment)

Application No. 23204/07, Judgment final on 03/06/2009, CM/ResDH (2014)209
(See Appendix 3)

> **Structural inadequacy of medical care in prisons:** lack of appropriate medical treatment for detainees suffering from contagious diseases (e.g. viral hepatitis C and tuberculous pleurisy) revealing a systemic problem, lack of adequate medical facilities and insufficient medical staff, ineffectiveness of the complaint procedure in prison (Article 3)

Final resolution: As regards individual measures, some applicants were no longer detained, whereas the others received treatment in accordance with their health needs.

As regards general measures, extensive measures were taken between 2010-2013, including a new Prison Code, welcomed by the Court (*Goginashvili* judgment), and providing for the detainees' right to health in prison and respective procedural rights. The reform of the penitentiary health system continued in 2013/14, in line with European Prison Rules and relevant CPT-Recommendations, introducing prevention, diagnostics and treatment programmes for tuberculosis and hepatitis C. The medical infrastructure and qualification of medical personnel was improved; a further Strategy of Development of the Penitentiary Health Care System 2014-2017 has been adopted.

GEO / Jashi

Application No. 10799/06, Judgment final on 08/04/2013, CM/ResDH(2014)162.
(See Appendix 3)

> **Care for mental problems in prison:** failure to provide timely and adequate care in prison for the applicant's mental health problems (Article 3)

Final resolution: The applicant was released on 22 November 2012, i.e. before the delivery of the Court's judgment. Also, the awarded just satisfaction was paid by the Georgian authorities.

As regards general measures, the authorities indicated that all penitentiary institutions in Georgia are staffed with doctor-psychiatrists/psychiatric-consultants in order to ensure adequate prevention of mental health problems, reveal them in time and control them. Moreover, various training sessions and programmes were initiated for medical personnel of penitentiary system regarding mental problems of inmates and the supervision of inmates by doctor-psychiatrists has improved. In addition, the Ministry of Corrections and Legal Assistance of Georgia developed a Strategy of Development of Penitentiary Health care System (2014-2017), based on guiding instruments of the World Health Organisation, Council of Europe's recommendations and the standards of the CPT, etc. The main conclusion of this programme was that the improved access to specialised psychiatric services, required only in a small number of cases, does not totally solve the problem of the access to primary health care of prisoners with mental disorders. Therefore, the importance of increasing the

capacity of primary health care level in the field of mental health care was stressed. In the light of the above, the aim of this strategy is to create a fully institutionalised, integrated, unified mental health care program that will ensure access to services of primary health care or specialised services to everyone.

GRC / Nisiotis (group)
Application No. 34704/08, Judgment final on 20/06/2011, Enhanced supervision
(See Appendix 2)

> **Prison overcrowding:** inhuman and degrading treatment by reason of poor conditions in which the applicants were held in Ioannina prison, mainly because of severe overcrowding (Article 3)

Developments: Information is awaited from the Greek authorities on the comprehensive strategy against overcrowding based on the relevant recommendations of the CM and on the advice of the Council of Europe's specialised bodies.

HUN / Istvan Gabor and Kovacs
Application No. 15707/10, Judgment final on 17/04/2012, Enhanced supervision
(See Appendix 2)

> **Overcrowding in pre-trial detention:** inhuman and degrading treatment during pre-trial detention from 01/2008 to 06/2010 in Szeged Prison due to the overcrowded conditions of detention, notably multi-occupancy cells under 4 square meters ground surface per person; statutory restrictions on the frequency and duration of family visits during pre-trial detention (Articles 3 and 8)

Developments: The action plan received on 22/04/2013 is under assessment.

ITA / Sulejmanovic - ITA / Torreggiani
Application Nos. 22635/03 and 43517/09+, Judgments final on 06/11/2009 and 27/05/2013, Transfer to standard supervision

> **Overcrowding in prisons:** inhuman or degrading conditions of detention due to the excessively confined space in Italian prison facilities (Article 3)

CM Decisions / Transfer: This issue was initially examined by the CM in the context of the *Sulejmanovic* judgment (see AR 2012-2013). In response to that judgment, the Italian authorities presented a first set of measures in an action plan of June 2012, including changes to the law and a programme to build new prisons. Following the delivery of the *Torreggiani and Others* pilot judgment, the authorities submitted a further action plan on 29 November 2013.

In the light of the information available at its meeting in March 2014, the CM recalled that a remedy or a combination of remedies with preventive and compensatory effect affording adequate and sufficient redress in respect of Convention violations stemming from overcrowding in Italian prisons must be put in place by the authorities within the deadline set up by the Court, i.e. by 27 May 2014. It also recalled the need to reinforce such a remedy by substantive measures, such as those provided in the Law-Decree of July 2013 (e.g. granting early release, maximising house arrest, reducing the use of pre-trial detention and increasing eligibility for release on licence).

The CM also noted that further information was needed to understand the scale of overcrowding in Italian prisons and assess the effectiveness of the measures taken.

In response to the CM's earlier decision, the authorities have provided additional information in April, indicating the adoption of various structural measures in view of complying with the judgments in this group, accompanied by statistical data showing an important and continuing drop in the prison population and an increase in living space to at least 3m2 per detainee. In addition, a preventive remedy was established within the deadline set by the *Torreggiani and Others* pilot judgment and steps were taken to establish a compensatory remedy through the adoption of a Law-Decree, later in June. The CM welcomed the authorities' commitment to resolve the problem of prison overcrowding and the significant results achieved in this area and invited them to provide further information regarding the implementation of the preventive remedy, notably in the light of the monitoring to be undertaken in this context.

The authorities provided further information in September, notably on the adoption on 26 June 2014 of the Law-Decree providing for a compensatory remedy and statistical data confirming the positive trend already observed previously. At its meeting in December, the CM welcomed the steps taken by the authorities to rapidly put in place the remedies required and underlined the importance of monitoring their implementation. While noting with interest the latest statistics provided, the CM recalled its invitation to the authorities to provide by 1 December 2015 a consolidated action plan / report which would include information on the functioning of the remedies in practice, statistics showing consecutive positive trends achieved so far, along with information on all other measures aimed at improving conditions of detention. Finally, in the light of the progress made in executing these judgments, the CM decided to transfer these cases to the standard procedure.

MDA / Becciev (group) - MDA / Paladi - MDA / Ciorap

Application Nos. 39806/05, 9190/03 and 12066/02, Judgments final on 04/01/2006 and 19/09/2007, Enhanced supervision
(See Appendix 2)

> **Poor detention conditions amounting to degrading treatment:** poor detention conditions in penitentiary establishments under the authority of the Ministries of the Interior (*Becciev* group) and of Justice (*Ciorap* group); lack of access to medical care in detention and lack of effective remedy; unlawful and groundless detention (Articles 3 and 13, and Article 5 §§3 and 4)

Developments: Further to the action plan submitted in October 2013 and the CM's evaluation thereof in December 2013 (see AR 2013), the Moldovan authorities have pursued their efforts to fully implement the present judgments. They have notably participated to the HRTF-supported multilateral conference held in Strasbourg in July 2014 to allow states to share their experiences, with the participation of different experts, notably from the CPT, on different questions linked with the setting-up of effective remedies to address overcrowding and poor detention conditions. Further information on the implementation of the strategy presented in the action plan of 2013 and, in particular, on the issue of effective remedies is awaited.

POL / Horych (group)
Application No. 13621/08, Judgment final on 17/07/2012, Enhanced supervision
(See Appendix 2)

- **Special detention regime for "dangerous detainees":** application to "dangerous detainees" of strict prison measures (placement in solitary confinement in high-security cells, constant monitoring, deprivation of adequate mental and physical stimulation) between 2001 and 2012; extended duration of the application of that regime (Articles 3 and 8)

CM Decision: Given that the applicants have either been released, or are serving their sentences but are no longer subject to the "dangerous detainee" regime, no further individual measures appear necessary.

As to general measures, preliminary information was received in July 2013 and discussed in bilateral consultations. Following the submission, in June 2014, of an action plan in this group of cases, the CM examined it in September. During that meeting, it noted with interest the measures adopted by the Polish authorities to improve the practice of penitentiary commissions in the implementation of the "dangerous detainees" regime and their positive impact in decreasing the overall number of detainees subjected to the regime. This positive development was also mentioned in the CPT report of June 2013. Measures taken to improve the treatment of detainees subjected to the regime, notably in view of combating their isolation were also noted.

Moreover, the authorities were invited to clarify the current practices in this respect, in particular in relation to solitary confinement, regular handcuffing and strip-searches. Concerning the legislative amendments of the "dangerous detainee" regime, the CM invited the authorities to provide, without delay, further information on the scope of the amendments and a time-table for the legislative process, and on the remedies available to detainees to challenge their classification under the regime.

Having noted with interest that visiting conditions were improved in the two facilities criticised in the *Horych* case, the CM also invited the authorities to clarify whether such improvements also apply in other locations, and on any measures taken or envisaged to address the restrictions on visiting rights for "dangerous detainees". Finally, the CM invited the authorities to submit as soon as possible the further information awaited (*inter alia* on the remedies available to challenge classification under the regime) to allow a full evaluation as regards this group of cases at one of the meetings in 2015.

POL / Kaprykowski (group)
Application No. 23052/05, Judgment final on 03/05/2009, Enhanced supervision
(See Appendix 2)

- **Inadequate medical care in prison:** structural problem of prison hospital services – ill-treatment due to lack of adequate medical care (Article 3)

Developments: In the light of the indications given by the Court in the present judgment, an action plan was submitted in 2011 and supplemented in January 2013. Further to the assessments and indications given by the CM in March 2013 (see AR 2013), the Polish Bar Council submitted a communication in January 2014. A consolidated action plan / report allowing a full evaluation of the status of execution in this group of cases is awaited.

POL / Orchowski (group)
Application No. 17885/04, Judgment final on 22/10/2009, Enhanced supervision
(See Appendix 2)

> **Prison overcrowding:** inhuman and degrading treatment resulting from inadequate detention conditions in prisons and remand centres due, in particular, to overcrowding, and aggravated by the precarious hygienic and sanitary conditions and the lack of outdoor exercise (Article 3)

Action report: In response to the evaluations made by the CM in 2013 and the requests made for further information on certain points (see AR 2013), the authorities provided a consolidated action report on 8 July 2014.

ROM / Bragadireanu (group)
Application No. 22088/04, Judgment final on 06/03/2008, Enhanced supervision
(See Appendix 2)

> **Overcrowding and poor detention conditions:** overcrowding and poor material and hygiene conditions in prisons and police detention facilities, inadequacy of medical care, and several other dysfunctions regarding the protection of prisoners' rights; lack of an effective remedy (Articles 3 and 13)

Action plan: The new Criminal Code and the new Code of Criminal Procedure came into force on 1/2/2014. In the wake of this development an important seminar, involving all national decision and policy makers concerned as well as Council of Europe experts, was organised in Bucharest on 17-18/3/2014 by the National Institute for the Magistracy (see appendix 4). Subsequently, the Romanian authorities also participated in a multilateral round table organised in Strasbourg 8-9/7/2014 on the setting up of effective remedies to challenge conditions of detention. Both events were organised within the context of the HRTF 18 program. Bilateral consultations have continued throughout 2014, notably to build on the experiences of the two abovementioned events and to enable the first stock takings of the result of the reforms conducted. This resulted in the submission of a revised action plan by the Romanian authorities on 23/10/2014, to be assessed by the CM in March 2015.

ROM / Enache
Application No. 10662/06, Judgment final on 01/07/2014, Enhanced supervision
(See Appendix 2)

> **Special detention regime for "dangerous" detainees :** classification of the applicant, sentenced to life imprisonment for murder, as "dangerous" prisoner, resulting in detention for long periods in excessively poor conditions notably related to the cell size, the long periods of solitary confinement, the lack of activities outside the cell, the lack of access to hot water or appropriate heating – together with systematic handcuffing outside the cell; lack of information contesting the allegation that the authorities forced him to withdraw his application before the European Court (Articles 3 and 34)

Action plan: Information on individual measures has been received on 20/11/2014 (the applicant henceforth shares his cell with other detainees and is no longer classified as "dangerous"). An action plan was submitted on 20/01/2015 and is under assessment.

ROM / Ţicu – ROM / Gheorghe Predescu

Application Nos. 24575/10 and 19696/10, Judgments final on 01/01/2014 and 25/05/2014, Enhanced supervision

(See Appendix 2)

> **Ill-treatment of detainees with psychiatric condition:** placement of the applicants in ordinary detention facilities severely overcrowded; lack of adequate medical care in prison and in penitentiary hospitals; failure to ensure constant psychiatric supervision or assistance and counselling to help accepting and dealing with the illness; lack of investigation in the alleged repeated acts of violence suffered from other prisoners in the Iaşi prison; inaction of the Prosecutor's office despite being informed by the prison administration (Article 3, procedural and substantial limbs)

CM Decision: This group of cases has been subject to a detailed examination by the CM for the first time at its September 2014 meeting, based on the action plan provided by the authorities in July and the additional information transmitted in early September. Assurances were given that the medical care provided to the applicant in the Ţicu case would currently be appropriate to his health condition and also compatible with Article 3 requirements. The authorities have indicated, however, that the applicant disposes of a very limited personal space (approximately 1.65 m2), conditions found by the European Court contrary to Article 3. While noting the assurances given by the authorities regarding medical care, the CM invited them to indicate whether the services of a psychiatrist were also available in the Iaşi prison. It also noted with serious concern that the applicant continued to be held in a cell offering only very limited living space, and invited the authorities to inform it on measures adopted to put an end to this situation. The CM has also invited the authorities to inform it of the conclusions of the assessment of the possibility of opening an investigation into the acts of violence the applicant alleged to have suffered at the Iaşi prison.

As regards the individual measures in the case of Gheorghe Predescu, the CM noted that a psychiatric examination was ordered to determine whether the applicant is fit for detention having regard to his mental health condition, and invited the authorities to inform it, as soon as possible, of the measures taken in the light of the conclusions of this examination. Moreover, the CM invited the authorities to provide information on the measures they intend to take in response to the Court's findings related to the applicant's difficulties with living together with other prisoners.

As regards general measures, the CM noted with interest that the Romanian authorities envisage putting in place special psychiatric sections in a number of penitentiary facilities and hospitals and invited the authorities to provide the Committee with an indicative timetable for the adoption and the implementation of these measures; in the meantime, it invited the authorities to assess the need to adopt interim measures to ensure the adequate management of prisoners with mental health problems and to inform the Committee of the results of this assessment.

RUS / Ananyev and Others (pilot judgment)

Application No. 42525/07, Judgment final on 10/04/2012, Enhanced supervision

> **Poor detention conditions in remand centres (SIZO):** poor conditions of detention (acute lack of personal space, shortage of sleeping places, unjustified restrictions on access to natural light and air etc.) in various remand centres pending trial and lack of effective remedies (Articles 3 and 13)

CM Decision: Continuing its examination of this group, the CM focused on general measures at its June meeting, notably on the issue of remedies, both preventive and compensatory. It has first recalled its decision of December 2012, in which it noted with satisfaction that the action plan provided by the Russian authorities in October 2012 was based on a comprehensive and long-term strategy for the Resolution of the structural problem identified by the Court. It further expressed satisfaction on the significant efforts undertaken by the authorities to ensure the swift Resolution of similar cases pending before the Court, in line with the Court's indication made in its pilot judgment.

From the information presented in the action plans of August 2013 and April 2014, it appeared that a Draft Code establishing the new remedy has been pending before the State Duma since March 2013 and has been adopted only at first reading. The CM noted with interest that, as required by the pilot judgment, the Draft Code of Administrative procedure empowers the courts to order specific remedial measures, sets time-limits for the enforcement of the orders and defines the authority responsible for enforcement. While inviting the authorities to provide further information, notably as regards the distribution of the burden of proof on inadequate conditions of detention, the scope and nature of the remedial measures which can be ordered by the courts and the mechanism for the reduction of court fees and other costs for the complainants, it urged the authorities to accelerate the adoption and entry into force of the Code before the end of 2014, at the latest. Finally, the CM strongly encouraged the Russian authorities to take full advantage of the opportunities provided by the Human Rights Trust Fund (HRTF) project No. 18 in order to find solutions to the outstanding issues and to ensure rapid results.

SVN / Mandić and Jović

Application No. 5774/10, Judgment final on 20/01/2012, Enhanced supervision
(See Appendix 2)

> **Overcrowding in prison:** degrading treatment on account of poor conditions of detention in the overcrowded Ljubljana prison and lack of an effective remedy (Articles 3 and 13)

Developments: Bilateral contacts have continued and the Slovenian authorities also participated in the HRTF-financed Multilateral Round Table on effective remedies to challenge conditions of detention organised on 8-9 July 2014, in Strasbourg. Further information on outstanding issues is awaited.

UKR / Nevmerzhitsky - UKR / Yakovenko - UKR / Melnik - UKR / Logvinenko - UKR / Isayev

Application Nos. 54825/00, 15825/06, 72286/01, 13448/07 and 28827/02, Judgments final on 12/10/2005, 25/01/2008, 28/06/2006, 14/01/2011 and 28/08/2009, Enhanced supervision
(See Appendix 2)

> **Poor detention conditions:** violations stemming mainly from poor detention conditions, inadequate medical care in various police establishments, pre-trial detention centres and prisons; lack of an effective remedy; other violations: unacceptable transportation conditions; unlawful detention on remand; abusive monitoring of correspondence by prison authorities, impediments in lodging a complaint with the Court; excessively lengthy proceedings (Articles 3, 5 §§1-4-5, 6§1, 8, 34, 38§1(a) and 13)

Developments: Consultations with the authorities have continued in 2014 with a view to ensure the submission, as soon as possible, of a comprehensive action plan responding to outstanding issues, including the setting-up of effective remedies. In this context, special meetings were organised in Ukraine on 15-16/12/2014, within the context of the HRTF 18 Programme, to clarify outstanding issues with the different authorities concerned, and with the assistance of Council of Europe experts.

C.2. Unjustified detention and related issues

BIH / Tokic and Others – BIH / Halilović

Application Nos. 12455/04 and 23968/05, Judgments final on 08/10/2008 and on 01/03/2010, CM/ResDH (2014)197
(See Appendix 3)

> **Unlawful detention in psychiatric unit:** unlawful detention in a psychiatric unit of persons acquitted on grounds of insanity, either based on expired court orders or solely on administrative decisions by social assistance centres, without any civil court decision as required by a legislative change in 2003 (Article 5§1)

Final resolution: Following the Court's judgment in the Tokic case, amendments were made to article 410 of the 2003 Criminal Procedure Code (entry into force in 2009). These provide that if offenders are acquitted on grounds of insanity, the criminal court may at the same time order compulsory confinement in a psychiatric hospital for a maximum of six months whilst directly referring the case to the civil courts for a decision on possible compulsory placement.

In the context of the implementation of the amendments, the authorities identified 129 offenders acquitted on the grounds of insanity whose files had been transmitted to the social assistance centres under the old article 410 of the Criminal Procedure Act and in respect of whom no lawful detention decision existed: as regards the 33 offenders who were still placed in care, 9 accepted voluntary placements. The social assistance centres engaged proceedings before the civil courts with respect to the remainder under, as appropriate, the Non-Contentious Proceedings Act and Mental Health Act. These proceedings have all been brought to an end and no person is presently unlawfully detained. In addition, the competent courts regularly review the situation of individuals held in compulsory confinement o grounds of insanity and the effectiveness of this review has been acknowledged by the Court (Marjanovic v. Bosnia and Herzegovina).

BGR / Stanev

Application No. 36760/06, Judgment final on 17/01/2012, Enhanced supervision
(See Appendix 2)

- **Placement in a psychiatric institution and inhuman conditions of detention:** unlawfulness of placement in a psychiatric institution; unavailability of judicial remedy and impossibility of obtaining redress; inhuman and degrading conditions of detention (2002 and 2009) and lack of an effective remedy in this respect; lack of possibility to request before a court the restoration of the legal capacity (Articles 5§§1-4-5, 3, 13 and 6§1)

Action plan: The revised action plan provided by the authorities in November 2014 is being currently assessed.

FRA / Medvedyev and Others

Application No. 3394/03, Judgment final on 29/03/2010, CM/ResDH(2014)78
(See Appendix 3)

- **Arrest by military vessel on the high seas:** detention of the applicants, suspected of drug smuggling, aboard a French military vessel in the Atlantic Ocean (Cap Verde Islands) for thirteen days in the absence of control of such detention by a judicial authority (Article 5§1)

Final resolution: The Law No. 2011-13 on *the fight against piracy and the exercise of national police powers at sea* has been adopted on 05/01/2011, introducing in the Defence Code a new section called "measures taken against persons on vessels". It provides for a *sui generis* regime in case of deprivation of liberty on board vessels by French military forces in the context of their activities at sea. This regime divides the detention into two periods: the initial phase of 48 hours under the authority of the prosecutor and the second phase of 120 hours (renewable) under the authority of the judge of freedoms and detention, who may also hear the persons arrested. In addition, the new law provides for a first medical exam within 24 hours and thereafter within 10 days, and the judge may at any moment order further medical examinations.

MDA / Şarban (group)

Application No. 3456/05, Judgment final on 04/01/2006, Enhanced supervision
(See Appendix 2)

- **Pre-trial detention:** unlawfulness; continuing detention despite higher court's decision quashing the detention order; lack of relevant and sufficient reasons for ordering or extending detention; impossibility to obtain release pending trial; failure to ensure a prompt examination of the lawfulness of the detention; non-confidentiality of lawyer-client communications; various breaches of the principle of equality of arms; (Articles 5 §§1, 3 and 4; Articles 3 and 34)

CM Decision: Pursuing its supervision of execution measures taken in this group of cases, at its meeting in December the CM took note, notably with respect to individual measures, that none of the applicants were detained pending trial (two of the applicants were convicted and serving their prison sentences, whilst the rest of the applicants have been released) and considered that no further individual measure is required.

As regards the lawfulness of the detention, the CM considered that this issue was resolved as a result of the reforms conducted by the authorities, notably the amendment of the relevant provisions of the CCP in November 2006 and the explanatory ruling of the Supreme Court of 15 April 2013. It also considered resolved the question of the confidentiality of lawyer-client communications. It then invited the authorities to provide, before 1 October 2015, information on the progress achieved on outstanding issues, notably on legislative measures envisaged in response to the issues of the continuing detention despite a higher court's decision to quash the initial detention order, as well as in view of lifting the prohibition on releasing certain accused persons from detention pending trial. Information was requested on the developments of judicial practice concerning the provision by the courts of relevant and sufficient reasons in their orders for detention pending trial. Finally, the authorities were invited to assess the impact of the legislative amendments and of the Recommendations of the Supreme Court of April 2013 on the prevention of lengthy appeal proceedings concerning orders for detention pending trial and on the prevention of the violation of the principle of equality of arms.

MLT / Gatt
Application No. 28221/08, Judgment final on 27/10/2010, CM/ResDH(2014)165
(See Appendix 3)

> **Disproportionate detention for failure to pay a bail guarantee:** Maltese law made no distinction between a breach of bail conditions and other considerations of less serious nature, and established no legal ceiling on the duration of detention (Article 5 § 1)

Final resolution: The applicant was released on 17/08/2010 by virtue of decisions of the Constitutional Court and of the criminal court which gave effect to the judgment of the European Court. As regards general measures, an amendment to Article 586 of the Criminal Code provides for different ceilings on the duration of detention for non-payment of the personal guarantee fixed in case of breach of bail conditions, depending on the amount of the bail bond. Moreover, the direct application by the domestic courts of the European Court's judgment should exclude similar violations in future.

NLD / Morsink (group)
Application No. 48865/99, Judgment final on 10/11/2004, CM/ResDH (2014)294
(See Appendix 3)

> **Excessive length of pre-placement detention of mentally-ill offenders in ordinary remand centres while awaiting a place in a custodial clinic:** mentally-ill offenders posing a danger to society were ordered confinement in a custodial clinic once the prison sentences were served; due to a shortage of places, a considerable delay occurred in their transfer from prison to the custodial clinic (Article 5§1)

Final resolution: In its judgment of 21/12/2007, the Dutch Supreme Court held that pre-placement detention exceeding 4 months was unlawful. Compensation is now available to those held longer. Between 2006 and 2011 the custodial clinics' capacities were enlarged. In 2013, the average waiting time amounted to 100 days. In June 2014, 14 persons awaited such placement.

POL / Trzaska (group)
Application No. 25792/94, Judgment final on 11/07/2000, CM/ResDH (2014)268
(See Appendix 3)

> **Pre-trial detention:** excessive length of detention pending trial and deficiencies in the procedure for reviewing its lawfulness (Articles 5§§3 and 4)

Final resolution: Measures have centred on changing the practice of domestic courts, so that these take full account of the Court's case-law. This has been achieved through extensive training for judges and prosecutors, supported by the provision of freely available publications of the Court's case-law with regular updates. In addition, an extensive monitoring system of practice has been put in place.

In addition, the existing possibilities of alternatives to detention on remand have been supplemented by legislative amendments that limit the grounds for detention, ensure better diligence as regards the presentation of the grounds for detention, limit maximum periods of detention, ensure that excessive delays as regards detention on remand are taken into account at all levels of jurisdiction and provide an appeal mechanism against certain types of decisions extending pre-trial detention. Some of these amendments were made following judgments of the Constitutional Court applying the Court's case-law.

The overall positive impact of the reforms is demonstrated by statistics notably demonstrating a very significant reduction in the use of pre-trial detention, a decrease in the number of individuals held in pre-trial detention and a corresponding increase in the use of alternative measures to detention. The positive impact is also demonstrated by a significant drop in the Court's judgments finding violations. In 2013 there were only 3 such judgments (concerning facts pre-dating most of the measures referred to in the action report).

Notwithstanding the significant results achieved, the authorities continue to seek improvements. New amendments to the Code of Criminal Procedure will thus enter into force in 2015. These aim at further limiting the use of pre-trial detention for less serious offences, the possibilities to extend detention and increase the flexibility in the use of bail.

ROM / Calmanovici and Others
Application No. 42250/02, Judgment final on 01/10/2008, CM/ResDH(2014)13
(See Appendix 3)

> **Cases mainly concerning irregularities of detention:** unjustified extension of the detention on remand; lack of immediate appeal against court decisions extending detention on remand; non-attendance of the hearing, the outcome of which would determine whether the detention will be maintained and lack of a speedy determination of the request for release; belated presentation before a judge; unfair criminal proceedings; illegal interception of telephone communications, prohibition of parental rights and prohibition of the right to vote (Article 5 §§ 1 and 3, Article 6§1, Article 8, and Article 3 of Protocol No.1)

Final resolution: Following the 2003 amendments of the Code of Criminal Procedure, the prosecutor is no longer competent to order the placement in detention on remand. At present, the domestic courts' practice of ordering detention on remand

gives direct effect to the European Court's case-law and is conform to the Convention requirements. Also, a court decision placing a person in detention on remand may be challenged before the higher court within 24 hours from its delivery or from its notification to the person concerned.

The measures taken to overcome the problem of non-attendance of the hearing the outcome of which would determine whether the detention will be maintained, were presented in the *Samoilă* and *Cionca group of cases* (see the Final Resolution CM/Res DH (2013)235). The measures to the problem of belated presentation before a judge were taken in the Nastase-Silvestru case (see the Final Resolution CM/ResDH(2013) 235).

As regards the lack of relevant and sufficient reasons for extending the detention on remand, the domestic courts' practice was considered by the Court as being in conformity with the Convention (e.g. inadmissibility decision in *Miklos* v. Romania No. 21388/03).

The issue of the interception of telephone communications when no element of national security is involved is currently regulated by the Code of Criminal Procedure, which contains numerous safeguards, notably as to its limited duration, the need for a prior motivated authorisation by a judge, with indication of the means of communication intercepted. In addition, the code regulates the use and the storage of the information gathered through such measures, and its destruction.

The authorities indicated that the new Code of Criminal Procedure, in force since February 2014, includes all abovementioned amendments.

As regards the prisoners' right to vote, in 2007 the High Court of Cassation and Justice found that, in the light of the European Court's findings in its judgment in the case of *Hirst*, the prohibition of the right to vote shall only be imposed by a court decision, after being debated by the parties and after the examination of its compliance with the proportionality principle. Currently, the domestic courts assess in each individual case the auxiliary/complementary penalties to be imposed on the convicted persons. Having regard to the facts and the personal circumstances of the prisoners, the courts determine whether or not there is a need to prohibit electoral rights.

RUS / Klyakhin

Application No. 46082/99, Judgment final on 06/06/2005, Enhanced supervision
(See Appendix 2)

> **Different violations related to detention on remand:** unlawful detention; failure to provide information on the reasons for arrest; domestic courts' failure to adduce relevant and sufficient reasons to justify the extension of pre-trial detention; limited scope and excessive length of the judicial review of the lawfulness of detention (Articles 5§§1, 2, 3 and 4)

Developments: As regards the violations of Article 5§3, relevant information, including an updated action plan, was submitted within the context of the Ananyev pilot judgment (cf also AR 2013). As regards the violation of Article 5§§1 and 2 and 4, bilateral consultations have continued with a view to allow the presentation of a new action plan/report.

UK / Al-Jedda

Application No. 27021/08, Judgment final on 07/07/2011, CM/ResDH (2014)271
(See Appendix 3)

> **Internment of an Iraqi civilian in Iraq:** preventive detention without basis in law of an Iraqi national from 2004 to 2007 in a detention centre run by British force in Iraq, attributable to the UK as the occupying power (Articles5§1)

Final resolution: In response to claims from former detainees who, like Mr Al-Jedda, were held in Iraq on security grounds and who claim violations of Article 5 and other provisions of the Convention, the authorities committed significant resources to investigations, litigation and settlement awards. Effective proceedings have been put in place to manage these claims and funds have been set aside to meet any awards made.

The factual circumstances leading to some of the damage claims are under investigation by the *Iraq Historic Allegations Team* (IHAT), whose mandate has been extended to the end of 2019 with a commensurate increase in funding.

The authorities take due account of the Al-Jedda judgment where relevant in its operations in other countries, such as Afghanistan, and respective policies and decisions can be challenged by judicial review, in which the domestic courts will, where appropriate, take account of the Al-Jedda judgment. The Government takes account of the Court's and domestic courts' judgments in setting future policies and making subsequent decisions.

The judgment has been widely reported and disseminated. Detailed advice has been taken from independent counsel and the Ministry of Justice has led co-ordination activity to ensure that the implications of the judgment are understood by the wide range of interested government departments. In addition, there has been a range of expert and academic seminars on the judgment as well as detailed academic commentary.

UK / James, Well and Lee

Application Nos. 25119/09, 57715/09 and 57877/09, Judgment final on 11/02/2013, CM/ResDH(2014)132
(See Appendix 3)

> **Arbitrary and unlawful detention of prisoners with indeterminate sentences for public protection (IPP):** after expiry of tariff periods, failure to provide appropriate rehabilitative courses considered necessary by the Parole Board for demonstrating a reduction of risk and thus their release (Article 5§1)

Final resolution: The three applicants have all, since the facts of the case, been provided new opportunities to demonstrate a reduction of risk and have all also achieved release into the community on multiple occasions for two of them. As regards general measures, the period when there was a structural failure to provide systems and resources for the proper implementation of IPP's has ended. As of 2008 significant changes were made to the statutory construction of IPP in July 2008. The changes introduced a minimum tariff of 2 years below which IPP's would only be given in exceptional circumstances, thus limiting the number of IPP prisoners with inadequate time to address the risks problem. On 03/12/2012 the IPP sentence was abolished by the *Legal Aid, Sentencing and Punishment of Offenders* (LASPO) Act and was replaced

with a new regime of determinate sentences. Statistical data confirm that the IPP population has reduced and continues to reduce following the abolition of the sentence.

IPP prisoners continue to be included amongst priority groups to receive interventions, in order to address their risk of harm and provide them with the opportunity to demonstrate to the Parole Board that they may be effectively and safely managed in the community. The *National Offender Management Service* (NOMS) is committed to evidence-based commissioning and has refined its targeting criteria for programmes in order to gain the best possible outcomes, focusing on prisoners with medium or higher risks of offending. All those serving indeterminate sentences must have a personalised sentence plan drawn up by prison and probation staff. New instructions on sentence planning stressing the need to address risk have also been issued in December 2012. A special IPP management Information tool has been developed and functions as from 2011. Moreover, the Release on Temporary Licence policy has been relaxed in order to allow indeterminate sentenced prisoners better possibilities of transfer to open conditions. Additional places in the open prison estate and systems have been put in place. The Parole Process has been streamlined.

UKR / Kharchenko (group)
Application No. 40107/02, Judgment final on 10/05/2011, Enhanced supervision
(See Appendix 2)

> **Detention on remand:** structural problem of unlawfulness and excessive length of detention on remand, as well as lack of adequate judicial review of the lawfulness of detention, mainly due to the deficiencies in legislation and practice (Articles 5§1, 5§3, 5§4 and 5§5)

Developments: Following the CM's last decision in 2013, bilateral contacts are being held with a view to allow an updated assessment of the situation in the light of latest developments. On 9/10/2014 the Court also rendered a further judgment with indications of relevance for the execution of the present group of cases, notably indicating the need for further legislative measures – Chanyev v. Ukraine, Appl. 46193/13 – judgment which became final on 9/1/2015.

C.3. Detention and other rights

RUS / Anchugov and Gladkov
Application No. 11157/04, Judgment final on 9/12/2013, Enhanced supervision
(See Appendix 2)

> **Prisoners' voting rights:** Blanket ban on voting imposed automatically on the applicants due to their status as convicted offenders detained in prison (violation of Article 3 of Protocol No. 1)

Developments: A communication from the Government explaining the complexity of the problem identified and the internal consultations initiated in response to the new judgment was received on 10 October 2014.

TUR / Söyler

Application No. 29411/07, Judgment final on 20/1/2014, Enhanced supervision
(See Appendix 2)

> **Prisoners' voting rights:** Automatic and indiscriminate ban for any person found guilty of an intentional offence to vote, irrespective of the nature and gravity of the offence.(Article 3 of Protocol No. 1)

Action plan: An action plan was submitted on 3/12/2014 taking into account the indications given by the Court under Article 46 (see Appendix 4).

UK / Hirst No.2 - UK / Greens and M.T (pilot judgment)

Application Nos. 74025/01 and 60041/08, Judgments final on 06/10/2005 and 11/04/2011, Enhanced supervision
(See Appendix 2)

> **Voting rights of convicted prisoners:** blanket ban on voting imposed automatically on convicted offenders serving their sentences (Article 3 of Protocol No. 1)

CM Decisions: The CM continued to follow closely the developments with a view to finding a solution to the general problems revealed by the Hirst N° 2 judgment and the additional indications given by the Court in the pilot judgment in the Greens and M.T. case (see also AR 2013).

In accordance with the indications provided at the end of 2013, the CM noted in March 2014 that the parliamentary committee established to examine the legislative proposals on prisoner voting rights had completed its work, and considered this a significant step forward.

The CM welcomed the fact that the parliamentary committee had recommended that all prisoners serving sentences of 12 months or less should be entitled to vote and highlighted that the parliamentary committee chose not to recommend the re-enactment of the existing ban. The CM recalled in this context that an option aimed at retaining the blanket restriction criticised by the European Court could not be considered compatible with the Convention. The CM urged the authorities to adopt the parliamentary committee's Recommendation to introduce a bill to parliament at the start of the 2014-2015 parliamentary sessions and reiterated the importance of rapidly concluding the legislative process.

When assessing developments in September 2014, the CM welcomed the presence of the Minister of State for Civil Justice and Legal Policy, and the assurances presented of the United Kingdom's commitment to fulfill its obligations under the Convention. The CM noted, nevertheless, with profound concern and disappointment that the authorities had not introduced a bill to Parliament at the start of its 2014-2015 session as recommended and thus urged the authorities to introduce such a bill as soon as possible and to inform it as soon as this has been done.

D. Issues related to expulsion / extradition

D.1. Unjustified expulsion or refusal of residence permit

BGR / C.G. and Others (group)

Application No. 1365/07, Judgment final on 24/07/2008, Enhanced supervision
(See Appendix 2)

- **Shortcomings in the judicial control in the area of expulsion or deportation based on national security grounds:** lack of adequate safeguards in deportation proceedings and shortcomings of judicial control (insufficient review of the relevant facts and lack of judicial control of the proportionality of the expulsion measure, non-compliance with the principle of adversarial proceedings, and lack of publicity of judicial decisions); absence of a suspensive remedy in case of risk of ill-treatment in the destination country; different violations related to the applicants' detention pending the implementation of the expulsion measures (unlawful detention and unjustified extension) (Article 1 of Protocol No. 7 and Articles 8, 5§1(f), 5§4, 3 and 13)

Developments: In January 2015, the authorities provided information that will be examined by the CM at its meeting in March 2015. Information on individual measures taken in several cases is awaited.

CYP / M.A.

Application No. 41872/10, Judgment final on 23/10/2013, Enhanced supervision
(See Appendix 2)

- **Arbitrary deportation:** decision taken in 2010 to deport the applicant to Syria despite the fact his asylum claim was pending, entailing his subsequent detention; absence of an effective remedy with automatic suspensive effect to challenge the erroneous deportation decision; also, absence of effective and speedy review of the lawfulness of detention (Article 5§§1 and 4, Article 13 in conjunction with Articles 2 and 3)

Action plan: The applicant was granted refugee status in Cyprus on 29 April 2011 and released from detention on 3 May 2011. An action plan was submitted on 11 July 2014 and is currently under assessment.

ITA / Hirsi Jamaa and Others

Application No. 27765/09, Judgment final on 23/02/2012, Enhanced supervision

- **Collective transfer of irregular migrants to Libya:** interception at sea by the Italian military authorities of Somalian and Eritrean nationals and their collective transfer to Libya, despite the risk to be exposed to treatment contrary to the Convention, and to be arbitrarily returned to their countries of origin; collective removal to Libya without examining the applicants' individual situation (Article 3, Article 4 of Protocol No. 4, Article 13 taken together with Article 3 and with Article 4 of Protocol No. 4)

CM Decision: During its execution supervision of this case, the CM noted the obstacles encountered by the Italian authorities to obtain from Libya necessary assurances against the applicant's potential ill-treatment in this country or their arbitrary repatriation to Somalia or Eritrea.

At its meeting in September 2014, the CM had however noted with interest the efforts made and invited the Italian authorities to undertake that, if they find or receive information in the future which indicates that the applicants risk treatment contrary to Article 3 of the Convention or arbitrary repatriation, they will take all possible measures to secure their Convention rights.

As regards general measures, the CM recalled the firm assurances given by the authorities, that the clarifications given in the present judgment as to the requirements of the Convention have been incorporated in Italian law and practice to prevent pushbacks such as those at issue in this case. In order to allow the CM to examine the possibility of closing the case, it expressed its interest in receiving more detailed information on the practical measures of implementation taken, including instructions, guidelines and training.

ITA / Saadi (group)
Application No. 37201/06, Judgment final on 28/02/2008, CM/ResDH(2014)215.
(See Appendix 3)

Risk of torture or ill-treatment if deportation orders to Tunisia were to be enforced (potential violation of Article 3)

Final resolution: As regards individual measures, all the expulsion orders against the applicants have been lifted and in the cases where just satisfaction was granted by the Court, it has been duly paid by the Italian authorities.

As regards general measures, the awareness raised among the competent authorities by the publication and dissemination of the Court's judgment enabled domestic courts to give due consideration to the principles set out by the European Court. In a decision of 3/05/2010 (No. 10636), the Court of Cassation held that justices of the peace should assess the concrete risks that an irregular immigrant would face in his country of origin before an expulsion order can be executed. In addition, on 27/05/2010 the Ministry of Justice sent to all domestic courts of appeal a circular stressing their obligation to comply with interim measures ordered by the Court under Rule 39 and to assess whether there are any "impediments" to expulsion, such as the risk of a violation of rights under Article 3 of the Convention in the country of destination.

On the other hand, in June and July 2012, the Court delivered inadmissibility decisions in several cases against Italy, concerning the risk of expulsion to Tunisia, in which it referred to the situation in Tunisia following the recent change of regime. The Court noted that given democratic elections of 23 October 2011, which resulted in the election of a Constituent Assembly, there were no more substantial grounds to believe that the applicants would face a real risk of being subjected to treatment contrary to Article 3 because of the suspicions of terrorism weighting on them, if expelled to Tunisia.

NLD / G.R.

Application No. 22251/07, Judgment final on 10/04/2012, CM/ResDH(2014)293
(See Appendix 3)

> **Hindrance to the effective use of the procedure for obtaining a residence permit:** the domestic authorities' excessively formalistic attitude when dealing with the applicant's request to be exempted from the obligation to pay the statutory administrative charge (€ 830), which was a precondition for the processing of his request for a residence permit, on account of the authorities' unjustified demands for additional proofs of his inability to pay the charge (Article 13)

Final resolution: As regards individual measures, on 6 June 2012, the applicant was notified of his full exemption from the statutory administrative charge. By decision of 28 September 2012, his application of 9 January 2006 for a temporary regular residence permit was examined and denied, and an entry ban was imposed on the applicant.

As regards general measures, the rules on the amount of the administrative charge were amended in December 2012 and the charge payable by all aliens applying for residence as a family member is currently € 228. Moreover, based on article 3.34a(j) of the Aliens Regulation 2000, aliens may also request exemption from the obligation to pay the administrative charge under Article 8 of the Convention. These applications are individually assessed, with consideration to any evidence on inability to pay that the applicant managed to collect. Examples of items of evidence are indicated in Chapter B1/8.3.2. of the Aliens Act 2000 Implementation Guidelines. As regards the evidence regarding the financial situation that should be submitted by third parties, a judgment was adopted on 24 December 2013 by the Administrative Jurisdiction Division of the Council of State, which states that authorities cannot require further proof of the financial situation of third parties who say that they cannot or do not want to contribute towards payment of the fee.

RUS / Alim

Application No. 39417/07, Judgment final on 27/12/2011, Enhanced supervision

> **Risk of expulsion notwithstanding family ties:** expulsion order of a Cameroonian national issued by the courts following his conviction, in January 2007, for breach of residence regulations (he had not sought a renewal of his residence permit in time), without taking into account the proportionality of such a measure in the light of his family ties in Russia (the applicant had notably two children with a Russian woman, both born and living in Russia) (Article 8)

CM Decision: Since the last CM's examination of this case in March 2013, the Code of Administrative Offences has been amended and the new provisions in force since January 2014 jeopardise the applicant's situation, as he risks being automatically expulsed for breach of residence regulations. At its December meeting, the CM recalled that the applicant's administrative removal from the Russian Federation would constitute a violation of Article 8, and further recalled the subsequent quashing by the Supreme Court of the removal order. It further noted, with concern, that nearly three years after the judgment of the European Court has become final and over seven years after the impugned events, the applicant's situation has still not been resolved. Consequently, the CM urged the Russian authorities to take the

necessary measures to regularise the applicant's situation in the Russian Federation without further delay, by exploring all possible avenues such as temporary asylum on humanitarian grounds given his family situation, and to keep the CM regularly informed of all steps taken to this end.

As regards general measures, it noted with concern the amendments introduced in 2013 to the Code of Administrative Offences, rendering the administrative removal of foreigners an obligatory sanction for certain breaches of the residence regulations, as these amendments appear to raise important questions under the Convention. However, it noted with interest the recent decision of the Constitutional Court of 5 March 2014 indicating a continuing obligation on courts and authorities, despite the introduction of the above-mentioned amendments, to examine each individual situation under Article 8 of the Convention and invited the authorities to provide information on the application in practice of the amended legislation, in the light of the above-mentioned decision of the Constitutional Court, in the different regions of the Russian Federation.

In the light of the applicant's acute and urgent situation and considering the date of the judgment of the Court in this case, the CM invited the Russian authorities to provide an updated action plan with comprehensive information on both individual and general measures by 31 March 2015 at the latest.

RUS / Liu and Liu - RUS / Liu No.2

Application Nos. 42086/05 and 29157/09, Judgments final on 02/06/2008 and 08/03/2012, Enhanced supervision
(See Appendix 2)

> **Deportation on national security grounds in violation of the right to respect for family life:** refusal of a residence permit followed by deportation of a Chinese national ordered by the executive *(Liu and Liu)* and subsequently by the courts (*Liu* No.2), in all proceedings on national security grounds – absence of adequate independent remedies capable of adequately assessing the reality of the risks to national security relied upon (including any possibilities for the person concerned to effectively rebut the facts relied upon) and of any weighing of risks for national security established against the right to respect for family life (whether in the context of the examination of applications for residence permits, deportation ordered by the executive, or administrative removal ordered by the courts) (Article 8)

CM Decision: Following the CM's decision in March 2013 (see AR 2013), recalling notably the necessity to take individual measures to remedy the violation found, certain bilateral contacts have taken place but the issue of individual measures remains. An action plan regarding general measures is awaited.

D.2. Detention in view of expulsion / extradition

BEL / M.S.
Application No. 50012/08, Judgment final 30/04/2012, Enhanced supervision
(See Appendix 2)

> **Forced return to Iraq:** authorities' failure to obtain diplomatic assurances from the Iraqi authorities that the applicant, who was subject to an arrest warrant in Iraq on the basis of anti-terrorism laws, would not be victim of inhuman or degrading treatment on his return; different violations linked to the applicant's detention in a closed transit centre with a view to his expulsion (Articles 3, 5§1 and 5§4)

CM Decision: Pursuing its execution supervision of this case at its September meeting, the CM noted with interest all the efforts made since 2012 by the Belgian authorities to determine whether the applicant really faces a risk of inhuman or degrading treatment in Iraq and invited them to undertake that if, in the future, they would find or receive information showing that the applicant still faces such a risk, they would take all possible steps to secure the applicant's rights under Article 3 of the Convention.

Concerning general measures, the CM took note with satisfaction of the measures adopted to avoid new, similar violations in the future regarding the risk of inhuman or degrading treatment and the finding that the lawfulness of the detention had not been decided speedily. It had also invited the authorities to specify, regarding the unlawful periods of detention, whether, in situations where the only grounds for detaining the foreigner is his/her deportation and where this deportation is eventually postponed in view of the risks he/she faces in the country of destination, the foreigner concerned is released ex officio or, if not, what is the procedure to follow.

In order to allow the CM to examine the possibility of closing the case, invited the authorities to provide the remaining information required by 1 December 2014.

BEL / M.S.S.
Application No. 30696/09, Judgment final on 21/01/2011, CM/ResDH(2014)272
(See Appendix 3)

> **Inhuman and degrading treatment arousing from the deportation of an asylum seeker:** deportation of the applicant in spite of the risk of detention and living conditions amounting to degrading treatment, lack of domestic remedy to challenge the decision of deportation (Article 3 in conjunction with Article 13)

Final resolution: Since 9/5/2012 the applicant enjoys refugee status in Belgium.

As to general measures, Belgium stopped, following the judgment of the Court, transferring asylum seekers to Greece, applying the sovereignty clause of the "Dublin II" Regulation (which provides that Belgium can itself deal with asylum requests in case transfer would result in a situation in violation of Article 3). Practices have also developed to ensure that complaints of treatment contrary to Article 3 are effectively examined, including in cases of application of the EU regulation and complaints thus relate to the treatment in another EU country.

Following the Court's judgment, the practice of the competent specialized judicial body, the CCE ("Conseil du contentieux des étrangers"), under the urgent complaints procedure ("en référé") developed considerably to ensure that this procedure met the effective remedies requirements of the Convention. This development was supplemented by a new Law of 10 April 2014 codifying and developing further the new practices. The new law notably strengthens the obligation for the courts to take into account all the evidences at their disposal when assessing allegations of violations of Article 3, and this as the situation presents itself at the time of the appeal. In the light of these developments and further case-law developments, the urgent appeal procedure also provides, not only detained asylum seekers, but all asylum seekers with access to a remedy against expulsion with automatic suspensive effect.

BEL / Mubilanzila Mayeka and Kaniki Mitunga
Application No. 13178/03, Judgment final on 12/01/2007, CM/ResDH(2014)226
(See Appendix 3)

> **Detention and deportation of an unaccompanied foreign minor seeking to unite with her mother:** excessive length and inadequate conditions of detention of an unaccompanied foreign minor, deportation of the minor in violation of the right to family life, lack of effective remedies to contest the legality of the detention (Articles 3, 5§§ 1 and 4 and Article 8)

Final resolution: As regards the question of individual measures, it is recalled that following the events at issue, end of October 2002, i.e. before the present judgment, the child could reunite with her mother in Canada following interventions by the Belgian and Canadian Prime Ministers.

As regards general measures, a law of 12 January 2007 put an end to the practice of detaining unaccompanied foreign minors who do not meet the requirements for entry into the country. However, if there is any doubt about their minority status, the minors may be held in detention for a short period while determining their age. Under the law of 1 May 2004, a guardian is appointed for each unaccompanied foreign minors in order to provide him with care, under the supervision and coordination of the Guardianship Department. Guardians have the capacity to challenge a deportation order and must be involved in the process of finding a lasting solution for the minor. The law of 19 January 2012 tasks the Aliens Office with ensuring that the unaccompanied foreign minor who may be deported will be properly received and cared for in the country she/he is deported to.

BIH / Al Hamdani
Application No. 31098/10, Judgment final on 09/07/2012, CM/ResDH(2014)186
(See Appendix 3)

> **Irregular detention in view of deportation:** detention of an Iraqi national on security grounds although no valid deportation order had been issued (Article 5§1)

Final resolution: Amendment of section 99(2) of the 2008 Aliens Act (entry into force November 2012) providing that aliens can henceforth be detained on security grounds only after a deportation order has been issued.

BIH / Al Husin

Application No. 3727/08, Judgment final on 09/07/2012, Transfer to standard supervision

> **Deportation to Syria:** risk of ill-treatment in the event of deportation to Syria and arbitrary detention for more than two years (October 2008- January 2011) "on security grounds" before the issuing of the deportation order (the relevant legislation made such detention compulsory if the person was deemed to constitute a threat to public order or to national security) (Article 5§1 and potential violation of Article 3)

CM Decision / Transfer: When pursuing its execution supervision of this case at its June 2014 meeting, the CM recalled the assurances given by the authorities of Bosnia and Herzegovina that the applicant would not be deported to Syria, bearing in mind the risks of ill-treatment the applicant would run on-site. The CM further noted with satisfaction the efforts made by the authorities to find a safe third country to which the applicant could be deported and invited the authorities to keep it informed of any developments in this respect. It also welcomed the legislative amendment to ensure that the detention of an alien on security grounds would only be possible after a deportation order was issued. Given that the applicant's situation no longer called for the taking of urgent individual measures by the authorities of the respondent State, the CM decided to continue the examination of this case under the standard procedure.

GRC / Mathloom

Application No. 48883/07, Judgment final on 24/07/2012, CM/ResDH(2014)232
(See Appendix 3)

> **Excessive length of detention of persons subject to a deportation order:** lack of foreseeability of the legislation on account of the absence of provisions setting the maximum period of detention of persons subject to a deportation order, excessive length of the proceedings for review of the lawfulness of detention (Article 5 §§ 1 and 4)

Final resolution: Before the Court had delivered its judgment, the Indictment Division had already granted the applicant's request for release, which occurred on 27 April 2007, considering that the reasonable time applicable to the detention of a person subject to a deportation order had expired.

As regards general measures, Article 74 of the Criminal Code governing court deportation orders has also been amended by Article 23 of law 4055/2012 of 2 April 2012. That provision lays down maximum periods of detention for persons subject to a court deportation order, as well as a procedure for regular review of the lawfulness of their detention. Furthermore, time limits are also imposed on the authorities responsible for deciding on the extension of detention, and in the event that those time limits are exceeded, the person subject to a court deportation order must be released.

GRC / M.S.S.

Application No. 30696/09, Judgment final on 21/01/2011, Enhanced supervision
(See Appendix 2)

> **Transfer by Belgium of an asylum seeker to Greece under Dublin II regulation:** Concerning Greece: degrading conditions of detention and subsistence

once in Greece, deficiencies in the Greek asylum procedure and risk of expulsion, without any serious examination of the merits of asylum applications or access to an effective remedy (Article 3, Article 13 in conjunction with Articles 2 and 3)

At its December 2014 meeting, the CM decided to **close its supervision of this case with respect to Belgium** (for a summary of the final resolution adopted, refer to Appendix 3)

CM Decisions: At its December 2013 meeting, the CM had invited the Greek authorities to provide updated information in response to questions related to detention conditions identified in the Memorandum CM/Inf/ DH(2012)19, but also, updated information and statistical data related to the asylum procedure.

When resuming consideration of this case at its September 2014 meeting, the CM took note, with respect to the asylum procedure, that the data provided on the operation of the three new asylum services (Asylum service, Appeals Authority, First Reception Centres) are encouraging, but stressed that, due to the brevity of the period covered, it was not yet possible to draw thorough conclusions. It had thus strongly encouraged the Greek authorities to pursue their efforts to guarantee, without delay, full and effective access to the asylum procedure throughout the territory and invited them to respond to all outstanding questions noted in document H/EXEC(2014)4rev with a view to enabling the Committee to fully assess access to the asylum procedure and the way asylum applications are processed as well as with a view to facilitating the identification of the necessary adjustments to the asylum procedure.

With respect to the conditions of detention of asylum seekers and irregular migrants, the CM took note of the measures already implemented to improve them and of the elaboration of a global strategy to this end. It noted, however, the serious concerns expressed in numerous Rule 9.2 communications regarding these detention conditions. The CM thus called upon the Greek authorities to submit, as soon as possible, the precise content of their global strategy for the improvement of conditions of detention, taking into account all the outstanding questions identified in document H/EXEC(2014)4rev and the recommendations of the Council of Europe's specialised bodies and other relevant actors. Information was also awaited regarding the remedy to complain about conditions of detention.

At its December 2014 meeting, the CM decided to close its examination of this case with respect to Belgium.

As regards Greece, the CM took note of the information and data provided regarding the living conditions (accommodation and decent material conditions) of adult asylum seekers and called upon the authorities to increase the accommodation capacity of open centres so that all asylum seekers entitled to such services receive them. It further called upon the authorities to intensify their efforts to implement their strategy ensuring a sustainable and undisrupted operation of open reception facilities, and the provision of services to all asylum seekers who are entitled to them. The CM called on the authorities to inform it on measures taken until the time when all open accommodation centres become operational. Data were also requested

regarding the referral of unaccompanied minors to special accommodation centres, assisted by specialised personnel. While strongly inviting the authorities to pursue their efforts in this domain, the CM regretted that no information was provided as to the appointment of guardians for unaccompanied minors and called upon the authorities to put in place a mechanism securing the appointment of guardians for all unaccompanied minors and to provide information in this respect by 15 March 2015.

LVA / Longa Yonkeu

Application No. 57229/09, Judgment final on 15/02/2012, CM/ResDH(2014)251
(See Appendix 3)

> **Unlawful detention of an asylum seeker:** arbitrary detention with a view to deportation, certain periods of detention not authorised in accordance with a procedure prescribed by law (Article 5 § 1)

Final resolution: Following the Court's judgment, a working group was appointed on 30 March 2012 by the Ministry of Interior in order to assess the national framework regulating asylum and immigration. The working group concluded that the amendments to the Immigration Law, carried out on 26 May 2011, already addressed the issues criticised by the Court in its judgment and implemented the European standards in this area as stated in the Council Directive 2008/115/EC of 16 December 2008. According to these amendments, the procedures and standards have been improved so as to meet the Court's requirements of precision and foreseeability. In addition, training sessions for officials were organised within the *Office of Citizenship and Migration Affairs* and the *State Border Guard Service*, in order to ensure that due consideration will be given to the asylum seeker's rights and legitimate interests when deciding on asylum requests and adopting decision on deprivation of person's liberty. The applicant's detention in the present case having also been caused by misunderstandings between the responsible authorities, the Ministry of Interior's internal regulations were amended so as to impose an obligation upon them to immediately notify by electronic means the competent authorities about changes in the status of the interested person.

MLT / Suso Musa (group)

Application No. 42337/12, Judgment final on 09/12/2013, Enhanced supervision
(See Appendix 2)

> **Detention pending asylum proceedings:** Asylum seekers kept in arbitrary and unlawful detention during different periods between 2007 and 2013: excessive delay in the examination of asylum request and inadequate detention conditions; detention continued after the deportation ceased to have prospects of success); lack of effective and speedy remedy to challenge the lawfulness of detention, including in the light of the adequacy of detention conditions (Articles 5 § 1 (f) and § 4, Article 3)

CM Decision: In view of assisting the CM in its execution supervision, the Court has indicated under Article 46 in its *Suso Musa* judgment, that Malta must secure a mechanism allowing individuals challenging the lawfulness of their immigration detention to obtain a determination of their claim within Convention-compatible time-limits. It further indicated that Malta should improve the conditions of detention

and limit detention periods so that they remain connected to the ground of detention applicable in an immigration context.

In response to the Court's judgments in this group of cases, several action plans were transmitted by the Maltese authorities, providing useful information in relation to general measures proposed to ensure a speedy review of the lawfulness of the detention by the *Immigration Appeals Board* (IAB). The CM has, however, considered that further clarification was required as to the functioning and the scope of review of IAB.

Further, the CM noted with concern the proposed amendment to the Article 25A(11)(a) of the Immigration Act, apparently re-stating the provision criticised by the European Court, according to which, the IAB cannot grant release from custody if the identity of the individual cannot be verified and strongly urged the authorities to reconsider this proposed amendment and to keep it informed of the outcome of this reflection without delay.

The proposed legislative amendment limiting the detention of asylum seekers to nine months was noted with interest by the CM which considered, however, that further clarifications were required as to whether or not decisions to detain asylum seekers are now taken after an individual assessment in each case, and as to the steps taken to improve detention conditions and to ensure that asylum proceedings are pursued with due diligence.

Finally, the Maltese authorities were invited to provide by 1 April 2015 a consolidated updated action plan responding to the outstanding points identified above.

UK / Aswat

Application No. 17299/12, Judgment final on 09/09/2013, CM/ResDH(2014)285
(See Appendix 3)

> **Extradition to the USA of person with severe mental health problems:** uncertainty over facilities and treatment available in the country of extradition having regard to the severity of the applicant's mental condition (Article 3)

Final resolution: After careful consideration of the new information submitted by the US authorities after the Court's judgment as regards procedures, facilities and medical services available in the USA in case of the applicant's extradition, the Home Secretary decided on 13/09/2013 to uphold the extradition order. The decision was challenged by way of judicial review, with suspensive effect. On 16/04/2014, the *High Court of England and Wales* found that there remained outstanding concerns and the Secretary of State was afforded a period of sixty days to obtain further assurances from the USA. These were obtained and examined by the *High Court* which found that the applicant's extradition would now be compatible with the Convention. Following a new application with the Court filed on 15/09/2014, the Court indicated, under Rule 39 of the Rules of Court, that the applicant should not be extradited until it had considered the application and it requested further information. Having examined the information, the Court decided on 23/09/2014 to lift the indication given under Rule 39. There were thus no further obstacles to the applicant's extradition to the USA which took place in October 2014. As regards the question of general measures, it was recalled that any decision to extradite an individual can be reviewed by the domestic

courts which are under an obligation to take the Court's case-law into account, that appeals have suspensive effect and that the efficiency of this remedy has been accepted by the Court.

E. Access to an efficient functioning of justice

E.1. Excessive length of judicial proceedings

ALB / Luli and Others
Application No. 64480/09, Judgment final on 01/07/2014, Enhanced supervision
(See Appendix 2)

> **Excessively lengthy civil proceedings:** failure of the judicial system to manage properly a multiplication of proceedings on the same issue (Article 6 § 1)

Action plan: In response to the Court's findings under Article 46 concerning the serious deficiency in the domestic legal proceedings in Albania, an action plan has been provided by the authorities in January 2015. The authorities committed to providing an updated action plan within 6 months.

BEL / Dumont (group)
Application No. 49525/99, Judgment final on 28/07/2005, Enhanced supervision
(See Appendix 2)

> **Lengthy proceedings:** excessive length of civil and criminal proceedings, mostly or only before the Brussels First instance court; lack of effective remedy in this respect (Raway and Wera cases) (Articles 6§1 and 13)

Developments: Bilateral consultations have taken place with a view to the presentation of the action plan /report requested by the CM at its December meeting 2013 (see AR 2013).

BGR / Kitov (group) - BGR / Djangozov (group) - BGR / Dimitrov and Hamanov (pilot judgment) - BGR / Finger (pilot judgment)
Application Nos. 37104/97, 45950/99, 48059/06 and 37346/05, Judgments final on 03/07/2003, 08/10/2004, 10/08/2011 and 10/08/2011, Enhanced supervision
(See Appendix 2)

> **Criminal and civil proceedings:** excessive length of criminal (Kitov group) and civil (Djangozov group) judicial proceedings; absence of effective remedies (Articles 6§1 and 13)

Developments: A revised action plan providing information, notably on additional measures envisaged and/or taken by the Bulgarian authorities to reduce the length of judicial proceedings before large courts which seem overloaded, and also responding to the outstanding questions identified in the information document CM/Inf/DH(2012)36 is being awaited.

EST / Saarekallas OÜ (group)

Application No. 11548/04, Judgment final on 08/02/2008, CM/ResDH(2014)287
(See Appendix 3)

Excessively lengthy civil and administrative proceedings, lack of an effective remedy (Articles 6§1 and 13)

Final resolution: The authorities have indicated that the problem of excessively lengthy proceedings was not of a structural nature in Estonia. However, in view of preventing similar violations in the future, a series of measures have been implemented. For example, the Courts Act was amended in September 2011, introducing new provisions to ensure a better organisation of the administration of justice, *inter alia* by empowering presidents of courts to establish organisational guidelines for judges, to redistribute the already allocated cases among judges depending on the judges' specialisation, on the complexity of cases, etc. In addition, a monitoring over the organisation of the administration of justice was introduced through the annual statistics reports sent to the Minister of Justice by the presidents of first instance and of appellate courts. Moreover, a new Court Information System was launched allowing electronic case-management, thus providing for an automatic initial distribution of cases between judges, based on such factors as the judges' specialisation, workload, complexity of cases, etc.

To address the lack of an effective remedy, the Estonian authorities have amended in September 2011 the Codes of Civil, Criminal and Administrative Procedures. These amendments appear to be in line with Articles 6 and 13 of the Convention, and the Court in its inadmissibility decision of 28/01/2014 in *Treial* v. Estonia indicated that the newly established domestic remedy is a remedy in the sense of Article 35§1, which has to be exhausted.

GRC / Diamantides n°2 (group) - GRC / Michelioudakis (pilot judgment) - GRC / Konti-Arvaniti (group) - GRC / Glykantzi (pilot judgment)

Application Nos. 54447/10, 71563/01, 40150/09 and 53401/99, Judgments final on 19/08/2005, 03/07/2012, 10/07/2003 and 30/01/2013, Transfer to standard supervision

Criminal and civil proceedings: excessively lengthy criminal (*Diamantides* No 2) and civil proceedings *(Konti-Arvaniti)* and lack of effective remedy (Articles 6§1 and 13)

CM Decisions / Transfer: During 2013, the CM examined these groups of cases at each of its HR meetings and at the end of its December meeting, it underlined the importance for the Greek authorities to adopt the draft law aiming at introducing an effective domestic remedy.

When resuming consideration of these groups of cases in 2014, at its March meeting, the CM noted with satisfaction that, with a view to responding to the European Court's request in the pilot judgments in the cases of *Michelioudakis* and *Glykantzi* to introduce an effective remedy, a law introducing a compensatory remedy was adopted by the Greek Parliament on 13 February 2014 and entered into force on 20 February 2014 following its publication in the Official Gazette. In this respect, it encouraged the authorities to ensure the implementation of the new compensatory remedy in compliance with the requirements of the Convention and to keep it informed of the developments in the domestic case-law in this field.

The CM further recalled its invitation to the Greek authorities to provide it with comprehensive information (with comparative statistical data) on the impact of the measures taken in order to reduce the length of civil and criminal proceedings as well as to improve the efficiency of civil and criminal courts. The CM also invited the authorities to pursue their efforts with a view to ensuring that the proceedings still pending before domestic courts in the *Diamantides No. 2* group of cases are concluded.

At its December 2014 meeting, the CM noted that the European Court concluded that the compensatory remedy introduced by Law No. 4239/2014, in response to the pilot judgments in the cases of *Michelioudakis and Others* and *Glykantzi and Others*, can be considered effective and accessible where a "reasonable time" was exceeded in the proceedings before the criminal and civil courts or before the Court of Audit. However, the CM reiterated its invitation to the Greek authorities to provide further comprehensive information on the functioning of the compensatory remedy in practice and on the concrete impact of the measures aimed at reducing the length of proceedings. It also invited them to provide information on the progress of the pending proceedings, as well as on the prospect of their conclusion, in the *Stefanakos v. Greece* and *Getimis v. Greece* cases (the *Diamantides No. 2* group).

In view of the positive developments in these cases, the CM decided to continue the supervision of the execution of these groups of cases under the standard procedure.

GRC / Manios (group) - GRC / Vassilios Athanasiou (group) (pilot judgment)
Application Nos. 50973/08 and 70626/01, Judgments final on 11/06/2004 et 21/03/2011, Transfer to standard supervision

> **Administrative proceedings:** structural problem of excessive length of proceedings before the administrative courts and the Council of State; lack of effective remedies (Articles 6§1 and 13)

CM Decision / Transfer: When pursuing its execution supervision of these groups of cases at its March 2014 meeting, the CM welcomed the fact that the European Court considered as effective the acceleratory and compensatory remedies introduced by Law No. 4055/2012, in response to the pilot judgment in the case of *Vassilios Athanasiou* and Others, and in view of these developments decided to continue the supervision of this case and the *Manios* group of cases under standard procedure.

The CM also took note with interest of the significant number of measures taken, aiming at reducing the length of administrative proceedings, and invited the Greek authorities to provide information on the concrete impact of these measures with detailed statistical data. Given that the proceedings in certain cases examined under the *Manios* group were still pending at domestic level, the CM invited the Greek authorities to provide information on the termination of these proceedings.

HUN / Tímár (group)
Application No. 36186/97, Judgment final on 09/07/2003, Enhanced supervision
(See Appendix 2)

Excessive length of court proceedings and lack of an effective remedy (Articles 6§1 and 13)

Action plan: In response to the structural problem revealed by this group of cases, the authorities adopted a number of measures, including a law making provision for acceleratory remedies in 2006 and a series of laws in 2009, 2010 and 2011 to improve the functioning of the judiciary. Notwithstanding these measures, the problem persisted, and the CM decided in March 2012 to transfer this group of cases to enhanced supervision. An action plan was received in December 2012. The plan gives a summary of the measures already taken and states that the acceleratory remedy has been accepted as effective by the Court in certain circumstances (Fazekas v. Hungary, 22449/08, decision of 28/10/2010). The action plan points out that serious consideration is being given to the introduction of a compensatory remedy. Bilateral contacts are currently in progress.

ITA / Ceteroni (group) - ITA / Luordo (group) - ITA / Mostacciuolo (group) - ITA / Gaglione
Application Nos. 22461/93, 32190/96, 64705/01 and 45867/07, Judgments final on 15/11/1996, 17/10/2003, 29/03/2006 and 20/06/2011, Enhanced supervision
(See Appendix 2)

Excessive length of judicial proceedings and problems related to the effectiveness of remedies: long-standing problem concerning civil, criminal and administrative courts, as well as bankruptcy proceedings; problems relating to the compensatory remedy – Pinto (insufficient amount and delay in payment of awards and excessively lengthy proceedings) (violations of Articles 6§1, 8, 13, Article 1 of Protocol No. 1, Article 3 of Protocol No. 1 and Article 2 of Protocol No. 4)

Developments: Following the last examination of this group of cases in June 2013, during which the CM notably noted with satisfaction that the Italian authorities reiterated their determination to adopt the necessary measures to eradicate the structural problem of the excessive length of judicial proceedings in Italy, there were regular contacts in 2014 between the authorities and the Secretariat with a view to finalising the consolidated action plan requested by the Committee and to evaluating the necessary measures so as to ensure the effectiveness of the "Pinto" remedy.

LIT / Šulcas (group)
Application No. 35624/04, Judgment final on 05/04/2010, CM/ResDH (2014)291
(See Appendix 3)

Excessive length of criminal and civil proceedings; lack of an effective remedy (Article 6§1 and 13)

Final resolution: As far as the effective domestic compensatory remedy with regard to lengthy proceedings is concerned, in its inadmissibility decision of 15/10/2013 in *Savickas v. Lithuania* (No. 66365/09), the European Court recognised the existence of such a remedy

at the domestic level, making notably reference to the Lithuanian Supreme Court's decision of 06/02/2007 which represented a breakthrough in the Lithuanian courts' case-law.

As to the issue of lengthy criminal proceedings, the Criminal Procedure Code had undergone several amendments between 2010 and 2014. They concern the acceleration of pre-trial investigations, the maximum length of adjournment of trial proceedings and the right to lodge a complaint to be examined within 7 days as well as the use of audio and video technologies when questioning witnesses and experts.

In addition, there had been amendments to the Law on Administrative proceedings in 2010, notably concerning the transfer of certain offences to courts of general jurisdiction, the possibility to use informational and communication technologies for recording hearings, the introduction of penalties for abuse of process and the possibility of friendly settlements.

As to the problem of excessively lengthy civil proceedings, the Code of Civil Procedure had been amended between 2011 and 2014. These amendments have introduced the right to lodge a complaint if certain procedural actions are not conducted by the court, the possibility to adopt judgment in absentia, appellate proceedings under written procedure and the possibility to submit a group claim. Also, by amendment of the Law on Conciliatory Mediation in Civil Disputes the judicial mediation has been enhanced. A series of organisational measures have been adopted to shorten the length of proceedings, notably the establishment of an e-justice platform in July 2013 providing for the possibility to consult, submit and deliver all the procedural documents.

POL / Fuchs (group)
Application No. 33870/96, Judgment final on 11/05/2003, Enhanced supervision
(See Appendix 2)

Administrative proceedings: excessive length of proceedings before administrative courts and bodies and lack of an effective remedy in this respect (Article 6§1 and 13)

Action plan: In response to the concerns expressed by the CM at its September meeting 2013 (see AR 2013), an updated action plan was submitted on 2 January 2014. On the same date, the CM received a communication from the Polish Bar Council. Following this communication, the Government submitted further information on general measures, including statistical data until September 2013 and indicating that full 2013 statistics would be available around April 2014.

PRT / Martins Castro (group) - PRT / Oliveira Modesto (group)
Application Nos. 33729/06 and 34422/97, Judgments final on 10/06/2008 and 08/09/2000, Enhanced supervision
(See Appendix 2)

> **Lengthy proceedings:** excessive length of judicial proceedings revealing structural problems in the administration of justice; excessive delay in determining and paying compensation following the nationalisation of a company of which the applicants were shareholders *(Jorge Nina Jorge and Others case)* (Article 6§1 and Article 1 of Protocol No. 1)

Developments: In response to the CM's examination in March 2013 of the action plan from January 2013 (see AR 2013), the authorities submitted in May 2013 an extensive impact assessment of the measures adopted until 2010 and a description

of more recent legislative and non-legislative measures. This additional information has been examined in bilateral contacts with the Department for the execution of judgments and, as a result, further extensive clarifications and statistics were submitted in January 2015.

ROM / Nicolau (group) - ROM / Stoianova and Nedelcu (group)
Application Nos. 1295/02 and 77517/01, Judgments final on 3/7/2006 and 4/11/2005, Enhanced supervision
(See Appendix 2)

> **Excessive length of judicial proceedings:** excessive length of civil and criminal proceedings and absence of effective remedies (Articles 6 and 13, Article 1 of Protocol No. 1)

Action plan: Following extensive preparatory work, 2010 saw major developments through the adoption of two sets of reforms. The most important included the coming into force of a new Code of Civil Procedure on 15/2/2013. A revised action plan was submitted on 27/6/2013. Shortly afterwards, the Court rendered its judgment in the Vlad case, final on 26/2/2014 in which the Court welcomed the general measures adopted, but underlined that further measures should be taken in order to achieve complete compliance with Articles 6, 13 and 46 of the Convention (notably by amending the existing range of remedies or adding new ones).

TUR / Ormancı and others similar cases - -TUR / Ümmühan Kaplan *(pilot judgment)*
Application Nos. 43647/98 and 24240/07, Judgments final on 21/03/2005 and on 20/06/2012, CM/ResDH(2014)298
(See Appendix 3)

> **Lengthy judicial proceedings:** excessive length of proceedings before administrative, civil, criminal, labour, land registry, military and commercial and consumers' courts; lack of an effective remedy (Articles 6§1 and 13)

Final resolution: As to individual measures, the proceedings have been closed in 250 out of the 282 cases contained in the group and if the applicants in the remaining 32 cases consider that their proceedings have not been sufficiently accelerated, they can now bring their grievances before the Constitutional Court.

After a description of the process leading to the elaboration, since 2009, of the major strategies and the specific action plans required, the Report describes the main actions undertaken.

As regards proceedings before administrative courts, the reforms notably aim at reducing the workload of the Council of State by limiting its jurisdiction to acts with nation-wide applicability (earlier some 70% of all decisions from tax and administrative courts ended before it) and at streamlining procedures before the tax and administrative courts. In view of the intensity and nature of the work of the regional administrative courts, it is planned to increase the number of chambers and ensure a specialisation among them.

As regards proceedings before civil courts, actions include important simplifications of procedures, new rules to avoid conflicts of jurisdictions, timely payment of expert fees, simplifications of execution procedures and transfer of certain notification acts to public notaries.. As to labour law proceedings, procedures have been simplified, the

allocation of social security cases among courts improved, and some 26 new courts created to hear such cases. Further amendments were made to the cadastral proceedings to remedy the problem of frequent changes. Competences of cadastral judges in city centres have been extended in order to allow them to also hear cases from districts.

As regards criminal proceedings, improvements have included the reclassification of a number of offences into administrative offences, measures to ensure speedier investigations by prosecutors, including the dealing with appeals before the assize courts against decisions not to prosecute. In addition, courts have been relieved of the duty to keep certain records. Procedures have also been simplified by the abolition of the Magistrates' Courts in Criminal Matters and the transfer of their competences to the Criminal Courts of General Jurisdiction, supplemented by the setting up of peace magistrates to handle the judicial issues which arise at the investigation stage. Finally the organisation of the Court of Cassation has been reformed to allow a more flexible distribution between civil and criminal chambers. A draft law also proposes to create 8 new chambers and 129 new members of the civil chambers and 39 of the criminal chambers.

In all proceedings, efforts have been made to ensure an improved use of modern information technologies, notably to allow electronic signatures.

The renewal of a number of fundamental laws has also prevented judicial bodies from being unnecessarily occupied with outdated provisions and sought to ensure quality and rapidity in judicial decision making. In addition, new alternative dispute settlement mechanisms have been set up in a number of civil matters in order to ensure compensation for damages caused by terrorism or the fight against terrorism. Furthermore a reconciliation procedure has been introduced in criminal matters. Finally, the setting up of the Ombudsman's institution (under the authority of the Turkish Grand National Assembly) aims at improving the possibilities of settling disputes without these having to be brought before the courts.

The above efforts have been supplemented by important increases in the number of judges and prosecutors (in 2002 their number was e.g. 8 333, in 2010 10 233 and in 2014 14 535). Similarly, the budget allocations have increased (from 788 million euros in 2006 to 3 242 million for 2015). Numerous training activities have also been put in place.

Numerous statistics demonstrate the positive impact of the reforms. The average length of proceedings in the Criminal Chambers and the General Assembly of the Court of Cassation decreased for example from 506 days in 2011 to 328 days in 2013.

A new compensatory remedy has been put in place as of 19 January 2013 in the form of the Commission for the Compensation of Excessively Lengthy Proceedings. This Commission has to render its decisions within 9 months and these must also be executed within 3 months. Decisions are appealable to the Regional Administrative Court. The remedy has been accepted by the European Court as effective in an inadmissibility decision in the *Müdür Turgut* case (application 4860/09) of 11 April 2013. In addition, reference is made to the general remedy before the Constitutional Court in place since 23 September 2012. This remedy has also been accepted by the European Court in an inadmissibility decision of 30 April 2013 in the *Hazan Uzun* case (application 10755/13).

UKR / Naumenko Svetlana (group) - UKR / Merit (group)
Application Nos. 41984/98 and 66561/01, Judgments final on 30/03/2005 and 30/06/2004, Enhanced supervision
(See Appendix 2)

> **Civil and criminal proceedings:** excessive length of civil (*Svetlana Naumenko* group) and criminal (*Merit* group) proceedings; lack of effective remedies in this respect (Articles 6§1 and 13)

Developments: Further to the CM's calls for information about the progress of the execution (see AR 2013), intensive bilateral contacts were engaged in 2014, resulting in an updated action plan, submitted on 20/1/2015.

E.2. Lack of access to a court

ARM / Melikyan
Application No. 9737/06, Judgment final on 19/05/2013, CM/ResDH(2014)44
(See Appendix 3)

> **Absence of judicial review of executive action :** Judicial practice of applying an unconstitutional provision of the Code of Civil Procedure, totally restricting the possibility to seek judicial protection against a decision of the executive authorities, in view of denying court examination of claims contesting the legality of Government decrees (Article 6 §1)

Final resolution: The Armenian domestic law provides for the re-opening of cases found in violation of the Convention by the European Court. However, the applicant did not avail himself of this opportunity and did not ask for such a re-opening.

With respect to general measures, the Armenian Constitution was amended in November 2005, shortly after the facts of the present case, so as to provide for the possibility to apply to the Constitutional Court, after having exhausted all the judicial remedies if a dispute concerns the constitutionality of a legal provision. Moreover, in a decision of November 2006, the Constitutional Court declared null and void the litigious provision of the Code of Civil Procedure (CCP). Furthermore, the relevant chapters of the CCP were repealed one year later, in November 2007. The *Melikyan* case, has also been included in the training curricula of the judiciary, prosecutors and police.

BEL / Stagno
Application No. 1062/07, Judgment final on 07/07/2009, CM/ResDH(2014)111
(See Appendix 3)

> **Disproportionate limitation on the right of access to a court:** impossibility for the applicants to bring legal proceedings on the basis of an insurance policy because their capacity to take action had been statute-barred before they reached the age of majority, absence of an effective remedy (Article 6§1)

Final resolution: Subsequent to the Court's judgment, the 1874 law on insurance has been amended by the law of 4 April 2014 which specifies inter alia that the time limitation of three years for any action on the basis of an insurance policy cannot run against minors, persons deprived of legal capacity and other persons

lacking legal capacity. Furthermore, that new law provides that any amount which is to be paid to a minor, a person deprived of legal capacity or any other person lacking legal capacity in pursuance of an insurance contract must be paid into an escrow account and rendered unavailable until the person reaches the age of majority or the incapacity is lifted.

E.3. No or delayed enforcement of domestic judicial decisions

ALB / Driza (group) - ALB / Manushaqe Puto and Others (pilot judgment)
Application Nos. 33771/02, 604/07+, Judgments final on 02/06/2008 and 17/12/2012, Enhanced supervision, Interim Resolution CM/ResDH(2013)115
(See Appendix 2)

> **Restitution of nationalised properties:** failure to enforce final administrative and judicial decisions relating to the restitution of, or compensation for properties nationalised under the communist regime, and lack of effective remedies (Articles 6§1, 13 and Article 1 of Protocol No.1)

CM Decisions: When resuming consideration of these cases at its meeting of March 2014, the CM welcomed the presence of the Deputy Minister of Justice of Albania and noted with satisfaction that the new government has set the outstanding issues amongst the priorities to be followed at the highest level. Having regard to the Action plan of 24/02/2014, the CM has further considered, that the actions taken since September 2013 and the measures foreseen for the coming weeks and months were encouraging. Regretting, however, that the deadline fixed by the pilot judgment will not be met, the CM underlined that the Action plan must be followed by concrete and substantial actions at the domestic level, in particular in the fields identified by the Committee in its Interim Resolution CM/ResDH(2013)115. It further welcomed the Albanian Government's commitment to adopt necessary legal amendments and take all political decisions required to put in place an effective compensation mechanism in compliance with the pilot judgment *Manushaqe Puto*, in particular in the remaining months before the expiring deadline set by the European Court of 17 June 2014. The CM also strongly encouraged the authorities to keep it updated on the progress achieved in the implementation of the Action plan and decided to assess the progress achieved at its meeting of June 2014.

At that meeting, the CM welcomed the formal adoption by the Albanian Council of Ministers of the Action plan for the establishment of an effective compensation mechanism, thereby rendering it binding, and noted with satisfaction that the measures foreseen are being adopted in conformity with the previsions in that plan. In view of the overall deadline foreseen for the implementation of this mechanism, the CM strongly encouraged the authorities to intensify their efforts so that to reduce as much as possible the time-frame and invited them to keep it regularly informed on the progress achieved in the implementation of the Action plan.

ALB / Puto
Application No. 609/07, Judgment final on 22/11/2010, Standard supervision
(See Appendix 2)

Non-enforcement of judicial decisions in general, lack of an effective remedy (Article 6 § 1 of Article 13 and Article 1 of Protocol No. 1)

Developments: The initial Action plan submitted by the authorities in 2013 requires additional information and a comprehensive approach. Bilateral consultations between the Secretariat and the relevant authorities continue in view of the preparation of a consolidated action plan.

AZE / Mirzayev (group)
Application No. 50187/06, Judgment final on 03/03/2010, Enhanced supervision
(See Appendix 2)

Non-enforcement of eviction decisions: Non-execution of final judicial decisions ordering the eviction of internally displaced persons unlawfully occupying apartments to the detriment of the rights of lawful tenants or owners (Article 6§1 and Article 1 of Protocol No. 1)

Developments: Information is awaited notably on solutions proposed by the authorities to the housing problems of internally displaced persons, in view of ensuring enforcement of the domestic court decisions ordering their eviction from unlawfully occupied apartments so as to reinstate them to their legal owners or tenants. Information is also awaited on measures taken by the authorities to introduce effective remedies in order to prevent similar violations in the future.

BIH / Čolić and Others - BIH / Runić and Others
Application Nos. 1218/07+ and 28735/06, Judgments final on 28/06/2010 and 04/06/2012, Enhanced supervision
(See Appendix 2)

Judicial awards for war damages: Non-enforcement of final judgments ordering the State to pay certain sums in respect of war damages (Articles 6§1, Article 1 of Protocol No. 1)

Action report: As a follow-up to the information provided in 2012 and 2013 (see AR 2013), the authorities of Bosnia and Herzegovina have provided an action report in August 2014. It indicated the execution measures of an individual and general character taken in the Federation of Bosnia and Herzegovina and the Republika Srpska.

GRC / Beka-Koulocheri (group)
Application No. 38878/03, Judgment final on 06/10/2006, Enhanced supervision
(See Appendix 2)

Non-compliance with court decisions (expropriation): non-compliance or delayed compliance with domestic court' judgments ordering the lifting of land expropriation and the subsequent modification of the district boundary plan; lack of an effective remedy (Article 6§1, Article 1 of Protocol No 1, Article 13)

CM Decision: When resuming its examination of this group of cases at its December 2014 meeting, the CM recalled that the execution of domestic judgments is supervised within the framework of Law No. 3068/2002 establishing a mechanism for such execution through Councils of Compliance within the courts that have delivered the initial judgments. In this respect, the CM noted, with interest, the first set of positive statistics concerning the functioning of the above-mentioned execution mechanism and invited the authorities to provide updated statistics, as well as information on the amendments to that law currently envisaged by the authorities.

Having further noted that Law No. 4067/2012 established an additional procedure regarding the execution of judgments, ordering the lifting of expropriation and the modification of district boundary plans, the CM invited the authorities to amend that Law so that the procedure is in line with the Court's judgment in *Bousiou v. Greece* as regards the documents a land owner is required to produce, so as to ensure that the obligation to produce documents, other than title documents, lays with the administration.

Finally, the CM also invited the authorities to provide further information on the requirements for the implementation of Article 32§3 of Law No. 4067/2012 and to pursue the execution of all pending judgments in this group and to provide promptly updated information on all the above-noted matters.

ROM / Lafargue (group)

Application No. 37284/02, Judgment final on 13/10/2006, CM/ResDH (2014)282
(See Appendix 3)

> **Non-enforcement of court decisions granting visiting rights with regard to minor children:** failure to take appropriate or sufficient measures to ensure access to and residence with the child (Article 8)

Final resolution: Following the Court's judgments, different actions were undertaken with a view to establishing viable visiting arrangements, including new court proceedings to take into account developments, meetings between the spouses and the children and recourse to psychological expertise and psychotherapy, measures which improved relations. In the third case, no specific action was taken as the applicants could themselves have initiated separate proceedings to obtain final visiting rights. All the children are today between 15-19 years old.

As regards general measures, legislative action since 2004, including several laws adopted in 2004, the new Civil Code which entered into force in 2011 and the new Code of Civil Procedure which entered into force in 2013, have aimed at ensuring a speedy decision-making process in proceedings concerning children, developing the possibility of mediation and peaceful settlement of disputes and ensuring the cooperation of parents in raising their children. Further measures have improved the involvement of social authorities, the range of sanctions available, both criminal and civil, in case of non-compliance with custody or visiting orders, and reinforce execution proceedings. The National Authority for Child Protection's has also increased its involvement in interpreting the law and issuing manuals and codes of good practices.

Further provisions relating to visiting rights in Law No. 369/2004 implementing the 1980 Convention on the Civil Aspects of International Child were adopted in 2014 to improve enforcement and better prepare the child for meeting his parent.

Numerous training activities have been undertaken, notably by the Institute for the Magistracy.

ROM / Săcăleanu (group)
Application No. 73970/01, Judgment final on 06/12/2005, Enhanced supervision
(See Appendix 2)

> **Failure of the administration to abide by final court decisions:** failure or significant delay of the Administration or of legal persons under the responsibility of the State in abiding by final domestic court decisions (Articles 6§1 and/or Article 1 of Protocol No.1)

Developments: While the bilateral consultations on the outstanding issues in this group of cases were being continued (see AR 2013), the Court rendered its judgment in the case of Foundation Hostel for Students of the Reformed Church and Stanomirescu on 7/1/2014, final on 7/4/2014. In this judgment, the Court gave a number of additional indications of relevance for the execution of this group of cases (see Appendix 4).

A communication from the Government explaining the first measures adopted in response to the new judgment was received on 16 December 2014.

RUS / Timofeyev (group) – RUS / Gerasimov and Others *(pilot judgment)*
Application Nos. 58263/00 and 29920/05, Judgments final on 23/01/2004 and 01/10/2014, Enhanced supervision
(See Appendix 2)

> **Non-enforcement or serious delay in abiding by final judicial decisions, lack of effective remedies:** failure or serious delay of the State and municipal authorities in abiding by final domestic judicial decisions concerning in-kind obligations resulting in violations of the right to access to court and, in cases with pecuniary obligations, of the right to peaceful enjoyment of possessions; lack of an effective domestic remedy (Articles 6§1, Article 1 of Protocol No. 1 and Article 13)

Developments: The Court provided specific indications under Article 46 in its pilot judgment in the Gerasimpov case (see Appendix 4). An action plan is awaited.

SER / EVT Company (group)
Application No. 3102/05, Judgment final on 21/09/2007, Enhanced supervision
(See Appendix 2)

> **Decisions rendered against socially-owned companies:** non-enforcement of final court or administrative decisions, mainly concerning socially-owned companies, implying also interferences with the right to peaceful enjoyment of property and the right to respect for family life; lack of an effective remedy (Articles 6§1, 8 and 13, Article 1 Protocol No. 1)

Developments: Bilateral contacts have continued in 2014 and an updated action plan/report is awaited. In the meantime, the government is pursuing its policy of settlement of outstanding cases and many friendly settlements have been concluded.

UKR / Zhovner (group) - UKR / Yuriy Nikolayevich Ivanov (pilot judgment)
Application Nos. 56848/00 and 40450/04, Judgments final on 29/09/2004 and 15/01/2010, Enhanced supervision
(See Appendix 2)

> **Non-enforcement of domestic judicial decisions:** failure or serious delay by the administration, in abiding by final domestic judgments and lack of effective remedies; special "moratorium" laws providing excessive legal protection against creditors to certain companies (Articles 6§1, 13 and Article 1 of Protocol No. 1)

CM Decision: In April 2014, the authorities submitted further information on the latest steps in their efforts to set up effective remedies, including in case of non-execution of "old" domestic court judgments (rendered before 1 January 2013). The information indicated, however, that funds could only be guaranteed within the limits of the State budget.

When assessing the situation in December 2014 (see AR 2013 for a description of the situation up to that date), the CM noted, as regards individual measures, that in a large number of cases, the just satisfaction awarded by the Court had still not been paid, that default interest remained outstanding in certain other cases, and that the domestic judicial decisions had not been enforced in some other cases. The CM, therefore, invited the authorities to heed their payment obligations fully and without any further delay.

As regards general measures, the CM noted that the measures adopted so far had not prevented similar violations. It therefore encouraged the authorities to explore all possibilities for co-operation which the Council of Europe can offer in ensuring a viable solution to this problem.

Further progress is followed in bilateral contacts with the Secretariat.

E.4. Non-respect of the final character of court judgments

ALB / Xheraj
Application No. 37959/02, Judgment final on 01/12/2008, CM/ResDH(2014)96
(See Appendix 3)

> **Unfair criminal proceedings due to a violation of the principle of legal certainty:** Quashing by the Supreme Court of a final judgment acquitting the applicant of murder following an unjustified request by the prosecutor for leave to appeal out of time-limit (Article 6 § 1)

Final resolution: As a result of the Court's judgment the applicant's conviction was suspended and, following a change of case-law by the Constitutional Court, the criminal proceedings were reopened. In the new proceedings the applicant was acquitted by the Supreme Court on 07/03/2012, and his criminal record erased. The Albanian authorities also withdrew the request for his extradition to Italy.

As regards general measures, in its above-mentioned decision, the Supreme Court clarified its own jurisprudence as regards the possibilities of leave to appeal out of time. It notably stated that the violation of the Convention in this case stemmed from an erroneous approach by the prosecution authorities which had automatically been accepted by the domestic courts. The domestic courts have been ordered ever since to follow the new case-law, in line with the European Court's findings in this case. This development has been supplemented by training measures, notably in the School of Magistrates. Moreover, a possible codification of the possibility of reopening criminal proceedings following a judgment of the European Court is also being considered by the authorities.

E.5. Unfair judicial proceedings – civil rights

E.6. Unfair judicial proceedings – criminal charges

ALB / Caka - ALB / Berhani - ALB / Laska and Lika - ALB / Shkalla - ALB / Cani - ALB / Kaciu and Kotorri

Application Nos. 44023/02, 847/05, 12315/04, 26866/05, 11006/06 and 33192/07+, Judgments final on 08/03/2010, 04/10/2010, 20/07/2010, 10/08/2011, 06/06/2012 and 09/12/20313. Enhanced supervision *(See Appendix 2)*

> **Procedural irregularities – defence rights:** unfair criminal proceedings - failure to secure the appearance of certain witnesses and to have due regard to the testimonies given in favour of the applicant, lack of convincing evidence justifying criminal conviction, lack of guarantees of criminal proceedings in absentia, denial of the right to defend oneself before the Court of Appeal and the Supreme Court; use of incriminating statements obtained as a result of torture (Articles 6 §1, 6§3, 6§3(c) and 6§3(d) , Article 3)

CM Decision: The CM pursued its supervision of this group of cases at the HR meeting in March 2014. After having recalled that the applicants in this group of cases were all convicted to terms of imprisonment on the basis of the proceedings found unfair by the European Court, the CM strongly deplored that the applicant *Shkalla* remains imprisoned since 2011 and urged the authorities to rapidly provide information on developments in pending proceedings concerning all the applicants in this group of cases, in particular as regards the proceedings pending before the Supreme Court concerning Mr. Caka. It further urged the authorities to progress rapidly in the adoption of legislation codifying the reopening of proceedings and recalled its repeated invitations to the Albanian authorities to submit additional information on the adoption of general measures concerning fair trials. Having noted with concern that the recent judgment *Kaciu and Kotorri* also relates to the use of evidence obtained as a result of torture, ill-treatment by the police and lack of access to a lawyer in custody, the CM encouraged the Albanian authorities to rapidly provide information on individual and general measures taken or envisaged in relation to these complex issues and decided to resume consideration of this group of cases during one of their next meetings in the light of information to be provided by the authorities.

BEL / El Haski
Application No. 649/08, Judgment final on 18/03/2013, CM/ResDH(2014)110
(See Appendix 3)

Conviction based on statements possibly obtained in violation of Article 3: Conviction in 2007 for participation in activities of a terrorist organisation, based merely on statements obtained in Morocco, where there existed a real risk that the statements had been obtained through inhuman or degrading treatment (Article 6§1)

Final resolution: Following the Court's judgment, in 2013 the applicant requested and obtained by decision of the Court of Cassation of 11/12/2013 the quashing of the criminal proceedings at issue and the reopening of the trial in order to rectify the violation committed. The Belgian authorities have added that, after having purged his sentence, the applicant was in principle to be set free on 30 June 2011, although immediately detained anew with a view to extradition. He was, set free on 19th October 2011.

With respect to general measures, the Federal Prosecutor's Office has adopted specific instructions for the relevant authorities (Note 32/2013) in order to prevent the future use of declarations obtained under torture or through other inhuman or degrading treatment. Moreover, largely inspired by the domestic case-law (the *"Antigone"* practice, in place since October 2003), a new law of 23 October 2013 amended the relevant part of the Code of Criminal Procedure. Henceforth, it explicitly provides for the exclusion of evidence obtained irregularly, thus also indirectly excluding the evidence obtained through torture. Finally, the Court's case-law has been integrated in the case-law of the Belgian Court of Cassation.

FRA / Agnelet
Application No. 61198/08, Judgment final on 01/02/2013, CM/ResDH(2014)9
(See Appendix 3)

Failure to give reasons for decisions taken: insufficient safeguards to enable an accused to understand why he was found guilty (Article 6 § 1)

Final resolution: All applicants were entitled to ask for the reopening of their proceedings to have the violation remedied.

Even before the Court's judgment was delivered, the authorities had adopted a new Law No. 2011-939 of 10 August 2011 introducing a new Article 365-1 in the Code of Criminal Procedure. The new Article ensures, *inter alia*, that reasons for the Assize Court's judgment are given. The motivation must provide the main elements of the charges which persuaded the Assize Court. Considering the view of the Court that this law significantly strengthens the safeguards against arbitrariness and helps the accused to understand why they were convicted, thus meeting the requirements of Article 6§1 of the Convention, the Government considers that no further general measures are necessary.

ITA / Bracci – ITA / Majadallah

Application Nos. 36822/02 and 62094/00, Judgments final on 15/02/2006 and 26/03/2007, CM/ResDH(2014)102.
(See Appendix 3)

> **Unfairness of criminal proceedings:** convictions based to a decisive extent on statements by witnesses collected during the investigation, without the applicants having had the opportunity to question them or have them questioned either at the investigation stage or during the trial (Article 6 §§ 1 and 3d)

Final resolution: As regards Mr Bracci's situation, on 25 September 2006, the Rome Court granted his request, declaring his conviction unlawful concerning the part of the charges restricted to the offences examined in the European Court's judgment. Assessing the conviction for such offences as corresponding to four months' imprisonment, the Court exempted the applicant from serving that portion of the sentence. The appeal against this decision was declared inadmissible in a judgment of 27 February 2009. As to the situation of Mr Majadallah, he had been sentenced to a suspended term of imprisonment, and was therefore not imprisoned.

As regards general measures, the practice of Italian courts has changed, in that they henceforth interpret and apply Articles 512 and 526 of the Code of Criminal Procedure (CPP) governing the use of evidence and the conditions of its lawfulness in accordance with the principles established in the Court's case-law. In the context of the execution of these cases, the authorities have also tackled the question of the reopening of criminal proceedings, stating that, in October 2009, the draft law No. 2871 on the reopening of criminal proceedings was sent to the Chamber of Deputies of the Italian Parliament. Pending its adoption, the Italian Constitutional Court ruled, in judgment No. 113 of 4 April 2011, through a *sentenza additiva*, that Article 630 of the CPP was unlawful, insofar as it did not provide for the possibility of the reopening of proceedings following a judgment of the European Court. That judgment has thus had the effect of including such a possibility in Article 630 of the CPP.

POL / Matyjek (group)

Application No. 38184/03, Judgment final on 24/09/2007, CM/ResDH(2014)172.
(See Appendix 3)

> **Unfair lustration proceedings (1999-2001):** breach of the principle of equality of arms on account of the lack of adequate time and facilities for lustrated persons to prepare their defence, restricted or lack of access to the relevant documentation relating to the action of former secret services (Article 6§1 and 3)

Final resolution: The Code of Criminal Procedure provides for the possibility to reopen the impugned proceedings. A series of measures were adopted by the Polish authorities in order to change the legal situation that led to the violation found by the Court in its judgments.

The Act of 18 October 2006 *on disclosing information about documents of state security agencies from 1944-1990 and the content of such document* (the 2006 Lustration Act) was adopted, introducing a number of legislative changes to improve the situation of persons subject to lustration proceedings. Henceforth, the lustration proceedings and the files used as part of them are public, so as to provide all the parties at the process the possibility to gather and use the necessary evidence / documentation in their defence. However, the person subject to the lustration proceedings can make a request of partial or total exclusion of publicity of the proceedings, notably to avoid disclosure of sensitive data. Also, if there is a risk of disclosure of a state secret, the proceedings may be excluded *ex officio* from publicity.

Moreover, a series of legal acts were amended in order to regulate the status of classified information. The Act of 15 April 2005 changed the definition of a "state secret", excluding data identifying persons who helped state agencies, services and institutions that no longer exist. On 1 January 2011 the new classified information protection Act entered into force, repealing previous general definitions of a state secret, an official secret and the schedule of classified information. As a result, the number of classified materials used in lustration proceedings has significantly decreased. Obligatory reviews of classified information are conducted every five years with a view to verifying their classification and the Director of the Lustration Office may initiate action during proceedings in order to declassify archive materials being used in a given case. To improve the access to classified materials in line with the principle of equality of arms, the Ordinance of the Minister of Justice of 20 February 2012 provides for the possibility to make copies of materials or documents which, being classified information or secrets relating to public service or functions may not be disclosed.

RUS / Vanyan
Application No. 53203/99, Judgment final on 15/03/2006, Standard supervision
(See Appendix 4)

> **Unfair criminal proceedings – principle of equality of arms:** conviction for a drug offence committed merely upon incitement of undercover police agents and in the absence of any other element suggesting the applicant's guilt; failure to summon the respondent party in supervisory-review proceedings (Article 6§1 in conjunction with Article 6§3)

Developments: As regards the use of undercover agents, a preliminary action plan was submitted in December 2007. It provided information on legislative amendments brought in 2007 to the *Operational Search Activities Act*, specific instruction prepared by the Ministry of the Interior in 2007, and the Ruling No. 14 adopted by the Plenum of the Supreme Court on 15/06/2006.

An action report was submitted by the authorities on 30/04/2014 and is currently under assessment.

E.7. Limitation on use of restrictions on rights

AZE / Ilgar Mammadov
Application No. 15172/13, Judgments final on 13/10/2014, Enhanced supervision
(See Appendix 2)

Imprisonment of a political opponent for reasons other than those permitted by Article 5, namely to punish him for having criticised the government
(Article 18 combined with Article 5, Article 5 §§ 1(c) and 4, Article 6 § 2)

CM Decision: The CM examined this case for the first time at its December 2014 meeting, i.e. at the first HR meeting possible after the date at which the judgment became final, on account of urgent individual measures required, in view of the findings of the European Court, as well as of general measures concerning violations of Article 18 taken in conjunction with Article 5§1.

As regards individual measures, considering the circumstances of the case the CM called upon the authorities to ensure the applicant's release without delay and to urgently take any necessary action given the preoccupying reports about the applicant's health condition. It invited the authorities to indicate the further measures taken or planned in order to give effect to the Court's judgment, and to erase rapidly, as far as possible, the remaining consequences for the applicant of the serious violations established. In this context, the CM noted that the criminal proceedings, the initiation of which was criticised by the European Court, are still pending before the Supreme Court.

The CM had further recalled the general problem of the arbitrary application of criminal legislation to restrict freedom of expression and conveyed its particular concern about the finding of a violation of Article 18 taken in conjunction with Article 5 of the Convention. The CM therefore called upon the Azerbaijani authorities to furnish, without delay, concrete and comprehensive information on the measures taken and/or planned to avoid that criminal proceedings are instituted without a legitimate basis and to ensure effective judicial review of such attempts by the Prosecutor's office. Furthermore, the CM expressed concern about the repetitive nature of the breach of the principle of presumption of innocence by the Prosecutor General's Office and members of the government, despite several judgments of the Court which, since 2010, have indicated the precise requirements of the Convention in this regard, and insisted on the necessity of rapid and decisive action in order to prevent similar violations in the future.

As regard the violations of Article 5 of the Convention concerning arrest and detention on remand, the CM noted they are already examined in the context of the *Farhad Aliyev* group of cases.

The CM decided to resume examination of the individual measures at its HR meeting in March 2015.

UKR / Lutsenko - UKR / Tymoshenko
Application Nos. 6492/11 and 49872/11, Judgments final on 19/11/2012 and 30/07/2013, Enhanced supervision
(See Appendix 2)

> **Detention on remand of opposition politicians:** unlawful detention on remand and use of detention for other reasons than those permissible under Article 5 in the context of criminal proceedings engaged against the applicants (2011); inadequate scope and nature of judicial review of the lawfulness of detention; lack of effective opportunity to receive compensation (Articles 5§1, 5§4, 5§5 and Article 18 taken together with Article 5)

CM Decisions: Following the judgments of the Court and the indications given by the CM, both applicants were first liberated, Mr Lutsenko on 7/4/2013 through a presidential pardon and Ms Tymoshenko on 22/2/2014 following a parliamentary decision. In addition a law was adopted on 28/2/2014 "On the Rehabilitation of Persons for the Execution of the Judgments of the European Court of Human Rights" (in force as of 4/3/2014) and on actions being taken vis-à-vis the judges involved in the impugned trials. Subsequently the impugned criminal convictions were quashed by the courts, on 20/3/2014 as regards Mr Lutsenko and on 24/72014 as regards Ms Tymoshenko.

In response to the CM's request in December 2013 (see AR 2013) for additional information on measures taken to prevent circumvention of legislation by prosecutors and judges, a communication was received on 11/1/2014 (filed under the *Tymoshenko* case) providing information on the advancement of discussions regarding participation in cooperation programmes offered by the Council of Europe and on the state of advancement of the necessary reforms of the draft laws on the public prosecutor's office and on amendments to the Constitution of Ukraine for strengthening the independence of justice. Intense bilateral contacts have been pursued with a view to the presentation of an updated action plan early 2015.

E.8. Organisation of judiciary

UKR / Oleksandr Volkov
Application No. 21722/11, Judgment final on 27/05/2013, Enhanced supervision
(See Appendix 2)

> **Unlawful dismissal of a Supreme Court judge:** unlawful dismissal of the applicant from his post as a judge at the Supreme Court of Ukraine in June 2010; serious systemic problems as regards to the functioning of the Ukrainian judiciary, notably as regards the system of judicial discipline (Articles 6§1 and 8)

CM Decisions and interim resolution: In the absence of progress as regards the reinstatement of the applicant in his position as judge of the Supreme Court, the CM took the case at each of its HR meetings in 2014 urging the authorities to take necessary action. In December 2014 it adopted an interim resolution underlining, faced with the absence of progress, the obligation of every State, under the terms of Article 46, paragraph 1, of the Convention to abide by the final judgments of the European Court in any case to which they are a party, and called upon the Ukrainian authorities to take without any further delay all necessary measures to

secure the applicant's reinstatement as a judge of the Supreme Court. In response the Government could inform that on 25 December 2014 Parliament had quashed its resolution dismissing the applicant from his post as judge on the Supreme Court. According to the applicant the Supreme Court ensured his effective reintegration as of 2 February 2015.

The question of general measures was also pursued and the CM received extensive information on the progress made in the adoption of the necessary constitutional and legislative changes. This information was summarised in an updated action plan submitted on 20/10/2014.

F. No punishment without law

BIH / Maktouf and Damjanović

Application No. 2312/08+, Judgment final on 18/07/2013, Enhanced supervision
(See Appendix 2)

> **Retrospective application of more stringent criminal law:** retrospective application by the domestic jurisdictions of criminal law laying down heavier sentences for war crimes (the 2003 Criminal Code of Bosnia and Herzegovina), instead of the 1976 Criminal Code of the Socialist Federative Republic of Yugoslavia applicable at the time of their commission of these crimes (Article 7)

Action plan: In response to the CM's decision of December 2013, the authorities transmitted in October 2014 an action report, providing further information on developments in the reopened criminal proceedings as well as on the new case-law of the Constitutional Court of Bosnia and Herzegovina in war crime cases. This information is under assessment.

ESP / Del Rio Prada

Application No. 42750/09, Judgment final on 21/10/2013, CM/ResDH(2014)107
(See Appendix 3)

> **Retroactive penalty imposed due to a change of case-law:** application of a new precedent set by the Supreme Court (known as the "Parot doctrine") in 2006, which was not foreseeable for the applicant and modified the scope of the sentence that had been imposed to her (before sentence remissions for work carried out in prison were deducted from the global maximum sentence imposed, after they were deducted from each sentence imposed individually); as a result her continued detention was authorized until 2017, i.e. beyond the date initially foreseen, 2008 (Articles 7 and 5§1)

Final resolution: The applicant was released on 22/10/2013 by decision of the *Audiencia Nacional* (a specialized high court). As regards general measures, the violation in this case has a historical nature, insofar as it could only have affected persons convicted before 2006, under the previous Criminal Code, in force between 1973 and 1995. In response to the European Court's judgment, the criminal courts discontinued the application of the "Parot doctrine" to such convictions and this approach was endorsed by the Criminal Division of the Supreme Court on 12/11/2013. The Constitutional Court has sent all cases pending before it back to the *Audiencia Nacional* for new decisions. As a result, all persons affected by the "Parot doctrine" have been released.

GER /M. (group)
Application No. 19359/04, Judgment final on 10/05/2010, CM/ResDH (2014)290
(See Appendix 3)

> **Retroactive application of criminal legislation:** unlawful retrospective extension of ordering of "preventive detention" ("Sicherungsverwahrung") of dangerous criminals after they had served in full their prison sentences (Articles 5§1 and 7§1)

Final resolution: Retrospective ordering of preventive detention for all offences committed after 31/12/2010 was abolished on 01/01/2011. The Federal Constitutional Court gave the legislator until 31/05/2013 to adopt a freedom-oriented and therapy-based overall concept and ordered review of existing cases. Consequently, the Act to Effect Implementation under Federal Law of the Distance Requirement in the Law Governing Preventive Detention entered into force on 01/06/2013 amending the relevant provisions of the Criminal Code and setting out guiding principles regarding the treatment and placement of preventive detainees. The Länder, responsible for the execution of preventive detention within Germany's Federal structure, modified their laws accordingly.

MLT / Camilleri
Application No. 42931/10, Judgment final on 27/05/2013, CM/ResDH(2014)142
(See Appendix 3)

> **Unclear criminal law:** lack of guidelines in the legislation for the public prosecutor's choice as to which type of court - Criminal Court or Magistrates' Court - should try a person accused of drug-trafficking, and therefore the range of sentence: 4years to life in the Criminal Court or 6 months to 10 years in the Magistrates' Court (Article 7)

Final resolution: In compliance with the European Court's findings, the Criminal Code was amended in order to provide the Attorney General with guidelines when determining the trial court. Henceforth, the Attorney General has to give due consideration to these guidelines when giving his direction as to whether a case will be tried in front of the Court of Magistrates or the Criminal Court. Moreover, these amendments of the Criminal Code set out a new procedure eliminating any doubt as to the proper exercise of the discretion given to the public prosecutor by the independent scrutiny of the Courts and by the possibility afforded to the accused to file an application before the Criminal Court requesting it to be tried in the Court of Magistrates.

G. Protection of private and family life

G.1. Home, correspondence and secret surveillance

BGR / Association for European Integration and Human Rights and Ekimdzhiev
Application No. 62540/00, Judgment final on 30/04/2008, Enhanced supervision
(See Appendix 2)

> **Insufficient guarantees against abuse of secret surveillance measures:** deficiencies of the legal framework on functioning of secret surveillance system; lack of effective remedy against abuse of secret surveillance measures (Articles 8 and 13)

Developments: Additional information, in response to assessments presented in the information document CM/Inf/DH(2013)7, remains awaited, notably on the possibility to improve in certain areas the legal framework on functioning of the secret surveillance system, as well as on the procedures governing the filtering, analysis, protection and destruction of data obtained through secret surveillance. Are, inter alia, awaited assessments by the Bulgarian authorities of the practical operation of the safeguards provided under domestic law, and, more particularly, of the practice to submit secret surveillance applications which do not contain adequate reasoning under domestic law and of the capacity of the president and vice-presidents of some high-volume courts to carry out an in-depth examination of the very numerous surveillance requests received by them.

BGR / Yordanova and Others
Application No.25446/06, Judgment final on 24/07/2012, Enhanced supervision
(See Appendix 2)

> **Eviction of persons of Roma origin:** planned eviction of unlawful occupants of Roma origin from an unlawful settlement in Sofia where many of them had lived for decades with the authorities' acquiescence, on the basis of a legislation not requiring any examination of the proportionality of the removal orders (potential violation of Article 8 in the event of the enforcement of the removal order)

Developments: Updated information regarding the planned/adopted amendments of the relevant provisions of the Public Property Act and Municipal Property Act is awaited.

G.2. Domestic violence

HUN / Kalucza
Application No. 57693/10, Judgment final on 24/07/2012, Transfer to standard supervision

> **Domestic violence :** authorities' failure to fulfil their positive obligation to protect the applicant from her violent former common-law partner, her two requests for protection having been rejected by the domestic courts on the grounds that both parties were involved in the assaults (Article 8)

CM Decision / Transfer: When resuming consideration of this case at its June 2014 meeting, the CM noted, with respect to individual measures, that the applicant's former partner no longer had ownership or possession rights on the previously jointly owned apartment and that no further assault or threat against the applicant had been reported, and recalled in this context that the Hungarian authorities undertook to take all necessary measures to protect the applicant adequately should further assaults be reported and decided, consequently, to continue its examination of the case under the standard procedure.

The CM further took note of the information provided in the action plan of 30 May 2014, in particular on the introduction of a criminal law provision on domestic violence and on the inclusion of common-law partners in the scope of the protection accorded by the "Act on Restraining Order due to Violence among Relatives" and

instructed the Secretariat to carry out an assessment of this information and identify any outstanding questions.

MDA / Eremia and Others (group)
Application No. 3564/11, Judgment final on 28/08/2013, Enhanced supervision
(See Appendix 2)

> **Domestic violence:** the authorities' failure to take effective measures to protect the applicants from ill-treatment on the part of their husband/ex-husbands; the authorities' repeated condoning of domestic violence, on account of the manner in which they had handled the applicants' cases, reflecting a discriminatory attitude towards them as women (Articles 3, 8 and 14)

CM Decision: Given the applicants' vulnerable situation, notably due to potential threats from their ex-husbands, contacts have been rapidly established between the Department for the Execution of Judgments and the authorities in view of ensuring that all urgent individual measures are adequately put in place, should such measures be urgently required, to ensure the applicants' safety. At its March meeting, the CM noted with interest the proactive attitude displayed by the local authorities (enforcement agencies and social care authorities) in respect of the applicant in the *Mudric* case with a view to ensuring her protection and encouraged the Moldovan authorities to explore similar appropriate avenues with respect to the applicants in the *Eremia* and the *B.* cases. In response, the authorities provided information in April and October 2014 informing the CM of the applicants' current situations (cases of *Eremia, B., T.M and C.M.*) and on the permanent measures taken by the relevant authorities in view of ensuring their safety.

As regards general measures, the CM noted that the Court found that the Moldovan authorities have adopted the 2007 Law on Domestic Violence, which allows them to take measures against persons accused of family violence. In this regard, the CM invited the authorities to inform it of the adopted and/or envisaged measures with a view to ensuring an effective implementation of the existing legislation in practice by all concerned State bodies.

G.3. Abortion and procreation

ITA / Costa and Pavan
Application No. 54270/10, Judgment final on 11/02/2013, Enhanced supervision
(See Appendix 2)

> **Access to medically-assisted procreation for persons with genetic diseases:** inconsistency in the legislative system in the field of medically-assisted procreation. Thus, on one hand, the relevant legislation prevents the applicants, healthy carriers of cystic fibrosis, to have access to medically-assisted procreation and, in this context, to an embryo screening in order to procreate a child who is not affected by this disease; on the other hand, when a foetus is affected by the same pathology, the law authorizes the termination of pregnancy on medical grounds (Article 8)

Action plan: On 27/2/2014, the authorities presented an action plan for the execution of the judgment. The applicants' representative submitted on their behalf several communications on the individual measures, the most recent dated 4/02/2015.

IRL / A. B. and C.

Application No. 25579/05, Judgment final on 16/12/2010, CM/ResDH(2014)273
(See Appendix 3)

> ***Access to lawful abortion:*** *lack of any implementing legislative or regulatory regime providing an accessible and effective procedure allowing access to lawful abortion when the mother's life is at risk (Article 8)*

Final resolution: Following the European Court's judgment, the *Protection of Life during Pregnancy Bill 2013* entered into force on 1 January 2014. This law, together with the supporting Regulations and Guidance Document for health professionals, now constitute the framework according to which individuals can establish whether they qualify for a lawful abortion in Ireland in accordance with the Constitution. They set out the relevant criteria and actions to be taken for the assessment of whether or not there is a real and substantial risk of loss of the mother's life on grounds of illness (concurring favourable opinions from an obstetrician and another medical practitioner), or a risk of suicide (in this case the opinion shall be supported by three medical practitioners out of which two should be psychiatrists). An urgent procedure is also provided for (favourable opinion of one medical practitioner). The law also provides for a review procedure by which the woman can challenge the failure to provide an opinion or an opinion deemed insufficient before a review committee of medical practitioners (convened by the Health Service Executive from a list of ten practitioners) so as to obtain the necessary certifications required.

POL / P. and S.

Application No. 57375/08, Judgment final on 30/01/2013, Enhanced supervision
(See Appendix 2)

> **Information on abortion:** Failure in 2008 to provide effective access to reliable information on the conditions and procedures to be followed in order to access lawful abortion; unwarranted disclosure of the applicants` personal data to the public by the hospital eventually carrying out the lawful abortion; unjustified 10-day detention in a juvenile shelter to prevent the applicant from aborting (Articles 3, 5 and 8)

Action report: An action report was submitted on 29/11/2013. In 2014 several NGOs submitted comments (Center for Reproductive Rights (New York), the Federation for Women and Family Planning (Warsaw) and Amnesty International, in response to which the Government provided a number of additional explanations, the latest on 14/10/2014.

POL / Tysiąc - POL / R.R.

Application Nos. 5410/03 and 27617/04, Judgments final on 24/09/2007 and 28/11/2011, Transfer to standard supervision

> **Lack of legal framework regarding legal abortion:** lack in 2000 of an adequate legal framework regulating the exercise of the right to therapeutic abortion in the event of disagreement between the patient and the specialist doctor empowered to decide on such an abortion (Article 8)

CM Decision / Transfer: Following the Court's judgment in the case of *Tysiąc*, the authorities adopted the Law on the Rights of Patients and the Ombudsman for the Rights of Patients, in force since June 2009. According to this law, any decision by a doctor can be contested by a patient before a Commission of physicians; the objection must be accompanied by a written justification referring to the specific legal provisions that have allegedly been violated. The examination by the Commission should take place without delay and not later than 30 days after it was lodged. This objection procedure, being general in scope, is also applicable to decisions refusing abortion on medical grounds (*Tysiąc*), as well as to decisions refusing prenatal examinations (*R.R.*). It appears to meet the formal requirements established by the Court – the Commission is independent and guarantees to pregnant women a right to be heard and gives its decisions in writing. However, it has hardly been used. Consequently, the effectiveness and accessibility of this procedure has been questioned by certain NGOs which focused their criticism on its complexity and length.

When examining these cases at its September meeting, the CM underlined the importance for pregnant women to be able to effectively contest a decision of a doctor refusing access to lawful therapeutic abortion or to pre-natal examinations. In this regard, it noted with interest the legislative modifications envisaged by the authorities in order to improve the efficiency and speediness of the procedure put in place in this domain and encouraged the authorities to rapidly adopt these measures. The CM welcomed also the awareness-raising measures taken to ensure respect by medical staff for the legal provisions in force concerning access to pre-natal examinations, and noted with interest the increase in the number of pre-natal examinations performed. Finally, it invited the authorities to confirm as soon as possible the adoption of these last outstanding measures, to allow the CM to examine the possibility of closing these cases, and, in the meantime, decided to continue the supervision of these cases under the standard procedure.

G.4. Use, disclosure or retention of information in violation of privacy

FRA / M.K.

Application No. 19522/09, Judgment final on 18/07/2013, Enhanced supervision
(See Appendix 2)

> **Collection and retention of fingerprints:** unjustified interference with the right to respect for private life due to the collect and retention of fingerprints in the context of an investigation for book theft, which ended in a decision not to prosecute the applicant (violation of Article 8)

Action plan: A detailed action plan was received on 17/1/2014.

GER / Schüth

Application No. 1620/03, Judgment final on 23/12/2010 and 28/09/2012, CM/ResDH (2014)264
(See Appendix 3)

> **Dismissal in 1998 of an organist in the Catholic church for having engaged in an extra-marital relationship:** disproportionate interference with private life on account of failure by the German labour courts to weigh the rights of the applicant against those of the employing Church in a manner compatible with the Convention (Article 8)

Final Resolution: The applicant's request for the re-opening of the labour court proceedings was declared inadmissible as the legal provisions allowing for re-opening in civil cases in which the European Court found a violation of the Convention is applicable only to proceedings which have been concluded with final and binding effect since that provisions came into force on 31 December 2006. The judgment was translated and disseminated.

ITA / Godelli

Application No. 33783/09, Judgment final on 18/03/2013, Enhanced supervision
(See Appendix 2)

> **Access to information as regards one's origins:** Total impossibility for a child, abandoned at birth, by a biological mother who availed herself of the possibility offered by Italian law to remain anonymous, to have access to information on her origins, including the absence of any procedure to allow access to non-identifying information or to seek the waiver of confidentiality by the mother (Article 8)

Action plan: The plan received on 13/2/2014 indicates that following the Court's judgments, Italian courts seized the Constitutional Court with the issue and that the Constitutional Court declared, on 18/11/2013 the impugned provision of the legislative decree of 2003 anti-constitutional, thereby reversing an earlier position from 2005. The plan indicates that normative measures are currently required in order to establish the practical modalities for verifying the will of the mother.

ROM / Rotaru

Application No. 28341, Judgment final on 04/05/2000, CM/ResDH(2014)253
(See Appendix 3)

> **Insufficient safeguards against arbitrary in the processing of personal data:** interference with the applicant's right to private life owing to the storage and public disclosure of information on his private life by the Romanian Intelligence Service, in its capacity of custodian of the archives of the previous Intelligence Services (Article 8), lack of an effective remedy to refute this information (Article 13), failure by the domestic court to consider the applicant's claims for non-pecuniary damage and costs in proceedings brought against the Romanian Intelligence Service (Article 6§1)

Final resolution: As regards individual measures, the entries in the registers at the basis of the misleading designation of the applicant as a member of an extreme-right pre-war organisation were modified so as to avoid further confusion on account of name similarities.

As regards general measures, Emergency Regulation No. 24/2008, subsequently approved by Parliament by Law No. 293/2008, reformed the legal framework for the processing of information contained in the archives of the former communist secret service (*the Securitate*), at issue in this case. Under this Regulation, the processing of such information was transferred to a civilian administrative body (the "NCSAS"), responsible for enabling and regulating the access to the surveillance files. Interested persons can file a written application for access or rectification of information to the NCSAS, which is bound to respond within 30 days and whose decisions are subject to judicial review. The Court's judgment was disseminated and it is also included in the training programs for magistrates so as to

avoid similar violations in future. In the final resolution adopted in this case, the CM noted the assurances given by the Romanian authorities that, in the framework of the execution of the judgments of the European Court in the group of cases *Haralambie* and in the case of *Bucur and Toma*, they will continue their efforts to remedy the shortcomings identified by the Court in the implementation of the mechanism set-up by Emergency Regulation No. 24/2008 and to bring the legal framework governing the organisation and functioning of the Romanian Intelligence Service in compliance with the Convention requirements.

SER / Zorica Jovanovic

Application No. 21794/08, Judgment final on 09/09/2013, Enhanced supervision
(See Appendix 2)

> **Fate of new-born "missing babies":** continuing failure by the authorities to provide credible information to the applicant as to the fate of her son, allegedly deceased in a maternity ward in 1983: his body was never transferred to her and she was never informed of where he had allegedly been buried. In addition, his death was never properly investigated and officially recorded (Article 8)

CM Decisions: In view of the significant number of potential applicants, the Court addressed already in its judgment a number of issues of relevance for its execution. It thus requested the authorities to take all appropriate measures, within one year from the date on which the judgment became final i.e. by 9 September 2014 to secure the establishment of a mechanism aimed at providing individual redress to all parents in a situation such as, or sufficiently similar to, the applicant's. An action plan was submitted in February 2014 and supplemented in March and September.

The mechanism proposed and the principles identified for its functioning (notably as regards confidentiality and independence, the requirements for seizing the mechanisms and its powers) were examined by the CM in September 2014.

When reverting to the case in December 2014 on the basis of an updated action plan, the CM noted that the authorities were in the process of setting up the requested mechanism. As the deadline set by the Court had expired, the authorities were strongly encouraged to vigorously pursue their efforts to ensure that these measures were adopted within the deadlines now set at domestic level.

The CM stressed, however, that a number of questions remained outstanding and invited the authorities to provide information on these, namely:

- on the body to be set up to supervise the Commission in charge of the handling of the missing babies cases and on how its independence was to be guaranteed;
- on the content of the legislative amendments required to vest the Commission with adequate powers (for example, calling witnesses, interrogatory powers, ordering expert reports or taking other investigatory steps) so as to render it capable of establishing the facts, including in cases where a criminal prosecution would be time-barred;
- on the criteria by which compensation would be awarded and on whether it would ensure individual redress for all damages sustained by the parents concerned.

UK / M.M.
Application No.24029/07, Judgment final on 29/402013, Enhanced supervision
(See Appendix 2)

- **Indefinite retention and disclosure of data regarding cautions given by the police in the context of criminal investigations:** insufficient safeguards to ensure that data relating to private life will not be disclosed in violation of the right to respect for private life (violation of Article 8)

Action plan: An action plan was submitted on 26/5/2014 and an update on 29/1/2015.

G.5. Placement of children in public care, custody and access rights

GER / Zaunegger
Application No. 22028/04, Judgment final on 03/03/2010, CM/ResDH(2014)163
(See Appendix 3)

- **Custody of a child born out of wedlock:** discriminatory legislation preventing the father of a child born out-of-wedlock to obtain joint custody vis-à-vis fathers who had originally held parental authority and later separated or divorced (Article 14 in conjunction with Article 8)

Final resolution: The Act to Reform Parental Custody of Parents Not Married to Each Other entered into force on 19/05/2013 (Federal Law Gazette I 2013, 795) and provides that, upon a motion by a parent, joint custody shall be granted as far as this is not contrary to the child's best interests. This interest is presumed, if the mother does not submit any reasons that could be contrary to such joint custody, and if no such reasons are otherwise apparent to the court.

Before the entry into force of the above Act, the requirements set down in the Court's judgment were taken into account by means of a transitional regulation ordered by the Federal Constitutional Court, of 21/07/2010. That regulation indicated that the provision on parental custody of parents not married to each other was violating the parental rights of the father of a child born out of wedlock, because the father was in principle excluded from parental custody of his child, if the child's mother did not consent and because he could not obtain judicial review of the situation. Until the entry into force of the statutory reform, the Federal Constitutional Court had provisionally ordered, that upon a motion by a parent the Family Court should order joint or partially joint custody, if this was to be expected that this is in the child's best interests. Upon motion by a parent, sole parental custody, or part thereof, was to be transferred to the father if joint custody was not an option and this was expected to be expected in the child's best interests.

ITA / Sneersone et Kampanella
Application No. 14737/09, Judgment final on 12/10/2011, Enhanced supervision
(See Appendix 3)

- **Return order of a minor child:** judicial decisions taken in 2008 and 2009, on the basis of the Hague Convention of 1980 and Council Regulation (EC) No. 2201/2003, ordering the return of a minor child to his father in Italy, whereas the mother and child had moved in 2006 to settle in Latvia: lack of due consideration of the child's best interests (Article 8)

Final resolution: The decisions ordering the return of the child have not been enforced, and the child still lives in Latvia with his mother. Following the Court's judgment, in 2012, the Public Attorney's Office requested the setting aside of the latest return decision issued (dating from 2010). The Rome Youth Court, having ensured the notification of the mother in Latvia with Russian translations of the relevant documents, and having examined the case in the light of the Court's judgment, cancelled, in a decision of 4 October 2013, all the decisions impugned by the Court. It was stated that this decision, which afforded full implementation to the Court's judgment, was issued rebus sic stantibus, without prejudice to the outcome of other proceedings which might be started on the basis of new facts.

As regards general measures, the judgment has been published on the Court of Cassation website. It is also stated that great importance is attached during the training of the judges who deal with family law to the interactions between the Hague Convention, the Council Regulation (EC) No. 2201/2003 and the requirements of the European Convention.

MLT / M.D. and Others

Application No. 64791/10, Judgment final on 17/10/2012, CM/ResDH(2014)265
(See Appendix 3)

> **Disproportionate forfeiture of parental rights:** lack of access to a court to contest, following a change in circumstances, a final care order issued by the Juvenile Court placing the children in a public institute; automatic and permanent forfeiture of parental rights of a mother subsequent to her conviction to one year of imprisonment suspended for two years (Articles 6 § 1 and 8)

Final resolution: Under Article 46 of the Convention the Court indicated, that the authorities should provide a procedure affording the applicant the possibility to request an independent and impartial tribunal to consider whether the forfeiture of her parental authority was justified. The Court also recommended that the Maltese authorities ensure the effective possibility of access to a court for persons who have been affected by a final care order.

With respect to individual measures, the authorities continued to monitor the changes in circumstances which could have had a bearing on the care order and in June 2012, the minors were reintegrated with their mother. Given the change of law (see below), it is now open to the applicant to apply to court to consider whether or not to reinstate her parental authority and to challenge the merits of the final care order.

As regards general measures, two acts were enacted:

- the act amending the Children and Young Persons (Care Orders) Act, in force since 14/08/2014, which provides for an access to a court for the review of final care orders; and
- the act amending the Criminal Code, in force since 14/02/2014, which provides that forfeiture of parental authority over children as a result of a conviction for certain criminal offences is no longer automatic.

RUS / Y.U.

Application No. 41354/10, Judgment final on 13/02/2013, Transfer to standard supervision

> **Custody rights:** refusal by the police and prosecution authorities to assist the applicant, a divorced mother, to obtain execution of the judgment delivered by Moscow courts in 2009, ordering her minor child to reside with her following divorce proceedings (Article 8)

CM Decision: In view of the urgent individual measures required, the CM has placed this case under the enhanced supervision procedure. According to information provided by the authorities, it follows that since at least June 2013, the authorities have taken a number of preparatory measures with a view to creating the conditions required for the enforcement of the domestic judgment. Notably, a schedule of meetings was elaborated together with the applicant so that she could re-develop the bond with her child. Five such meetings were held in the presence of a psychologist, as another accompanying measure. Another attempt of June 2014 to reunite the applicant with her child, upon her request, did not succeed due to the resistance of the child despite the re-establishment of regular communication between them. When examining the case in December 2014 in the light of the action plan submitted on 28 October 2014, the CM noted with interest the above mentioned measures taken by the authorities and encouraged them to take the necessary steps to ensure that these periodic contacts can continue. It also noted that new judicial proceedings, initiated by the child's father, on the question of the child's residence, are currently pending before domestic courts. In the light of these developments, the CM decided to pursue the supervision of execution of the individual measures under the standard procedure and invited the Russian authorities to continue to keep it regularly informed of all relevant developments.

G.6. Gender identity

LIT / L.

Application No. 27527/03, Judgment final on 31/03/2008, Transfer to enhanced supervision
(See Appendix 2)

> **Private life - gender reassignment:** lack of implementing legislation regulating the conditions and the procedure for gender reassignment and the change of entries in official documents (Article 8)

CM Decision / Transfer: With respect to individual measures, the authorities have informed the CM that the applicant received the awarded pecuniary and non-pecuniary damage, undergone meanwhile gender-reassignment surgery abroad and, following a domestic court order of August 2011, his gender was also recognised in his civil-status data.

As regards general measures, even before the Court's judgment became final, a draft law, aiming to fulfil the legislative gap at the origin of the violation, was introduced before the Parliament in March 2008, but has been however withdrawn one year later. Since, two other draft laws received initial approval of the Parliament in March 2013. One of the drafts – No XIP-2018(2) – was revoking a litigious provision in the Civil Code and was basically "recognising the right to gender reassignment", thus

leaving the regulation of issues on medical treatment to sub-statutory legislation. The other draft - No XIP-2017(2) - "on civil acts and their registration" was intending to simplify the procedure for changing of entries in official documents subsequent to gender reassignment. However, after the slight amendment to the first draft proposed in June 2014 by the Seimas' Committee on Legal Affairs, in July 2014 the Parliament referred the draft bills back to the Committee, which sent the entire package of draft laws back to the Government.

At its meeting in September, the CM noted with concern that all efforts in view of enacting the necessary legislation have been unsuccessful. It has consecutively urged the Lithuanian authorities to complete the legislative process initiated and to adopt the sub-statutory legislation on the conditions and procedures relating to gender reassignment medical treatment, in view of ensuring the necessary legal certainty. It further decided to follow these developments closely and transferred the case to the enhanced supervision.

H. Cases concerning environmental protection

ITA / Di Sarno and Others

Application No. 30765/08, Judgment final on 10/04/2012, Enhanced supervision
(See Appendix 2)

> **Region polluted by uncollected waste:** prolonged inability of the authorities to ensure the proper functioning of the waste collection, treatment and disposal services in Campania, and lack of an effective remedy in this respect (violation of Article 8 in the substantive limb, Article 13)

Developments: Following the bilateral contacts engaged in 2013 with a view to gathering the additional information needed in order to present an action plan / report (see AR 2013), the authorities submitted an action plan on 30/4/2014. The plan indicated that further information would follow shortly.

I. Freedom of religion

ARM / Bayatyan (group)

Application No. 23459/03, Judgment final on 07/07/2011, CM/ResDH(2014)225.
(See Appendix 3)

> **Conviction to prison of conscientious objectors** (Article 9)

Final resolution: The applicants were released on parole and their criminal records erased in 2006, i.e. even before the Court delivered its judgments in these cases.

As regards general measures, the Law on "Alternative Service" of July 2004 had been subject to further amendments in June 2013, which took into consideration the 2011 opinion of the Venice Commission. In line with the Venice Commission's recommendations, the duration of alternative military and labour services was reduced to 30 and 36 months respectively. The alternative labour service is currently organised and supervised by relevant Government Agencies and no military control is allowed.

Moreover, a permanent body to deal with citizens' applications for alternative service was established: the Republican Commission on Alternative Service ("the Commission"). As of June 2013, the Commission has examined 134 applications of which 133 received favourable decisions. These may be subject to judiciary review.

To remedy the situation of conscientious objectors convicted before the entry into force of the amended law on Alternative service, the authorities amended the Code of Criminal Procedure (CCP). The new CCP provides that a person serving a sentence for their conscientious objection should be released if he/she applied for alternative service before 1 August 2013. Also, the ongoing pre-trial and trial proceedings shall be terminated if a person applies to alternative service and if the respective government body decides to send them to alternative service. The duration of the alternative service should be reduced by the duration of the sentence already served and the criminal record should be erased. Given the direct effect of the Convention in Armenia, the domestic courts, when ruling on such cases, take due account of the requirements of the Convention and notably those emerging from the Court's judgments in this group of cases.

J. Freedom of expression and information

AZE / Mahmudov and Agazade - AZE / Fatullayev

Application Nos. 35877/04 and 40984/07, Judgments final on 18/03/2009 and 04/10/2010, Enhanced supervision, Interim Resolution CM/ResDH(2013)199, Interim Resolution CM/ResDH(2014)183.
(See Appendix 2)

> **Abusive sanctioning of journalists:** use of prison sentences for defamation and arbitrary application of anti-terror legislation to sanction journalists (Articles 10, 6§1 and 6§2)

CM Decisions / interim resolution: cases are under the CM's enhanced supervision since 2011 (see also AR 2011-2013).

In view of the concerns expressed by the CM as regards the execution situation in this group of cases (see AR 2011-2013 – and notably interim resolution CM/ResDH(2013)199) adopted in September 2013, as supplemented by the CM's decision of December 2013) and the complexity of the problems raised, the CM examined the group at its ordinary meeting in January 2014 and at all of its four HR meetings in 2014. At the March meeting the CM could welcome the presence of the Deputy Minister who notably submitted extensive information on measures undertaken to improve the independence of the judiciary (see below)

With respect to the problems related to *the use of prison sentences in defamation cases*, the CM noted in January that the necessary work to change the existing legislation was underway and welcomed the authorities' commitment to continue the co-operation with the Venice Commission. No timetable was however provided and the CM thus called for the submission of one. In March it noted a legislative proposal on the issue presented by the Supreme Court, and in June the commitment of the authorities to bring forward legislation early 2015, although expressing concern at this delay and calling for immediate resumption of the cooperation with the Venice Commission.

In the meantime, the CM could, however, note with interest at its March meeting, a decision by the Plenum of the Supreme Court of 21 February 2014 highlighting, in line with the calls made by the CM, the necessity of ensuring that prison sentences be imposed only in exceptional circumstances. At the September meeting the CM could note in an interim resolution that the authorities intended to present the legislative proposal prepared by the Supreme Court to parliament in the course of the autumn 2014. The CM also called upon the authorities to report also on the progress of a larger draft "law on defamation" submitted to the Venice Commission in 2012.

With respect to the problem of *arbitrary application of criminal legislation to limit freedom of expression*, the CM could note in January 2014 that tangible information had been submitted to improve the independence of the judiciary and ensure the training of judges and prosecutors on the requirements of the Convention. In March the CM could note with interest the fact that extensive information was submitted as to the measures implemented to ensure the independence of the judiciary, individuals' access to justice and the non-interference with judicial activities. However, in the light of the developments, in June, the CM urged the authorities to rapidly enhance their efforts to overcome this problem through further reforms and by further training and practical guidance, notably from the Supreme Court and the Prosecutor General's Office. The authorities were also encouraged to take full advantage of the co-operation and assistance programs organised or proposed by the Council of Europe. Serious concerns were also expressed over the absence of progress in the implementation of the judgments. These concerns were reiterated in the interim resolution adopted at the September meeting. The CM thus found necessary to reiterate its calls for better training, guidance from the Supreme Court and further measures to ensure the independence of the judiciary. At the same time it could, however, note with interest a number of measures adopted since the June meeting, notably the reintroduction of the working group composed of members of the presidential administration and civil society and certain further measures aimed at improving the independence of the judiciary.

In December the CM expressed in respect of both of the abovementioned problems that, in view of the number of outstanding questions, it was essential to obtain, as a matter of priority and urgency, tangible results in both the above mentioned areas.

ITA / Centro Europa 7 S.R.L. and Di Stefano

Application No. 38433/09, Judgment final on 07/06/2012, Enhanced supervision

> **Operators' access to the audio-visual sector:** the applicant company had been prevented from operating in the audio-visual sector between 1999 and 2009 due to deficiencies in the legal framework adopted to tackle concentration in the television broadcasting sector and to ensure effective media pluralism (Article 10 and Article 1 of Protocol No. 1)

CM Decision: At the first detailed examination of this case during its June 2014 meeting, the CM first noted that noted that this case concerns deficiencies in the legislative framework introduced in Italy to re-allocate frequencies in the television broadcasting sector, which prevented the applicant company from operating in this sector between 1999 and 2009. It noted then with concern that the Italian authorities have so far provided no information on the measures taken or envisaged for the

execution of this judgment and urged them to provide this information in the form of an action plan or an action report by 1 September 2014 at the latest. In response to this demand, the authorities provided an action plan dated of 9 September 2014, which is currently being evaluated.

ROM / Bucur and Toma

Application No. 40328/02, Judgment final on 08/04/2013, Enhanced supervision
(See Appendix 2)

> **Conviction of a whistle blower:** Public disclosure by an employee of Romanian Intelligence Service (the "SRI") (1996) of information on illegal telephone tapping made by the SRI department where he worked, entailing his conviction, in last instance by the Supreme Court of Justice on 13 May 2002, to a suspended sentence of two years' imprisonment for having unlawfully collected and disclosed classified information (Article 10)

Action plan: Preliminary information on legislative changes carried out was received on 16/4/2014 and an action plan on 13/5/2014.

TUR / Ahmet Yıldırım

Application No. 3111/10, Judgment final on 18/03/2013, Enhanced supervision.
(See Appendix 2)

> **Access to websites hosted by Google sites blocked:** As a result of a domestic court order blocking access to Google Sites, a so called "host website", in the context of criminal proceedings brought against a third person who owned a website hosted by Google Sites. As a result of this blocking order, access to the applicant's website, also hosted by Google Sites, was also blocked. (Article 10)

CM Decision: The Turkish authorities provided an action plan in January 2014 and supplemented it in July 2014.

When examining the situation in September 2014 the CM noted with satisfaction that the impugned decision to block access to the host website, Google Sites, had been lifted, that the applicant could access his own website and that, therefore, no further individual measures were required.

The CM considered, however, that the legislative amendments made, in February 2014, to the relevant Law No 5651 did not satisfy the foreseeability requirement of the Convention, the legislative framework therefore still not complying with the Court's findings. It stressed that these amendments did not address the concerns raised as to the arbitrary effects of decisions on wholesale blocking of websites' access, considering that access to other host websites, Twitter and YouTube, had been blocked after their entry into force.

The CM noted nevertheless with satisfaction that in two judgments concerning the above-mentioned bans, the Turkish Constitutional Court found violations of the right to freedom of expression with reference to the Court's case-law, in particular the present judgment concluding that the provisions of Law No. 5651 fail to meet the requirement of foreseeability and lack clarity in terms of scope and substance with regard to the procedure for blocking access to host websites.

The CM, consequently, called upon the Turkish authorities, bearing in mind also the judgments of the Turkish Constitutional Court, to amend the relevant legislation ensuring that it:

- meets the requirements of foreseeability and clarity and provides effective safeguards to prevent abuse by the administration;
- prevents arbitrary effects of blocking measures and wholesale blocking of access to a host website.

TUR / Inçal (group) - TUR / Gözel and Özer (group) - TUR / Ürper and Others (group)

Application Nos. 22678/93, 43453/04, 14526/07, Judgment final on 09/06/1998, 06/10/2010 and 20/01/2010, Enhanced supervision
(See Appendix 2)

> **Freedom of expression:** different violations of the freedom of expression on account of criminal convictions under different legislative provisions for statements, articles, books, publications etc., which did not incite to hatred or violence (Article 10)

CM Decision: In response to the problems revealed by the Incal judgment and the numerous subsequent judgments, considerable legislative changes were reported to the CM, but never found to meet fully the Convention requirements. As a result a cooperation programme to improve freedom of expression was organised in 2013 with high level participation and support from the HRTF.

When examining the situation in June 2014, the CM noted with satisfaction, that the recent legislative amendments made to the Anti-Terrorism Law and the Criminal Code restrict the scope of certain penal law provisions with regard to incitement to hatred and violence, thereby responding to the violations found by the Court and that Article 6 § 5 of the Anti-Terrorism Law had been abolished altogether. In the light of the latter circumstance, it decided to close the supervision of the execution of the *Ürper* group of cases. The Turkish authorities were, however, invited to revise Article 301 of the Criminal Code ensuring that this Article meets the "quality of law" requirement of the Court's settled case-law.

The positive developments in domestic case-law were welcomed, although the CM also stressed that it still appeared necessary for domestic courts to fully incorporate the Court's case-law into their reasoning and assessments, and strongly encouraged the Turkish authorities to take necessary action.

The Turkish authorities were finally invited to take the necessary measures to ensure that the convictions of all applicants in the *Incal* and *Gözel* and *Özer* groups of cases are erased from their criminal records.

It decided to review the progress made in these cases at its DH meeting in June 2015, at the latest.

K. Freedom of assembly and association

BGR / United Macedonian Organisation Ilinden and Others (group)

Application No. 59491/00, Judgment final on 19/04/2006, Enhanced supervision
(See Appendix 2)

> **Refusals to register an association:** unjustified refusals of the courts to register an association aiming at achieving "the recognition of the Macedonian minority in Bulgaria", refusals based, on the one hand, on considerations of national security, protection of public order and the rights of others (alleged separatist ideas) and, on the other hand, on the constitutional prohibition for associations to pursue political goals (Article 11)

CM Decisions / Transfer: Resuming consideration of these cases at its March 2014 meeting, the CM noted the rapid reaction of the authorities as concerns the identification and adoption of the additional measures required for the execution of these judgments and, in particular, of focused awareness-raising measures in respect of the two courts competent for the registration of the associations concerned by these cases. Having taken note of the authorities' undertaking to submit an assessment of the impact of these measures by the end of September 2014 at the latest, the CM decided to continue the examination of these cases under the standard procedure and instructed the Secretariat to take stock of the progress in the execution process when the information announced by the authorities is submitted.

Continuing its examination of these cases at its December meeting, the CM noted that the awareness-raising measures adopted have not been sufficient to prevent new refusals to register UMO Ilinden and a similar association, partially based on the grounds criticised by the Court, and expressed its regret in this regard. The CM further stressed the importance that the requests for registration, currently pending before the Sofia Court of Appeal, be examined in full compliance with the requirements of Article 11 of the Convention.

The CM welcomed the willingness expressed by the Bulgarian authorities to adopt additional measures, notably the examination by the Parliament, as a matter of priority, of legislative proposals with a view to clarifying the legal framework governing the registration of associations. In order to express its support to the ongoing efforts, the CM decided to transfer these cases to the enhanced procedure and encouraged the Bulgarian authorities to continue their close co-operation with the Execution Department concerning the definition and/or the implementation of the necessary additional measures for the execution of these judgments.

GRC / Bekir-Ousta (group)

Application No. 35151/05, Judgment final on 11/01/2008, Enhanced supervision.
(See Appendix 2)

> **Refusal to register or dissolution of associations:** refusal to register or dissolution of associations on the ground that they were deemed by the courts to be a danger to public order as they promoted the idea of the existence of an ethnic minority in Greece as opposed to the religious minority provided by the Lausanne Treaty (Article 11)

CM Decision / interim resolution: The CM supervises the execution of this group of cases since January 2008 (for previous developments, please refer to AR 2010-2013).

When resuming its examination of these cases at the 2014 June meeting, the CM adopted the Interim Resolution CM/ResDH(2014)84, by which it recalled the Greek authorities' commitment to fully and completely implement these judgments. It also recalled that, since June 2013, they were considering the most appropriate solution to execute the individual measures. The CM strongly regretted, however, that despite the CM's call, the authorities have provided no concrete and tangible information on the measures explored to implement the individual measures, accompanied by an indicative calendar for their adoption. Consequently, the CM called upon the authorities to take, without further delay, all necessary measures so that the applicants have their cases re-examined and benefit from proceedings in compliance with the Convention requirements. It further called upon the authorities to provide, without any further delay, tangible information on the measures taken or envisaged to achieve the aforementioned goals in compliance with the Court's judgments.

MDA / Genderdoc-M

Application No. 9106/06, Judgment final on 12/09/2012, Enhanced supervision
(See Appendix 2)

> **Ban on gay march:** unjustified ban of a demonstration organized to encourage the adoption of laws for the protection of sexual minorities from discrimination; no effective remedy in the absence of any guarantee that appeal decisions intervene before the planned event; discrimination as the sole justification given related to the homosexual orientation of the demonstration (Article 11 and Articles 13 and 14 in conjunction with Article 11)

Action plan: A comprehensive action plan was received on 27/3/2014. On 9/5/2014, the applicant's organization submitted a communication in response to the action plan and on 21/5/2014, the Government replied to it.

TUR / Oya Ataman (group)

Application No. 74552/01, Judgment final on 05/03/2007, Transfer to enhanced supervision
(See Appendix 2)

> **Repression of peaceful demonstrations:** violations of the right to freedom of peaceful assembly and/or ill-treatment of the applicants on account of the excessive force used to disperse peaceful demonstrations; in some cases, failure to carry out an effective investigation into the allegations of ill-treatment and lack of an effective remedy in this respect (Articles 3, 11 and 13)

CM Decision: In response to the CM's decision of September 2013 to transfer this group of cases under enhanced supervision (see AR 2013), the authorities provided further information in February 2014. The authorities relied notably on the general "action plan for the Prevention of Violations of the European Convention on Human Rights" adopted by the Turkish Cabinet of Ministers on 24 February 2014, and provided information on legislative and training measures aimed at preventing this kind of violation.

In September 2014, the CM noted with concern that no information had been provided as to whether fresh investigations had been carried out into the applicants' allegations of ill-treatment and urged the Turkish authorities to provide information in this respect.

As regards general measures, the CM noted with satisfaction that according to the new general action plan of February 2014 a revision of the "Meetings and Demonstrations Marches Act" is planned. The CM invited the Turkish authorities to provide concrete information on the content of the intended legislative amendments and, notably, on modalities to ensure the domestic authorities' obligation to assess the necessity of an interference with the right to freedom of assembly, in particular, with regard to peaceful demonstrations.

In this context, the CM noted with concern that no concrete information has been provided on the review of the rules concerning the use of tear gas (or pepper spray) or tear-gas grenade; and therefore urged the Turkish authorities to reinforce, without further delay, the guarantees on the proper use of such devices, in order to minimise the risks of death and injury stemming from their use, bearing in mind the European Court's findings, in particular in the judgments in the cases of *Abdullah Yaşa and Others* and *İzci*. It also expressed concern that no information has been provided regarding procedures in force as regards the review of the necessity, proportionality and reasonableness of any use of force after a demonstration is dispersed, and urged the Turkish authorities to provide this information.

While noting with interest the statistical information provided by the Turkish authorities on the administrative sanctions imposed on law enforcement officers, the CM reiterated its request to obtain precise information on the nature, range and effectiveness of sanctions provided under Turkish law in cases where law enforcement officers fail to comply with the legislation on the necessity and proportionality of the use of force whilst dispersing a demonstration.

Concerning the statistical information provided on the number of investigations and criminal proceedings conducted against law enforcement officers, the CM expressed concern about the absence of any indication as to whether these investigations had been carried out in compliance with the Convention standards and recalled, in this respect, the European Court's conclusions in the *İzci* judgment.

The CM invited the Turkish authorities to provide the information on the outstanding questions before 31 December 2014 and decided to review the progress made in these cases at their March 2015 DH meeting.

UKR / Vyerentsov

Application No. 20372/11, Judgment final on 11/07/2013, Enhanced supervision
(See Appendix 2)

Legislative lacuna regarding the right to peaceful assembly: Absence of clear and foreseeable legislation laying down the rules for the holding of a peaceful assembly (applicant sentenced to 3 days of administrative detention in 2010 for organising and holding a peaceful demonstration); different violations of the right to a fair trial (Articles 11, 7, 6§§1, 3(b)-(c)-(d))

CM Decisions: It is recalled that when examining the case, the Court found that the violations under Articles 11 and 7 "stemm[ed] from a legislative lacuna concerning freedom of assembly which remain[ed] in the Ukrainian legal system for more than two decades" and that, "having regard to the structural nature of the problem disclosed, (...) specific reforms in Ukraine's legislation and administrative practice should be urgently implemented...".

An action plan was submitted in November 2014 informing the CM of two draft laws on freedom of assembly from 2013, expected to solve the problems identified.

When assessing the progress made in March 2014, the CM stressed that the right to freedom of assembly as guaranteed by Article 11 is one of the foundations of any democratic society. It therefore called upon the authorities to bring the legislation and practice into line with the Convention's requirements and highlighted the urgency of ensuring in the meantime that administrative practice was in conformity with the Convention principles.

In June 2014 the CM welcomed the Supreme Court's decision of 3 March 2014 to quash the applicant's administrative sentence imposed in violation of Article 7.

Concerning general measures, the CM stressed that it was of the utmost importance that the legislative framework on freedom of assembly was rapidly brought into conformity with Convention requirements, as set out in the Court's case-law, and that the legislative process was accelerated. The cooperation with the Secretariat was noted with satisfaction. The CM stressed anew the urgency, pending the adoption of the legislative framework, of ensuring that administrative practice is brought into conformity with the Convention principles.

Progress is presently followed in bilateral contacts with the Secretariat.

L. Right to marry

M. Effective remedies – specific issues

N. Protection of property

N.1. Expropriations, nationalisations

ARM / Minasyan and Semerjyan (group)
Application No. 27651/05, Judgment final on 07/09/2011, Enhanced supervision
(See Appendix 2)

Unlawful expropriations or terminations of leases: unlawful, i.e. based solely on Government decrees; deprivation of property or of the right of use of accommodation during an expropriation process for the purpose of implementing State Construction projects (Article 1 of Protocol No. 1)

Developments: In response to the CM's request (cf. decision of December 2013) of information on additional measures taken by the authorities in view of improving the domestic courts' practice regarding the deprivation of property in accordance with the law and of preventing arbitrary application of law, additional information was submitted on 29/05/2014, currently under assessment.

BIH / Đokić - BIH / Mago

Application Nos. 6518/04 and 12959/05, Judgments final on 04/10/2010 and 24/09/2012, Enhanced supervision
(See Appendix 2)

> **Deprivation of occupancy rights over military apartments:** inability of members of the army of the former Yugoslavia (mainly Serbs of the former Yugoslav People's Army) to obtain the restitution of their military apartments (some formally bought by their owners, others originally possessed by virtue of special occupancy rights), taken from them in the aftermath of the war in Bosnia and Herzegovina, or to receive instead alternative accommodation or compensation reasonably related to the market value of the apartments (Article 1 of Protocol No. 1)

Developments: In addition to the information provided earlier (see AR 2013) the authorities have provided, in January 2014, an updated action plan in the Đokić case. It indicates both the individual and general measures undertaken and envisaged by the authorities in view of fulfilling their obligation under the Convention. This and the earlier information provided are under assessment.

ROM / Străin and Others (group) - ROM / Maria Atanasiu and Others (pilot judgment)

Application Nos. 57001/00 and 30767/05, Judgments final on 30/11/2005 and 12/01/2011, Enhanced supervision
(See Appendix 2)

> **Property nationalised during the Communist regime:** sale by the State of nationalised property, without securing compensation for the legitimate owners; delay in enforcing, or failure to enforce, judicial or administrative decisions ordering restitution of the nationalised property or payment of compensation in lieu (Article 1 of Protocol No. 1 and Article 6§1)

CM Decision: When pursuing the execution supervision at its meeting in December 2014, the CM noted with interest that the Court, in its follow-up judgment to the pilot judgment *Preda and Others* v. Romania, held that the new law reforming the reparation mechanism provided, in principle, an accessible and effective framework of redress for the vast majority of situations arising in the reparation process. In this regard, it also noted with interest the progress made in the implementation of the first stages of the new law and welcomed the commitment of the authorities demonstrated by the active monitoring mechanism put in place at domestic level. While recalling the importance of respecting the time-table set out in the new law, the CM encouraged the authorities to finalise the inventory of available land as rapidly as possible and to ensure that in the future the time-limits set by the new reparation law are carefully followed to ensure the effectiveness of the reparation mechanism.

Given the Court's positive assessment and the progress made so far, the CM decided to close the examination of cases, concerning situations identified in the *Preda* judgment as covered by the new mechanism and in which all the individual measures have been taken, and adopt the Final Resolution CM/ResDH(2014)274.

After having stressed the importance of the authorities' capacity to ensure an effective reparation mechanism and to solve the outstanding issues identified by the Court, the CM decided to continue to monitor developments in this regard within the framework of the pilot judgment *Maria Atanasiu and Others* and the other judgments not covered by the above final resolution.

Finally, the CM invited the authorities to provide it with information on the outstanding issues identified by the Court in the *Preda* judgment at the latest by the end of February 2015 and on the implementation of the various stages set by the new law at the latest by the end of June 2015.

N.2. Disproportionate restrictions to property rights

GRC / Anonymos Touristiki Etairia Xenodocheia Kritis (group)
Application No. 35332/05, Judgment final on 21/05/2008 and 11/04/2011 (just satisfaction), CM/ResDH(2014)233
(See Appendix 3)

> **Interference with the company's right to peaceful enjoyment of its possessions:** failure of the Supreme Administrative Council to take into account specific features of plots of land concerned by restrictions of use in order to preserve environmental or cultural interests, hence no fair balance between public and private interest being struck and excessive length of related proceedings (Article 1 of Protocol No. 1. and Article 6 § 1). In the case Theodoraki and Others, failure to reply to a compensation claim and lack of an effective remedy (Article 13)

Final resolution: Evolution of the competent administrative tribunals' case-law (first instance and appeal) in order to take into account the Court's case-law with regard to property restrictions and the necessity of a case-by-case examination of compensation claims. According to recent Council of State decisions, article 24§6 of the Constitution as well as article 22 of Law No. 1650/2013 both constitute an autonomous legal basis for the introduction of compensation claims in case of property restrictions.

ITA / M.C. and Others (pilot judgment)
Application No. 5376/11, Judgment final on 03/12/2013, Enhanced supervision
(See Appendix 2)

> **Retroactive legislation:** legislative provision retroactively cancelling the annual adjustment of the supplementary part of an allowance paid in respect of accidental contamination during blood transfusions (HIV, hepatitis…) (Article 6§1, Article 1 of Protocol No. 1 alone and taken in conjunction with Article 14)

CM Decisions: When examining this case for the first time at its March 2014 meeting, the CM noted that this judgment highlights a systemic problem stemming from the

impossibility for the persons benefiting from the compensation allowance provided by Law No. 210/1992 to obtain an annual adjustment based on the inflation rate of the supplementary component of this allowance. Given that this complementary part represents 90% of the allowance, the Court invited the authorities to set, before 3 June 2014, a binding time-limit in which they undertake to guarantee to all the persons affected by the problem the effective and rapid realisation of the entitlement to annual adjustment. The CM therefore called upon the authorities to urgently submit an action plan on the general measures envisaged for the implementation of the judgment, together with the indication of the time-limit proposed for their adoption so that the Committee of Ministers is able to take a position on this time-limit before the expiry of the deadline set by the European Court.

Resuming the examination of this case at their 1199th ordinary meeting (21 May 2014), noted that the general measures required to guarantee to all the beneficiaries the entitlement to the adjustment of the compensation allowance due to them, fall under the shared competence of the State and the regions. It welcomed the fact that the Italian authorities have already adopted an important part of the general measures required for the beneficiaries that are under the competence of the State, and invited them to adopt the remaining measures in accordance with the timetable set, i.e. before 31 December 2014.

The CM noted, however, that the authorities have not been able to indicate as yet a time-limit for the adoption of the general measures required at the regional level and, underlining the upcoming deadline of 3 June 2014 set by the European Court's judgment, called upon the Italian authorities to indicate as a matter of urgency the general measures required at regional level, as well as the time-frame envisaged for their adoption.

At their 1208th meeting (DH) (September 2014), the CM noted that, following the call made by the Committee of Ministers at its 1199th meeting, the Italian authorities have not been able to provide complete information on the measures required to settle the problem and on the time-frame proposed for their adoption. Underlining the need to settle the problem related to the adjustment of the *idennità integrativa speciale* (IIS) in a lasting and comprehensive manner, the CM invited the Italian authorities to provide, in due time for their 1214th meeting (DH) (December 2014), a proposal for a time-frame:

- for the adoption of an adequate legal framework to guarantee that the financing required for the annual adjustment of the IIS is automatically earmarked in the subsequent budget laws; and
- for the adoption and the implementation of an action plan for liquidating the arrears corresponding to the adjustment of the IIS at regional level.

At their 1214th meeting (DH) (December 2014) the CM recalled that, following budget allocations provided to this end, the arrears due in respect of the adjustment of the IIS to the beneficiaries under the competence of the central authorities should be resolved by 31 December 2014 at the latest. In this regard, the CM invited the Italian authorities to confirm to the Committee of Ministers, as soon as this time-limit expires, that these payments have been finalized according to the indicated time-frame.

With regard to the payment of arrears due to the beneficiaries under the competence of the regions, the CM noted that the draft budget law for 2015 aims to earmark the necessary funds to resolve the arrears due to the beneficiaries under the competence of the regions in three annual instalments between 2015 and 2017. The CM invited the Italian authorities to provide the Committee, as soon as this law is adopted, with details of the provisions and the final time-frame it sets in this respect.

As regards the annual adjustment of the IIS, the CM noted the information according to which the central and regional authorities currently submit the IIS to the annual adjustment, with the exception of two regions. Therefore, having regard to the persistent disparities in the implementation of the entitlement to the adjustment of the IIS, the CM underlined that it is still necessary to put in place an adequate legal framework to guarantee that the financing required for the annual adjustment of the IIS is automatically earmarked in the subsequent budget laws. The CM therefore called upon the Italian authorities to provide the Committee, by 1 April 2015 at the latest, with information on the concrete measures envisaged in this connection, together with a proposal for a time-frame for their adoption.

NOR / Lindheim and Others
Application No. 13221/08, Judgment final on 22/10/2012, Enhanced supervision
(See Appendix 2)

> **Shortcomings in the legislation regulating certain long land leases:** statutory provision allowing lessees to claim the indefinite extension of certain long lease contracts on unchanged conditions with the result that rent due bears no relation to the actual value of the land (Article 1 of Protocol No. 1)

Action plan: In response to the CM's decision at its December meeting 2013 (see notably AR 2013), noting the execution efforts so far and inviting the authorities to provide updated information on all relevant further developments, an updated action plan was received on 15 July 2014. It was notably indicated that the aim was to implement the necessary amendments by 1 July 2015.

SER + SVN / Ališić and Others
Application No. 60642/08, Judgment final on 16/07/2014, Enhanced supervision
(See Appendixes 2 and 4)

> **Lost "old" foreign currency savings:** violations of the applicants' right to peaceful enjoyment of their property on account of their inability to recover their "old" foreign-currency savings deposited before the dissolution 1991-1992 of the Socialist Federative Republic of Yugoslavia in branches of banks located in what is today Bosnia-Herzegovina with head offices in what is today Serbia and Slovenia, respectively (Article 1 of Protocol No. 1)

CM Decision: In its pilot judgment, the Court identified a systemic problem affecting a considerable number of persons on account of the failure of the Serbian and Slovenian Governments to include the applicants, and all others in their positions, in their respective schemes for the repayment of "old" foreign-currency savings. In order to assist the execution process the Court indicated to Serbia and Slovenia that they should make all necessary arrangements, including legislative amendments,

within one year by 16 July 2015, in order to allow the applicants and all others in their position to recover their "old" foreign-currency savings under the same conditions as Serbian citizens who had such savings in domestic branches of Serbian banks or, respectively, under the same conditions as those who had such savings in domestic branches of Slovenian banks.

The CM made a first examination of the execution situation at its December meeting 2014 and invited the Serbian and Slovenian authorities to provide rapidly action plans setting out the measures taken or envisaged to implement the Court's judgment. It decided to resume its consideration in March 2015 to assess progress made.

SER / Grudić
Application No.31925/08, Judgment final on 24/09/2012, Enhanced supervision
(See Appendix 2)

> **Non-payment of pensions :** unlawful suspension, for more than a decade, by the Serbian Pensions and Disability Insurance Fund (SPDIF) of payment of pensions, based on a Government Opinion without any basis in domestic law that the Serbian pension system ceased to operate in Kosovo[15] (Article 1 of Protocol No. 1)

Developments: Following the CM's decision in December 2013 (see AR 2013), information is awaited on the handling of applications lodged following the measures adopted so far – notably in the light of the outcome of a number of additional cases brought before the Court and communicated to the Government.

SVK / Bittó and others
Application No. 30255/09, Judgment final on 28/04/2014, Enhanced supervision
(See Appendix 2)

> **Rent control scheme:** unjust limitations on the use of property by landlords, notably through the rent control scheme (Article 1 of Protocol No. 1)

Developments: The Court provided special indications for the execution of this judgment under Article 46 (for more details see Appendix 4-B). An action plan is awaited.

O. Right to education

CZE / D.H. (group)
Application No. 57325/00, Judgment final on 13/11/2007, Enhanced supervision
(See Appendix 2)

> **Right to education – discrimination against Roma children:** assignment of Roma children to special schools (designed for children with special needs, including those suffering from a mental or social handicap) on account of their Roma origin (Article 14 in conjunction with Article 2 of Protocol No.1)

15. All reference to Kosovo, whether the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo

CM Decision: At its December 2013 meeting, the CM had invited the authorities to provide additional information, notably on the implementation of the revised action plan. Resuming consideration of this case at its June 2014 meeting, the CM took note of the developments made in the implementation of the above action plan and encouraged the authorities to pursue their efforts in this respect and to ensure that the outstanding measures are adopted without delay. It also welcomed the adoption and the entry into force of the decrees abolishing the possibility of short-term placement of "socially disadvantaged" pupils in groups/classes for children with "mild mental disability". The CM further encouraged the authorities to pursue their efforts with a view to amending Article 16 of the Education Act.

The CM had however considered that the implementation of new diagnostic tools and reassessment of pupils raise questions about their effectiveness, particularly in relation to the low percentage of children diverted to the mainstream education system, the follow-up given to pupils whose transfer to the mainstream education system is recommended and the fate of children who do not respond to a call for reassessment.

In view of all these elements, the CM invited the Czech authorities to provide, no later than 10 February 2015, a revised action plan, including in particular an update on the use of diagnostic tools and the most recent statistics concerning the education of Roma pupils in groups/classes for pupils with "mild mental disability".

RUS / Catan and Others

Application No. 43370/04, Judgment final on 19/10/2012, Enhanced supervision
(See Appendix 2)

> **Closure of schools and harassment of pupils wishing to be educated in their national language:** forced closure, between August 2002 and July 2004, of Moldovan/Romanian language schools located in the Transdniestrian region of the Republic of Moldova, as well as continuing measures of harassment of children or parents of children. Responsibility of the Russian Federation under the Convention notwithstanding the absence of evidence of any direct participation by Russian agents in the measures taken, nor of Russian involvement in, or approbation of, the "MRT"'s language policy in general, because of Russia's "effective control" over the "MRT" during the period in question - by virtue of its continued military, economic and political support for the "MRT", which could not otherwise survive (Article 2 of Protocol No. 1 with respect to the Russian Federation)

CM Decisions / interim resolution: In the absence of information about the execution of the judgment and given the reports of continuous violation of the applicants' right to education, the CM expressed, in June 2014, deep concern and firmly called upon the Russian authorities to take all possible measures to put an end to this violation and to transmit, within one month, information on how they intend to guarantee that the Latin script schools continue to function for the school year 2014/2015 and, as soon as possible by 1 September 2014 at the latest, a global action plan or action report. The CM also insisted that the Russian authorities pay the applicants, without further delay, the just satisfaction awarded by the Court.

In September 2014, the CM adopted an interim resolution in which it deeply deplored that the Russian authorities had not provided the requested information and strongly

urged the Russian Federation to take all possible measures to put an end to the violation of the applicants' right to education. It insisted that the Russian authorities inform the Committee of Ministers, without further delay and, in any event, no later than 1 November 2014, that the measures requested by the Committee of Ministers had indeed been taken.

In December 2014, the CM had to reiterate its deep concern on the basis of reports of continuous violation of the applicants' right to education. It deeply deplored that the Russian authorities had not responded to its repeated calls for the execution of this judgment yet. The CM noted with interest, however, the information provided orally by the Russian delegation during the meeting, according to which a scientific and practical round table was planned to take place around January 2015, the matters of discussion were to include issues of concern for the execution of the present judgment. The CM called upon the Russian authorities to provide by 10 February 2015 an action plan / report detailing their strategy with a view to implementing the present judgment and indicating more particularly:

- the steps they had taken to ensure the immediate payment of the just satisfaction granted by the Court to the applicants and when these sums will be at the applicants' disposal;
- the steps to be taken, and within what framework, to ensure the proper functioning of the Latin script schools in the Transdniestrian region of the Republic of Moldova;

P. Electoral rights

ARM / Sarukhanyan
Application No. 38978/03, Judgment final on 27/08/2008, CM/ResDH (2014)108
(See Appendix 3)

> **Right to stand in general parliamentary elections:** annulment of the applicant's registration as a candidate in parliamentary elections on the ground of omissions in the property declaration submitted when registering, disproportionate to the legitimate aim pursued (Article 3 of Protocol No. 1)

Final resolution: In the new Electoral Code, in force since June 2011, the submission of a property and income declaration is not a required precondition for a candidate's registration and no sanction is foreseen for non-compliance; a candidate is also entitled to challenge acts or omissions by electoral commissions before the higher electoral commissions and the administrative and the constitutional Courts.

AZE / Namat Aliyev (group)
Application No. 18705/06, Judgment final on 08/07/2010, Enhanced supervision
(See Appendix 2)

> **Irregularities connected with the control of parliamentary elections:** arbitrary and non-motivated rejection, by the electoral commissions and the courts, of complaints of members of the opposition parties or independent candidates regarding irregularities or breaches of electoral law in the 2005 elections (Article 3 of Protocol No. 1)

CM decisions: In response to the CM's indication that mere training efforts did not respond to the findings of the Court, and its consequent call on the authorities, at its December meeting 2013, to submit a consolidated action plan, such a plan was submitted on 27 February 2014. As the plan arrived so close to the March meeting, it was assessed at the next June meeting. Following this evaluation, the CM requested a number of clarifications and an updated action plan.

The updated action plan was examined at the September meeting. The explanations given on the functioning of electoral commissions, including the introduction of expert groups in 2008, were not considered to address the problems revealed as regards the independence, transparency and legal quality of the procedure before these commissions. As a consequence, the CM called upon the authorities to provide further information and encouraged them to pursue training activities.

Concerning the functioning of the judiciary, the CM found that the introduction, in 2011, of the Code of Administrative Procedure for electoral disputes, appeared to respond to a series of important problems raised as regards excessive formalism of the former procedure. As to the independence, the CM noted with interest the amendments adopted in June 2014 reinforcing, notably, the budgetary independence of the Judicial and Legal Council. However, the CM urged the authorities to explore further measures, taking into account different proposals presented before it aiming at limiting the influence of the executive within the Judicial and Legal Council in the area of the nomination, promotion and disciplinary sanctions of judges; at reinforcing the Council's competencies in these areas; and at improving the relevant regulatory framework. It underlined again the potential of targeted practical guidance from the Supreme Court and the importance of further training efforts to ensure the efficiency of the judicial control. It invited anew the authorities to take into account the additional possibilities offered in this respect by the action plan of the Council of Europe for Azerbaijan 2014-2016. As regards the shortcomings of the procedure before the Constitutional Court, the authorities were invited to provide further clarifications on the results of the examination of the *Kerimli and Alibeyli* judgment by the General Assembly of the Constitutional Court in October 2012.

The authorities were invited to provide, at the latest by 1 December 2014, further information on all outstanding questions. Additional information, notably as regards new measures to improve the independence of the judiciary, was submitted on 11 February 2015.

BIH / Sejdić and Finci

Application No. 27996/06, Judgment final on 22/12/2009, Enhanced supervision, Interim resolution *CM/ResDH(2013)259*
(See Appendix 2)

> **Ineligibility to stand for elections due to the non-affiliation with a constituent people:** impossibility for citizens of Bosnia and Herzegovina of Roma and Jewish origin to stand for election to the House of Peoples and to the Presidency of Bosnia and Herzegovina, due to their lack of affiliation with one of the constituent people (Article 14 taken in conjunction with Article 3 of Protocol No.1 and Article 1 of Protocol No. 12)

CM Decisions: Since this case is under the CM's execution supervision, it gave rise to numerous decisions and three interim resolutions by which the CM had firmly called

upon the authorities of Bosnia and Herzegovina to bring the constitutional and legislative framework of the state in conformity with the Convention (see also previous ARs).

When resuming consideration of this case at its HR meeting in March 2014, the CM deplored that the political leaders of Bosnia and Herzegovina have failed to reach a consensus on the content of the constitutional and legislative amendments aimed at eliminating discrimination based on ethnic affiliation in elections for the Presidency and the House of Peoples of Bosnia and Herzegovina. It noted with grave concern that, as a result of the absence of agreement between the State's political leaders, there is a clear and growing risk that the coming elections will not be in compliance with the European Convention's requirements. In this context, the CM recalled that under the State's Constitution, the Convention shall apply directly and have priority over all other law, and that Bosnia and Herzegovina has an unconditional obligation to abide by the European Court's judgment. The CM therefore strongly urged, once again, Bosnia and Herzegovina to execute the judgment in time before the next State-wide elections and decided to resume consideration of this case at one of its forthcoming meetings and, at the latest, at its December meeting.

Meanwhile, in its judgment in the *Zornić* case (see Appendix 4 - B), of 15 July 2014, the Court indicated under Article 46 that finding of a violation in the *Zornić* case was the direct result of the failure of the authorities of Bosnia and Herzegovina to comply with the judgment in *Sejdić and Finci*. The Court also stated that this failure represented a threat to the future effectiveness of the Convention machinery.

The situation remaining unchanged, on 19 September 2014, the PACE pre-electoral delegation issued a statement expressing great concern with the authorities' failure to remove ethnicity and residency based discriminations with regard to the right to stand for elections and that therefore the State-wide elections of 12 October will be held in violation of the Convention. On 13 October 2014, a day after the elections, the Secretary General of the Council of Europe stated that this was the second election ignoring the *Sejdić and Finci* judgment and indicated that Bosnia and Herzegovina needed to change its Constitution. In their letter of 29 October, the authorities reiterated the importance and priority they accorded to the execution of the *Sejdić and Finci* judgment.

At its December 2014 meeting, the CM noted with profound concern and disappointment that the regulatory framework of elections of 12 October 2014 was discriminatory and encouraged the authorities and political leaders of Bosnia and Herzegovina to give a fresh impetus to their endeavours and in particular to intensify their efforts to reach rapidly a consensus on the content of the constitutional and legislative amendments aimed at eliminating discrimination based on ethnic affiliation in elections for the Presidency and the House of Peoples of Bosnia and Herzegovina.

Finally, it invited the authorities to take full advantage of the readiness of the Council of Europe to provide all necessary assistance and support both to them and to the political leaders of Bosnia and Herzegovina in their efforts to implement the present judgment.

LVA /Adamsons

Application No. 3669/03, Judgment final on 01/12/2008, CM/ResDH (2014)279
(See Appendix 3)

> **Arbitrary ban to stand for parliamentary elections:** disproportionate disqualification of a candidate from the parliamentary elections in 2002: the applicant's past as a border guard officer, an organisation under KGB supervision, was well-known; he had never been accused of misdeeds or anti-democratic action and had been allowed a remarkable career including high positions in Latvia's border guard organisation, minister of the Interior in 1994 and elected Member of Parliament in 1996. (Article 3 of Protocol No.1)

Final resolution: The applicant has successfully stood for elections in 2009 to the Riga City Council and in the 2010, 2011 and 2014 elections and to Parliament. Since November 2010 he is also a Member of Parliament. Amendments in the Parliamentary Elections Act (in force since 01/04/2009 and 07/03/2014, respectively) have narrowed the scope of eligibility restrictions so that these currently apply only to persons, who were formerly directly involved in the KGB's primary functions.

LIT / Paksas

Application No. 34932/04, Judgment final on 06/01/2011, Transfer to the enhanced procedure
(See Appendix 2)

> **Right to free elections:** permanent disqualification from the possibility to stand for elections as a result of impeachment proceedings brought against Lithuania's former president (Article 3 of Protocol No. 1)

CM Decision / Transfer: After the delivery of the judgment, a working group, set up in January 2011, transmitted to Parliament in May 2011 a proposal to amend the constitution in view of executing this judgment. In March 2012, Parliament adopted a law limiting to four years the disqualification from standing for parliamentary elections after removal from office or revocation of mandate on account of impeachment proceedings. However, in September 2012, the relevant provisions of this law were declared unconstitutional by the Constitutional Court, which held that constitutional amendments were necessary in order to bring the legal situation in line with Article 3 of Protocol No 1.

In November 2012, a draft law (No XIP-5001), with the necessary constitutional amendments, was submitted to Parliament which appointed several parliamentary committees for its consideration. In October 2013, the amended draft law (No XIP-5001(2)) was preliminarily approved by a simple majority of the Parliament, thereby finalising the second stage of the legislative procedure for constitutional amendments. The law was scheduled for adoption in January 2014. Possibly, fearing the impossibility to achieve the required 2/3 majority of the members of the Parliament, the Order and Justice political party (chaired by the applicant in this case) proposed to strike it out from the agenda.

At its meeting in September, the CM noted that despite the efforts made, the applicant's situation remained unchanged and the initiated legislative reform remained in its initial phase. It therefore urged the authorities to achieve tangible progress, in particular as regards the constitutional changes required to put an end to the persisting violation of the applicant's right to free elections and decided to follow the developments closely and therefore to transfer the case to the enhanced supervision procedure.

Q. Freedom of movement

R. Discrimination

AUT / X and Others

Application No.19010/07, Judgment final on 19/02/2013, CM/Res (2014)159
(See Appendix 3)

> **Discriminatory treatment of unmarried same-sex couples:** legal impossibility of "second-parent" adoption in unmarried same-sex couples, i.e. without severing the links with the original parent in the couple, discriminatory as it prevented domestic courts from examining whether a requested adoption was in the child's interests as was possible in case of adoptions in unmarried heterosexual couples (Article 14 in conjunction with Article 8)

Final resolution: After amendment of the relevant provisions in the Civil Code (entry into force August 2013) second-parent adoptions in same-sex couples are possible, including for the applicants. The respective prohibition was deleted in August 2013 by the Registered Partnership Act (BGBl. No. 179/2013).

CRO / Šečić

Application No. 40116/02, Judgment final on 31/08/2007, Enhanced supervision
(See Appendix 2)

> **Ineffective investigation into a racist attack on a Roma** (violations of Article 3 and Article 14 in conjunction with Article 3)

Developments: As regards individual measures, the investigation of allegations of violence in this case is subject to statute of limitations. The just satisfaction in respect of non-pecuniary damages sustained by the applicant Court being paid, no other individual measure is any longer required.

With respect to general measures, the Criminal Code, as amended in 2006, introduced hate crime as an offence and a special police division to combat hate crime was set up. Special trainings were held for the police officers in cooperation with the OSCE "Law Enforcement Program on Combatting Hate Crime". In April 2010, the European Roma Rights Centre requested, however, that the Croatian authorities provide evidence of the adequacy of the training measures taken. In its Resolution CM/Res/CM(2011)12, the CM also indicated that the "[e]thnically-motivated incidents against persons belonging to national minorities, in particular […] the Roma, continue to be a serious problem in Croatia" and that "various sources concur that the response from the law enforcement officials to ethnically-motivated incidents is inadequate". Information is therefore awaited on the measures taken and/or envisaged to ensure that the response of law enforcement officials to ethnically-motivated incidents is adequate and that allegations of violence committed by individuals, including against persons of Roma origin, are efficiently investigated and perpetrators are promptly brought to justice.

GRC / Vallianatos and Mylonas

Application No. 29381, Judgment final on 07/11/2013, Enhanced supervision
(See Appendix 2)

> **Sexual orientation based discrimination:** discrimination against same sex couples as they were excluded from the scope of the law establishing civil unions for different-sex couples

Developments: In May 2014, the Greek authorities submitted preliminary information indicating that they are considering the measures to be taken with a view to complying with the judgment including legislative amendments to family law. An action plan is being awaited.

HUN / Horváth and Kiss

Application No. 11146/11, Judgment final on 29/04/2013, Enhanced supervision
(See Appendix 2)

> **Discrimination against Roma children:** discriminatory assignment of Roma children to special schools for children with mental disabilities during their primary education (Article 2 of Protocol No. 1 read in conjunction with Article 14)

CM Decision: At its March 2014 meeting, the CM examined this case on the basis of the initial action report submitted in October 2013 and the additional information sent in January 2014 (see also AR 2013). The CM took note of the information provided on the measures taken so far, in particular on the objectivity and non-discriminatory nature of the tests applied to evaluate the school aptitude and mental abilities of Roma children in the Hungarian education system as well as on the procedural safeguards against misdiagnosis and misplacement of Roma pupils in the legislation, and instructed the Secretariat to make an assessment thereof. At the same time it invited the authorities to provide further information, in particular on the concrete impact of the measures taken so far. It concluded by encouraging the authorities to pursue their efforts with a view to implementing an inclusive education policy and invited them to provide specific information also on the global impact of this policy, in particular as regards the reduction of the high proportion of Roma children in special schools.

POL / Grzelak

Application No. 7710/02, Judgment final on 22/11/2010, CM/ResDH(2014)85
(See Appendix 3)

> **Discrimination based on religion:** discriminatory treatment of an agnostic pupil due to the absence of a mark for "religion/ethics" in school certificates, because of the failure to provide alternative ethics classes instead of religious instruction (Article 14 in conjunction with Article 9)

Final resolution: The absence of a mark for "religion/ethics" in the school record of the applicant's child was due to the insufficient number of participants to reach the minimum threshold required in the Ordinance of the Minister of Education on the organization of religious instruction of 14/04/1992. On 25/03/2014 the threshold prerequisite was annulled, to guarantee the possibility to participate in ethics classes to every pupil willing to do so. The amended 1992 Ordinance is applied as from September 2014, the beginning of the new school year. Detailed information on the conditions and organisation of ethics classes were circulated to all school superintendents. The implementation of the new rules is monitored by the Ministry of Education.

ROM / Driha and Others

Application No. 29556/02, Judgment final on 21/05/2008, CM/ResDH(2014)28
(See Appendix 3)

> **Unlawful taxation of allowances:** unlawful submission to income tax of reserve assignment allowances, difference in treatment between the applicants and persons in the same position whose allowances were not subject to income tax (Article 1 of Protocol No. 1 in conjunction with Article 14)

Final resolution: At the time of the facts, the law 138/1999 regulated the salaries and other financial rights of the military personnel in the public institutions for national defense and security and of the civil personnel in those institutions. Article 31 of this law, the wrongful interpretation of which was at the origin of the violations found in these cases, was repealed by Law no 330/290 regarding the unitary payment of public officers, in force as of 1/01/2010. At present, allowances received by military personnel when appointed on reserve are assimilated to salary benefits and are taxable, in accordance with the Fiscal Code and its methodological norms.

ROM / Moldovan and Others (group)

Application No. 41138/98, Judgment final on 05/07/2005, Enhanced supervision

> **Violence against Roma:** racially-motivated violence, between 1990 and 1993, against villagers of Roma origin, and in particular improper living conditions as a result of the destruction of their homes; incapacity of the authorities to put an end to the violations of their rights (Articles 3, 6, 8, 13 and 14 in conjunction with Articles 6 and 8)

CM Decisions: At its detailed examination of this group in June 2012 the CM invited the authorities to provide, as soon as possible, a detailed assessment of the impact of the measures taken for the localities concerned by the judgments in this group. In response an action report was presented on 10 January 2014 in the cases of Kalanyos and Others and Gergely and a revised action report in the case of Tănase and Others. These reports were noted with interest by the CM in March 2014 and the Secretariat was requested to prepare a detailed assessment of the measures adopted at the latest for their meeting in March 2015. The CM expressed, however, deep concern at the fact that, notwithstanding the call made by the CM more than a year ago, the authorities have still not succeeded in putting in place the organisational and budgetary framework for the general measures which remain to be adopted for the implementation of the judgments Moldovan and Others (Nos. 1 and 2) and Lăcătuş and Others. Therefore, the CM exhorted the authorities to urgently adopt this framework and to implement without further delay the remaining general measures.

Resuming its examination at its December meeting, the CM deplored the significant and persistent delay in the adoption and the implementation of the general measures which remain to be taken for the execution of the judgments Moldovan and Others (Nos. 1 and 2) and Lăcătuş and Others, and strongly urged the authorities to submit, by 1 April 2015 at the latest, a detailed action plan for the full execution of these judgments, with precise and short deadlines for all the measures that are still required. The CM decided to resume the examination of these cases in June 2015, while instructing the Secretariat, in the absence of concrete substantial progress in the execution of these judgments, to prepare a draft interim Resolution.

RUS / Alekseyev
Application No. 4916/07, Judgment final on 11/04/2011, Enhanced supervision
(See Appendix 2)

Repeated bans on gay marches: repeated bans on the holding of gay-rights marches and pickets, and enforcement of the ban by dispersing events held without authorisation and by finding the participants guilty of an administrative offence; absence of effective remedies (Articles 14 and 13 in conjunction with Article 11)

CM Decisions: Continuing its supervision of this case at its meeting in March 2014, the CM took note of the updated action plan received in January 2014. Noting, however, the different materials submitted to the CM by various NGOs, it urged the Russian authorities provide concrete information (including statistics) on the current practice concerning the organisation of public events similar to those at issue in the *Alekseyev* judgment in the cities and regions of Moscow, St Petersburg, Kostroma and Arkhangelsk, for the period from 1 July 2013 to 31 May 2014. Echoing its previous decisions of March, June and September 2013, the CM reiterated further its request to the Russian authorities to subject the implementation of the legislation prohibiting "propaganda of non-traditional sexual relations" among minors to strict monitoring and invited them to provide comprehensive information on its application. As regards the question of an effective domestic remedy, the CM requested information on the implementation of the Constitutional Court's decision of 14 February 2013 underlining the need for courts to settle disputes concerning the holding of public events, before the foreseen date of such events and also to inform the CM of the state of progress of the ongoing legislative work concerning the draft Code of Administrative Procedure which is supposed to introduce such an effective remedy. While noting the recent efforts made by the Russian authorities with regard to the implementation of the judgment, the CM expressed concern about its implementation in practice and strongly encouraged them to intensify their efforts in this respect and to continue to keep it informed of all relevant developments.

At its meeting in September, while taking note of information submitted by the authorities, in response to its request of March, concerning the holding of public events and the practice of consideration of requests for holding the public events in question, and appeals against the refusals to agree their time and venue, the CM expressed serious concern that the majority of requests made in Moscow, St Petersburg, Kostroma and Arkhangelsk between 1 July 2013 and 1 May 2014, have been refused on the basis of the Federal Law prohibiting "propaganda of non-traditional sexual relations" among minors, despite the assurances given by the Russian authorities at their meeting in September 2013, that this Federal Law would not interfere with the holding of such events. In view of this, the authorities were invited to continue to provide updated information, including statistics, on the current practice concerning the organisation of public events similar to those at issue in the *Alekseyev* judgment, in the aforementioned four cities/regions, as well as in any other region for the period from 1 May 2014 to 1 February 2015. Given the extremely low number of similar events authorized, the CM expressed its great regret that the exercise of the important right to assembly is not sufficiently recognised and protected by the Russian authorities. The CM consequently urged the authorities to take the necessary measures, including of an awareness-raising

nature, to remedy this situation and, in particular, to ensure that the mentioned Federal Law does not hinder the effective exercise of this right and to inform the CM by 15 April 2015 accordingly so that an assessment can be made in time for the examination of this issue at its meeting in June 2015. It noted further in this respect that a case is currently pending before the Russian Constitutional Court concerning the above-mentioned Federal Law and that these proceedings provide an important opportunity to have a full examination of the Convention conformity of the law tested. Right after the adoption of the CM Decision, the Russian Constitutional Court found this Federal Law compatible with the Constitution, stressing at the same time that the Constitution did not allow for a ban on public discussion of sexual (including non-traditional) relationships, even when such discussion might be considered by some to be offensive to the moral values of the Russian society; however, it was considered to be possible to restrict offensive, agressive and intrusive dissemination of information about such relationships among minors.

As regards the question of an effective remedy, the CM strongly encouraged the Russian authorities to deploy all possible efforts for a speedy adoption of the draft Code of Administrative Procedure and, in the meantime, to continue to monitor the implementation of the Constitutional Court's decision of 14 February 2013 on the need for courts to settle disputes concerning the holding of public events before the date foreseen for such events. Finally, the CM invited the authorities to keep continue keeping it regularly informed about the developments in this area with a view to the examination of this issue at its meeting in June 2015.

UK / Hode and Abdi

Application No. 22341/09, Judgment final on 06/02/2013, CM/ResDH(2014)5
(See Appendix 3)

Discriminatory denial of family reunion for post-flight spouses of refugees: impossibility for a refugee enjoying a time-limited leave to remain in the UK to be joined by a spouse married abroad "post-flight", whereas this limitation did not apply to spouses married abroad before the flight (Article 8 in conjunction with Article 14)

Final resolution: As acknowledged by the Court, in 2011, the Immigration Rules were amended to erase the discrimination and, also, to allow refugees enjoying time-limited leave to remain to be joined in the United Kingdom by post-flight spouses during the period of validity of their leave to remain. Ms Abdi and her children have been able to profit from the new regulations and have been granted time-limited visas.

S. Co-operation with the European Court and respect of right to individual petition

RUS / Garabayev (group)

Application No. 38411/02, Judgment final on 30/01/2008, Enhanced supervision
(See Appendix 2)

Various forms of removal and disappearances of applicants: extradition or expulsion without assessment of the risk of ill-treatment, unclear legal provisions for ordering and extending detention with a view to extradition or expulsion, absence

or defectiveness of judicial review of the lawfulness of detention (Articles 3, 5 and 13); kidnapping and forcible transfers of applicants to Tajikistan or Uzbekistan, in some instances with involvement of Russian State agents and in violation of the Court's indications under Rule 39(Article 34)

CM Decisions: The developments up to 2013 are summarised in the AR 2013. In view of reports of further alleged abductions (the latest ones in the *Abdulazhon Isakov* and *Mukhitdinov* cases, in July 2014), the absence of significant progress in the investigations into the incidents reported, and the doubts thus created with respect to the soundness of the preventive and protective arrangements set up to prevent such abductions and transfers, this group of cases was examined at all the four HR meeting held in 2014.

In the course of these examinations, the CM noted with interest the information provided with respect to the granting or extension of temporary asylum or residence permits to applicants, and encouraged the authorities to provide regular updates concerning such decisions.

It also noted in March 2014 the information regarding diplomatic efforts undertaken with respect to applicants who were allegedly abducted, and subsequently found in detention in other countries, and encouraged the authorities to continue these efforts with a view to ensuring that the applicants are not subjected to treatment in breach of the Convention. Further contacts between Russian diplomatic personnel and Tajik and Uzbek authorities were reported in September and December 2014, and noted. The CM urged, however, the authorities to also provide information on initiatives to obtain regular access for monitoring purposes to these applicants either by Russian diplomatic personnel or by representatives of reputable and independent national or international organisations.

As regards the effectiveness of the domestic investigations, the CM expressed in December 2014 grave concern that the fate of several applicants remained unknown. The CM also noted information about additional reviews of investigations already carried out and new investigations in a number of cases, but expressed its grave concern that so far it had not been possible to establish the circumstances of the relevant incidents and to bring to justice those responsible, including in those cases where the Court had found State involvement, and urged the Russian authorities to provide information on the investigatory response to the facts established in the relevant judgments of the Court.

As regards the protection of applicants at risk of abductions or forced removal from Russian territory, the CM concentrated, in view of recently occurred developments, its examination on the applicants' right to State protection in case of complaints about threats of criminal action, including threats of abduction/forced removal from Russian territory. In this respect, the CM noted in December 2014 with interest the instructions given to the heads of the territorial units of the Federal Migration Service of the regions where the applicants in this category of cases live, and to the regional prosecutors, to clarify the applicants' situation and apprise them of their right to such protection and to a prompt reaction to complaints. The CM considered, however, that this measure did not amount to the automatic protection it had found necessary in its September decision following the two additional alleged abduction incidents examined at that meeting and, consequently, the CM strongly insisted that the Russian authorities take the further measures needed in this respect.

Noting the efforts previously undertaken by a number of Russian States bodies, the CM also urged, in its December decision, the Russian authorities to provide information on the relevant measures taken or decisions adopted also by other State bodies (including by the Russian Ministry of the Interior and the Federal Security Service), and, in particular, on the measures taken for the prevention of the unlawful practice of abductions and transfers.

The CM also decided in December that, in case another abduction or disappearance of any other applicant in this group of cases or an applicant in whose case the Court ordered an interim measure was reported, this group of cases should be examined at the first regular CM meeting after any such incident was reported.

SVK / Labsi

Application No. 33809/08, Judgment final on 24/09/2012, Enhanced supervision
(See Appendix 2)

> **Expulsion in violation of Article 3 disrespecting a Court indication under Rule 39:** Expulsion of a person suspected of terrorist activities from the Slovak Republic to Algeria on 19 April 2010, despite a real risk of being subjected to treatment contrary to Article 3; occurring despite an interim measure ordered by the Court under Rule 39 of its Rules, leading to a violation also of the right to individual petition as the level of protection that the Court was able to afford was irreversibly reduced and as the Court was prevented from protecting the applicant against treatment contrary to Article 3; also lack of suspensive effect of appeals against expulsion to the Constitutional Court (Article 13)

CM Decision: In October 2012, the CM received an action plan indicating that the applicant had been released from Algerian prison in May 2012 after having served his sentence so that he henceforth enjoyed full constitutional rights, and stating that the Slovak Government (Ministry of the Interior) had officially declared that it would, in the future, respect any new interim measure issued by the Court. The action plan was supplemented in August 2014 with information attesting that the incident was of an isolated nature as Slovak courts applied the same Article 3 tests as the Court and providing explanatory details on the procedure before the Constitutional Court.

When examining the situation at its December meeting 2014, the CM considered in the light of the information submitted regarding the applicant and in the absence of any complaint submitted by the applicant to the CM, that no further individual measures were necessary. It also accepted the Government's position concerning the general measures under Articles 3 and 34.

In respect of Article 13, however, the CM noted with concern, that the complaint procedure before the Constitutional Court remained unchanged and that the developments in the practice of the Constitutional Court did not permit to conclude that it amounted to a remedy with automatic suspensive effect. In the light hereof, the CM urged the authorities to put in place such a remedy without delay and to inform the CM of progress made in a consolidated action plan / report to be provided by 1 July 2015.

UKR / Vasiliy Ivashchenko - UKR / Naydyon (group)
Application Nos. 760/03 and 16474/03, Judgments final on 26/10/2012 and 14/01/2011, Enhanced supervision

> **Authorities' failure to comply with their obligation under Article 34 to furnish all necessary facilities to the applicants in order to make possible a proper and effective examination of their application to the Court by refusing to provide them, while in detention, with copies of documents from case-files (violation of Article 34)**

CM Decision: When examining the questions raised under Article 46 in the *Vasiliy Ivashchenko* case, the Court found that at the origin of the violation was "the absence of a clear and specific procedure enabling prisoners to obtain copies of case documents, either by making such copies themselves, by hand or using relevant equipment, or having the authorities make copies for them". The Court further held that "a part of the present case concern[ed] a systemic problem which call[ed] for the implementation of measures of a general character". The Court thus considered that "adequate legislative and administrative measures should be taken without delay by Ukraine in order to ensure that those who are deprived of their liberty have effective access to documents necessary for substantiating their complaints before the Court".

When assessing the progress of execution in March 2014 in the light of the action plan submitted, the CM noted that the authorities were considering amending the "Internal Rules for the Establishments of Enforcement of Sentences (Prison Rules)" but asked for more details about the planned reform and the time table foreseen. The CM encouraged the authorities to provide information on possible further measures to amend other legislations to align the administrative practice with the findings of the Court and to consider taking provisional measures, pending the necessary changes in the legislative framework, so that those deprived of their liberty rapidly have effective access to documents necessary for substantiating their complaints before the Court.

As regards individual measures, the CM invited the authorities to clarify in the *Vasiliy Ivashchenko* case whether an investigation into the applicant's ill-treatment, as established by the Court, had been initiated.

The questions relating to ill-treatment by the police and the lack of effective investigations are examined in the context of the *Afanasyev/Kaverzin* group.

T. Inter-State and related case(s)

RUS / Georgia
Application No. 13255/07, Judgment final on 03/07/2014, Enhanced supervision

> **Arrest, detention and expulsion from the Russian Federation of large numbers of Georgian nationals from the end of September 2006 until the end of January 2007:** the Court found that, from October 2006, a coordinated policy of arresting, detaining and expelling Georgian nationals, amounting to administrative practice, had been implemented in the Russian Federation

Action plan/report awaited: This practice led the Court to find six violations concerning:

- the expulsions of Georgian nationals without a reasonable and objective examination of the particular case of each individual (Article 4 of Protocol 4);
- arbitrary arrests and detentions of the Georgian nationals (Article 5(1));
- the absence of effective and accessible remedies available to Georgian nationals against the arrests, detentions and expulsion orders (Articles 5(4) and 13);
- conditions of detention in police stations and detention centres for foreigners and a lack of effective remedy regarding the same (Article 3 and 13).

The Court also found that the Russian authorities had failed to comply with their obligation to furnish all necessary facilities to the Court in its task of establishing the facts of the case (violation of Article 38).

Finally, the Court reserved the question of the application of Article 41 and invited the parties to submit observations on the same within 12 months.

TUR / Chypre

Application Nos. 25781/94, 46347/99 and 16064/90, Final judgment on 10/05/2001, Enhanced supervision

Fourteen violations linked with the situation in the northern part of Cyprus concerning the Greek Cypriots missing persons and their families, the homes and properties of displaced persons, the living conditions of Greek Cypriots in the Karpas region of the northern part of Cyprus, and the rights of Turkish Cypriots living in the northern part of Cyprus (articles 8 and 13, article 1 of protocol No. 1, articles 3, 8, 9, 10 and 13, articles 1 and 2 of protocol No. 1, articles 2, 3, 5 and 6)

CM Decisions / interim resolutions: In the light of the measures adopted by the respondent State authorities with a view to abide the present judgment, the CM has been able to close the examination of questions relating to living conditions of Greek Cypriots in northern Cyprus (as regards secondary school, censorship of textbooks and freedom of religion) and to Turkish Cypriots' rights living there (jurisdiction of military courts). For more detailed information, see notably the interim resolutions ResDH(2005)44 and CM/ResDH(2007)25.

As regards the main remaining issues' situation, i.e. the issues relating to the rights of displaced persons, enclaved persons and missing persons, it has been examined during the four DH meetings of 2013, and a brief overview of the results, including exchange of views with the Committee on Missing Persons in Cyprus (CMP) in December 2013 regarding missing persons' situation, was presented in the AR 2013.

The examination of these issues has been pursued in 2014 in light of notably the judgment on just satisfaction of the Grand Chamber of the Court on 12/05/2014. With a view to facilitating their supervision of the execution of this judgment, the CM instructed the Secretariat to present a general stock-taking concerning the different violations established by the Court, as well as an analysis of the impact of the judgment of 12/05/2014 on just satisfaction. The CM took note with interest of the document H/Exec(2014)8 prepared during its December meeting, and decided on a time-table for the examination of the outstanding issues in 2015.

TUR / Xenides-Arestis (group)

Application No. 46347/99, Judgment final on 22/03/2006, 23/05/2007 (just satisfaction), Enhanced supervision

> **Violation of property rights of displaced Greek Cypriots:** continuous denial of access to property in the northern part of Cyprus and consequent loss of control thereof and, in some cases, also violation of the applicants' right to respect for their homes (Article 1 of Protocol N°1 and Article 8 of the Convention)

AND

TUR / Varnava

Application Nos. 25781/94 and 16064/90, Judgments final on 10/05/2001 and 18/09/2009 (just satisfaction), Enhanced supervision

> **Missing Greek Cypriots:** lack of effective investigations into the fate of nine Greek Cypriots who disappeared during the Turkish military operations in Cyprus in 1974

CM Decisions / interim resolution: The different issues relating to general measures are examined in the context of the interstate case *Cyprus* v. Turkey.

In 2014, the CM's attention in both the *Xenides-Arestis* group and in the *Varnava* case focused on the continuing non-payment of the just satisfaction awarded by the Court, and in particular on the Turkish authorities' absence of response to the interim resolutions adopted in 2010 (*Xenides-Arestis*, ResDH(2010)33)) and 2013 (*Varnava*, ResDH(2013)201)) on this issue.

In March 2014, the CM deeply regretted the continued absence of response and invited its Chair to send a second letter to his Turkish counterpart conveying the Committee's continuing concerns regarding the non-payment of the just satisfaction awarded by the Court. The Chair sent such a letter shortly afterwards. In June, the CM had to deplore that the letters still remained unanswered. The CM thus adopted in September a new interim resolution (ResDH(2014)185) declaring that this continued refusal by Turkey was in flagrant conflict with its international obligations, both as a High Contracting Party to the Convention and as a member State of the Council of Europe, and exhorting Turkey to review its position and to pay, without any further delay, the just satisfaction awarded (with default interest).

Due to the lack of response to the letters sent by the Chair of the CM as well as to the new interim resolution adopted, the CM expressed in December its deepest concern, insisted anew on the unconditional nature of the obligation to pay and exhorted once again the Turkish authorities to review their position and to pay without further delay.

Appendix 6 – Other important developments and texts in 2014

A. Conclusions of seminars, workshops, round tables …

1. Seminar on the execution of judgments of the European Court of Human Rights concerning conditions of detention

Organised in the context of the Human Rights Trust Fund (HRTF)
(Romanian national institute of the judiciary)
Bucharest, 17-18 March 2014

Unofficial conclusions

The workshop addressed various problems concerning conditions of detention, both pre-trial and post- conviction, and the need for an effective remedy making it possible to challenge the conditions of detention. These issues were raised with regard to the execution of a series of judgments against Romania (all of which were dealt with under the *Bragadireanu* case and included the *Iacov Stanciu* judgment[16]), taking into account the Court's general case-law, in particular a series of pilot judgments such as *Orchowski*, *Ananyev* and *Torreggiani*[17].

The starting point for the discussions was the new reform of criminal law, which came into force on 1 February 2014, and its consequences for conditions of detention.

With regard to pre-trial detention, the emphasis was placed on the possibilities of restricting the use of this type of detention by using new alternatives, as introduced by the reform, and thereby reducing the number of persons held in remand and taking the pressure off pre-trial detention centres. The alternatives would be house arrest, where appropriate combined with electronic surveillance, and judicial review.

It was nevertheless noted that the practical arrangements for the implementation of electronic surveillance had not yet been identified and that the necessary technical equipment was not yet available. Although this does not prevent the authorities from beginning to use house arrest as an alternative, there is an urgent need to ensure the rapid implementation of the practical arrangements and the availability of the equipment required for electronic surveillance.

16. *Iacov Stanciu v. Romania* (35972/05) including guidelines for the execution of the judgment under Article 46 of the European Convention.
17. *Orchowski v. Poland* (17885/04), *Ananyev and others v. Russia* 42525/07 and 60800/08) and *Torreggiani and others v. Italy* (43517/09, 46882/09, 55400/09, 57875/09, 61535/09, 35315/10 and 37818/10)

The discussions also underlined the need to ensure that sufficient reasons were always given for pre-trial detention, for example the risk that the accused might commit further offences, attempt to escape, hinder the administration of justice or pose a danger to public order. Such risks would have to be established in each individual situation. Moreover, pre-trial detention should be submitted to regular judicial review and in order to ensure that pre-trial detention does not exceed a reasonable length of time, it should be proven one or several of these risks continues to exist.

The discussions also highlighted the fact that, for the purposes of the European Convention on Human Rights, house arrest is considered to be equivalent to a deprivation of liberty in the same way as pre-trial detention.

With regard to the conditions of post-conviction detention, the discussions revealed that the measures taken in the context of the criminal law reform had to some extent codified existing judicial practices, particularly with regard to the lowering of legal limits for the penalties applicable to violations of property rights. The reform has made a complex system of measures available to the authorities, notably judges and the probation services, aimed at a greater individualisation of penalties and also support for rehabilitation.

In order to achieve these goals and ensure that the reform also results in an improvement of the conditions of detention, the discussions stressed the importance of complementary measures:

- supporting the probation service with financial and human resources in keeping with the scope of the reform;
- rapidly ensuring effective follow-up to the practical consequences of the reform and co-ordination between the different actors concerned, including through improved collection and analysis of the relevant statistics;
- assessing the effects of the reform on conditional release, including with regard to the possibility of using electronic surveillance, and the need to ease the conditions under which detainees are eligible for conditional release;
- assessing the situation of prisoners being held in open prisons, taking account of the fact that the prison authorities believe that some of them could be released, with a view to examining the possibility of applying alternative measures to them.

Subsequent discussions could address the question of the advisability of making more use of electronic tagging to replace short sentences, a question which the participants in the workshop did not have the time to discuss in detail..

The discussions also took note of the underlying reasoning in favour of imposing fines and the potential of such penalties, in particular for violations of property rights, to restrict the use of prison sentences and, as a result, alleviate prison overcrowding, both when such fines are applied in isolation or when combined with reduced sentences.

The discussions finally addressed the problem of effective remedies. The following issues were highlighted:

- The example of the inspector general of prisons as introduced in France aroused considerable interest, both with regard to his role as a preventive mechanism and the effects that his findings could subsequently have during judicial proceedings concerning problems with regard to conditions of detention;

- The development of French case-law with regard to the state's responsibility for unsatisfactory conditions of detention was also noted, as well as the possibility of issuing orders with a penalty for failure to comply, to ensure the upgrading of prisons in general and to ensure specific measures in favour of individual prisoners and with regard to compensation;

- Note was also taken of the European Court's position that an available remedy should be both compensatory and preventive.

The discussions underlined the relevance of the French example for Romania. In this connection, different examples were given of ways in which the practice of Romanian courts had changed, be it with regard to ordering the prison authorities to take specific measures or granting compensation, including for non-material damage, in the case of unsatisfactory detention conditions. Such examples are, at least for the time being, sporadic. It could however be useful to gather examples of decisions taken by national courts with a view to studying current trends.

The possibility of replacing compensation with a shorter prison sentence was noted, although it is clear that such a development would require a change to the relevant legislation. The discussions highlighted the fact that it is important that such a measure be decided on a case by case basis, depending on the individual situation of prisoners and where appropriate; that it includes social rehabilitation activities.

The discussions also revealed that Romania intends, in the near future, to put in place a national prevention mechanism in application of the optional Protocol to the UN Convention against Torture and Cruel, Inhuman or Degrading Treatment or Punishment.

The importance of the work done by the People's Ombudsman, the prison authorities and the new co-ordinating authorities set up by the General Inspectorate of the Romanian Police in respect of police detention centre to ensure that unsatisfactory conditions of detention are improved was also underlined, even if these bodies cannot be considered an effective remedy within the meaning of the Convention.

Attention was also drawn to the importance of several measures aimed at harmonising the practices of national courts in dealing with applications concerning the conditions in which remand prisoners and convicted prisoners are held, notably the improvement of the training of judges and the use, where appropriate, of the new procedure of preliminary reference to the High Court of Cassation and Justice.

2. Workshop on the execution of judgments of the European Court of Human Rights concerning conditions of detention and effectives remedies to challenge these conditions

Sofia, 18-19 December 2014[18]

Concluding remarks

Introduction

1. The participants stressed the necessity of viewing the problem of detention conditions as part of a coherent criminal system, with good cooperation between all actors involved, notably policy makers, prison administrations, probation services, social services, prosecutors and judges. The ongoing efforts to put in place such a system were noted and encouraged. The participants recalled in this context the guidance provided by the case-law of the European Court for Human Rights (the European Court), the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and other European standards.

a. Addressing structural problems

2. All participants welcomed the recent Action Plan submitted, on 8 December 2014, by the Government to the Committee of Ministers of the Council of Europe in the context of the supervision of the *Kehayov* group of judgments of the European Court. The participants noted in particular the positive developments achieved since 2012 as regards the reduction in prison population, although the underlying reasons for this decrease were subject to discussions. The necessity of continuous monitoring of the situation was underlined.

3. There was agreement that the most immediate problem in Bulgaria relates to the poor material detention conditions. The urgent need to thoroughly refurbish a number of existing detention facilities, or in the alternative to build new ones, was stressed and this in the interest of both detainees and prison staff. Existing proposals, including the construction of a new prison, made by the Director of the Chief Directorate for the Execution of Punishments were noted, as were also different initiatives of modernisation of prison facilities (including construction of new prisons) in neighbouring states. The need to seek solutions which will allow the authorities to rapidly improve the material conditions of detention, if necessary by continuing to explore all possibilities of support and cooperation at national and European level, was also raised.

4. As regards the long term solution to the overcrowding problem, a number of considerations were addressed, notably the necessity to resort to preventive detention only when recourse to all other alternative security measures were fully

18. The document should not be regarded as placing on the legal instruments mentioned therein any official interpretation capable of binding the governments of member States, the Council of Europe's statutory organs or any organ set up by virtue of the European Convention on Human Rights.

exhausted, the decriminalisation of certain petty offences, better dealt with in an administrative form, special educational arrangements for minors, the necessity of a revision of sentencing and prisoner allocation policies as many persons in closed wards were kept there for offences of limited gravity, the criteria for risk assessments of those undergoing closed ward prison sentences in order to decide on transfers to semi open or open prisons, the appropriateness of compulsory closed ward detention for recidivists, the practices used for plea bargaining to avoid prison sentences, the acceptance of only one suspension of sentence, the possibilities offered by new practices of electronic bracelets (and the necessity of keeping the duration controlled and combining these practices with the necessary supportive measures) and community service. Especially, the need to make better use of alternative measures to imprisonment and conditional release was stressed, including the accompanying need to strengthen and develop probation services.

5. The participants also underlined the importance of further developing out of cell activities, as well as education and work opportunities.

6. The necessity of providing information and explanations to the public about choices made in the criminal justice field was considered of great importance.

7. The Italian and Scottish experiences in all the above areas, notably in order to limit detention in closed wards to situations where this is strictly necessary, to develop out of cells activities, education and work opportunities and to provide adequate resocialisation activities, including family contacts, were noted with great interest.

8. The instauration of a national preventive mechanism within the Ombudsman's Office since 2012 was welcomed and the information provided as to the results of the first years of activity noted with interest. The importance of rapid publication (including over the internet) of reports and statistics was underlined, both in the interest of prison administrations, administrative courts and prosecutors responsible for providing effective remedies.

b. Setting up effective preventive and compensatory remedies

9. The basis for the discussions about the possibilities to set up effective compensatory and preventive remedies was the Bulgarian Constitution's incorporation of the European Convention on Human Rights as domestic law, with priority over ordinary national legislation.[19] It was stressed that the Convention had to be interpreted in light of the case-law of the European Court of Human Rights, in particular that developed through judgments against Bulgaria. The unconditional obligation to secure the existence of effective remedies was also underlined.

10. The participants considered that, as a result of the developments in the case-law of the Supreme Administrative Court, Article 1 of the State and Municipalities Liability for Damage Act 1988 had, in principle, laid the basis for an effective compensatory

19. Article 5 § 4 of the Constitution of Bulgaria stipulates that international treaties which have been ratified in accordance with the constitutionally established procedure and promulgated, and have entered into force with respect to the Republic of Bulgaria, are part of the country's domestic law. They shall have precedence over any provisions of domestic legislation which contravene them.

remedy for the purposes of Article 13 of the Convention, even if certain adjustments of practice were still required, to fully incorporate all requirements emerging from the European Court's case-law (burden of proof of the detained person limited to provide a prima face case, thereafter up to authorities to prove that detention conditions conform with the Convention, acceptance of a presumption in favour of the existence of moral damages, ensuring a level of such damages bearing a reasonable relationship with awards made by the Court itself).

11. The participants also noted that there existed a legal framework which, read in the light of the Convention requirements as regards detention conditions, was capable of providing the basis for an efficient preventive remedy in case of alleged violations of these requirements (also largely reproduced in Article 36§2 of the Criminal Code), and that the first cases brought appeared to confirm the capacity of the framework to provide speedy and effective preventive redress in such situations (actions under Articles 250, 256-257 of the Code of Administrative Procedure or the specific provisions regarding transfers in Articles 62-64 of the Execution of Punishments and Pre-Trial Detention Act 2009), if developed into a consistent Convention compatible judicial practice. The possibility of combining remedial preventive orders with monetary penalties was noted (Article 290 of the Code of Administrative Procedure).[20]

12. The complex interactions between the preventive and compensatory remedies were noted, including the question of whether or not to require the exhaustion of preventive remedies before allowing recourse to the compensatory remedy. It was felt that the complex issues raised required further consideration.

13. The Italian experience in setting up effective remedies in the wake of the pilot judgment of *Torreggiani v. Italy* (43517/09, 22635/03) was noted with great interest, notably the option of ensuring compensation for poor detention conditions not by a sum of money but through a reduction of sentence at a rate of 1 day's reduction for 10 days of detention where a judge found that the detention conditions had violated the European Convention on Human Rights; this system allowed to reserve monetary compensation to situations where such reduction of sentence could not take place (in principle the last periods of detention before release).

14. All participants underlined that recourse to judicial remedies should be exceptional in that the major responsibility for ensuring Convention conform prison conditions and ensuring speedy procedures for the handling of complaints rested with the prison administration (notably through improved training of prison staff

20. Article 250 § 1 of the Code of Administrative Procedure 2006, which came into effect on 1 March 2007, provides that any person who has the requisite legal interest may request the cessation of actions carried out by an administrative authority or a public official that have no basis in the law or in an administrative decision. The request is to be made to the competent administrative court (Article 251 § 1), which has to deal with it immediately (Article 252 § 1) and, having made the necessary inquiries (Article 252(2)-(4)), rule forthwith (Article 253 § 1). The court's decision is subject to appeal, which does not have suspensive effect (Article 254 §§ 1 and 2). Articles 256 and 257 of the same Code, which likewise came into force on 1 March 2007, provide that a person may bring proceedings to enjoin an administrative authority to carry out an action that it has the duty to carry out under a legal provision. If the court allows the claim, it must order the authority to carry out the action within a fixed time-limit.

and the provision of adequate resources) and the ordinary supervision mechanisms, including the prosecutor services.

15. All actors involved agreed that all the means available should be used to ensure Convention conform detention conditions and the effectiveness of the preventive and compensatory remedy, whilst also taking into account the immediate practical problems manifested through the legislation postponing to 2019 the imposition of a general obligation to meet the 4 m^2 requirement for minimum living space per prisoner in collective cells. Particularly as regards this last issue, the participants stressed nevertheless the necessity to take all relevant measures to avoid violations of the Convention, taking into account the Court's case-law in general (notably as regards the relevance of out of cell, educational and work activities or other arrangements capable of alleviating minor shortcomings in cell space) and possible specific additional indications provided by the Court in judgments against Bulgaria or by the Committee of Ministers when supervising the execution of these judgments.[21]

3. Round Table on "Action Plans and Reports in the twin-track supervision procedure"

Strasbourg, 13-14 October 2014

Unofficial conclusions

On the 13-14 October 2014, the Council of Europe (Department of the Execution of Judgments) organised a Round Table in Strasbourg dedicated to Action Plans and Reports for the execution of the European Court's judgments.

Action Plans/Reports constitute one of the foundations of the new twin-track procedure introduced in January 2011 and are considered to be the practical expression of the principle of subsidiarity. In accordance with this principle, the primary responsibility for the execution of judgments lies with States, who can choose the methods with which to implement them, under the Committee of Minister's supervision.

More than three years since the new supervision procedure was put in place, the objective of the round table was to take stock of the practices and developments as well as of the difficulties encountered in the drafting of action Plans and Reports. The opportunity was also taken to explore all of their potential within the framework of the process of execution of the Court's judgments.

Action Plans and Reports: an added value to the execution process

The participants noted from the outset that every year since the entry into force of the new working methods, the Committee has been able to close many more cases than in the past and the execution process is speedier for many of the new cases.

The participants also underlined the major contribution that Action Plans and Reports have given to the transparency and dynamism of the process of the execution of judgments. In this regard, they noted that, in a number of countries, the

21. The cases regarding detention conditions in Bulgaria are presently regrouped in the *Kehayov* group of cases – see § 2.

proactivity of the authorities in defining and putting into action the measures required by the Court's judgments and responding to the decisions taken by the Committee of Ministers has improved considerably.

Some participants highlighted the importance of including all actors concerned in the drafting of an Action Plan, including national parliaments and civil society. Moreover, examples presented by the participants during the round table illustrated the important potential of Action Plans in the development of efficient synergies, in particular to find answers to complex and/or structural problems that States are called upon to resolve.

The participants noted with interest the examples given of constructive national debates surrounding key issues and the way in which these debates have enabled key actors to unite at the national level around an Action Plan which had been largely approved.

The participants agreed that these examples constituted good practices which should be a useful source of inspiration.

Action Plans and Reports: possibilities for improvement

Some participants reported the need to have signals, at an early stage that the proposed Action Plan would correspond to the expectations of the Committee of Ministers. Other participants, underlining and relying on the principle of subsidiarity, commented that early dialogue should only be envisaged in specific situations relating to the most complex problems.

The participants also underlined the importance of ensuring that Action Plans and Reports are understandable and easy to read, in particular for people external to the legal system concerned. This would enable the problems raised by the Court's judgments to be easily identified, and give a better understanding of the relevance of the measures taken or envisaged by the authorities, as well as the authorities' reasons for proposing the adoption of such measures with an indicative timetable. It was also noted in this regard that good quality translation of documents drafted in national languages into one of the two official languages of the Council of Europe contributes to their clarity and easiness to read. Moreover, in order to facilitate access to this information, the participants further underlined that there should be a large dissemination in the national language of Action Plans and Reports, as well as the related decisions of the Committee of Ministers. The participants also welcomed as sources of inspiration national initiatives presented which aim to publish Action Plans and Reports in national languages on easily accessible sites, including in particular the site of the authority directly concerned by the execution measures.

Attention was also drawn to measures to ensure careful and efficient drafting of Action Plans / Reports including the preparation of templates for the drafting of documents by the authority concerned, the establishment of a specific structure for the drafting of such documents and the putting in place of liaison officers.

In the same context, focus was given to the importance of providing regular training to all those involved in the drafting of these Action Plans and Reports, on the European Court's jurisprudence and the requirements of execution.

Certain participants pointed out difficulties in providing a provisional timetable, notably if the adoption of legislative measures was required. It was nevertheless indicated that such timetables, even if they are purely indicative and susceptible to change, facilitate the execution process both at national and European level. In any event, the participants considered that it was important to ensure, through regular updates to Action Plans, the necessary transparency about the activities undertaken by authorities, and to avoid a situation where the absence of information raises unnecessary questions.

The participants agreed that the quality and visibility both at national and European level could be further improved. In this regard, a large number of participants drew attention to the need for States to allocate sufficient resources (in the broad sense) at the national level, deployed at an appropriate level of authority. Such resources should ensure a real capacity to mobilise all of actors in the execution process, to coordinate them effectively and to draft, in good time, the necessary Action Plans / Reports which should be clear, moderate, convincing and progressive, if the circumstances so require. Everyone agreed that the primary responsibility for execution must lie where there is a competency to execute the judgment.

Finally, it was underlined that an Action Plan can also be usefully inspired by what has already been done by national actors on the same issues aimed at other bodies/ international organisations such as the United Nations; it is not necessary to reinvent the wheel but to build synergies instead.

The participants also took note with great interest of the Department of Execution's initiative to prepare a manual for the drafting of Action Plans / Reports. They also considered that it would be useful to update the compilation of domestic mechanisms for the rapid implementation of the Court's judgments which had been prepared in the context of the Tirana Round-Table (15-16 December 2011).

Action Plans and Reports: future perspectives

Given the increasing interest shown by the Court on questions of execution, Action Plans and their implementation, together with Action Reports can be important sources of information for the Court, and even a driving force for greater interaction with it.

The discussions also covered the question of greater involvement of national parliaments in the drafting and follow up of Action Plans, beyond the Government's annual reports to national parliaments which are already in place in a number of States.

The participants also noted with interest the important existing and potential interaction between cooperation programmes and execution. They noted the important role that a clear and convincing Action Plan can play in this context in order to progress the measures identified by the authorities, even – when complex problems are present – at the drafting stage of the Action Plan, because the cooperation programmes place expertise and a range of suggestions at the authorities' disposition which will allow them to better exercise the margin of appreciation which they have in the choice of means.

Finally, the round table highlighted that the implementation, even the enhancement of the Committee of Minister's Recommendation CM/Rec(2008)2 to member states on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights, should be afforded particular attention in future reflections on the improvement of execution of the judgments of the European Court of Human Rights.

B. Other developments

Initiatives of Greek authorities for the promotion at national level of human rights and the execution of judgments of the European Court of Human Rights

A Permanent Committee was created within the Greek Parliament by decision adopted in plenary session (J.O. 263A'/ 10.12.13). Its role is to monitor judgments and decisions of the European Court of Human Rights, in particular those against Greece, in order to follow up and evaluate their execution.

In addition, Greece has ratified the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment of the United Nations (J.O. 7A'/10.1.2014).

Initiatives of Bulgarian authorities in respect of the execution of judgments of the European Court of Human Rights

The practice, initiated in 2013, to submit an Annual report to the National Assembly on the execution of judgments of the European Court of Human Rights, has already become a regular one. Such a report was thus adopted by the Council of Ministers in 2014 and submitted to the National Assembly in order to increase awareness on issues related to the full and timely execution of all judgments of the Court.

Moreover, visits between Governments' Agents in other Council of Europe member states have taken place with the aim to exchange good practices on the execution of certain judgments. These visits served also the purpose of advancing further bilateral cooperation and provided food for thought on national or joint initiatives to accelerate the execution of judgments.

Appendix 7 – The Committee of Minister's supervision of the execution of judgments and decisions – scope and procedure

Introduction

1. The efficiency of the execution of judgments and of the Committee of Ministers' supervision thereof (generally, carried out at the level of the Minister's Deputies) have been at the heart of the efforts over the last decade to guarantee the long term efficiency of the Convention system (see also Chapter III). The Committee of Ministers thus reaffirmed at its 120th session in May 2010, in the pursuit of the Interlaken process started at the Interlaken High Level Conference in February 2010 "*that prompt and effective execution of the judgments and decisions delivered by the Court is essential for the credibility and effectiveness of the Convention system and a determining factor in reducing the pressure on the Court*." The Committee added that "*this requires the joint efforts of member States and the Committee of Ministers*".

2. As a consequence, the Committee of Ministers instructed its Deputies to step up their efforts to make execution supervision more effective and transparent. In line herewith the Deputies adopted new modalities for the supervision process as of 1 January 2011 (see section B below). As noted in the Annual Report 2011, these new modalities proved their value and the Deputies confirmed them in December 2011. The necessity of further developments of the Committee of Ministers' supervision procedure was discussed at the High Level Conference in Brighton in April 2012. The matter has thereafter been the object of further discussions in the Committee of Ministers, in its working party GT-REF.ECHR and in the Steering Committee for Human Rights – see also Chapter III above).

3. The above efforts and developments have not changed the main elements of the obligation to abide by the Court's judgments. These have thus largely remained the same: redress must be provided to the individual applicant and further similar violations prevented. Certain developments have, nevertheless taken place. For instance, the continuing problem of repetitive cases has drawn the attention on the importance of prevention of new violations, including by rapidly setting up effective remedies.

4. The statistics for 2014 (see appendix 1) continue to confirm the Committee of Ministers positive assessments in 2013 and 2012 of the results of the new working methods, and notably that the priority system for the examination of cases, inherent to the new twin-track supervision procedure, enables the Committee of Ministers to focus its supervision efforts efficiently on the most important cases.

A. Scope of the supervision

5. The main features of the Contracting States' undertaking "*to abide by the final judgment of the Court in any case to which they are parties*" are defined in the Committee of Ministers' Rules of Procedure[22] (Rule 6.2). The measures to be taken are of two types.

6. The first type of measures – **individual measures** – concern the applicants. They relate to the obligation to erase the consequences suffered by them because of the violations established so as to achieve, as far as possible, *restitutio in integrum*.

7. The second type of measures – **general measures** – relate to the obligation to prevent violations similar to that or those found or putting an end to continuing violations. In certain circumstances they may also concern the setting up of remedies to deal with violations already committed (see also §36).

8. The obligation to take individual measures and provide redress to the applicant has two aspects. The first is, for the State, to provide any just satisfaction - normally a sum of money - which the Court may have awarded the applicant under Article 41 of the Convention.

9. The second aspect relates to the fact that the consequences of a violation for the applicants are not always adequately remedied by the mere award of a just satisfaction by the Court or the finding of a violation. Depending on the circumstances, the basic obligation of achieving, as far as possible, *restitutio in integrum* may thus require further actions, involving for example the reopening of unfair criminal proceedings, the destruction of information gathered in breach of the right to privacy, the enforcement of an unenforced domestic judgment or the revocation of a deportation order issued against an alien despite a real risk of torture or other forms of illtreatment in the country of destination. The Committee of Ministers issued a specific Recommendation to member States in 2000 inviting them *"to ensure that there exist at national level adequate possibilities to achieve, as far as possible, "restitutio in integrum"* and, in particular, *"adequate possibilities of re-examination of the case, including reopening of proceedings, in instances where the Court has found a violation of the Convention"* (Recommendation No. R(2000)2)[23].

10. The obligation to take general measures aims at preventing violations similar to the one(s) found and may, depending on the circumstances, imply a review of legislation, regulations and/or judicial practice. Some cases may even involve constitutional changes. In addition, other kinds of measures may be required such as the refurbishing of a prison, increase in the number of judges or prison personnel or improvements of administrative procedures.

11. When examining general measures today, the Committee of Ministers pays particular attention to the efficiency of domestic remedies, in particular where the

22. Called, since 2006, "Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements".
23. Cf. Recommendation No. R(2000)2 on the re-examination or reopening of certain cases at domestic level following judgments of the European Court of Human Rights and Explanatory memorandum.

judgment reveals[24] important structural problems (see also as regards the Court Section C below). The Committee also expects competent authorities to take different provisional measures, notably to find solutions to possible other cases pending before the Court[25] and, more generally, to prevent as far as possible new similar violations, pending the adoption of more comprehensive or definitive reforms.

12. These developments are intimately linked with the efforts to ensure that execution supervision contributes to limit the important problem of repetitive cases in line with Recommendations CM/Rec(2004)6 and CM/Rec(2010)3 on domestic remedies and the recent developments of the Court's case-law as regards the requirements of Article 46, notably in different "pilot judgments" adopted to support on-going execution processes (see Section C below).

13. In addition to the above considerations, the scope of the execution measures required is defined in each case on the basis of the conclusions of the European Court in its judgment, considered in the light of the Court's case-law and Committee of Ministers practice[26], and relevant information about the domestic situation. In certain situations, it may be necessary to await further decisions by the Court clarifying outstanding issues.

14. As regards the payment of just satisfaction, the execution conditions are usually laid down with considerable detail in the Court's judgments (deadline, recipient, currency, default interest, etc.). Payment may nevertheless raise complex issues, e.g. as regards the validity of powers of attorney, the acceptability of the exchange rate used, the incidence of important devaluations of the currency of payment, the acceptability of seizure and taxation of the sums awarded etc. Existing Committee of Ministers practice on these and other frequent issues is detailed in a memorandum prepared by the Department for the execution of judgments of the Court (document CM/Inf/DH(2008)7final).

15. As regards the nature and the scope of other execution measures, whether individual or general, the judgments are generally silent. As stressed by the Court on numerous occasions, it belongs in principle to the respondent State to identify these measures under the Committee of Ministers' supervision. In this respect, national authorities may, in particular, find inspiration in the important practice developed over the years by other States, and in relevant Committee of Ministers Recommendations. In an increasing number of cases, the judgment of the Court will also seek to provide assistance – so called "judgments with indication of interest for execution (under Article 46)". In certain situations, the Court will even indicate specific execution measures (see below section C.).

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24. Whether as a result of the Court's findings in the judgment itself or of other information brought forward during the Committee of Ministers' examination of the case, *inter alia* by the respondent state itself.
25. Measures accepted by the Court include, besides the adoption of effective domestic remedies, also practices aiming at the conclusion of friendly settlements and/or adoption of unilateral declarations (see also the Committee of Ministers' Resolution Res(2002)59 concerning the practice in respect of friendly settlements).
26. See e.g. the judgments of the Court in the case of *Broniowski v. Poland*, judgment of 22/06/2004, § 194, in *Ramadhi v. Albania*, judgment of 13/11/2007, § 94, in *Scordino v. Italy*, judgment of 29/03/2006, § 237.

16. This situation can be explained by the principle of subsidiarity, according to which respondent States are, in principle, free to choose the means to be put in place in order to meet their obligations under the Convention. However this freedom goes hand-in-hand with the Committee of Ministers' control. As a consequence, in the course of its execution supervision, the Committee of Ministers, may adopt, if necessary, decisions or Interim Resolutions in view of taking stock of the execution progress, and, where appropriate, encourage or express its concerns, make Recommendations or give directions with respect to execution measures required.

17. The direct effect more and more frequently granted to the European Court's judgments by the domestic courts and national authorities, greatly facilitates the adoption of the necessary execution measures, both as regards adequate individual redress and rapid Development of domestic law and practices to prevent similar violations, including by improving the efficiency of domestic remedies. Where execution through such direct effect is not possible, other avenues will have to be pursued, most frequently legislative or regulatory.

18. The Directorate General of Human Rights and Rule of Law, represented by the Department for the Execution of Judgments of the European Court, assists the Committee of Ministers with the supervision of the measures taken by the States in the execution of the Court's judgments[27]. The States can, in the context of their reflection on the needed execution measures, request different forms of support from the Department (advice, legal expertise, round tables and other targeted cooperation activities).

B. New supervision modalities: a twin-track approach to improve prioritization and transparency

Generalities

19. The new modalities for the Committee of Ministers' supervision, developed in response to the Interlaken process, remain within the more general framework set by the Rules adopted by the Committee of Ministers in 2006[28]. As from their entry into force in 2011, they have brought important changes to the working methods applied since 2004 in order to improve efficiency and transparency of the supervision process[29].

27. In so doing the Directorate General continues a tradition which has existed ever since the creation of the Convention system. By providing advice based on its knowledge of the practice in the field of execution over the years and of the Convention requirements in general, the Directorate General contributes, in particular, to the consistency and coherence of state practice in execution matters and of the Committee of Ministers' supervision of execution.
28. The currently applicable Rules were adopted on 10/05/2006 (964th meeting of the Ministers' Deputies). On this occasion the Deputies also decided *"bearing in mind their wish that these rules be applicable with immediate effect to the extent that they do not depend on the entry into force of Protocol No. 14 to the European Convention on Human Rights, that these rules shall take effect as from the date of their adoption, as necessary by applying them mutatis mutandis to the existing provisions of the Convention, with the exception of Rules 10 and 11".* As a result of the Russian ratification of Protocol No. 14, the rules in their entirety entered into force on 1 June 2010.
29. The documents which explain the reform more in depth are presented on the Committee of Ministers web site and on the web site of the Department for the Execution of Judgments and decisions of the European Court (see notably CM/Inf/DH(2010)37 and CM/Inf/DH(2010)45 final).

20. The new 2011 modalities stress the subsidiary nature of the supervision and thus the leadership role that national authorities, i.e. governments, courts and parliaments must play in defining and securing rapid implementation of required execution measures.

Identification of priorities: twin track supervision

21. In order to meet the call for increased efficiency the new modalities provide for a new twin track supervision system allowing the Committee to concentrate on deserving cases under what is called "enhanced supervision". Other cases will be dealt with under "standard supervision". The new modalities thus also give more concrete effect to the existing priority requirement in the Rules (Rule 4).

22. The cases which from the outset are liable to come under "enhanced supervision" are identified on the basis of the following criteria:

- Cases requiring urgent individual measures;
- Pilot judgments;
- Judgments otherwise disclosing major structural and/or complex problems as identified by the Court and/or by the Committee of Ministers;
- Interstate cases;

The classification decision is taken at the first presentation of the case to the Committee of Ministers.

23. The Committee of Ministers may also decide at any phase of the supervision procedure to examine any case under the enhanced procedure upon request of a member State or the Secretariat (see also paragraph 32 below). Similarly, a case under enhanced supervision may subsequently be transferred to standard supervision when the developments of the national execution process no longer justify an enhanced supervision.

Continuous supervision based on Action Plans/Reports

24. The new working methods of 2011 have introduced a *new, continuous supervision* of the execution process. Indeed, all cases are under the permanent supervision of the Committee of Ministers which should receive, in real time, relevant information concerning the execution progress. Insofar as, in addition, all cases are now considered as being inscribed on the agenda of all Human Rights meetings and may also be inscribed on the agenda of ordinary meetings, the Committee can respond rapidly to developments where necessary.

25. The new modalities also confirm the development that the Committee of Minister's supervision is to be based on A*ction Plans* or A*ction Reports* prepared by competent State authorities[30]. The Action Plans / Reports present and explain the measures planned or taken in response to the violation(s) established by the

30. This system was partially put in place already in June 2009 as the Committee of Ministers formally invited States to henceforth provide, within six months of a judgment becoming final, an Action Plan or an Action Report as defined in document CM/Inf/DH(2009)29rev.

European Court and should be submitted as soon as possible and, in any event, not later than 6 months after a judgment or decision has become final.

Transparency

26. In response to the call for increased transparency, the Committee of Ministers has decided that such plans and reports, together with other relevant information provided *will be promptly, made public (…), except where a motivated request for confidentiality is made at the time of submitting the information*, in which case it may be necessary to await the next Human Rights meeting to allow the Committee to decide the matter (see Rule 8 and decision taken at the 1100th Human Rights meeting, item "e").

27. The information received is in principle published on the web. This rule allows national parliaments, different State authorities, lawyers, representatives of civil society, national institutions for the promotion and protection of human rights, applicants and other interested persons to follow closely the development of the execution process in the different cases pending before the Committee. The applicants' submissions should in principle be limited to matters relating to the payment of just satisfaction and to possible individual measures (Rule 9).

28. As from 2013, the Committee of Ministers publishes also some 3-4 weeks before each HR meeting, the indicative list of cases proposed to be inscribed for detailed examination at the HR meeting.

Practical modalities

29. Under the framework of the *"standard supervision" procedure*, the Committee of Ministers' intervention is limited. Such intervention is provided for solely to confirm, when the case is first put on the agenda, that it is to be dealt with under this procedure, and, subsequently, to take formal note of Action Plans / Reports. Developments are, however, closely followed by the Department for execution of judgments. Information received and evaluations made by the Department are circulated as rapidly as possible in order to ensure that the Committee of Ministers can promptly intervene in case of need and *transfer the case* to the "enhanced supervision" procedure to define appropriate responses to new developments.

30. The classification under the *"enhanced supervision" procedure*, ensures that the progress of execution is closely followed by the Committee of Ministers and facilitates the support of domestic execution processes, e.g. in the form of adoption of specific decisions or interim Resolutions expressing satisfaction, encouragement or concern, and/or providing suggestions and Recommendations as to appropriate execution measures (Rule 17). The Committee of Ministers' interventions may, depending on the circumstances, take other forms, such as declarations by the Chair or high-level meetings. The necessity of translating relevant texts into the language(s) of the State concerned and ensuring their adequate dissemination is frequently underlined (see also Recommendation CM/Rec(2008)2).

31. At the request of the authorities or of the Committee, the Department may also be led to contribute through various targeted cooperation and assistance activities

(legislative expertise, consultancy visits, bilateral meetings, working sessions with competent national authorities, round-tables, etc.). Such activities are of particular importance for the cases under enhanced supervision.

Simplified procedure for the supervision of payment of just satisfaction

32. As regards *the payment of just satisfaction*, supervision has been simplified under the new working methods of 2011 and greater importance has been laid on applicants' responsibility to inform the Committee of Ministers in case of problems. This way, the Department for the execution of the Court's judgments limits itself in principle to register the payments of the capital sums awarded by the Court, and, in case of late payment, of the default interest due. Once this information has been received and registered the cases concerned are presented under a special heading on the Department's website (www.coe.int/execution) indicating that the applicants now have two months to bring any complaints to the attention of the Department. Applicants have before had been informed through the letters accompanying the European Court's judgments that *it is henceforth their responsibility to rapidly react to any apparent shortcoming* in the payment, as registered and published. If such complaints are received, the payment will be subject to a special examination by the Department, and if necessary, the Committee of Ministers itself.

33. If no complaint has been received within the two months deadline, the issue of payment of just satisfaction is considered closed. It is recalled that the site devoted to payment questions is now available in different languages (Albanian, French, Greek, Romanian, Russian and English- further language versions are under way).

Necessary measures adopted: end of supervision

34. When the respondent State considers that *all necessary execution measures have been taken*, it submits to the Committee a final Action Report proposing the closure of the supervision. Then starts running a six month period within which other States may submit possible comments or questions as regards the measures adopted and their ability to fully ensure the execution. To assist the Committee, the Secretariat also makes a detailed evaluation of the Action Report. If its evaluation is consistent with the one submitted by the authorities of the respondent State, a draft Final Resolution will thereafter be presented to the Committee for its adoption. If a divergence remains, it is submitted to the Committee for consideration of the issue(s) raised. When the Committee considers that all the necessary execution measures have been taken, the supervision concludes with the adoption of a Final Resolution (Rule 17).

C. Increased interaction between the Court and the Committee of Ministers

35. The European Court's interaction with the Committee of Ministers, in implementing Article 46, is constantly evolving. For several years now, the Court contributes to the execution process more and more frequently and in various ways, e.g.

by providing, itself, in its judgments, Recommendations as to relevant execution measures ("pilot" judgments and "judgments with indication of interest for execution (under Article 46)" in that the Court considers different questions linked with execution without resorting to a full-fledged pilot judgment procedure) or more recently by providing relevant information in letters addressed to the Committee of Ministers.

36. Today, the European Court thus provides such Recommendations notably in respect of individual measures in a growing number of cases. Pursuant to Article 46, it may in certain circumstances, also decide the effect that should be given to the violation finding, order directly the adoption of relevant measures and fix the time limit within which the action should be undertaken. For example, in case of arbitrary detention, *restitutio in integrum* will necessarily require, among other things, release from detention. Thus, in several cases, the Court has ordered immediate release of the applicant[31].

37. Moreover, in the context of general measures, notably in the "pilot" judgment procedure, the Court examines nowadays in more detail the causes behind the structural problems, with a view to making, where appropriate, Recommendations or more detailed indications, and even require the adoption of certain measures within specific deadlines (see Rule 61 of the Rules of Court). In this context, to support more complex execution processes, the Court has used the "pilot" judgment procedure across a range of contexts[32], generating, or risking to generate, an important number of repetitive cases, notably in order to insist on the rapid setting up of effective domestic remedies and to find solutions for already pending cases[33]. (*For further information on "Pilot" judgments and other judgments with indications of interest for execution, under Article 46, brought before the Committee of Ministers in 2013, see the E. table below).*

38. The improved prioritisation in the framework of the new working modalities and the development of the Court's practices, in particular as regards "pilot" judgment procedures, appear to make it possible to limit significantly the number of repetitive cases linked to important structural problems (especially where "pilot" judgment procedures are combined with the "freezing" of the examination of all similar pending applications).

D. Friendly settlements

39. The supervision of the respect of undertakings made by States in friendly settlements accepted by the European Court follows in principle the same procedure as the one outlined above.

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31. See *Assanidze v. Georgia*, No. 71503/01, judgment of 08/04/2004, *Ilascu v. Republic of Moldova and Russian Federation*, No. 48787/99, judgment of 08/07/2004 and *Fatullayev v. Azerbaijan*, No. 40984/07, judgment of 22/04/2010.
32. See for instance *Broniowski v. Poland* (application No. 31443/96; Grand Chamber judgment of 22/06/2004 – pilot judgment procedure brought to an end on 06/10/2008); *Hutten-Czapska v. Poland* (application no. 35014/97, Grand Chamber judgment of 19/06/2006 and Grand Chamber friendly settlement of 28/04/2008).
33. See e.g. *Burdov No. 2 v. Russian Federation*, No. 33509/04, judgment of 15/01/2009; *Olaru v. Republic of Moldova*, No. 476/07, judgment of 28/07/2009 and *Yuriy Nikolayevich Ivanov v. Ukraine,* No. 40450/04, judgment of 15/10/2009.

Appendix 8: Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of the friendly settlements

I. General provisions

Rule 1

1. The exercise of the powers of the Committee of Ministers under Article 46, paragraphs 2 to 5, and Article 39, paragraph 4, of the European Convention on Human Rights, is governed by the present Rules.

2. Unless otherwise provided in the present Rules, the general rules of procedure of the meetings of the Committee of Ministers and of the Ministers' Deputies shall apply when exercising these powers.

Rule 2

1. The Committee of Ministers' supervision of the execution of judgments and of the terms of friendly settlements shall in principle take place at special human rights meetings, the agenda of which is public.

2. If the chairmanship of the Committee of Ministers is held by the representative of a High Contracting Party which is a party to a case under examination, that representative shall relinquish the chairmanship during any discussion of that case.

Rule 3

When a judgment or a decision is transmitted to the Committee of Ministers in accordance with Article 46, paragraph 2, or Article 39, paragraph4, of the Convention, the case shall be inscribed on the agenda of the Committee without delay.

Rule 4

1. The Committee of Ministers shall give priority to supervision of the execution of judgments in which the Court has identified what it considers a systemic problem in accordance with Resolution Res(2004)3 of the Committee of Ministers on judgments revealing an underlying systemic problem.

2. The priority given to cases under the first paragraph of this Rule shall not be to the detriment of the priority to be given to other important cases, notably cases where the violation established has caused grave consequences for the injured party.

Rule 5

The Committee of Ministers shall adopt an annual report on its activities under Article 46, para-graphs2 to 5, and Article 39, paragraph 4, of the Convention, which shall be made public and transmitted to the Court and to the Secretary General, the Parliamentary Assembly and the Commissioner for Human Rights of the Council of Europe.

II. Supervision of the execution of judgments

Rule 6
Information to the Committee of Ministers on the execution of the judgment

1. When, in a judgment transmitted to the Committee of Ministers in accordance with Article 46, paragraph 2, of the Convention, the Court has decided that there has been a violation of the Convention or its protocols and/or has awarded just satisfaction to the injured party under Article41 of the Convention, the Committee shall invite the High Contracting Party concerned to inform it of the measures which the High Contracting Party has taken or intends to take in consequence of the judgment, having regard to its obligation to abide by it under Article 46, paragraph 1, of the Convention.

2. When supervising the execution of a judgment by the High Contracting Party concerned, pursuant to Article 46, paragraph 2, of the Convention, the Committee of Ministers shall examine:

a. whether any just satisfaction awarded by the Court has been paid, including as the case may be, default interest; and

b. if required, and taking into account the discretion of the High Contracting Party concerned to choose the means necessary to comply with the judgment, whether:

   i. individual measures[34] have been taken to ensure that the violation has ceased and that the injured party is put, as far as possible, in the same situation as that party enjoyed prior to the violation of the Convention;

   ii. general measures[35] have been adopted, preventing new violations similar to that or those found or putting an end to continuing violations.

34. For instance, the striking out of an unjustified criminal conviction from the criminal records, the granting of a residence permit or the reopening of impugned domestic proceedings (see on this latter point Recommendation Rec(2000)2 of the Committee of Ministers to member states on the reexamination or reopening of certain cases at domestic level following judgments of the European Court of Human Rights, adopted on 19 January 2000 at the 694th meeting of the Ministers' Deputies).

35. For instance, legislative or regulatory amendments, changes of case-law or administrative practice or publication of the Court's judgment in the language of the respondent state and its dissemination to the authorities concerned.

Rule 7
Control intervals

1. Until the High Contracting Party concerned has provided information on the payment of the just satisfaction awarded by the Court or concerning possible individual measures, the case shall be placed on the agenda of each human rights meeting of the Committee of Ministers, unless the Committee decides otherwise.

2. If the High Contracting Party concerned informs the Committee of Ministers that it is not yet in a position to inform the Committee that the general measures necessary to ensure compliance with the judgment have been taken, the case shall be placed again on the agenda of a meeting of the Committee of Ministers taking place no more than six months later, unless the Committee decides otherwise; the same rule shall apply when this period expires and for each subsequent period.

Rule 8
Access to information

1. The provisions of this Rule are without prejudice to the confidential nature of the Committee of Ministers' deliberations in accordance with Article 21 of the Statute of the Council of Europe.

2. The following information shall be accessible to the public unless the Committee decides otherwise in order to protect legitimate public or private interests:

a. information and documents relating thereto provided by a High Contracting Party to the Committee of Ministers pursuant to Article 46, paragraph 2, of the Convention;

b. information and documents relating thereto provided to the Committee of Ministers, in accordance with the present Rules, by the injured party, by non-governmental organisations or by national institutions for the promotion and protection of human rights.

3. In reaching its decision under paragraph 2 of this Rule, the Committee shall take, inter alia, into account:

a. reasoned requests for confidentiality made, at the time the information is submitted, by the High Contracting Party, by the injured party, by non-governmental organisations or by national institutions for the promotion and protection of human rights submitting the information;

b. reasoned requests for confidentiality made by any other High Contracting Party concerned by the information without delay, or at the latest in time for the Committee's first examination of the information concerned;

c. the interest of an injured party or a third party not to have their identity, or anything allowing their identification, disclosed.

4. After each meeting of the Committee of Ministers, the annotated agenda presented for the Committee's supervision of execution shall also be accessible to the public and shall be published, together with the decisions taken, unless the

Committee decides otherwise. As far as possible, other documents presented to the Committee which are accessible to the public shall be published, unless the Committee decides otherwise.

5. In all cases, where an injured party has been granted anonymity in accordance with Rule 47, paragraph 3 of the Rules of Court; his/her anonymity shall be preserved during the execution process unless he/she expressly requests that anonymity be waived.

Rule 9
Communications to the Committee of Ministers

1. The Committee of Ministers shall consider any communication from the injured party with regard to payment of the just satisfaction or the taking of individual measures.

2. The Committee of Ministers shall be entitled to consider any communication from nongovernmental organisations, as well as national institutions for the promotion and protection of human rights, with regard to the execution of judgments under Article 46, paragraph 2, of the Convention.

3. The Secretariat shall bring, in an appropriate way, any communication received in reference to paragraph 1 of this Rule, to the attention of the Committee of Ministers. It shall do so in respect of any communication received in reference to paragraph 2 of this Rule, together with any observations of the delegation(s) concerned provided that the latter are transmitted to the Secretariat within five working days of having been notified of such communication.

Rule 10
Referral to the Court for interpretation of a judgment

1. When, in accordance with Article 46, paragraph 3, of the Convention, the Committee of Ministers considers that the supervision of the execution of a final judgment is hindered by a problem of interpretation of the judgment, it may refer the matter to the Court for a ruling on the question of interpretation. A referral decision shall require a majority vote of two thirds of the representatives entitled to sit on the Committee.

2. A referral decision may be taken at any time during the Committee of Ministers' supervision of the execution of the judgments.

3. A referral decision shall take the form of an Interim Resolution. It shall be reasoned and reflect the different views within the Committee of Ministers, in particular that of the High Contracting Party concerned.

4. If need be, the Committee of Ministers shall be represented before the Court by its Chair, unless the Committee decides upon another form of representation. This decision shall be taken by a two-thirds majority of the representatives casting a vote and a majority of the representatives entitled to sit on the Committee.

Rule 11
Infringement proceedings

1. When, in accordance with Article 46, paragraph 4, of the Convention, the Committee of Ministers considers that a High Contracting Party refuses to abide by a final judgment in a case to which it is party, it may, after serving formal notice on that Party and by decision adopted by a majority vote of two-thirds of the representatives entitled to sit on the Committee, refer to the Court the question whether that Party has failed to fulfil its obligation.

2. Infringement proceedings should be brought only in exceptional circumstances. They shall not be initiated unless formal notice of the Committee's intention to bring such proceedings has been given to the High Contracting Party concerned. Such formal notice shall be given ultimately six months before the lodging of proceedings, unless the Committee decides otherwise, and shall take the form of an Interim Resolution. This Resolution shall be adopted by a majority vote of two-thirds of the representatives entitled to sit on the Committee.

3. The referral decision of the matter to the Court shall take the form of an Interim Resolution. It shall be reasoned and concisely reflect the views of the High Contracting Party concerned.

4. The Committee of Ministers shall be represented before the Court by its Chair unless the Committee decides upon another form of representation. This decision shall be taken by a two-thirds majority of the representatives casting a vote and a majority of the representatives entitled to sit on the Committee.

III. Supervision of the execution of the terms of friendly settlements

Rule 12
Information to the Committee of Ministers on the execution of the terms of the friendly settlement

1. When a decision is transmitted to the Committee of Ministers in accordance with Article 39, paragraph 4, of the Convention, the Committee shall invite the High Contracting Party concerned to inform it on the execution of the terms of the friendly settlement.

2. The Committee of Ministers shall examine whether the terms of the friendly settlement, as set out in the Court's decision, have been executed.

Rule 13
Control intervals

Until the High Contracting Party concerned has provided information on the execution of the terms of the friendly settlement as set out in the decision of the Court, the case shall be placed on the agenda of each human rights meeting of the

Committee of Ministers, or, where appropriate,[36] on the agenda of a meeting of the Committee of Ministers taking place no more than six months later, unless the Committee decides otherwise.

Rule 14
Access to information

1. The provisions of this Rule are without prejudice to the confidential nature of the Committee of Ministers' deliberations in accordance with Article 21 of the Statute of the Council of Europe.

2. The following information shall be accessible to the public unless the Committee decides otherwise in order to protect legitimate public or private interests:

a. information and documents relating thereto provided by a High Contracting Party to the Committee of Ministers pursuant to Article 39, paragraph 4, of the Convention;

b. information and documents relating thereto provided to the Committee of Ministers in accordance with the present Rules by the applicant, by non-governmental organisations or by national institutions for the promotion and protection of human rights.

3. In reaching its decision under paragraph 2 of this Rule, the Committee shall take, inter alia, into account:

a. reasoned requests for confidentiality made, at the time the information is submitted, by the High Contracting Party, by the applicant, by non-governmental organisations or by national institutions for the promotion and protection of human rights submitting the information;

b. reasoned requests for confidentiality made by any other High Contracting Party concerned by the information without delay, or at the latest in time for the Committee's first examination of the information concerned;

c. the interest of an applicant or a third party not to have their identity, or anything allowing their identification, disclosed.

4. After each meeting of the Committee of Ministers, the annotated agenda presented for the Committee's supervision of execution shall also be accessible to the public and shall be published, together with the decisions taken, unless the Committee decides otherwise. As far as possible, other documents presented to the Committee which are accessible to the public shall be published, unless the Committee decides otherwise.

5. In all cases, where an applicant has been granted anonymity in accordance with Rule 47, paragraph 3 of the Rules of Court; his/her anonymity shall be preserved during the execution process unless he/she expressly requests that anonymity be waived.

36. In particular where the terms of the friendly settlement include undertakings which, by their nature, cannot be fulfilled within a short time span, such as the adoption of new legislation.

Rule 15
Communications to the Committee of Ministers

1. The Committee of Ministers shall consider any communication from the applicant with regard to the execution of the terms of friendly settlements.

2. The Committee of Ministers shall be entitled to consider any communication from nongovernmental organisations, as well as national institutions for the promotion and protection of human rights, with regard to the execution of the terms of friendly settlements.

3. The Secretariat shall bring, in an appropriate way, any communication received in reference to paragraph 1 of this Rule, to the attention of the Committee of Ministers. It shall do so in respect of any communication received in reference to paragraph 2 of this Rule, together with any observations of the delegation(s) concerned provided that the latter are transmitted to the Secretariat within five working days of having been notified of such communication.

IV. Resolutions

Rule 16
Interim Resolutions

In the course of its supervision of the execution of a judgment or of the terms of a friendly settlement, the Committee of Ministers may adopt Interim Resolutions, notably in order to provide information on the state of progress of the execution or, where appropriate, to express concern and/or to make suggestions with respect to the execution.

Rule 17
Final Resolution

After having established that the High Contracting Party concerned has taken all the necessary measures to abide by the judgment or that the terms of the friendly settlement have been executed, the Committee of Ministers shall adopt a Resolution concluding that its functions under Article 46, paragraph 2, or Article 39 paragraph 4, of the Convention have been exercised.

Decision adopted by the Committee of Ministers on 2 December 2010 at the 1100th meeting of the Ministers' Deputies

Decision adopted at the 1100th meeting of the Committee of Ministers – 2 December 2010

The Deputies,

1. decided to implement the new, twin-track supervision system with effect from 1 January 2011 taking into account the transitional provisions set out below;

2. decided that, as from that date, all cases will be placed on the agenda of each DH meeting of the Deputies until the supervision of their execution is closed, unless the Committee were to decide otherwise in the light of the development of the execution process;

3. decided that action plans and action reports, together with relevant information provided by applicants, nongovernmental organisations and national human rights institutions under rules 9 and 15 of the Rules for the supervision of execution judgments and of the terms of friendly settlements will be promptly made public (taking into account Rule 9§ 3 of the Rules of supervision) and put on line except where a motivated request for confidentiality is made at the time of submitting the information;

4. decided that all new cases transmitted for supervision after 1 January 2011 will be examined under the new system;

Following the last ratification required for the entry into force of Protocol No. 14 to the European Convention on Human Rights in February 2010, Rules 10 and 11 have taken effect on 1st June 2010.

Appendix 9 – Where to find further information on execution of the ECtHR judgments

Further information on the supervision by the Committee of Ministers of the execution of ECtHR judgments, on the cases mentioned in the Annual reports, as well as on all other cases, is available on the web sites of the Committee of Ministers and of the Execution Department.

Such information comprises notably:

- Summaries of violations in cases submitted for execution supervision
- Summaries of the developments of the execution situation ("state of execution")
- Memoranda and other information documents submitted by States or prepared by the Secretariat
- Action Plans/Reports
- Communications from applicants
- Communications from NGO's and NHRI's
- Decisions and Interim Resolutions adopted
- Various reference texts

On the Committee of Ministers website ("Human rights meetings") – www.coe.int/cm – **the information is in principle presented by meeting or otherwise in chronological order.**

On the special Council of Europe website, in the page dedicated to the execution of the ECtHR's judgments, kept by the Department for the Execution of Judgments of the ECtHR (Directorate General of Human Rights and Rule of Law – DG1) – www.coe.int/execution – **the pending cases are presented and sortable by State, type of supervision procedure, type of violation and date of judgment.**

As a general rule, information concerning the state of progress of the adoption of the execution measures required is published shortly after each HR meeting and published on the internet sites of the Committee of Ministers and the Department for the Execution of Judgments of the Court.

The text of Resolutions adopted by the Committee of Ministers is regularly updated and can also be found through the HUDOC database on www.echr.coe.int.

Appendix 10 – "Human Rights" meetings and Abbreviations

A. Committee of Ministers' HR meetings in 2013 and 2014

Meeting No.	Meeting Dates
1164	05-07/03/2013
1172	04-06/06/2013
1179	24-26/09/2013
1186	03-05/12/2013
1193	04-06/03/2014
1201	03-05/06/2014
1208	23-25/09/2014
1214	02-04/12/2014

B. General abbreviations

AR 2007-14	Annual Report 2007-2014
Art.	Article
CDDH	Steering Committee on Human Rights
CM	Committee of Ministers
CMP	Committee on Missing Persons in Cyprus
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
ECHR	European Convention on Human Rights and Fundamental Freedoms
European Court	European Court of Human Rights
HRTF	Human Rights Trust Fund
GM	General Measures
HR	"Human Rights" meeting of the Ministers' Deputies
IM	Individual Measures
IR	Interim Resolution
NGO	Non-governmental organisation
NHRI	National Human Rights Institutions
Prot.	Protocol
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees

C. Country codes[37]

ALB	Albania	LIT	Lithuania
AND	Andorra	LUX	Luxembourg
ARM	Armenia	MLT	Malta
AUT	Austria	MDA	Republic of Moldova
AZE	Azerbaijan	MCO	Monaco
BEL	Belgium	MON	Montenegro
BIH	Bosnia and Herzegovina	NLD	Netherlands
BGR	Bulgaria	NOR	Norway
CRO	Croatia	POL	Poland
CYP	Cyprus	PRT	Portugal
CZE	Czech Republic	ROM	Romania
DNK	Denmark	RUS	Russian Federation
EST	Estonia	SMR	San Marino
FIN	Finland	SER	Serbia
FRA	France	SVK	Slovak Republic
GEO	Georgia	SVN	Slovenia
GER	Germany	ESP	Spain
GRC	Greece	SWE	Sweden
HUN	Hungary	SUI	Switzerland
ISL	Iceland	MKD	"The former Yugoslav Republic of Macedonia"
IRL	Ireland	TUR	Turkey
ITA	Italy	UKR	Ukraine
LVA	Latvia	UK.	United Kingdom
LIE	Liechtenstein		

37. These codes result from the CMIS database, used by the Registry of the European Court of Human Rights, and reproduce the ISO 3166 codes, with a few exceptions (namely: Croatia = HRV; Germany = DEU; Lithuania = LTU; Montenegro = MNE; Romania = ROU; Switzerland = CHE; United Kingdom = GBR).

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The Committee of Ministers' annual report presents the status of execution of the main judgments of the European Court of Human Rights by the member States of the Council of Europe. It also provides statistics and information on cases still pending or closed during the year.

The Chairs of the Committee of Ministers' Human Rights meetings again note positive results for 2014. They underline the importance of developing better synergies, between domestic and European actors, along with better coordination between the execution process and the Council of Europe's cooperation activities. These themes are further developed by the Director General of the Directorate General of Human Rights and Rule of Law, in particular in light of the present positive dynamics between certain key actors of the Convention system.

The shared responsibility of the different actors in the system will also be at the heart of an important High Level Conference to be held on 26-27 March 2015 in Brussels, organised by the Belgian Chairmanship of the Committee of Ministers and titled: "Implementing the European Convention on Human Rights: A shared responsibility".

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The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, 28 of which are members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

COUNCIL OF EUROPE

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