Parliamentary Assembly
Assemblée parlementaire
https://pace.coe.int

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 13304
16 September 2013

The progress of the Assembly's monitoring procedure (June 2012 – September 2013)

Report[1]
Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)
Rapporteur: Mr Andres HERKEL, Estonia, Group of the European People's Party

Summary

In its annual progress report, the Monitoring Committee gives account of its activities since June 2012 and assesses how far the 10 countries under the Assembly's full monitoring procedure, as well as the four countries engaged in a post-monitoring dialogue, are fulfilling their Council of Europe obligations and commitments. It welcomes progress or expresses concern at setbacks, and addresses specific recommendations to each State.

The committee also gives a more substantial and analytical – as compared to past years – overview of the compliance with statutory obligations by the remaining 33 Council of Europe member States which are not under any specific monitoring. It notes among other things: worrying developments in the situation of Roma; ongoing problems with the treatment of migrants, refugees and minorities in some countries; structural problems leading to delays in executing judgments of the European Court of Human Rights; and unsatisfactory compliance with anti-corruption recommendations.

Finally, the committee urges continued reflection on how to improve the Council of Europe's various monitoring mechanisms, and resolves to pursue new ways to enhance the efficiency and impact of its own monitoring.

1. Reference to committee: Resolution 1115 (1997).

Contents **Page**

A. Draft resolution 3
B. Draft recommendation 8
C. Explanatory memorandum by Mr Herkel, rapporteur 9
1. Introduction 9
2. Overview of the committee's activities 10
2.1. General remarks 10
2.2. Overview of the country-specific monitoring over the reporting period 11
2.3. Countries engaged in a post-monitoring dialogue 15
2.4. Other issues concerning the fulfilment of obligations and commitments 17
3. Overview of the member States which are not under the monitoring procedure or involved in the post-monitoring dialogue 18
3.1. General remarks 18
3.2. Countries not under specific monitoring procedure 19
4. Proposals concerning the development of the monitoring procedure 54
Appendix – Chart of ratification and signatures of the main Council of Europe conventions with a monitoring mechanism by 33 countries which are not under the monitoring procedure or involved in the post-monitoring dialogue (as at 7 August 2013) 60

A. Draft resolution[2]

1. The Parliamentary Assembly acknowledges the work carried out by the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) in fulfilling its mandate as defined in Resolution 1115 (1997) and modified by Resolutions 1431 (2005), 1515 (2006), 1710 (2010) and 1936 (2013).

2. In particular, the Assembly commends the committee on its action in accompanying 10 countries under specific monitoring (Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, the Republic of Moldova, Montenegro, the Russian Federation, Serbia and Ukraine), and four countries engaged in a post-monitoring dialogue (Bulgaria, Monaco, "the former Yugoslav Republic of Macedonia" and Turkey) in their efforts to fully comply with the obligations and commitments they entered into upon accession to the Council of Europe.

3. Furthermore, the Assembly expresses its satisfaction at the new approach adopted by the committee in the progress report with respect to the monitoring of the 33 member States which are not under a specific procedure, regarding their compliance with the statutory obligations they entered into upon accession; it encourages the committee to pursue its reflection on possible ways to increase the efficiency and impact of its monitoring of these countries with regard to the respect for democracy and the rule of law and the protection of human rights.

4. Moreover, the Assembly takes note of the committee's continued work on the consequences of the war between Georgia and Russia and regrets that, despite the announced intention by the co-rapporteurs on the Russian Federation and on Georgia to visit Moscow, Tbilisi, Tskhinvali and Sukhumi during a joint mission led by the Chair of the committee, only the visit to Moscow and Tbilisi took place, in May 2013, due to the rejection of this initiative by the *de facto* authorities of the breakaway regions. The Assembly endorses the committee's decision to closely follow developments with regard to the consequences of the war and engage in a dialogue with the *de facto* authorities in Sukhumi and Tskhinvali without status-related preconditions, if it receives signals that such a wish for dialogue exists.

5. The Assembly notes with satisfaction that the committee accomplished its task of preparing a written opinion on the motion for a resolution on "Serious setbacks in the fields of the rule of law and human rights in Hungary", and submitted it, in accordance with the Rules of Procedure, to the Bureau of the Assembly, thus enabling the Assembly to hold a debate on the subject.

6. During the reporting period, the committee produced full monitoring reports on Montenegro, the Russian Federation, Azerbaijan and the Republic of Moldova, and reports on post-monitoring dialogue with Bulgaria, Turkey and "the former Yugoslav Republic of Macedonia". The committee approved a preliminary draft report on the post-monitoring dialogue with Monaco and transmitted it to the authorities for comments, which were subsequently considered by the committee. The committee also approved a report on the functioning of democratic institutions in Bosnia and Herzegovina in September 2013.

7. The respective rapporteurs carried out fact-finding visits to: Albania, Azerbaijan (3 visits), Bosnia-Herzegovina (2 visits), Georgia (2 visits), the Republic of Moldova, the Russian Federation (2 visits), Ukraine, Bulgaria, Monaco, "the former Yugoslav Republic of Macedonia", Turkey (2 visits), Montenegro and Hungary. The rapporteur on Bulgaria and the co-rapporteurs on Hungary paid visits to the European Commission in Brussels. The respective rapporteurs also participated in the pre-electoral and/or electoral missions to the following countries: Armenia, Georgia, Montenegro, Ukraine, Bulgaria and Monaco.

8. The respective co-rapporteurs also submitted information notes on Albania, Bosnia and Herzegovina and Georgia; these were declassified by the committee.

9. In the framework of the preparation of reports on specific countries, during the reporting period, the committee requested the legal expertise of the European Commission for Democracy through Law (Venice Commission) with regard to legal acts in Azerbaijan, Hungary, Georgia, Monaco, "the former Yugoslav Republic of Macedonia", Ukraine and the Russian Federation. In June 2012, it held an exchange of views with the President of the Venice Commission, Mr Gianni Buquicchio, and the Director, Mr Thomas Markert.

10. The committee organised a hearing on frozen conflicts in the framework of its meeting in Tallinn in May 2013, conceived as a follow-up to the hearing held in Berlin in 2007, with the participation of experts on Abkhazia and South Ossetia, on Nagorno-Karabakh and on Transnistria.

---

2. Draft resolution adopted unanimously by the committee on 6 September 2013.

11. Furthermore, the committee held an exchange of views with Ms Ursula Gacek, Chair of the Committee of Ministers' Group of Rapporteurs on Democracy (GR-DEM), on possible ways to enhance co-operation, and continued its reflection on this subject at subsequent meetings. The committee also held an exchange of views with Mr Thorbjørn Jagland, Secretary General of the Council of Europe, during the reporting period.

12. The committee held an exchange of views with the participation of Mr Štefan Füle, European Commissioner on European Union Enlargement and Neighbourhood Policy.

13. The Assembly expresses its satisfaction at some positive developments in a number of countries under the monitoring or post-monitoring procedure over the reporting period. It welcomes, in particular: in Albania, the improved co-operation between the ruling party and the opposition, which has allowed for a number of important laws and reforms that needed a two-thirds majority to be passed in parliament; in Armenia, the presidential election, which, according to the international observers' assessment, was well administered with respect for fundamental freedoms and constituted a clear improvement in the electoral process in the country; in Montenegro, the substantial progress made since 2010 towards the fulfilment of its remaining obligations and commitments towards the Council of Europe and in particular ratification of 83 conventions and adoption of many laws and constitutional amendments in the field of the rule of law, democracy and human rights; in Ukraine, the continuing efforts displayed by the Ukrainian authorities to reform the judiciary, as well as the release of Mr Yuri Lutsenko following a presidential pardon; in Bulgaria, the substantial progress made towards the fulfilment of its remaining obligations; in Turkey, a process of major reform which is taking place against a complex background of political transition involving the judiciary and the army, and progress in bringing the legislation into line with the European Convention on Human Rights (ETS No. 5), the resumption of talks by the authorities with a view to finding a political solution to the Kurdish question and promoting the cultural and linguistic rights of the Kurds.

14. At the same time, the Assembly expresses its concern about worrying developments in some of the countries under the monitoring procedure and post-monitoring dialogue. In particular: in Albania, with regard to the ineffective delivery of justice, discrimination against minorities and the social exclusion of Roma, as well as corruption and money laundering based on organised crime; in Azerbaijan, with regard to the lack of independence of the judiciary and restrictions on basic freedoms, including freedom of expression, freedom of assembly and freedom of association, as well as the reports about alleged political prisoners and alleged cases of torture and ill-treatment by the police; in Bosnia and Herzegovina, with regard to the lack of substantial constitutional reform which would enable the full functioning of democratic institutions, as well as the lack of progress in implementation of the judgment of the European Court of Human Rights ("the Court") in the case of *Sejdić and Finci*; in Georgia, with regard to the difficult cohabitation and a number of arrests of leading members of the opposition and, more generally, the independence of the judiciary and the administration of justice; in the Republic of Moldova, with regard to the need for revision of Article 78 of the Constitution, insufficient efforts in the fight against corruption, the reform of the Prosecutor's Office and the police, and the independence of the judiciary; in Montenegro, with regard to the need for further progress in five key areas, namely the judiciary, minority rights, the fight against corruption and organised crime, the media and the situation of refugees and internally displaced persons (IDPs); in the Russian Federation, with regard to a number of recently adopted laws restricting basic freedoms (the law on the criminalisation of defamation, on the Internet, on assemblies, on non-governmental organisations (NGOs) and on propaganda of homosexuality to minors), as well as serious concerns about politically motivated justice, reinforced by recent judgments against Mr Alexei Navalny and the late Mr Sergei Magnitsky; in Ukraine, with regard to the deficiencies of the judicial system and criminal proceedings initiated against a number of former government members on controversial charges; in Monaco, with regard to the tensions which characterised the electoral campaign and the outstanding reforms to be accomplished; in "the former Yugoslav Republic of Macedonia", with regard to the division of the country across both political and ethnic lines and the implementation of remaining laws; in Turkey, with regard to the concerns about the Criminal Code, restrictions on freedom of expression and pre-trial detention, taking note of the progress in the aforementioned fields.

15. With respect to the countries which are not subject to the monitoring procedure *stricto sensu*, the Assembly expresses its concern that a number of these countries have not signed and/or ratified some major Council of Europe conventions, thus preventing convention mechanisms attached to them from monitoring their implementation.

16. Furthermore, the Assembly is concerned about worrying developments in some of these countries with regard to the situation of Roma, in particular Roma segregation, including segregation of Roma children in schools in the Czech Republic; the lack of personal identity or citizenship documents of many Roma in Croatia; the evictions of Roma travellers in France, Italy and the United Kingdom; forced repatriations to

Kosovo*[3] from Germany; the precarious situation of stateless Roma in the Netherlands; social exclusion, including segregation in schools and various forms of discrimination, in Portugal, the Slovak Republic and Slovenia; and insufficient Roma integration policies in Spain;

17. Other problems in some of these countries have been identified by different Council of Europe monitoring mechanisms: in Andorra, indirect discrimination in employment based on citizenship and the government's reluctance to enact comprehensive legislation against racism and discrimination; in Austria, some concerns with regard to the rights of asylum-seekers, women and persons with disabilities; in Belgium, Greece and France, restrictions on defenders of migrants' rights; in Denmark, discrimination in employment, education and housing, as well as restrictive rules for spousal reunification; in Estonia, the unemployment rate among non-Estonians is still disproportionately high compared to that of ethnic Estonians; in Greece, hate crimes targeting migrants as well as incidents of State violence against migrants and refugees; in Ireland, insufficient rights for asylum-seekers; in Liechtenstein, unsatisfactory legislation on foreigners and administrative legal framework aimed at combating racial discrimination in all fields of life; in Malta, the increasing number of incidents of State violence against migrants and refugees; in Poland, the increased number of racially motivated offences; in the Slovak Republic, the lack of adequate policies with respect to the integration of refugees; in Switzerland, the growth of racist political discourse against non-citizens and insufficiently developed legislation to deal with direct racial discrimination.

18. The Assembly expresses its concern that a number of these countries, including Greece, Italy, Poland and Romania, face major structural problems leading to delays in the execution of judgments of the European Court of Human Rights.

19. Moreover, with respect to this group of countries, the Assembly is concerned by the conclusions of the third round compliance reports on the implementation of the Civil Law Convention on Corruption (ETS No. 174) and the Criminal Law Convention on Corruption (ETS No. 173) and its Additional Protocol (ETS No. 191). It is particularly worrying that the degree of compliance with the recommendations of the Council of Europe's Group of States against Corruption (GRECO) is considered "globally unsatisfactory" in the case of the Czech Republic, Germany, Greece, the Netherlands, Portugal, the Slovak Republic and Slovenia.

20. Consequently, the Assembly urges all countries which remain under the specific monitoring procedure or are engaged in a post-monitoring dialogue to fulfil the remaining obligations and commitments entered into upon on accession to the Council of Europe, and in particular it calls on:

20.1. the Parliament of Albania to pursue work on reform and step up efforts to improve co-operation between the ruling party and the opposition;

20.2. the Parliament and the authorities of Azerbaijan to create conditions which would allow for a fair electoral campaign and presidential election, in compliance with democratic standards;

20.3. the Parliament of Bosnia and Herzegovina to carry out a substantial constitutional reform which would allow the country to become a fully functioning democracy; to revise the Constitution and electoral legislation with a view to eliminating ethnicity-based limitations on the right to stand for office, in order to comply with the standards of the European Convention on Human Rights; to implement the *Sejdi and Findic* judgment of the European Court of Human Rights; to introduce reforms in the judiciary, the fight against corruption and regarding governance;

20.4. the authorities of Georgia to ensure that the legal proceedings against former government officials, including the former Prime Minister and the former Minister of Health, are conducted transparently and in full compliance with Georgia's obligations under Articles 5 and 6 of the European Convention on Human Rights;

20.5. the Parliament of the Republic of Moldova to pursue the reform process, including the necessary revision of the Constitution;

20.6. the Parliament of Montenegro to make further progress, in five key areas, namely the judiciary, minority rights, the fight against corruption and organised crime, the media and the situation of refugees and internally displaced persons;

3. * All reference to Kosovo, whether to 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.

20.7. the Parliament of the Russian Federation to revise controversial laws adopted recently, in particular the law on the criminalisation of defamation, on Internet, on assemblies, on NGOs (law "on foreign agents") and on the propaganda of homosexuality to minors; to ensure that the executive authorities refrain from exercising influence on the judiciary;

20.8. the authorities of Ukraine to implement the newly adopted laws and strategies in order to ensure an independent and impartial judiciary that fully respects the principles of the rule of law, and to use available legal means to release Ms Yulia Timoshenko given that the judicial procedure leading to her conviction has raised heavy criticism;

20.9. the National Council of Monaco to adopt the legislation recommended by the Parliamentary Assembly in 2009 in its Resolution 1690 (2009);

20.10. the Parliament of Turkey to continue its reform programme, such as further reform of the Constitution and continued revision of the Criminal Code, as well as to ensure progress on freedom of expression, pre-trial detention, local and regional decentralisation and resolving the Kurdish question, taking note of the ongoing reconciliation process.

21. With respect to the honouring of obligations by the countries which are not subject to the monitoring procedure *stricto sensu,* the Assembly calls on:

21.1. Andorra, Belgium, Estonia, Greece, Ireland, Latvia, Lithuania, Portugal and San Marino to sign and ratify, and France, Iceland, Italy and Malta to ratify the European Charter for Regional or Minority Languages (ETS No. 148);

21.2. Andorra and France to sign and ratify, and Belgium, Greece, Iceland and Luxembourg to ratify the Framework Convention for the Protection of National Minorities (ETS No. 157);

21.3. the Czech Republic and Liechtenstein to sign and ratify, and Estonia and Greece to ratify the Convention on Action against Trafficking in Human Beings (CETS No. 197);

21.4. Denmark, France, Lithuania, Malta, Poland, Sweden, Switzerland and the United Kingdom to sign and ratify, and Austria, Belgium, the Czech Republic, Estonia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Norway, Portugal and the Slovak Republic to ratify Protocol No. 12 to the European Convention on Human Rights (ETS No. 177) concerning the fight against discrimination;

21.5. Switzerland to ratify Protocol No. 1 to the European Convention on Human Rights (ETS No. 9), adding the right to peaceful enjoyment of property, the right to education and the right to free elections by secret ballot to the fundamental rights protected by the Convention;

21.6. Liechtenstein and Switzerland to sign and ratify, and Croatia, the Czech Republic, Denmark, Germany, Greece, Iceland, Luxembourg, Poland, San Marino, Spain and the United Kingdom to ratify the European Social Charter (revised) (ETS No. 163);

21.7. Andorra, Austria, Denmark, Estonia, Germany, Hungary, Iceland, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Poland, Romania, San Marino, the Slovak Republic, Spain, Switzerland and the United Kingdom to sign and/or ratify the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (ETS No. 158) or to accept the complaints procedure pursuant to Article D.2 of the European Social Charter (revised), as the case may be;

21.8. Liechtenstein, Portugal, San Marino and Switzerland to sign and ratify, and Andorra, Denmark, Germany, Iceland, Ireland, Luxembourg and the United Kingdom to ratify the Civil Law Convention on Corruption;

21.9. Austria, Germany, Liechtenstein and San Marino to ratify the Criminal Law Convention on Corruption;

21.10. Andorra, the Czech Republic, Germany, Ireland, Liechtenstein, Lithuania, Norway, Switzerland and the United Kingdom to sign and ratify, and Austria, Denmark, Estonia, Finland, France, Greece, Iceland, Italy, Luxembourg and Sweden to ratify the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism;

21.11. the Parliaments of Greece, Italy, Poland and Romania to promote progress in the implementation of judgments of the European Court of Human Rights, and to initiate legislative changes aimed at eliminating structural problems leading to repeated violations of the European Convention on Human Rights.

22. Furthermore, the Assembly urges these countries to fully comply with recommendations made by the respective monitoring mechanisms of the Council of Europe, and in particular calls on:

22.1. the Croatia, Czech Republic, France, Germany, Italy, the Netherlands, Portugal, the Slovak Republic, Slovenia, Spain and the United Kingdom to undertake the necessary measures to remedy the situation of Roma, eliminate their social exclusion and educational segregation, as well as all forms of discrimination, to enhance integration policies and to refrain from forced evictions and repatriations;

22.2. Andorra, Austria, Belgium, Greece, France, Denmark, Estonia, Ireland, Liechtenstein, Malta, the Slovak Republic and Switzerland to eliminate, where appropriate, all forms of discrimination identified by the Council of Europe Commissioner for Human Rights, the European Commission against Racism and Intolerance (ECRI) and the monitoring mechanism of the Framework Convention on the Protection of Minorities;

22.3. Greece, Italy, Poland and Romania to eliminate major structural problems leading to delays in the execution of judgments of the European Court of Human Rights;

22.4. the Czech Republic, Germany, Greece, the Netherlands, Portugal, the Slovak Republic and Slovenia to step up efforts – which so far have been considered “globally unsatisfactory” – to comply with recommendations of the Council of Europe’s Group of States against Corruption (GRECO).

23. The Assembly stresses the importance it attaches to the full independence of rapporteurs on the monitoring of obligations and commitments and the political neutrality of the Monitoring Committee in accomplishing their work.

24. The Assembly commends the remarkable work carried out by the Council of Europe monitoring mechanisms, and the *acquis* they have established over the years. It also welcomes the initiative by the Secretary General of the Council of Europe to launch a process of reflection on the monitoring procedures in the intergovernmental sector of the Organisation, aimed at strengthening and improving co-operation between the different monitoring mechanisms.

25. The Assembly resolves to pursue a more general reflection on ways to enhance the efficiency and the impact of the Assembly monitoring procedures with regard to all Council of Europe member States and takes note of the intention of the Monitoring Committee to establish a working group tasked with the preparation of concrete proposals in this respect.

B. Draft recommendation[4]

1. The Parliamentary Assembly of the Council of Europe refers to its Resolution … (2013) on the progress of the Assembly's monitoring procedure, in which it resolves to pursue a more general reflection on ways to enhance the efficiency and the impact of the Assembly monitoring procedures with regard to all Council of Europe member States.

2. Enhanced co-operation and increased synergy between the Assembly and the Committee of Ministers may largely contribute to improving coherence and strategies in the area of monitoring the obligations and commitments entered into by all members upon accession to the Council of Europe, thus strengthening and improving the procedure. The Assembly commends the remarkable work carried out by the Council of Europe monitoring mechanisms, and the *acquis* they have established over the years.

3. The Assembly calls on the Council of Europe Committee of Ministers to give due consideration to the most recent Assembly monitoring reports on each country, and from now on to systematically put all future Assembly monitoring reports on their agenda.

4. Draft recommendation adopted unanimously by the committee on 6 September 2013.

C. Explanatory memorandum by Mr Herkel, rapporteur

1. Introduction

1. Resolution 1115 (1997) on the setting up of the Monitoring Committee, as modified by Resolutions 1431 (2005), 1515 (2006), 1710 (2010) and 1936 (2013), constitutes the basis for the Parliamentary Assembly's monitoring procedure, defines the mandate of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) and entrusts it with the task of "verifying the fulfilment of obligations assumed by the member States under the terms of the Statute of the Council of Europe (ETS No. 1), the European Convention on Human Rights (ETS No. 5, "the Convention") and all other Council of Europe conventions to which they are parties, as well as honouring of commitments entered into by the authorities of member States upon their accession to the Council of Europe".

2. In accordance with Resolution 1115 (1997), the Monitoring Committee is obliged to report to the Parliamentary Assembly once a year on the general progress of the monitoring procedures. The present report fulfils this obligation for the period between June 2012 and August 2013. Following established practice, as Chair of the committee elected to the post in January 2012, I have been entrusted, for the second consecutive year, with the task of being rapporteur on the committee's activities.

3. Readers familiar with previous progress reports emanating from the Monitoring Committee will notice the different approach I have used for the present report. As a result of the discussions in the committee (to which I refer in more detail in the chapter entitled "Prospects for the development of the monitoring procedure") and with a view to addressing criticism about alleged unequal treatment of countries and double standards with regard to monitoring, I have decided to broaden the scope of my report.

4. In accordance with opinions expressed by some members, and building on the ideas contained in my report of last year, which won the support of the Assembly (see Resolution 1895 (2012)), I have not limited myself to giving an account of the committee's activities concerning the countries under the monitoring procedure and post-monitoring dialogue, but I have also attempted to give a more substantial and analytical overview of the compliance with statutory obligations by the remaining 33 member States which are not under the country-specific procedure.

5. This approach marks a clear difference compared to all earlier progress reports, in which member States not subject to the country-specific procedure did not undergo this kind of analytical scrutiny. In previous years, we attached *in extenso* findings of other Council of Europe monitoring mechanisms without further analysis, assessment or drawing of conclusions. We also divided the 33 countries into three groups and looked at only one group each year, which did not allow for a more general comparative overview. As a result, we were faced with a vast amount of raw data, difficult to read and compare, with no assessment or conclusions. The almost non-existent impact of this part of a progress report (presented as an addendum to the main document) was well illustrated by the very limited discussions it raised.

6. The present report contains a more analytical evaluation of the 33 countries. As in previous years, I have based myself on the findings of the other Council of Europe monitoring mechanisms, but this time I have attempted to critically analyse and process them, and instead of flooding the report with extensive data, I have attempted to identify the most serious concerns in each country with a view to providing readers with sufficient information for possible further action if they deem it useful.

7. This first attempt at introducing a more balanced approach in the treatment of all member States does not prejudge future developments of the monitoring procedure and does not prevent us from trying to improve this exercise. In Chapter 3, I have reflected on different ideas and proposals with regard to the development of the monitoring procedure, taking into account the discussions in the Monitoring Committee and between the President of the Assembly and the Heads of national delegations. I have also formulated concrete proposals for the future.

8. In accordance with established practice, in chapter 2 of this report I have limited myself to references to relevant texts adopted by the Assembly, reports or other public documents prepared by our committee's co-rapporteurs who follow the situation in the respective countries. Where appropriate, I have also used the reports drawn up by the ad hoc committees of the Bureau of the Assembly on election observation in these countries, since this exercise is closely linked to the work carried out by our committee. I have also referred to the conclusions of the European Commission for Democracy through Law (Venice Commission) and other Council of Europe monitoring mechanisms which have been used by committee co-rapporteurs in the preparation of their fact-finding visits.

9. In the draft resolution, following the pattern established in previous progress reports by the Monitoring Committee, I have addressed the recurrent issues and concerns related to the compliance with obligations and commitments by member States. The difference as compared to the past years is that more attention has been drawn to problems identified by the Council of Europe monitoring mechanisms in the 33 States which are not under the country-specific monitoring procedure. I hope that this will satisfy those members who are anxious to ensure equal treatment and better compliance by all member States with their obligations and commitments.

10. As in previous years, I have also appended a chart of ratifications and signatures of the main Council of Europe conventions with a monitoring mechanism.

2. Overview of the committee's activities

2.1. General remarks

11. During the reporting period, ten countries[5] remained under the monitoring procedure and four[6] were engaged in a post-monitoring dialogue. Since June 2012, the committee has produced full monitoring reports on Montenegro, the Russian Federation, Azerbaijan and reports on post-monitoring dialogue on Bulgaria, Turkey and "the former Yugoslav Republic of Macedonia". The committee approved a preliminary draft report on the honouring of obligations and commitments by the Republic of Moldova and a preliminary draft report on the post-monitoring dialogue with Monaco; both were transmitted to the respective authorities for comments which were subsequently considered by the committee. Draft resolutions on the Republic of Moldova and Bosnia and Herzegovina were adopted by the committee in September 2013.

12. With regard to specific files, the committee produced an opinion on the request for the opening of a monitoring procedure in respect of Hungary; in compliance with the Rules of Procedure, it was transmitted to the Bureau and debated in the Assembly. The committee also prepared, discussed and declassified an information note on the consequences of the war between Georgia and Russia.

13. The respective rapporteurs carried out fact-finding visits to: Albania, Azerbaijan (3 visits), Bosnia-Herzegovina (2 visits), Georgia (2 visits), Republic of Moldova, Russian Federation (2 visits), Ukraine, Bulgaria, Monaco, "the former Yugoslav Republic of Macedonia", Turkey (2 visits), Montenegro and Hungary. The rapporteur on Bulgaria and the co-rapporteurs on Hungary paid visits to the European Commission in Brussels. The committee's delegation, composed of the co-rapporteurs on Russia, the co-rapporteurs on Georgia, and led by the Chair of the committee, visited Moscow and Tbilisi. The (co-)rapporteurs also participated in the pre-electoral and/or electoral missions to the following countries: Armenia, Georgia, Montenegro, Ukraine, Bulgaria and Monaco.

14. The respective (co)rapporteurs also submitted information notes on Bosnia and Herzegovina and Georgia; both were declassified by the committee.

15. During the reporting period, the committee requested the legal expertise of the Venice Commission with regard to legal acts in Azerbaijan, Hungary, Georgia, Monaco, "the former Yugoslav Republic of Macedonia", Ukraine and the Russian Federation. In June 2012, it held an exchange of views with the President of the Venice Commission, Mr Gianni Buquicchio, and the Director, Mr Thomas Markert.

16. In September 2012, the committee organised an exchange of views with Ms Ursula Gacek, Chair of the Committee of Ministers' Group of Rapporteurs on Democracy (GR-DEM) on possible ways to enhance co-operation. Reflection on this subject continued in subsequent meetings.

17. In January 2013, the committee held an exchange of views with the participation of Mr Štefan Füle, European Commissioner on European Union Enlargement and Neighbourhood Policy.

18. The committee organised a hearing on frozen conflicts in the framework of its external meeting held in Tallinn in May 2013, conceived as a follow-up to the hearing held in Berlin in 2007, with the participation of experts on Abkhazia and South Ossetia, on Nagorno-Karabakh and on Transnistria, including Ms Jane Morrice, former deputy leader of the Women's Coalition and Senior Negotiator in the peace process in Northern Ireland, Mr Vladimir Socor, Senior Research Fellow, Jamestown Foundation, Mr Svante Cornell, Research Director, Central Asia-Caucasus Institute, Mr Dennis Sammut, Executive Director of the London

5. Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, Republic of Moldova, Montenegro, Russian Federation, Serbia and Ukraine.
6. Bulgaria, Monaco, "the former Yugoslav Republic of Macedonia" and Turkey.

Information Network on Conflicts and State Building (LINKS), Ms Sabine Freizer, European Program Director, International Crisis Group, Mr James Sherr, Fellow, Advanced Research and Assessment Group, Defence Academy of the United Kingdom, and Mr Kamil Calus, Centre for Eastern Studies, Poland. The minutes of the hearing were published.[7]

19. The committee also held an exchange of views with Mr Thorbjørn Jagland, Secretary General of the Council of Europe, in June 2012.

2.2. Overview of the country-specific monitoring over the reporting period

2.2.1. Albania

20. The co-rapporteurs visited Tirana in April 2013. They presented to the committee an information note which was declassified in June 2013.[8] Parliamentary elections were held in the country on 23 June 2013; the Assembly was represented by the ad hoc committee on the observation of elections, in which the co-rapporteurs participated *ex officio*. The report on the observation will be presented to the Assembly during the 4th part session (September-October 2013).[9]

21. The political climate in Albania has changed considerably since the presentation of the last progress report in June 2012, and while tension between the two major political forces is still present, political stalemate has considerably lessened and the opposition has ended its boycott of the work of the parliament. The improved co-operation between the Socialist Party and the Democratic Party has allowed for a number of important laws and reforms that needed a two-thirds majority to be passed in parliament.

22. This positive development is to a large extent a result of the clearly expressed wish of all parties to receive European Union candidate status. A key priority that dominates the political agenda in Albania is its membership application to the European Union, and the authorities have been implementing far-reaching reforms which have been largely consensual and have addressed a number of outstanding accession commitments to the Council of Europe.

23. A number of concerns still persist, including ineffective delivery of justice, discrimination against minorities and the social exclusion of Roma, as well as corruption and money laundering based on organised crime. The politicisation of the events of 21 January 2011, when four protesters were fatally shot by the police during a demonstration in front of the Prime Minister's Office that had turned violent, has negatively affected the institutional independence of the judiciary and the prosecution. The acquittal by the court of the policemen charged with the fatal shootings was widely criticised in Albanian society.

24. Albania's parliamentary elections on 23 June 2013 were assessed by the Assembly observers as competitive and respectful of fundamental freedoms. Extensive amendments to the electoral code, adopted in July 2012, had largely contributed to the improvement of the electoral framework, which generally provided a sound basis for the conduct of democratic elections. However, the atmosphere of mistrust between the two main political forces tainted the electoral environment and undercut the work of the election administration. The boycott of the Central Election Commission by opposition parties following the controversial dismissal of one of its members meant that it conducted the remainder of its work without the quorum necessary to make key decisions.

2.2.2. Armenia

25. There were no visits by the co-rapporteurs in the framework of the monitoring procedure during the reporting period due to the ongoing election cycle in Armenia as well as a change in one co-rapporteurship. Unfortunately, the co-rapporteurs were unable to take part in the ad hoc committee which observed the presidential election of 18 February 2013, or take part in the Assembly's pre-electoral mission in January 2013. The report on the observation of the election was submitted to the Assembly during the 2nd part of 2013 session in April 2013.[10]

26. According to the observers' assessment, the presidential election was generally well-administered and fundamental freedoms, including those of assembly and expression, were respected. Although some key concerns were identified, including misuse of administrative resources and the lack of impartiality on the part

7. AS/Mon/Inf (2013) 13.
8. AS/Mon (2013) 13 rev.
9. Doc. 13296.
10. Doc. 13172.

of the public administration, the observers concluded that there had been clear improvements in the electoral process since the previous presidential election, in particular in the media environment and the legal framework.

2.2.3. Azerbaijan

27. The co-rapporteurs visited the country in June and November 2012, and in June 2013. Resolution 1917 (2013) on the honouring of obligations and commitments was adopted by the Assembly in January 2013.[11]

28. In Resolution 1917 (2013), while recognising the progress made by Azerbaijan with regard to the establishment of the legislative framework in some areas, the Assembly expressed its concern over restrictive application or violations of some laws crucial for the functioning of democratic institutions, the rule of law and respect for human rights.

29. The lack of independence of the judiciary was identified as a concern and the situation with regard to basic freedoms, including freedom of expression, freedom of assembly and freedom of association, was considered to be preoccupying. The reports by human rights defenders and domestic and international non-governmental organisations (NGOs) about the alleged use of so-called fabricated charges against activists and journalists, as well as the combination of the restrictive implementation of freedoms, with unfair trials and undue influence of the executive, resulting in the existence of alleged political prisoners, were considered as most worrying. Alleged cases of torture and other forms of ill-treatment at police stations, as well as impunity of perpetrators, raised major concerns. Corruption also remained a concern.

30. In the statement made following their last visit, the co-rapporteurs expressed concern at the adoption of recent legislative acts, including the Law of Criminalisation of Defamation on the Internet, and the amendments to the Law on NGOs and to the Code of Administrative Offences. They called on the authorities to ensure freedom of expression and to investigate all cases of beatings and harassment reported by some journalists and bring the perpetrators to justice. They raised some cases of detained journalists and activists, and drew the authorities' attention to alleged deficiencies in the judicial procedure. They also raised other concerns with regard to the independence of justice.

31. In the light of the forthcoming presidential election in October 2013, the co-rapporteurs stressed the need for the creation of conditions which would allow for a fair electoral campaign in compliance with democratic standards. The Bureau of the Assembly has already set up an ad hoc committee for the observation of the presidential election; a pre-electoral mission is scheduled for September 2013 and the co-rapporteurs will take part in it.

2.2.4. Bosnia and Herzegovina

32. The co-rapporteurs visited the country in June 2012 and in June 2013. In September 2012 they submitted an information note[12] to the committee. In their oral report to the committee following the latter visit, they proposed holding a debate in the Assembly on the functioning of democratic institutions in Bosnia and Herzegovina during the 4th part of the 2013 session. The committee approved a report in September 2013.[13]

33. The co-rapporteurs stressed that substantial constitutional reform, at both federal and entity levels, was urgently needed in order to turn Bosnia and Herzegovina into a fully functioning democracy. In this context, they pointed to the lack of progress in implementation of the *Sejdić and Finci* judgment of the European Court of Human Rights ("the Court"), and, more generally, in the road map to a credible European Union membership application.

34. Furthermore, they underlined the need for reform of the public administration and its financial sustainability, and they expressed concern about the high level of corruption.

35. They called for an inclusive constitutional process involving all the parties and communities of the country, and they insisted that a population census must take place and must not be politicised.

11. See also the report, Doc. 12270.
12. AS/Mon (2012) 18 rev.
13. Doc. 13300.

2.2.5. Georgia

36. The co-rapporteurs visited the country in December 2012 and in April 2013. In January 2013, they submitted to the committee an information note.[14] Parliamentary elections took place in October 2012; the co-rapporteurs participated *ex officio* in the pre-electoral and electoral observation missions. The report on the observation was presented to the Assembly in January 2013.[15]

37. The political environment has changed dramatically as a result of the change of power during the last elections, which were considered by international observers as competitive and conducted in a democratic manner in line with European standards and Council of Europe commitments despite a polarised and tense election campaign in which serious shortcomings were observed.

38. The formation of the new government was smooth and efficient, but its cohabitation with the President has been difficult and at times acrimonious. Regrettably, the polarisation and rhetoric that characterised the election campaign has not been overcome. This difficult cohabitation is, to an extent, mirrored in the work of the parliament and hinders the normalisation of the political environment. Following the visit in December, the co-rapporteurs called on both the political majority and opposition to fully respect each other's constitutional roles.

39. Since the elections, a number of arrests of leading members of the opposition and ministerial officials for alleged crimes committed under their responsibility during their tenure in office gave rise to allegations of selective and politically motivated justice. The co-rapporteurs expressed their concern about these arrests on several occasions, including in May 2013, when they made a statement in which they called on the Georgian authorities to ensure that the legal proceedings against the former Prime Minister and the former Minister of Health are conducted transparently and in compliance with Georgia's obligations under Articles 5 and 6 of the European Convention on Human Rights.

40. Another concern was raised by a controversial resolution adopted by the parliament in December 2012 in which it recognised 190 persons as political prisoners and another 25 as "political exiles".

41. Despite important reforms initiated by the previous government, the independence of the judiciary and the administration of justice continue to be of great concern to the Assembly. In that respect, recent reforms of the judiciary, with a view to enhancing its independence, were welcomed by the co-rapporteurs. The abuse of prisoners scandal that erupted in September 2012 was an alarm that brought to light systemic deficiencies in the human rights situation in prisons and detention centres.

42. The presidential election in the country is scheduled for October 2013.

2.2.6. Republic of Moldova

43. The co-rapporteurs visited the country in October 2012. They submitted to the committee a preliminary draft report which was considered and transmitted to the authorities of the Republic of Moldova for comments in January 2013. The comments and a revised draft report were then examined by the committee in April 2013. The report was adopted by the committee in September 2013.[16]

44. In the statement at the end of their visit in October 2012, the co-rapporteurs praised the political will of the authorities to fulfil the countries' commitments and obligations towards the Council of Europe. The election of the President in March 2012, which put an end to a three-year political deadlock, strengthened political stability in the country.

45. However, a number of concrete reforms, including the revision of Article 78 of the Constitution, have to be addressed by the parliament in order to avoid repeated political deadlocks in the future. The fight against corruption, the reform of the Prosecutor's Office and the police, and the independence of the judiciary are other priority areas for action and a precondition for the social and economic development of the country.

2.2.7. Montenegro

46. During the reporting period, the co-rapporteurs presented to the Assembly, on behalf of the committee, a report on the honouring of obligations and commitments by Montenegro.[17] Resolution 1890 (2012) was adopted on that occasion.

14. AS/Mon (2013) 04 rev.
15. Doc. 13068.
16. Doc. 13303.

47. The co-rapporteurs noted the substantial progress made by Montenegro since the presentation of the last report in 2010, towards the fulfilment of its remaining obligations and commitments towards the Council of Europe. In particular, by 2012, Montenegro had ratified 83 conventions and adopted many laws in the fields of the rule of law, democracy and human rights. In particular, the progress made by the country in aligning its legislation on elections and citizenship with the Constitution should be commended. It has also taken a leading role in combating discrimination and continues to play a positive role in the stabilisation in the region.

48. While welcoming the efforts to comply with Council of Europe standards, the co-rapporteurs pointed out that the authorities need to make further progress in five key areas, namely the judiciary, minority rights, the fight against corruption and organised crime, the media and the situation of internally displaced persons and refugees.

49. The co-rapporteurs visited the country in July 2013. In their subsequent statement, they encouraged Montenegro to amend its Constitution and legislation to improve its judicial system and build trust in the electoral system. They also expressed concern over the legal status of a large number of internally displaced persons (IDPs) and refugees, who need to obtain identity documents by the end of 2013.

2.2.8. Russian Federation

50. The co-rapporteurs visited the country in July 2012 and in July 2013. The report on the honouring of obligations and commitments[18] and Resolution 1896 (2012) were adopted by the Assembly in October 2012.

51. The report, which covered the last seven years, welcomed some positive steps, such as amendments to the law on political parties, changes in the electoral law and the reintroduction of direct elections of governors as well as a number of reforms in the field of the judiciary and the penitentiary system.

52. However, other measures, such as the law on the constitutional court and four laws adopted by the Duma in June and July 2012 (on the criminalisation of defamation and on the Internet, and amendments to the law on assemblies (the so-called “protest law”) and on non-governmental organisations (the so-called “law on foreign agents”) raised serious concern. Furthermore, deficiencies in and restrictive implementation of other laws crucial for the functioning of democratic institutions and the political environment have led to a deterioration of the conditions for genuine political pluralism.

53. In particular, the implementation of the law “on foreign agents”, launched at the beginning of March 2013, leads to ambiguity and has too broad a scope for interpretation, creating a real threat to the freedom of expression and association.

54. The adoption, in July 2013, of the law on the “propaganda of homosexuality to minors” also gave rise to criticism by the international community and is likely to increase discrimination against the lesbian, gay, bisexual and transgender (LGBT) community.

55. The continuous pre-trial detention of a number of protesters from the “Bolotnaya Square rally” of 6 May 2012 on charges of “mass rioting” has been publicly questioned by human rights defenders, including the members of the Presidential Council on Civil Society Development and Human Rights.

56. Following the announcement in July 2013 of the Court’s decision to jail Mr Alexei Navalny, a Russian protest leader, for five years on charges of embezzlement, the co-rapporteurs expressed their deep concern and observed that the judicial procedures had features of a political process and reinforced doubts about the independence of the judiciary in Russia.

57. In a statement made in July 2013, one of the co-rapporteurs, who is also rapporteur of the Committee on Legal Affairs and Human Rights on “Refusing impunity for the killers of Sergei Magnitsky”, expressed his disappointment at the guilty verdicts against the late Mr Magnitsky pronounced by a Moscow court.

2.2.9. Serbia

58. There were no visits by the co-rapporteurs to Serbia during the reporting period.

17. Doc. 12952.
18. Doc. 13018 and addendum.

59. The co-rapporteurs continue to monitor the situation, which is characterised by the ongoing reform process and positive developments on the European Union membership agenda. Serbia is heading in the right direction, adopting new laws and implementing strategic reforms, in particular in the areas of the judicial system and the fight against corruption and organised crime, including trafficking in human beings and firearms.

2.2.10. Ukraine

60. The co-rapporteurs visited the country in April 2013. The parliamentary elections took place in October 2012; the co-rapporteurs participated *ex officio* in the Assembly's pre-electoral and electoral observation missions. The report on the observation[19] was presented to the Assembly in November 2012.

61. In their final report, the observers concluded that Ukraine's parliamentary elections were "marred by a tilted playing field" which contributed to the dominance of the major economic and financial groups. They pointed to the misuse of administrative resources and a lack of transparency in campaign and party financing, as well as imbalance in media coverage. Serious irregularities were noted in at least 13 constituencies, in five of which the election results were cancelled. The observers expressed "grave concern" at this and said these irregularities were "liable to vitiate the whole electoral process". They made a number of recommendations to resolve the problems noted.

62. In the statement made at the end of their visit in April 2013, the co-rapporteurs welcomed the continuing efforts displayed by the Ukrainian authorities to reform the judiciary, but stressed that the implementation of newly adopted laws and strategies is now essential to ensure an independent and impartial judiciary that fully respects the principles of the rule of law. They welcomed the news that the opposition had decided to return to parliament.

63. The co-rapporteurs also welcomed the release of Yuriy Lutsenko following a presidential pardon, pointing to this development as an important step forward in resolving a situation that has regrettably dominated relations with the European institutions, including the Parliamentary Assembly, and which has hampered Ukraine's further European integration. They expressed the hope that his release would be followed by further steps to satisfactorily resolve the issue of other imprisoned former government officials.

64. Addressing the deficiencies in the judicial system noted in Assembly Resolution 1862 (2012) is crucial if the country is to meet its obligations to the Council of Europe, as well as for the completion of the Association Agreement with the European Union. The co-rapporteurs have stated on several occasions that the conviction of Ms Yulia Timoshenko in the "gas case" amounts to the criminalisation of normal political decision-making. Furthermore, many questions have been raised with regard to the judicial procedure.

65. In December 2012, the committee, on a proposal by the rapporteurs, agreed to request an opinion of the Venice Commission on the draft law on referenda. This draft law is important in the context of the ongoing work by the authorities to amend the Constitution.

2.3. Countries engaged in a post-monitoring dialogue

2.3.1. Bulgaria

66. The rapporteur visited the country in September 2012. He also paid a visit to the European Commission in Brussels in November 2012. In January 2013, he presented, on behalf of the committee, a report on the post-monitoring dialogue with Bulgaria.[20] The Assembly adopted on that occasion Resolution 1915 (2013). Early parliamentary elections took place in Bulgaria in May 2013. The rapporteur participated *ex officio* in the Assembly's pre-electoral and electoral observation missions. The report on the observation was presented to the Assembly in June 2013.[21]

67. The observation mission concluded that the elections were held in a competitive environment, fundamental freedoms were respected and the administration of the elections was well managed, although the campaign was overshadowed by a number of incidents that diminished trust in State institutions and the process was negatively affected by pervasive allegations of vote-buying.

19. Doc. 13070.
20. Doc. 13085.
21. Doc. 13238.

68. The Assembly's Resolution 1915 (2013), while welcoming the substantial progress made by Bulgaria towards the fulfilment of its remaining obligations, decided to continue the current post-monitoring dialogue with the Bulgarian authorities. However, it considered that some steps still need to be taken in a number of key areas, notably with regard to the independence of the judiciary, which has "not always been fully respected", and the fight against corruption and organised crime, with a "lack of results in terms of final court rulings with regard to high profile corruption cases".

2.3.2. Monaco

69. During the reporting period, there were no visits by the rapporteur to Monaco. In October 2012, the committee considered the authorities' comments on the preliminary draft report transmitted to them earlier that year and decided to ask the Venice Commission to examine in particular the compatibility with democratic standards of the constitutional provisions concerning the National Council, taking into account the specificities of Monaco. The opinion of the Venice Commission was adopted in 13 June 2013 and discussed in the committee at its June 2013 meeting. The draft report remains confidential until its adoption by the committee.

70. Parliamentary elections were held in February 2013, and the rapporteur took part *ex officio* in the Assembly's electoral observation mission. The report on the observation[22] was presented to the Assembly in April 2013. The observers concluded that the elections were fair and free. A high turnout (74.55%) proved the attachment of Monegasques to representative democracy in the Principality of Monaco. The administration of elections was efficient and transparent. Overall media coverage of the election campaign was balanced, taking into account that Monaco has only one daily newspaper. All candidates' lists had equal access to the media. The observers also underlined the importance of new rules on the financing of the election campaign, which reinforced the transparency and fairness of the electoral process.

71. However, the election campaign was tarnished by verbal violence, slander and homophobic insults, as well as a physical assault, personal attacks and scandals. Moreover, the Assembly observers regretted that during the campaign, the role and the aim of the Council of Europe were misinterpreted in a way which was exploited during the campaign. This was all the more regrettable in view of the efficient and constructive relations between the Organisation and Monaco since the accession of the Principality to the Council of Europe in 2004.

72. The rapporteur noted that many reforms still remain to be drawn up so as to meet the recommendations formulated by the Assembly in 2009. She stressed that the Council of Europe was fully aware of the specific features of the Principality of Monaco. However, suitable legal solutions, which take account of these specific features while ensuring compliance with Monaco's commitments and obligations, should be identified. In this context, the need to elaborate the law on the functioning of the National Council is of particular importance.

2.3.3. "The former Yugoslav Republic of Macedonia"

73. The rapporteur visited the country in November 2012 and accompanied the President of the Assembly on his official visit in June 2013. He prepared a report[23] which was discussed by the Assembly in June 2013. Resolution 1949 (2013) and Recommendation 2022 (2013) were adopted on that occasion.

74. In his report, the rapporteur acknowledged that the country is committed to progress towards fulfilling all the remaining obligations and commitments and adopting the necessary legal framework. The country remains highly divided across both political and ethnic lines and the implementation of laws remains problematic. The authorities should continue to implement the Ohrid Framework Agreement, launch new inclusive policies, pursue decentralisation and further promote the cultural and linguistic rights of minorities. The rapporteur welcomed the legal reforms but urged for further efforts to ensure the impartiality and independence of the judicial system. He also expressed concern at the controversial Lustration Law and called for improved freedom of the media. The country's efforts to reduce corruption, combat discrimination, end ill-treatment and integrate refugees should continue.

75. The rapporteur regretted that the name issue continues to delay the opening of accession negotiations with the European Union, as well as the attempts of "the former Yugoslav Republic of Macedonia" to join the North Atlantic Treaty Organisation (NATO), and expressed the hope that Greece would adopt a more flexible approach.

22. Doc. 13137.
23. Doc. 13227.

2.3.4. Turkey

76. The rapporteur visited the country in June and in November 2012. In January 2013, the Monitoring Committee adopted a declaration on Turkey to welcome the resumption of talks by the Turkish authorities with a view to finding a political solution to the Kurdish issue. In April 2013, the rapporteur presented to the Assembly on behalf of the committee a report on the post-monitoring dialogue.[24] The Assembly adopted on this occasion Resolution 1925 (2013).

77. In her report, the rapporteur recognised that a process of major reform was taking place in Turkey against a complex background of political transition involving the judiciary and the army, the Kurdish question and regional instability, not least in neighbouring Syria. She welcomed Turkey's progress in bringing its legislation into line with the European Convention on Human Rights, promoting the cultural and linguistic rights of the Kurds, stepping up dialogue with religious communities and establishing the institution of ombudsman.

78. However, she also pointed to the need to take other steps with a view to completing the reform programme, such as further reform of the Constitution and continuing revision of the Criminal Code as well as progress on freedom of expression, pre-trial detentions, local and regional decentralisation and resolving the Kurdish question. The report's overall conclusion was that legislative reform and institutional change in Turkey is ongoing but incomplete.

2.4. Other issues concerning the fulfilment of obligations and commitments

2.4.1. Request for the opening of a monitoring procedure in respect of Hungary

79. Following the tabling of a motion for a resolution on "Serious setbacks in the field of the rule of law and human rights in Hungary", the committee was seized by the Bureau, in March 2011, for the preparation of a written opinion on the subject in accordance with paragraphs 3 and 4 of the terms of reference of the Monitoring Committee. During the reporting period, the co-rapporteurs visited the country in February 2013. The committee adopted an opinion[25], submitted by the co-rapporteurs in April 2013 (one of the co-rapporteurs resigned after having tabled the report, which I personally consider as regrettable and hope will not set a precedent for the future work of the committee); it was then declassified and submitted to the Bureau which, in turn, adopted an opinion in May 2013. The debate in the Assembly took place in June 2013 and Resolution 1941 (2013) was adopted.

80. In their report, the co-rapporteurs concluded that the erosion of democratic checks and balances as a result of the new constitutional framework in Hungary raised serious concern. This new framework had excessively concentrated powers, increased discretion and reduced the accountability and legal oversight of numerous government institutions and regulatory bodies in Hungary. In addition, they expressed concern about the curtailing of the powers and competences of the Constitutional Court and the willingness of the authorities to use the two-thirds majority in the parliament to circumvent Constitutional Court decisions. This also raised questions with regard to respect for the principle of the rule of law. They therefore concluded that when acceding to the Council of Europe Hungary voluntarily committed itself to upholding the highest possible standards in relation to the functioning of democratic institutions, the protection of human rights and respect for the rule of law. Regrettably, the above-mentioned developments raise serious and sustained concerns about the extent to which the country is still complying with these obligations.

81. Contrary to the co-rapporteurs' and committee's recommendation, the Assembly did not decide to open a monitoring procedure in respect of Hungary but resolved to closely follow the situation and to take stock of the progress achieved in the implementation of Resolution 1941 (2013).

2.4.2. Consequences of the war between Georgia and Russia

82. In January 2011, the committee approved the proposal of the then Chair, based on an agreement with the Georgian and Russian delegations to the Assembly, on the manner in which it should continue its work on the consequences of the war between Georgia and Russia and on the implementation of the Assembly's relevant recommendations. It was agreed that the issue should be followed by the respective co-rapporteurs on Russia and Georgia, that a joint information note under the responsibility of the Chair would be presented to the committee on an annual basis and that it would be discussed at a specific sitting.

---

24. Doc. 13160.
25. Doc. 13229.

83. The fact-finding visit by the delegation, led by the Chair and composed of the co-rapporteurs on Russia and the co-rapporteurs on Georgia, took place in May 2013 and, contrary to the delegation's intention, was limited to Moscow and Tbilisi. The original draft programme included meetings in Tskhinvali and Sukhumi, and contacts had been established at the level of the Secretariat through the intermediary of the Russian delegation with the *de facto* authorities on the spot, who regrettably refused to receive the delegation.

84. The meetings in Moscow and Tbilisi focused on the main concerns outlined in Resolutions 1683 (2009), 1633 (2008) and 1647 (2009) which can be divided into four main areas: status of the breakaway regions and implementation of the agreement of 12 August 2008; access to the breakaway regions; return of IDPs and humanitarian questions; investigation into the allegations of war crimes and violations of international human rights and humanitarian law. The findings of the visit were included in a Joint Information Note[26] presented to the committee and declassified in June 2013.

85. The committee decided to continue to closely follow the developments with regard to the consequences of the war. It was also agreed that if there were signals that the *de facto* authorities wished to start an unconditional dialogue, the delegation would carry out the next visit not only to Moscow and Tbilisi but also to Sukhumi and Tskhinvali. But, until then, the file will be included in the respective monitoring files on Georgia and Russia, and the fulfilment of specific recommendations in this respect will be followed in the framework of the periodical monitoring reports.

3. Overview of the member States which are not under the monitoring procedure or involved in the post-monitoring dialogue

3.1. General remarks

86. Resolution 1515 (2006) conferred on the Monitoring Committee the task of preparing periodic reports on all 33 member States which are not the subject of a monitoring procedure or involved in a post-monitoring dialogue. Such periodic reports were appended to an annual progress report, each country being reported on every three years. Between 2006 and 2012, the committee completed two full cycles of reporting, which meant that it reported twice on each State in question. This procedure was supposed to ensure a similar frequency of reporting as for the countries under specific monitoring.

87. It has been widely acknowledged that the impact of the periodic reports was limited; the reasons for this state of affairs are easy to understand. It can hardly be expected from a single rapporteur to follow closely and carry out substantial analysis of the situation in 33 States on a regular basis. Not least because the limited human resources in the secretariat of the committee would not allow for systematic research and assistance in this respect. Consequently, the reports were included in a separate addendum – lengthy and difficult to read – composed of the findings of different Council of Europe monitoring mechanisms.

88. Last year, following the discussions in the Monitoring Committee, and with the agreement of its members, I introduced some changes and new elements, which, according to the feedback I received, improved the situation. I abandoned the lengthy descriptions of the state of implementation of the different Council of Europe conventions by monitoring mechanisms attached to these conventions. These findings, in their entirety, may be easily consulted on the Council of Europe website on a country-by-country basis. Instead, I adopted a more analytical approach and focused my conclusions on the concerns identified by each mechanism in the countries concerned. This new method contributed to giving a better overview of the concerns raised in comparable terms.

89. This year, again with the agreement of the committee, I decided to go a little further in the same direction, always keeping in mind the ultimate objective of this exercise: a global picture. In the present report, all the 33 countries not under a specific monitoring procedure are reported on in a unified manner, allowing for a clearer comparison of the concerns and their scale, in each of them. I have increased a little the level of analysis, namely a more advanced analysis, aimed at selection, focus and conclusion. This, again, facilitates reading and comparison. It gives a quick overview and allows for further research for those who are interested, thanks to scrupulous reference to the sources. It is not designed to report in detail, as we do for countries under specific monitoring, but to draw attention to any problems or trends which might require closer consideration.

26. AS/Mon (2013) 14 rev.

90. This new approach replies, at least in part, to those who claim that some countries are not monitored at all. All countries are monitored with respect to their statutory obligations, and this report provides evidence of this. I hope that after having read this report, the reader will have a better overview of the concerns identified by the different monitoring mechanisms in each of the 33 countries.

91. Having said that, I have to admit that there are indeed some methodological difficulties in drawing full advantage from this exercise. Firstly, in order to allow for monitoring, the State concerned must sign and ratify a convention to which the monitoring mechanism is attached. In the past, we have always attached to the progress report a table indicating the state of ratifications and/or signatures by member States of the main Council of Europe instruments which provide for a specialised monitoring mechanism, and we called on the authorities of the countries which had failed to sign/ratify some of the core conventions to do so. However, if this has not been done, the country is not monitored under that specific convention, which, in the framework of this report, may give the false impression that there are no concerns in this specific area in a given country. In contrast, the countries which have fulfilled the obligation to sign and ratify all the main conventions may have the feeling of unfairness by being criticised for problems which may go unnoticed in some other countries.

92. Secondly, given the differences in timelines of cycles and in monitoring procedures of the various convention mechanisms of the Council of Europe, it is impossible to draw, at any given moment, a full picture including the recent findings of all the monitoring bodies for each country concerned. I had to establish the criteria for selection, and I decided that the most practical way to proceed would be to take into account the findings of Council of Europe monitoring mechanisms which had been published over the reporting period, namely between June 2012 and September 2013.[27]

93. This method runs the risk of giving a false impression that some countries, which by coincidence were subject to more monitoring reports during my reporting period than the others, have more problems than those countries on which, in accordance with specific cycles, the majority of reports was presented before June 2012 or will be presented next year. This apparent “injustice” is partly remedied by the fact that should any urgent concerns appear in any country on which a monitoring report is not being prepared or has not been recently published, the monitoring mechanisms usually publish statements, which I have fully taken into account in the present report. I have also systematically indicated in brackets the year of the publication of the most recent monitoring text adopted by the monitoring mechanism in respect of a given country if it was not during my reporting period. I am convinced that these two measures ensure more “balance” in the overall picture.

94. Last but not least, we have to be very careful when we compare findings of specific monitoring mechanisms in respect to different countries. Each country has its own specificities and features, and size is only one of them. Furthermore, we cannot forget that there are no perfect democracies and in each area of functioning of the democratic institutions, there is always room for improvement. That does not necessarily mean that the weight of concerns in different countries is of the same nature, even if a specific monitoring mechanism formulates the same number of recommendations to each of them. I have systematically included all the major problems identified by the monitoring mechanisms with respect to particular countries, being fully aware that their scale is sometimes very different, and the meaning of “major” is relative. I call on the reader to be careful with comparisons.

95. In the light of this year’s experience of the preparation of this part of the progress report and in the framework of a more general reflection on the future of the monitoring procedure, in the next section I will submit for consideration some proposals concerning possible changes in the monitoring procedure with respect to the 33 countries, which would further increase its efficiency and impact.

3.2. Countries not under specific monitoring procedure

3.2.1. Andorra

96. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there were two concerning Andorra: one judgment finding at least one violation and one judgment finding no violation. The Court judgment concerns a case of unfair court proceedings.[28] In February 2013, the Andorran Government submitted to the Committee of Ministers information on the action plan of measures foreseen to implement the judgment.

---

27. Given the time lapse, in some cases, between the adoption of a report by the monitoring mechanism and its publication, I have included some documents dating from May 2012, which were not included in last year’s progress report.

97. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published a report on Andorra in November 2012. It was globally positive; the CPT had received no complaints about alleged ill-treatment, the places visited were well maintained. The recommendations included an increase in the number of activities for prisoners, including outdoors, separation of juveniles from adults in detention and the improvement in access of prisoners to medical assistance and to family visits.

98. The European Commission Against Racism and Intolerance (ECRI) report on Andorra, published in 2012, noted some areas of concern, such as incidents of direct and indirect discrimination in employment based on citizenship and the government's reluctance to enact comprehensive legislation against racism and discrimination. ECRI made a number of recommendations to the authorities, among which the following three require priority implementation and will be revisited by ECRI in two years: application of the principle of sharing the burden of proof when discrimination complaints are brought before civil/administrative courts; training of judges, prosecutors and lawyers on racism and racial discrimination, including on relevant criminal legislation; reliance on the work of the National Equality Commission to devise and co-ordinate an integration policy.

99. In Resolution 1938 (2013) on promoting alternatives to imprisonment,[29] adopted in May 2013, Andorra is praised as one of the group of countries which have imprisonment rates around half the European average or less.

100. In Resolution 1898 (2012) on political parties and women's political representation,[30] adopted in October 2012, Andorra is praised as one of the group of countries in which women's representation in parliament exceeds 40%.

101. There were no reports on Andorra by the Group of States Against Corruption (GRECO) (2011) and the Group of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) (2012) in the reporting period; the Council of Europe Commissioner for Human Rights did not issue any statement on the situation in the country; there has been no report or visit by ECRI since May 2012.

102. To date, Andorra has not signed and/or ratified a number of important instruments, including the Civil Law Convention on Corruption (ETS No. 174): signed in 2001 but not ratified; the Additional Protocol to the Criminal Law Convention on Corruption (ETS No. 191): signed but not ratified; the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised) (CETS No. 198): neither signed nor ratified; the Framework Convention for the Protection of National Minorities (ETS No. 157): neither signed nor ratified; the European Charter for Regional or Minority Languages (ETS No. 148): neither signed nor ratified; the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (ETS No. 158): neither signed nor ratified.

3.2.2. Austria

103. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there were 23 concerning Austria, 10 of which found at least one violation. Out of a total of 128 100 pending cases on 31 December 2012, 407 concerned Austria. Resolutions adopted by the Committee of Ministers in 2012: 7. The noteworthy Court judgments against Austria concern the excessive length of administrative proceedings,[31] freedom of expression[32] and legislative shortcomings regarding protection of private and family life, notably related to family relations outside of the traditional setting of marriage.[33]

104. In June 2012, GRECO published an addendum to the joint first and second round compliance report aimed to appraise the implementation of the outstanding recommendations made to the Austrian authorities in 2008. It concluded that out of the 24 recommendations, in total 16 had been implemented. However, in some areas the progress achieved was only partial and more determined action was needed to carry through the

28. *Ute Saur Vallnet v. Andorra* of 29 May 2012.
29. Doc 13174, report of the Committee on Legal Affairs and Human Rights.
30. Doc 13022, report of the Committee on Equality and Non-Discrimination.
31. For example, Kugler v. Austria.
32. Standard Verlag v. Austria.
33. Sporer v. Austria (custody issues concerning children born out of wedlock); X. and others v. Austria (certain adoption restrictions for same-sex couples).

reforms planned or initiated, for example the Co-ordinating Body on Combating Corruption still lacks a precise mandate and adequate resources, the increase in human resources available to economic crime units of the police and the regime of parliamentary immunity.

105. The Commissioner for Human Rights visited Austria in June 2012, and in September 2012 he published a report on the country. Whereas Austria was commended for its well-established human rights system, some concerns with regard to the right of asylum-seekers, women and people with disabilities were identified. Noting that the basic needs of asylum-seekers were satisfied, the Commissioner encouraged the authorities to ensure adequate living conditions throughout the entire country. Increased attention should also be paid to the needs of unaccompanied and separated asylum-seeking children. The authorities should also further develop the system of inclusive education of persons with disabilities, reinforce measures for securing independent living and inclusion in the community as well as provide access to the built environment and general services. Despite measures taken to achieve gender equality, progress appears to be rather slow. Women are still under-represented in politics and earn about 25% less than men. Lack of quality full-time childcare and gender stereotypes remain major barriers to gender equality. These obstacles should be removed.

106. The last ECRI report on Austria was published in 2010. In February 2013, ECRI published conclusions on the implementation of its priority recommendations in respect of Austria in which it assessed that recommendations had been followed up.

107. In June 2012, the Committee of Ministers adopted a resolution (3rd cycle) on the implementation by Austria of the Framework Convention for the Protection of National Minorities. While commending Austria for a generally positive approach towards the convention, the resolution identified a number of concerns on which it recommends immediate action. They include the need to take resolute steps towards amending the national minority legislation with a view to ensuring consistent and inclusive protection of national minority rights throughout Austria; ensuring comprehensive and effective consultation with national minority representatives before adopting any amendments to the relevant legislation; ensuring effective and consistent enjoyment throughout Austria of the linguistic rights of persons belonging to national minorities, in line with Articles 10 and 11 of the Framework Convention and relevant Constitutional Court decisions; ensuring that due flexibility is introduced when applying thresholds in relevant national legislation to avoid arbitrary distinctions being made; and reviewing the current system for the appointment and composition of the advisory councils for national minorities to ensure that they are representative of the views and concerns of persons belonging to national minorities; substantially broadening the competencies of the councils and ensuring that they are effectively consulted on all issues that affect them and have an impact on the relevant decision-making.

108. In November 2012, the Committee of Ministers adopted a recommendation on the application by Austria of the European Charter for Regional or Minority Languages. The authorities were urged, *inter alia*, to adopt a structured policy for the protection and promotion of all Part II languages, especially in Vienna, and to create favourable conditions for their use in public life; to include in the general curricula an adequate presentation of the history and the culture reflected by the regional or minority languages in Austria; to ensure that the increasing demand for education in or teaching of Burgenland-Croatian, Slovenian and Hungarian is met with an adequate number of qualified teachers; ensure that the Burgenland-Croatian, Slovenian and Hungarian languages are used before the relevant judicial and administrative authorities in practice; secure adequate funding for newspapers in Burgenland-Croatian, Slovenian and Hungarian; and to clarify the status of the Romani language outside Burgenland.

109. Austria is not a member of MONEYVAL. There was no report by the CPT (2010) or the Group of Experts on Action Against Trafficking in Human Beings (GRETA) (2011) during the reporting period. Austria was not mentioned in the context of its compliance with the Council of Europe obligations or commitments in any Assembly document.

110. To date, Austria has not signed and/or ratified a number of legal instruments, in particular the above-mentioned Criminal Law Convention on Corruption (ETS No. 173): signed in 2000 but not ratified and its Additional Protocol: neither signed nor ratified; the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised): signed in 2005 but not ratified; the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints: signed in 1999 but not ratified.

3.2.3. Belgium

111. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there were six concerning Belgium, all of them finding at least one violation of the Convention. Out of a total of 128 100 pending cases on 31 December 2012, 359 concerned Belgium. Resolutions adopted by the Committee of Ministers in 2012: 11. The noteworthy Court judgments against Belgium include different problems relating to expulsion of aliens, in particular lack of an effective remedy,[34] a structural problem of inadequate care for persons with mental disabilities in Belgian prisons,[35] and the length of civil and criminal proceedings.[36]

112. In June 2012, the Venice Commission delivered, at the request of the Assembly, an opinion on the revision of the Constitution of Belgium. It concluded that the procedure did not violate the Belgian Constitution or international standards.

113. The last report of the Commissioner for Human Rights dates back to 2009, but in a statement made in December 2012 on the restrictions on defenders of migrants' rights, Belgium was mentioned as one of the countries in which the work of defenders working with migrants and their rights are being criminalised, and there have been cases when they had been detained, prosecuted and fined.

114. The last visit of the CPT took place in April 2012, and was aimed at reviewing some concerns identified in earlier reports, including poor material conditions of detention, lack of activities for prisoners and low staff/ inmate ratio. The CPT also raised the question of prison overcrowding, which has steadily worsened in Belgium over recent years.

115. In Recommendation 2010 (2013) on migration and asylum: mounting tensions in the eastern Mediterranean,[37] Belgium is one the countries encouraged to continue the moratorium on returning asylum seekers to Greece under the so-called "Dublin Regulation", in the light of the judgment of the Court in the case of *M.S.S v. Belgium and Greece*.

116. Belgium is not a member of MONEYVAL. There were no reports by GRECO (2012), GRETA (no report to date; only one visit in October 2012) or ECRI (2009) during the reporting period.

117. Belgium signed the Framework Convention for the Protection of National Minorities in 2001 but has not yet ratified it; it has neither signed nor ratified the European Charter for Regional or Minority Languages.

3.2.4. Croatia

118. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there were 22 judgments concerning Croatia and, in addition, one judgment in which Croatia was among other defending States.[38] In 19 of the 22 judgments, the Court found at least one violation of the Convention. Out of a total of 128 100 pending cases on 31 December 2012, 1 232 concerned Croatia. Resolutions adopted by the Committee of Ministers in 2012: 8. The noteworthy Court judgments concern the lack of effective and independent investigation into crimes committed during the war 1991-1995.[39]

119. There was no report on Croatia by the Commissioner for Human Rights during the reporting period (2010) but in April 2013 he made public letters addressed to the relevant Croatian authorities encouraging them to bring their legislation in the field of gender recognition into line with European standards.

120. The last ECRI report on Croatia was published in September 2012. Despite positive developments, there were issues of concern, such as the impact on inter-ethnic relations of the under-representation of persons belonging to national minorities in the public administration and the courts, and in particular the low number of Serbs in the police at local level, and the fact that many Roma still do not have personal identity or citizenship documents. ECRI made a number of recommendations to the Croatian authorities, among which the following three require priority implementation and will be revisited by ECRI in two years' time: ensure appropriate training to the judiciary and police on applying the new Criminal Code provisions on combating

34. *M.S.*, M.S.S, *Muskhadzhiyeva, Mubilanzila, Singh, Riad* and *Idiab*.
35. *L.B v. Belgium*.
36. Dumont group v. Belgium.
37. Doc 13106, report of the Committee on Migration, Refugees and Displaced Persons.
38. *Alisic and Others v. Bosnia and Herzegovina, Croatia, "the former Yugoslav Republic of Macedonia", Serbia and Slovenia*.
39. *Skendzic and Krznaric Group v. Croatia*.

racism and racial discrimination as well as the Anti-Discrimination Act; improve the law on free legal aid so that vulnerable groups are not denied access to justice; adopt a comprehensive strategy for migrants, asylum-seekers and refugees, paying particular attention to unaccompanied minors.

121. In its Resolution 1920 (2013) on the state of media freedom in Europe,[40] the Assembly welcomed the fact that the murderers of Ivo Pukanic and Niko Franjic had been arrested and adjudicated by national courts; it pointed out, however, that it is still necessary to further investigate the personal environment of the murderers in order to find possible collaborators and to combat effectively those environments which are hostile to media freedom.

122. The report on human rights and family courts,[41] submitted by the Assembly's Committee on Legal Affairs and Human Rights, pointed to Croatia as one of the countries which raise concern about certain cases in which children have been withdrawn from their families against the wishes of their biological parents.

123. There were no reports by GRECO (2011), GRETA (2012), the CPT (2008), the Advisory Committee on the Framework Convention for the Protection of National Minorities (2011) or the Committee of Experts of the European Charter for Regional or Minority Languages (2010) during the reporting period.

124. Croatia has ratified all of the major Council of Europe legal instruments, except for the European Social Charter (revised) (ETS No. 163), which it signed in 2009.

3.2.5. Cyprus

125. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there was none concerning Cyprus. Out of a total of 128 100 pending cases on 31 December 2012, 190 concerned Cyprus. Resolutions adopted by the Committee of Ministers in 2012: 1. The noteworthy Court judgments concern the lack of effective investigation and arbitrary detentions are the most frequent violations.[42]

126. GRECO published its 3rd round compliance report on Cyprus in March 2013. It concluded that Cyprus had implemented two of the eight recommendations contained in the 3rd round evaluation report. In so far as incriminations were concerned, more steps were needed to create a coherent and robust legal framework free from inconsistencies, preferably through gathering all corruption crimes in a single legal instrument. The coexistence of legal instruments with different personal and material scope breeds legal uncertainty, including through lack of practical application of the two laws ratifying the Council of Europe anti-corruption standards. As regards the transparency of political financing, the remaining weaknesses, in respect of political parties, include the lack of a consistent format for political parties' accounts, the absence of an external supervision of incomes and expenditures in connection specifically with election campaigns, as well as the lack of publication of the parties' accounts and individual donations above a certain threshold. With respect to election candidates, the relevant law remains unchanged and still fails to provide adequate external supervision and effective, proportionate and dissuasive sanctions for violations of the legislation concerning the submission of financial statements.

127. In June 2013, MONEYVAL published its report "Special Assessment of the Effectiveness of the Customer Due Diligence Measures in the Banking Sector in Cyprus". The report concluded that the supervision of lawyers and accountants needs strengthening and that the supervision of trust and corporate service providers has not yet been effectively implemented. A number of recommendations were made in the report to ensure that the banking sector in Cyprus takes targeted and expedited action. The Cypriot authorities were invited to report on progress on the implementation of these recommendations within MONEYVAL's follow-up processes.[43]

128. In December 2012, the CPT published a report on Cyprus. In the report, it expresses concern about the risk of ill-treatment by the police, both at the time of apprehension and during the subsequent period of custody and questioning. The report also highlighted the need to tackle the problem of overcrowding at Nicosia Central Prison and to ensure a satisfactory level of health-care provision for inmates in the establishment. In its response, published on the same date, the Cypriot Government provided details of measures being taken to address the issues raised in the report.

---

40. Doc. 13078, report of the Committee on Culture, Science, Education and Media.
41. Doc. 13060.
42. *Rantzev v. Cyprus*.
43. According to a Cypriot member of the Monitoring Committee, as of 6 September 2013, the main concerns identified by the report had been addressed.

129. In its Resolution 1948 (2013) on tackling discrimination on the grounds of sexual orientation and gender identity,[44] adopted in June 2013, the Assembly called on the authorities that exercise *de facto* control in the northern part of Cyprus to give full execution to the judgment of the European Court of Human Rights in the case of *Modinos v. Cyprus* and ensure the decriminalisation of consensual same-sex relations between adults, as is the case in the government-controlled areas of the Republic of Cyprus.

130. In its Resolution 1938 (2013) on promoting alternatives to imprisonment,[45] the Assembly included Cyprus in the list of 21 member States which have serious problems of prison overcrowding and have more than 100 prisoners per 100 places of detention. According to the Council of Europe's Annual Penal Statistics, Cyprus is one of the six countries where the situation is worst: there 151 prisoners per 100 places.

131. In Resolution 1898 (2012) on political parties and women's political representation,[46] adopted in October 2012, the Assembly included Cyprus in the list of countries in which women represent under 20% of members of national parliaments.

132. There were no reports by the Commissioner for Human Rights (2008), GRETA (2011), the Advisory Committee on the Framework Convention for the Protection of National Minorities (2011), the Committee of Experts of the European Charter for Regional or Minority Languages (2011) or ECRI (2011) during the reporting period.

133. Cyprus has signed and ratified all the major Council of Europe conventions embodying a monitoring mechanism.

3.2.6. Czech Republic

134. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there were 15 concerning the Czech Republic, 10 of which found at least one violation of the European Convention of Human Rights. Out of a total of 128 100 pending cases on 31 December 2012, 961 concerned the Czech Republic. Resolutions adopted by the Committee of Ministers in 2012: 6. The noteworthy Court judgments concern discriminatory assignment of Roma children to schools for pupils with mental disabilities, which seems to be a structural problem.

135. In March 2013, GRECO published its 3rd round compliance report on the Czech Republic. It concluded that the Czech Republic had implemented satisfactorily only one of the 13 recommendations contained in the third round evaluation report. With respect to incriminations, GRECO regretted that clarification was still needed to ensure that bribery of all categories of employees, including those carrying out ancillary functions, in the public sector were covered by the Criminal Code. Furthermore, GRECO urged the authorities to conclude the ratification process of the Additional Protocol to the Criminal Law Convention on Corruption, as soon as possible. In so far as the transparency of political funding is concerned, GRECO particularly regretted the reluctance of the government to establish an independent central administrative mechanism for the monitoring of the funding of political parties/movements and election campaigns, which is crucial for ensuring the effective and objective implementation of rules on political funding. Moreover, GRECO had serious concerns about the pace of reform in this area particularly as promising projects in this respect had been abandoned and a process of drafting legal amendments had only been reinitiated by the government in January 2013. In the light of the foregoing, GRECO urged the Czech authorities to speed up the legislation process as much as possible and to take into account, during this process, the requirements of Recommendation Rec(2003)4 on common rules against corruption in the funding of political parties and election campaigns. In view of the above, and despite the progress noted in respect of Theme I, GRECO concluded that the total lack of compliance with any of the recommendations under Theme II makes the overall response to the recommendations "globally unsatisfactory" within the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure. GRECO therefore decided to apply Rule 32 concerning members found not to be in compliance with the recommendations contained in the mutual evaluation report, and asked the Head of the Czech delegation to provide a report on the progress in implementing the recommendations by September 2013.

44. Doc. 13223, report of the Committee on Equality and Non-Discrimination.
45. Doc. 13174, report of the Committee on Legal Affairs and Human Rights.
46. Doc. 13022, report of the Committee on Equality and Non-Discrimination.

136. Following his visit in November 2012 to the Czech Republic, the Commissioner for Human Rights expressed concern over the Roma segregation. He considered that the so-called "practical schools" perpetuate segregation of Roma children, inequality and racism; they should be phased out and replaced by mainstream schools that need to be properly prepared to host and provide support to all pupils, irrespective of their ethnic origin. The Commissioner also identified a clear need to overhaul and transform psychiatric care.

137. In December 2012, the Committee of Ministers adopted the 3rd cycle resolution on the implementation by the Czech Republic of the Framework Convention for the Protection of National Minorities. It identified a number of outstanding concerns, including negative attitudes and prejudice against Roma, anti-Roma rhetoric used even by public figures, and tolerance on the part of the authorities for inflammatory anti-Roma statements. Roma children still face serious difficulties in the education system. A disproportionately large number of Roma children attend "practical schools" which have replaced "special schools". Measures taken to implement the ruling of the European Court of Human Rights in the case of *D.H. and others v. the Czech Republic* are still to yield significant results. The resolution urges the authorities to increase efforts to combat all forms of intolerance, racism, and xenophobia; take further legislative measures and develop policies to combat racist manifestations, in particular against Roma, including in the media and the political arena, in conformity also with Committee of Ministers Recommendation Rec(97)20 on "Hate speech" and to eliminate, without further delay, practices that lead to the placement of a disproportionately large number of Roma children in "practical schools"; strengthen efforts to remedy shortcomings faced by Roma children in the field of education;

138. In January 2013, the Committee of Ministers adopted Recommendation CM/RecChL(2013)1 on the application of the European Charter for Regional or Minority Languages by the Czech Republic. It urged the authorities to continue the efforts to promote awareness and tolerance vis-à-vis all the regional or minority languages and the cultures they represent as an integral part of the cultural heritage of the Czech Republic, both in the general curriculum at all stages of education and in the media; and to adopt a structured policy for the protection and promotion of German and Romani, and create favourable conditions for their use in public life.

139. In May 2012, ECRI published conclusions on the implementation of its priority recommendations with respect to the Czech Republic, contained in its last country report published in 2009. The conclusions observed that little progress had been made towards improving the situation of the Roma, who face segregation in schools and housing and discrimination in employment. The issue of forced sterilisations of Roma women had still not been adequately addressed. The situation of the victims of discrimination as regards access to legal aid had not changed. ECRI was not in a position to conclude that its recommendation to transfer substantial numbers of Roma children from specialised primary schools to ordinary education, based on clear and ambitious yearly targets, had been fulfilled. It expressed deep concern at the situation with regard to housing of socially excluded persons, most of whom are Roma.

140. In the report on the state of media freedom in Europe,[47] submitted by the Committee on Culture, Science, Education and Media, the rapporteur noted with concern that the Czech Republic is one of three countries which had negotiated an opt-out protocol to the European Union Charter of Fundamental Rights, which seems to exclude the application of Article 11 by the European Union Court of Justice for those countries. Therefore, uniform application of Article 11 throughout the European Union may not be ensured, except indirectly through the application of the standards under Article 10 of the European Convention on Human Rights by the European Court of Human Rights.

141. The report on human rights and family courts,[48] submitted by the Committee on Legal Affairs and Human Rights pointed to the Czech Republic as one of the countries which raise concern about certain cases in which children have been withdrawn from their families against the wishes of their biological parents.

142. There were no reports by MONEYVAL (2011) or the CPT (2010) during the reporting period.

143. The Czech Republic has not signed and/or ratified a number of major Council of Europe legal instruments, including the Additional Protocol to the Criminal Law Convention on Corruption: neither signed nor ratified; the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised): neither signed nor ratified; Protocol No. 12 (ETS No. 177) to the European Convention on Human Rights: signed in 2000 but not ratified; the Council of Europe Convention against Trafficking in Human Beings (CETS No. 197): neither signed nor ratified; the European Social Charter (revised): signed in 2000 but not ratified.

47. Doc. 13078.
48. Doc. 13060.

3.2.7. Denmark

144. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there was one judgment concerning Denmark (there was a friendly settlement). Out of a total of 128 100 pending cases on 31 December 2012, 27 concerned Denmark. Resolutions adopted by the Committee of Ministers in 2012: 2.

145. In June 2012, the Council of Europe Committee of Ministers adopted Resolution CM/ResCMN(2012)8 on the implementation of the Framework Convention for the Protection of National Minorities by Denmark. It identified a number of concerns: the Board for Equal Treatment and the Danish Institute for Human Rights are suffering from a lack of visibility among the population and do not have sufficient human and financial resources to carry out their tasks. Persons belonging to the groups most at risk of becoming victims of discrimination are not adequately informed about the remedies available. The police sometimes fail to take into account the racist nature of acts of violence, which discourages victims from lodging complaints. Some media continue to spread a distorted and discriminatory image of the Roma and of Muslims, despite the existence of ethical guidelines and a supervisory mechanism implemented by the Press Council. Hostile and racist statements made by certain political leaders have apparently also been disseminated by some media and on the Internet. It urged the authorities to take immediate action in order to: raise general public awareness of the Act on Ethnic Equal Treatment of 2003 and of the work of the Board for Equal Treatment; ensure that the funding of the Board for Equal Treatment and the Danish Institute for Human Rights is appropriate to their needs; adopt the necessary measures in order to ensure that persons belonging to the German minority maintain print media in their own language; in particular, ensure adequate funding of the German-language newspaper; and adopt additional measures to raise awareness of the Framework Convention and ensure its effective implementation at the local and regional levels in South Jutland.

146. In a country report published in May 2012, ECRI pointed to a number of persisting concerns, such as discrimination in employment, education and housing or strict rules for spousal reunification. ECRI urged the authorities to ensure sufficient funding for civil society actors working on issues relating to groups of concern to ECRI and strengthen their co-operation with the authorities; review the spousal reunification rules in order to remove any elements which amount to discrimination against non-ethnic Danes; and to intensify efforts in recruiting members of ethnic minorities to the police.

147. In Resolution 1938 (2013) on promoting alternatives to imprisonment,[49] Denmark is praised as one of the group of countries which have imprisonment rates around half the European average or less.

148. In its Resolution 1920 (2013) on the state of media freedom in Europe,[50] the Assembly welcomed the fact that a group of Islamist criminals who had planned a major assault on the Copenhagen office of the Jyllands-Posten had been arrested and adjudicated.

149. No reports by GRECO (2011), the Commissioner for Human Rights (2007), the CPT (2008), GRETA (2011) or the Committee of Experts of the European Charter for Regional or Minority Languages (2011) were published during the reporting period. Denmark is not a member of MONEYVAL.

150. Denmark has so far not signed and/or ratified the following major Council of Europe legal instruments: European Social Charter (revised): signed on 3 May 1996 but not ratified; the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints: signed on 9 November 1995 but not ratified; Protocol No. 12 to the European Convention on Human Rights: neither signed nor ratified.

151. On the positive side, Denmark signed the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised) in September 2012. It has still to be ratified.

3.2.8. Estonia

152. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there were four concerning Estonia two of which found at least one violation of the Convention. Out of a total of 128 100 pending cases on 31 December 2012, 639 concerned Estonia. Resolutions adopted by the Committee of Ministers in 2012: 1. The noteworthy Court judgments concern inhuman and degrading treatment on account of confinement to a restraint bed in prison[51] and the excessive length of proceedings before civil courts and lack of an effective remedy.[52]

---

49. Doc. 13174, report of the Committee on Legal Affairs and Human Rights.
50. Doc. 13078, report of the Committee on Culture, Science, Education and Media.

153. In May 2012, GRECO published its second 3rd round compliance report with respect to Estonia. It concluded that Estonia had implemented satisfactorily, or dealt with in a satisfactory manner, nine of the 17 recommendations contained in the third round evaluation report. Concerning incriminations, Estonia had not made any progress since the adoption of the compliance report. On the contrary, the draft legislation aimed at amending the Penal Code, which had been taken into account in the compliance report and which was relevant to the majority of the recommendations, was withdrawn from legislative proceedings due to the parliamentary elections of 6 March 2011. Although new draft legislation to amend the Penal Code was being prepared by the Ministry of Justice, GRECO could only conclude that there had been a step backwards compared to the situation at the time of adoption of the compliance report. In so far as the transparency of political funding was concerned, Estonia had shown remarkable progress since the adoption of the evaluation report. GRECO was very pleased that the substantial reform process, already welcomed in the compliance report, had been completed by Estonia through the enactment of significant amendments to the Political Parties Act, which positively respond to the requirements of almost all the recommendations issued in the evaluation report. GRECO acknowledged that a solid legal framework for political financing – both regular party financing and election campaign financing – had thus been established and that improvements to the transparency regulations, the establishment of a new monitoring mechanism and the further development of the regime of sanctions had been accomplished. Given the far-reaching changes introduced by the 2010 reform, GRECO encouraged the authorities to ensure that the new regulations and mechanisms were fully operational and effective in practice and to keep their functioning under review in order to further perfect the system in the future.

154. In January 2013, GRECO published a report in which, while acknowledging that Estonia remained one of the least corrupt countries in Europe, it urged the authorities to sharpen corruption prevention policy concerning members of parliament, judges and prosecutors.

155. In a report published in June 2013, the Commissioner for Human Rights expressed serious concern with regard to the issue of 1 200 stateless children. He called on the authorities to remedy this situation urgently. Instead of requiring parents to apply for citizenship on behalf of the children, Estonia should grant citizenship automatically at birth to children who otherwise would be stateless.

156. In June 2012, the Council of Europe Committee of Ministers adopted Resolution CM/ResCMN(2012)9 on the implementation of the Framework Convention for the Protection of National Minorities by Estonia. The unemployment rate among non-Estonians is still disproportionately high compared with that of ethnic Estonians, and the number of stateless persons remains at around 100 000. The non-availability of free Estonian language classes to prepare for the citizenship examination is cited as an important reason for the decrease in naturalisations among the adult minority community since 2005. Among the issues requiring immediate action, there were: ensuring the rights of persons belonging to national minorities to speak and use their languages in public, also in relations with local authorities; ensuring that the ongoing transfer to Estonian as the main language of instruction in Russian-language schools is implemented gradually and with due regard to the quality of education offered in Estonian as well as Russian language; expanding the availability of relevant teacher training courses, including as regards bilingual and multicultural education; creating effective consultative mechanisms for persons belonging to national minorities beyond the cultural sphere; ensuring that minority representatives are involved in and have a substantial impact on all relevant processes of decision-making affecting them.

157. In February 2013, ECRI published conclusions on the implementation of its priority recommendations in respect of Estonia. Among the outstanding concerns it included: the high number of stateless persons and a naturalisation process hampered by too stringent language and other requirements; too limited contacts between the Russian-speaking minorities and Estonians and the multicultural component of education, which did not bridge the gap between these communities. The unemployment rate among minority groups remained twice as high as for Estonians. There was still no adequate monitoring of the Language Inspectorate's powers to assess employees' language competence in the public and private employment sectors. Roma were particularly vulnerable to discrimination, stereotypes and prejudice. In the field of education, Roma pupils were far more likely to drop out of school and they continue to be overrepresented in schools for mentally disabled children. There is no independent body to investigate allegations of ill-treatment by the police.

158. There were no reports by MONEYVAL (2011), or the CPT (2011) during the reporting period.

---

51. *Julin v. Estonia*.
52. *Missenjov, Raudsepp, Saarekallas v. Estonia*.

159. In Resolution 1898 (2012) on political parties and women's political representation,[53] the Assembly included Estonia in the list of countries in which women represent under 20% of members of national parliaments.[54]

160. Estonia has not signed and/or ratified the following major Council of Europe legal instruments: Additional Protocol to the Criminal Law Convention on Corruption: neither signed nor ratified; Protocol No. 12 to the European Convention on Human Rights: signed in 2000 but not ratified; the Convention on the European Charter for Regional or Minority Languages: neither signed nor ratified; the European Social Charter of 1961 (ETS No. 35): neither signed nor ratified; the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints, which has been neither signed nor ratified; Council of Europe Convention on Action against trafficking in human beings: signed in 2010 but not ratified.

161. On the positive side, Estonia signed the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised) in March 2013. It has still to be ratified.

3.2.9. Finland

162. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there were five concerning Finland, out of which two found at least one violation of the Convention on Human Rights. Out of a total of 128 100 pending cases on 31 December 2012, 188 concerned Finland. Resolutions adopted by the Committee of Ministers in 2012: 5. The noteworthy Court judgments concern mainly family rights, in particular custody rights and establishing paternity[55] as well as unlawful deprivation of liberty in a psychiatric hospital and freedom of the press.[56]

163. In March 2013, GRECO published a 4th round evaluation report in respect to Finland. It concluded that there was room for improvement – particularly with regard to conflicts of interest among parliamentarians. GRECO stressed that the authorities should not underestimate the risks of corruption resulting from conflicts of interest. It recommended drawing up a code of conduct for parliamentarians, as well as clarify exactly what is meant by "conflict of interest" and tightening up rules on gifts and the disclosure of outside links.

164. In June 2012, the Commissioner for Human Rights published a report in which he recommended that protection against discrimination should be strengthened in Finland. The report concluded that it was crucial to ensure accessibility of the protection framework to all victims of discrimination and avoid unnecessary fragmentation of equality bodies. The new National Action Plan on Fundamental and Human Rights lacked measures for human rights education. A gender pay gap of 17.9% still remained and violence against women continued to be a serious problem. The authorities should improve co-ordination in their responses to violence against women and extend the network of emergency shelters. There were concerns about racist hate speech, also coming from certain politicians, and the extreme marginalisation of young Somali persons. Further efforts were needed to address the discrimination experienced by Roma, Russian-speakers and Somalis who faced considerable obstacles in many fields of life, including employment. Finland should recognise Sami rights to land and support reindeer herding in the traditional manner.

165. In July 2013, ECRI published a report on Finland in which it regretted that a number of concerns persisted. For example, immigrants still suffer discrimination in various fields including employment and the Aliens' Act contains discriminatory provisions. ECRI made a number of recommendations among which the following three require priority implementation to be evaluated in two years' time: to expand the Ombudsman for Minorities' field of activity to combat discrimination on grounds of colour, religion or "race"; to extent the scope of the National Discrimination Tribunal's mandate in immigration matters and multiple discrimination; and to improve monitoring of racist acts.

166. There were no reports by the CPT (2009), GRETA (Finland only joined in May 2012, no report so far), the Advisory Committee on the Framework Convention for the Protection of National Minorities (2012) or the Committee of Experts of the European Charter for Regional or Minority Languages (2012) during the reporting period. Finland is not a member of MONEYVAL.

167. In Resolution 1898 (2012) on political parties and women's political representation,[57] Finland is praised as one of the group of countries in which women's representation in parliament exceeds 40%.

---

53. Doc. 13022, report of the Committee on Equality and Non-Discrimination.
54. As of today, the situation has improved, and there are 22 female parliamentarians out of a total of 101.
55. *Gronmark, Baklund v. Finland*.
56. *Eerikainen v. Finland.*

168. In Resolution 1938 (2013) on promoting alternatives to imprisonment,[58] Finland is praised as one of the group of countries which have imprisonment rates around half the European average or less.

169. Finland has not yet ratified the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised), which it signed on 16 December 2005.

3.2.10. France

170. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there were 29 concerning France, out of which 19 found at least one violation of the Convention. Out of a total of 128 100 pending cases on 31 December 2012, 1 539 concerned France. Resolutions adopted by the Committee of Ministers in 2012: 30. The noteworthy Court judgments concern the lack of effective remedy against removal of foreign nationals,[59] arrest without judicial control, lack of judicial remedy[60] and detention conditions.[61]

171. The last report of the Commissioner for Human Rights with respect to France dates back to 2008, but in the statement made in December 2012 on the restrictions on defenders of migrants' rights, France was mentioned as one of the countries in which the work of defenders working with migrants is restricted and may be even criminalised. Legal provisions corresponding to the so-called *délit de solidarité* (the offence of solidarity) concretely result in law enforcement bodies pressurising and punishing human rights defenders providing assistance to irregular migrants. Persons standing up for the rights of migrants have been detained, prosecuted and/or fined.

172. In another statement in November 2012, the Commissioner expressed his concern about the situation of Roma in several European countries. He pointed out that in France close to 5 000 Roma had reportedly been evicted from their settlements between July and September 2012. The inter-ministerial circular released in August 2012, requesting that authorities provide the evicted persons with adequate alternative housing had in most cases not brought any relief to the families concerned, who were often left to sleep rough in Paris, Marseilles and other French cities.

173. In a report published in January 2013, GRETA urged the French authorities to take a number of steps to improve the country's fight against trafficking in human beings and, in particular to launch a co-ordinated national action plan on trafficking as a matter of priority. The expert group also recommended that a nation-wide referral mechanism be set up to formally identify victims of trafficking and ensure that they were helped and protected. The report underlined difficulties in identifying emerging trends – especially with regard to labour exploitation. Nevertheless, there were indications that there may be several thousand victims every year. The number of child victims of trafficking was also thought to be increasing, notably with regard to children of Roma origin trafficked from south-east Europe to take part in forced begging and theft. GRETA urged the French authorities to ensure that their approach to trafficking was based on protecting the human rights of victims. Identification and access to support should not depend upon their willingness to co-operate with the authorities, and protection of victims and witnesses during investigations and trials should be strengthened to prevent them facing intimidation or retaliation.

174. In its Resolution 1938 (2013) on promoting alternatives to imprisonment,[62] the Assembly included France in the list of 21 member States which have serious problems of prison overcrowding and have more than 100 prisoners per 100 places of detention. According to the Council of Europe's Annual Penal Statistics, France is one of the six countries where the situation is among the worst: there are 108 prisoners per 100 places.

175. In its report on Roma migrants in Europe,[63] submitted to the Assembly by the Committee on Migration, Refugees and Displaced Persons in June 2012, France is pointed to as one of the member States with expulsion policies which may violate the provisions of the revised European Social Charter of which the country is a signatory.

---

57. Doc 13022, report of the Committee on Equality and Non-Discrimination.
58. Doc 13174, report of the Committee on Legal Affairs and Human Rights.
59. I.M. and De Souza Ribeiro v. France.
60. *Moulin , Medvedyev, Popov, Berasategi,* etc.
61. Plathey, *Alboreo, Raffray-Taddei, Renolde , Ketreb, Duval, G., Popov*, etc.
62. Doc. 13174, report of the Committee on Legal Affairs and Human Rights.
63. Doc. 12950.

176. In July 2013, ECRI published conclusions on the implementation of the recommendations made in a 2010 report in respect of France. The recommendations included concrete measures to be taken in order to support the High Authority against Discrimination and For Equality; to combat forms of racist expression propagated via the Internet and to ensure effective, ongoing schooling of itinerant or semi-itinerant Traveller children. According to the conclusions, the first two recommendations have been partly implemented and the third one has not yet been implemented.

177. No reports by GRECO (2011) and the CPT (2012) were published during the reporting period.

178. France has neither signed nor ratified the Framework Convention for the Protection of National Minorities. France has neither signed nor ratified Protocol No. 12. Apart from the legal instruments mentioned above, France has not signed and/or ratified the following major Council of Europe legal instruments: the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised): signed in 2011 but not ratified; the European Charter for Regional or Minority Languages: signed in 1999 but not ratified.

3.2.11. Germany

179. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there were 23 concerning Germany out of which 11 found at least one violation of the Convention. Out of a total of 128 100 pending cases on 31 December 2012, 2 013 concerned Germany. Resolutions adopted by the Committee of Ministers in 2012: 2. The noteworthy Court judgments concern the unjustified extension or ordering of preventive detention; violation of the prohibition of retroactive application of criminal law; restrictive family law – rights of the legal or biological fathers of children born out of wedlock or within the mother's marriage with another man[64] and the excessive length of proceedings and lack of an effective remedy in this respect.[65]

180. In October 2012, GRECO presented its 3rd evaluation round interim compliance report on Germany. It concluded that Germany had implemented satisfactorily or dealt with in a satisfactory manner only four of the 20 recommendations contained in the third round evaluation report. The shortcomings identified in German bribery law needed to be addressed, such as the limited criminalisation of bribery of parliamentarians and other members of domestic assemblies, coupled with the absence of trading in influence offences, and furthermore, certain limits in the criminalisation of bribery of foreign and international officials and of private sector bribery. The transparency of political financing needed to be enhanced, *inter alia*, by introducing a system for the timely publication of election campaign accounts, enhancing the transparency of direct donations to parliamentarians and election candidates who are members of political parties. Furthermore, the resources available to the President of the Bundestag for supervising party funding needed to be strengthened. In its interim compliance report, GRECO concluded that since the 3rd round compliance report no tangible progress had been achieved by Germany. In view of this result, GRECO categorised the very low level of compliance with the recommendations as "globally unsatisfactory" within the meaning of Rule 31, paragraph 8.3 of the Rules of Procedure. GRECO therefore decided to apply Rule 32 concerning members found not to be in compliance with the recommendations contained in the evaluation report and asked the Head of the German delegation to provide a report on the progress in implementing the outstanding recommendations.

181. The CPT published its last report with respect to Germany in February 2012. Restrictions regarding visits and access to the telephone imposed on detainees and allegations of inter-prisoner violence were among the concerns identified.

182. In May 2012, ECRI published its conclusions on the implementation of its priority recommendations in respect of Germany. ECRI strongly recommended that the German authorities take a more proactive role in raising awareness of the legal framework now in force against racial discrimination, notably among groups who were especially vulnerable to this phenomenon, targeted at potential victims of racial discrimination. Further efforts were needed to improve the education results of pupils with migrant backgrounds. Urgent steps were needed to implement targeted teacher training programmes to ensure that all teachers can assess objectively the skills of students due to enter the secondary school system. ECRI strongly recommended that, as part of their ongoing efforts towards creating a workplace free of racism, the German authorities launch an

64. Zaunegger v. Germany.
65. Rumpf v. Germany.

awareness-raising campaign aimed specifically at changing employers' attitudes towards persons with an immigrant background. Authorities had a key role to play in ensuring that all companies promoted diversity and in raising the awareness of employers as to their obligations regarding equal treatment.

183. The Assembly report on the human rights and family courts,[66] submitted by the Committee on Legal Affairs and Human Rights, pointed to the Germany as one of the countries which raise concern about certain cases in which children have been withdrawn from their families against the wishes of their biological parents.

184. In the report on Roma migrants in Europe,[67] submitted to the Assembly by the Committee on Migration, Refugees and Displaced Persons in June 2012, Germany is pointed to as one of the member States in which expulsion, and in particular forced repatriation to Kosovo,*[68] raise concern.

185. There were no reports by the Commissioner for Human Rights (2006), GRETA (Convention only ratified in 2012, not yet evaluated), the Advisory Committee on the Framework Convention for the Protection of National Minorities (2011) or the Committee of Experts of the European Charter for Regional or Minority Languages (2013, not available at the time of drafting) published during the reporting period.

186. Germany has not signed and/or ratified a number of important Council of Europe instruments, including the Civil Law Convention on Corruption: signed in 1999 but not ratified; the Criminal Law Convention on Corruption: signed in 1999 but not ratified, the Additional Protocol: signed in 2003 but not ratified; the European Social Charter (revised): signed in 2007 but not ratified; the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints, which has been neither signed nor ratified; Protocol No. 12 to the European Convention on Human Rights: signed in 2000 but not ratified.

187. On the positive side, Germany ratified the Council of Europe Convention on Action against Trafficking in Human Beings in December 2012.

3.2.12. Greece

188. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there were 56 concerning Greece, out of which 52 found at least one violation of the Convention. Out of 128 100 pending cases on 31 December 2012, 1 078 concerned Greece. Resolutions adopted by the Committee of Ministers in 2012: 13. The noteworthy Court judgments concern the excessively lengthy proceedings before criminal, civil and administrative courts; absence of an effective remedy;[69] shortcomings in the examination of asylum requests, including of the 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 not detained; absence of an effective remedy;[70] inhuman and degrading treatment on account of poor conditions of detention in prison,[71] and in pre-trial detention,[72] and Ill-treatment by police forces; treatment by coastguards amounting to an act of torture; absence of effective investigations and failure to investigate whether or not racist motives on the part of the police may have played a role in some cases.[73]

189. In June 2012, GRECO published a 3rd evaluation round compliance report on Greece in which it assessed that Greece's implementation of all recommendations issued was still in its initial stages. The report said that the almost complete lack of concrete results may be understandable given the difficult situation in Greece. However, a number of issues have to be addressed: the legal framework on bribery and trading in influence needed to be simplified and consolidated and the substantive and procedural shortcomings identified by GRECO have to be addressed. The efficiency of the corruption-related legal provisions had not been assessed. It should include those pertaining to confiscation and seizure of corruption proceeds, arrangements concerning conflicts of interest and incompatibilities as well as whistle-blower protection. An effective supervisory mechanism needed to be established regarding the funding of political parties and election campaigns, while also ensuring an adequate and impartial enforcement of the relevant rules.

66. Doc. 13060.
67. Doc. 12950.
68. * All reference to Kosovo, whether to 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.
69. Michelioudakis, Glykantzi, Athanasiou v. Greece.
70. M.S.S. v. Greece.
71. Nisiotis v. Greece.
72. Siasios v. Greece.
73. Makaratzis v. Greece.

Financial information on political parties' income, expenditure, assets and debts was not publicly disclosed in an appropriate level of detail. The current very low level of compliance with the recommendations was "globally unsatisfactory".

190. In a statement on the restrictions on defenders of migrants' rights, issued in December 2012, the Commissioner for Human Rights pointed out that the situation in Greece was particularly worrisome as migrants had become targets of unacceptable, extreme violence, notably by members, including MPs, of the far right political party, Golden Dawn. Human rights defenders of migrants were under threat. There had been several instances of lawyers being threatened and physically attacked in Athens as they were assisting migrants in the course of asylum and other legal procedures.

191. The Commissioner for Human Rights published his last report in respect of Greece in February 2013. He stressed that democracy in Greece was seriously threatened by the upsurge of hate crime and the weak State response. The steep increase in hate crimes in Greece, primarily targeting migrants, was an issue of grave concern. Domestic and international anti-racism law had been used inadequately, or not at all. The authorities must give effect to binding international standards and domestic anti-racism law and accelerate the adoption of the bill concerning racism and xenophobia through criminal law, pending since 2011. There was a need to urgently address the chronic shortcomings of Greece's justice system concerning in particular excessively lengthy proceedings, lack of an effective remedy and costly court fees. Another issue of deep concern was the persistent reports of ill-treatment, including torture, committed by law enforcement officials, notably against migrants and Roma. The authorities must eliminate the institutional culture of impunity. While welcoming the steps taken by the authorities aimed at rebuilding the national asylum system, the Commissioner urged Greece to remedy certain serious, long-standing gaps which were adversely affecting the human rights of migrants, including asylum-seekers and refugees, and making them easy targets for racist violence.

192. In June 2013, the Commissioner requested the Greek authorities to provide him, without further delay, with information on the follow-up given to his recommendations.

193. In July 2012, the Chairs of the Assembly Committees on Migration, Refugees and Displaced Persons and on Equality and Non-Discrimination expressed grave concern at an increasing number of incidents of State violence against migrants and refugees. They stressed, *inter alia*, that attacks against migrants and refugees were of increasing concern, including in Greece, where there were a worrying number of allegations of police brutality and failures by them to investigate racist attacks on migrants and refugees. They urged the authorities to ensure that all cases of State violence were investigated and stamped out.

194. In October 2012, the Chair of the Committee on Social Affairs, Health and Sustainable Development called on the Greek authorities to modify two 2010 reforms to Greek labour law recently judged illegal by the European Committee of Social Rights. She said that the decision to extend to one year the "trial period" during which workers can be dismissed without notice, and the decision to cut the minimum salary for workers under 25 to two thirds of the national minimum wage, should be reviewed.

195. In the report on the state of media in Europe,[74] the rapporteur expressed grave concern about deadly attacks against journalists, including in Greece on 19 July 2010 when Sokratis Giolia, Director of the radio station Thema 98.9 FM and Manager of the popular political blog Troktiko, was shot several times by unidentified men outside his Athens home. The authorities cast suspicion on an extremist revolutionary sect. Colleagues of Giolia reportedly stated their belief that he was killed because of his investigative journalistic work. Furthermore, the rapporteur expressed concern about an event which took place in Greece in April 2012, when police deliberately attacked a number of journalists and photographers during street protests in Athens, causing injuries. One of them, the head of the Greek Photojournalists' Association, Mario Lolos, suffered a fractured skull when he was beaten by riot police in the centre of Athens. Several journalists were beaten and suffered injuries during earlier street protests in central Athens during 2011.

196. In January 2013, the President of the Assembly, together with an Assembly sub-committee visiting Greece, urged greater European solidarity to help Greece deal with large numbers of irregular migrants and asylum-seekers entering the country. Their statement pointed out that Greece was confronted with a major problem of irregular migration at the very moment when it must also try to deal with an unprecedented economic crisis, but it could not be expected to accept all the misery of the world on its own. Only greater European solidarity, be it financial or in terms of receiving refugees and asylum-seekers, could really

74. Doc. 13078 and Resolution 1920 (2013), presented by the Committee on Culture, Education and Media.

contribute to solving this problem. A shared migration policy was even more essential at a time when the region was facing major instability. The delegation expressed its deep concern at the systematic use of detention as a means of deterring migrants from entering or staying in Greece

197. In January 2013, the credentials of one member of the Greek delegation to the Assembly were challenged on procedural grounds at the opening of the first 2013 part-session. The explanation for the challenge was that the member in question belonged to a political party which was "racist and anti-Semitic" and that the values of this party was in conflict with the Council of Europe's ideals and principles, as referred to in Article 3 of its Statute and in Rule 7.1 of the Assembly's Rules of Procedure. The challenge was supported by at least 10 members of the Assembly present in the Chamber, belonging to at least five different national delegations. The Assembly's Committee on Rules of Procedure, Immunities and Institutional Affairs, to which the question was referred, said in an opinion, that the "strict criteria" laid down in the Assembly's rules "did not make it possible to challenge the credentials of individual members in an effective manner, so as to sanction the actions or words where these seriously and persistently violate the principles and values defended by the Council of Europe". It added: "The committee wishes to state, in the strongest terms, that this decision must not be interpreted as an expression of support or recognition, albeit indirect, of activities, beliefs, actions or political positions that the Parliamentary Assembly has constantly denounced throughout its 63 years of existence." The credentials of the member in question were ratified by the Assembly.

198. In Resolution 1914 (2013) on ensuring the viability of the Strasbourg Court: structural deficiencies in States Parties,[75] the Assembly confirmed, as underlined in Resolution 1787 (2011), that, a number of countries, including Greece, face major structural problems which lead to delays in the execution of the Court's judgments.

199. In its Resolution 1938 (2013) on promoting alternatives to imprisonment,[76] the Assembly included Greece in the list of 21 member States which have serious problems of prison overcrowding and have more than 100 prisoners per 100 places of detention. According to the Council of Europe's Annual Penal Statistics, Greece is one of the six countries where the situation is the worst: there were 123 prisoners per 100 places.

200. In June 2013, the Chair of the Assembly's Sub-Committee on Media expressed her concern about the closure of the public broadcasting service in Greece. She observed that it was worrying that such a serious decision was implemented practically instantaneously, and expressed her concern about the possible harmful consequences in the shorter and the longer term of the simultaneous withdrawal of all public media.

201. In Resolution 1946 (2013) on equal access to health care,[77] the Assembly noted with concern the impact which the economic crisis and austerity measures have had on the accessibility of care in several member countries, including Greece, which was now faced with a health, and even humanitarian crisis and an increase in xenophobic and racist acts against refugees and migrants.

202. In Resolution 1949 (2013) on the post-monitoring dialogue with "the former Yugoslav Republic of Macedonia",[78] the Assembly regrets that the name issue continues to delay the opening of accession negotiations with the European Union, as repeatedly recommended by the European Commission since 2009, as well as the attempts of "the former Yugoslav Republic of Macedonia" to join NATO, despite the ruling of the International Court of Justice (ICJ) of 5 December 2011. The Assembly hopes that Greece will adopt a more flexible approach to this issue.

203. No reports were published by the CPT (2012) or GRETA (not yet a member) in the reporting period. Greece is not a member of MONEYVAL.

204. Greece signed the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised) in 2006, but has not ratified it. Protocol No. 12 to the European Convention on Human Rights was signed in 2000 but not ratified. The Convention on Action against trafficking in human beings was signed in 2005 but not ratified. The Framework Convention for the Protection of National Minorities was signed in 1997 but not ratified. The European Charter for Regional or Minority Languages has been neither signed nor ratified.

---

75. Doc. 13087, report of the Committee on Legal Affairs and Human Rights.
76. Doc. 13174, report of the Committee on Legal Affairs and Human Rights.
77. Doc. 13225, report of the Committee on Social Affairs, Health and Sustainable Development.
78. Doc. 13227, report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee).

3.2.13. Hungary

205. See item 2.4.1. above.

3.2.14. Iceland

206. Out of a total of 1 678. judgments delivered by the European Court of Human Rights in 2012, there were two concerning Iceland, both of them finding at least one violation of the Convention. Out of a total of 128 100 pending cases on 31 December 2012, 13 concerned Iceland. The noteworthy Court judgments concern the lack of a fair hearing before the Supreme Court,[79] unjustified restriction on the right not to join an association,[80] and restriction of freedom of the press on account of civil proceedings for defamation against journalists.[81]

207. In March 2013, the Venice Commission adopted an opinion on the draft new Constitution of Iceland at the request of the Chair of the Constitutional and Supervisory Committee of the Parliament of Iceland. This willingness to seek the Venice Commission's expertise and advice in the legislative process is to be commended.

208. In March 2013, GRECO published an evaluation report in respect of Iceland. It stressed that further steps are needed to fully acknowledge and address anti-corruption measures in parliament, and to increase public confidence in the institution. The report also noted that the regulations to prevent conflict of interest among the judiciary could be broadened in scope. Steps could also be taken to increase the independence of prosecution services.

209. In May 2013, in a report on "Keeping political and criminal responsibility separate",[82] the Committee on Legal Affairs and Human Rights criticised the criminalisation of the former Icelandic Prime Minister for his political acts.

210. In Resolution 1938 (2013) on promoting alternatives to imprisonment,[83] Iceland is praised as one of the group of countries which have imprisonment rates around half the European average or less.

211. Iceland is not a member of MONEYVAL. There were no reports by the Commissioner for Human Rights (2012), ECRI (2012) or the CPT (the last visit to the country was in September 2012 but the report is not yet available) during the reporting period.

212. Iceland signed the European Social Charter (revised) in 1998 but has not yet ratified it; the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints has been neither signed nor ratified; Protocol No. 12 to the European Convention on Human Rights was signed in 2000 but not ratified; the Framework Convention for the Protection of National Minorities was signed in 1995 but not ratified; the European Charter for Regional or Minority Languages was signed in 1999 but not ratified.

213. On the positive side, in March 2013, Iceland ratified the Additional Protocol to the Criminal Law Convention on Corruption, and in February 2012, it ratified the Convention on Action against trafficking in human beings.

3.2.15. Ireland

214. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there were two concerning Ireland, both of them finding at least one violation of the Convention on Human rights. Out of a total of 128 100 pending cases on 31 December 2012, 25 concerned Ireland. The Court judgments relate to the lack of any legislative or regulatory implementation regime providing an accessible and effective procedure to establish possibilities for lawful abortion where there is a risk to the mother's life.

215. In December 2012, the Commissioner for Human Rights addressed letters to the relevant Irish authorities on concerns regarding transgender, mental disabilities and asylum procedures. The Commissioner welcomed the measures being taken and underway, and called for a clear timeline for further improvements. The last report on Ireland dates back to 2011.

---

79. Lind Eggertsdottir, Sigurdsson v. Iceland.
80. Vordur Olafsson v. Iceland.
81. Björk Eidsdottir v. Iceland.
82. Doc. 13214
83. Doc. 13174, report of the Committee on Legal Affairs and Human Rights.

216. In February 2013, ECRI published its fourth report on Ireland, in which it regretted that a number of concerns persisted. For example, the single protection determination procedure for persons in need of a protection status had not been adopted in Ireland and asylum-seekers may not engage in paid employment. Irish legislation does not proscribe racial profiling by the Garda Siochána (police) and other law enforcement agencies, although in 2011 the High Court struck down as unconstitutional legislation requiring non-Irish nationals to produce identity documents upon the demand of law enforcement personnel, which had a discriminatory effect on the basis of an individual's colour. ECRI made three priority recommendations: to draft and adopt as soon as possible the Immigration, Residence and Protection Bill so as to put in place a procedure for dealing with applications for asylum and subsidiary protection, to introduce a long-term residence status and procedures for the registration of non-national minors under 16; to rationalise the various procedures for dealing with complaints on employment and ensure that there is a non-judicial independent authority competent to deal with cases of discrimination in the provision of goods and services; to ensure foreseeability in the application of the habitual residence requirement by setting out clear rules and publishing, in addition to the guidelines, the decisions of the authorities on appeals against negative decisions.

217. In April 2013, the Council of Europe's Advisory Committee Convention on National Minorities published a report in respect of Ireland. It states that Travellers continue to face discrimination and difficulties in many areas of life including education, employment and housing. It subsequently calls on Ireland to develop "genuine and realistic" programmes to tackle this issue.

218. In November 2012, following the death in Ireland of a woman who was denied a termination of pregnancy in spite of serious complications, the Chairperson of the Committee on Equality and Non-Discrimination, expressed her profound indignation and stressed that the Irish abortion law had to be changed in order to protect women's rights and dignity.

219. There were no reports by GRECO (2011), the CPT (2010) or GRETA (Convention only ratified in 2010, no report yet). Ireland is not a member of MONEYVAL.

220. The Civil Law Convention on Corruption was signed on 4 November 1999 but not ratified; the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised) was neither signed nor ratified; Protocol No. 12 to the European Convention on Human Rights: signed in 2000 but not ratified, European Charter for Regional or Minority Languages: neither signed nor ratified.

3.2.16. Italy

221. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there were 63 concerning Italy out of which 36 judgments found at least one violation of the Convention. Out of a total of 128 100 pending cases on 31 December 2012, 14 188 concerned Italy. Resolutions adopted by the Committee of Ministers in 2012: 2. The noteworthy Court judgments concern mainly the longstanding problem of the excessive length of civil, criminal and administrative proceedings;[84] inhuman and degrading treatment on account of overcrowding in prisons;[85] the prolonged inability of the authorities to ensure proper waste collection; lack of an effective remedy.[86]

222. The Congress of Local and Regional Authorities of the Council of Europe adopted, in March 2013, Recommendation 337 (2013) on the monitoring report on the implementation of the European Charter on Local Self-Government (ETS No. 122). The Congress noted concerns as regards the competences, the independence and finances of local authorities in general and encouraged the Italian authorities to complete the reform project launched over a decade ago. Other recommendations call on the Italian authorities to ensure the democratic value of direct elections; to review the scale and effect of shifting responsibilities from municipalities to consortia; and to ensure the sensitive application of austerity measures, especially concerning arbitrary staff cuts and inadequate funding of local and regional authorities. Lastly, the Congress encouraged the Italian authorities to sign and ratify the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) in the near future.

223. In September 2012, the Commissioner for Human Rights published a report in respect of Italy in which he stressed that lengthy judicial proceedings and the treatment of Roma and migrants in Italy raised serious human rights concerns. The policies of segregated camps and forced evictions should be once and for all discontinued. There was also a continuing need to work against anti-Gypsyism, which remained rampant in

84. 3x enhanced procedure, structural problem: Ceteroni, Luordo, Mostacciuolo.
85. 2x enhanced procedure, structural problem, pilot judgment: Sulejmanovic, Torreggiani.
86. Enhanced procedure: Di Sarno.

political discourse and in the media. The Commissioner stressed that the near absence of an integration framework for refugees and other beneficiaries of international protection clashed with Italy's human rights obligations.

224. In a statement in November 2012, the Commissioner expressed his concern about the situation of Roma in several European countries. He pointed out that in Italy, forced evictions continued, despite the government's commitment to stopping the "nomad emergency" policy. As recently as September 2012, in Rome, 250 persons were evicted without being offered any alternative other than moving to ethnically segregated settlements.

225. In July 2013, GRECO published the addendum to its joint first and second evaluation rounds report in respect of Italy in which it stated that out of 22 recommendations issued to Italy, 17 recommendations have been implemented in a satisfactory manner, three recommendations have been partly implemented and two recommendations have not been implemented. GRECO urges the Italian authorities to put in place a comprehensive plan to address the excessive length of judicial proceedings and the expiration of the relevant time limit as well as to keep under review the issue of corruption in the private sector, including by strengthening accounting and auditing requirements.

226. In July 2012, the Committee of Ministers adopted Resolution CM/ResCMN(2012)10 on the implementation of the Framework Convention for the Protection of National Minorities by Italy in which it urged the Italian authorities to adopt specific legislative framework at national level for the protection of the Roma and Sinti living in Italy and to eliminate shortcomings as regards that actual implementation of the existing legislative framework for minority protection. In particular, there is an increasing gap between the existing needs within the linguistic minorities and the resources made available by the central and local government.

227. In Resolution 1920 (2013) on the state of media freedom in Europe,[87] submitted by the Committee on Culture, Science, Education and Media, referring to the recent 14-month prison sentence imposed on Alessandro Sallusti in Italy, the Assembly asked the Venice Commission to prepare an opinion on whether the Italian laws on defamation were in line with Article 10 of the European Convention on Human Rights. It also noted with concern recent reports about political pressure on public service broadcasters in a number of countries, including Italy, and invited the European Broadcasting Union to co-operate with the Council of Europe in this regard.

228. In Resolution 1914 (2013) on ensuring the viability of the Strasbourg Court: structural deficiencies in States Parties,[88] submitted by the Committee on Legal Affairs and Human Rights, the Assembly confirmed, as underlined in Resolution 1787 (2011), that, a number of countries, including Italy, face major structural problems which lead to delays in the execution of the Court's judgments.

229. In its Resolution 1938 (2013) on promoting alternatives to imprisonment,[89] the Assembly included Italy in the list of 21 member States which have serious problems of prison overcrowding and have more than 100 prisoners per 100 places of detention. According to the Council of Europe's Annual Penal Statistics, Italy is one of the six countries where the situation is worst: there 153 prisoners per 100 places.

230. There were no reports by the CPT (2009) or ECRI (2012) during the reporting period. Italy is not a member of MONEYVAL.

231. Italy signed the Civil Law Convention on Corruption and the Criminal Law Convention on Corruption in 1999 and ratified them on 13 June 2013; it signed its Additional Protocol in 2003, but has not ratified it. It signed the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised) but has not ratified it; the European Charter for Regional or Minority Languages was signed in 2000 but not ratified. Protocol No. 12 to the European Convention on Human Rights was signed in 2000 but not ratified.

3.2.17. Latvia

232. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there were 14 concerning Latvia out of which 10 judgments found at least one violation of the Convention. Out of a total of 128 100 pending cases on 31 December 2012, 532 concerned Latvia. Resolutions adopted by the Committee of Ministers in 2012: 2. The noteworthy Court judgments concern inhuman or degrading treatment

87. Doc. 13078.
88. Doc. 13087.
89. Doc. 13174, report of the Committee on Legal Affairs and Human Rights.

on account of conditions of detention;[90] discrimination of a "permanently resident non-citizen" on account of the refusal to benefit from State pension rights;[91] issues related to pre-trial detention; lawfulness, length, delays in release, and detention of asylum-seekers.[92]

233. In December 2012, GRECO published a 4th evaluation round report with respect to Latvia. GRECO encouraged parliamentarians, judges and prosecutors, to step up their own capacity to self-regulate, to address real and potential conflicts of interests and to sanction those who fall short of acceptable standards of ethical conduct. There was a need to abolish the system of administrative immunities. This would help dispel any idea that parliamentarians, judges and prosecutors are above the law and help strengthen the confidence of Latvian citizens in their parliament and judiciary. There was also a need to strengthen the independence of the body entrusted with supervision of party funding rules (KNAB).

234. In November 2012, MONEYVAL published a report evaluating measures to combat money laundering and terrorist financing in Latvia. MONEYVAL concluded that Latvia has a comprehensive legal structure to combat money laundering and terrorist financing, and has taken significant legislative steps to remedy many of the deficiencies identified in the previous evaluation, particularly on prevention. The report also identified a number of deficiencies in the regime of freezing terrorist assets under the United Nations Security Council resolutions, and the need to clarify the regime for reporting suspicious transactions involving financing of terrorism. The evaluators had some concerns about the effectiveness of the supervision of financial institutions other than banks. MONEYVAL found some gaps in the systems of monitoring and ensuring compliance with Customer Due Diligence requirements across most of the designated non-financial business and professional sector. MONEYVAL would continue to monitor implementation of the recommendations by Latvia through its regular procedures, which require the country to submit a follow-up report by July 2014.

235. In January 2013, GRETA published a report on Latvia in which it warned that official figures may underestimate the scale of trafficking in Latvia. GRETA also urged the Latvian authorities to take further steps to prevent human trafficking, especially among vulnerable groups. The group of experts stated that the Latvian authorities should step up their efforts to prevent trafficking among vulnerable groups, such as children, in State institutions or those living in deprived areas. Furthermore, GRETA noted that the investigation of trafficking-related offences did not often lead to successful trials and effective penalties. The report urged the authorities to strengthen investigation and prosecution procedures and to raise awareness of human trafficking among relevant professionals – including judges, lawyers and investigators.

236. In June 2013, the Advisory Committee of the Framework Convention for the Protection of National Minorities adopted an opinion in respect of Latvia. At the time of drafting it was still restricted.

237. In August 2013, the CPT published the report in respect of Latvia in which it concludes that persons in police custody continue to face a certain degree of risk of being subjected to ill-treatment and calls on the Latvian authorities to exercise constant vigilance in this area. As regards conditions of detention in police establishments, the CPT emphasises that the conditions in some of the detention facilities visited were so poor that they could be considered as amounting to inhuman or degrading treatment. In their response, the Latvian authorities provided the information on the measures they have taken or intend to take in order to address the recommendation made by the CPT on the issues described above.

238. There were no reports by the Commissioner for Human Rights (2007) or ECRI (2012) during the reporting period and no specific text concerning Latvia from the Assembly.

239. Of the major Council of Europe legal instruments, Latvia has neither signed nor ratified the European Charter for Regional or Minority Languages.

3.2.18. Liechtenstein

240. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there were none concerning Liechtenstein. Out of a total of 128 100 pending cases on 31 December 2012, 14 concerned Liechtenstein.

241. In October 2012, GRECO published its first report with respect to Liechtenstein, which only joined it in 2010. It noted that the country was in the early stages of implementing effective anti-corruption measures. Its limited size was thought to prevent corruption but in a context of closer social relationships, there was a clear

90. Bazjaks, Melnitis v. Latvia.
91. Andrejeva v. Latvia.
92. Cernikovs, Beiere, Longa Yonkeu, Moisejevs.

need to improve awareness of potential problems posed by situations that give rise to conflicts of interest. Also the current approach did not take into account the broad variety of forms of bribery, such as favours and gratuities, beyond strictly material bribes. Building a modern judiciary in a country the size of Liechtenstein was always a challenge. New measures adopted in 2009 limit at present risks of interference in the prosecutors' work but the Prince retains in principle the power to block and terminate any investigation or prosecution. It was suggested to keep under review the appointment process concerning judges. Certain types of legal persons were still exposed to risks of misuse for criminal purposes and the supervision of trustees and similar professions needed strengthening. GRECO would assess the action taken by Liechtenstein in response to the report in the second half of 2013.

242. In February 2013, ECRI published its 4th report on Liechtenstein. According to the evaluators, some issues of concern remain, including the legislation on foreigners and the absence of a comprehensive civil and administrative legal framework aimed at combating racial discrimination in all fields of life. There were worries that the administrative reform plan providing for the disbanding of the Equal Opportunities Office would greatly compromise the effective handling of complaints and the provision of advice in an independent manner. There were consistent reports of discrimination in employment and in access to housing, particularly against women of Muslim faith wearing a headscarf. The Law on Foreigners had clear discriminatory implications with respect to non EU-nationals' access to public services. The report recommended that the responsibilities of the new Office for Social Affairs and of the Ombudsman's Office should be specified. The latter should be designated as the national specialised body for combating racism and racial discrimination; a number of provisions of the Law on Foreigners should be abrogated, notably: Article 49; Article 69 (2) (e); and Article 27 (3) and (4). These had discriminatory implications and run counter to one of the stated aims of the government's 2007 integration policy concerning equal access to social welfare; issues relating to the integration of non-nationals should be addressed by the social agencies, with a clear allocation of responsibility. The fulfilment of these recommendations would be assessed in two years.

243. There were no reports by the Commissioner for Human Rights (2005), MONEYVAL (2010), the Advisory Committee on the Framework Convention for the Protection of National Minorities (2010), the CPT (2008) or the Committee of Experts of the European Charter for Regional or Minority Languages (2011) and no specific Assembly texts concerning Liechtenstein.

244. In Resolution 1938 (2013) on promoting alternatives to imprisonment,[93] Liechtenstein is praised as one of the group of countries which have imprisonment rates around half the European average or less.

245. Liechtenstein has neither signed nor ratified the Civil Law Convention on Corruption; it signed the Criminal Law Convention on Corruption and signed its Additional Protocol in 2009 but has not ratified them so far; it has neither signed nor ratified the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised); it has neither signed nor ratified the Convention on action against trafficking in human beings (GRETA); the European Charter for Regional or Minority Languages was signed in 1992 and ratified in 1997; Protocol No. 12 to the European Convention on Human Rights was signed in 2000 but not ratified.

3.2.19. Lithuania

246. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there were 12 concerning Lithuania, out of which seven judgments found at least one violation of the Convention. Out of a total of 128 100 pending cases on 31 December 2012, 246 concerned Lithuania. The noteworthy Court judgments concern the excessive length of civil and criminal proceedings and lack of an effective remedy,[94] various aspects of the lack of access to courts and a fair hearing,[95] gaps in the relevant legislation preventing undergoing gender reassignment surgery and changing gender identification in official documents.[96]

247. In Resolution 1898 (2012) on political parties and women's political representation,[97] the Assembly included Lithuania in the list of countries in which women represent under 20% of members of national parliaments.

---

93. Doc. 13174, report of the Committee on Legal Affairs and Human Rights.
94. Sulcas group v. Lithuania.
95. Cudak, Jelcovas, D.D. v. Lithuania.
96. *L. v. Lithuania*.
97. See Doc. 13022, report of the Committee on Equality and Non-Discrimination.

248. In June 2013, GRECO published a Second Compliance Report on Lithuania in which it concluded that Lithuania had implemented satisfactorily 20 of the 21 recommendations and has shown remarkable progress since the adoption of the Evaluation Report in 2010.

249. In April 2013, MONEYVAL published a report on Lithuania in which it underlines that results both in terms of money laundering convictions and confiscation of proceeds of crime remain modest, especially when considering the high incidence of proceeds-generating crime in the country. MONEYVAL has called on Lithuania to address deficiencies and take further measures to bring it into line with international standards.

250. There were no reports by the Commissioner for Human Rights (2007), the CPT (2011), GRETA (recent ratification, no report yet), the Advisory Committee on the Framework Convention for the Protection of National Minorities (2011) or ECRI (2011).

251. Lithuania has neither signed nor ratified the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised); nor has it signed or ratified the European Charter for Regional or Minority Languages.

252. On the positive side, Lithuania ratified the Convention on action against trafficking in human beings in July 2012.

3.2.20. Luxembourg

253. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there were two concerning Luxembourg out of which one judgment found at least one violation of the Convention. Out of a total of 128 100 pending cases on 31 December 2012, 7 concerned Luxembourg. Resolutions adopted by the Committee of Ministers in 2012: 7. The Court judgments pending implementation concern mainly the excessive length of criminal and civil proceedings, and lack of an effective remedy.[98]

254. In June 2012, GRECO published in the 3rd Evaluation Round a second compliance report on Luxembourg. Regarding party funding, Luxembourg still has to refine the existing mechanism in order to ensure a satisfactory level of transparency vis-à-vis the other political formations and candidate lists participating in the elections, because at present the overall measures only apply to parties and candidates wishing or able to receive public grants, and the arrangements are in any case still far from perfect when it comes to transparency and supervision of election campaign financing. GRECO encouraged conferring legal personality on political parties because the question of the responsibility and full financial transparency of political parties was currently still wide open. The adoption of the second compliance report completed the compliance procedure for the Third Evaluation Round on Luxembourg.

255. Luxembourg is not a member of MONEYVAL. There were no reports by the Commissioner for Human Rights (2012), the CPT (2010), GRETA (no report yet) or ECRI (2012) during the reporting period. There were no Assembly texts specifically on Luxembourg.

256. Luxembourg signed the Civil Law Convention on Corruption in 1999 but has not ratified it; it signed the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised) in 2005, but has not ratified it; it signed the Framework Convention for the Protection of National Minorities in 1995 but has not ratified it.

3.2.21. Malta

257. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there were three judgments concerning Malta, out of which one found at least one violation of the Convention. Out of a total of 128 100 pending cases on 31 December 2012, 37 concerned Malta. The noteworthy Court judgments concern mainly family life – parental care, lack of access to court.[99]

258. In January 2013, GRETA published its first evaluation report on Malta. The report states that only 25 people in Malta were found to be victims of human trafficking between 2003 and 2011, all of whom were foreign nationals trafficked for sexual exploitation. However, GRETA considered that these figures may not reflect the true situation, given the lack of a formal procedure for identifying victims. The report also noted that most of the criminal cases which had been launched since 2006 were still pending. GRETA urged the Maltese authorities to ensure that offences linked to human trafficking were investigated and prosecuted promptly and

98. *Schumacher, Casse v. Luxembourg*.
99. *M.D. and others v. Malta*.

effectively. Furthermore, GRETA called on the Maltese authorities to adopt a clear framework for the repatriation and return of trafficking victims, and to ensure that all victims were able to access the support and compensation which they were entitled to.

259. In July 2013, the CPT published the report with respect of Malta in which it expressed concern about material conditions of detention centres. It also expressed concern about the frequency and the seriousness of allegations received from foreign nationals about the force used by soldiers and police officers in the context of disturbances which had occurred in August 2011 at the Safi Detention Centre. The Maltese authorities provided information on the action taken to address the recommendations made by the Committee on the issues described above.

260. In July 2012, the Chairs of the Assembly's Committees on Migration, Refugees and Displaced Persons and on Equality and Discrimination expressed grave concern at an increasing number of incidents of state violence against migrants and refugees. In a joint statement, they said: "The recent alleged beating to death of an asylum seeker in Malta while being detained by two soldiers last Saturday is an extremely serious incident. Attacks against migrants and refugees are of increasing concern, including in Malta, where there are a worrying number of allegations of police brutality, and failures by them to investigate racist attacks on migrants and refugees."

261. In Resolution 1898 (2012) on political parties and women's political representation,[100] the Assembly included Malta in the list of countries in which women represent under 10% of members of national parliaments.

262. There were no reports on Malta by GRECO (2011), MONEYVAL (2012), the Commissioner for Human Rights (2011), the Advisory Committee on the Framework Convention for the protection of national minorities (2012) or ECRI (2008) during the reporting period.

263. Malta ratified the Criminal Law Convention on Corruption and signed its Additional Protocol in 2003 but has not ratified the latter so far; it has neither signed nor ratified Protocol No. 12 to the European Convention on Human Rights; the European Charter for Regional or Minority Languages was signed in 1992 but has not been ratified.

3.2.22. The Netherlands

264. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there were seven concerning the Netherlands out of which five judgments found at least one violation of the European Convention of Human Rights. Out of a total of 128 100 pending cases on 31 December 2012, 1 062 concerned Netherlands. Resolutions adopted by the Committee of Ministers in 2012: 4. The noteworthy Court judgments concern mainly excessive delay in admission to a custodial psychiatric clinic while holding in pre-placement detention,[101] expulsion under the risk of ill-treatment,[102] restrictions on freedom of the press due to compulsory disclosure of journalistic sources.[103]

265. In June 2012, GRECO published in the 3rd Evaluation Round, a second compliance report with respect to the Netherlands. As regards thresholds for registering donations, GRECO was concerned that these had been increased, alongside the ceiling for acceptable anonymous donations (1 000 euros), whereas the legal regime governing the registration of anonymous donations below this amount remained unclear. Donations to local and regional/provincial units of political parties were not regulated by the new WFPP and there was no requirement to consolidate the accounts of parties to include the accounts of local and regional/provincial units. As regards supervision, GRECO had serious misgivings about the preservation of the Minister of the Interior as the authority in charge of monitoring compliance by political parties and their affiliated institutions with the political funding rules. An independent supervision of political financing, including election campaigns needed to be established. GRECO considered the situation as "globally unsatisfactory".

266. In August 2012, the CPT published a report in respect of the Netherlands containing overall positive conclusions. There were, however, some remarks concerning access to natural light in some cells, and frequency of strip searches in prisons and medical examination of deportees.

267. In October 2012, the Committee of Ministers adopted a 4th cycle recommendation on the monitoring of the European Charter for Regional and Minority Languages with respect to the Netherlands.

---

100. Doc. 13022, report of the Committee on Equality and Non-Discrimination.
101. Morsink, Van der Velden v. the Netherlands.
102. *A. v. the Netherlands*.
103. Sanoma Uitgevers B.V., Voskuil.

268. In Resolution 1938 (2013) on promoting alternatives to imprisonment,[104] the Netherlands is praised as one of the group of countries which have imprisonment rates around half the European average or less.

269. In Resolution 1898 (2012) on political parties and women's political representation,[105] the Netherlands is praised as one of the group of countries in which women's representation in parliament exceeds 40%.

270. In Recommendation 2003 (2012) on Roma migrants in Europe,[106] the Netherlands was included in the list of countries where the situation of stateless Roma is particularly precarious.

271. There were no reports by the Commissioner for Human Rights (2009), GRETA (no report yet), the Advisory Committee on the Framework Convention for the Protection of National Minorities (2012) or ECRI (2008) during the reporting period. The Netherlands is not a member of MONEYVAL;

272. The Netherlands has signed and ratified all the major Council of Europe legal instruments.

3.2.23. Norway

273. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there were three concerning Norway, out of which two judgments found at least one violation of the Convention. Out of a total of 128 100 pending cases on 31 December 2012, 61 concerned Norway. The Court judgments concern the restriction of the right to respect for family life in the event of expulsion of foreigners.[107]

274. In March 2013, GRECO published a 3rd round second compliance report on Norway. It concluded that Norway had implemented satisfactorily all of the eight recommendations contained in the third round evaluation report with regard to party funding.

275. In 2013, GRETA published a report with respect to Norway. A number of important challenges were identified, including the need to adopt clear procedures and criteria for identifying victims of trafficking and improving identification procedures so that victims of trafficking were not prosecuted for immigration-related offences. The legal definition of human trafficking was not fully in line with the Convention and penalties to help deter traffickers needed to be increased. There was no proactive approach to identify child victims of trafficking, including Roma children. The involvement of NGOs in planning and monitoring anti-trafficking measures was not satisfactory,

276. In July 2012, the Committee of Ministers adopted Resolution CM/ResCMN(2012)11 on the implementation of the Framework Convention for the Protection of National Minorities by Norway. It identified some issues of concern. Persons belonging to the Roma and Romani/Taters minorities, who consider themselves victims of discriminatory acts, hesitate to approach the Ombudsperson either because they have insufficient knowledge of the legislation in force and of the possible remedies, or because they consider the Ombudsperson's means of action unsuited to their needs and their itinerant lifestyle. In this context, the current resources available for the Ombudsperson's Office are insufficient to enable it to carry out its mission effectively. Representatives of civil society state that the frequency of expressions of hostility towards immigrants in political and public debate has increased in the last few years. Hostile and discriminatory attitudes on the part of the police force have been reported against persons belonging to the Roma and Romani/Taters minorities, who complain of not being able to rely on the support of the police when they encounter problems regarding access to commercial camping sites during their seasonal travel. Some difficulties continue to be reported by Romani/Taters who have been victims of past policies of assimilation and who are unable to prove their cultural origin due to the lack of judicial decisions on placement in foster families, or other convincing evidence. The national radio only broadcasts one weekly programme in the Finnish and Kven languages lasting 12 minutes directed at persons belonging to the Kven minority. The situation of the Kven language is still precarious and more determined action is needed to create an environment more likely to encourage the use of this minority language. Among issues for immediate action, the recommendations included: taking more resolute measures to promote tolerance, mutual respect and social cohesion in Norwegian society, taking effective measures to enable persons belonging to the Roma and Romani/Taters minorities who were victims of the forced assimilation policy in the past to exercise their rights; continuing efforts to revitalise the Kven language.

---

104. Doc. 13174, report of the Committee on Legal Affairs and Human Rights.
105. Doc. 13022, report of the Committee on Equality and Non-Discrimination.
106. Doc. 12950, report of the Committee on Migration, Refugees and Displaced Persons.
107. Nunez, Butt.

277. There were no reports by the Commissioner for Human Rights (2006), the CPT (2011), the Committee of Experts of the European Charter for Regional or Minority Languages (2012) or ECRI (2009) on Norway during the reporting period. Norway is not a member of MONEYVAL. There were no Assembly texts specifically on Norway during the reporting period.

278. In Resolution 1938 (2013) on promoting alternatives to imprisonment,[108] Norway is praised as one of the group of countries which have imprisonment rates around half the European average or less.

279. Norway has neither signed nor ratified the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised); Protocol No. 12 to the European Convention on Human Rights was signed in 2003 but not ratified.

3.2.24. Poland

280. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there were 74 concerning Poland out of which 56 judgments found at least one violation of the Convention. Out of a total of 128 100 pending cases on 31 December 2012, 3 106 concerned Poland. Resolutions adopted by the Committee of Ministers in 2012: 7. The noteworthy Court judgments concern mainly the excessive length of civil, criminal and administrative proceedings;[109] inhuman and degrading treatment in different detention facilities (police custody, remand centres and prisons), mainly due to the lack of adequate medical care and poor detention conditions;[110] practical problems with access to lawful abortion; and the conscientious clause.[111]

281. In December 2012, GRECO published a third evaluation second compliance report on Poland. It concluded that efforts in preventing corruption in the parliament and the judiciary should be pursued. Pertinent legal provisions were too general to provide clear guidance in specific situations. Recommendations included greater transparency and a more in-depth monitoring of the political financing accounts, in particular as regards political parties' activities outside election campaigns; in respect of *Sejm* deputies and senators, ethical standards and rules on conflicts of interest need to be further developed, and training and confidential counselling on such issues should be provided; Judges and prosecutors lacked proper guidance with regard to conflicts of interest and related areas, training and confidential counselling on such issues was needed.

282. In 2013, GRETA published a report on Poland in which it pointed to the significant gap between the number of identified victims of trafficking and the number of successful prosecutions and convictions. There was need for improving the knowledge and sensitivity of judges, prosecutors, investigators and other professionals about human trafficking and the rights of victims. Further steps were necessary to ensure that all victims of trafficking were properly identified (in particular trafficking for labour exploitation, which was on the rise). Lack of a nation-wide procedure for the identification of child victims of trafficking and for providing them effectively with assistance tailored to their needs. There was also a need to guarantee access to compensation for victims of trafficking. Despite the existence of legal possibilities, very few – if any – victims of trafficking had received compensation.

283. In November 2012, the Committee of Ministers adopted Resolution CM/ResCMN(2012)20 on the implementation of the Framework Convention for the Protection of National Minorities by Poland. It pointed to an increase in the number of racially-motivated offences in recent years; the Polish authorities had not taken adequate measures to combat racist incidents related to sporting events. The situation of Roma was still a cause for concern. There was insufficient representation of national minorities in the public radio and television programming councils. The authorities were recommended to take measures to prevent, investigate and prosecute all racially-motivated offences and to prevent and combat incidents of intolerance and xenophobia, including during sporting events; encourage more actively respect for cultural diversity among the public; support and promote the preservation and development of the culture of national minorities (allocation of sufficient financial resources, review of the existing textbooks and the compulsory curriculum with a view to ensuring a more objective reflection of the history, culture and traditions); prevent and combat discrimination and the social exclusion of the Roma (employment, housing and education), eliminate segregation and increase awareness of their culture and needs; ensure access of national minorities to the radio and television programmes which concern them.

---

108. Doc. 13174, report of the Committee on Legal Affairs and Human Rights.
109. Fuchs, Podbielski.
110. Kaprykowski, Orchowski.
111. Tysiac, R.R.

284. In June 2013, MONEYVAL published a report evaluating measures taken by Poland to combat money laundering and terrorist financing in which it concludes that the technical deficiencies identified in the third round report have not yet been addressed. The number of investigations and prosecutions for money laundering offences appears low, compared to the level of funds-generating crime. The evaluators considered there still remains an insufficiently proactive approach to money laundering investigation by law enforcement. The confiscation regime remains incomplete and the level of final confiscations also appears low.

285. In July 2013, ECRI published conclusions on the implementation of the recommendations made in a 2010 report in respect of Poland. Recommendations included elaboration of comprehensive legislation against discrimination; entrusting an independent body with all the powers for combating racism and racial discrimination; and development of a code of conduct addressing, *inter alia*, the issue of fans' racism by the Polish Football Association. All three recommendations have been partly implemented.

286. In Resolution 1914 (2013) on ensuring the viability of the Strasbourg Court: structural deficiencies in States Parties,[112] the Assembly confirms, as underlined in Resolution 1787 (2011), that a number of countries, including Poland, face major structural problems which lead to delays in the execution of the Court's judgments.

287. In the report on the state of media freedom in Europe,[113] submitted by the Committee on Culture, Science, Education and Media, the rapporteur noted with concern that Poland is one of three countries which had negotiated an opt-out protocol to the European Union Charter of Fundamental Rights, which seems to exclude the application of Article 11 by the European Union Court of Justice for those countries. Therefore, uniform application of Article 11 throughout the European Union may not be ensured, except indirectly through the application of the standards under Article 10 of the European Convention on Human Rights by the European Court of Human Rights.

288. There were no reports by the Commissioner for Human Rights (2007), the CPT (2011) or the Committee of Experts of the European Charter for Regional or Minority Languages (2011).

289. Poland ratified the Criminal Law Convention on Corruption and signed its Additional Protocol in 2011 but has not ratified the latter so far; Protocol No. 12 to the European Convention on Human Rights has been neither signed nor ratified.

3.2.25. Portugal

290. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there were 23 concerning Portugal out of which 22 judgments found at least one violation of the Convention. Out of a total of 128 100 pending cases on 31 December 2012, 217 concerned Portugal. Resolutions adopted by the Committee of Ministers in 2012: 5. The Court judgments concern mainly the excessive length of criminal, civil, administrative, and enforcement proceedings,[114] and excessive delay in determining and paying compensation following expropriation of agricultural properties – 1975 agrarian reform.[115]

291. In December 2012, GRECO published a third evaluation round compliance report on Portugal. It pointed to problems in the area of incriminations, relating in particular to legislation concerning active and passive bribery of foreign public officials and the level of sanctions pertaining to bribery in the private sector and trading in influence; low transparency in the financing of political parties and election campaigns. It required better and timelier access of the public to election campaign accounts and strengthening of the existing monitoring mechanism. Implementation was declared as "globally unsatisfactory".

292. The Commissioner for Human Rights published his last report with respect to Portugal in July 2012 in which he identified a number of concerns: child poverty was on the rise; preventing child labour should be stressed; the Roma continued to suffer from social exclusion and various forms of discrimination, particularly as regards housing, education and access to employment, resulting in the persistence of their social exclusion and poverty.

293. In June 2012, the Commissioner addressed a letter to the Minister of Justice of Portugal[116] in which he raised concerns relating to the excessive length of judicial proceedings, discrimination and abuse and violence against older persons.

---

112. Doc. 13087, report of the Committee on Legal Affairs and Human Rights.
113. Doc. 13078.
114. Martins Castro, Oliveira Modesto.
115. Carvalho Acabado.
116. CommDH(2012)24.

294. In November 2012, the Commissioner made a statement in which he stressed the need for States to take resolute measures to end school segregation of Roma. Portugal is included in the list of countries where schools or classes with a majority of Roma pupils can be found.

295. In February 2013, GRETA published an evaluation report with respect to Portugal. It pointed out that a low number of convictions for human trafficking may result from possible gaps in the investigation procedure and in the presentation of cases in courts. There was a need to improve the identification and protection of victims and the prosecution of traffickers. The report also underlined that the Portuguese authorities should pay increased attention to detecting trafficking for the purpose of labour exploitation, and involve NGOs more in the planning and implementation of anti-trafficking measures.

296. In April 2013, the CPT published a report with respect of Portugal in which it calls on the Portuguese authorities to address the steady increase in the prison population and to eradicate overcrowding. In their response, the authorities have provided information on the steps being taken to address these issues.

297. In July 2013, ECRI published its fourth report on Portugal, highlighting some concerns, for example the length and deficiencies of the racial discrimination complaints procedure. Three recommendations require priority and will be revisited by ECRI in two years' time: to put in place a system of collection of data; to simplify and speed up racial discrimination complaints procedure; and to eliminate all walls and barriers segregating Roma communities.

298. The report on human rights and family courts,[117] presented by the Committee on Legal Affairs and Human Rights, pointed to Portugal as one of the countries which raise concern about certain cases in which children have been withdrawn from their families against the wishes of their biological parents.

299. There were no reports by the Advisory Committee on the Framework Convention for the Protection of National Minorities (2011) during the reporting period.

300. Portugal has neither signed nor ratified the Civil Law Convention on Corruption; it ratified the Criminal Law Convention on Corruption and signed its Additional Protocol in 2003 but has not ratified the latter so far; Protocol No. 12 to the European Convention on Human Rights was signed in 2000 but not ratified, the Charter for Regional or Minority Languages was neither signed nor ratified. Portugal is not a member of MONEYVAL.

3.2.26. Romania

301. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there were 79 concerning Romania, out of which 70 judgments found at least one violation of the Convention. Out of a total of 128 100 pending cases on 31 December 2012, 8 712 concerned Romania. Resolutions adopted by the Committee of Ministers in 2012: 21. The noteworthy Court judgments concern mainly inhuman or degrading treatment or torture by the police and security forces; ineffective investigations; lack of safeguards;[118] poor conditions of detention (police facilities and prisons), including lack of adequate medical care;[119] structural problems related to ineffectiveness of mechanisms set up to afford restitution or compensation for property nationalised during the communist period;[120] excessive length of proceedings and delays in abiding by final domestic court decisions; and lack of effective remedy.[121]

302. In December 2012, the Venice Commission delivered, at the request of the Secretary General of the Council of Europe and the Romanian authorities, an opinion on the compatibility with constitutional principles and the rule of law of actions taken by the government and the parliament of Romania in respect of other State institutions and on the government emergency ordinance on amendment to Law N° 47/1992 regarding the organisation and functioning of the Constitutional Court and on the government emergency ordinance on amending and completing Law N° 3/2000 regarding the organisation of a referendum of Romania.[122] In its opinion, the Venice Commission concluded that a series of measures adopted by the Romanian Government and Parliament in quick succession, both individually and taken as a whole were problematic from the viewpoint of constitutionality and the rule of law. The Commission was worried in particular about the extensive recourse to government emergency ordinances – both by previous and present majorities – which presents a risk for democracy and the rule of law in Romania. In addition, the events and several statements

117. Doc. 13060.
118. Enhanced procedure, complex problem: Barbu Anghelescu, Association "21 December 1989".
119. Enhanced procedure, structural problem: Bragadireanu.
120. Enhanced procedure, structural problem: Strain, Maria Atanasiu.
121. Enhanced procedure, structural problem: Nicolau,Stoianova, Sacaleanu.
122. See document CDL-AD(2012)026.

made demonstrate a worrying lack of respect among representatives of State institutions for the status of other State institutions, including the Constitutional Court as the guarantor of the supremacy of the Constitution. The Venice Commission is of the opinion that the Romanian State institutions should engage in loyal co-operation between themselves and it welcomed the statements from both sides expressing their intention to respect their obligations.

303. In December 2012, GRECO published a third evaluation round compliance report in respect of Romania. Pending the enactment of the new Criminal Code, initially scheduled for October 2011 and now for February 2014, there were some gaps in the criminalisation of bribery of public officials and trading in influence. Existing arrangements concerning effective regret were a particular source for concern given the limited safeguards in place to prevent their abuse by bribe-givers. Anti-corruption bodies have been struggling for years to preserve their legal powers and ability to deal with cases involving the political and economic elite. Political financing had been surrounded by numerous allegations of dubious practices. Relevant regulations were at times over-ambitious and imposed many limitations that were probably difficult to enforce in practice. Loopholes in accounting, reporting and disclosure measures hampered their effectiveness. Supervision of party and campaign financing was not satisfactory. The maximum penalties for infringements of the rules were not adequate. As indicated in the compliance report, legislative and other measures were in the process of adoption in order to remedy the various issues.

304. In December 2012, the Commissioner for Human Rights published a Memorandum “Advancing accountability in respect of the CIA Black Site in Romania”,[123] in which he observed that sufficient evidence had now been amassed to allow the existence of a CIA Black Site in Romania to be considered as a proven fact, and to affirm that serious human rights abuses took place there. Nonetheless, it remained the role and responsibility of the Romanian authorities to establish the full circumstances of what happened, including the extent and nature of any crimes that occurred in order to fulfil Romania’s positive obligations under the European Convention on Human Rights.

305. In May 2012, GRETA published a report with respect to Romania in which it pointed to stereotypes and prejudices towards victims of trafficking, in particular women and Roma. Efforts should be stepped up as part of a long-term approach aimed at tackling the root causes of trafficking, especially through fostering access to education and jobs for vulnerable groups. Problems as regards victims’ access to health care and suitable accommodation, assistance and protection appeared to hinge on their readiness to co-operate with law enforcement agencies. There were shortcomings in the institutional and procedural framework for the repatriation and return of victims of trafficking and gaps in the investigation procedure and the presentation of cases in court leading to diminished effectiveness of investigation and prosecution of THB-related offences. Ensuring effective access to compensation and legal redress for victims of trafficking should also be a priority for the Romanian authorities. There was also a lack of finalisation of a new national strategy for combating and preventing trafficking. Co-ordination and co-operation between all the players concerned should be reinforced and all relevant professionals provided with training which enable them to identify victims of trafficking and to assist and protect them.

306. In June 2012, the Committee of Minsters adopted Recommendation CM/RecChL(2012)3 on the application of the European Charter for Regional or Minority Languages by Romania. It identified a number of concerns and urged the Romanian authorities to undertake the following measures with a view to improving the situation: adopt a structured approach for the implementation of each undertaking under the Charter in co-operation with representatives of the minority language speakers; develop comprehensive educational models for teaching in/of Tatar and Turkish in co-operation with representatives of the minority language speakers; provide basic and further training of a sufficient number of teachers to fully implement the undertakings under Article 8 with regard to German, Hungarian, Turkish and Ukrainian; continue to develop a comprehensive offer of teaching in/of Romani taking account of the needs and wishes of the Romani speakers; reconsider the thresholds for official use of minority languages in administration; improve the offer of radio and television broadcasts in the Part III languages.

307. In Resolution 1920 (2013) on the state of media freedom in Europe,[124] submitted by the Committee on Culture, Science, Education and Media, the Assembly noted with concern recent reports about political pressure on public service broadcasters in a number of countries, including Romania, and invited the European Broadcasting Union to co-operate with the Council of Europe in this regard.

123. See document CommDH(2012)38.
124. See Doc. 13078.

308. In Resolution 1914 (2013) on the ensuring the viability of the Strasbourg Court: structural deficiencies in States Parties,[125] submitted by the Committee on Legal Affairs and Human Rights, the Assembly confirmed, as underlined in Resolution 1787 (2011), that, a number of countries including Romania face major structural problems which lead to delays in the execution of the Court's judgments.

309. In Resolution 1898 (2012) on political parties and women's political representation,[126] the Assembly included Romania in the list of countries in which women represent under 20% of members of national parliaments.

310. In a statement published in March 2013, following the meeting between the Secretary General of the Council of Europe and the Romanian Prime Minister, it was announced that the next steps on property restitution and constitutional reform had been identified. It had also been agreed that the Romanian government would officially ask the Venice Commission for its expertise in the constitutional reform process. With regard to the situation of Roma, it had been agreed that assistance programmes should focus more on education as the key to the long-term integration of the Roma community in Romania.

311. There were no reports by MONEYVAL (2011), the Commissioner for Human Rights (2006), the CPT (2011), the Advisory Committee on the Framework Convention for the Protection of National Minorities (March 2012) or ECRI on Romania during the reporting period.

312. Romania has signed and ratified all of the major Council of Europe legal instruments.

3.2.27. San Marino

313. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there was one concerning San Marino; it found at least one violation of the Convention. Out of a total of 128 100 pending cases on 31 December 2012, 2 concerned San Marino. Resolutions adopted by the Committee of Ministers in 2012: 2. The Court judgment concerns mainly the length of proceedings in a restitution case and unlawful detention.

314. In July 2013, ECRI published its fourth report on San Marino highlighting some concerns including the legislation on citizenship and the absence of a comprehensive civil and administrative legal framework aimed at combating racial discrimination in all fields of life. Two recommendations require priority and will be revisited by ECRI in two years' time: to establish an independent body specialised in combating racism and racial discrimination; to revise the legislation on stay and work permits for foreigner private carers so as to reduce their precariousness of employment.

315. In Resolution 1898 (2012) on political parties and women's political representation,[127] the Assembly included San Marino in the list of countries in which women represent under 20% of members of national parliaments.

316. In Resolution 1938 (2013) on promoting alternatives to imprisonment,[128] San Marino is praised as one of the group of countries which have imprisonment rates around half the European average or less.

317. There were no reports by GRECO (February 2012), MONEYVAL (2011), the Commissioner for Human Rights (2008), the CPT (2008, last visit: February 2013), GRETA or the Advisory Committee on the Framework Convention for the Protection of National Minorities (2010) on San Marino during the reporting period.

318. San Marino has neither signed nor ratified the Civil Law Convention on Corruption; it signed the Criminal Law Convention on Corruption and its Additional Protocol in 2003 but has not ratified either of them; the Charter for Regional or Minority Languages has been neither signed nor ratified.

3.2.28. Slovak Republic

319. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there were 23 concerning the Slovak Republic out of which 21 judgments found at least one violation of the Convention. Out of a total of 128 100 pending cases on 31 December 2012, 481 concerned the Slovak Republic.

---

125. See Doc. 13087.
126. See Doc. 13022, report of the Committee on Equality and Non-Discrimination.
127. Ibid.
128. Doc. 13174, report of the Committee on Legal Affairs and Human Rights.

Resolutions adopted by the Committee of Ministers in 2012: 13. The noteworthy Court judgments concern mainly the disproportionately low compensation for compulsory land transfers by a registered association of landowners,[129] and the real risk of being subjected to treatment contrary to Article 3 in case of expulsion.[130]

320. GRECO published its third evaluation round second compliance report on the Slovak Republic in December 2012, in which it concluded that the Slovak Republic had not accomplished any progress since the second interim report. As regards the transparency of party and election campaign financing, a process which was initiated in 2011 with a view to adopting an election code and amending the law "on Political Parties and Political Movements" has not been completed and has failed to introduce significant improvements. For this reason, compliance with the recommendations dating from 2008 was considered as "globally unsatisfactory". Shortcomings to be addressed by the reform include, *inter alia*, a more articulate regulation of reporting and disclosure requirements applicable to election candidates, the establishment of an independent and properly resourced body to supervise compliance with rules on party and election campaign financing, and the revision of sanctions available for violations of rules on political funding to ensure that these are proportionate and dissuasive.

321. In November 2012, the Commissioner for Human Rights made a statement in which he stressed the need for States to take resolute measures to end school segregation of Roma. The Slovak Republic is included in the list of countries where schools or classes with a majority of Roma pupils can be found.

322. In May 2012, ECRI published its conclusions on the implementation of the recommendations in respect of Slovakia subject to interim follow-up adopted on 21 March 2012 (CRI(2012)29). It stressed that the situation of the Roma remained worrying in areas such as education, housing, employment and health and instances of police brutality against members of this minority still occurred. A rise in racist political discourse by some politicians targeting primarily Hungarians, as well as Roma and Jewish people, had been noted. The integration of refugees was still an issue that needed to be tackled, namely through the integration strategy devised by the Slovak authorities. In 2012, ECRI considered that its specific recommendation – to provide incentives, including financial ones, to local authorities to draw up and implement action plans to desegregate schools in their areas – had not been implemented.

323. In Resolution 1898 (2012) on political parties and women's political representation,[131] the Assembly included the Slovak Republic in the list of countries in which women represent under 20% of members of national parliaments.

324. There were no reports by MONEYVAL (2011), the Commissioner for Human Rights (2011), the CPT (2010), GRETA (2011), the Advisory Committee on the Framework Convention for the Protection of National Minorities (2011) or the Committee of Experts of the European Charter for Regional or Minority Languages (March 2012) on Slovakia during the reporting period.

325. Protocol No. 12 to the European Convention on Human Rights was signed in 2000 but not ratified.

3.2.29. Slovenia

326. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there were 22 concerning Slovenia, out of which 20 found at least one violation of the European Convention of Human Rights. Out of a total of 128 100 pending cases on 31 December 2012, 2,218 concerned Slovenia. Resolutions adopted by the Committee of Ministers in 2012: 1. The Court judgments concerned mainly the violation of the right to private and/or family life on account of compensation for "erased" persons,[132] degrading treatment due to poor conditions of detention in overcrowded prison, lack of effective remedy.[133]

327. In May 2012, GRECO published its third evaluation round second compliance report on Slovenia: "Incriminations".[134] Concerning incriminations, concerns remained as to the role that the Minister of Justice is to play when granting permission for such prosecutions to be initiated in Slovenia, and in particular, the risk of political interference. In so far as the transparency of political funding is concerned, Slovenia has not made any substantial progress since the adoption of the compliance report in 2010. GRECO noted in 2008 that although the Slovenian legislation is, on paper, of a good standard, in practice the picture is less convincing.

---

129. Urbárska Obec Trencianske Biskupice.
130. *Labsi v. the Slovak Republic*.
131. Doc. 13022, report of the Committee on Equality and Non-Discrimination.
132. Pilot judgment – Kuric v. Slovenia.
133. *Mandic v. Slovenia*.
134. ETS Nos. 173 and 191, GPC 2.

Political parties and other election campaign organisers appear to be able to circumvent existing legal provisions without great difficulty and are not penalised in any way – neither by the electorate nor by the competent supervisory body. GRECO therefore concluded that the Slovenian authorities should ensure, as a matter of priority, that effective independent supervision is put in place and that party and campaign finance rules are adequately enforced. There were two drafts underway, meant to provide for greater transparency of party and campaign accounts – including individual donations and loans, clearer oversight responsibilities and enhanced powers of the Court of Audit, and increased monetary sanctions for failure to comply with the law. It was most regrettable that no concrete material improvements had occurred over recent years and the two proposed drafts had not been adopted. Slovenia clearly needed to take more convincing action in this field. Slovenia had not made any tangible progress since the first compliance report more than two years ago (and well over four years since the adoption of the evaluation report). GRECO considered the situation as "globally unsatisfactory". Concerning integrity rules for members of parliament, judges and prosecutors, GRECO found that much remains to be done to educate them about integrity and conflicts of interest, and to ensure a better implementation of the corruption prevention legal framework. There remained the need to establish a set of rules of conduct, accompanied by a mechanism of supervision and sanction for misconduct. The role of the governing bodies of the judiciary and the prosecution service had to be enforced in developing integrity and managing corruption risks.

328. In May 2013, GRECO published another report with respect to Slovenia in which it called on Slovenia to further develop corruption prevention concerning members of parliament, judges and prosecutors. It stressed that much remained to be done to educate them about integrity and conflicts of interest and to ensure a better implementation of the corruption prevention legal framework. GRECO points to the need to establish a set of rules of conduct, accompanied by a mechanism of supervision and sanction for misconduct. It also called for a reinforcement of the role of the governing bodies of the judiciary and the prosecution service in developing integrity and managing corruption risks. Finally, the Group expressed concern that the responsibilities over the prosecution service had been transferred from the Ministry of Justice to the Ministry of the Interior, and that this may lead to a reduction of the independence of prosecutors.

329. In a statement in January 2013, the Commissioner for Human Rights raised the issue of the "erasure" of thousands of people from the Register of Permanent Residents of Slovenia in 1992, which continues to adversely affect the human rights of many "erased" persons. The Commissioner called on the Slovenian authorities to review the 2010 Legal Status Act in order to facilitate the reinclusion into Slovenian society of those "erased" persons who still wish to have their residence status restored. In addition, the Commissioner raised his particular concern about the plight of those, especially children, who became and may still be stateless following the "erasure".

330. In July 2012, the Committee of Ministers adopted Resolution CM/ResCMN(2012)12 on the implementation of the Framework Convention for the Protection of National Minorities by Slovenia, in which it observed that the socio-economic situation of many Roma remains a deep concern, especially in the region of Dolenjska. Many of them continue to live in substandard settlements, isolated from the majority population. Roma pupils still encounter important difficulties in the area of education and the majority of them do not reach secondary education. Prejudice and hostile attitudes against the Roma persist and are sometimes fuelled by the media and politicians. Some local authorities do not abide by their duties in the field of minority protection and are reluctant to implement strategies developed at national level. Hate speech continues to be expressed by certain politicians and to be disseminated through the media. It is on the rise on the Internet. As elsewhere in Europe, there is generally still a lack of awareness of the fact that hate speech is a crime and the prosecuting authorities are sometimes reluctant to identify and qualify hate speech as an offence. Prejudices and stereotypes against persons belonging to the "new national communities" and the German-speaking community persist and the support allocated to them is not sufficient to cover all their needs in the field of preservation of their languages and culture. The resolution calls on the Slovenian authorities to immediately take the following measures: intensify measures to ensure that effective remedies are available to potential victims of discrimination; intensify actions to raise awareness of discrimination-related issues in society, including in the judiciary and law enforcement agencies; ensure that Roma representatives are able to take part in public affairs at local level in all the municipalities in which they live in substantial numbers; take further steps to provide elected Roma councillors with all the support they need to carry out their tasks effectively, including adequate training; ensure that the Roma Community Council adequately represents the diversity of groups within the Roma community; ensure effective involvement of national minority representatives in discussions on any administrative change that could have an impact on minority protection; in particular, take measures to guarantee that the protection of persons belonging to national minorities will not diminish as a result of the creation of the municipality of Ankaran/Ancarano.

331. In Resolution 1938 (2013) on promoting alternatives to imprisonment,[135] Slovenia is praised as one of the group of countries which have imprisonment rates around half the European average or less.

332. In Resolution 1898 (2012) on political parties and women's political representation,[136] the Assembly included Slovenia in the list of countries in which women represent under 20% of members of national parliaments.

333. There were no reports by MONEYVAL (2010), the CPT (2008, last country visit: 2012), GRETA (no report yet, Slovenia joined only in 2009), the Committee of Experts of the European Charter for Regional or Minority Languages (2011) or ECRI (2006, the new one foreseen for 2013) on Slovenia during the reporting period.

334. Slovenia has signed and ratified all the major Council of Europe legal instruments.

3.2.30. Spain

335. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there were 10 concerning Spain, out of which eight found at least one violation of the Convention. Out of a total of 128 100 pending cases on 31 December 2012, 653 concerned Spain. Resolutions adopted by the Committee of Ministers in 2012: 3. The noteworthy Court judgments concern mainly the absence of a thorough and effective investigation into the arguable allegations of ill-treatment in detention;[137] restrictions on freedom of expression due to criminal conviction for defamation;[138] and breach of the right to a fair trial on account of absence of a hearing.[139]

336. In March 2013, the Congress of Local and Regional Authorities considered a monitoring report[140] and adopted Recommendation 336 (2013) on local and regional democracy in Spain. The Congress pointed out that Spain generally fulfilled its obligations under the Charter, and they welcomed the direct incorporation of the Charter into Spanish national law, making it possible for the domestic courts to use and interpret it. The rapporteurs nevertheless very much regretted the overlaps in responsibilities between the different levels of governance, and recommended that the Spanish authorities take practical measures in this sphere.

337. In June 2013, the Commissioner for Human Rights, in his statement following a visit to the country, stressed that all efforts should be made by the Spanish authorities to assess and limit the negative impact of budgetary cuts on the most vulnerable groups, in particular children and persons with disabilities. The Commissioner noted with concern that about 30% of Spanish children were at risk of poverty. Furthermore, concerns remained about the increasingly adverse impact that budgetary restrictions have on the enjoyment by persons with disabilities of their rights, notably those concerning their autonomy and access to public services. The Commissioner also paid particular attention to the work of the police in anti-austerity demonstrations that have multiplied in Spain in the last two years. He noted that the frequently reported lack of identification of police officers during demonstrations prevented effective investigation and sanction for possible abuse. The Commissioner called on the Spanish authorities to immediately abandon the practice of granting pardon to law enforcement officials convicted for serious human rights violations, such as torture. He said that this practice must end as it perpetuates impunity among law enforcement officials and runs counter to European human rights standards.

338. In June 2013, GRECO adopted a Second Compliance Report in respect of Spain in which it concludes that Spain has implemented six out of 15 recommendations contained in 2009 Evaluation Report. The sanctioning regime for irregular financing of political parties needs to be strengthened significantly. It is crucial for the credibility of the system that the law does not remain dead letter but that it is properly monitored and enforced; GRECO urges the Spanish authorities to take all possible steps in this respect. By March 2014, the authorities will provide information on measures which they will have undertaken.

339. In April 2013, the CPT published a report with respect to Spain which called on the Spanish authorities to effectively investigate allegations of ill-treatment, to address prison overcrowding, and to improve the conditions of administrative detention of irregular migrants. The report highlighted several allegations of serious physical ill-treatment by officers of the Guardia Civil in respect of persons held in *incommunicado*

135. Doc. 13174, report of the Committee on Legal Affairs and Human Rights.
136. Doc. 13022, report of the Committee on Equality and Non-Discrimination.
137. Beristain Ukar, San Argimiro Isasa, Otamendi Egiguren.
138. Otegi Mondragon, Gutierrez Suarez.
139. Igual Coll v. Spain.
140. CG(24)6FINAL.

detention, and it recommended once again that the safeguards surrounding such detention be effective in practice. The report also referred to several allegations of ill-treatment by the Catalan police (Mossos D'Esquadra) and made recommendations aimed at strengthening the safeguards in place and ensuring that all investigations into allegations of ill-treatment by the police are prompt and thorough. Further, the report recommended that all Mossos d'Esquadra officers always wear some form of identification, including during public order operations.

340. In its third opinion on Spain, published in November 2011, the Advisory Committee on the Framework Convention for the Protection of National Minorities called on Spain to take more resolute measures to implement Roma integration policies and to ensure that they are not disproportionately affected by budgetary restrictions due to the economic crisis. The Committee urged Spain to ensure that the implementation of admission rules to schools does not result in discriminatory practices against Roma pupils, and to prevent the persisting concentration of Roma pupils in schools located in disadvantaged areas and with lower education outcomes. It also asked the authorities to eliminate the practice of "ethnic profiling" by the police, which targets immigrants and Roma in particular, and to increase training of police to combat racism and discrimination.

341. In October 2012, the Committee of Ministers made public the third report on the application of the European Charter for Regional or Minority Languages in Spain. The report was drawn up by a committee of independent experts, which monitors the application of the Charter. Although measures have been taken aiming at improving the legislative set up and raising awareness about the multilingual character of Spain, further action was needed, especially regarding the use of regional or minority languages before judicial and State administration authorities. On the basis of this report, the Committee of Ministers adopted a recommendation encouraging Spain to ensure that court proceedings can be conducted in regional or minority languages in the autonomous communities. The Spanish authorities were also called upon to take measures to ensure the necessary language capacities of staff working in the State administration offices. Furthermore, the Spanish authorities were encouraged to ensure the presence of all regional or minority languages in public services.

342. In Resolution 1920 (2013) on the state of media freedom in Europe,[141] submitted by the Committee on Culture, Science, Education and Media, the Assembly noted with concern recent reports about political pressure on public service broadcasters in a number of countries including Spain and invited the European Broadcasting Union to co-operate with the Council of Europe in this regard.

343. There were no reports by ECRI (2011) on Spain during the reporting period. Spain is not a member of MONEYVAL.

344. Spain has signed and ratified all the major Council of Europe legal instruments.

3.2.31. Sweden

345. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there were 15 concerning Sweden, out of which four judgments found at least one violation of the Convention. Out of a total of 128 100 pending cases on 31 December 2012, 110 concerned Sweden. Resolutions adopted by the Committee of Ministers in 2012: 1. The Court judgments concern mainly the unfairness of proceedings before administrative courts; absence of oral hearings,[142] the length of judicial proceedings,[143] and issues linked to the expulsion of foreigners.[144]

346. In December 2012, GRECO published its third evaluation round: second interim compliance report on Sweden.[145] The report stresses that legislation on bribery complies in a strict legal sense with the Criminal Law Convention on Corruption. However, the rather general legislation and limited practice, makes it difficult to foresee all its consequences. Moreover, the offence trading in influence is not criminalised as such under Swedish law. Concerning transparency of party funding, the Swedish system falls short of the standards. Sweden's long standing tradition of self-regulation in this area neither provides for a sufficiently broad and comprehensive approach, nor is there an independent monitoring mechanism in place and there are no particular sanctions or other means for the enforcement of the few principles that have been agreed upon by the political parties represented in the Riksdagen. Consequently, it is difficult to assess the flow of private donations to political parties. Measures should be taken to increase the transparency of political party funding

141. Doc. 13078.
142. Andersson v. Sweden.
143. Handolsdalen Sami Village, Stromblad.
144. N., R.C., S.F.
145. GRECO RC-III(2012)22E second interim report.

(covering both general party funding and election campaign funding), including by further developing the accounting, reporting and publication requirements, by ensuring independent auditing and independent monitoring of party funding, and by introducing appropriate sanctions.

347. In June 2013, the Committee of Ministers adopted Resolution CM/ResCMN(2013)2 on the implementation of the Framework Convention for the Protection of National Minorities by Sweden. It stresses that the new Discrimination Act (2008:567) does not expressly cover discrimination based on language – a point of concern given the difficulties experienced by persons belonging to national minorities in exercising their rights with respect to the use and learning of their minority languages. This Act also does not expressly provide for the possibility of adopting special measures in all relevant fields of daily life of persons belonging to national minorities, in particular as regards health and housing. Overall, insufficient information is available about discrimination against persons belonging to national minorities. The sustainability of the long-term cultural activities of national minorities is difficult to ensure because such projects are usually funded for a limited period of one year. Minorities are not always sufficiently involved in decision-making processes on the allocation of resources and the amount of funds available is reportedly insufficient to cover their real needs. The legal situation of the Sami as regards winter grazing land rights needs to be clarified in the light of the Supreme Court's judgment of 27 April 2011 and more efforts are needed to ensure that their traditional way of life is maintained and negative impacts of spatial planning decisions are minimised. Problems in the access of Roma children to education persist, including a lack of awareness or acknowledgement of Roma culture in schools and school curricula, bullying and harassment of Roma children by pupils or teachers, and high levels of absenteeism and school dropouts amongst Roma children. The resolution urges the authorities to take immediate measures in the following areas: Redouble efforts to implement effectively the National Minorities Act among public service providers at local level in the municipalities concerned; pay particular attention to language training, language qualifications in public procurement procedures and targeted recruitment of minority language speakers; monitor the implementation of all measures and evaluate their effectiveness regularly in order to ensure that the linguistic rights of persons belonging to national minorities are fully respected; strengthen efforts to address the lack of minority language teachers as well as teachers equipped for bilingual and multilingual education; adopt a strategic approach, in consultation with representatives of national minorities, in order to ensure that there is adequate provision of higher education in this field and that minority language teaching is sustainable as a profession; take special measures to attract students to minority language teaching; take steps to ensure that the Sami Parliament is able to participate effectively in decision-making processes in all areas affecting the Sami people, including public affairs such as spatial planning as well as the reindeer industry and educational and cultural matters.

348. In September 2012, ECRI published a report with respect to Sweden in which it drew attention to problems relating to land rights, which continue to have an adverse effect on the Sami; the Roma remain marginalised and the fact that positive action is not generally accepted with regard to discrimination based on ethnicity and religion affects the situation of vulnerable groups. Strict administrative requirements in the field of family reunification place a disproportionate burden on persons from some countries. Some non-citizens find themselves in a particularly vulnerable situation with regard to health. Key recommendations included the adoption of a plan of action to address *de facto* residential segregation; lifting exclusions from free medical care for certain particularly vulnerable categories of persons living in Sweden without a residence permit; and resolution of all family reunification problems arising due to difficulties in obtaining identity papers in the country of origin.

349. In Resolution 1938 (2013) on promoting alternatives to imprisonment,[146] Sweden is praised as one of the group of countries which have imprisonment rates around half the European average or less.

350. In Resolution 1898 (2012) on political parties and women's political representation,[147] Sweden is praised as one of the group of countries in which women's representation in parliament exceeds 40%.

351. There were no reports by the Commissioner for Human Rights (2007), the CPT (2009); GRETA (report under preparation) or the Committee of Experts of the European Charter for Regional or Minority Languages (2011).

352. Sweden signed the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised) in 2005, but it has not ratified it so far; Protocol No. 12 to the European Convention on Human Rights has been neither signed nor ratified. Sweden is not a member of MONEYVAL.

146. Doc. 13174, report of the Committee on Legal Affairs and Human Rights.
147. Doc. 13022, report of the Committee on Equality and Non-Discrimination.

3.2.32. Switzerland

353. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there were eight concerning Switzerland, out of which three judgments found at least one violation of the Convention. Out of a total of 128 100 pending cases on 31 December 2012, 1 031 concerned Switzerland. Resolutions adopted by the Committee of Ministers in 2012: 6. The Court judgments concern mainly the violation of the applicant's right to private and family life and lack of an effective remedy.

354. In October 2012, the CPT published a report with respect to Switzerland in which it raised concern about a disturbing proportion of persons, including some juveniles, complaining about physical ill-treatment by the police at the time of, or just after, apprehension in the Canton of Geneva. These allegations were often supported by medical evidence. In the prisons visited, the vast majority of inmates said that they had not experienced any ill-treatment; however, some allegations were received in Champ-Dollon Prison. Another focus of the visit report related to detained persons suffering from psychiatric disorders, but who were held in a normal prison or high-security environment where they were unable to receive the necessary care and treatment.

355. In May 2012, ECRI published its conclusions on the implementation of a number of priority recommendations made in its country report in 2009. It observed that there had been a dangerous growth of racist political discourse against non-citizens, Muslims, Black and other minorities. Legislation is insufficiently developed to deal with direct racial discrimination, which targets in particular Muslims and persons from the Balkans, Turkey and Africa. Travellers and Yenish communities, with an itinerant life style, are still faced with a shortage of stopping sites and prejudice leading to instances of discrimination. Legislation governing asylum-seekers has been tightened and hostility towards them has increased. ECRI recommended that the authorities: pursue efforts to train police officers, prosecutors, judges and future legal professionals in the scope and application of Article 261bis of the Criminal Code, which is intended to prohibit racist acts. ECRI also recommended that the Swiss authorities ensure that all members of the police follow training and awareness-raising courses regarding the need to combat racism and racial discrimination in policing, including racial profiling. This has already been done in Lucerne. Structures need to be set up to enable the exchange of good practice in this field between the various police forces at the federal, cantonal and municipal levels.

356. In July 2013, the Committee of Ministers adopted Recommendation CM/RecChL(2013)4 on the application of the European Charter for Regional or Minority Languages by Switzerland in which it recommends, as a matter of priority, that the Swiss authorities ensure that the introduction and establishment of Rumantsch Grischun in schools takes into account traditionally used idioms in order to protect and promote Romansh as a living language; and to promote the use of Italian in the economic and social public sector under the control of the canton of Graubünden.

357. In Resolution 1938 (2013) on promoting alternatives to imprisonment,[148] Switzerland is praised as one of the group of countries which have imprisonment rates around half the European average or less.

358. There were no reports by the Commissioner for Human Rights (2005) or the Advisory Committee on the Framework Convention for the Protection of National Minorities (last Advisory Committee Opinion was adopted in March 2013 but it has not been published yet).

359. Switzerland has neither signed nor ratified the Civil Law Convention on Corruption; the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised): neither signed nor ratified; Protocol No. 12 to the European Convention on Human Rights: neither signed nor ratified, Protocol 1 to the ECHR not ratified. Switzerland is not a member of MONEYVAL.

360. On the positive side, in December 2012, Switzerland ratified the Council of Europe Convention on action against trafficking in human beings.

3.2.33. United Kingdom

361. Out of a total of 1 678 judgments delivered by the European Court of Human Rights in 2012, there were 24 concerning the United Kingdom, out of which 10 judgments found at least one violation of the Convention. Out of a total of 128 100 pending cases on 31 December 2012, 3 308 concerned the United Kingdom. Resolutions adopted by the Committee of Ministers in 2012: 14. The Court judgments concern mainly the blanket ban on voting imposed automatically on convicted offenders detained in prison.[149]

148. Doc. 13174, report of the Committee on Legal Affairs and Human Rights.

362. In June 2012, GRECO published its third evaluation round: second compliance report on the United Kingdom (ETS Nos. 173 and 191, GPC 2), GRECO was concerned that the coexistence of different provisions covering bribery of foreign public officials could give rise to discrepancies in the application of the law. In addition, "trading in influence" has not been criminalised in line with the Criminal Law Convention on Corruption, despite the fact that some aspects of this offence appear to be covered by the new Bribery Act. As far as the transparency of political funding is concerned, the transparency and accountability of members of parliament needs to be reinforced. In particular, lobbying needs regulation and the internal mechanisms preventing and sanctioning misconduct need to be enhanced.

363. In November 2012, the Commissioner for Human Rights, in his statement with regard to the situation of Roma in a number of European countries, observed that in the United Kingdom, Travellers who had been evicted from their own land in Dale Farm, Essex, in October 2011 had again been served with eviction notices. They were now being asked to leave the private roadside settlement they had been occupying since their eviction. They said that they had nowhere else to go and feared the approaching winter.

364. In September 2012, GRETA published a report on the United Kingdom. It urged the British authorities to take further steps to improve the identification of child victims of trafficking, and to ensure that all unaccompanied minors who are potential victims of trafficking are assigned a legal guardian and are provided with suitable safe accommodation and adequately trained supervisors or foster parents. GRETA urges the British authorities to adopt a clear legal and policy framework for the return of victims of trafficking, having due regard for the rights, safety and dignity of the person and the status of legal proceedings, and in order to avoid re-trafficking and re-victimisation. GRETA urges the British authorities to step up their efforts to adopt a victim-centred approach when assessing the public interest of prosecuting identified victims of trafficking. Potential victims of trafficking should not be punished for immigration-related offences. GRETA urges the authorities to step up efforts to protect victims of trafficking during the investigation and during and after the court proceedings, and to address the gap in victim protection at employment tribunals for victims of trafficking for the purpose of labour exploitation.

365. In December 2012, the Committee of Ministers adopted Resolution CM/ResCMN(2012)22 on the implementation of the Framework Convention for the Protection of National Minorities by the United Kingdom. It urged the British authorities to: take measures to ensure that savings in public expenditure do not have a disproportionately negative impact on the situation of persons belonging to ethnic minorities; take effective measures to address the accommodation needs of Gypsies and Travellers, including by encouraging the delivery of sites and improving the co-ordination of the different levels of authorities involved in sites delivery; ensure that local authorities comply with their responsibilities in sites delivery; enhance efforts to seek consensus on the introduction of legislation on the Irish language in Northern Ireland and continue to take appropriate measures to protect and develop the Irish language in Northern Ireland.

366. In February 2013, ECRI published its conclusions on the implementation of its priority recommendations included in the 2010 report in respect of the United Kingdom. Three recommendations had urged the British authorities: to ensure that legal aid is available in discrimination cases before employment tribunals; to complete the assessment of the accommodation needs of Gypsies and Travellers so as to address their disadvantages in access to adequate accommodation; and to continue to address the under-representation of ethnic minorities in the police. They had been partially implemented. The outstanding concerns include: racist incidents that had become more frequent; police powers exercised in a manner that disproportionately affected minority groups; Gypsies and Travellers still faced serious discrimination and asylum-seekers remained in a vulnerable position. The rise in racist incidents in recent years was worrying. The impact of anti-terror legislation on minority groups also continued to cause concern, with measures such as stops and searches disproportionately affecting members of Black and other minority ethnic communities. As a result, members of these communities, especially Muslims, feel increasingly stigmatised. Gypsies and Travellers are still most likely to encounter discrimination in all fields of daily life and they face some of the most severe levels of hostility and prejudice. The lack of adequate sites has also frequently been at the root of community tensions. Asylum-seekers remain vulnerable to destitution, hastily reached decisions rejecting their claims and unnecessary detention. Together with Muslims, migrants, Gypsies and Travellers, they are regularly presented in a negative light both in political discourse and in the media, especially the tabloid press. The tone of public debate continues to include some elements of racist and xenophobic discourse.

367. In July 2013, the CPT published its first report on an operation of deportation of foreign nationals from the United Kingdom by air. The main issues of concern were the use of restraint by escort staff, the presence of a medical doctor instead of a paramedic or a nurse on board removal charter flights, and the need for a "fit

149. Hirst, Greens v. the United Kingdom.

to fly" certificate for persons to be deported. The CPT recommends that efforts be made for the revised training package for overseas escorts to be accredited and implemented at the earliest opportunity. Other recommendations included the presence of interpreters throughout the whole removal process, psychological support and counselling.

368. In June 2013, the Committee of Experts of the European Charter for Regional or Minority Languages adopted an Evaluation Report on the United Kingdom. At the time of drafting it was still restricted.

369. In Resolution 1938 (2013) on promoting alternatives to imprisonment,[150] the Assembly notes with satisfaction that the United Kingdom has in recent years successfully phased in and promoted novel types of non-custodial sentences as alternatives to imprisonment, whilst safeguarding the legitimate security needs of society.

370. In the report on the state of media freedom in Europe,[151] submitted by the Committee on Culture, Science, Education and the Media, the rapporteur noted with concern that the United Kingdom is one of three countries which had negotiated an opt-out protocol to the European Union Charter of Fundamental Rights, which seems to exclude the application of Article 11 by the European Union Court of Justice for those countries. Therefore, uniform application of Article 11 throughout the European Union may not be ensured, except indirectly through the application of the standards under Article 10 of the European Convention on Human Rights by the European Court of Human Rights.

371. The report on the human rights and family courts,[152] submitted by the Committee on Legal Affairs and Human Rights, pointed to United Kingdom as one of the countries which raise concern about certain cases in which children have been withdrawn from their families against the wishes of their biological parents.

372. The United Kingdom is not a member of MONEYVAL.

373. The United Kingdom signed the Civil Law Convention on Corruption in 2000 but has not ratified it; the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (revised) has been neither signed nor ratified; Protocol No. 12 to the European Convention on Human Rights has been neither signed nor ratified.

4. Proposals concerning the development of the monitoring procedure

374. The parliamentary monitoring procedure was established in 1993 by Order No. 488 in order to allow the countries which had committed themselves to democratic principles to join the Council of Europe even before the democratic transition had been accomplished, and to provide them with assistance in their efforts. However, since then, the procedure has undergone a number of important changes and improvements, the latest introduced as recently as in May 2013.

375. In 1997, the Assembly decided to establish the Monitoring Committee and defined its mandate as "verifying the fulfilment of obligations assumed by member States under the term of the Statute of the Council of Europe, the European Convention on Human Rights and all other Council of Europe Conventions to which they are Parties, as well as the honouring of commitments entered into by the authorities of member states upon accession to the Council of Europe".[153] The terms of reference of the Monitoring Committee provided for a specific procedure for appointment of members and its working methods.

376. The major changes include, in 2005, the Assembly's decision[154] to strengthen the committee's role in deciding to open or reopen the monitoring procedure with regard to any member State, and allowing for a debate in the Assembly's in the case of diverging opinions between the Bureau and the Monitoring Committee. The desire to facilitate debates on the possible monitoring of any member country was confirmed by the Assembly's decision[155] in 2011 to allow any Assembly committee, or 20 members of the Assembly, or the Bureau, to be at the origin of such a motion.

377. Furthermore, in 2006,[156] the Assembly conferred on the Monitoring Committee the task of preparing periodic reports on all member States which were not the subject of a monitoring procedure or involved in a post-monitoring dialogue.

---

150. Doc 13174, report of the Committee on Legal Affairs and Human Rights.
151. See Doc. 13078.
152. See Doc. 13060.
153. Resolution 1115 (1997).
154. Resolution 1431 (2005).
155. Resolution 1827 (2011).

378. Finally, in May 2013, in the latest move, clearly designed to allow the committee's quick reaction to worrying developments in any member State, the Assembly enlarged the committee's terms of reference, providing for the possibility of it preparing a report on the functioning of democratic institutions in any member State on the basis of a motion for a resolution tabled by members of the Assembly.[157]

379. The Monitoring Committee's working methods have also been modified on several occasions, usually at the initiative of the committee itself in the light of experience and the need for adaptation of its mandate.

380. This brief outline of the development of the parliamentary monitoring procedure clearly shows that it has considerably changed since its establishment, and that these changes were aimed at addressing new challenges and concerns and adapting to changing situations. While an open and constructive debate on possible ways to improve its efficiency and impact can only be beneficial for the Parliamentary Assembly's role in promoting its core values, it is a matter of concern that over the last two years we have witnessed severe criticism of the procedure as such. This criticism puts into question the very existence of the monitoring procedure in its present form and clearly aims at its abolition or substantial changes, which would prevent it from fulfilling its main objectives.

381. It is revealing that this criticism comes mainly from some of the countries which have been monitored for the longest. They point to the alleged unfairness, vagueness and inefficiency of the monitoring procedure in its present form. These accusations of course cannot remain ignored, and have given rise to discussion within the Monitoring Committee and, indeed, the Assembly.

382. The reflection within the Monitoring Committee was launched by my predecessor in the Chair, Mr Dick Marty, on the occasion of the presentation of the progress report in 2011, when he decided to give consideration to the achievements and weaknesses of the monitoring procedure over the whole period since its establishment. While he did not question the overall positive assessment of Assembly monitoring, he drew attention to some outstanding concerns.

383. He pointed out that a number of countries which had been under a monitoring procedure for many years did not seem to be making any significant progress in terms of the fulfilment of their obligations and commitments. This was sometimes a cause of justified frustration among other member States anxious about the credibility of the Organisation, but also in the countries concerned.

384. The problem was amplified by the fact that ongoing political crises and the need for quick responses, made it difficult if not impossible for the Assembly to proceed with an overall assessment of progress as regards the fulfilment of their obligations and commitments.

385. Furthermore, given the inter-linkage between the different pillars of democracy, the shortcomings in one area were usually aggravated by the problems in other core areas of democracy. Thus, flawed elections often resulted in a deficient system of checks and balances, which, in turn, was frequently at the origin of human rights abuses, and so on.

386. Last year, during the preparation of the 2012 progress report, and in the framework of the discussions in the Monitoring Committee on ways to enhance co-operation with the Committee of Ministers, we continued to reflect on possible ways to increase the efficiency and impact of the monitoring procedure. An interesting exchange of views with the Chair of the Committee of Ministers' Group of Rapporteurs on Democracy (GR-DEM), Ambassador Urszula Gacek, was followed by discussions within the committee, which were suspended at the request of the President of the Assembly, pending a meeting between the Presidential Committee of the Assembly and the Bureau of the Committee of Ministers.

387. The question was also on the committee's agenda earlier this year, at the preliminary stage of the preparation of the present report, and during the discussions on Mr Agramunt's report on the harmonisation of regulatory and para-regulatory provisions of monitoring and post-monitoring dialogue procedures.[158]

388. The debate was supported by the President of the Assembly, Mr Jean-Claude Mignon, who asked all the national delegations to contribute to the discussion on the monitoring procedure and organised a meeting with the heads of delegations during the 2013 third part-session.

156. Resolution 1515 (2006).
157. Resolution 1936 (2013).
158. Doc. 13206.

389. Fourteen contributions were submitted.[159] The overwhelming majority of the countries stressed the importance of the monitoring procedure as a vital mechanism for reinforcing democratic processes in member States, and wanted to have it strengthened. The delegation of Sweden pointed to a recent worrying change in the Assembly's attitude with regard to respecting the Council of Europe's core values concerning human rights, the rule of law and democracy. The Croatian delegation stressed the benefits it had gained from being monitored by the Assembly.

390. A number of concrete proposals were also formulated: enhance co-operation with the Committee of Ministers (Sweden, Romania, Estonia, Finland); increase the synergy between different monitoring mechanisms of the Council of Europe and outside the Organisation (European Union, Organization for Security and Co-operation in Europe (OSCE)) (Poland, Estonia, Finland); use the findings of monitoring for the preparation of co-operation programmes; ensure strict respect for deadlines for the presentation of reports (Cyprus); ensure safeguards for full respect for the Rules of Procedure (Hungary); address specific challenges such as "the Council of Europe without political prisoners" (Estonia); introduce a five-year term for the administrators in charge of specific files (Sweden).

391. Some delegations proposed more far-reaching changes: Sweden suggested establishing a clear list of criteria for opening and closing a procedure; Romania called for a more systematic approach towards the 33 countries which are not under the specific monitoring procedure. Norway stressed that the scope of the monitoring procedure should be broadened in order to encompass the so-called "old" member States, for example those which do not implement the judgments of the Court or in which clear violations of human rights take place. Norway also proposed the reconsideration of the usefulness of the post-monitoring dialogue: in the view of the Head of the delegation, a clear evaluation procedure should be established making it possible to assess whether a State requires monitoring or not – making post-monitoring dialogue unnecessary. Norway supported the idea of establishing an ad hoc committee to further reflect on these issues.

392. Ukraine pointed out that "the monitoring procedure is seen by our countries as a penalty, or indeed, as a punishment". The delegation insists that, firstly, the procedure should be "clearly limited by the precisely defined monitoring issues which had initiated its being opened", secondly "monitoring must be applied to all member States of our Organisation" (for example election observation should be extended to "old democracies"); and thirdly, "it is necessary to introduce more flexible rules for the opening and closing of the monitoring procedure". Austria and Germany, while fully acknowledging the positive role played so far by the Assembly monitoring procedure, expressed the opinion that discussions on the "strengths and weaknesses" (Germany) and "adapting to new circumstances" (Austria) should take place. Turkey believes in the benefits of the monitoring mechanism and urged and supported plans to reform the monitoring process to make it more useful and relevant.

393. The Turkish delegation endorsed the idea of engaging in a comprehensive debate and establishment of an ad hoc committee on the reform of the process to establish a framework and guidelines for the monitoring procedure, including co-operation with various bodies of the Council of Europe. The ad hoc committee would consider possible options, strengths and weaknesses, and areas to be improved to make the process more effective.

394. The Russian delegation was very critical about the present procedure. In its view, "from the very beginning, the discriminatory approach was used: new member States were subject to monitoring automatically, while for others a complicated and multi-stage procedure was elaborated". It observes that "The vague mandate of the Monitoring Committee resulted in duplication of its work with the work of other committees of the Assembly". Furthermore: "The Monitoring Committee has really become a Committee with the archaic system of making decisions behind closed doors that does not account for the opinion of the interested party." "New obligations are imposed in addition to those that the country assumed. And therefore, the procedure itself becomes endless." As a result, "the countries under the monitoring and the post-monitoring procedures lose motivation to implement the recommendations of the Assembly". In conclusion, the delegation says "there is a need for a real substantive reform of the monitoring mechanism, which in its current form is often subject to double standards and a biased approach, probably unintentionally. The existence of the Monitoring Committee would be justified if it had a more specific mandate: for example, studying the situation in all Council of Europe member States in the fields outlined by the ECHR and regular preparation of corresponding reports." The Russian delegation also proposes setting up an ad hoc committee of the Bureau on monitoring procedure reform and charging it with the task of preparing a report.

159. The following countries contributed: Austria, Croatia, Cyprus, Estonia, Finland, Germany, Hungary, Norway, Poland, Russia, Romania, Sweden, Turkey and Ukraine.

395. The meeting between the President of the Assembly and the heads of national delegations on this subject, which took place during the June part-session, confirmed the positions expressed in the contributions. In my capacity as Chair of the Monitoring Committee, I expressed my opinion and reactions to the different arguments during the meeting. There follows a summary of my position.

396. Firstly, I fully agree that discussion is necessary. We have to face new challenges, adapt to new developments and address evolving situations. The criticism of the monitoring mechanism by those who are specifically subjected to it cannot be ignored because without their co-operation, without their good will, the whole process would be pointless. Therefore, we have to be sensitive to their arguments and give them our full attention and consideration. However, in doing so, we have to keep in mind that there are some boundaries which cannot be crossed and compromise on basic principles has limits beyond which the credibility of the whole Organisation might be threatened.

397. We have to be clear about what is proposed by Russia, and, more generally, by those who support the abolishment of the monitoring procedure in its present form: to abolish the country-by-country approach and replace it by an issue-based approach, which would make the existence of the Monitoring Committee superfluous.

398. The issue-based approach, which has features of cross-country monitoring, has always existed in the Parliamentary Assembly. It is enough to look at the reporting period: the Committee on Culture, Science, Education and Media prepared a report on the state of the media freedom in Europe; the Legal Affairs Committee prepared a report on structural deficiencies in States Parties with regard to the viability of the Strasbourg Court. These are only two examples among many more.

399. Issue-based monitoring already exists in the Assembly, but in my opinion it has much less impact than the specific country monitoring carried out by the Monitoring Committee. This is not only because a report on several countries provokes much less interest than one on a single country. The main reason is that a rapporteur of a single report on many countries can in no way replace the co-rapporteurs of the Monitoring Committee, who are appointed for five years, are competent and well-acquainted with the situation in the country under their responsibility, and who maintain continuous political dialogue with that country.

400. In addition, nothing prevents the Monitoring Committee from preparing an issue-based report – for example on political prisoners in Europe – irrespective of its work on specific countries. We can reflect on it; the Estonian delegation proposed this measure as a complement to the work on specific countries.

401. Another common argument used by the opponents of the monitoring procedure in its present form is that new obligations are imposed in addition to those assumed upon accession and therefore the procedure becomes endless and discouraging. In my view, this accusation is based on a misunderstanding of the nature and scope of the obligations entered into by member States upon accession. The list of commitments signed by the countries include concrete measures (laws to be adopted) aimed at fulfilling statutory obligations, which may be defined by three principles: democracy, the rule of law and respect for human rights. The commitments do not constitute objectives in themselves. The adoption of an exemplary law – if it is not subsequently implemented or if it is systematically violated – cannot be considered as the fulfilment of the obligation entered into upon accession. And yet, some countries have adopted laws which are very far from being “exemplary” – on the contrary, they are criticised by the Venice Commission, by the Council of Europe and by the international community. Can this be considered to be the fulfilment of commitments and obligations?

402. We are all concerned by the fact that some countries have remained under the monitoring procedure for such a long time, but it is not the procedure that should be blamed. The Council of Europe stands for clear values, to which every member State has subscribed. The Organisation’s credibility is at stake when violation of these values is tolerated. The Assembly monitoring procedure has always been based on constructive political dialogue and sanctions have been considered as a last resort – but that does not mean that we should turn a blind eye to clear violations of our basic democratic values as if we accept them. The monitoring procedure in its present form offers us a possibility of pointing to concerns and violations of which we disapprove and gives us a chance to discuss it with the authorities of the countries concerned.

403. We must not forget that our reports are widely used by civil society in their action, and, more generally can influence public opinion, and if we stop monitoring the countries where serious concerns exist, we will deprive their citizens of an important reference and a powerful tool. Needless to say, we would also deprive ourselves, as the Parliamentary Assembly, from a chance to contribute to progress by means of constructive political dialogue.

404. I must also stress that it is not true that the monitoring procedure is endless and new obligations are imposed. There are numerous examples of countries which have successfully left the monitoring procedure *stricto sensu*: the Czech Republic (1997), Lithuania (1997), the Slovak Republic (1999), Croatia (2000), Bulgaria (2000), "the former Yugoslav Republic of Macedonia" (2000), Latvia (2001), Turkey (2004), and Monaco (2009). The post-monitoring dialogue was concluded with Estonia (2001), Romania (2002), Lithuania (2002), Croatia (2003), the Czech Republic (2004), the Slovak Republic (2006) and Latvia (2006). So it is possible to close the monitoring procedure, but it depends on the country itself. If the parliamentary elections are systematically flawed, if basic freedoms are restricted and human rights are violated – should we look for a "better" monitoring procedure to accommodate these deficiencies and compromise on our values?

405. Having said that, I agree that we may reflect, in the Monitoring Committee, on more clear criteria governing evaluations. Perhaps we could draw up a list recapitulating the criteria for closing the procedure, and – why not – for opening the procedure. Such an attempt was already made in 2006.[160] We can come back to this question and discuss the list of criteria which – irrespective of commitments taken upon accession – might constitute a reference for considering closing or reopening the monitoring procedure. This might contribute to the transparency of the whole process and could discourage premature requests for closure.

406. There is no question of "inventing" or adding new principles. The proposal is to consolidate, to put together, our standards. And I repeat once again that commitments are clearly meant to achieve these basic standards, they are not objectives in themselves. Achievement of these democratic standards constitutes an obligation undertaken by each country upon accession.

407. I come now to another important question raised not only by Turkey and Russia but also by other delegations: fair treatment of all member States, the so-called "new" and "old" democracies, elimination of "double standards" and "dividing lines". It goes without saying that obligations have to be accomplished by all member States irrespective of their seniority in terms of Council of Europe membership. The question which arises is how the fulfilment of these obligations should be monitored.

408. This issue has been dealt with by the Monitoring Committee since last year. It resulted in a modified formula of the presentation of periodic reports on the 33 countries which are not under specific monitoring. In the present report I went further in the reporting, but I agree that the question is open and we should continue the discussion.

409. On the other hand, the new statutory measures introduced by the Assembly following Mr Agramunt's report last May[161] provide the Monitoring Committee with unprecedented possibilities for the monitoring of all Council of Europe member States, and I am confident that we will not miss the opportunity to use them whenever necessary. The new terms of reference of the Monitoring Committee clearly provide for the possibility of preparing a report on the functioning of democratic institutions in any member State, on the basis of a motion for a resolution tabled by members of the Assembly.

410. In practical terms, this means that from now on we do not need a lengthy procedure to closely examine the fulfilment of obligations by any member State. Can we still speak of double standards and dividing lines? And I invite those who still consider that it is unjust to have a "specific" procedure for some countries to carefully read two parts of the present report: the summaries of the concerns in the countries under "specific" monitoring procedures and the other countries. Is it really "unjust" that the latter are subject to a "lighter" procedure? Is the weight of concerns in these two groups of countries really the same? Those who think so can now table a motion for resolution on the functioning of democratic institutions in a country where they see serious problems.

411. And here I come to the last point which I wanted to make: how to ensure that the question of monitoring is not politicised or subjected to some particular interests? I do not wish to dwell here on concerns expressed recently by many members with regard to objectivity, neutrality, conflict of interest, party interests and so on. I think that further reflection on this subject is particularly desirable and I look forward to discussion on this issue in the Monitoring Committee.

412. However, I would draw your attention to the many statutory safeguards which are designed to ensure the objectivity of the Monitoring Committee: there are specific rules governing appointments and membership involving political groups,[162] no substitutes, the appointment of two co-rapporteurs from different countries

160. Progress report, Doc. 10960 rev.
161. Doc. 12143, Resolution 1936 (2013).
162. See Article 43.3*a* of the Rules of Procedure and paragraphs 6, 7 and 8 of Resolution 1115 (1997).

and different political groups (we should perhaps consider the extension of this rule for the countries engaged in the post-monitoring dialogue), the code of conduct for rapporteurs, the declaration of non-conflict of interest, the declaration of gifts, etc.

413. I consider the accusations about an "archaic system of making decisions behind closed doors" to be unfair. The discussions in the committee are held *in camera* precisely to allow for frank and true political dialogue. Once a report is discussed in the committee, it is transmitted to the authorities of the country concerned – before being made public – for their comments, which are subsequently taken into account during the approval of the final text, and only then is the report published. Representatives of the ruling party and opposition of the country concerned are systematically invited – in accordance with the rules – to the meetings of the Monitoring Committee, whenever a discussion on this country is on the agenda. The co-rapporteurs maintain political dialogue with the authorities (and other stakeholders) of the country under their responsibility, which they visit on average twice a year. It is true that in some countries they are not received at a level which would confirm the interest of this country in a serious political dialogue – but the procedure certainly cannot be blamed for such a lack of political will.

414. Having said that, based on our past experience, we can discuss further improvement of our working methods and consider any ideas which might contribute to increasing neutrality and objectivity. The establishment of the list of criteria, mentioned above, may be one of the issues for reflection.

415. I should also mention here that a similar process of reflection on the monitoring procedure in the intergovernmental sector of the Organisation is taking place at present under the responsibility of the Secretary General. A special task force was set up in March 2013 to follow up to the debate on ways to improve the impact of the Council of Europe monitoring mechanisms. It is drawing up the modalities for a three-step method for processing the findings and conclusions of the Organisation's different monitoring mechanisms. (The findings of these monitoring mechanisms have been used by me for the preparation of the third chapter of the present report.) These three steps would include the identification of key challenges in each member State; a dialogue on appropriate remedies with the member State concerned and identification of possible assistance from the Council of Europe.

416. I believe that reflection on increasing the impact of the monitoring in the Committee of Ministers is a positive sign showing the importance attached by the intergovernmental sector to the respect of democratic principles by all Council of Europe members. Each monitoring process has got its specificity, and in the Parliamentary Assembly we systematically use the findings and conclusions of the different monitoring mechanisms in our own work. We cannot therefore speak of duplication; the word "complementarity" is more appropriate. Of course we should continue our efforts to identify new ways for co-operation and co-ordination.

417. In conclusion, I support those who call for further reflection on possible ways to improve the procedure and the working methods of the Monitoring Committee. But I speak strongly against the attempts to abolish the specific country-by-country procedure or make it meaningless. I believe that the question of the honouring of the obligations and commitments by member States is crucial for the core values of the Council of Europe and, without it, the Organisation's very credibility would be at stake.

418. I consider that the questions raised here merit further discussion within the Monitoring Committee and I am open to proposals to set up a reflection group tasked with the preparation of concrete proposals aimed at improving the efficiency and impact of our work.

Appendix – Chart of ratification and signatures of the main Council of Europe conventions with a monitoring mechanism by 33 countries which are not under the monitoring procedure or involved in the post-monitoring dialogue (as at 7 August 2013)

Member States not currently under monitoring procedure or post-monitoring dialogue	Total number of conventions ratified or signed (out of 213)	DEMOCRACY	RULE OF LAW		HUMAN RIGHTS									
		LS-G	Convention on Corruption		Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990 or rev)	ECHR	Prot. ECHR			ECPT	Social rights		Minority rights	
			Civil Law	*Criminal Law*			6	12	13	14		ESC	Prot. ESC on collective complaints	FCNM	ECRML
Andorra	42 R 9 S	**R**	S	**R**	R 1990 – rev	**R**	**R**	**R**	**R**	**R**	**R**	**R** rev	–		–
Austria	106 R 36 S	**R**	**R**	S	R 1990 S rev	**R**	**R**	S	**R**	**R**	**R**	**R**1961 & rev	S	**R**	**R**
Belgium	130 R 35 S	**R**	**R**	**R**	R 1990 R rev	**R**	**R**	S	**R**	**R**	**R**	**R**1961 & rev	**R**	S	–
Croatia	90 R 8 S	**R**	**R**	**R**	R 1990 R rev	**R**	**R**	**R**	**R**	**R**	**R**	R 1961 S rev	**R**	**R**	**R**
Cyprus	124 R 24 S	**R**	**R**	**R**	R 1990 R rev	**R**	**R**	**R**	**R**	**R**	**R**	**R**1961 & rev	**R**	**R**	**R**
Czech Republic	101 R 13 S	**R**	**R**	**R**	R 1990 – rev	**R**	**R**	S	**R**	**R**	**R**	R 1961 S rev	**R**	**R**	**R**
Denmark	133 R 18 S	**R**	S	**R**	R 1990 S rev	**R**	**R**	–	**R**	**R**	**R**	R 1961 S rev	S	**R**	**R**
Estonia	83 R 14 S	**R**	**R**	**R**	R 1990 S rev	**R**	**R**	S	**R**	**R**	**R**	**R** rev	–	**R**	–
Finland	110 R 14 S	**R**	**R**	**R**	R 1990 S rev	**R**	**R**	**R**	**R**	**R**	**R**	**R**1961 & rev	**R**	**R**	**R**
France	132 R 37 S	**R**	**R**	**R**	R 1990 S rev	**R**	**R**	–	**R**	**R**	**R**	**R**1961 & rev	**R**	–	S
Germany	122 R 47 S	**R**	S	S	R 1990 – rev	**R**	**R**	S	**R**	**R**	**R**	R 1961 S rev	–	**R**	**R**

Member States not currently under monitoring procedure or post-monitoring dialogue	Total number of conventions ratified or signed (out of 213)	DEMOCRACY	RULE OF LAW			HUMAN RIGHTS									
		LS-G	Convention on Corruption		Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990 or rev)	ECHR	Prot. ECHR				ECPT	Social rights		Minority rights	
			Civil Law	*Criminal Law*			6	12	13	14		ESC	Prot. ESC on collective complaints	FCNM	ECRML
Greece	96 R 56 S	**R**	**R**	**R**	R 1990 S rev	**R**	**R**	S	**R**	**R**	**R**	R 1961 S rev	**R**	S	–
Hungary	81 R 20 S	**R**	**R**	**R**	R 1990 R rev	**R**	**R**	S	**R**	**R**	**R**	**R**1961 & rev	S	**R**	**R**
Iceland	84 R 37 S	**R**	S	**R**	R 1990 S rev	**R**	**R**	S	**R**	**R**	**R**	R 1961 S rev	–	S	S
Ireland	102 R 16 S	**R**	S	**R**	R 1990 – rev	**R**	**R**	S	**R**	**R**	**R**	**R**1961 & rev	**R**	**R**	–
Italy	125 R 46 S	**R**	**R**	**R**	R 1990 S rev	**R**	**R**	S	**R**	**R**	**R**	**R**1961 & rev	**R**	**R**	S
Latvia	92 R 9 S	**R**	**R**	**R**	R 1990 R rev	**R**	**R**	S	**R**	**R**	**R**	**R** 1961 & rev	–	**R**	–
Liechtenstein	79 R 11 S	**R**	–	S	R 1990 – rev	**R**	**R**	S	**R**	**R**	**R**	S 1961 rev	–	**R**	**R**
Lithuania	93 R 13 S	**R**	**R**	**R**	R 1990 – rev	**R**	**R**		**R**	**R**	**R**	**R** rev	–	**R**	–
Luxembourg	128 R 54 S	**R**	S	**R**	R 1990 S rev	**R**	**R**	**R**	**R**	**R**	**R**	R 1961 S rev	–	S	**R**
Malta	84 R 21 S	**R**	**R**	**R**	R 1990 R rev	**R**	**R**		**R**	**R**	**R**	**R**1961 & rev	–	**R**	S
Netherlands	149 R 15 S	**R**	**R**	**R**	R 1990 R rev	**R**	**R**	**R**	**R**	**R**	**R**	**R**1961 & rev	**R**	**R**	**R**
Norway	143 R 13 S	**R**	**R**	**R**	R 1990 – rev	**R**	**R**	S	**R**	**R**	**R**	**R**1961 & rev	**R**	**R**	**R**

.

.

Member States not currently under monitoring procedure or post-monitoring dialogue	**Total number of conventions ratified or signed (out of 213)**	**DEMOCRACY**	**RULE OF LAW**			**HUMAN RIGHTS**									
		LS-G	**Convention on Corruption**		**Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990 or rev)**	**ECHR**	**Prot. ECHR**				**ECPT**	**Social rights**		**Minority rights**	
			Civil Law	*Criminal Law*			6	12	13	14		**ESC**	**Prot. ESC on collective complaints**	**FCNM**	**ECRML**
Poland	87 R 17 S	**R**	**R**	**R**	R 1990 R rev	**R**	**R**	–	S	**R**	**R**	R 1961 S rev	–	**R**	**R**
Portugal	111 R 41 S	**R**		**R**	R 1990 R rev	**R**	**R**	S	**R**	**R**	**R**	**R**1961 & rev	**R**	**R**	–
Romania	102 R 16 S	**R**	**R**	**R**	R 1990 R rev	**R**	**R**	**R**	**R**	**R**	**R**	S 1961 **R** rev	–	**R**	**R**
San Marino	45 R 14 S	S	–	S	R 1990 R rev	**R**	**R**	**R**	**R**	**R**	**R**	S rev	–	**R**	–
Slovak Republic	96 R 10 S	**R**	**R**	**R**	R 1990 R rev	**R**	**R**	S	**R**	**R**	**R**	**R**1961 & rev	S	**R**	**R**
Slovenia	104 R 17 S	**R**	**R**	**R**	R 1990 R rev	**R**	**R**	**R**	**R**	**R**	**R**	S 1961 **R** rev	S	**R**	**R**
Spain	123 R 9 S	**R**	**R**	**R**	R 1990 R rev	**R**	**R**	**R**	**R**	**R**	**R**	R 1961 S rev	–	**R**	**R**
Sweden	135 R 18 S	**R**	**R**	**R**	R 1990 S rev	**R**	**R**	–	**R**	**R**	**R**	**R**1961 & rev	**R**	**R**	**R**
Switzerland	113 R 13 S	**R**	–	**R**	R 1990 – rev	**R**	**R**	–	**R**	**R**	**R**	S 1961 rev	–	**R**	**R**
United Kingdom	117 R 22 S	**R**	S	**R**	R 1990 – rev	**R**	**R**	–	**R**	**R**	**R**	R 1961 S rev	–	**R**	**R**

.

Table of abbreviations

R: Ratified

S: Signed but not yet ratified

–: neither signed nor ratified

ECHR: European Convention on Human Rights

ECPT: European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

ESC: European Social Charter (1961 or revised)

FCNM: Framework Convention for the Protection of National Minorities

ECRML: European Charter for Regional or Minority Languages

ECLS-G: European Charter of Local Self-Government