

Council of Europe contribution for the 27th UPR session (April – May 2017) regarding the United Kingdom

Contents

<i>Prevention of torture (CPT).....</i>	<i>2</i>
<i>Council of Europe Commissioner for Human Rights.....</i>	<i>4</i>
<i>Fight against racism and intolerance (ECRI).....</i>	<i>5</i>
<i>Protection of minorities.....</i>	<i>5</i>
<i>Framework Convention for the Protection of National Minorities.....</i>	<i>5</i>
<i>European Charter for Regional or Minority Languages.....</i>	<i>6</i>
<i>Action against trafficking in human beings (GRETA).....</i>	<i>7</i>
<i>Preventing and combating violence against women and domestic violence.....</i>	<i>8</i>
<i>Fight against corruption (GRECO).....</i>	<i>8</i>
<i>Execution of judgments and decisions of the European Court of Human Rights.....</i>	<i>8</i>
<i>Social and economic rights: European Social Charter and European Committee of Social Rights.....</i>	<i>14</i>
<i>Venice Commission</i>	<i>15</i>

Prevention of torture (CPT)

The 'European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment' organises country visits in order to visit places of detention to assess how persons deprived of their liberty are treated. After each visit, the CPT sends a detailed report to the State concerned. This report includes the CPT's findings, and its recommendations, comments and requests for information.

On [18 July 2013](#) the CPT published its first [report](#) on an operation of deportation of foreign nationals by air. The monitoring took place in the context of an ad hoc visit to the United Kingdom from 22 to 24 October 2012 and involved the presence of a CPT delegation on a charter flight between London and Colombo (Sri Lanka).

In its report, the CPT concludes that “each stage of the preparation of the removal process was carefully planned and organised, staff were well briefed, and every effort was made for the removal to be carried out in a humane way”. However, the CPT makes several recommendations and comments concerning both the preparation and execution phases of such operation.

The main issues raised concern 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 to fly certificate” for persons to be deported. In particular, the CPT recommends that efforts be made for the revised training package for overseas escorts to be accredited and implemented at the earliest opportunity. In their [response](#), the UK authorities indicate that an Independent Advisory Panel on Non-Compliance Management has been recruited to assess the quality and safety of the recently revised training package developed by the National Offender Management Service. As regards the presence of a medical doctor on board, the authorities indicate that “where indicated by risk assessment and where appropriate a doctor will be provided”. On the subject of the delivery of a “fit to fly certificate”, the authorities indicate that they do not consider it necessary “to positively assert in all cases that a person is fit to fly based on the reasonable assumption that this will be the case in the vast majority of instances”.

Other important recommendations related to the presence of interpreters throughout the whole removal process (including on board the aircraft), as well as the provision of psychological support and counselling to better prepare the persons to be deported for their removal.

Recommendations are also made concerning the recruitment procedure of escort staff (which should include some form of psychological assessment) as well as the measures to be taken to avoid professional exhaustion syndrome and the risks related to routine, and to ensure that escort staff maintain a certain emotional distance from the operational activities in which they are involved.

On 27 March 2014 the CPT published their [report](#) on the seventh periodic visit to the United Kingdom from 17 to 28 September 2012, together with the [response](#) of the United Kingdom Government. In Scotland, the CPT examined developments there since its last visit in 2003, particularly as concerns the situation of female prisoners (Cornton Vale, Edinburgh and Greenock Prisons) and adult males on remand (Barlinnie and Kilmarnock Prisons). It also looked into the treatment and conditions of detention in several police stations and visited a medium-secure psychiatric clinic. In England, the Committee examined issues relating to persons held under

immigration legislation and visited two immigration removal centres (Brook House and Colnbrook). A [summary](#) of the report findings and the UK Government's response were made available in the [press release](#).

On 19 November 2015 the CPT [published](#) a [report](#) following its first ad hoc visit to the British Overseas Territory of Gibraltar in November 2014 together with the Government of Gibraltar's [response](#).

In this report, the CPT assessed the conditions of detention and treatment of persons held in Windmill Hill prison and looked at the safeguards in place for persons deprived of their liberty by the police. The CPT also examined conditions in court holding cells and certain establishments under the authority of the Gibraltar Customs' enforcement agency and the United Kingdom Ministry of Defense. The Committee furthermore examined the situation of civil involuntary and forensic patients in King George V Psychiatric Hospital. The main findings of the report can be found in the [executive summary](#).

Law enforcement agencies

Most of the persons with recent experience of police custody who were interviewed by the CPT's delegation stated that they had been treated in a correct manner, although some allegations of excessive use of force by police officers at the time of apprehension were received.

The material conditions of the custody cells in New Mole House Police Station were generally of a good standard, although the CPT pointed to a lack of access to natural light in cells, the absence of privacy from the in-cell video-surveillance and the lack of legal aid prior to first Court hearings. The CPT also recommended the right of access to a doctor to be guaranteed in law, stressing that every effort should be made to avoid the detention of mentally-ill persons in New Mole House Police Station. The material conditions at the Customs' holding facility at the Four-Corners' land border were currently not deemed suitable for holding persons.

Windmill Hill Prison

Material conditions were generally deemed satisfactory but a number of logistical deficiencies (windows, hot water, drains) required action. The CPT underlined that cells of less than 8m² should not accommodate more than one prisoner. Furthermore, the Windmill Hill Prison was not found suitable to accommodate juveniles. The CPT also found that the provision of health-care suffered from a number of structural deficiencies. No allegations were received during the visit of physical or psychological ill-treatment by prison staff towards the prisoners, although some tensions between prisoners did exist. The CPT noted there was no clear anti-bullying policy in operation.

Court holding cells and military facilities

The CPT noted that while conditions were generally adequate, a register was absent as was any recording procedures for those persons detained. The CPT welcomed steps taken by the authorities to address this matter.

King George V Mental Health Hospital

Although the staff provided care and treatment to patients in a dedicated and professional manner, the living conditions were generally very poor. The CPT noted that the imminent transfer of all

patients to a new facility would provide a radical improvement. The delegation found that the majority of patients on the long-stay ward appeared to be more in need of social care support than psychiatric in-patient treatment, and the CPT recommends that their situation be reviewed. As regards the safeguards surrounding the placement of a patient involuntarily in hospital, the CPT recommends that long-term involuntary treatment orders always be based on the opinion of at least one – but preferably two - doctor with psychiatric qualifications. It also recommends that patients should be placed in a position to give their free and informed consent to treatment and that the Mental Health Bill 2014 be amended to reflect this right. Lastly, a system of independent inspections of psychiatric establishments should be established.



On 30 March 2016, the CPT delegation carried out its [eighth periodic visit](#) to the United Kingdom. The CPT delegation assessed the conditions of detention and treatment of persons held in prisons in England and examined the safeguards afforded to persons deprived of their liberty by the police. The visit also had a specific focus on mental health establishments in England, both inpatient adult psychiatry and medium and high secure forensic psychiatry. Finally, the CPT delegation examined issues relating to persons held under immigration legislation. At the end of the visit, the delegation presented its preliminary observations to the authorities of the United Kingdom.

Council of Europe Commissioner for Human Rights

The Commissioner for Human Rights is an independent and impartial non-judicial institution established by the Council of Europe to promote awareness of and respect for human rights in the 47 Council of Europe member States.

In a [memorandum](#) published in October 2013 - sent upon invitation by the UK Joint Parliamentary Committee on the Draft Voting Eligibility (Prisoners) Bill to submit evidence - the Commissioner underscored the obligation for member states to execute judgments of the European Court of Human Rights and the importance that such compliance has for the European system of human rights protection. He also warned about the possible negative consequences for the UK's interests, international reputation and influence on human rights related matters in case the country withdrew from the European Convention on Human Rights.

The Commissioner's [visit](#) to the UK in January 2016 focused on the government's forthcoming plans to repeal the Human Rights Act and create a revised Bill of Rights, as well as the implementation of the few remaining judgments from the European Court of Human Rights. On this occasion, Commissioner Muižnieks stated: *"The repeatedly delayed launch of the consultation process for repeal of the Human Rights Act has created much speculation and an atmosphere of anxiety and concern in civil society and in some parts of the devolved administrations. There is a real fear of regression in terms of rights' protection in the United Kingdom."*

The Commissioner published two further memoranda:

[Human rights of asylum seekers and immigrants in the United Kingdom](#) on 22 March 2016

It assesses amongst others the protection of the human rights of refugees through resettlement to the United Kingdom and specific human rights issues arising from restrictive UK immigration policies.

[Surveillance and oversight mechanisms in the UK](#) on 17 May 2016

The Commissioner examines the current legislative framework on communications interception and the overwhelming case for change; some of the existing oversight mechanisms in the UK; changes to the current system of surveillance and oversight; major human rights concerns over the Investigatory Powers Bill; and the 'Prevent' Programme and Strategy.

Fight against racism and intolerance (ECRI)

The European Commission against Racism and Intolerance ([ECRI](#)) is a human rights body of the Council of Europe, composed of independent experts, which monitors problems of racism, xenophobia, antisemitism, intolerance and discrimination on grounds such as "race", national/ethnic origin, colour, citizenship, religion and language. It prepares reports and issues recommendations to member States, in which its findings, along with recommendations are published. These reports are drawn up after a contact visit to the country in question and a confidential dialogue with the national authorities. The country monitoring takes place in five-year cycles. As part of the fourth round of ECRI's monitoring work, a new process of interim follow-up has been introduced with respect to a small number of specific recommendations made in each of ECRI's country reports.

The last [country report](#) in respect of the United Kingdom in the framework of ECRI's fourth monitoring cycle was published in March 2010.

In the framework of its interim follow-up procedure, ECRI subsequently adopted their [conclusions](#) on 4 December 2012 regarding the implementation of previous recommendations.

These interim conclusions concerned:

- ECRI's Recommendation that the authorities consider how to best ensure that legal aid is available in discrimination cases before employment tribunals
- ECRI's encouragement of the UK authorities in their efforts to address the disadvantages faced by Gypsies and Travellers in access to adequate accommodation. Thereby ECRI strongly recommended that the authorities take all necessary measure to ensure that the assessment of accommodation needs at local level was completed thoroughly and as quickly as possible
- ECRI's encouragement of the UK authorities to continue their efforts to address the under-representation of ethnic minorities in the police, and to monitor progress in recruitment, retention and career advancement.

Protection of minorities

Framework Convention for the Protection of National Minorities

The monitoring procedure for this convention requires each state party to submit a report within one year following the entry into force of the Framework Convention and additional reports every five subsequent years. State reports are examined by the [Advisory Committee](#), a body composed of 18 independent experts responsible for adopting country-specific opinions. These opinions, on which States Parties have an opportunity

to comment, are meant to advise the Committee of Ministers in the preparation of its resolutions, containing conclusions and recommendations to the State concerned.

The [comments](#) of the Government of the United Kingdom on the Third Opinion of the Advisory Committee were received on 4 January 2012. The [Committee of Ministers Resolution](#) on the implementation of the Framework Convention was adopted on 12 December 2012, noting both positive developments and issues of concern. The Committee of Ministers recommends taking measures to address issues for immediate action including ensuring that savings in public expenditure do not have a disproportionately negative impact on the situation of persons belonging to ethnic minorities, addressing the accommodation needs of gypsies and travellers and enhancing efforts to seek consensus on the introduction of legislation on the Irish language in Northern Ireland and continuing to take appropriate measures to protect and develop the Irish language in Northern Ireland. In their resolution the Committee of Minister also lists additional measures to further the implementation of the Framework Convention.

The United Kingdom submitted its 4th cycle State [report](#) on 26 March 2015. The Advisory Committee visited the United Kingdom in March 2016 and adopted its Opinion on 25 May 2016. The opinion is currently restricted.



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European Charter for Regional or Minority Languages

The [Charter's monitoring procedure](#) is based on state reports, as each State Party is required to present its first report within the year following the entry into force of the Charter with respect to the Party concerned. The subsequent reports are presented at three-yearly intervals. A committee of independent experts examines the state's periodical report and addresses an evaluation report to the Committee of Ministers, including proposals for recommendations.

The United Kingdom submitted its 4th periodical [report](#) on 11 March 2013. The Committee of Experts' [evaluation report](#) was adopted on 21 June 2013 and the corresponding Committee of Ministers' [recommendations](#) were adopted on 15 January 2014.

The Committee of Ministers recommends that the authorities of the United Kingdom, as a matter of priority, continue taking measures to strengthen Scottish Gaelic education, adopt and implement a comprehensive Irish language policy preferably through the adoption of legislation providing statutory rights for the Irish speakers, take concrete steps to further increase the use of Welsh in health and social care, strengthen its support for the work done by the Ulster Scots Agency and take measures to establish the teaching of Ulster Scots. It also recommends the authorities of the United Kingdom to establish and maintain support from central government for the Cornish language, and ensure that the present cuts in public spending do not have a disproportionate effect on the protection and promotion of minority languages.

The 5th periodical report is due 1st July 2017.

Action against trafficking in human beings (GRETA)

The 'Group of Experts on Action against Trafficking in Human Beings' ([GRETA](#)) carries out visits and publishes country reports evaluating legislative and other measures taken by Parties to give effect to the provisions of the Convention on Action against Trafficking in Human Beings (CETS No. 197). GRETA evaluates the implementation of the Convention following a procedure divided into rounds. At the beginning of each round, GRETA selects the specific provisions on which the evaluation procedure is based.

The first Evaluation Round in respect of the United Kingdom has been completed over the period 2011-2015, and has produced [3 documents](#):

- [GRETA's first report including the UK Government's comments](#), published on 12 September 2012;
- The [Recommendation of the Committee of the Parties](#), adopted on 13 December 2012;
- The UK [Government's Reply](#) to the Committee of the Parties' Recommendation, received on 12 March 2015.

In its first report, GRETA welcomed the steps taken by the UK authorities to combat trafficking in human beings (THB), including the establishment of co-ordination structures, the adoption of the UK Government's Strategy on Human Trafficking (2011-2015), and the formalisation of the identification procedures and victim support process through the setting up of a National Referral Mechanism (NRM).

However, GRETA was concerned that a number of victims were not referred to the NRM because of fear that they would not be positively identified and would be removed from the UK. GRETA was also concerned that a significant number of unaccompanied children placed in local authority care went missing and urged the UK authorities to take steps to improve the identification of child victims of trafficking, and to ensure that all unaccompanied minors who are possible victims of trafficking are assigned a legal guardian and are provided with suitable safe accommodation and adequately trained supervisors or foster parents. GRETA considered that improvements were needed to guarantee access to compensation for victims of trafficking. GRETA urged the UK authorities to strengthen their efforts to ensure that the non-punishment principle, whereby victims are not punished for offences they commit under the influence of traffickers, is applied consistently. Further, GRETA noted with concern the low level of convictions as compared to the number of identified victims of THB and stressed the need to step up proactive investigations and to encourage the prosecution services to develop their specialism in THB.

The second Evaluation round in respect of the UK was launched in 2015. The UK Government's [Reply to GRETA's second questionnaire](#) was published on 10 June 2015. GRETA's second evaluation visit to the UK took place on 20-30 October 2015. GRETA adopted its final 2nd evaluation report on the implementation of the Council of Europe Anti-Trafficking Convention by the UK on 8 July 2016. It will become public in autumn 2016.



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Preventing and combating violence against women and domestic violence

The Council of Europe Convention on preventing and Combating violence against women and domestic violence (Istanbul Convention¹, CETS No. 210) provides for two types of monitoring procedures: a country-by-country evaluation procedure and a special inquiry procedure in exceptional cases where action is required to prevent a serious, massive or persistent pattern of any acts of violence covered by the Convention. [GREVIO](#), the Group of Experts on Action against violence against women and domestic violence, is the independent body responsible for monitoring the implementation of CETS No. 210. GREVIO launched its first evaluation procedure in spring 2016, after adopting a questionnaire on legislative and other measures giving effect to the Istanbul Convention.

The United Kingdom has signed the Istanbul Convention on 8 June 2012, and has taken a number of steps to align its legislation and policy with the requirements of the Convention. It has not yet ratified it and is not yet subject to the evaluation procedure. The United Kingdom is invited to pursue its efforts towards ratification to become a state party to the Istanbul Convention in the near future.

Fight against corruption (GRECO)

The 'Group of States against Corruption' ([GRECO](#)) monitors all its members through a "horizontal" evaluation procedure within thematic evaluation rounds. The evaluation reports contain recommendations aimed at furthering the necessary legislative, institutional and practical reforms. Subsequently, the implementation of those recommendations is examined in the framework of a "compliance procedure", assessing whether they have been implemented satisfactorily, partly or have not been implemented 18 months after the adoption of the evaluation report.

Fourth Evaluation Round: "Corruption prevention in respect of members of parliament, judges and prosecutors".

On 19 January 2015, GRECO published a [compliance report](#), assessing the measures taken by the authorities of the United Kingdom to implement the recommendations issued in the [Fourth Round Evaluation Report](#) (adopted in 2012 and made public in 2013).

As outcome of the compliance procedure, GRECO concluded that the UK had implemented satisfactorily or dealt with in a satisfactory manner four of the eight recommendations contained in the Fourth Round Evaluation Report. The remaining four recommendations had been partly implemented.

Execution of judgments and decisions of the European Court of Human Rights

Statistical data

At 31 December 2015, there were 19 (26 at 31.12.2014) cases against United Kingdom pending before the Committee of Ministers for supervision of their execution. 8 of these cases were "leading cases" (11 at 31.12.2014), i.e. raising a new structural /general problem and requiring the adoption of general measures, the other cases being "repetitive cases" (including a number of friendly settlements) concerning issues already raised before the European Court of Human Rights.

¹ Entry into force: 1st August 2014.

In 2015, the CM was seized by 5 new cases (15 in 2014) against United Kingdom of which 2 leading cases (3 in 2014) and the sums awarded in 2015 as just satisfaction amounted to € 23.450 (€ 50.050 at 31.12.2014).

In 2015, 12 cases (16 in 2014) were closed by the adoption of a Final Resolution, of which 4 leading (10 in 2014).

For a description of main achievements in the recent years, covering issues prisoners' vote rights and ineffective investigations into the deaths in Northern Ireland in the 1980s and 1990s see also the [Annual Reports of the Committee of Ministers](#).

Main cases /groups of cases pending before the Committee of Ministers for supervision of execution under enhanced procedure

The major outstanding issues relate to prisoner voting rights (*Hirst No.2* group of cases) and ineffective investigations into the deaths in Northern Ireland in the 1980s and 1990s either during security forces operations or in circumstances giving rise to suspicion of collusion with those forces (*McKerr* group of cases).

Hirst No. 2 group of cases - Greens and M.T (pilot judgment)

Application Nos. 74025/01 and 60041/08, judgments final on 06/10/2005 and 11/04/2011, enhanced supervision,

Interim Resolution ResDH(2015)251

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

Status of execution:

On 6 October 2015, the CJEU gave its judgment¹ in *Delvigne* assessing the compatibility of the restriction on voting rights for convicted prisoners in the old French Criminal Code dating from 1810 (since repealed in 1994 and replaced by the new Criminal Code²), with the European Charter on Fundamental Rights of the European Union. The CJEU found that the old Criminal Code, which banned prisoners sentenced to five years or more from voting was proportionate and concluded that the Charter of Fundamental Rights did not preclude such legislation.

In its judgment, the CJEU followed the well-established principles of the Strasbourg case-law recalling that a restriction on voting rights may serve a legitimate aim and be acceptable, provided that the restriction is proportionate, taking into account the nature and gravity of the criminal offence committed and the duration of the penalty.

The United Kingdom authorities have not transmitted to the Committee of Ministers the requested information confirming that a Bill has been introduced to Parliament as recommended by the Parliamentary Committee. As a consequence, pursuant to Committee's instructions, the Secretariat has prepared a draft interim resolution.

Last Committee of Ministers decision (December 2015)

Decision

The Deputies adopted Interim Resolution [CM/ResDH\(2015\)251](#) below.

(Adopted by the Committee of Ministers on 9 December 2015 at the 1243rd meeting of the Ministers' Deputies)

The Committee of Ministers, under the terms of Article 46, paragraph 2, of the Convention for the Protection of Human Rights and Fundamental Freedoms, which provides that the Committee

supervises the execution of final judgments of the European Court of Human Rights (hereinafter “the Convention” and “the Court”);

Recalling that, in the present judgments, the Court found that the general, automatic and indiscriminate restriction on the right of convicted prisoners in custody to vote fell outside any acceptable margin of appreciation and was incompatible with Article 3 of Protocol No. 1 to the Convention;

Recalling also that following its initial judgment in *Hirst No. 2* (final on 06/10/2005), the European Court adopted the pilot judgment *Greens and M.T.* (final on 11/04/11), which concluded that the authorities had to introduce legislative proposals to amend the blanket ban on prisoner voting; and on 22 November 2012 the authorities introduced to Parliament legislative proposals setting out three options to amend the voting rights of convicted offenders detained in prison;

Recalling that at its examination of the cases in March 2014, the Committee welcomed the specially appointed Parliamentary Committee’s recommendation that all prisoners serving sentences of 12 months or less should be entitled to vote as a constructive contribution to the legislative process;

Recalling that at its last examination of the cases, in September 2015, the Committee reiterated its serious concern about the ongoing delay in the introduction of a Bill to Parliament and expressed profound regret that, despite its repeated calls, the blanket ban on the right of convicted prisoners in custody to vote remains in place;

EXPRESSED PROFOUND CONCERN that the blanket ban on the right of convicted prisoners in custody to vote remains in place;

REAFFIRMED that, as for all Contracting Parties, the United Kingdom has an obligation under Article 46 of the Convention to abide by judgments of the Court;

INVITED the Secretary General to raise the issue of implementation of these judgments in his contacts with the United Kingdom authorities, calling on them to take the measures necessary to amend the blanket ban on prisoner voting and encouraged the authorities of the member States to do the same;

CALLED UPON the United Kingdom authorities to follow up their commitment to continuing high-level dialogue on this issue leading to the presentation of concrete information on how the United Kingdom intends to abide by the judgment;

NOTED the United Kingdom’s commitment to report regularly on the steps taken and achieved in this respect, and decides to resume consideration of these cases in the light of those reports and in any event at the latest at their 1273rd meeting (December 2016) (DH).

McKerr group of cases – McCaughey and Others, Collette and Michael Hemsworth

Applications Nos. 28883/95, 43098/09, 58559/09, judgments final on 04/08/2001 and 16/10/2013, enhanced supervision

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

Status of execution:

Individual measures:

The individual measures have taken the form of either one or a combination of three types of investigation: inquests, Police Ombudsman reports and/or Historical Enquiries Team (“HET”) reports. Investigations in five cases in this group are still outstanding due to problems examined under the general measures, including delays in the inquest procedure and/or delay in the work of the Police Ombudsman and the HET (see information document [CM/Inf/DH\(2014\)16-rev](#) and the most recent action plan

([DH-DD\(2015\)1040](#) for more details). All the investigations are affected by the implementation of the Stormont House Agreement and, in particular, the establishment of the Historical Investigations Unit (HIU) which will take forward all Police Ombudsman and HET investigations and the measures taken to improve the legacy inquest procedure (see general measures).

At its last examination of the cases in December 2015, the Committee noted various developments in the case of *Finucane*, closed in 2009, as well as the applicant's request to reopen the individual measures. The Committee decided, in light of the ongoing domestic litigation in relation to Mr Finucane's case, which the authorities have committed to updating the Committee about, to resume consideration of reopening the individual measures once the domestic processes had concluded. The Committee also called upon the authorities to take all measures to ensure that the resumed Police Service of Northern Ireland ("PSNI") and Director of Public Prosecutions (Northern Ireland) ("DPP(NI)") review is completed as quickly as possible.

For the avoidance of any doubt, the domestic litigation is still pending and the applicant's appeal is due to be heard before the Court of Appeal over three days from 25 April 2016. No information has been submitted on the outcome of the PSNI and DPP(NI) review.

General measures:

Many general measures were already adopted in the *McKerr* group of cases and the Committee closed its supervision of the majority of them. However, questions remained outstanding regarding the functioning of the Police Ombudsman, the HET and the inquest system and in 2014, those bodies ceased their historical investigation work (for more information, see information document [CM/Inf/DH\(2014\)16-rev](#)).

Then on 23 December 2014, the United Kingdom Government and Irish Government published the Stormont House Agreement (see [DH-DD\(2015\)81](#)), which was welcomed by the Committee. The Agreement relates to a number of issues, but most significantly for the execution of this group of cases, it announced the establishment by legislation of a single independent investigative body, the Historical Investigations Unit (HIU), to take over the investigation of legacy cases from both the Police Ombudsman and the HET process. It also announced that appropriate steps would be taken to improve the way the legacy inquests function to reduce delay. The United Kingdom Government has indicated that an additional £150 million of funding will be available for the measures in the Stormont House Agreement to deal with the Troubles.

At its last examination of these cases in December 2015, the Committee strongly encouraged the authorities to follow up the Agreement and introduce into Parliament on an agreed basis legislation to establish the HIU that will guarantee its independence both in law and in practice, enabling it to conduct effective investigations which are sufficiently accessible to the victims' families. The Committee further strongly encouraged the authorities to engage with all relevant stakeholders to ensure that their views are taken into account in the legislation to be introduced.

The Committee also strongly encouraged full implementation of the measures already underway to speed up legacy inquest proceedings and the establishment of the Legacy Unit within the Coroners' Service as soon as possible. It also invited the authorities to submit information on the measures proposed to resolve delays in the disclosure process; and urged them to conduct the review and modernisation of coronial law without any further delay.

Since then, the authorities submitted an action plan on 13 April 2016 (see [DH-DD\(2016\)430](#)) to update the Committee on developments.

The HIU

In their most recent action plan, the authorities explain that in November 2015, in follow up talks between the Governments of the United Kingdom and Ireland, and the Northern Ireland political parties, agreement was reached on a number of key issues related to the implementation of the Stormont House Agreement (see [DH-DD\(2016\)430](#) for further details).

However, whilst substantial areas of common ground were found concerning the new bodies to deal with the past, including the HIU, it was not possible to reach the final agreement needed for the legislation.^[1] The one key issue that remained outstanding was how best to balance access to investigations for the families, with the government's national security duties. Nonetheless, the talks were constructive and all participants agreed on the need for further progress.

The authorities underline that they continue to support the establishment of the bodies identified in the Stormont House Agreement, considering that they present the best way forward for Northern Ireland to deal with its past and to ensure better outcomes for victims and survivors. They indicate that the ongoing engagement in the process, especially by victims' groups, has affirmed that there remains significant, broad support for the new bodies to deal with the past. They will continue to work with Northern Ireland's political parties, victims' groups and other stakeholders in order to achieve the consensus needed for the legislation to establish the HIU.

Legacy Inquests (inquests into the deaths of persons at the hand of the security forces during the Troubles)

In their most recent action plan, the United Kingdom authorities confirm that, as anticipated, the Lord Chief Justice of Northern Ireland became President of the coroners' courts on 1 November 2015. He has since reinforced some key personnel in the coroner's service, although work is still underway to agree the structure and resources of the new Legacy Inquest Unit. He has also taken a number of important steps to review the pending cases and establish a strategy for the future, *inter alia*:

- ordered a review of the state of readiness of all the outstanding legacy cases by a Court of Appeal Judge, Lord Justice Weir, which took place over two weeks in January 2016;
- appointed a High Court judge in February 2016 as the Presiding Coroner to oversee the management of cases;
- assigned a County Court judge to provide support to the Coroners' Courts and to progress more complex inquests;
- held a series of meetings in Strasbourg in January 2016 with the Department for the Execution of Judgments and the Commissioner for Human Rights' Office;
- met with the victims' families awaiting legacy inquests in February 2016 to present the conclusions of Lord Justice Weir's review.

Following these steps, he has proposed that, subject to the support of a properly resourced Legacy Inquest Unit, co-operation from the relevant justice bodies (the PSNI and the Ministry of Defence) and the required resources being made available; it should be possible to complete the existing legacy inquest caseload within a period of five years.

In this connection, the Northern Ireland Executive has been asked by the Department of Justice to consider a proposed bid for funding an initial phase of work which would aim to complete up to 16 legacy cases within 19 months. If the bid is supported by the Northern Ireland Executive, it is intended to submit it for consideration by the United Kingdom Government.

Latest information received from NGOs

A number of submissions have been received on these cases since the Committee's last examination, highlighting the ongoing problems in accessing a prompt and effective investigation into the deaths of their relatives during the Troubles (see [DH-DD\(2016\)528](#), [DH-DD\(2016\)545](#) and [DH-DD\(2016\)546](#)).

The Committee on the Administration of Justice, the Pat Finucane Centre and Relatives for Justice explain that whilst all parties considered that the Stormont House Agreement provided the framework for the necessary institutions and measures to ensure effective investigations, no concrete progress has been made either to establish the HIU or to improve legacy inquest

proceedings. The ongoing delay is a particular concern as the relatives of the victims are starting to pass away before the investigations are concluded.

They continue to raise concerns about the United Kingdom Government's proposed ministerial national security veto on the provision of sensitive information to the victims' families after an HIU investigation (see also [DH-DD\(2015\)1291](#) and [DH-DD\(2015\)1096](#)). They consider that, as currently presented, this veto is undefined, potentially blanket in nature and without adequate procedural safeguards. It would mean that families would have very little, if any, access to information about the deaths of their relatives.

In response, the United Kingdom authorities recall that they have committed to providing full disclosure to the HIU which will be able to pass any information without restriction to the independent prosecuting authority, criminal justice bodies and the courts. They consider however that it is necessary to prevent public release of information where there is a need to protect national security. In cases where sensitive information is not shared with the victims and families, they accept the need for the provision of an independent, impartial appeal. They therefore continue to have discussions with victims and their representatives and political parties to work out the details of any such appeals mechanism.

The NGOs also reiterate that delays in legacy inquest proceedings continue, due largely to problems with the disclosure of information and an insufficiency of resources. They indicate that Lord Justice Weir, during his review of all the pending cases in January 2016 (see above), was highly critical of the practice within the PSNI of delaying disclosure. They therefore support the Lord Chief Justice of Northern Ireland's new plan for all outstanding legacy inquest cases to be dealt with within five years but underline that he urgently requires the necessary logistical and financial support, as well as co-operation from the relevant state agencies, in order to put such an approach into action. They indicate that the new Legacy Inquest Unit, required for the Lord Chief Justice's new approach, has not been able to commence its work as it awaits the necessary resources from the United Kingdom Government. They consider that it is inappropriate for the United Kingdom Government to delegate decisions on funding of this issue to the Northern Ireland parties given that there is opposition among some parties to legacy investigations and a request for funding (and hence progress) may therefore never be made (see [DH-DD\(2016\)528](#), [DH-DD\(2016\)545](#) and [DH-DD\(2016\)546](#)).

In response, the United Kingdom authorities indicate that they have not received a bid for funding proposal from the Northern Ireland executive for the Legacy Inquest Unit but that they welcome the Lord Chief Justice's efforts to reform the legacy inquest system. They explain that they do not play any role in decisions on funding in this domain, which require the consent of the Northern Ireland Executive. They will however carefully consider any proposals submitted.

Last Committee of Ministers decision (June 2016)

The Deputies

1. concerning the individual measures, recalled that the completion of the outstanding investigations in the group is linked to the progress made under the general measures and underlined the need to take those measures without further delay; recalled the Committee's decision in December 2015 in relation to Mr Finucane's case to resume consideration of reopening of individual measures once the domestic litigation processes have concluded;
2. concerning the general measures, recalled the Committee's calls to the United Kingdom authorities to introduce into Parliament on an agreed basis legislation to establish the Historical Investigations Unit (HIU), noted the significant progress made on this issue at the cross-party talks in autumn 2015, but deeply regretted that the talks concluded without the necessary consensus to bring forward the legislation required;
3. called upon the authorities to take all necessary measures to ensure the HIU can be established and start its work without any further delay, particularly in light of the length of time that has already passed since these judgments became final and the failure of previous initiatives to achieve effective, expeditious investigations;

4. as regards legacy inquests, noted with satisfaction the assumption of the presidency of the coroners courts by the Lord Chief Justice of Northern Ireland and his constructive new approach to the backlog of legacy inquests;
5. considered that such an approach, as well as a reformed inquest system, has the potential to make significant progress and urged the authorities to take all necessary measures to ensure that the Legacy Inquest Unit is established, properly resourced and staffed, without delay, to enable effective investigations to be concluded, and that the coroners courts receive the full co-operation of the relevant statutory agencies;
6. decided to review the progress made in these cases at their 1273rd meeting (December 2016) (DH), at the latest.

Social and economic rights: European Social Charter and European Committee of Social Rights

The honouring of commitments entered into by the States Parties to the [European Social Charter](#) is subject to the monitoring of the [European Committee of Social Rights](#) (ECSR). This body monitors compliance under the two existing monitoring mechanisms: through collective complaints, lodged by the social partners and other non-governmental organisations ([collective complaints procedure](#)); through national reports drawn up by States Parties ([reporting system](#)).

The aim pursued with the introduction, in 1995, of the **collective complaints procedure** was to increase the effectiveness, speed and impact of the implementation of the Charter. In this view, this procedure has strengthened the role of the social partners and non-governmental organisations by enabling them to directly apply to the ECSR for rulings on possible non-implementation of the Charter in the countries concerned, namely those States which have accepted its provisions and the procedure. The *decisions* adopted by ECSR in the framework of this monitoring mechanism can be consulted using [the European Social Charter Database - HUDOC Charter](#).

In the framework of the **reporting system**, following a decision taken by the Committee of Ministers in 2006, the provisions of the Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.

Following a decision taken by the Committee of Ministers in April 2014, States having accepted the collective complaints procedure are required, in alternation with the abovementioned report, to provide a simplified report on the measures taken to implement the decisions of the Committee adopted in collective complaints concerning their country. The alternation of reports is rotated periodically to ensure coverage of the four thematic groups. The decisions adopted by ECSR in the framework of the reporting system, called *conclusions*, are published every year. They can be consulted using the [European Social Charter Database - HUDOC Charter](#).

The **United Kingdom** ratified the 1961 European Social Charter (EST N° 035) on 11/07/1962, and has accepted 60 of its 72 paragraphs. It has not signed the 1988 Additional Protocol to the 1961 Charter (EST N° 128) or the 1995 Additional Protocol Providing for a System of Collective Complaints (ETS N° 158). The United Kingdom has signed but not yet ratified the Amending Protocol to the 1961 Charter (ETS N° 142) and the Revised European Social Charter (ETS N° 163).

In the **2013 Conclusions concerning Thematic Group 2 “Health, social security and social protection)** over the reference period 2008-2011, ECSR referred to 2 situations of non-conformity with the right to social security (Article 12§1) and the application of Article 13§4 concerning the right to social and medical assistance to nationals of other Parties lawfully in the UK territory, on an equal footing with UK nationals.

In the **2014 Conclusions concerning Thematic Group 3 “Labour rights”**, over the period 2009-2012 ECSR referred to 10 situations of non-conformity with the right to just condition of work (Article 2§2, 2§4 and 2§5), the right to a fair remuneration (Article 4§1, 4§2, 4§4 and 4§5), the right to organise (Articles 5 and 6§2 and 6§4).

In the **2015 conclusions regarding thematic group 4 “Children, families, migrants”** over the reference period 2010-2013, ECSR referred to 9 conclusions of non-conformity: Articles 7§3, 7§5, 7§10, 8§1, 16, 17, 19§3, 19§6 and 19§10. In respect of the other 3 situations related to Articles 19§2, 19§4 and 9§8, ECSR asked further information in order to examine the situation. ECSR considered that the absence of the information requested amounts to a breach of the reporting obligation entered into by the UK under the 1961 Charter. It requested the UK Government to remedy this situation by providing the information in the next report.

The 35th national report submitted by the UK Government on 28 May 2015 in the framework of the reporting system concerns the **accepted provisions relating to Thematic Group 1 “Employment, training and equal opportunities” (Articles 1, 9, 10, 15, 18)**, in addition to the **information required by the ECSR in the framework of Conclusions 2014 relating to thematic group 3 “Labour rights”** with respect to Articles 2§4 and 4§5 of the 1961 Charter. ECSR Conclusions with respect to these provisions will be published in January 2017.

The United Kingdom and the European Social Charter (country factsheet, document in progress)

Further information on the treaty system of the European Social Charter

Venice Commission

The *European Commission for Democracy through Law* (Venice Commission) is the Council of Europe’s advisory body on constitutional matters. It provides States and international organisations working with it (EU, OSCE/ODIHR) with legal advice in the form of opinions.

The *latest opinion* by the Venice Commission concerning the United Kingdom was published in 2010. It concerned the revised Code of Practice on Observing elections of the United Kingdom.