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EU Member States and international obligations

The European Union (EU) and its Member States work within an ever more intricate framework of international human rights standards and monitoring mechanisms. The year 2012 witnessed important steps with regard to the related obligations, with EU Member States and Croatia becoming parties to close to 30 international treaties, including protocols, that are of direct relevance for the protection of fundamental rights. European or international monitoring bodies adopted almost 40 reports on the fundamental rights performance of EU Member States and Croatia, recognising achievements and highlighting challenges. Monitoring bodies received a large number of individual complaints, especially the European Court of Human Rights, which identified violations by EU Member States and Croatia of the European Convention of Human Rights in 486 judgments, singling out length of proceedings and fair trial as continuing issues of concern in several Member States. Monitoring by the United Nations and European organisations must be supported by strong and effective monitoring at national level. An essential supporting role in this respect rests with National Human Rights Institutions that are compliant with the Paris Principles.

10.1. The fundamental rights landscape

The EU's fundamental rights landscape consists of norms, institutions and procedures from local to international levels.¹ The UN, the Organization for Security and Co-operation in Europe (OSCE), the Council of Europe and the EU have put in place a range of legal instruments and corresponding monitoring mechanisms that complement and interact with one another to support fundamental rights across the EU.

¹ See *Bringing rights to life: The fundamental rights landscape of the European Union*, available at: <http://fra.europa.eu/en/publication/2012/bringing-rights-life-fundamental-rights-landscape-european-union>.

Key developments

- A new United Nations (UN) instrument in relation to the rights of the child becomes available, paving the way for a form of access to justice at supra-national level.
- Penultimate European Union (EU) Member State and Croatia accede to the European Convention on Human Rights Additional Protocol 13 which abolishes the death penalty in all circumstances, leaving one remaining EU Member State that has signed but not yet ratified the protocol.
- Five of the 13 applications brought to the European Committee of Social Rights (ECSR) in 2012 concern Greek pensioners' organisations complaining about pension cuts they see as violating social rights under the European Social Charter (ESC).
- Length of proceedings continues to be a major problem around Europe, as identified by case law from the European Court of Human Rights (ECtHR), along with, for instance, the right to an effective remedy. Overall, however, the number of judgments finding violations in EU Member States and Croatia is trending lower.
- The role of National Human Rights Institutions (NHRIs) as monitoring bodies at national level under UN treaties is increasing.

Table 10.1: Acceptance of selected Council of Europe conventions, by EU Member State and Croatia

	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HU
<i>Total accepted</i>	19	15	17	23	17	17	18	16	13	19	24	20	18
ECHR (as amended by P14)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
ECHR P1 (property, education, etc)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
ECHR P4 (no prison for debt, etc)	✓	✓	✓	✓	✓	✓	✓	✓	✗	✓	✓	✓	✓
ECHR P6 (death penalty)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
ECHR P7 (criminal appeal)	✓	✓	✓	✓	✓	s	✓	✓	✓	✓	✓	✓	✓
ECHR P12 (discrimination)	s	s	✗	✓	s	s	✗	s	s	✓	✓	✗	s
ECHR P13 (death penalty)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
ESC original (1961)	✓	✓	✗	✓	✓	✓	✓	✗	✓	✓	✓	✓	✓
ESC (1996)	✓	✓	✓	✓	s	s	s	✓	s	s	✓	✓	✓
ESC CCPP**	s	✓	✓	✓	✓	✗	s	✗	✓	✗	✓	✓	s
CPIPPD	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
CPIPPD Additional Protocol	✓	s	✓	✓	✓	✓	s	✓	s	✓	✓	✓	✓
ECCVVC	✓	✓	✗	✓	✓	✓	✓	✓	s	✓	✓	✓	s
ECLSG	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
ECLSG AP	✗	s	s	✓	✗	✗	✗	✓	✗	✗	✓	s	✓
ECPT	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
ECRML	✓	✗	✗	✓	✓	✓	✓	✗	✗	✓	✓	s	✓
FCNM	✓	s	✓	✓	✓	✓	✓	✓	s	✓	✓	✗	✓
ECECR	✓	✗	✗	✓	✓	✓	✗	✗	✓	s	✓	✓	s
“Oviedo Convention”	✗	✗	✓	✓	✓	✗	✓	✓	✓	✓	✓	✓	✓
CoC	✓	✓	✓	✓	s	✓	✓	✓	s	✓	✓	✓	✓
CoC Additional Protocol	s	s	✗	✓	✗	✓	✓	s	s	✗	✓	✓	✗
CATHB	✓	✓	✓	✓	✗	✓	✓	s	s	✓	✓	✓	s
CSEC	✓	s	✓	s	✗	s	✓	s	✓	✓	✓	✓	s
CAOD	✗	s	✗	✗	✗	✗	✗	s	✗	✗	s	✗	✓
CVW***	s	s	✗	✗	✗	s	✗	✗	s	s	s	s	✗

Notes: * All European Member States are state parties to the original ESC
 ** ESC Article D indicates that
 *** CVW was adopted in 2011

Acronyms stand for the following:

- ECHR (as amended by P14) Convention for the Protection of Human Rights and Fundamental Freedoms
- ESC (rev)** European Social Charter
- ESC CCPP ESC Collective Complaints Procedure Protocol
- CPIPPD (1981) Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data. The European Union will be able to accede to this convention pending additional declarations of Council of Europe member states.
- CPIPPD Additional Protocol Additional Protocol to the CPIPPD, on supervisory authorities and transborder data flows
- ECCVVC European Convention on the Compensation of Victims of Violent Crimes
- ECPT European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
- ECRML European Charter for Regional or Minority Languages
- ECECR European Convention on the Exercise of Children’s Rights
- ECLSG European Charter of Local Self-Government



IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI	SK	UK	HR	Total number of accepted out of 27 Member States and Croatia
15	16	18	16	17	15	21	14	20	20	19	19	18	13	22	
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	28
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	28
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	s	✓	26
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	28
✓	✓	✓	✓	✓	✓	s	✓	✓	✓	✓	✓	✓	x	✓	25
s	s	x	✓	s	x	✓	x	s	✓	x	✓	s	x	✓	8
✓	✓	✓	✓	✓	✓	✓	s	✓	✓	✓	✓	✓	✓	✓	27
✓	✓	x	✓	✓	✓	✓	✓	✓	s	✓	s	✓	✓	✓	23
✓	✓	✓	s	s	✓	✓	s	✓	✓	✓	✓	✓	s	s	18
✓	✓	x	x	x	x	✓	x	✓	x	✓	s	s	x	✓	13
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	28
✓	s	✓	✓	✓	x	✓	✓	✓	✓	✓	x	✓	s	✓	21
x	x	s	✓	x	x	✓	x	✓	✓	✓	x	✓	✓	✓	18
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	28
x	x	✓	x	x	x	✓	x	x	x	✓	✓	x	s	x	8
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	28
x	s	x	✓	x	s	✓	✓	x	✓	✓	✓	✓	✓	✓	17
✓	✓	✓	s	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	24
s	✓	x	s	✓	s	x	✓	s	x	s	✓	s	x	✓	12
x	s	✓	s	✓	x	s	s	✓	✓	s	✓	✓	x	✓	17
s	✓	✓	s	✓	✓	✓	s	✓	✓	s	✓	✓	✓	✓	22
x	s	✓	s	✓	s	✓	s	✓	✓	s	✓	x	x	✓	12
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	24
s	s	s	✓	x	✓	✓	s	✓	✓	s	s	s	s	✓	13
x	x	✓	x	x	x	x	x	x	x	✓	s	x	x	x	3
x	s	x	s	x	s	s	s	s	x	s	s	s	s	x	0

- FCNM *Framework Convention for the Protection of National Minorities*
- 'Oviedo Convention' *Convention on Human Rights and Biomedicine*
- CoC *Convention on Cybercrime*
- CoC Additional Protocol *Additional Protocol to CoC, on criminalisation of acts of a racist and xenophobic nature committed through computer systems*
- CATHB *Convention Action against Trafficking in Human Beings*
- CSEC *Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse*
- CAOD *Convention on Access to Official Documents*
- CVW *Convention on Preventing and Combating Violence against Women and Domestic Violence*
- ECLSG AP *Additional Protocol for the European Charter of Local Self-Government*

- ✓ = State party/applicable
- s = signed
- x = not signed
- High acceptance (20 and above)
- Medium acceptance (16-19)
- Low acceptance (15 and below)

Source: FRA, 2012; data extracted from: Council of Europe website 'Treaty office', available at: <http://conventions.coe.int>

Promising practice

Visualising human rights commitments – new human rights application

An application launched in 2012 provides a global mapping of basic country indicators, human rights in practice and legal commitments in an accessible easy-to-view format. The Institute for Democracy & Conflict Resolution at the University of Essex in the United Kingdom developed the concept and collected the data, with additional financing provided by the Economic and Social Research Council and the Mackman Group. The application offers country data worldwide on issues such as migration and indicators, including on institutionalised democracy; in addition to formal human rights commitments such as conventions; as well as data from human rights indices, for example on women's political rights.



For more information, see: www.humanrightsatlas.org/

with the darker shade indicating a higher number of accepted conventions; see also Figure 10.4):

- **Belgium, Italy, Malta, the Netherlands, Poland** and the **United Kingdom**) signed the Convention on Preventing and Combating Violence against Women and Domestic Violence (*Istanbul Convention*);
- **Lithuania** ratified the Convention on Access to Official Documents;
- **Portugal** ratified the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse;
- **Cyprus, Finland, Germany** and **Lithuania** ratified the Convention on Action against Trafficking in Human Beings;
- **Austria, Belgium** and **France** ratified the Convention on Cybercrime;
- **Cyprus, Estonia, Finland, Hungary** and **Lithuania** ratified the Additional Protocol to the European Charter of Local Self-Government, and **Bulgaria** signed it;
- **Finland** ratified the Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data regarding supervisory authorities and transborder data flows;
- **Belgium** ratified the ECHR Additional Protocol 7 on criminal appeal;
- **Estonia** declared that it considers itself bound by a range of additional articles of the European Social Charter (ESC);
- the **Czech Republic** ratified the ESC's additional protocol on collective complaints.

10.2. Acceptance of Council of Europe conventions and protocols

Several significant developments occurred with respect to Council of Europe conventions and protocols in 2012. One of the main developments was **Latvia's** ratification of the European Convention on Human Rights' (ECHR) Additional Protocol 13 on the abolition of the death penalty in all circumstances.² Among EU Member States and Croatia only **Poland** has yet to ratify the protocol.

A number of EU Member States accepted a selection of key Council of Europe instruments in 2012 (see Table 10.1, which also contains a three-stage colour code

Furthermore, the Council of Europe released a number of monitoring reports on EU Member States in 2012 (see Table 10.2) with a wealth of information on issues ranging from racism, rights of minorities, to problems with detention, prisons and other places of involuntary confinement.

² Art. 3 of that Protocol holds that no reservations may be made to the provisions therein.



Table 10.2: Overview of monitoring reports released under Council of Europe monitoring procedures in 2012, by EU Member State and Croatia

	ECPT	ECRML	FCNM	ECRI
AT				
BE	✓			
BG	✓		✓	
CY				
CZ		✓		
DE	✓			
DK				✓
EE				
EL				
ES			✓	
FI				
FR	✓			
HU				
IE			✓	
IT				✓
LT				
LU				✓
LV				✓
MT			✓	
NL	✓	✓		
PL				
PT				
RO			✓	
SE			✓	✓
SI				
SK				
UK				
HR				✓
Total	5	2	6	6

✓ = Monitoring reports issued in 2012

Note: The table provides an overview of monitoring reports released under Council of Europe monitoring procedures in 2012 and does not take as reference the dates of country visits; reports included are those available on the Council of Europe website.

Acronyms stand for:

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

ECRI European Commission against Racism and Intolerance

ECRML European Charter for Regional or Minority Languages

FCNM Framework Convention for the Protection of National Minorities

Source: FRA, 2012; data extracted from: Council of Europe bodies – www.cpt.coe.int/en/states.htm, www.coe.int/t/dg4/education/minlang/Report/default_en.asp, www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/Table_en.asp, www.coe.int/t/dghl/monitoring/ecri/activities/countrybycountry_en.asp

Table 10.3: Acceptance of ESC provisions, by EU Member State and Croatia

	European Social Charter (revised)									
	Article	AT	BE	BG	CY	EE	FI	FR	HU	IE
<i>Total accepted</i>		15	24	17	15	23	26	31	18	28
Right to work	1	✓	✓	✓	✓	✓	✓	✓	✓	✓
Just conditions of work	2	p/a	✓	p/a	p/a	p/a	✓	✓	✓	✓
Safe and healthy work conditions	3	✓	✓	✓	p/a	p/a	p/a	✓	✓	✓
Fair remuneration	4	p/a	✓	p/a	p/a	p/a	p/a	✓	x	✓
Right to organise	5	✓	✓	✓	✓	✓	✓	✓	✓	✓
Right to bargain collectively	6	p/a	✓	✓	✓	✓	✓	✓	✓	✓
Protection of children and young persons	7	p/a	✓	✓	p/a	p/a	p/a	✓	✓	✓
Protection of maternity of employed women	8	p/a	✓	✓	p/a	✓	p/a	✓	✓	p/a
Vocational guidance	9	✓	✓	x	✓	✓	✓	✓	✓	✓
Vocational training	10	✓	✓	x	✓	p/a	✓	✓	✓	✓
Protection of health	11	✓	✓	✓	✓	✓	✓	✓	✓	✓
Social security	12	✓	✓	p/a	✓	✓	✓	✓	p/a	✓
Social and medical assistance	13	✓	✓	p/a	p/a	✓	✓	✓	✓	✓
Benefit from social welfare services	14	✓	✓	✓	✓	✓	✓	✓	✓	✓
Persons with disabilities	15	✓	✓	x	✓	✓	✓	✓	✓	✓
Protection of the family	16	✓	✓	✓	x	✓	✓	✓	✓	✓
Protection of children and young persons	17	✓	✓	p/a	x	✓	✓	✓	✓	✓
Work in the territory of other Parties	18	p/a	✓	p/a	p/a	p/a	✓	✓	x	✓
Protection and assistance of migrant workers	19	p/a	p/a	x	✓	✓	p/a	✓	x	✓
Non-discrimination on the grounds of sex	20	✓	✓	✓	✓	✓	✓	✓	✓	✓
Information and consultation	21	x	✓	✓	x	✓	✓	✓	✓	x
Participation in improvement of working conditions	22	x	✓	✓	p/a	✓	✓	✓	✓	✓
Social protection of elderly persons	23	x	x	x	x	x	✓	✓	x	✓
Protection in cases of termination of employment	24	x	x	✓	✓	✓	✓	✓	x	✓
Protection in case of employer's insolvency	25	✓	✓	✓	✓	✓	✓	✓	x	✓
Dignity at work	26	p/a	p/a	✓	x	✓	✓	✓	x	✓
Workers with family responsibilities	27	p/a	x	p/a	p/a	✓	✓	✓	x	✓
Protection of workers' representatives	28	✓	x	✓	✓	✓	✓	✓	x	✓
Consultation in collective redundancy procedures	29	x	✓	✓	✓	✓	✓	✓	x	✓
Protection against poverty and social exclusion	30	x	✓	x	x	✓	✓	✓	x	✓
Housing	31	x	x	x	x	x	✓	✓	x	x

Notes: Acceptance includes both being a State Party as well as accepting additional monitoring provisions. Partly accepted indicates that not all paragraphs of the article were accepted.

Source: FRA, 2012; data extracted from Council of Europe website 'European Social Charter – Table of accepted provisions', available at: www.coe.int/t/dghl/monitoring/socialcharter/Presentation/ProvisionsIndex_en.asp



Table 10.3: (continued)

IT	LT	MT	NL	PT	RO	SK	SI	SE	CZ	DK	DE	EL	LV	LU	PL	ES	UK	HR
30	24	21	30	31	17	25	29	23	11	18	15	21	10	16	11	23	14	15
✓	✓	✓	✓	✓	✓	✓	✓	✓	p/a	✓	✓	✓	✓	✓	✓	✓	✓	✓
✓	✓	p/a	✓	✓	p/a	✓	✓	p/a	✓	p/a	✓	✓	x	✓	p/a	✓	p/a	✓
✓	✓	✓	✓	✓	p/a	✓	✓	p/a	✓	✓	✓	✓	x	✓	✓	✓	✓	x
✓	✓	✓	✓	✓	✓	✓	✓	p/a	p/a	p/a	p/a	✓	x	p/a	p/a	✓	p/a	x
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	x	✓	✓	✓	✓	✓	✓
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	x	✓	p/a	p/a	✓	✓	✓
✓	✓	✓	✓	✓	✓	✓	✓	p/a	✓	x	p/a	✓	x	✓	p/a	✓	p/a	✓
✓	✓	p/a	✓	✓	✓	✓	✓	p/a	p/a	p/a	p/a	✓	✓	p/a	✓	✓	p/a	✓
✓	✓	✓	✓	✓	✓	✓	✓	✓	x	✓	✓	✓	✓	✓	✓	✓	✓	✓
✓	✓	✓	✓	✓	x	✓	✓	✓	x	✓	p/a	✓	x	✓	p/a	✓	✓	x
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
✓	p/a	p/a	✓	✓	✓	✓	✓	p/a	✓	✓	✓	✓	x	✓	✓	✓	p/a	x
✓	p/a	✓	✓	✓	p/a	p/a	p/a	✓	✓	✓	✓	✓	✓	✓	p/a	✓	✓	✓
✓	✓	✓	✓	✓	x	✓	✓	✓	✓	✓	✓	✓	✓	✓	p/a	✓	✓	✓
✓	✓	✓	✓	✓	p/a	p/a	✓	✓	p/a	✓	✓	✓	x	✓	✓	✓	✓	x
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
✓	p/a	p/a	✓	✓	p/a	p/a	p/a	✓	p/a	✓	✓	✓	x	✓	p/a	✓	✓	x
✓	p/a	x	p/a	✓	p/a	p/a	✓	✓	p/a	x	✓	✓	x	✓	✓	✓	✓	x
✓	✓	✓	✓	✓	✓	✓	✓	✓	p/a	✓	x	✓	x	x	x	✓	x	✓
✓	✓	x	✓	✓	✓	✓	✓	✓	p/a	✓	x	✓	x	x	x	✓	x	✓
✓	x	✓	✓	✓	x	✓	✓	✓	p/a	✓	x	✓	x	x	x	✓	x	x
✓	✓	✓	✓	✓	✓	✓	✓	x										
x	✓	✓	✓	✓	✓	✓	✓	✓										
✓	✓	✓	✓	✓	x	✓	✓	✓										
✓	✓	p/a	✓	✓	p/a	p/a	✓	✓										
✓	✓	✓	✓	✓	✓	✓	✓	x										
✓	✓	✓	✓	✓	✓	✓	✓	✓										
✓	x	x	✓	✓	x	✓	✓	✓										
✓	p/a	x	✓	✓	x	x	✓	✓										

✓ = accepted
 p/a = partly accepted
 x = not accepted

Table 10.4: Conformity of national law and practice with ESC provisions, by EU Member State and Croatia

	Total number of Charter provisions examined *	Total number of conclusions of conformity	Total number of conclusions of non-conformity	1 - Conformity	1 - Non-conformity	9 - Conformity	9 - Non-conformity	10 - Conformity	10 - Non-conformity	15 - Conformity	15 - Non-conformity	18 - Conformity	18 - Non-conformity	20 - Conformity	20 - Non-conformity	24 - Conformity	24 - Non-conformity	25 - Conformity	25 - Non-conformity	1 Additional Protocol - Conformity	1 Additional Protocol - Non-conformity	Percentage (non-conformity of total number of Charter provisions examined)
AT	14	7	3	2	1			2	2			3										21
BE	19	9	9	2	2	1		2	3		2	3	1	1					1			47
BG	8	2	5	1	3							1			1		1					63
CY	16	5	6	1	1	1		2	1		2	1			1		1					38
CZ	6	2	2	1	1							1									1	33
DE	14	11	1	3	1	1		3		2		2										7
DK	16	12	2	4		1		3	1	1	1	3										13
EE	14	8	3	1	1		1	3		2	1			1				1				21
EL	16	6	6	1	2	1		3	1		1	1	2									38
ES	16	10	3	1	2	1		2	1	2		3								1		19
FI	20	16	2	3		1		3	1	3		4		1			1	1				10
FR	20	9	4	3		1		2	1		1	2	1		1			1				20
HU**																						
IE	20	6	8		2		1	2	3	2		1	1	1			1					40
IT	19	13	4	2	2	1		5		2		2	1	1			1					21
LT	18	16	1	3		1		5		3		2		1		1			1			6
LU	15	8	4	1	2	1		3			2	3										27
LV	5	3	2	2	2	1																40
MT	17	7	1	1				3		2		1					1					6
NL***	20	17	2	4		1		5		2	1	3		1			1	1				10
PL	10	8	1	2	1	1		2		2		1										10
PT	20	12	5	1	2	1		3	1	3		3	1		1	1						25
RO	12	3	2			1				1		1	1						1			17
SE	19	18	1	4		1		4	1	3		4		1				1				5
SI	19	9	4	3	1	1		1		1	2	2	1		1			1				21
SK	18	2	14		4		1		3		2	1	2		1		1	1				78
UK	15	10	3	3		1		3	1	2		1	2									20
HR	6	2	4	1	3		1													1		67

Total examined: 412

Notes: * The discrepancy between the total number of ESC provisions examined and the number of provisions Member States are in conformity and non-conformity with is due to the ECSR being unable to reach a conclusion for some situations, pending receipt of additional information from the Member State government concerned. A 'situation' refers to a specific provision of an article (e.g. paragraph 2 of Article 18). The ECSR monitors compliance with the ESC (with its 1988 Additional protocol) and ESC Rev. according to a four-year cycle and on the basis of yearly state reports on a thematic group of provisions (the provisions of the Charter have been divided into four thematic groups together making up the four-year cycle). Conclusions in 2012 focused on employment, training and equal opportunities: Articles 1, 9, 10, 15, 18, 20, 24, 25 and Article 1 of the Additional Protocol. During 2011 the ECSR examined the application of the 1961 Charter by 11 EU Member States and Croatia: Austria, Czech Republic, Denmark, Germany, Greece, Latvia, Luxembourg, Poland, Slovakia, Spain and the United Kingdom. During the same time period the ECSR also examined the application of the Revised Charter by 15 EU Member States: Belgium, Bulgaria, Cyprus, Estonia, Finland, France, Ireland, Italy, Lithuania, Malta, the Netherlands, Portugal, Romania, Slovenia and Sweden. Hungary did not submit a report in time.

** Hungary failed to submit a report and consequently the ECSR was unable to adopt conclusions.

*** Only Netherlands is considered, the European part of the Kingdom of the Netherlands (formed by the Netherlands, the Netherlands Antilles and Aruba).

Source: Council of Europe, Conclusions of the European Committee of Social Rights 2012

■ lower than 15%
■ between 15%-25%
■ greater than 25%

10.2.1. Economic and social rights: standards and compliance

The ESC – which guarantees social and economic rights – witnessed developments in 2012. All EU Member States and **Croatia** are among the 43 parties to the original 1961 ESC (ESC original (1961)); and 18 EU Member States have ratified the ESC (1996) (see Table 10.1).

Thirteen EU Member States and Croatia are bound by the 1995 Additional Protocol to the ESC Providing for a System of Collective Complaints (Collective Complaints Procedure Protocol, CCPP) and an additional five have signed the instrument (see Table 10.1). **Finland** remains the sole EU Member State which, in addition to the CCPP itself, accepted on 4 April 2012 the submission of collective complaints (Article 2 of the CCPP) not only from international NGOs and national trade unions (mandated under Article 1 of the CCPP) but also from national non-governmental organisations – a possibility available under Article 2 of the CCPP.³ Thirteen EU Member States and Croatia are bound by the CCPP and an additional five have signed the instrument (see Table 10.1).

The applications under the CCPP to the ECSR are noteworthy in order to understand current issues in the area of economic and social rights. Of the 12 cases filed in 2012, five concern Greek pensioners' organisations complaining about pension cuts that they argue amount to a violation of social rights under the ESC. In all five cases, the ECSR declared the complaints admissible as far as they concerned Article 12 of the ESC on the right to social security. The outcome of these applications was still pending as this annual report went to print.⁴ See also the **Focus** section of this report.

To ensure compliance with the provisions of the 1961 and the 1996 ESC, as well as those of a 1988 Additional Protocol that extended the rights of the 1961 ESC to include, for instance, rights of the elderly to social protection, the ECSR monitors State Parties' implementation of the treaty on a four-year cycle. To cover all provisions during this cycle, the provisions are divided into four thematic groups so that states report on one of the four every year.

In 2012, the review focused on employment, training and equal opportunities, relating to Articles 1, 9, 10, 15, 18, 20, 24 and 25 of the ESC and Article 1 of the 1988 Additional Protocol (see Table 10.3 for the content of these provisions). During 2012, the ECSR examined the application of the 1961 ESC by **Croatia** and 11 EU Member States: **Austria, Czech Republic, Denmark, Germany,**

Greece, Latvia, Luxembourg, Poland, Slovakia, Spain and the **United Kingdom**. During the same time period, the ECSR also examined the application of the 1996 ESC by 15 EU Member States: **Belgium, Bulgaria, Cyprus, Estonia, Finland, France, Ireland, Italy, Lithuania, Malta, the Netherlands, Portugal, Romania, Slovenia** and **Sweden**. **Hungary**, for the second year in a row, did not submit a report on time, informing the ECSR that it would do so only in the first half of 2013.

Of the provisions examined in relation to each State Party (the number of these provisions differing depending on the number of provisions accepted), the average of the ECSR 'non-conformity' conclusions across the 26 EU Member States (without Hungary) and **Croatia**, was 25 %, similar to 27 % in the previous year. Table 10.4 outlines the number of provisions examined as well as the number and rate of conformity of national law and practice with ESC provisions by EU Member State and **Croatia**. The table also contains a three-stage colour code with the lighter shade indicating a higher percentage of 'non-conformity' conclusions.

Table 10.5 provides a specific thematic example, presenting the ECSR's conclusions on the conformity of EU Member States' legislation with ESC provisions on education and vocational training for persons with disabilities (Article 15 (1)), employment of persons with disabilities (Article 15 (2)) and social integration and participation of persons with disabilities in the life of the community (Article 15 (3)), with respect to the period 2007 to 2011 (made available in 2012). Further information and statistics relative to persons with disabilities are presented later in this chapter, including data provided at UN level on the Convention on the Rights of Persons with Disabilities (CRPD).

10.2.2. Civil and political rights: cases and compliance

The current annual ECtHR statistics indicate that the Court handed down 648 judgments in 2012 – 486 of which proved to be violations – in relation to cases brought against the 27 EU Member States and **Croatia**. As shown in Table 10.6, the most frequent subjects of proceedings before the ECtHR related to length of proceedings (151 judgments), the right to liberty and security (80), the right to an effective remedy (74) and inhuman or degrading treatment (71). A trend to fewer judgments finding a violation against EU Member States and Croatia continued in 2012 with 486, a fall from 509 (+23 **Croatia**) in 2011. The ECtHR handed down considerably fewer judgments in EU Member States and Croatia in 2012 on the length of proceedings, right to a fair trial and non-enforcement.

For the first time in the ECtHR's history the stock of pending cases was reduced by some 16 %, or to 128,100 cases against 151,600 at the beginning of (continued p. 288)

³ For more information on the ESC, see: www.coe.int/t/dghl/monitoring/socialcharter/Presentation/Overview_en.asp.

⁴ A list of all complaints and the corresponding documentation is available at: www.coe.int/t/dghl/monitoring/socialcharter/Complaints/Complaints_en.asp.

Table 10.5: ECSR conclusions on the conformity of national legislation with Article 15 paragraphs 1, 2 and 3 of the ESC, by EU Member State and Croatia

	Education and vocational training for persons with disabilities	Employment of persons with disabilities	Integration and participation of persons with disabilities in the life of the community
AT	Deferral	Deferral	Not applicable
BE	Non-conformity: it has not been established that people with disabilities are guaranteed an effective right to mainstream education and training.	Non-conformity: it has not been established that persons with disabilities are guaranteed effective equal access in employment.	Deferral
BG	Not applicable	Not applicable	Not applicable
CY	Deferral	Non-conformity: it has not been established that persons with disabilities are guaranteed effective protection against discrimination in employment.	Non-conformity: it has not been established that persons with disabilities are effectively protected against discrimination in the fields of housing, transport and cultural and leisure activities.
CZ	Not applicable	Deferral	Not applicable
DE	Conformity	Conformity	Not applicable
DK	Non-conformity: there is no legislation explicitly protecting people with disabilities from discrimination in education.	Conformity	Not applicable
EE	Conformity	Conformity	Non-conformity: there is no anti-discrimination legislation to protect persons with disabilities which explicitly covers the fields of housing, transport, telecommunications and cultural and leisure activities.
EL	Deferral	Non-conformity: it has not been established that persons with disabilities are guaranteed effective equal access to employment.	Not applicable
ES	Conformity	Conformity	Not applicable
FI	Conformity	Conformity	Conformity
FR	Non-conformity: it has not been established that people with autism are guaranteed effective equal access to (mainstream and special) education.	Deferral	Deferral
HU	No report received	No report received	Not applicable
IE	Conformity	Conformity	Deferral
IT	Conformity	Deferral	Conformity
LT	Conformity	Conformity	Conformity
LU	Non-conformity: it has not been established that persons with disabilities are guaranteed an effective right to mainstream training.	Non-conformity: it has not been established that persons with disabilities are guaranteed effective equal access to employment.	Not applicable
LV	Not applicable	Not applicable	Not applicable
MT	Conformity	Deferral	Conformity
NL	Conformity	Non-conformity: it has not been established that persons with disabilities are guaranteed effective equal access to employment.	Conformity
PL	Conformity	Conformity	Not applicable
PT	Conformity	Conformity	Conformity
RO	Deferral	Conformity	Not applicable
SE	Conformity	Conformity	Conformity
SI	Non-conformity: it has not been established that persons with disabilities, in particular with intellectual disabilities, are guaranteed an effective right to mainstream education and training.	Non-conformity: it has not been established that persons with disabilities are guaranteed effective equal access to employment.	Conformity
SK	Non-conformity: it has not been established that persons with disabilities are guaranteed an effective right to mainstream education and training.	Non-conformity: it has not been established that there is effective anti-discrimination legislation; it has not been established that persons with disabilities are guaranteed effective equal access to employment.	Not applicable
UK	Conformity	Conformity	Not applicable
HR	Not applicable	Not applicable	Not applicable

Notes: 'Not applicable' refers to provisions which are not accepted by the state in question.

'Deferral' refers to cases where conclusions are postponed to a later date.

Source: www.coe.int/t/dghl/monitoring/socialcharter/Conclusions/ConclusionsIndex_en.asp



Table 10.6: Number of ECtHR judgments finding a violation in 2012, by ECHR article, and number of 'leading' cases pending execution at the end of 2012, by EU Member State and Croatia

	Article	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HU	IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI	SK	UK	Sub-total	
Violations	Right to life - deprivation of life	2	4		2								1	1										1					9	
	Lack of effective investigation	2		7	2											2								3					15	
	Prohibition of torture	3		1						1																			2	
	Inhuman or degrading treatment	3	5		1				1	11	1	3	3	3		2	1	4	4			7		24	1	2	2	1	71	
	Lack of effective investigation	3	6		1				1	2	1	2	2	2					4					12		1	2	34		
	Prohibition of slavery / forced labour	4											1															1	2	
	Right to liberty and security	5	4	12	3	3				12	1	7	4			2						1	13	10			2	1	80	
	Right to a fair trial	6	1	8	2	1			1	1	3	3	3	3		3	2	1	1	1		2	1	5	13		1	2	50	
	Length of proceedings	6	3	1	17					35	1			9	2	16	1	1	2			6	17	10			13	11	1	151
	Non enforcement	6		1																									3	
	No punishment without law	7					2					1													1				4	
	Right to respect for private and family life	8	2	1	14		1	1		1	1	1	1	1	1	7	1	1	1	1	1	2	8	3	5	1	2	2	4	62
	Freedom of thought, conscience and religion	9																												0
	Freedom of expression	10	1		1		1						1	3	2	1						2	4	1	3				20	
	Freedom of assembly and association	11													3										1				5	
	Right to marry	12																											1	
	Right to an effective remedy	13	1	20							21			2		4	1					1		5		12	3	1	74	
	Prohibition of discrimination	14	2	1			1			1	2													3		1	1		12	
	Protection of property	P1-1		8		1	1			2						13				1			23	1	7		1		59	
	Right to education	P1-2																											0	
	Right to free elections	P1-3		1												1									1				3	
	Right not to be tried or punished twice	P7-4																											0	
	Other Articles of the Convention		3	1	13		4	1		1	6		3	2	7				1	1	1	9	1	4	1	4	6	1	72	
	Total																	19	486											
	Judgments finding at least one violation		10	6	58	10	11	10	2	52	8	2	19	24	2	36	7	1	10	1	5	56	22	70	4	20	21	10	19	
	Friendly settlements / Striking out judgments						1	1								2									1	2				
	Judgments finding no violation		13	3	3	8	1	2	3	8	1	2	3	8	1	2	5	1	4	1	2	16	6	8	2	8	2	13	4	
	Other judgments**			3	1	3		1	2	1	1	23	2	1	23	1	2	1	2	1	2	1	2	1	2	1	2	1	42	
Number of judgments*		23	6	64	15	23	1	4	56	10	5	29	26	2	63	12	2	14	3	7	74	23	79	15	22	23	24	648		
'Leading' cases pending execution***		19	17	108	8	20	17	6	59	15	11	42	24	3	62	13	3	24	14	9	76	15	88	8	16	14	17	754		

Notes: Judgments may concern more than one provision.
 * Some judgments concern two EU Member States, possibly including third states, one case for each of the following pairs: Bosnia and Herzegovina, Croatia, Serbia, Slovenia and the former Yugoslav Republic of Macedonia; Greece and Germany; Italy and Bulgaria; Montenegro and Serbia; Moldova and Russia; and San Marino and Italy.
 ** Other judgments: just satisfaction, revision judgments, preliminary objections and lack of jurisdiction.
 *** 'Leading' cases relate to the supervision of leading case execution and are those that the Council of Europe identified as not being repetitive cases but showing a structural or general problem in the state concerned, for which measures must be taken to address the problem.
 Source: Data extracted from ECtHR Annual report 2012, pp. 152-153; for 'Leading' cases pending execution', data are extracted from Supervision of the execution of judgments and decisions of the ECtHR, Draft of the Annual Report 2012, Council of Europe, April 2013

the year. The total number of applications dealt with increased by 68 %, mainly due to new working methods introduced by Protocol No. 14 to the ECHR which optimised the filtering and processing of applications.

Table 10.6 provides an overview of the number of judgments in which the ECtHR found a violation in 2012, broken down by ECHR articles and by Member State and Croatia. It also shows the number of pending ‘leading’ cases for execution. The Council of Europe determines those cases as ‘leading’ that relate to a structural or general problem in the state concerned that needs to be addressed by legislative measures.

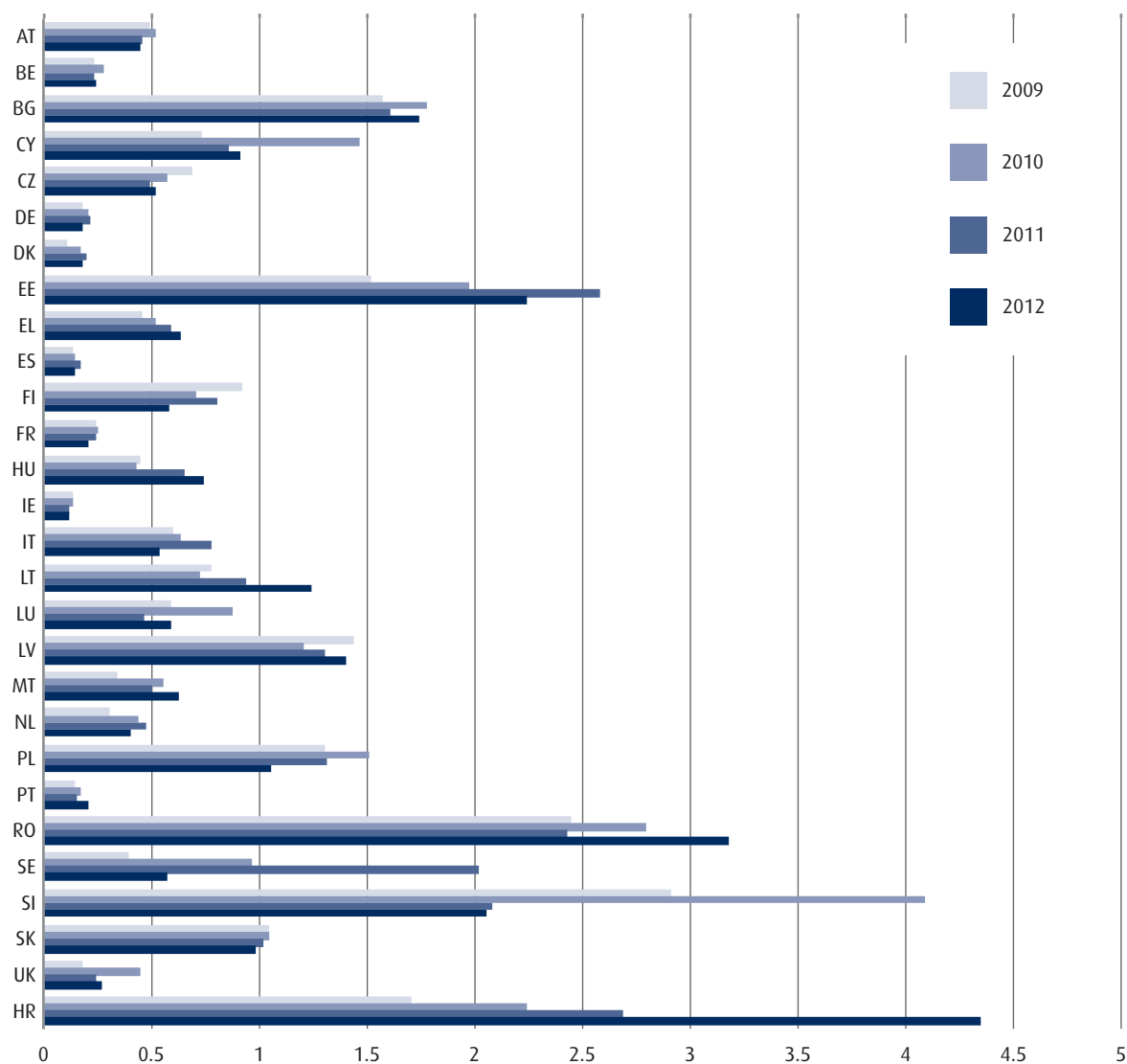
The ECtHR also offers details on the number of complaints it allocates to its internal judicial formations

by population. Applications that are allocated to a judicial formation are those for which the ECtHR has received a correctly completed form, accompanied by copies of relevant documents. Figure 10.1 shows the per capita allocation by state from 2009 to 2012. In general terms the number of applications by state stabilised. The figure does not include applications at the pre-judicial stage with an incomplete case file.

Figure 10.2 presents the most violated provisions of the ECHR, and the EU Member States and Croatia with the four highest number of violations by respective right.

Figure 10.3 shows the number of pending applications before the ECtHR. Of the 128,100 total at the end of

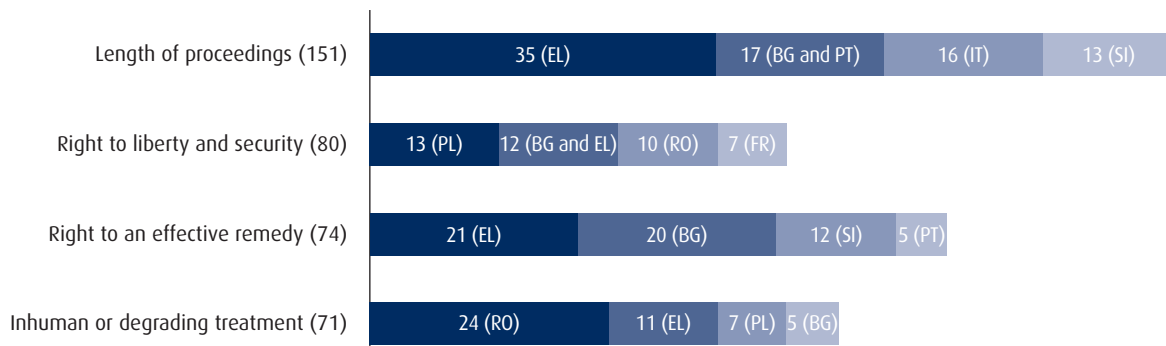
Figure 10.1: Applications allocated to a judicial formation per 10,000 inhabitants, by EU Member State and Croatia



Notes: The Council of Europe member states had a combined population of approximately 822 million inhabitants on 1 January 2012. The average number of applications allocated per 10,000 inhabitants was 0.79 in 2012. ‘Applications’ refers to complaints lodged to the ECtHR, which the court has not yet decided are admissible or not.

Source: 2011 and 2012: Internet sites of the Eurostat service (‘Population and social conditions’) or from the United Nations Statistics Division

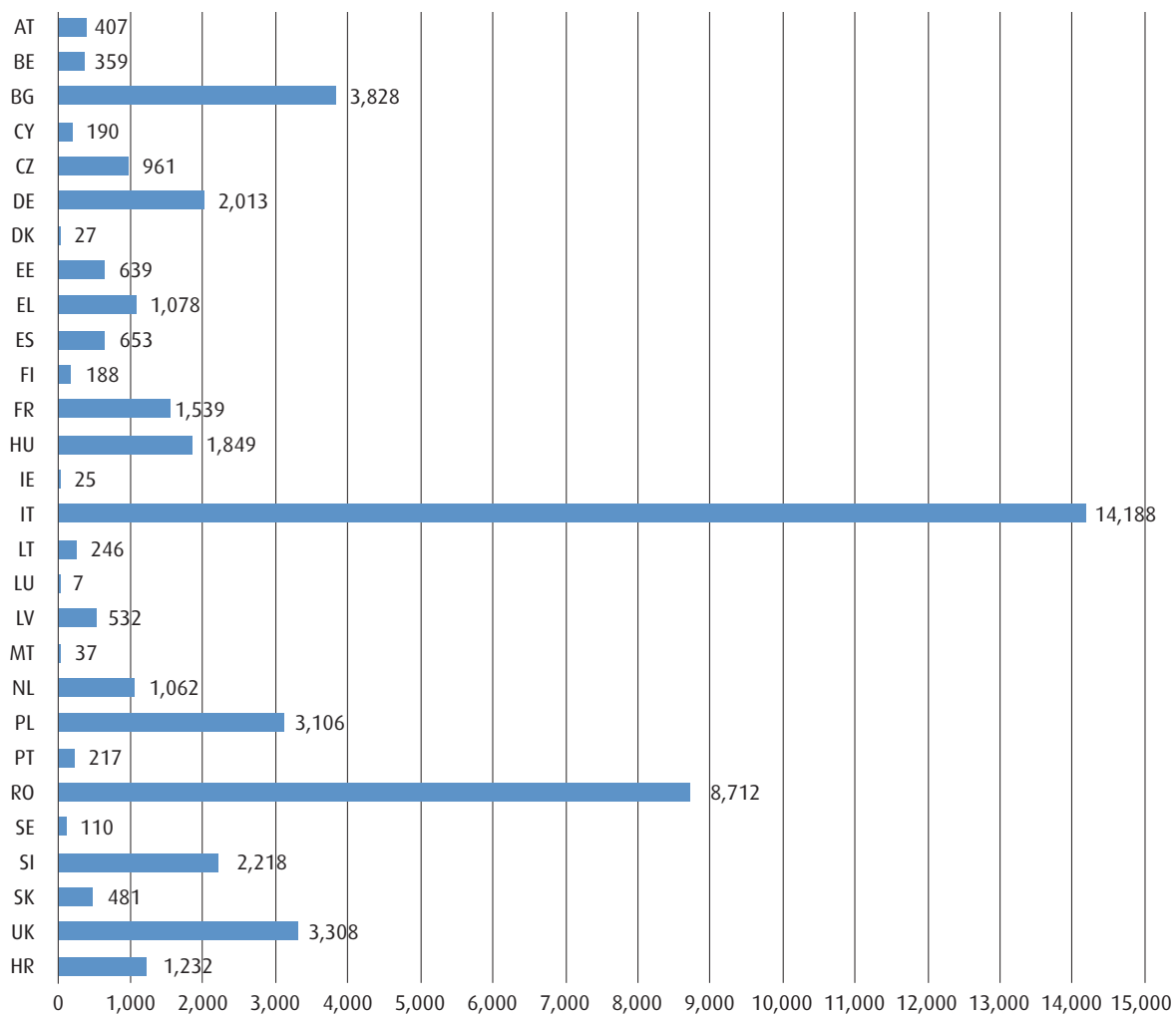
Figure 10.2: Most violated human rights provisions



Notes: The darkest shade of blue is used for the highest number of ECHR violations, medium blue for a medium number of violations and light blue for a low number of violations. In the case of 'Right to liberty and security', which is the second most violated human right, the bar is shorter as the number of violations per individual state is lower (e.g. 13 for PL). In cases where two states are mentioned in brackets, each of the states committed the same number of violations (e.g. 17 BG and 17 PT).

Source: ECtHR, Annual report 2012

Figure 10.3: Number of cases pending before judicial formations of the ECtHR as of December 2012, by respondent EU Member State and Croatia



Note: This table presents only the 27 EU Member States and Croatia. For all 47 Council of Europe member states' statistics, see ECtHR, Annual report 2012. 'Cases' refers to applications which have been deemed admissible by the ECtHR and thus will be considered on the merits.

Source: ECtHR, Annual report 2012

2012, EU Member States and **Croatia** together account for 49,212, or some 38 %. **Italy, Romania and Bulgaria** have the largest number of pending cases.

Table 10.7 presents the number of cases with an average execution time greater than five years of leading pending cases and the total amount of just satisfaction awarded for all cases in both 2011 and 2012 by EU Member State and **Croatia**. In the table, the five highest numbers of cases are highlighted, as well as the five highest

amounts of just satisfaction awarded. In 2012 the highest number of leading pending cases with execution times longer than five years was in **Italy**, which also had the highest amount of just satisfaction awarded, at almost €120,000,000, up from €8,000,000 in 2011.

Not only the EU Member States but the EU itself will, with its accession, be bound by the ECHR and subject to the jurisdiction of the ECtHR. The negotiations on the accession, initiated in 2010, continued in 2012 without

Table 10.7: Number of leading pending cases with average execution time of more than five years and total just satisfaction awarded, by EU Member State and Croatia

	Average execution time		Just satisfaction	
	Leading cases Pending > 5 years		Total awarded (euros)	
	2011	2012	2011	2012
AT	2	4	79,493	119,689
BE	6	5	46,269	156,150
BG	27	32	731,302	1,404,532
CY	2	2	3,200	0
CZ	3	5	276,396	193,530
DE	1	1	348,922	502,026
DK			21,000	223,178
EE			8,000	28,118
EL	15	20	7,061,189	1,659,800
ES	2	1	331,000	156,840
FI	3	5	105,114	70,150
FR	4	4	2,183,236	7,667,647
HU	1	1	1,143,510	674,000
IE	1	1	38,800	168,035
IT	31	33	8,414,745	119,558,467
LT	1	2	42,995	60,738
LU	1	3	0	37,885
LV	4	7	101,364	57,000
MT	4	4	170,500	90,800
NL	2	2	8,340	62,283
PL	15	27	803,223	570,040
PT	4	4	3,618,619	1,029,170
RO	20	28	1,765,401	1,349,518
SE	1		5,500	20,240
SI	3	6	36,830	263,362
SK	1	1	425,363	349,817
UK	5	5	454,457	418,220
HR	6	10	190,543	325,950
		Total:	28,415,312	137,217,185

Notes: 'Leading' cases relate to the supervision of leading case execution and are those that the Council of Europe identified as non-repetitive and illustrating a structural or general problem in the state concerned, for which legislative or other measures must be taken, according to the ECtHR.

The table highlights the four highest numbers of cases and the amount of just satisfaction awarded in 2012.

Source: Data are extracted from 'Supervision of the execution of judgments and decisions of the European Court of Human Rights', Draft of the Annual Report 2012, Council of Europe, April 2013



reaching a conclusion.⁵ The meeting records from the September 2012 round of talks between the Council of Europe's Steering Committee for Human Rights (CDDH) – composed of representatives of the Council of Europe Member States – and the European Commission reveal some of the outstanding issues.⁶

Among the 'contentious' topics are: attribution of a case to the EU or to one or more of its Member States when implementing EU law; some procedural aspects of the new 'co-respondent' mechanism bringing together the EU and one or more of its Member States before the ECtHR; and the participation of the EU in the Committee of Ministers, including the EU's voting rights. Negotiations were continued at the 7–9 November 2012 meeting where delegations exchanged views with representatives of civil society who stressed the importance of transparent negotiations. Representatives of non-governmental organisations expressed concern about the effects of the changes envisaged for applicants and EU's obligations under the ECHR, which they felt should encompass not only legislative acts but any action attributable to the EU.⁷

10.3. Acceptance of UN conventions and protocols

Global standards established under the auspices of the UN and its associated organisations, like the International Labour Organization (ILO), provide a universal framework of instruments and monitoring mechanisms. The map in Figure 10.4 highlights the acceptance of international instruments – both those of the UN and the Council of Europe – by EU Member State and Croatia. By aggregating the number of conventions and protocols accepted and their accompanying monitoring mechanisms, one can develop a crude measurement of a state's commitment to human rights obligations. In Figure 10.4, a convention for example, 'counts' as much as a protocol. Although crude, these numbers offer objective information that enable comparisons which speak volumes about the willingness of a state to be held accountable. Similarly rough is the cut-off line for the applied colour code in Figure 10.4, made by dividing the range into three categories of the same size.

The UN Convention on the Rights of Persons with Disabilities (CRPD) embodies the closest formal inter-connection between the EU and the UN human rights system, with the EU itself becoming party to the CRPD in 2010. The CRPD is the first of the core international human rights treaties that explicitly allows for regional organisations to accede.

In 2012, five EU Member States, namely **Bulgaria, Estonia, Greece, Malta** and **Poland**, ratified the CRPD, bringing the total number to 24 plus **Croatia** (see Table 10.6). All EU Member States have signed the CRPD. In 2012, **Estonia, Greece** and **Malta** also ratified the Optional Protocol to the CRPD, which allows for individual complaints of violation of rights in the CRPD. The total number of EU Member States that are party to the CRPD Optional Protocol is 18, plus **Croatia**, with four others having signed the protocol (on CRPD, see ► further **Chapter 5** in this Annual report, and on the role of NHRIs in monitoring the implementation of CRPD, see Section 10.5.2 of this chapter).

As for other changes related to UN human rights instruments during 2012, **Slovakia** ratified the Optional Protocol on individual complaints to the International Covenant on Economic, Social, and Cultural Rights (ICESCR), which will enter into force on 5 May 2013, while **France** and **Ireland** signed it. **Luxembourg** ratified Optional Protocol 1 to the Convention on Transnational Organized Crime (UNTOC) on smuggling migrants.⁸

Although all EU Member States and Croatia are party to the Convention on the Rights of the Child (CRC), not all have ratified the treaty's three protocols. **Estonia**, alone among EU Member States and Croatia, has not yet ratified Optional Protocol 1 on the Involvement of Children in Armed Conflict.⁹

Twenty five EU Member States and **Croatia** are party to Optional Protocol 2 on child prostitution, with **Finland** becoming a party in 2012. The **Czech Republic** and **Ireland** have only signed this protocol.

Austria, Belgium, Cyprus, Finland, Germany, Italy, Luxembourg, Malta, Portugal, Romania, Slovakia, Slovenia and **Spain** signed Optional Protocol 3 to the CRC on complaint procedures (communication procedure), which opened for signature in February 2012 (see Table 10.8).

In 2012, **Austria** ratified the International Convention for the Protection of All Persons from Enforced Disappearance (CPED) and its optional protocol on

5 For a list of meeting documents, see: www.coe.int/t/dghl/standardsetting/hrpolicy/Accession/Meeting_reports_en.asp.

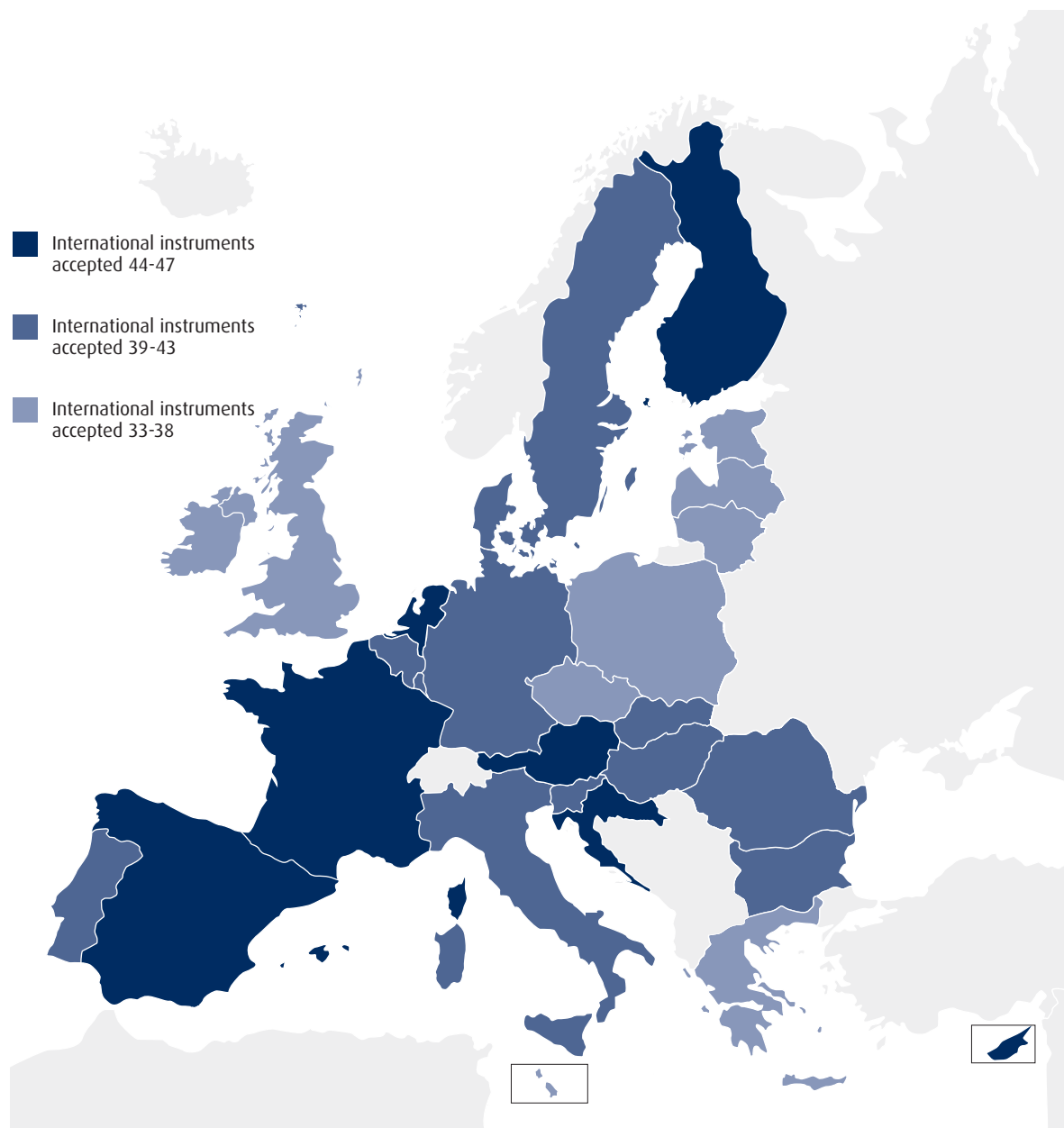
6 Council of Europe (2012), 47+1(2012)R02, 19 September 2012, available at: [www.coe.int/t/dghl/standardsetting/hrpolicy/Accession/Meeting_reports/47_1\(2012\)R02final_EN.pdf](http://www.coe.int/t/dghl/standardsetting/hrpolicy/Accession/Meeting_reports/47_1(2012)R02final_EN.pdf).

7 Council of Europe, 47+1(2012)R03, 7–9 November 2012, available at: www.coe.int/t/dghl/standardsetting/hrpolicy/Accession/Meeting_reports/47_1%282012%29R03_EN_final.pdf.

8 The EU is also party to UNTOC as well as its Protocols, having ratified the Convention in 2004, and Protocols 1 and 2 in 2006.

9 The ratification process is, however, ongoing and is expected to be completed in 2013.

Figure 10.4: Acceptance of UN and Council of Europe human rights instruments, by EU Member State and Croatia



Notes: The figure includes the full list of the UN instruments (conventions and corresponding protocols but also accepted additional monitoring provisions.) provided in Table 10.8. The figure also includes all Council of Europe instruments (conventions and protocols) that are listed in Table 10.1. The total number considered is 57 (31 for the UN and 26 for the Council of Europe).

Source: FRA, 2012; data extracted from: United Nations website 'Treaty Collection', available at: <http://treaties.un.org>

individual complaints, raising the total number of ratifications of the convention as well as its protocol to six among the EU Member States and Croatia.

Similarly, in the context of the Convention against Torture, already ratified by all EU Member States, **Austria** and **Hungary** ratified the Optional Protocol (OP-CAT), requiring a state to designate or establish a National Preventive Mechanism (NPM). With these additions in 2012, 19 EU Member States, as well as **Croatia**, are

parties and another six are signatories (see further on the role of NHRIs as NPMs in Section 10.5.2 below).¹⁰

The International Convention on the Rights of Migrant Workers (ICRMW) remains the only one of the nine

¹⁰ The Portuguese Parliament approved the submission of an instrument of ratification for OP-CAT by means of Resolution 143/2012 of 13 December 2012. The actual ratification date was, however, 15 January 2013 and it is therefore not included in the text or the tables of this annual report.



► ‘core’ UN human rights treaties that no EU Member State has ratified or signed (see also **Chapter 1**). However, an International Labour Organisation convention on domestic workers (ILO C189), adopted in 2011, received in 2012 the sufficient number (two: the Philippines and Uruguay) of ratifications for it to enter into force in 2013.

Table 10.8 shows the acceptance of selected UN conventions and protocols, while also marking EU Member States and Croatia by number of accepted instruments, coded with a three-stage colour scheme in which the darkest shade indicates the highest percentage of ‘non-conformity’ conclusions.

10.4. Monitoring obligations: international

Most of the UN conventions referred to in Table 10.8 provide for the establishment of international monitoring bodies (UN treaty bodies) that supervise State Parties’ implementation of their obligations, through, among other means, a periodic reporting procedure. The UN Human Rights Council provides a further monitoring role through the Universal Periodic Review (UPR) process initiated in 2006.¹¹ Such monitoring mechanisms mandated at UN level are further supported by the universal system of accredited NHRIs with a more general human rights mandate, discussed in Section 10.5.

10.4.1. Universal Periodic Review (UPR)

The UPR is facilitated by a group of three States, known as a ‘troika’, assembled for each review session. With the assistance of the UPR secretariat (a part of the UN Office of the High Commissioner for Human Rights, OHCHR), the troika prepares an outcome document on the review, which includes a summary of the review proceedings, recommendations presented by states, conclusions and voluntary commitments presented by the state under review.

After the monitoring of all UN member states in a complete first four-year UPR cycle, five EU Member States underwent the UPR procedure for a second time in 2012: the **Czech Republic**, **Finland**, the **Netherlands**, **Poland**, and the **United Kingdom**.¹² A UPR working group issues recommendations based on the reviews, suggesting how the state can more effectively meet its human rights obligations. States must express their positions in relation to the recommendations at three stages: a) during the Working Group, b) during the three-month period between the Working Group and the Human Rights Council Plenary Session through a written document called an ‘addendum’, or c) at the very latest, in their statement during the Human Rights Council plenary, when the final outcome of the UPR is adopted.

States may accept, partly accept or reject the implementation of these recommendations. The **United Kingdom**, for example, received 132 recommendations, accepting 72, accepting 19 in part and rejecting 41. The **Netherlands** received 119 recommendations, accepting 65, accepting seven in part and rejecting 47. The reasons for rejection of recommendations vary from country to country, but could stem from the fact that the state is already addressing the issue raised. **Slovenia** submitted a mid-term report during 2012 with the implementation measures for a total of 97 recommendations.¹³ Table 10.9 provides an overview of the UPR recommendations for the EU Member States reviewed in 2012.

¹¹ For the UN Human Rights Council, three new EU Member States were elected in late 2012 to begin serving on the 47-member body on 1 January 2013, adding to an existing six and replacing Belgium and Hungary. The present members (and the year each one’s term expires) are: Austria (2014), Czech Republic (2014), Estonia (2015), Germany (2015), Ireland (2015), Italy (2014), Poland (2013), Romania (2014), and Spain (2013). UN General Assembly, GA/11310, 12 November 2012, available at: www.un.org/News/Press/docs/2012/ga11310.doc.htm.

¹² For more information about the UPR system, see: www.ohchr.org/en/hrbodies/upr/pages/uprmain.aspx and about the UPR sessions, see: www.upr-info.org/-Session-13-May-2012-.html.

¹³ See: http://lib.ohchr.org/HRBodies/UPR/Documents/Session7/SI/Slovenia_mid-term_report.pdf.

Table 10.8: Acceptance of selected UN conventions, by EU Member State and Croatia

	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI
<i>Total accepted</i>	26	25	23	23	19	26	23	18	21	27	21
ICERD	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
ICERD - Individual complaints (Art. 14 (1))	✓	✓	✓	✓	✓	✓	✓	✓	✗	✓	✓
ICCPR	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
ICCPR - State complaints (Art. 41)	✓	✓	✓	✗	✓	✓	✓	✗	✗	✓	✓
ICCPR - OP1 (individual complaints)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
ICCPR - OP2 (death penalty)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
ICESCR	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
ICESCR - OP (Individual complaints) [not yet in force]	✗	s	✗	✗	✗	✗	✗	✗	✗	✓	s
CEDAW	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
CEDAW - OP (Individual complaints)	✓	✓	✓	✓	✓	✓	✓	✗	✓	✓	✓
CEDAW - OP (Inquiry procedure, Art. 10, 'opt-out')	✓	✓	✓	✓	✓	✓	✓	✗	✓	✓	✓
CAT	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
CAT - OP (OP-CAT)	✓	s	✓	✓	✓	✓	✓	✓	s	✓	s
CAT - State complaints (Art. 21 (1))	✓	✓	✓	✓	✓	✓	✓	✗	✓	✓	✓
CAT - Individual complaints (Art. 22 (1))	✓	✓	✓	✓	✓	✓	✓	✗	✓	✓	✓
CAT - Inquiry procedure (Art. 20 (2), 'opt-out' in Art. 28 (1))	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
CRC	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
CRC - OP1 (armed conflict)	✓	✓	✓	✓	✓	✓	✓	s	✓	✓	✓
CRC - OP2 (prostitution)	✓	✓	✓	✓	s	✓	✓	✓	✓	✓	✓
CRC - OP3 (communication procedure)	s	s	✗	s	✗	s	✗	✗	✗	s	s
ICRMW	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
CPED	✓	✓	s	s	✗	✓	s	✗	s	✓	s
CPED - Individual complaints (Art. 31)	✓	✓	✗	✗	✗	✓	✗	✗	✗	✓	✗
CRPD	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	s
CRPD - OP (individual complaints)	✓	✓	s	✓	s	✓	✗	✓	✓	✓	s
UNTOC	✓	✓	✓	✓	s	✓	✓	✓	✓	✓	✓
UNTOC - OP1 (smuggling of migrants)	✓	✓	✓	✓	s	✓	✓	✓	✓	✓	✓
UNTOC - OP2 (trafficking)	✓	✓	✓	✓	s	✓	✓	✓	✓	✓	✓
CRSR	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
ILO C169	✗	✗	✗	✗	✗	✗	✓	✗	✗	✓	✗
ILO C189*	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗

Notes: Acceptance includes both being a State Party as well as accepting additional monitoring provisions.

ICERD International Convention on the Elimination of All Forms of Racial Discrimination
 ICCPR International Covenant on Civil and Political Rights
 ICCPR OP1 Optional Protocol to the ICCPR
 ICCPR OP2 Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty
 ICESCR International Covenant on Economic, Social and Cultural Rights
 ICESCR OP Optional Protocol to the ICESCR
 CEDAW Convention on the Elimination of All Forms of Discrimination against Women
 CEDAW OP Optional Protocol to the CEDAW
 CAT Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
 CAT OP Optional Protocol to the CAT
 CRC Convention on the Rights of the Child
 CRC OP2 Optional Protocol to the CRC on the involvement of children in armed conflict
 CRC OP3 Complaint procedure



Table 10.8: (continued)

FR	HU	IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI	SK	UK	HR	Total accepted out of 27 Member States and Croatia
25	24	19	23	19	24	16	22	24	21	22	20	24	24	24	21	23	28
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	28
✓	✓	✓	✓	X	✓	X	✓	✓	✓	✓	✓	✓	✓	✓	X	X	23
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	28
X	✓	✓	✓	X	✓	X	✓	✓	✓	X	X	✓	✓	✓	✓	✓	20
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	X	✓	27
✓	✓	✓	✓	✓	✓	X	✓	✓	S	✓	✓	✓	✓	✓	✓	✓	26
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	28
S	X	S	S	X	S	X	X	S	X	S	X	X	S	✓	X	X	2
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	28
✓	✓	✓	✓	✓	✓	X	X	✓	✓	✓	✓	✓	✓	✓	✓	✓	25
✓	✓	✓	✓	✓	✓	X	X	✓	✓	✓	✓	✓	✓	✓	✓	✓	25
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	28
✓	✓	S	S	X	✓	X	✓	✓	✓	S	✓	✓	✓	X	✓	✓	19
✓	✓	✓	✓	X	✓	X	✓	✓	✓	✓	X	✓	✓	✓	✓	✓	24
✓	✓	✓	✓	X	✓	X	✓	✓	✓	✓	X	✓	✓	✓	X	✓	23
✓	✓	✓	✓	✓	✓	✓	✓	✓	X	✓	✓	✓	✓	✓	✓	✓	27
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	28
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	27
✓	✓	S	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	26
X	X	X	S	X	S	X	S	X	X	S	S	X	S	S	X	X	0
X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0
✓	X	S	S	S	S	X	S	✓	X	S	S	S	S	S	X	S	6
✓	X	X	X	X	X	X	X	✓	X	X	X	X	X	X	X	X	6
✓	✓	S	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	25
✓	✓	X	✓	✓	✓	✓	✓	✓	X	X	✓	S	✓	✓	✓	✓	20
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	27
✓	✓	S	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	26
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	27
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	28
X	X	X	X	X	X	X	X	✓	X	X	X	X	X	X	X	X	3
X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	0

ICRMW International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
 CPED International Convention for the Protection of All Persons from Enforced Disappearance
 CRPD Convention on the Rights of Persons with Disabilities
 CRPD OP Optional Protocol to the CRPD
 ILO C169 Indigenous Tribal People Convention
 ILO C189 Domestic Workers Convention
 UNTOC Convention on Transnational Organized Crime
 UNTOC Op 1 Optional Protocol 1 to the CTOC on smuggling migrants
 UNTOC Op 2 Optional Protocol 2 to the CTOC on trafficking
 CRSR Convention relating to the Status of Refugees
 * ILO C189 was adopted in 2011, but is not yet in force

✓ = State party/applicable
 S = signed
 X = not signed
 High acceptance (25 and above)
 Medium acceptance (21-24)
 Low acceptance (20 and below)

Source: Data extracted from United Nations website 'Treaty Collection', available at: <http://treaties.un.org>

Table 10.9: Universal Periodic Review recommendations in 2012, by EU Member State and Croatia

	Total	Accepted*	Partially accepted	Rejected*
CZ	The Czech Republic's position on all recommendations is still pending.			
FI	78	71	4	3
NL	119	65	7	47
PL	124	105	0	19
UK	132	72	19	41

Notes: * Numbers are subject to change as postponed or rejected recommendations may later be accepted. Please note that these figures may differ depending on the source used for compiling the data.

Source: FRA, 2012; the table draws on information available at: www.upr-info.org/+Detailed-statistics-available+.html and www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx

10.4.2. Treaty bodies

In contrast to the UPR system, which considers the wider human rights record of a state, UN treaty bodies monitor the implementation of rights guaranteed under their respective treaties. In 2012, the UN General Assembly issued a resolution on strengthening and enhancing the effective functioning of the human rights treaty body system.¹⁴ A treaty body generally conducts a review on the basis of regular reports submitted by the state in question. Review cycles of treaty bodies typically range from between four and five years, with the exception of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), which has in principle a two-year cycle.

In 2012, these bodies reviewed several EU Member States. As Table 10.10 shows, of all the treaty bodies, the monitoring body for ICERD, the Committee on the Elimination of Racial Discrimination (CERD), reviewed the largest number of EU Member States in 2012: **Austria, Finland, Italy, and Portugal**. Table 10.10 shows that EU Member States and Croatia are subject to a range of nine monitoring activities at the UN level under which the respective EU Member States and Croatia submitted reports in 2012.

In addition to reporting, individual complaints mechanisms are also made available under the treaties (see Table 10.11). As mentioned, an additional instrument became available in relation to the rights of the child. At an official ceremony on 28 February 2012 in Geneva, the third Optional Protocol to the Convention on the Rights of the Child (CRC) was ► opened for signature (see also **Chapter 4**).¹⁵

Of the nine core UN human rights conventions, three do not yet allow for individual complaints to the respective treaty body. Article 77 of the ICRMW of 1990 has not yet received the sufficient number of declarations (two of the required 10) for the complaint mechanism to become operational – and none of the EU Member States has signed the convention itself (of non-EU states, 35 have signed and 46 are parties).

The 2008 Optional Protocol to the International Covenant on Economic, Social and Cultural Rights has similarly not yet entered into force (eight of the required 10 state parties, and an additional 32 signatures). Eight EU Member States have signed the protocol and, of these, Slovakia ratified in 2012 following Spain.¹⁶

The same is true for the third Optional Protocol to the CRC (two of the required 10 state parties, and an additional 34 signatures) – with 13 EU Member States having signed the protocol. Both optional protocols are also concerned with inter-state complaints and inquiry procedures.

Table 10.11 offers an overview of the nine core UN human rights instruments with their respective provision or optional protocol providing for individual complaints. In addition to the year of adoption, the year of entry into force and the number of state parties, the overview provides details on the respective individual complaints mechanism, the extent of its acceptance and the number of communications/cases in 2012 alongside the number of concluded violations. The table provides

¹⁴ UN General Assembly, A/RES/66/254 of 15 May 2012, initiated by the resolution of 16 March 2012, A/66/L.37.

¹⁵ See: www2.ohchr.org/english/bodies/crc/OPIC_Ceremony.htm.

¹⁶ In early 2013 the protocol reached the required number of ratifications and enters into force on 5 May 2013. Portugal became party in January 2013, bringing the total number of EU Member States having ratified the protocol to three. Since these ratifications took place in 2013, this Annual report does not include them in its text or tables.

a global tally as well as an overview for EU Member States and Croatia.¹⁷

10.4.3. UN special procedures

The system of Special Procedures is a central element of the UN human rights machinery and covers all human rights: civil, cultural, economic, political and social. At the end of 2012 there were 36 thematic and 12 country mandates.

With the support of the UN OHCHR, special procedures undertake country visits; act on individual cases and concerns of a broader, structural nature by sending communications to states and others in which they bring alleged violations or abuses to their attention; conduct thematic studies and convene expert consultations, contribute to the development of international human rights standards, engage in advocacy, raise public awareness and provide advice for technical cooperation.

On various occasions, EU Member States have expressed their support for the system of special procedures and called on states to fully cooperate with them. All EU Member States and Croatia have extended a standing invitation to all thematic special procedures of the Human Rights Council, thereby announcing that they will always accept 'requests to visit' from all special procedures.

In this context, several special procedures mandate holders visited one or more EU Member States and/or Croatia in 2012:

- The Special Rapporteur on violence against women, its causes and consequences visited **Croatia** and **Italy**.
- The Special Rapporteur on the human rights of migrants visited **Greece** and **Italy**.
- **Germany** and **Sweden** received visits from the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran.
- The Special Rapporteur on freedom of religion or belief visited **Cyprus**.
- The Special Rapporteur on the situation of human rights defenders visited **Ireland**.

- The Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes visited **Hungary**.
- The Independent Expert on the effect of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights visited **Latvia**.
- The **United Kingdom** received a visit from the Working Group of experts on people of African descent.

The results of these visits are presented in written reports submitted to the Human Rights Council and can be found on the webpage of each special procedures mandate holder.¹⁸

In 2012, special procedures mandate holders sent 28 communications to several EU Member States: **Cyprus, Finland, France, Greece, Hungary, Italy, the Netherlands, Poland, Portugal, Romania, Spain** and the **United Kingdom**. Communications sent by special procedures and the responses sent by states, if any, can be found in the 'communications report of special procedures' presented at each session of the Human Rights Council.

Special Procedures have undertaken studies on issues of particular relevance for the EU. For example, the Special Rapporteur on the human rights of migrants launched a year-long study to examine the rights of migrants in the Euro-Mediterranean region, focusing in particular on the management of the external borders of the EU. In May 2012, he held consultations with the key EU institutions responsible for protecting and promoting the rights of migrants,¹⁹ including the Directorate-General Home Affairs and the Directorate-General for Justice of the European Commission, and other relevant regional entities, including the European Parliament, the European Council, FRA, Frontex and relevant civil society actors. Subsequently, he carried out four key countries visits, covering both sides of the EU southern Mediterranean border: Tunisia, Turkey, **Italy** and **Greece**. The findings and recommendations emerging from these visits will be presented to the 23rd session of the Human Rights Council in June 2013 in the form of one thematic global mission report, with country-specific attachments.

¹⁷ The total number of applications as well as concluded violations since the inception of each mechanism was published in *Bringing rights to life: The fundamental rights landscape of the European Union*, available at: <http://fra.europa.eu/en/publication/2012/bringing-rights-life-fundamental-rights-landscape-european-union>.

¹⁸ See: www.ohchr.org/EN/HRBodies/SP/Pages/Welcomepage.aspx.

¹⁹ For more information, see: www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/ConceptNote.aspx.

Table 10.10: UN monitoring reports issued in 2012, by EU Member State and Croatia

	HRC	CERD	CESCR	CEDAW	CAT	CRC	CRC-OP-SC	CRPD	UPR	Total
AT		✓				✓				2
BE										0
BG			✓	✓						2
CY						✓				1
CZ					✓				✓	2
DE	✓									1
DK										0
EE										0
EL					✓	✓	✓			3
ES			✓							1
FI		✓							✓	2
FR										0
HU								✓		1
IE										0
IT		✓								1
LT	✓									1
LU										0
LV										0
MT										0
NL									✓	1
PL									✓	1
PT		✓								1
RO										0
SE							✓			1
SI										0
SK			✓							1
UK						✓			✓	2
HR										0
Total	2	4	3	1	2	4	2	1	5	24

✓ = Monitoring reports issued in 2012

Notes: Acronyms stand for:

- CERD Committee on the Elimination of All Forms of Racial Discrimination
- HRC Human Rights Committee (Monitoring body of the International Covenant on Civil and Political Rights, ICCPR)
- CESCR Committee on Economic, Social and Cultural Rights
- CEDAW Committee on the Elimination of Discrimination against Women
- CAT Committee against Torture
- CRC Committee on the Rights of the Child
- CRC-OP-SC Committee on the Rights of the Child (Monitoring the Optional Protocol on the Sale of Children)
- CRPD Convention on the Rights of Persons with Disabilities
- UPR Universal Periodic Review

Source: FRA, 2012; data extracted from: UN bodies – <http://tb.ohchr.org/default.aspx>
(For sources – Concluding Observations were used for all UN reports)



Table 10.11: UN conventions with individual complaint mechanisms and number of cases

	ICERD	ICESCR	ICCPR	CEDAW	CAT	CRC	ICRMW	CRPD	CPED
Year of adoption (into force)	1965 (1969)	1966 (1976)	1966 (1976)	1979 (1981)	1984 (1987)	1989 (1990)	1990 (2003)	2006 (2008)	2006 (2010)
Number of state parties (out of which EU Member States and Croatia)	175 (28)	160 (28)	167 (28)	187 (28)	153 (28)	193 (28)	46 (0)	127 (25)	37 (6)
Individual complaints provision/ instrument [year of adoption (OP)] (into force) – yellow: not yet in force	Article 14 (1969)	OP [2008]	OP [1966] (1976)	OP [1999] (2000)	Article 22 (1987)	OP [2011]	Article 77	OP [2006] (2008)	Article 31 (2010)
Number of states accepting individual complaints (of which EU Member States and Croatia)	54 (23)	8 (2)	114 (27)	104 (25)	66 (23)	2 (0)	2 (0)	76 (20)	16 (6)
Total number of cases registered (including those newly registered in 2012)	52 (3)	n/a	2,231 (98)	47 (8)	534 (50)	n/a	n/a	9 (9)	0 (0)
Total number of cases where a violation was found (including those adopted in 2012)	13 (1)	n/a	799 (54)	12 (3)	75 (8)	n/a	n/a	1 (1)	0 (0)
Number of cases where a violation was found related to EU Member States and Croatia (including those adopted in 2012)	10 (1)	n/a	107 (3)	7 (2)	33 (3)	n/a	n/a	1 (1)	0 (0)

Notes: Information sorted by: year of adoption, year of entry into force, number of state parties, extent of acceptance of individual complaints, number of cases (communications).

n/a = not applicable

Source: Data provided by the UN OHCHR and extracted from: <http://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en>

10.5. Monitoring obligations at national level: National Human Rights Institutions

NHRIs have a crucial role to play in monitoring international obligations and their national implementation, often as an officially appointed national implementation mechanism under treaties (see 10.5.2.). In the course of 2012, the Human Rights Council and the UN General Assembly underscored the valuable contribution of NHRIs in this area.²⁰

The 2012 Brighton Declaration on the future of the ECtHR called for more effective implementation of the ECHR at the national level through, among other things, the establishment of independent NHRIs, with the rationale

that human rights can most effectively be addressed at the national level. In addition, the Declaration calls on states to work “in a spirit of co-operation with” NHRIs.²¹

The Council of Europe Commissioner for Human Rights highlighted in 2012 the essential role of NHRIs and similar bodies during the current economic crisis in Europe, referring to their ability to mitigate the effects of austerity measures on fundamental rights by providing “expert advice on the groups that need the most protection, on the impact of various policy measures and on the more general human rights consequences of the crisis”.²²

Echoing the Council of Europe, the European Commission and the European Parliament also called for the setting-up of NHRIs in all EU Member States and for measures facilitating the networking of these bodies with other

20 See UN Human Rights Council resolution 20/14 of 5 July 2012. The UN General Assembly adopted resolution 66/169 on 19 December 2011, and resolution 67/163 on 20 December 2012, affirming the important role of NHRIs in promoting and protecting human rights at both the national and international levels.

21 See: <http://hub.coe.int/20120419-brighton-declaration>.

22 Council of Europe, Commissioner for Human Rights (2012), Comment of the Council of Europe Commissioner for Human Rights that National Human Rights Structures can help mitigate the effects of austerity measures, CommDH 027(2012), 31 May 2012, available at: www.coe.int/t/commissioner/news/2012/120531hrc_EN.asp.

mechanisms across the EU to help individuals exercise their fundamental rights and address violations most effectively.²³

10.5.1. Accreditation and international cooperation

At the international level, NHRIs cooperate through the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC). The ICC promotes and supports participation of NHRIs in the international human rights system and facilitates cooperation among NHRIs at the global level. The ICC, through its Sub-Committee on Accreditation, also undertakes accreditation of NHRIs for compliance with the Paris Principles – which require that NHRIs are independent, created by law, protected against governmental interference and have adequate funding.

NHRIs that are accredited as fully compliant with the Paris Principles, that is, having A-status, are recognised by the UN system and as such are entitled to fully participate in the work of the UN structures, including various kinds of speaking rights in monitoring procedures independent of their national state.²⁴ To enable EU Member States to establish and seek Paris Principles compliant NHRIs, FRA published a handbook, outlining the accreditation procedures and providing a number of national examples. The European Parliament also invited the FRA to support the EU networking of NHRIs: In its annual report, the European Parliament calls for “the setting-up of appropriate National Human Rights Institutions in all Member States and for measures facilitating the networking of these bodies across the EU with the support of the FRA; invites the EU institutions and the Member States to develop the capacity of Equality Bodies and Data Protection Bodies, of NHRIs and of FRA as human rights litigants”.²⁵

At the European level, NHRIs from across the EU coordinate their activities through the European Group of NHRIs that also facilitates engagement with the ICC as well as with European and UN bodies and monitoring mechanisms. In relation to NHRIs in EU Member States and Croatia, in 2012, four A-status NHRIs – in **Denmark**,

Poland, Portugal and Spain – successfully underwent required regular re-accreditation by the Sub-Committee on Accreditation, maintaining their A-status.²⁶ In March 2012, the B-status of the **Slovakian** NHRI lapsed and it consequently lost its accreditation due to non-submission of required documents.²⁷ By the end of 2012, therefore, the number of the accredited NHRIs in EU Member States and Croatia was: 13 A-status NHRIs (12 in 10 EU Member States and one in **Croatia**), seven B-status NHRIs and one C-status NHRI. The number of EU Member States without accredited NHRIs increased by one to nine (see Table 10.12).

FRA ACTIVITY

Aiding the establishment and accreditation of National Human Rights Institutions in the EU

FRA published a *Handbook on the establishment and accreditation of NHRIs in the European Union* in October 2012, outlining the accreditation procedure step-by-step. The handbook provides examples of concrete practices related to such issues as powers, independence and mandate. The handbook also shows accreditation trends and lists the applicable international standards. It was published alongside a collection of case studies outlining the experiences of NHRIs in selected Member States.

For further information, see:
<http://fra.europa.eu/en/publication/2012/handbook-establishment-and-accreditation-national-human-rights-institutions>

10.5.2. Designation as national implementation mechanisms

The OP-CAT and CRPD require State Parties to establish or appoint an effective mechanism at the national level to monitor implementation of state obligations. Both the CRPD and OP-CAT also instruct states to give due regard to the Paris Principles when establishing this national mechanism. Hence, NHRIs fully compliant with the Paris Principles, in other words holding A-status, are the bodies that are most likely to meet these criteria. (For an overview of monitoring bodies under CRPD see

► **Chapter 5**, Section 5.2.4 in this Annual report).

23 European Commission (2012), *2011 Report on the Application of the EU Charter of Fundamental Rights*, COM(2012) 169 final, 16 April 2012. European Parliament (2012), *Situation of fundamental rights in the European Union (2010–2011)*.

24 See, for example, UN, Human Rights Committee (2012), *Paper on the relationship of the Human Rights Committee with national human rights institutions*, CCPR/C/106/3, 13 November 2012. See, in general, FRA (2012), *Handbook on the establishing and accrediting National Human Rights Institutions in the EU*, available at: <http://fra.europa.eu/en/publication/2012/handbook-establishment-and-accreditation-national-human-rights-institutions>.

25 For more information, see: European Parliament (2012), *Situation of fundamental rights in the European Union (2010–2011)*.

26 ICC, Sub-Committee on Accreditation (2012), *Report and Recommendations of the Sub-Committee on Accreditation*, Geneva, November 2012, available at: <http://nhri.ohchr.org/EN/AboutUs/ICC/Accreditation/Documents/SCA%20Report%20November%202012%20%28English%29.pdf>.

27 ICC, Sub-Committee on Accreditation (2012), *Report and Recommendations of the Sub-Committee on Accreditation*, Geneva, 26–30 March 2012, available at: <http://nhri.ohchr.org/EN/AboutUs/ICC/Accreditation/Documents/SCA%20MARCH%202012%20FINAL%20REPORT%20ENG%20WITH%20ANNEXURES.pdf>.

An overview of accredited NHRIs in the EU serving as independent mechanisms for independent monitoring of the CRPD, as per Article 33 (2) is available in

- **Chapter 5.** During 2012, the B-status NHRI in **Austria** was entrusted with a mandate to act as a National Preventive Mechanisms (NPM) under the OP-CAT.²⁸ One of two B-status NHRIs in **Bulgaria** (the Ombudsman) was also given a mandate as NPM under the OP-CAT.²⁹

Outlook

The year 2012 saw an increase in formal commitments by EU Member States and Croatia to Council of Europe and UN standards and monitoring mechanisms. While the rate of signatures of the Optional Protocol to the CRC on an individual complaints procedure is relatively quick, this is not the case for the optional protocol under the International Covenant on Economic, Social and Cultural Rights. There is seemingly no action among EU Members States or Croatia to accept the rights of migrant workers through the ICRMW. Given the number of signatures to date, acceptance through ratification will likely continue to grow for the Istanbul Convention against violence against women, ECHR Protocol 12 on discrimination, ESC 1996 on social and economic rights as well as its collective complaints mechanism, to mention some.

For the coming period, it is expected that the negotiations on the EU's accession to the ECHR will be concluded. In addition the EU might in future accede to other human rights conventions – beyond the CRPD – and become subject to monitoring in other forums, such as a voluntary screening of the EU by the UPR-process in the Human Rights Council.

Table 10.12: NHRIs by accreditation status, by EU Member State and Croatia

	A-status	B-status	C-status	No accreditation/ institutions
AT		✓		
BE*		✓		
BG*		✓		
CY*				✓
CZ				✓
DE	✓			
DK*	✓			
EE				✓
EL	✓			
ES	✓			
FI				✓
FR	✓			
HU		✓		
IE	✓			
IT				✓
LT				✓
LU	✓			
LV				✓
MT				✓
NL*		✓		
PL	✓			
PT	✓			
RO			✓	
SK*				✓
SE*		✓		
SI		✓		
UK	GB*	✓		
	NI	✓		
	SC	✓		
HR	✓			

Notes: * Relevant NHRIs also serve as a National Equality Body under EU law.

Orange indicates that relevant NHRIs underwent re-accreditation in 2012 and maintained their previous accreditation status. Red indicates that NHRI accreditation status changed in 2012.

Bulgaria has two NHRIs, both with B-status: the Ombudsman of the Republic of Bulgaria and the Commission for protection against Discrimination of the Republic of Bulgaria.

The United Kingdom has three NHRIs, all with A-status: in Great Britain, the Equality and Human Rights Commission covering human rights issues in England and Wales, and certain human rights issues in Scotland (those not devolved to the Scottish Parliament); in Northern Ireland, the Northern Ireland Human Rights Commission; and in Scotland, the Scottish Human Rights Commission.

GB stands for Great Britain; NI for Northern Ireland; and SC for Scotland.

Source: ICC, see: <http://nhri.ohchr.org>

²⁸ Austria (2012), 1. Bundesgesetz, mit dem das Bundes-Verfassungsgesetz, das Volksanwaltschaftsgesetz 1982, das Sicherheitspolizeigesetz, das Strafvollzugsgesetz und das Bundesgesetzblattgesetz geändert werden (Bundesgesetz zur Durchführung des Fakultativprotokolls vom 18. Dezember 2002 zum Übereinkommen der Vereinten Nationen gegen Folter und andere grausame, unmenschliche oder erniedrigende Behandlung oder Strafe – OPCAT-Durchführungsgesetz), BGBl. I Nr. 1/2012, 10 January 2012, available at: <http://vlex.at/vid/volksanwaltschaftsgesetz-bundesgesetzblattgesetz-opcat-344167454>. See also: <http://volksanwaltschaft.gv.at/en/the-austrian-ombudsman-board/responsibilities>.

²⁹ Bulgaria, Ombudsman Act, new chapter 4a 'National Preventive Mechanism', entered into force on 11 May 2012.

The ECSR and the increased number of collective complaints related to social rights, a number which is likely to continue to grow, further underscores the impact of the financial crisis and the need for effective monitoring. Negotiations on EU's accession to the ECHR will continue in 2013. The number and the nature of cases before the ECtHR as well as recommendations from different UN human rights mechanisms clearly signal the need for effective implementation and monitoring of international obligations at national level. Paris Principles compliant NHRIs are well positioned, and indeed in part designed, to serve as links between the international and national levels – as evidenced by their increasing obligations under CRPD and OP-CAT.

International obligations are effectively monitored by different forms of scrutiny at various levels: reporting requirements, expert monitoring and clear follow-up on recommendations made at UN, Council of Europe, EU and Member State level. This web of fundamental rights institutions and mechanisms is growing increasingly intricate and interlinked – with EU accession to the ECHR, EU acceptance of the CRPD and ever stronger interactions between national monitoring bodies such as national equality bodies and NHRIs with structures at EU, Council of Europe and UN levels.

EU Member States and Croatia, as all states, could make better use of the various forms of expert and peer recommendations and decisions on the way fundamental rights are and ought to be safeguarded. The year ahead should see further related developments, with better use made of the vast pool of information on the fundamental rights situation in the EU (see the **Focus** section and **Chapter 8** of this Annual report, in relation to the proposed Justice Scoreboard).

