

## IV. Main achievements

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### Introduction

Over the years the Committee of Ministers has been seized by some 3.500 cases originating in individual applications calling for the supervision of execution of more or less important general measures. 2.000 of these cases have been closed by final resolutions relying, as the case may be, on adaptations of domestic case-law, changes of administrative practice or legislative or constitutional reforms.

**The present survey presents short summaries<sup>17</sup> of a selection of more important reforms and achievements reported in final resolutions since the new Convention system was set up through Protocol No. 11 in November 1998<sup>18</sup>.**

In view of the wealth of cases closed the selection concentrates those which have led to changes of legislation or government regulations or the adoption of new policies or general guidelines from superior courts. The survey does not cover the numerous cases in which necessary remedial action has been ensured through adaptation of case-law and/or administrative practices or information on the individual redress provided to applicants.

The presentation is organised **by country** and **reforms are in principle presented in the order corresponding to the domains in the “Thematic overview”** – see Appendix 5.

When reading the survey it should be borne in mind that execution is a special instance of the general implementation of the Convention and that individual execution processes may radiate well beyond the immediate execution process, both domestically and also in other states. Many reforms also address issues which are constant challenges for the Member states as societal conditions develop. The effects of reforms adopted at one point in time may thus need to be monitored and possibly revisited as conditions change – a typical problem of this kind is the excessive length of judicial proceedings<sup>19</sup>.

A presentation of **reforms and achievements in cases still pending before the Committee of Ministers under enhanced supervision** can be found in the “Thematic overview”<sup>20</sup>.

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17. The summaries are the sole responsibility of the Department for execution of the judgments of the European Court.

18. When the Court celebrated its first 40 years of existence in 1998, the Court published a summary of more important reforms and achievements up to 1998, which year was also the year of the entry into force of Protocol No. 11, in a special publication “[Survey : 40 years of activity](#)”. It is recalled that the Secretariat of the Parliamentary Assembly recently published a document with selected examples on the “Impact of the European Convention on Human Rights in States Parties”.

19. The presentation is limited to the information provided at the time of the adoption of the final resolution. It is recalled in this context that the Committee of Ministers has issued a general recommendation - [Recommendation \(2004\)5](#) of the Committee of Ministers to member States on the verification of the compatibility of draft laws, existing laws and administrative practice with standards laid down in the European Convention on Human Rights.

20. Progress and achievements in pending cases under standard supervision can be consulted on the Department’s website.

## Albania

**Legal certainty:** The supervisory review procedure was repealed in 2001.<sup>21</sup>

**Enforcement of judicial decisions:** The bailiff system has been reformed to ensure effective implementation of judicial decisions.<sup>22</sup>

## Andorra

**Access to court:** The right to constitutional appeal was extended so as to allow appeals without prior agreement of the public prosecutor.<sup>23</sup>

## Armenia

**Access to court:** The possibility for commercial entities to be exempted from court fees was improved in 2009 to guarantee the right to pursue judicial proceedings, notably to challenge the legality of administrative action, in cases where the levying of such fees would make the pursuit of proceedings impossible.<sup>24</sup>

**Broadcasting licenses:** To protect against unwarranted refusals of broadcasting licences the Television and Radio Broadcasting Act was amended in 2010, introducing the obligation to provide properly substantiated and reasoned decisions with respect to the selection, refusal or invalidation of such licences.<sup>25</sup>

**Conscientious objection:** A system of alternative service, under military control, was set up in 2004 and thoroughly revised in 2013 in order to put the service under civilian government control, to reduce the extra length as compared to military service and provide means of redress to conscientious objectors already unjustly convicted.<sup>26</sup>

## Austria

**Expulsion and related issues:** In order to secure a full examination of all relevant aspects of family and private life when deciding on issues of removal and residence permits, an explicit reference to the requirements of Article 8§2 was included in the Aliens' Act 2005.<sup>27</sup> As regards threats of ill-treatment in the country of destination, the law was changed in 2002 in order to take into account not only threats from state bodies but all threats whatever the source.<sup>28</sup>

**Compensation for detention:** The procedure for deciding questions of compensation for detention after acquittal or the discontinuation of the proceedings was reformed in 2005 to fully respect the requirements of fair and public trial and to abolish the possibility of voicing doubts about innocence after acquittal.<sup>29</sup>

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21. *Vrioni*, Appl. No. 2141/03, [CM/Res\(2011\)85](#)

22. *Qufaj Co. Sh. P.K.*, Appl. No. 54268/00, Final resolution [CM/ResDH\(2011\)86](#)

23. *Millan i Tornes*, Appl. No. 35052/97, Final Resolution [DH \(1999\) 721](#)

24. *Paykar Yev Haghtanak*, Appl. No. 21638/02, Final Resolution [CM/ResDH\(2011\)185](#)

25. *Meltex Ltd and Mesrop Movsesyan*, Appl. No. 32283/04, Final Resolution [CM/ResDH\(2011\)39](#)

26. *Bayatyan*, Appl. No. 23459/03+, Final Resolution [CM/ResDH\(2014\)225](#)

27. *Yildiz*, Appl. No. 37295/97+, Final Resolution [CM/ResDH\(2009\)117](#)

28. *Ahmed*, Appl. No. 25964/94, Final Resolution [ResDH\(2002\)99](#)

29. *Szücs*, Appl. No. 20602/92, Final Resolution [ResDH\(2006\)2](#)

**Excessive length of proceedings:** Several reforms have addressed the problem of excessively lengthy proceedings, notably the Administrative Reform Act 2001 aimed at alleviating the case-load of the administrative courts and accelerating administrative proceedings<sup>30</sup>. The Austrian administrative court system has been fundamentally reorganized with effect from January 2014, notably to speed up proceedings. New remedies were also introduced to speed up proceedings, or the scope of existing remedies broadened by the jurisprudence of the Supreme Court.<sup>31</sup> Other reforms were introduced in 2008 to guarantee that *criminal proceedings* are carried out rapidly and to ensure an effective remedy whereby lengthy proceedings may be accelerated or mitigation of sentence ordered as compensation.<sup>32</sup> The Code of civil proceedings was amended in 2003 with a view to streamlining and accelerating civil proceedings.<sup>33</sup>

**Fair and public hearings:** A number of reforms have improved the right to a public and oral hearing, notably in criminal proceedings under the Media Act<sup>34</sup> (see also “compensation for detention above), in family law and guardianship proceedings<sup>35</sup>, and last but not least in administrative proceedings by the abovementioned fundamental reorganization of the Austrian administrative court system.

**Discrimination based on sexual orientation:** The discrimination of same sex couples in the enjoyment of benefits under the scheme for sickness and accident insurance offered to civil servants was abrogated through a change of the relevant legislation in 2010.<sup>36</sup> Also second parent adoption in same sex couples has been authorised by a change of the Civil Code in 2013.<sup>37</sup> The discrimination between homo- and heterosexuals as regards the age as from which consensual sexual relations were permitted was abrogated in 2009.<sup>38</sup>

**Parental rights:** The discrimination of unmarried fathers with respect to child custody has been addressed by the change in the Law amending Child Custody Law and the Law on Names from 1 February 2013.<sup>39</sup>

**International child abduction:** Prompt enforcement of return orders and visiting rights under the 1980 Hague Convention is now ensured on the basis of a law from January 2005 which provides that requests for such enforcement are dealt with by a single specialised court.<sup>40</sup>

**Prisoners voting:** The Electoral Code was amended in June 2011 to better guarantee the right of prisoners to vote. The law now provides that decisions on disenfranchisement are taken by the judge at the time of sentencing, taking into account the gravity of the offence committed and a number of other relevant factors.<sup>41</sup>

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30. G.S., Appl. No. 26297/95, Final Resolution [ResDH\(2004\)77](#)

31. *Rambauske*, Appl. No. 45369/07, Final Resolution [CM/ResDH\(2015\)222](#)

32. *Schweighofer*, Appl. No. 35673/97+, Final Resolution [CM/ResDH\(2007\)113](#)

33. *Schreder*, Appl. No. 38536/97, Final Resolution [CM/ResDH\(2009\)118](#)

34. *A.T.*, Appl. No. 32636/96, Final Resolution [CM/ResDH\(2007\)76](#)

35. *Moser*, Appl. No. 12643/02, Final Resolution [CM/ResDH\(2010\)1](#)

36. *P.B. and J.S.*, Appl. No. 18984/02, Final Resolution [CM/ResDH\(2011\)42](#)

37. *X. and Others*, Appl. No. 190107, Final Resolution [CM/ResDH\(2014\)159](#)

38. *L. and V. and S.L.*, Appl. No. 39392/98, Final Resolution [CM/ResDH\(2007\)111](#)

39. *Sporer*, Appl. No. 35637/03, Final Resolution [CM/ResDH\(2015\)19](#)

40. *Sylvester*, Appl., No. 36812/97+, Final Resolution [CCM/ResDH\(2010\)84](#)

41. *Frodl*, Appl. No. 20201/04, Final Resolution [CM/ResDH\(2011\)91](#)

## Belgium

**Expulsion and related issues:** The modalities for examining asylum requests, notably as regards the burden of proof and the possibility of urgent suspension of removal decisions in case of alleged ill-treatment in the country of origin, were amended by the Law on Foreigners in 2014. The practice to detain unaccompanied foreign minors ended in 2007 and in 2012 a new Law charged the Aliens Office with the task of ensuring that such minors are properly received and cared for upon arrival in case of deportation.<sup>42</sup>

**Compensation for detention:** The necessity for acquitted persons to adduce evidence to prove their innocence in order to obtain compensation for their detention on remand was abrogated in 2010.<sup>43</sup>

**Excessive length of proceedings:** A series of reforms have been engaged to ensure trials within a reasonable time in all sectors of the judiciary: civil and criminal procedures<sup>44</sup>, including pre-trial investigations<sup>45</sup> and the special situation in Brussels.<sup>46</sup> The possibility to seek compensation in case of excessively long proceedings has also been recognised in civil and criminal matters.<sup>47</sup> Further reforms have addressed the situation before the Council of State.<sup>48</sup>

**Fair trial:** A modernization of the proceedings before the Assize Court was undertaken on the basis of a law of January 2010, with the aim of reducing the number of cases, improving the quality of judgments and promoting the rights of the defence. Jury decisions on guilt must henceforth also be substantiated<sup>49</sup>. The protection against the use of evidence obtained under torture was reinforced by an amendment to the Code of Criminal Procedure in 2013<sup>50</sup>.

## Bosnia and Herzegovina

**Expulsion and related issues:** Detention of aliens on security grounds now requires that a deportation order has first been issued – 2012 amendment to the 2008 Aliens Act.<sup>51</sup>

**Psychiatric detention:** Social Assistance Centres are no longer competent to order psychiatric placement of offenders found not guilty for reason of insanity; it henceforth falls upon the competent criminal court to order such placement (for a maximum period of 6 months), whilst at the same time being obliged to refer the matter directly to the civil court for a final decision – 2009 amendment to the 2003 Criminal Procedure Code.<sup>52</sup>

42. *Mubilanzila and Kaniki Mitunga*, Appl. No. 13178/03, Final Resolution [CM/ResDH\(2014\)226](#)

43. *Capeau*, Appl. No. 42914/98, Final Resolution [CM/ResDH\(2011\)43](#)

44. *Dumont*, Appl. No. 49525/99, Final Resolution [CM/ResDH\(2015\)245](#)

45. *Strategies and Communications and Dumoulin*, Appl. No. 37370/97+, Final Resolution [CM/ResDH\(2011\)190](#)

46. *Oval and 20 other cases*, Appl. No. 49794/99, Final Resolution [CM/ResDH\(2011\)189](#)

47. *Ibid.*

48. *Entreprises Delbrassine*, Appl. No. 49204/99, Final Resolution [CM/ResDH\(2015\)132](#)

49. *Taxquet*, Appl. No. 926/05, Final Resolution [CM/ResDH\(2012\)112](#)

50. *El Haski*, Appl. No. 649/08, Final Resolution [CM/ResDH\(2014\)110](#)

51. *Hamdani*, Appl. No. 31098/10, Final Resolution [CM/ResDH\(2014\)186](#)

52. *Tokic and Others*, Appl. No. 12455+, Final Resolution [CM/ResDH\(2014\)197](#)

**Repayment of “Old” foreign currency savings:** The obligation to submit final judgments ordering the state to repay “old” foreign currency savings, i.e. deposited prior to the dissolution of the Socialist Federative Republic of Yugoslavia, to the ministries of finances, on entity or other level, for verification before settlement was repealed in 2006 and 2007 and judgments are now sent directly to these instances for enforcement<sup>53</sup> In this connection, the Federation decided in 2009 and 2010 to issue government bonds to allow for the repayment of these “old” savings.<sup>54</sup>

**Pensions for persons displaced during the war:** Individuals who were granted pensions before the war in what is today the Federation of Bosnia and Herzegovina (FBiH), and who moved to Republika Srpska during the war, were allowed upon their return to FBiH to apply for FBiH pension.<sup>55</sup>

## Bulgaria

**Expulsion and related issues:** Judicial review of expulsion orders based on national security grounds has developed in practice and was expressly provided for in the Aliens Act in April 2007. Further changes introduced in 2009 and 2011 require that before expelling an alien residing permanently in Bulgaria, the authorities should take into account his personal and family situation, his level of integration and the strength of his connections with the country of origin.<sup>56</sup>

**Detention:** The guarantees surrounding detention on remand have been strengthened in important respects through several reforms 2000-2006, notably to prevent continuation of detention despite release orders and to prevent excessively lengthy detention.<sup>57</sup>

**Excessive length of proceedings:** The possibility to obtain compensation for excessive length of civil and criminal proceedings was introduced in 2012. The possibility to seek acceleration of pending proceedings was introduced in the Civil Procedure Code of 2007, the Code of Administrative Procedure of 2006.<sup>58</sup>

**Trial in absentia:** Several reforms between 2000 and 2011 have secured and improved the possibility to obtain the reopening of criminal cases heard in absentia.<sup>59</sup>

**Freedom of religion:** Excessive executive interferences with freedom of religion, notably direct interferences in the choice of church leadership, and discriminations based on the registration or not of a church are no longer possible as such registration was transferred in 2002 from the executive to the judiciary.<sup>60</sup>

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53. *Jeličić* and 3 other cases, Appl. No. 41183/02+, Final Resolution [CM/ResDH\(2012\)10](#)

54. *Suljagic*, Appl. No. 27912/12, Final Resolution [CM/ResDH\(2011\)44](#)

55. *Karanovic*, Appl. No. 39462/03, Final Resolution [CM/ResDH\(2012\)148](#)

56. *Al-Nashif*, Appl. No. 50963/95, Final Resolution [CM/ResDH\(2015\)44](#)

57. *Evgeni Ivanov* and 3 other cases, Appl. No. 44009/02+, Final Resolution [CM/ResDH\(2012\)164](#); *Bojilo and 8 other cases*, Appl. No. 45114/98+, Final Resolution [CM/ResDH\(2012\)166](#)

58. *Finger, Dimitrov and Hamanov and 54 other cases in the Djangofov and Kitov groups*, Appl. Nos. 37346/05 and 48059/06+, Final Resolution [CM/ResDH\(2015\)154](#)

59. *Kounov*, Appl. No. 24379/02, Final Resolution [CM/ResDH\(2008\)70](#) and *Aliykov*, Appl. No. 333/04; Final Resolution [CM/ResDH\(2014\)259](#)

60. *Boychev and Others*, Appl. No. 77185/01, [CM/ResDH\(2012\)169](#); *Ivanova*, Appl. No. 52435/99, Final Resolution [CM/ResDH\(2012\)155](#); *Hasan and Chaush* and 1 other case, Appl. No. 30985/96+, Final Resolution

**Freedom of expression:** Prison sentences for insult have been abolished in 2000.<sup>61</sup>

**Freedom of movement:** The possibility to impose travel bans for unpaid taxes was repealed following a decision by the Constitutional Court in 2011. The provisions of the Aliens Act enacting the same ban for foreign citizens were repealed in March 2013.<sup>62</sup> Accused may since 2006 contest a prohibition to leave the country at any time during criminal proceedings.<sup>63</sup>

## Croatia

**Excessive length of proceedings:** A number of successive reforms have introduced and improved compensatory and acceleratory remedies in case of excessive length of proceedings<sup>64/65</sup>, most recently through new legislation in 2013. In addition, a reform of land registry proceedings aimed at computerising all data, decreasing the number of pending cases as well as shortening the overall duration of proceedings, was implemented in 2006.<sup>66</sup> The different proceedings stayed during the “Homeland War” were resumed by special legislation in 2003.<sup>67</sup>

**Judicial discipline:** The procedures before the National Judicial Council when handling disciplinary cases against judges were reformed in 2011 to avoid any risk of lack of impartiality, secure access of the public to hearings and the respect of the principle of equality of arms.<sup>68</sup>

**Paternity:** Procedures for establishing paternity in case of a refusal of the putative father to cooperate were improved in 2003.<sup>69</sup>

**Better protection from eviction:** Domestic courts have started to apply the proportionality test in eviction proceedings<sup>70</sup>.

## Cyprus

**Actions of police officers:** The detainees’ right to be protected from torture or inhuman or degrading treatment or punishment or any other physical, psychological or mental violence and the State’s obligation to ensure this right has been improved through the adoption of the “Rights of Persons under Arrest and Detention Law 2005” from December 2005. These new statutory rights and obligations play an important role in improving the criminal and civil liability of the State and of principals of detention centres in case of abuse.<sup>71</sup>

61. *Raichinov*, Appl. No. 47579/99, Final Resolution [CM/ResDH\(2011\)5](#)

62. *Riener*, Appl. No. 46343/99, Final Resolution [CM/ResDH\(2013\)100](#)

63. *Makedonski*, Appl. No. 36036/04, Final Resolution [CM/ResDH\(2013\)2](#)

64. *Horvat* and 9 other cases, Appl. No. 51585/99+, Final Resolution [CM/ResDH\(2005\)60](#)

65. *Debelic* and 8 other cases, Appl. No. 5209/03+, Final Resolution [CM/ResDH\(2007\)102](#)

66. *Buj*, Appl. No. 24661/02, Final Resolution [CM/ResDH\(2011\)47](#)

67. *Kuti*, Appl. No. 48778/99+, Final Resolution [CM/ResDH\(2006\)3](#)

68. *Olujić*, Appl. No. 22330/05, Final Resolution [CM/ResDH\(2011\)194](#)

69. *Mikulic*, Appl. No. 53176/99, Final Resolution [CM/ResDH\(2006\)69](#)

70. *Ćosić*, Appl.No. 28261/06 and *Paulić*, Appl. No. 3572/06, Final Resolution [CM/ResDH\(2011\)48](#)

71. *Egmez and Denizci and Others*, Appl. Nos. 30873/962, 5316-25321/94, 27207/95, Final Resolution [ResDH\(2006\)13](#)

**Excessive length of proceedings:** A series of measures have been taken in order to improve the efficiency of the judicial system including in order accelerating judicial proceedings. An increased number of judges have been appointed to family, assize and district courts and a special judge has been assigned at the Supreme Court to follow up statistics concerning older cases. Disciplinary measures can be taken against judges who do not comply with Supreme Court directions provided under the Rules of Procedure for timely issue of judgments. In addition, an effective remedy for excessively lengthy civil and administrative proceedings was provided by special legislation in force since 05/02/2010.<sup>72</sup>

**Contempt of court:** The Courts of Justice Law was amended in 2009 so that cases of contempt can no longer be tried by the court on the face of which the alleged contempt was committed. Rather, they are to be tried by a separate court<sup>73</sup>.

**Right to marry:** A new law of 2002 ensured that members of the Turkish Cypriot community are allowed to marry on the same conditions as Greek Cypriots.<sup>74</sup>

**Voting rights:** Turkish Cypriots have received the right to vote in parliamentary elections since 2006 as a result of the Law on “the exercise of the right to vote and to be elected by members of the Turkish community with habitual residence in free territory of the Republic” from February 2006.<sup>75</sup> One Turkish Cypriot was also candidate MP.

## Czech Republic

**Detention:** The principle of a “detention hearing” allowing the accused to appear before his judges in proceedings relating to his/her detention on remand was introduced in the Code of Criminal Procedure in 2012.<sup>76</sup>

**Judicial review of the administration:** Judicial review of decisions by administrative authorities was extended in two steps through changes of the Code of Civil Procedure in 2001 and 2003.<sup>77</sup>

**Constitutional complaints:** The right of appeal to the Constitutional Court was improved by special legislation in 2004 in order not to compel applicants to first have recourse to “extraordinary appeals” as the admissibility of such appeals was a question of discretion.<sup>78</sup>

**Excessive length of proceedings:** : The possibility to obtain compensation in case of unreasonably lengthy judicial proceedings was introduced in the Act on Liability for Damage caused in the Exercise of Public Authority in 2006.<sup>79</sup>

**Custody and public care of children:** Child custody proceedings including enforcement issues, were improved, notably through better co-operation of local authorities

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72. *Gregoriou* and 24 other cases, Appl. No. 62242/00, Final Resolution [CM/ResDH\(2013\)154](#)

73. *Kyprianou*, Appl. No. 73797/01, Final Resolution [CM/ResDH\(2015\)47](#)

74. *Selim*, Appl. No. 47293/99, Final Resolution [CM/ResDH\(2003\)49](#)

75. *Aziz*, Appl. No. 69949/01, Final Resolution [CM/ResDH\(2007\)77](#)

76. *Husak, Kneble and Krejcir*, Appl. No. 19970/04+, Final Resolution [CM/ResDH\(2013\)120](#)

77. *Kilian*, Appl. No. 48309/99, Final Resolution [ResDH\(2006\)70](#)

78. *Beles and Others*, Appl. No. 47273/99, Final Resolution [CM/ResDH\(2007\)115](#)

79. *Borankova and Hartman* and 69 other cases, Appl. No. 41486/98+, Final Resolution [CM/ResDH\(2013\)89](#)

in 2008. Decision-making was speeded up and a possibility of mediation introduced.<sup>80</sup> These possibilities were further strengthened in 2011.<sup>81</sup> Public care of a child can no longer be ordered solely because of the inadequate housing conditions or the poor financial situation of his/her parents and, in parallel, vulnerable families have received improved rights to subsidised housing.<sup>82</sup>

**International child abduction:** As to international child abduction, the procedures under the Hague Convention have been centralised in one court to ensure better respect of the strict time limits laid down.<sup>83</sup>

**Protection of private life:** The conditions under which the police may have recourse to secret audio and video surveillance were regulated in detail in 2002 together with a requirement of prior authorisation by a judge in case home or correspondence were affected.<sup>84</sup>

**Protection of minority shareholders:** The possibility under the Commercial Code for shareholders having more than 90% of the shares in a company to take over the remaining shares at a price decided by arbitration even where the minority shareholders wished a court decision was abolished in 2008.<sup>85</sup> Minority shareholders were also in 2011 granted the right to challenge a decision to wind up the company or to transfer its assets to the main shareholder. Statutory bodies of actors on the financial markets (e.g. boards of banks, investment or insurance companies) also got the right in 2006 to lodge appeals to the courts against the imposition of receivership (Credit Unions were exempted from placement under receivership).<sup>86</sup>

## Denmark

**Excessive length of proceedings:** New specific remedies to obtain the acceleration of proceedings were introduced in January 2007 and July 2007, through amendments to the Administration of Justice Act and the Bankruptcy Act, to prevent excessive lengths of proceedings.<sup>87</sup>

**Freedom of association:** A person's affiliation to a union or non-membership of a union can no longer be taken into account in a recruitment situation or in connection with dismissal according to the Act on protection against dismissal due to association membership as amended in April 2006.<sup>88</sup>

## Estonia

**Detention:** An arrested person may now claim compensation for unjust detention under the Unjust Deprivation of Liberty (Compensation) Act in case the person

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80. *Reslova* and 6 other cases, Appl. No. 7550/04, Final Resolution [CM/ResDH\(2011\)99](#)

81. *Bergmann*, Appl. No. 8857/08+, Final Resolution [CM/ResDH\(2013\)155](#)

82. *Wallove and Walla*, Appl. No. 23848/04+, Final Resolution [CM/ResDH\(2013\)218](#)

83. *Macready*, Appl. No. 4824/06, Final Resolution [CM/ResDH\(2012\)21](#)

84. *Heglas*, Appl. No. 5935/02, Final Resolution [CM/ResDH\(2011\)98](#)

85. *Suda*, Appl. No. 1643/06, Final Resolution [CM/ResDH\(2012\)18](#)

86. *Drzstevni zalozna PRIA and Others*, Appl. No. 72034/01, Final Resolution [CM/ResDH\(2013\)122](#)

87. *Christensen, Valentin and Nielsen*, Appl. No. 247/07+, Final Resolution [CM/ResDH\(2012\)73](#)

88. *Sørensen and Rasmussen*, Appl. No. 52562/99, Final Resolution [CM/ResDH\(2007\)6](#)

concerned is not brought before a judge within 48 hours.<sup>89</sup> In addition a new distinct right to compensation has been created in the State Liability Act in case activities of a public authority have been established to be contrary to the Convention by the European Court.

**State responsibility for Convention violations:** Improved domestic remedies through codification in the State Liability Act (2013) of a right to compensation for unlawful state action, and imposition of strict state liability in case of violations of the right to life or prohibition of torture<sup>90</sup>.

**No punishment without law:** Improved legal certainty as a result of the repeal of a provision imposing criminal liability in cases where certain acts had caused what was vaguely referred to as “significant damage to the State”.<sup>91</sup>

## Finland

**Fair trial:** Reform of the legislation on telecommunications to ensure that the defence in criminal proceedings has sufficient access to all intercepted communications so that it may assess the relevance of those chosen and presented by the prosecution.<sup>92</sup> Better protection of the right not to incriminate oneself has been introduced through changes of the Enforcement Act introducing a right to refuse to give information in enforcement proceedings if the information may be incriminating in a parallel, pending, criminal case.<sup>93</sup> Criminal proceedings against persons under guardianship or other forms of legal protection have been revised through a change of the Code of Criminal Procedure to ensure that the guardian is informed of the proceedings and possible hearings.<sup>94</sup>

**Public care of children:** Improved procedures for the taking of children into public care and for controlling the continued need for such care, as well as more detailed regulations regarding contacts between a child placed in public care and the parents combined with improved possibilities of appealing restrictions imposed - the Child Welfare Act 2006 as amended in 2008.<sup>95</sup>

**Freedom of expression:** In order to avoid possibly arbitrary seizures of printed materials, new legislation of 2004 has clarified the relation between the legislative provisions on publications and the Coercive Measures Act and those in the Act on the Exercise of Freedom of Expression in Mass Media.<sup>96</sup>

## France

**Expulsion and related issues:** The legal guarantees surrounding entry prohibitions were improved through changes in the Code of entry and residence of foreigners and asylum in 2007: legislation adopted to ensure that appeals against entry

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89. *Harkmann and Bergmann*, Appl. No. 2192/03+, Final Resolution [CM/ResDH\(2010\)158](#)

90. *Kochetov*, Appl. No. 41653/05, Final Resolution [CM/ResDH\(2013\)9](#)

91. *Livik*, Appl. No. 12157/05, Final Resolution [CM/ResDH\(2010\)157](#)

92. *Natunen*, Appl. No. 21022/04, Final Resolution [CM/ResDH\(2011\)206](#)

93. *Marttinen*, Appl. No. 19235/03, Final Resolution [CM/ResDH\(2012\)22](#)

94. *K.A.*, Appl. No. 27751/95, Final Resolution [CM/ResDH\(2007\)34](#)

95. *Goussev, Marenk, Soini and Others*, Appl. No. 35083/97+, Final Resolution [CM/ResDH\(2007\)36](#)

96. *Vaudelle*, Appl. No. 35683/97, Final Resolution [CM/ResDH\(2008\)14](#)

prohibitions have an automatic suspensive effect; aliens held in waiting zones ensured assistance of an interpreter and possibility to communicate with a lawyer of their choice (agreements concluded with specialised associations to provide assistance in these respects)<sup>97</sup>.

**Domestic servitude:** The protection of vulnerable persons was improved through amendments to the Criminal Code in 2003 and in addition, a new criminal offence of “trafficking in human beings” was created in 2007, punishable by ten years’ imprisonment where it is committed against a minor.<sup>98</sup> A law adopted in 2013 amended the Criminal Code in order to define and combat “human trafficking”<sup>99</sup>.

**Deprivation of liberty:** Reforms were adopted in order to regulate the State policing powers in the high seas in order to counter piracy. A specific regime for deprivation of liberty was set up in order to permit the arrest and detention of persons arrested in the high seas for piracy actions, while ensuring the compliance with the procedural requirements of the Convention<sup>100</sup>.

**Detention conditions:** A number of measures have been adopted with a view to improve detention conditions in special situations, notably as regards the handling of prisoners with psychiatric disorders<sup>101</sup> and motor-disabled prisoners<sup>102</sup>; also the effectiveness of remedies in case of solitary confinement has been improved<sup>103</sup>. Further, strip searches have been strictly regulated, being authorised only on an exceptional basis when patdowns or the use of electronic detection means were insufficient<sup>104</sup>. Detainees now have a right to appeal against “security rotations”<sup>105</sup>. A post of General Controller of Places of Detention has been created to ensure the respect of detainees’ fundamental rights.<sup>106</sup>

**Fair trial:** A number of reforms have been adopted to improve the fairness of different types of proceedings, including: better reasons in Assize courts judgments<sup>107</sup>, improved protection against self-incrimination as persons arrested or in detention are no longer compelled to testify under oath as witnesses with ensuing risks of perjury<sup>108</sup>; improved guarantees of fairness when accused do not surrender to justice, including right to be represented by counsel and to lodge appeals<sup>109</sup>; important changes of the procedure before the Court of Audit in 2009<sup>110</sup>; changes in the organization of the supervisory authorities of the banking and insurance licensing preventing certain problems caused by the absence of clear separations between

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97. *Gebremedhin*, Appl. No. 25389/05, Final Resolution [CM/ResDH\(2013\)56](#)

98. *Siliadin*, Appl. No. 73316/01, Final Resolution [CM/ResDH\(2011\)210](#)

99. *CN and V*, Appl. No. 67724/09, Final Resolution [CM/ResDH\(2014\)39](#)

100. *Medvedyev and Others*, Appl. No. 3394/03, Final Resolution [CM/ResDH\(2014\)78](#)

101. *R.L. and M.-J.D.*, Appl. No. 44568/98, Final Resolution [CM/ResDH\(2014\)113](#)

102. *Vincent*, Appl. No. 6253/03, Final Resolution [CM/ResDH\(2009\)79](#)

103. *Ramirez Sanchez*, Appl. No. 5945/00, Final Resolution [CM/ResDH\(2010\)162](#)

104. *El Shennawy*, Appl. No. 51246/08, Final Resolution [CM/ResDH\(2015\)77](#)

105. *Alboreo*, Appl. No. 51019/08, Final Resolution [CM/ResDH\(2014\)47](#)

106. *Rivière*, Appl. No. 33834/03, Final Resolution [CM/ResDH\(2009\)2](#)

107. *Agnelet*, Appl. No. 61198/08, Final Resolution [CM/ResDH\(2014\)09](#)

108. *Brusco*, Appl. No. 1466/07, Final Resolution [CM/ResDH\(2011\)209](#)

109. *Poitrimol* and 3 other cases, Appl. No. 14032/88+, Final Resolution [CM/ResDH\(2007\)154](#)

110. *Martinie, Richard Dubarry and Siffre*, Appl. No. 58675/00+, Final Resolution [CM/ResDH\(2010\)124](#)

the functions of prosecution, investigation and sanction<sup>111</sup>; better equality of arms in the evaluation of the value of expropriated lands between those expropriated and the Government Commissioner<sup>112</sup>.

**Excessive length of proceedings:** A number of reforms have been taken over time to ensure trial within a reasonable time in civil proceedings<sup>113</sup>, criminal<sup>114</sup> (including reforms to limit the duration of pre-trial detention), administrative<sup>115</sup>, labour court<sup>116</sup>, and land consolidation proceedings<sup>117</sup>. The possibility to obtain compensation for unreasonably long proceedings, earlier recognized with respect to civil and criminal proceedings<sup>118</sup>, was recognized in administrative proceedings in 2001 and was codified in 2005<sup>119</sup>.

**Family life:** Discrimination between adulterine and legitimate ones in the context of inheritance proceedings was repealed through a change in the relevant legislation in 2001<sup>120</sup>.

**Secret surveillance:** The conditions governing recourse by the police to secret audio and video surveillance in criminal cases were more clearly set out in new legislation in 2004 (excluded from such surveillance were notably offices of press and broadcasting companies, doctors, notaries, bailiffs and also the offices, homes and vehicles of lawyers, magistrates and parliamentarians)<sup>121</sup>.

## Georgia

**Medical care in prison:** Extensive reforms of the prison system were undertaken in 2010-2014 in order to improve the medical care system and a new Prison Code adopted, notably including the right to health in line with European Prison Rules.<sup>122</sup>

**Detention:** Introduction of new rules to ensure speedy judicial control of detention, also after the prosecutor's transfer of the case-file to the trial court – codified in the 2010 Code of Criminal Procedure.<sup>123</sup>

**Enforcement of judicial decisions:** Enforcement of judicial decisions has been improved, including through a special budget in 2007 to ensure the honouring by the state of old judgment debt and a new enforcement organisation was set up – the National Bureau of Enforcement. Enforcement was further improved in 2010, notably as regards judgment debt owed by the

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111. *Dubus*, Appl. No. 5242/04, Final Resolution [CM/ResDH\(2011\)102](#)

112. *Yvon*, Appl. No. 44962/98, Final Resolution [CM/ResDH\(2007\)79](#)

113. *C.R.* and 9 other cases, Appl. No. 42407/98+, Final Resolution [CM/ResDH\(2008\)39](#), *Sapl* and 57 other cases, Appl. No. 37565/97+, Final Resolution [CM/ResDH\(2005\)63](#)

114. *Sapl* and 57 other cases, Appl. No. 37565/97+, Final Resolution [CM/ResDH\(2005\)63](#); *Barillot* and 9 other cases, Appl. No. 49533/99+, Final Resolution [CM/ResDH\(2007\)39](#)

115. *Beaumartin*, Appl. No. 15287/89, Final Resolution [CM/ResDH\(1995\)254](#)

116. *Chaineux* and 2 other cases, Appl. No. 56243/00+, Final Resolution [CM/ResDH\(2008\)38](#)

117. *Piron and Époux Machard*, Appl. No. 36436/97, Final Resolution [CM/ResDH\(2009\)3](#)

118. *Barillot* and 9 other cases, Appl. No. 49533/99+, Final Resolution [CM/ResDH\(2007\)39](#)

119. *Lutz*, Appl. No. 48215/99, Final Resolution [CM/ResDH\(2008\)10](#)

120. *Mazurek*, Appl. No. 34406/07, Final Resolution [CM/ResDH\(2005\)25](#)

121. *Vetter*, Appl. No. 59842/00, Final Resolution [CM/ResDH\(2010\)5](#)

122. *Ghavitadze* and 4 other cases, Appl. No. 23204/07, Final Resolution [CM/ResDH\(2014\)209](#)

123. *Patsuria* and 3 other cases, Appl. No. 30779/04+, Final Resolution [CM/ResDH\(2011\)105](#)

state or public law entities, including the creation of a government fund to honour such debt and the payment of damages for losses caused.<sup>124</sup>

**Fair trial:** The adversarial principle has been introduced in all criminal proceedings and the necessity of motivating court decisions has been stressed through amendments in 2006 and 2007 to the Criminal Procedure Code.<sup>125</sup> The 2010 revision developed and improved the right to be exempted from court fees where necessary to preserve the right of access to court.<sup>126</sup>

**Freedom of expression:** The law on defamation has been changed to distinguish facts and value judgments and journalists and others are no longer required to prove the truth of the information communicated. A new law on freedom of expression from 2004 also provides that it is for private claimants to prove that statements challenged are false, and that officials must prove that the statements were published with knowledge that they were false. Good faith about the truth is also introduced as a general defence.<sup>127</sup>

**Compensation to victims of Soviet era repression:** Legislative amendments were adopted in 2011 and 2014 in order to grant compensation to the victims of Soviet era repression<sup>128</sup>.

## Germany

**Foreigners' right to child benefits:** The discrimination of foreigners in the enjoyment of the right to child benefits, based on the temporary character of their residence permits, was quashed by the Constitutional Court in 2004 and a new uniform system entered into force retroactively in January 2006.<sup>129</sup>

**Detention:** A clear right of access to information in the investigation file relevant for the evaluation of the lawfulness of detention on remand was introduced by a new law of 2010.

**Excessive length of proceedings:** A possibility to obtain compensation for excessively long proceedings, following an unsuccessful complaint to the court concerned with a view to accelerating the proceedings, was introduced in December 2011.<sup>130</sup>

**Retroactive application of criminal law:** The possibility to prolong preventive detention of dangerous criminals after these had served their sentences even in situations where such a prolongation had not been foreseen by law at the time of conviction was declared unconstitutional in 2011. Transitional arrangements were defined by the Constitutional Court and a new Convention conform system was put in place in 2013.<sup>131</sup>

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124. *"Iza" Ltd and Makrakhidze*, Appl. No. 28537/02+, Final Resolution [CM/ResDH\(2011\)108](#)

125. *Donadze*, Appl. No. 74644/01, Final Resolution [CM/ResDH\(2011\)63](#)

126. *FC Mretebi*, Appl. No. 38736/04, Final Resolution [CM/ResDH\(2010\)163](#)

127. *Goreshvili*, Appl. No. 12979/04, Final Resolution [CM/ResDH\(2010\)164](#)

128. *Klaus and Yuri Kiladze*, Appl. No. 7975/06, Final Resolution [CM/ResDH\(2015\)41](#)

129. *Niedzwiecki and Okpisz*, Appl. No. 58453/00, Final Resolution [CM/ResDH\(2011\)111](#)

130. *Rumpf*, Appl. No. 46344/06, Final Resolution [CM/ResDH\(2013\)244](#)

131. *M.*, Appl. No. 19359/04, Final Resolution [CM/ResDH\(2014\)290](#)

**Rights of biological fathers:** In 2013 a new bill came into force to strengthen the legal position of biological, non-legal fathers in the field of access and information rights.<sup>132</sup>

## Greece

**Expulsion and related issues:** As regards expulsion proceedings, the Criminal Code was amended in 2012, setting up a maximum period of detention with a view to expulsion, as well as time-limits for the judicial review of such detention<sup>133</sup>.

**Fair trial:** The obligation to surrender to justice in criminal cases before being allowed to lodge an appeal was abrogated in 2005.

**Excessive length of proceedings**<sup>134</sup>: As regards civil and criminal proceedings, a number of legislative reforms have been adopted since 2001 in order to speed up proceedings, including notably different time-limits<sup>135</sup>, as well as measures to limit trial adjournments<sup>136</sup>. These measures were supplemented in 2014 by the adoption of organisational measures to simplify and accelerate proceedings<sup>137</sup> and the introduction of a compensatory remedy. As regards administrative proceedings, a constitutional reform was adopted in 2003 aiming at addressing procedural formalism and speeding up proceedings. This constitutional and then legislative reforms focused notably on the redistribution of competence between the Council of State and lower courts. Acceleratory and compensatory remedies were set up in 2012, and considered effective and accessible by the European Court<sup>138</sup>.

**Conscientious objection:** In 2001, the right to an alternative service for conscientious objectors was enshrined in the Constitution, and the right to the removal from criminal records of sentences imposed on grounds of conscientious objection to armed and military service was legally recognised<sup>139</sup>.

**Discrimination in the award of allowances:** Greek law was amended in 2009, repealing the nationality of the children as a prerequisite for acquiring advantages attached to the status of "mother of a large family"<sup>140</sup>.

**Property rights:** As regards expropriation proceedings, a new Code of Expropriation was adopted in 2001, providing for adequate compensation and strict deadlines<sup>141</sup>. An automated notification procedure was created to inform dormant account holders of upcoming limitation period expiry before transferring the account to the State<sup>142</sup>.

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132. *Zaunegger*, Appl. No. 22028/04, [CM/ResDH\(2014\)163](#)

133. *Mathloom*, Appl. No. 48883/07, Final Resolution [CM/ResDH\(2014\)232](#)

134. For more information on measures adopted regarding this specific issue, see Appendix 3 and 5.

135. *Academy Trading Ltd and Others*, Appl. No. 30342/96+, Final Resolution [ResDH\(2005\)64](#)

136. *Tarighi Wageh Dashti* and 7 other cases, Appl. No. 24453/94+, Final Resolution [ResDH\(2005\)66](#)

137. *Michelioudakis* and 82 other cases and *Glykantzi* and 57 other cases, Appl. Nos. 54447/10+ and 40150/09+, Final Resolution [CM/ResDH\(2015\)231](#)

138. *Vassilios Athanasiou and Others* and 205 other cases, Appl. No. 50973/08+, Final Resolution [CM/ResDH\(2015\)230](#)

139. *Thlimmenos*, Appl. No. 34369/97, Final Resolution [CM/ResDH\(2005\)89](#)

140. *Zeibek*, Appl. No. 46368/06, Final Resolution [CM/ResDH\(2012\)34](#)

141. *Azas* and 8 other cases, Appl. No. 50824/99+, Final Resolution [CM/ResDH\(2011\)217](#)

142. *Zolotas*, Appl. No. 66610/09, Final Resolution [CM/ResDH\(2014\)58](#)

**Education of Roma children:** Specific measures were adopted in order to facilitate the enrolment of Roma children in the national education system and to monitor their regular attendance of classes, including simplified enrolment procedures, special instructions to teachers and monitoring of attendance<sup>143</sup>.

**Electoral rights:** The Constitution was amended in 2008 so that the prohibition of the exercise of professional activities by members of Parliament was abrogated<sup>144</sup>.

## Hungary

**Actions of security forces - effective investigations:** The Code of Criminal Procedure introduced in 2003 the right to bring private prosecution in case prosecutors declined to bring criminal prosecution combined with an obligation for prosecutors to cite factual reasons in any decision to close an investigation as well as for courts in decisions dismissing a private bill of indictment<sup>145</sup>.

**Detention:** The Code of Criminal Procedure was modified in several steps in 2003-2006 to stress the obligation to provide reasons in decisions on detention on remand and to ensure that prosecution motions to extend detention during the investigation are served on the defendant before the hearing on the prolongation at issue.<sup>146 147</sup>

**Fair trial:** The Code of Criminal Procedure which permitted *in camera* sessions was amended in 2006 so that a public hearing must be held, with the presence of the accused and his defence counsel, notably if a sentence is to be made more severe on appeal.<sup>148</sup>

**Freedom of Assembly:** The Constitutional Court repealed the provision concerning the requirement of prior notice before holding demonstrations and domestic courts will ensure that assemblies are henceforth tolerated.<sup>149</sup>

## Iceland

**Fair trial:** To solve the problem of possible links between the members of the State Medical Board and hospitals at issue in tort proceedings for malpractice, the Board was abolished in 2008 and its competence transferred to the ordinary courts, with special composition.<sup>150</sup> Introduction in 2001 of a right to appeal against fines imposed by the Labour Court.<sup>151</sup>

**Freedom of association:** The statutory obligation imposed also on non-members of a private law organisation – the Federation of Icelandic Industries – to pay an “Industrial charge” was abolished in 2011.<sup>152</sup>

143. *Sampanis and Others*, Appl. No. 32526/05, Final Resolution [CM/ResDH\(2011\)119](#)

144. *Lykourezos*, Appl. No. 33554/03, Final Resolution [CM/ResDH\(2010\)171](#)

145. *Kmetty and Barta*, Appl. No. 57967+ , Final Resolution [CM/ResDH\(2011\)297](#)

146. *Osvath*, Appl. No. 20723/02, Final Resolution [CM/ResDH\(2008\)74](#)

147. *Imre, Maglódi, Csáky and Bárkányi*, Appl. No. 53129/99+, Final Resolution [CM/ResDH\(2011\)222](#)

148. *Csikos*, Appl. No. 37251/04, Final Resolution [CM/ResDH\(2008\)72](#)

149. *Bukta and Others*, Appl. No. 25691/04, Final Resolution [CM/ResDH\(2010\)54](#)

150. *Sara Lind Eggertsdottir*, Appl. No. 31930/04, Final Resolution [CM/ResDH \(2015\)201](#)

151. *Siglfirdingur EHF*, Appl. No. 34142/96, Final Resolution [CM/ResDH\(\(202\)67](#)

152. *Vörður Ólafsson*, Appl. No. 20161/06, Final Resolution [CM/ResDH\(2015\)200](#)

## Ireland

**Compensation for unlawful detention:** A person unlawfully deprived of his or her liberty as a result of a judicial act may since 2014 institute proceedings to recover compensation following amendments to “The European Convention on Human Rights Act 2003”.<sup>153</sup>

**Right to lawful abortion:** A framework establishing whether individuals qualify for lawful abortion in accordance with the Constitution, setting out criteria and actions to be taken for the assessment of the pregnancy’s risks for the mother’s life was provided in the Protection of Life during Pregnancy Bill 2013. An urgent procedure and a review procedure before a committee of medical practitioners are provided for.<sup>154</sup>

**Young offenders with mental disorder:** A statutory framework for the High Court to deal with cases concerning young offenders in need of special care was created in 2011 and Special Care Unit was set up to provide secure residential service to children and young people in need of specialised targeted intervention.<sup>155</sup>

## Italy

**Restrictions following bankruptcy:** The rules of Italian law which unjustifiably imposed a blanket suspension of electoral rights for five years counting from the declaration of bankruptcy and limitations on the personal capacity of the bankrupt (notably prohibition to exercise a number of professional activities) were abolished in 2006.<sup>156 157</sup>

**Detention:** Correspondence with lawyers and organs of the European Convention are excluded from monitoring in the new legislation of 2004, which sets limits to the monitoring and restriction of prisoners’ correspondence.<sup>158 159</sup>

**Fair trial:** Changes to the Constitution in 1999 gave constitutional rank to a number of requirements of fair proceedings. A 2001 reform introduced improved safeguards as regards the use of testimony given during investigations by a person who decides to remain silent during trial, thus preventing convictions exclusively on materials the accused had never been able to refute.<sup>160</sup> The guarantees in case of *in absentia* proceedings were improved to make it possible to appeal against judgments rendered *in absentia* at first instance even if the normal deadlines have expired.<sup>161</sup>

**Excessive length of proceedings:** First Instance Courts (tribunali) with jurisdiction over civil proceedings have, over the past years, succeeded, through appropriate organisational measures, to reduce the average length of civil cases and the backlog of such cases pending for more than three years is now well below the relevant

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153. *D.G.*, Appl. No. 39474/98, Final Resolution [CM/ResDH\(2014\)234](#)

154. *A., B. and C.*, Appl. No. 25579/05, Final Resolution [CM/ResDH\(2014\)273](#)

155. *D.G.*, Appl. No. 39474/98, Final Resolution [CM/ResDH\(2014\)234](#)

156. *Albanese*, Appl. No. 77924/01, Final Resolution [CM/ResDH\(2008\)45](#)

157. *Abbateello, Federici, Maugeri, Scasser*, Appl. No. 39638/04+, Final Resolution [CM/ResDH\(2008\)75](#)

158. *Labita and Indelicato*, Appl. No. 26772/95+, Final Resolution [CM/ResDH\(2009\)83](#)

159. *Calogero Diana* and six other cases, Appl. No. 15211/89+, Final Resolution [ResDH\(2005\)55](#)

160. *Craxi N° 2*, Appl. No. 34896/97, Final Resolution [ResDH\(2005\)28](#)

161. *F.C.B. and 4 other cases*, Appl. No. 12151/86+, Final Resolution [CM/ResDH\(2011\)122](#)

national average indicators.<sup>162</sup> Also promising results obtained by the First Instance Courts and the Courts of Appeal as regards the average length of divorce and legal separation proceedings between 2011 and 2013.<sup>163</sup>

**Public care of children and adoption:** Supervision of care measures was strengthened through amendments in 2003 to the law on adoption and State guardianship, thus the details of how the responsibility will be exercised and how the parents and other members of the nuclear family are to maintain their links with the minor child, and duration of the placement must be indicated in the placement orders; any significant event must be reported to the judge, and the minor's relations with and return to its family of origin must be facilitated.<sup>164</sup> New rules, concerning the adoption of minors, providing in particular better information and greater involvement of parents from the beginning of the procedure were introduced in 2007.<sup>165</sup>

**Enforcement of domestic eviction decisions:** A series of reforms relating to the legal framework governing the eviction of tenants after the expiry of their leases, and the enforcement of judicial decisions ordering eviction, made recourse to an earlier legislative practice of suspending execution for different, frequently consecutive periods, less and less necessary. The Constitutional Court found in addition in 2003 that the legislative practice was unconstitutional. In parallel legislation introduced a right to compensation in case of excessive length of the enforcement proceedings (including for the periods where legislation suspended execution).<sup>166</sup>

**Discrimination of foreigners:** In 2013, the law was amended and now family allowance is paid to EU nationals as well as to other long-term resident foreigners.<sup>167</sup>

## Latvia

**Protection of rights in detention:** The effectiveness of judicial supervision of pre-trial detention was improved through the creation in 2005 of the post of investigative judge with power notably to decide on the application and extension of certain means of restraint (detention, house arrest, placement in an institution) and through the imposition of a set of time-limits for pre-trial detention. The reform also comprised more restrictive rules for the supervision of correspondence and new rules providing that detention centre administrations should allow a detainee to contact his family or other persons.<sup>168</sup>

**Electoral rights:** Amendments in the Parliamentary Elections Act from 2009 and 2014 narrowed the scope of eligibility restrictions, excluding only those persons who were formerly directly involved in KGB's primary functions.<sup>169</sup>

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162. A.C. (5), Appl. No. 27985/95, Final Resolution [CM/ResDH\(2015\)247](#)

163. *Andreoletti*, Appl. No. 29155/95+, Final Resolution [CM/ResDH\(2015\)246](#)

164. *Scozzari and Giunta*, Appl. No. 39221/98+, Final Resolution [CM/ResDH\(2008\)53](#)

165. *Todorova*, Appl. No. 33932/06, Final Resolution [CM/ResDH\(2010\)172](#)

166. *Immobiliare Saffi* and 156 other cases, Appl. No. 22774/93+, Final Resolution [CM/ResDH\(2007\)84](#)

167. *Dhabbi*, Appl. No. 17120/09, Final Resolution [CM/ResDH\(2015\)203](#)

168. *Lavents and Jurjevs*, Appl. No. 70923/01+, Final Resolution [CM/ResDH\(2009\)131](#)

169. *Adamsons*, Appl. No. 3669/03, Final Resolution [CM/ResDH\(2014\)279](#)

## Liechtenstein

**Effective remedies:** The competence of the State Court was extended in November 2003 to comprise any application of an alleged violation of the Convention by any public authority, including individual acts of the Prince.<sup>170</sup>

## Lithuania

**Detention:** An exhaustive list of grounds on which the measure of detention on remand may be imposed was set out.<sup>171</sup> Since the coming into force of the Code on the Execution of Criminal Sentences on 1 May 2003 it is no longer possible to monitor the correspondence of prisoners without authorization.<sup>172</sup>

**Fair trial:** The procedure for taking evidence from an anonymous witness has been subjected to better safeguards in the interest of fairness (the anonymous witness may thus be questioned at a non-public hearing after appropriate acoustic and visual obstacles have been created to prevent identification).<sup>173</sup> The problems of impartiality raised by the competence of Presidents of higher courts and of their criminal divisions to submit petitions to quash or amend particular judgments by lower courts was solved in 2003 through the abolishment of this competence.<sup>174</sup>

**Excessive length of proceedings:** In order to accelerate judicial proceedings stricter time-limits for the completion of criminal cases were set in 2003 and new domestic remedies devised, notably the possibility for the investigation judge to order the speeding up of investigations or their closure.<sup>175</sup> Several amendments of the Criminal Procedure Code adopted between 2010 and 2014 aim at accelerating pre-trial investigations. They introduce maximum length of adjournment of trial proceedings and the right to lodge complaints to be examined within 7 days. Article 6.272 of the Civil Code providing for liability for damage caused by unlawful actions of preliminary investigation officials, prosecutors, judges and the court has been acknowledged as a proper legal ground for compensation of damage sustained due to prolonged proceedings.<sup>176</sup>

**Protection of private life:** In order to prevent flagrant abuses of press freedom interfering with private life, the ceiling on awards of compensation in respect of non-pecuniary damages (leading at the time to derisory awards) was removed in the new Civil Code 2001.<sup>177</sup>

## Luxembourg

**Excessive length of proceedings:** The Judicial Police Service was reinforced and reorganised, the coordination between police and judicial authorities was improved and the staff of prosecutors and investigating judges was increased to reduce the length of civil and criminal proceedings. Compensation for the administration's

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170. *Wille*, Appl. No. 28396/95, Final Resolution [ResDH\(2004\)84](#)

171. *Jecius*, Appl. No. 34578/97, Final Resolution [ResDH\(2004\)56](#)

172. *Valasinas*, Appl. No. 44558/98, Final Resolution [ResDH\(2004\)44](#)

173. *Birutis and Others*, Appl. No. 47698/99+, Final Resolution [ResDH\(2004\)45](#)

174. *Daktaras*, Appl. No. 42095/98, Final Resolution [ResDH\(2004\)43](#)

175. *Girdaukas* and 3 other cases, Appl. No. 70661/01+, Final Resolution [CM/ResDH\(2007\)127](#)

176. *Sulcas* and 14 other cases, Appl. No. 35624/04, Final Resolution [CM/ResDH\(2014\)291](#)

177. *Armoniene and Biriuk*, Appl. No. 36919/02+, Final Resolution [CM/ResDH\(2010\)174](#)

dysfunction may be requested on the basis of the Civil Code or the special Act 1988 having gained sufficient legal certainty.<sup>178</sup>

**Access to court:** The excessive formalism of appeals and cassation procedures was remedied by new legislation in 2010<sup>179</sup>.

**Hunting areas:** The mandatory inclusion of all land owners, including those opposed to hunting, in hunting associations created under the law, with the consequent duty to give up their lands for hunting, was repealed in 2011 so as to allow those opposed to hunting to refuse to join the associations.<sup>180</sup>

## Malta

**Public care of children:** Parents, guardians or young persons involved have received the right to seek court review of final care orders earlier automatically imposed following conviction for certain criminal offences related to minors.<sup>181</sup>

**Detention:** The absence of any automatic judicial review of the merits of detention decisions was remedied in 2002 so that such review on the merits can take place and all detainees have thus received an effective right to speedy review of the lawfulness of continued detention.<sup>182</sup>

**Excessive length of proceedings:** Monitoring of individual cases and case-management were improved, the number of judges increased and the formalities for the various forms of judicial acts were simplified to reduce the length of procedures. Case-law also developed a right to seek compensation in case of excessively lengthy proceedings.<sup>183</sup>

## Republic of Moldova

**Fair trial:** The prosecutor general's power to ask for the annulment of final judgments was abolished in 2007.<sup>184</sup>

**Freedom of religion:** Freedom of religion was improved in important respects following the adoption in 2007 of a new law on religious denominations elaborated in cooperation with independent Council of Europe experts with further amendments in 2009. Clear and objective criteria for registration, suspension and liquidation of religious denominations were laid down and a system of proportionate reactions to breaches of the law defined. Religious freedom for non-registered religious groups was secured and expulsion as a sanction for foreigners disrespecting the law abolished.<sup>185</sup>

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178. *Schuhmacher* and 8 other cases, Appl. No. 63286/00+, Final Resolution [CM/ResDH\(2014\)216](#)

179. *Kemp and Others*, Appl. No. 17140/05+, Final Resolution [CM/ResDH\(2012\)93](#)

180. *Schneider*, Appl. No. 2114/04, Final Resolution [CM/ResDH\(2013\)34](#)

181. *M.D. and Others*, Appl. No. 64791/10, Final Resolution [CM/ResDH\(2014\)265](#)

182. *Sabeur Ben Ali, Aquilina, T.W and Kadem*, Appl. No. 35892/97+, Final Resolution [CM/ResDH\(2007\)8](#)

183. *Debono* and 1 other case, Appl. No. 34539/02, Final Resolution [CM/ResDH\(2014\)280](#)

184. *Rosca, Sppl.* Appl. No. 6267/02, Final Resolution [CM/ResDH\(2007\)56](#); *Tanase*, Appl. No. 7/08, Final Resolution [CM/ResDH\(2012\)40](#)

185. *Metropolitan Church of Bessarabia*, Appl. No. 45701/99+, Final Resolution [CM/ResDH\(2010\)8](#)

**Electoral rights:** The ban for all categories of public servants from holding dual citizenship and of elected MPs with multiple nationalities from taking seats in Parliament was lifted in 2009.<sup>186</sup>

## Monaco

**Functioning of justice:** The right of the accused to remain silent and to be assisted by a lawyer in police custody was enshrined in the Code of Criminal Procedure in 2013.<sup>187</sup>

## Montenegro:

**Protection of property:** The possibility to repeal or restrict acquired pension, in particular used in case of resumed professional activities, was abolished following a change in the Law on Pension and Disability Insurance 2008.<sup>188</sup>

## Netherlands

**Secret surveillance:** The excessive vagueness of the regulations surrounding secret surveillance, including as regards storage, use and disclosure of information gathered, was solved through new more detailed procedures in the Security Services Act 2002.<sup>189</sup>

**Expulsion and related issues:** The right to family reunion of minors with a parent legally residing in the Netherlands was improved in 2006 following a new policy adopted by the Ministry of Justice and based on the ECHR's case-law.<sup>190</sup>

**Placing children in public care:** The procedures for the placement of children in public care were radically changed in a policy framework "Standards 2000", an updated version of which entered into force in 2003 as a binding instruction from the Minister of Justice to the Child Welfare Board. The new procedures improve *inter alia* the involvement of parents in the decision-making process and the intervention of a behavioural psychologist and a legal expert in child protection cases.<sup>191</sup>

**Preventive detention:** The period of "pre-placement detention" of convicted persons suffering from mental disorders awaiting their transfer, after serving their sentences, to custodial psychiatric care (as ordered at the time of conviction - TBS orders) was reduced and no longer exceeds 4 months. Operational capacities of custodial clinics were improved and a compensation scheme for excessive pre-placement detention established as from 2007.<sup>192</sup>

**Surveillance of prisoners:** The regulations concerning the monitoring and recording of prisoners' communications were reformed and updated in several steps 2005-2011

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186. *Tanase*, Appl. No. 7/08, Final Resolution [CM/ResDH\(2012\)40](#)

187. *Navone and Others*, Appl. No. 62880/11+, Final Resolution [CM/ResDH\(2014\)266](#)

188. *Lakićević and Others*, Appl. No. 27458/06+, Final Resolution [CM/ResDH\(2013\)91](#)

189. *R.V. and Others*, Appl. No. 14084/88+, Final Resolution [CM/ResDH\(2007\)86](#)

190. *Tuquabo-Tekle and Others*, Appl. No. 60665/00, Final Resolution [CM/ResDH\(2010\)108](#)

191. *Venema*, Appl. No. 35731/97, Final Resolution [CM/ResDH\(2010\)9](#)

192. *Morsink*, Appl. No. 48865/99, Final Resolution [CM/ResDH\(2014\)294](#)

to create a clear and detailed framework for such monitoring and the keeping and use of information obtained.<sup>193</sup>

## Norway

**Compensation in case of acquittal:** Acquitted persons are since 2003 no longer required, in order to obtain full compensation for detention, to prove that they had not committed the offences with which they had been charged.<sup>194</sup>

**Excessive length of proceedings:** Measures to accelerate criminal proceedings were adopted in 2002 and civil proceedings in 2005. These measures were combined with the possibility to obtain compensation in case of excessively lengthy proceedings and also, in criminal cases, a shortening of sentence<sup>195</sup>.

**Freedom of expression:** Amendment to the Constitution in 2004 to ensure that no person may be held liable in civil proceedings for defamation because of the publication, in good faith, of factual statements on questions of general interest that were eventually not proven to be true.<sup>196</sup> In order to better secure also small political parties' access to television during elections, the statute of the National Public Broadcaster (NRK) was changed in 2009 to include an obligation to provide broad and balanced coverage of political elections and editorial coverage also to smaller parties.<sup>197</sup>

**Freedom of religion in schools:** The undue preference given in religious education to the Christian faith was removed in 2008 and replaced by a more objective, critical and pluralistic education. The possibilities to be exempted from religious education were also improved.<sup>198</sup>

## Poland

**Detention:** Important reforms took place during the years 2000 to limit recourse to detention on remand, the duration of such detention, to provide adequate possibilities of appealing detention decisions<sup>199</sup>, including the right to have access to relevant investigation material to challenge the need for detention and the right to be heard in person by the judge<sup>200</sup>, and to obtain compensation in case of unlawful detention<sup>201</sup>. The new Code of Criminal Procedure 2015 limits pre-trial detention for less serious offences and increases flexibility in the use of bail.<sup>202</sup> The system surrounding monitoring of correspondence of detained persons was improved in 2003 and 2012 allowing judicial review and the right to claim compensation.<sup>203</sup> In

193. *Doerga*, Appl. No. 50210/02, Final Resolution [CM/ResDH\(2011\)137](#)

194. *O. and Y.*, Appl. No. 29327/95+, Final Resolution [CM/ResDH\(2009\)8](#)

195. *A. and E. Riis*, Appl. No. 16468/05 and 9042/04, Final Resolution [CM/ResDH\(2009\)109](#)

196. *Blådet Tromsø A/S and Pål Stensås; Nilsen and Johnsen*; Appl. No. 21980/93+, Final Resolution [CM/ResDH\(2002\)70](#)

197. *TV Vest As and Rogaland Pensjonistparti*, Appl. No. 21132/05, Final Resolution [CM/ResDH\(2011\)234](#)

198. *Folgerö and Others*, Appl. No. 15472/02, Final Resolution [CM/ResDH\(2011\)237](#)

199. *Trzaska* and 172 other cases, Appl. No. 25792/94+, Final Resolution [CM/ResDH\(2014\)268](#)

200. *Chruscinski*, Appl. No. 22755/04, Final Resolution [CM/ResDH\(2011\)142](#)

201. *Bruczynski*, Appl. No. 19206/03, Final Resolution [CM/ResDH\(2012\)43](#)

202. *Trzaska* and 172 other cases, Appl. No. 25792/94+, Final Resolution [CM/ResDH\(2014\)268](#)

203. *Klamecki* and 58 other cases, Appl. No. 31583/96, Final Resolution [CM/ResDH\(2013\)228](#)

order to detect suicidal tendencies, monitoring of a detainees' behaviour in justified cases was made possible in 2009, based on medical reasons or the need to ensure their security. Decisions can be appealed to the courts.<sup>204</sup>

**Access to court:** The system of court fees in civil proceedings has been reformed in 2006 notably to improve the possibilities to be exempted from such fees in order to solve problems of access to court.<sup>205</sup> The system of legal aid was reformed similarly in the framework of an amended Code of Civil Procedure in 2010.<sup>206</sup>

**Access to one's children and international child abduction:** Proceedings for the execution of access or contact orders were streamlined in 2011.<sup>207</sup>

**Access to the secret service files:** In order to ensure the fairness of lustration proceedings legislation was adopted in 2006 defining the instances when files used could be excluded from publicity and providing for a continuous monitoring of the classification of documents<sup>208</sup>. In 2010 a right of access was provided to all documents held in by the Institute of National Remembrance.

**Compensation for property lost in connection with WWII:** In 2005, legislation was adopted setting up of a compensation scheme to honour the Republic of Poland's undertaking to provide compensation for property abandoned after World War II in areas beyond the present borders of the Republic, thereby remedying the defective functioning of an earlier scheme. Compensation was set at 20% of the properties original value and claimants could seek pecuniary and non-pecuniary damages caused by the defective operation of the earlier scheme.<sup>209</sup>

## Portugal

**Psychiatric care in prison:** The legal "ceilings" imposed as regards the maximum number of examinations per year were repealed in 2007 in order to speed up the review of placements in psychiatric clinics in prisons<sup>210</sup>.

**Fair trial:** The Civil Procedure Code was amended in 2007 so that the notes made at first instance and sent to the court of appeal are also communicated to the parties<sup>211</sup>. An upper limit on the sums that could be charged as court fees was introduced in the new Court Fees Code of 2008.<sup>212</sup>

**Protection of family life:** The Civil and Criminal Codes were amended in 2008, on the one hand to strengthen the sanctions in case of child abduction or refusals to abide by visiting or custody agreements and on the other to ensure better mediation in reaching such agreements through a preliminary procedure before the prosecutor.<sup>213</sup>.

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204. *Jasinska*, Appl. No. 28326/05, Final Resolution [CM/ResDH\(2014\)27](#)

205. *Kreuz N°1* and 11 other cases, Appl. No. 28249/95+, Final Resolution [CM/ResDH\(2011\)67](#)

206. *Tabor* and 6 other cases, Appl. No. 12825/02+, Final Resolution [CM/ResDH\(2011\)239](#)

207. *Pawlik* and 4 other cases, Appl. No. 11638/02, Final Resolution [CM/ResDH\(2014\)295](#)

208. *Matyjek* and 11 other cases, Appl. No. 38184/03, Final Resolution [CM/ResDH\(2014\)172](#)

209. *Broniowski*, Appl. No. 31443/96, Final Resolution [CM/ResDH\(2009\)89](#)

210. *Magalhães Pereira No. 2*, Appl. No. 15996/02, Final Resolution [CM/ResDH\(2009\)53](#)

211. *Ferreira Alves*, Appl. No. 41870/05, Final Resolution [CM/ResDH\(2012\)45](#)

212. *Perdigao*, Appl. No. 24768/06, Final Resolution [CM/ResDH\(2011\)143](#)

213. *Reigado Ramos*, Appl. No. 73221/01, Final Resolution [CM/ResDH\(2012\)132](#)

**Vetting procedures:** In 2007, legislation improved the protection of private life in case of security investigations of an employee, and provided for effective remedies in this regard.<sup>214</sup>

**Discrimination as regards the award of custody:** Jurisprudence concerning custody proceedings was changed in order to ensure equal treatment of parents living in homosexual relationships.<sup>215</sup>

**Expropriation:** A new Court Fees Code from 2008 replaced the old system strictly linked to the sums at stake and replaced it with a mixed system of with upper limits far below what could be imposed under the earlier system which had notably led to fees exceeding expropriation compensation awarded.<sup>216</sup>

## Romania

**Detention:** Following reforms in 2003 only a judge is competent to order detention on remand<sup>217</sup> and appeals on points of law against decisions prolonging such detention after committal to trial are possible<sup>218</sup>. Further reforms in 2006 ensured better access to relevant information in the investigation file and respect for the adversarial principle. Other reforms, in 2003 and 2006, ensured the confidentiality of complaints addressed by detainees to public authorities, judicial bodies or international organisations or courts.<sup>219</sup> Adequate conditions for the preparation and distribution of food in accordance with religious beliefs were ensured as from 2013. .<sup>220</sup>

**Legal certainty:** Prosecutors' right to lodge extraordinary nullity appeals in civil matters was abolished in 2003. In 2013 their general competence to intervene in civil proceedings was abolished and interventions limited to proceedings regarding minors, persons lacking legal capacity and missing persons.<sup>221</sup> The provisions allowing prosecutors to lodge extraordinary nullity appeals in criminal matters were repealed in 2004.<sup>222</sup>

**Access to court:** Access to court in civil matters has been improved through increased possibilities to grant exemptions from court fees and simplified procedures for the granting of legal aid, and judicial review of legal aid decisions ensured.<sup>223</sup> Legislative amendments in 2001 clarified that courts remained competent to examine claims vis-à-vis immovable properties wrongfully seized by the State between 1945-1989. In the criminal field prosecutor decisions to discontinue proceedings were subjected to judicial review by a criminal law reform in 2003.<sup>224</sup>

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214. *Antunes Rocha*, Appl. No. 64330/01, Final Resolution [CM/ResDH\(2013\)230](#)

215. *Salgueiro da Silva Mouta*, Appl. No. 3320/96, Final Resolution [CM/ResDH\(2007\)89](#)

216. *Perdigao*, Appl. No. 24768/06, Final Resolution [CM/ResDH\(2011\)243](#)

217. *Nastase-Silivestru*, Appl. No. 74785/01, Final Resolution [CM/ResDH\(2011\)149](#)

218. *Varga*, Appl. No. 73957/01, Final Resolution [CM/ResDH\(2011\)23](#)

219. *Petra*, Appl. No. 27273/95, Final Resolution [CM/ResDH\(2011\)](#)

220. *Vartic No. 2*, Appl. No. 14150/08, Final Resolution [CM/ResDH\(2014\)221](#)

221. *Androne*, Appl. No. 54062/00, Final Resolution [CM/ResDH\(2013\)232](#)

222. *Bota, Sergio Popescu and Precup*, Appl. No. 16382/03+, Final Resolution [CM/ResDH\(2011\)27](#)

223. *Iorga*, Appl. No. 4227/02, Final Resolution [CM/ResDH\(2011\)24](#)

224. *Macovei and Others*, Appl. No. 5248/02, Final Resolution [CM/ResDH\(2011\)21](#)

**Fair trial:** Civilians are no longer be subjected to the jurisdiction of military courts in criminal cases involving both civilians and military.<sup>225</sup> The right to be heard in person at hearing in appeal proceedings was safeguarded in case the accused had not been heard before or had been acquitted.<sup>226</sup> Reforms in 2004 provided detailed rules about the use of undercover agents and of the evidence so gathered, and introduced safeguards, including judicial authorisation, in respect of telephone tapping in criminal proceedings.<sup>227</sup> A reform of 2014 ensures that when “in absentia” proceedings are reopened the person concerned is set free unless ordinary preventive measures apply.<sup>228</sup>

**Former communist secret service registers:** The processing of information contained in the archives of the former communist secret service was transferred to a civilian body, the NCSAS, in 2008. Interested persons can apply for access to and rectification of information contained in the registers and decisions taken are subject to judicial review.<sup>229</sup>

**Freedom of expression:** In 2002 and 2005, prison sentences for insult, and subsequently for defamation were abolished. In 2006, defamation and insult were decriminalised.<sup>230</sup>

**Discrimination and parental leave in the army:** As from 2006, the law provides that women and men have equal rights to parental leave.

**Protection of property:** After a reform in 2013, the mechanism set up to provide redress (restitution or compensation) for property nationalised during the communist regime was accepted as in principle capable of offering appropriate redress.<sup>231</sup>

**Ban on prisoner voting and other complementary penalties:** Following a 2007 ruling by the High Court of Cassation and Justice, courts ceased applying such penalties automatically and determined instead the need for complementary penalties when sentencing.<sup>232</sup> A criminal law reform of 2014 aligns the legal framework to this ruling

## Russian Federation

**Detention:** Legislative reforms and Rulings of the Constitutional Court and the Supreme Court have ensured that, in compliance with Article 5 § 1, detention on remand is always ordered by a court decision and that such decisions contain reasons and the time-limit for detention.<sup>233</sup>

**Legal certainty:** A 2003 reform of the supervisory review procedure in commercial matters brought this procedure in line with the requirements of legal certainty inherent in the Convention. Under the new system, binding and enforceable decisions are only liable to challenge once, before a supreme judicial instance, upon request

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225. *Maszni*, Appl. No. 59892/00, Final Resolution [CM/ResDH\(2013\)168](#)

226. *Niculescu-Dellakeza*, Appl. No. 5393/04, Final Resolution [CM/ResDH\(2014\)242](#)

227. *Constantin and Stoian*, Appl. No. 23782/06+ , Final Resolution [CM/ResDH\(2013\)40](#)

228. *Sancraian*, Appl. No. 71723/10, Final Resolution [CM/ResDH\(2014\)245](#)

229. *Rotaru*, Appl. No. 28341/95, Final Resolution [CM/ResDH\(2014\)253](#)

230. *Dalban* and 4 other cases, Appl. No. 28114/95+, Final Resolution [CM/ResDH\(2011\)73](#)

231. *Draculet* and 83 other cases, Appl. No. 20294/02, Final Resolution [CM/ResDH\(2014\)274](#)

232. *Calmanovici* and 7 other cases, Appl. No. 42250/02, Final Resolution [CM/ResDH\(2014\)13](#)

233. *Bednov*, Appl. No. 21153/02, Final resolution, [CM/ResDH \(2015\)249](#)

by the parties or certain other persons affected. The grounds for seeking review as well as the time allowed to have been restricted.<sup>234</sup>

**Defamation:** In 2005, the Supreme Court adopted guidelines to lower regarding defamation, insisting on the necessity to distinguish between statements of fact susceptible of proof and value judgments, opinions or convictions, and underlining the fact that political figures have decided to appeal to the confidence of the public and accepted to subject themselves to public political debate and that public officials must accept subjection to public scrutiny and criticism, particularly through the media.<sup>235</sup>

**Settling the “Uroshay-90 bonds”:** In 2009, legislation was enacted to establish the procedure necessary for the settlement of the state debt originating in so called “Urozhay-90 bonds”, issued by the Government of the Russian Socialist Federative Soviet Republic (RSFSR) in order to encourage agricultural workers to sell produce to the State in exchange for the right to priority purchasing of consumer goods in high demand. A detailed payment procedure was established immediately thereafter.<sup>236</sup>

**Confiscation:** A legal basis for the confiscation of smuggled goods was introduced in 2006.<sup>237</sup>

## San Marino

**Detention pending extradition:** The risk of arbitrary detention pending extradition was removed following legislative amendments adopted in 2014 providing for an accessible, precise and foreseeable extradition procedure<sup>238</sup>.

**Unfair criminal proceedings:** The combination of functions by the Commissario della Legge, as both investigating and trial judge with ensuing problems of impartiality, was repealed in 2003. The new Code of Criminal Procedure provides for the right of accused persons to be heard in person by the judge at a public hearing in appeal proceedings<sup>239</sup>.

**Excessive length of civil proceedings:** A legislative reform in 2005, introduced a number of organisational changes and procedural amendments, such as time limits for the handling of cases and sanctions for inactivity on the part of the parties<sup>240</sup>.

## Serbia

**Access to court:** A new Cadastre Act of 2009 ensured that judicial review was available against the administrative authorities’ registration decisions.<sup>241</sup>

**Excessive length of criminal proceedings:** Criminal proceedings were accelerated through a number of procedural amendments in 2013, most notably a change

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234. *Arshinchikova*, Appl. No. 73043/01, Final Resolution [CM/ResDH\(2011\)151](#)

235. *Grinberg and Zakharov*, Appl. No. 23472/03+, Final Resolution [CM/ResDH\(2008\)18](#)

236. *Malysh and Others* and 2 other cases, Appl. No. 30209/03+, Final Resolution [CM/ResDH\(2012\)134](#)

237. *Baklanov*, Appl. No. 68443/01, Final Resolution [CM/resDH\(2011\)301](#)

238. *Toniolo*, Appl. No. 44853/10, Final Resolution [CM/ResDH\(2014\)283](#)

239. *Tierce*, Appl. No. 24954/94, Final Resolution [ResDH\(2004\)3](#)

240. *Tierce and Others*, Appl. No. 68700/01, Final Resolution [CM/ResDH\(2011\)3](#)

241. *Backovic*, Appl. No. 47997/06, Final Resolution [CM/ResDH\(2013\)44](#)

implying that the prosecutor had to establish the grounds for indictment already before the trial, and not during the trial as before with ensuing complexities in the conduct of proceedings. A special law dating 2005 provides that criminal proceedings are urgent if minors are victims.<sup>242</sup>

**Protection of correspondence:** Prisoners were guaranteed a right to correspondence in 2009, which could only be limited only by judicial decision.<sup>243</sup>

## Slovak Republic

**Protection of rights in detention:** Authorities are obliged to give priority to detention cases and deal with them promptly. Under the new Code of Criminal Procedure 2005, a detainee is entitled to apply for release at any time. Where the public prosecutor dismisses such an application, he shall immediately submit it to a competent judge, who shall rule on the application without delay.<sup>244</sup> Respect for the adversarial principle has been improved in 2006, including a right to be heard in person by the court deciding detention<sup>245</sup> and a right of access to the investigation file.<sup>246</sup>

**Fair trial:** New rules for courts were introduced in 2006 to prevent that judges select the cases they deal with and that cases are distributed among them randomly.<sup>247</sup>

**Excessive length of proceedings:** The length of civil proceedings was reduced following amendments of the Code of Civil Procedure in 2002, and of the Judges and Lay Judges Act in 2000<sup>248</sup>, as supplemented by a series of further amendments in 2007 and general reinforcement of the judiciary, notably through an increase in the number of judges and a reinforcement of IT tools to assist case management<sup>249</sup>; criminal proceedings were accelerated by measures in the new Code of Criminal Procedure 2006<sup>250</sup>, notably aimed at providing an effective remedy to speed up proceedings, including the pre-trial investigations<sup>251</sup>.

**Public care of children:** The possibility for administrative authorities to order urgent placement in public care until the courts had had time to consider the matter was repealed as unconstitutional in 2002.<sup>252</sup>

**Paternity:** The possibilities of reopening paternity proceedings were increased in 2013, notably where new evidence is available linked with new scientific methods, unavailable at the time (notably DNA tests).<sup>253</sup>

**Domestic violence:** Reforms in 2003 introduced possibilities of prohibiting violent persons from entering premises occupied by a close person or a person in their care

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242. *Ristić*, Appl. No. 32181/08, Final Resolution [CM/ResDH\(2014\)18](#)

243. *Stojanovic, Jovancic and Milosevic*, Appl. No. 34425/04+, Final Resolution [CM/ResDH\(2011\)77](#)

244. *Kučera and Haris*, Appl. No. 48666/99+, Final Resolution [CM/ResDH\(2011\)158](#)

245. *Nestak*, Appl. No. 65559/01, Final Resolution [CM/ResDH\(2009\)136](#)

246. *Lexa*, Appl. No. 34761/03, Final Resolution [CM/ResDH\(2012\)53](#)

247. *DMD Group, A.S.*, Appl. No. 19334/03, Final Resolution [CM/ResDH\(2012\)51](#)

248. *Jori* and 18 other cases, Appl. No. 34753/97+, Final Resolution [ResDH\(2005\)67](#)

249. *Jakub* and 109 other cases, Appl. No. 2015/02+, Final Resolution [CM/ResDH\(2012\)59](#)

250. *Krumpel and Krumpelová*, Appl. No. 56195/00, Final Resolution [CM/ResDH\(2007\)10](#)

251. *Masar*, Appl. No. 66882/09, Final Resolution [CM/ResDH\(2013\)126](#)

252. *Berecova*, Appl. No. 74400/01, Final Resolution [CM/ResDH\(2009\)11](#)

253. *Paulik*, Appl. No. 10699/05, Final Resolution [CM/ResDH\(2013\)195](#)

or if the premises are jointly used by spouses or ex-spouses to exclude the violent one from the right to use the premises.<sup>254</sup> The remedies in case of breach of the statutory duty to protect fundamental rights, life and health, have been reinforced including notably a right to obtain non-pecuniary damages.<sup>255</sup>

## Slovenia

**Protection against ill-treatment and of rights in detention:** Measures were adopted to carry out regular inspections aimed at preventing ill-treatment in detention places. In November 2007, a specialised division in the State Prosecutor's Office was established to investigate allegations of ill-treatment. Slovenian law and judicial practice ensures compensation for unlawful detention.

## Spain

**Detention and retroactive application of criminal law:** A new system of calculation of maximum terms of sentences, the so-called "Parot doctrine" which increased the time to be spent in prison, including for persons convicted before its adoption, was discontinued.<sup>256</sup> The disciplinary sanction of house arrest was abolished in 2007.<sup>257</sup>

**Functioning of justice:** Additional safeguards as regards the composition of military courts and the procedural rules applicable to ensure impartiality were introduced in 2003.<sup>258</sup>

**International child abduction:** Child abduction by a parent, earlier considered as a disobedience, was criminalised as an offence in 2002 thereby allowing the issuing of an international arrest warrant, thus making it easier for Spanish courts to request international action including under the Hague Convention.

## Sweden

**Expulsion and related issues:** The appeal procedure in aliens' cases was changed in March 2006. The former appeal organ, the Aliens Appeal Board, was replaced by special Migration Courts, thus creating a three-level appeal system with the Administrative Court of Appeal in Stockholm as the highest instance. Moreover, a new Aliens Act entered into force at the same time, providing clearer rules as regards residence permits and placing more emphasis on grounds for protection.<sup>259</sup>

**Protection of private life:** In January 2008 a new agency, the Commission on Security and Integrity Protection, started to operate in order to supervise all personal data processing by the Swedish Security Service, notably in response to complaints lodged by individuals. In case irregularities are found, the Commission shall cooperate with competent authorities, notably the State Prosecution Service, the Chancellor of Justice and the Data Inspection Board so that necessary remedial action may be

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254. *E.S. and Others*, Appl. No. 8227/04, Final Resolution [CM/ResDH\(2012\)50](#)

255. *Kontrova*, Appl. No. 7510/04, Final Resolution [CM/ResDH\(2011\)31](#)

256. *Del Rio Prada*, Appl. No. 42750/09, Final Resolution [CM/ResDH\(2014\)107](#)

257. *Dacosta Silva*, Appl. No. 69966/01, Final Resolution [CM/ResDH\(2010\)110](#)

258. *Perote Pellon*, Appl. No. 45238/99, Final Resolution [ResDH\(2005\)94](#)

259. *Bader and Kanbor*, Appl. No. 13284/04, Final Resolution [CM/ResDH\(2010\)112](#)

taken. The Data Inspection Board may order the Security Service to stop processing data and assort such orders with financial sanctions, and, in last resort, apply to the administrative courts to have the data erased.<sup>260</sup> A new provision prohibiting intrusive photography (covert filming in private places) was introduced in 2013.<sup>261</sup>

**Bankruptcy:** Following a 2005 reform, if a bankruptcy decision is quashed, it is henceforth for the creditor applying for bankruptcy to compensate the debtor for bankruptcy costs taken out of the estate, unless the debtor has caused the costs by his own negligence. In addition, the district court decisions on bankruptcy costs can now be appealed.<sup>262</sup>

**Taxation:** Since 2003 the lodging of an appeal to the tax authority or to the court stays the enforcement of taxation decisions concerning tax surcharge (no deposit of security can be required). The tax authority and courts have also received explicit competence to remit or reduce tax surcharges in case of excessive length of proceedings.<sup>263</sup>

## Switzerland

**Expulsion and related issues:** Changes of practice in 2008 ensured that authorisations will be given to spouses awaiting removal and placed in different cantons to join each other and live together, in particular where there is a prolonged impossibility to implement the removal decision.<sup>264</sup>

**International child abduction:** The responses to international child abductions were improved in 2007 in line with the Hague Convention. Return procedures have been accelerated by conferring competence on a single cantonal court and removing other legal procedures at cantonal level; preference is given to the conclusion of friendly settlements in conflicts between parents; decisions on return are combined with concrete enforceable measures; and cantons are required to designate a single authority in charge of enforcement.<sup>265</sup>

**Discrimination in the choice of name:** The gender based discrimination against bi-national couples in their freedom to choose their surname after marriage was abrogated in 2011 so that each spouse has the same right to retain his/her name or choose either the surname of the bridegroom or of the bride.<sup>266</sup>

**Fair trial:** A new federal law regulating the profession of lawyers entered into force in 2002, providing access to a court in all cases of dispute and thus also to a public hearing, including disciplinary proceedings<sup>267</sup>.

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260. *Segerstedt-Wiberg and Others*, Appl. No. 62332/00, Final Resolution [CM/ResDH\(2012\)222](#)

261. *Söderman*, Appl. No. 5786/08, Final Resolution [CM/ResDH\(2014\)106](#)

262. *Stockholms Försäkrings- och Skadeståndsjuridik AB*, Appl. No. 38993/97, Final Resolution [CM/ResDH\(2009\)13](#)

263. *Janosevic*, Appl. No. 34619/97, Final Resolution [CM/ResDH\(2007\)59](#)

264. *Mengesha Kimfe* and 2 other cases, Appl. No. 24404/05, Final Resolution [CM/ResDH\(2011\)302](#)

265. *Bianchi*, Appl. No. 7548/04, final on 22/09/2006, Final Resolution [CM/ResDH\(2008\)58](#)

266. *Losonci Rose and Rose*, Appl. No. 664/06, final on 09/02/2011, Final Resolution [CM/ResDH\(2012\)102](#)

267. *Hurter*, Appl. No. 53146/99, final on 15/03/2006, Final Resolution [CM/ResDH\(2015\)187](#)

**Protection of private life and correspondence:** The legal guarantees applicable when a lawyer, against whom a secret surveillance measure has been taken, is not himself or herself a suspect or accused of an offence, were strengthened in 2002. The new legislation, sets out in detail the conditions under which telephone calls may be intercepted and postal correspondence and telecommunications monitored, the organisation of “monitoring”, the authorities entitled to order a monitoring measure and the procedures to be complied with.<sup>268</sup>

**Taxation:** Changes of practice in 1998 to the effect that tax fines are considered as penalties and thus the sole responsibility of the person having committed the impugned acts (and thus not the responsibility of others, e.g. heirs) were codified in legislation in 2005.<sup>269</sup>

**Political advertising on TV:** Relaxation of the prohibition on political advertising contained in the radio and television legislation.<sup>270</sup>

### “the former Yugoslav Republic of Macedonia”

**Excessive length of proceedings:** Administrative proceedings were accelerated following the adoption of new laws on Courts and on General Administrative Procedure in 2006 and the setting-up of a specialised Administrative Court with jurisdiction for administrative disputes previously decided by the Supreme Court. Furthermore, any request made to administrative authorities will be considered to have been accepted, if the administration fails to respond to that request within a certain deadline (the concept of “tacit authorisation”). Deadlines in administrative proceedings were considerably shortened. Rules on serving documents were simplified. The service of documents in electronic form was introduced. Furthermore, the second-instance authority shall make a decision on the merits under certain circumstances, e.g. in situations when a matter had already been referred back once for re-examination to a first-instance authority.<sup>271</sup>

### Turkey

**Constitutional priority of international HR agreements:** following amendments to the Constitution in 2004 (Article 90§5) the priority of international agreements on fundamental rights and freedoms over ordinary legislation has been ensured.<sup>272</sup>

**Detention:** The maximum periods of detention have successively been diminished<sup>273</sup> and in 2001, the Constitution was amended so as to limit to 4 days the maximum length of police custody before presenting the detainee before a judge except in case of derogation in a state of emergency.<sup>274</sup> As from 2005 detainees see a judge

268. *Kopp*, Appl. No. 23224/94, Final Resolution [ResDH\(2005\)96](#)

269. *E.L., R.L. and J.O.-L.*, Appl. No. 20919/92, Final Resolution [CM/ResDH\(2005\)3](#)

270. *Verein gegen Tierfabriken*, Appl. No. 32772/02, Final Resolution [CM/ResDH\(2010\)113](#)

271. *Dumanovski, Doceovski and Blage ilievski*, Appl. No. 13898/02+, Final Resolution [CM/ResDH\(2011\)81](#)

272. *United Communist Party and 7 other cases*, Appl. No. 19392/92, Final Resolution [CM/ResDH\(2007\)100](#)

273. *Demir and Others*, Appl. No. 21380/93+, Final Resolution [CM/ResDH\(2002\)107](#)

274. *Sakik and Others*, Appl. No. 23878/94+, Final Resolution [CM/ResDH\(2002\)110](#)

within 24 hours in ordinary cases and 3 days in exceptional cases. Courts shall render their decisions within 3 days.<sup>275</sup>

**Fair trial:** Problems of fairness before State security courts<sup>276</sup> contributed to the abolishment of these courts following constitutional amendments in 2004.<sup>277</sup> Juvenile justice was reformed in 2005 with special juvenile courts and the development of other sanctions than deprivation of liberty, which is to be resorted to only in last resort.<sup>278</sup> The fairness of proceedings to obtain compensation for unlawful detention has been improved in the new Code of Criminal Procedure 2005 and oral hearings shall now be held and the notification of the Principle Public Prosecutor's written opinions to the parties is required.<sup>279</sup> The practice of imposing fines through "sentence orders" without trial was abolished in 2004, having been declared unconstitutional by the Constitutional Court.<sup>280</sup>

**Enforcement of access and custody decisions:** Family courts were created in 2003. Failure to abide by access or custody orders was defined as a criminal offence. Sanctions for non-compliance were increased shortly thereafter. The new framework provided that a social worker, a pedagogue, a psychologist or social officer shall be present during enforcement operations.<sup>281</sup>

**Strengthening freedom of expression, notably in the press and media:** A series of legislative reforms have aimed at improving freedom of expression, notably the abrogation in 2003 of Article 8 of the Law against Terrorism which prohibited any action against the indivisible integrity of the State<sup>282</sup>. Article 6§5 of the law against Terrorism was abrogated and thereby the possibility to prohibit the future publication of periodicals in case of breaches of this law.<sup>283</sup>

**Freedom of association:** A series of legislative amendments starting in 1995, and supplemented in 2005 and 2010 have guaranteed the right of civil servants to form and join trade unions with competence to engage in collective bargaining. Dismissal based on membership in a trade union is prohibited.<sup>284</sup> The automatic dissolution of associations following the criminal conviction of one of their members for having carried out activities or made statements against the social aim of the association was abolished in 2004. Constitutional amendments in 2001, followed by amendments to the law on political parties in 2003 ensured that a political party would not be sanctioned on the sole basis of its manifesto or without any evidence of clearly anti-democratic activity. They also introduced a requirement of proportionality,

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275. *Ayaz and Others*, Appl. No. 11804/02+, Final Resolution [CM/ResDH\(2008\)29](#)

276. *Incal*; Appl. No. 22678/93; *Kalem*, Appl. No. 70145/01, Final Resolution [CM/ResDH\(2009\)103](#); *Kizilyaprak*, Appl. No. 9844/02, Final Resolution [CM/ResDH\(2009\)108](#); *Sadak and Others*, Appl. No. 22990/96+, Final Resolution [CM/ResDH\(2004\)86](#)

277. *Gencil*, Appl. No. 4889/0553431/99, Final Resolution [CM/ResDH\(2013\)256](#)

278. *Selcuk*, Appl. No. 21768/02, Final Resolution [CM/ResDH\(2010\)115](#)

279. *Goc* and 48 other cases, Appl. No. 36590/97+, Final Resolution [CM/ResDH\(2011\)307](#)

280. *Arslan*, Appl. No. 75836/01, Final Resolution [CM/ResDH\(2010\)64](#)

281. *Hansen*, Appl. No. 36141/97, Final Resolution [CM/ResDH\(2008\)61](#)

282. *Arslan* and 31 other cases, Appl. No. 23462/94, Final resolution [ResDH\(2006\)79](#)

283. *Urper and Others*, Appl. No. 14526/07, Final Resolution [CM/ResDH\(2014\)130](#)

284. *Demir and Baykara*, Appl. No. 34503/97, Final Resolution [CM/ResDH\(2011\)308](#)

providing recourse to lesser penalties than dissolution (partial or total withdrawal of public financial support, depending on the gravity).<sup>285</sup>

**General remedy:** a right to complain to the Constitutional Court about violations of the Convention was recognised in 2013.<sup>286</sup>

**Compensation to internally displaced:** A law on compensation was adopted in 2004, and revised in 2005, providing for a simplified alternative to judicial proceedings to allow internally displaced persons to obtain directly from the administration compensation for pecuniary damage resulting from terrorism and measures taken against terrorism. 76 compensation commissions were set up under the law in 76 provinces.<sup>287</sup>

## Ukraine

**Legal certainty:** The supervisory review procedure was abolished in June 2001 following a legislative reform which set up a three-level court system.<sup>288</sup>

**Fair trial:** According to the new Code of Civil Procedure 2005, the first instance courts lost the power to filter appeals against their decisions.<sup>289</sup> The new Code also provides a single procedure for delivery of all kinds of summonses, subpoenas or judicial notifications.<sup>290</sup> The need to exhaust non-judicial means before applying to a court was repealed.<sup>291</sup> The administrative offences code was revised in 2008 so as to provide a right to appeal.<sup>292</sup>

**Freedom of expression:** The Law on defamation was amended in 2003 exempting value judgments from liability. State bodies and bodies of local self-government are prohibited from demanding non-pecuniary damages for the publication of false information, although they may demand a right of reply. Officials acting in their personal capacity may still seek to protect their right to their honour and dignity through the courts. The law provides a defence of “conscientious publication” if a journalist acted in good faith and verified the information published.<sup>293</sup>

## United Kingdom

**Protection of children and family:** The Children Act 2004 has improved the protection of children against parental violence, with the exception that punishments may still be administered where any injury suffered is transient or trifling.<sup>294</sup> The House of Lords changed its jurisprudence so that local authorities and social services can now be liable for failing to act to prevent child abuse.<sup>295</sup> Statutory guidance was provided

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285. *United Communist Party*, Appl. No. 19392/92, Final Resolution [CM/ResDH\(2007\)100](#)

286. *Özbek*, Appl. No. 25327/04, Final Resolution [CM/ResDH\(2013\)254](#)

287. *Dogan and Others*, Appl. No. 8803/02, Final Resolution [CM/ResDH\(2008\)60](#)

288. *Agrotehservis and 7 other cases*, Appl. No. 62608/00, Final Resolution [CM/ResDH\(2011\)313](#)

289. *Volovik*, Appl. No. 15123/03, Final Resolution [CM/ResDH\(2010\)219](#)

290. *Strizhak*, Appl. No. 72269/01, Final Resolution [CM/ResDH\(2008\)65](#)

291. *Ponomarenko*, Appl. No. 13156/02, Final Resolution [CM/ResDH\(2011\)35](#)

292. *Gurepka*, Appl. No. 61406, [CM/ResDH\(2010\)85](#)

293. *Ukrainian Media Group*, Appl. No. 72713/01, Final Resolution [CM/ResDH\(2007\)13](#)

294. *A.*, Appl. No. 25599/94, Final Resolution [CM/ResDH\(2009\)75](#)

295. *Z and Others*, Appl. No. 29392/95, Final Resolution [CM/ResDH\(2011\)290](#)

in 2010 to avoid that children be treated at public hospitals without consent<sup>296</sup>, to improve the care services offered by local authorities to avoid unnecessary relocations to family centres or placement in foster care<sup>297</sup>

**Detention in psychiatric hospital:** The law was amended and a new Code of Practice introduced in 2007-2008 to ensure procedural safeguards also for the placement and detention of legally incapacitated, compliant, persons in psychiatric institutions.

**Domestic servitude:** New criminal legislation was adopted in 2010 in England and Wales as well as in Scotland, making the holding of a person in slavery or servitude or requiring the person to perform forced or compulsory labour a criminal offence.<sup>298</sup>

**Disclosure of pictures from surveillance cameras:** Specific provisions were included in the Data Protection Act 1998 and supplemented by the Information Commissioners CCTV Code in 2008 to limit the retention and to restrict disclosure of images to third parties.<sup>299</sup>

**Police registers with DNA profiles:** Legislation requiring the destruction of the vast majority of DNA profiles gathered from persons in respect of whom charges had been dropped or who had been acquitted entered into force in 2013.<sup>300</sup>

**Stop and search orders:** The broad powers granted the police notably through the right to issue so called “Stop and search orders” were circumscribed by new legislation in 2012 which only allows stop and search of peoples and vehicles without special suspicion in exceptional circumstances (where a senior police officer reasonably suspects that an act of terrorism will take place and the measure is necessary to prevent the act).<sup>301</sup>

**Interception of telephone communications:** Legislation providing a regulatory framework for interceptions on private telecommunication networks<sup>302</sup> and providing more detailed and foreseeable regulation of interceptions of other electronic communications<sup>303</sup> was enacted in 2000.

**Discrimination based on sex:** The Civil Partnership Act 2004 provides that same sex relationships are taken into account in an equivalent way to relationships between persons of opposite sex when deciding different benefits.<sup>304</sup> Legal recognition to transsexuals who have taken decisive steps to live fully and permanently in their acquired gender was ensured in 2005<sup>305</sup>, including as regards social security benefits and state pension.<sup>306</sup> Widows and widowers received the same right to social security benefits as from 2001.<sup>307</sup>

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296. *M.A.K. and R.K.*, Appl. No. 45901/05, Final Resolution [CM/ResDH\(2012\)65](#)

297. *A.D. and O.D.*, Appl. No. 28680/06, Final Resolution [CM/ResDH\(2012\)66](#)

298. *C.N.*, Appl. No. 4239/08, Final Resolution [CM/ResDH\(2014\)34](#)

299. *Peck*, Appl. No. 44647/98, Final Resolution [CM/ResDH\(2011\)177](#)

300. *Goggins*, Appl. No. 30089/04+, Final Resolution [CM/ResDH\(2014\)91](#)

301. *Gillan and Quinton*, Appl. No. 4158/05, Final Resolution [CM/ResDH\(2013\)52](#)

302. *Halford*, Appl. No. 20605/92, Final Resolution [CM/ResDH\(2007\)15](#)

303. *Liberty and Others*, Appl. No. 58243/00, Final Resolution [CM/ResDH\(2011\)83](#)

304. *J.M.*, Appl. No. 37060/06, Final Resolution [CM/ResDH\(2012\)231](#)

305. *I. and Christine Goodwin*, Appl. No. 25680/94+, Final Resolution [CM/ResDH\(2011\)175](#)

306. *Grant*, Appl. No. 32570/03, Final Resolution [CM/ResDH\(2011\)173](#)

307. *Blackgrove* and 10 other cases, Appl. No. 2895/07+, Final Resolution [CM/ResDH\(2010\)135](#)