

Summaries of Final Resolutions adopted by the Committee of Ministers in 2013

(with the exception of those concerning Friendly Settlements)

These summaries are made under the sole responsibility of the Department for the Execution of Judgments of the European Court and in no way bind the Committee of Ministers.

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
CM/ResDH(2013)224	BEL / L'Erablière A.S.B.L.	49230/07	24/05/2009 24/02/2009	Access to and efficient functioning of justice: <i>Inadmissibility of the applicant association's (for environment protection) request to have a planning permission annulled by the Conseil d'Etat on the grounds that it did not include a statement of the facts of the case. (Article 6 §1)</i>	The applicant received the authorisation at issue and the just satisfaction awarded; thus the absence of any possibility to reopen administrative proceedings is no obstacle to closure. Change of case-law of the Conseil d'Etat in order to ban excessive formalism. The judgment was published and disseminated.
CM/ResDH(2013)153	BGR / Angelov Angel	51343/99	15/05/2007 15/02/2007	Access to and efficient functioning of justice: <i>Unmotivated dismissal of the applicant's petition for review (cassation) by the Supreme Court of Cassation. (Article 6 §1)</i>	No request for reopening was submitted. As regards the motivation to refuse reopening of proceedings, according to practice developed since the impugned decision, grounds for refusing reopening must be detailed. In case of inaccuracies, the person may apply to the President of the Criminal Division of the Supreme Court of Cassation, who may cancel the order and initiate reopening of the proceedings. The compliance of cassation appeals with the formal requirements of the Criminal Procedure Court is examined by a judge from the second instance court. If the judge decides that a cassation appeal does not meet the formal requirements, the interested party may appeal his or her order before a panel of the Supreme Court of Cassation. The judgment was translated, published and disseminated.
CM/ResDH(2013)239	BGR / Antanasova and 2 other cases	72001/01+	02/01/2009 02/10/2008	Access to and efficient functioning of justice: <i>Impossibility to obtain decisions on compensation claims submitted in criminal proceedings</i>	Domestic proceedings terminated. The applicants did not address the Prosecutor General in order to ask him to file a request for reopening of the criminal proceedings with the Supreme Court of Cassation. Nor did they bring their claims in the civil courts, as they

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				<i>which were discontinued on the grounds that prosecution had become time-barred; excessive length of criminal proceedings. (Article 6 §1)</i>	could have done in order to prevent these claims to become time-barred. Their civil claims are now time-barred. On 04/02/2013, the Supreme Court of Cassation adopted an interpretative decision concerning the examination of civil claims brought in criminal proceedings which had later been terminated due to the expiry of a limitation period, amnesty or death of the accused. According to this decision, the criminal courts are now required to continue the examination of a civil claim brought in criminal proceedings in the above-mentioned situations. The issue concerning the excessive length of criminal proceedings is examined in the Kitov group.
CM/ResDH(2013)103	BGR / Dimitar Ivanov	19418/07	14/02/2012	Freedom of movement efficient functioning of justice: <i>Unjustified prohibition to leave the country on the ground that the applicant had been criminally convicted and not yet rehabilitated; excessive length of criminal proceedings and lack of effective remedy in this respect. (Articles 2 of Protocol N°4 as well as 6 §1 and 13)</i>	The travel ban was lifted. A transitional provision of the Personal Documents Act 2010 specified that within three months of its entry into force all existing measures previously imposed under section 76(2) of this Act would cease to have effect. The criminal proceedings ended in 2006. For general measures see CM/ResDH(2012)156 in Nalbantski.
CM/ResDH(2013)119	BGR / Dimitrov-Kazakov	11379/03	10/05/2011 10/02/2011	Protection of private life: <i>Name registered in police records of "offenders" on the basis of a confidential internal instruction of the Ministry of Interior of 1993 without official indictment; lack of an effective remedy in this respect. (Article 8 taken in conjunction with Art. 13)</i>	The applicant's name was struck out from the police records in 2002. The relevant confidential instruction of the Minister of Internal Affairs No I-90/24.12.1993, was revoked in 2002. A new legal framework was adopted in 2006. According to Decree No Iz-701/17.03.2011, police registration of personal data is made only when charges are brought in relation to a serious intentional crime. Police authorities ex officio or upon request from the person concerned are under obligation to end police registration, when criminal proceedings at stake are discontinued or the person is acquitted. Refusals can be appealed against before the administrative courts. The Code of Ethics adopted by the Ministry of the Interior lists a number of rules of conduct for police officers. Special training courses are being organised. A permanent

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					Standing Committee on Human Rights and Police Ethics supervises the analysis and implementation of the ECHR judgments. The Commission for Personal Data Protection on the basis of relevant provisions of the Protection of Personal Data Act, prohibit the further processing of data for purposes other than those for which the information was originally collected. The judgment was translated, published and disseminated.
CM/ResDH(2013) 151	BGR / Dodov	59548/00	17/04/2008 17/01/2008	Right to life and access to and efficient functioning of justice: <i>Absence in practice of effective judicial remedies allowing to establish the circumstances of the disappearance of the applicant's mother from a nursing home and to engage the responsibility of the persons and institutions concerned and excessive length of civil proceedings for compensation. (Articles 2 procedural limb and 6§1)</i>	The speed of proceedings will be followed-up closely after the transfer the case to Sofia Regional. General measures are examined in the Dimitrov and Hamanov and Finger group of cases. Measures were taken with regard to potential omissions in the management, training, control or definition of duties of the different categories of staff in the nursing homes, including in 2002, amendments to the Social Assistance Act which established a new structure – the Social Assistance Agency (SAA). The Inspectorate to the Executive Director of SAA performs specialised control over the application of standards by the social service institutions as well as by service providers within the community. In case of breaches of the respective legislative provisions, inspectors are entitled to apply compulsory administrative measures. The Inspectorate issues compulsory instructions and may also propose deletion from the Register of Social Service Providers. SAA elaborates and imposes compulsory methodical instructions and guidelines and organises trainings and supervisions published on the Agency's website. The legislative amendments 2003 also provide for the preparation of individual plans including healthcare, educational, rehabilitation and recreational activities and family contacts. Individual plans are assessed and updated every six months. The Public Council to the respective municipality performs inspections for the application of State standards and good practices on a regular basis and upon necessity. Regular controls are also performed by the Social Assistance Agency via the Inspectorate and by other State institutions. The judgment was translated, published and

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					disseminated.
CM/ResDH(2013) 137	BGR / Georgiev Gavril	31211/03	02/07/2009 02/04/2009	Protection of rights in detention: <i>Unlawful detention during military service by order of the regiment's commanding officer who did not have the competence to order such detention under domestic law and lack of respective remedy. (Article 5 §§1+4)</i>	Isolated case. Detention as disciplinary sanction was abolished on 01/01/2008 following the abolition of compulsory military service. Placement in custody and provisional military detention involve, as at the time of the facts, judicial review. The judgment was translated, published and disseminated.
CM/ResDH(2013) 116	BGR / Idakiev	33681/05	21/09/2011 21/06/2011	Access to and efficient functioning of justice: <i>Failure of the Supreme Administrative Court to examine a decisive argument raised concerning the admissibility of the other party's appeal against the lower court's decision in judicial proceedings concerning the restitution of agricultural land and lack of respective remedy. (Articles 6 §1 and 13)</i>	Impugned proceedings were reopened. Isolated error of domestic court. The judgment was translated, published and disseminated.
CM/ResDH(2013) 99	BGR / Kamburov No. 2 and 1 other case	31001/02+	23/07/2009 23/04/2009	Right to appeal in criminal proceedings: <i>Conviction by the competent District Court to administrative detention of five days for a minor disturbance of the public order as per the acting Decree 904/1963 on Fight against Minor Disturbance. (Article 2 of Protocol No. 7)</i>	With Decision 3/17.05.2011 of the Constitutional Court the impugned provision was pronounced unconstitutional in the part announcing that the District Court judgment could not be appealed to a higher court. On 25/11/2011, Decree 904/1963 on Fight against Minor Disturbance was amended and currently includes the legal possibility to appeal against a District Court judgment imposing a sanction of detention for a minor disturbance of the public order. The judgment was translated, published and disseminated.
CM/ResDH(2013) 98	BGR / Kashevelo	891/05	20/04/2011 20/11/2011	Protection of rights in detention and efficient functioning of justice: <i>Systematic handcuffing of a life prisoner when taken out of his cell,</i>	The applicant is no longer subject to routine handcuffing. The use of auxiliary means such as handcuffs is regulated in chapter 9, section III of Execution of Punishments and Detention in Custody Act. The matter is also developed with regard to life-sentenced

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				<i>without sufficient justification; excessive length of criminal proceedings and lack of effective remedy in this respect. (Articles 3, 6 §1 and Article 13)</i>	prisoners in the National Standards for Treatment of Prisoners Sentenced to Life Imprisonment. The use of routine handcuffing in detention facilities is not a common practice and all such cases are based on particular facts and circumstances which necessitate the taking of additional security measures in order to preserve the life and health of others. The judgment was circulated to the General Directorate for the Execution of Sentences and the Supreme Administrative Court ("SAC"). A decision to use security measures is subject to judicial review. General measures concerning length of criminal proceedings and lack of effective remedy in this respect are examined in the groups Kitov and Dimitov/Hamanov. The judgment was translated, published and disseminated.
CM/ResDH(2013)238	BGR / Kehaya and Others	47797/99+	12/04/2006 12/01/2006 (Merits) 14/09/2007 14/06/2007 (Just satisfaction)	Access to and efficient functioning of justice and protection of property: <i>Non-respect of final character of a judgment ordering restitution of certain plots of land and resulting interference with property rights. (Articles 6§1 and 1 of Protocol No1)</i>	According to Article 302 of the new Code of Civil Procedure (in force as of 01.03.2008), a final judgment by an administrative court shall be binding upon the civil court regarding the lawfulness and the validity of an administrative act. Moreover, according to Article 177 of the Code of Administrative Procedure, a judgment by which an administrative court quashed or amended an administrative act is res judicata with regard to all persons (erga omnes). The civil court is thus no more competent to perform the verification (indirect judicial review of the civil court over administrative acts) which it was obliged to carry out under the Interpretative Decision № 6 of 05.10.2006 of the Supreme Court of Cassation and under the provisions of the old Code of Civil Procedure. Hence, the old practice of the Supreme Court of Cassation is no longer applicable. This was confirmed by an interpretative decision of the Supreme Court of Cassation adopted on 14/01/2013, according to which, the State is bound by the res judicata effect of judgments delivered in proceedings concerning the lawfulness of administrative acts adopted under the Use and Property on Agricultural Land Act and the Restitution of Forests and Lands from the Forest Fund Act. The judgment was translated, published and disseminated.

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CM/ResDH(2013) 152	BGR / Kirilov	15158/02	22/08/2008 22/05/2008	Protection of rights in detention: Lack of opportunity to appear in person before a judicial authority ruling on his pre-trial detention during the consideration of his appeals. (Article 5 §§3+4)	The applicant is no longer in pre-trial detention. Concerning his appearance before trial judge, the case reveals an isolated erroneous application of domestic legal provisions. Current provisions in the Criminal Procedure Code concerning the examination of an appeal against remand in judicial stage of criminal proceedings specifically provide for a hearing by the competent court. However, it does not provide for the mandatory holding of a hearing by the higher courts. Domestic law leaves it to the discretion of the High Court to rule in chambers or organise a hearing. The Supreme Court of Cassation sent a circular letter to the higher courts to draw their attention to the ECHR requirements, i.e. the need to ensure at all stages of the dispute process of the lawfulness of detention respect the principle of equality of arms and the adversarial principle. The prosecutor should not have the privilege to submit comments to which the accused had not the opportunity to respond. Indeed, the appellate court must assess very carefully the need to hear the detained person. The judgment was translated, published and disseminated.
CM/ResDH(2013) 2	BGR / Makedonski	36036/04	20/04/2011 20/01/2011	Freedom of movement, access to an efficient functioning of justice and remedy: Prohibition over a lengthy period to leave the country without periodic reassessments of its justification, excessive length of criminal proceedings and lack of an effective remedy (Articles 2 §2 of Protocol No 4, 6 §1 and 13)	The Criminal Procedure Code in force from 29/04/2006 provides for the right of the accused (respectively defendant) to contest the prohibition to leave the country at any time during criminal proceedings. The prosecutor may prohibit the accused to leave the State only in case of suspicion of a serious intentional criminal offence (punishable by more than five years of imprisonment). The application of this measure is not automatic but depends on the circumstances of the case. It is imposed relatively seldom. The accused may request temporary lifting of the measure at any time during the pre-trial phase and the prosecutor is obliged to respond within three days from its submission. The refusal is subject to immediate appeal to the competent first-instance court. At the trial stage the temporary lifting of the ban may be requested in before the trial court. The accused is entitled to apply for a full revocation of the prohibition order before court at any time during both pre-trial and court proceedings, which is granted if there is no

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					risk of flight abroad. National legislation provides an effective compensatory domestic remedy under Art.2 of the 1988 State and Municipalities Responsibility for Damages Act with regard to unlawful prohibition to leave the country and domestic courts award such compensation effectively (see Decision of the Plovdiv Appellate Court from 06.12.2010 under civil case № 916/2010). The issues of excessive length of proceedings and lack of effective remedies in this respect are examined in the context of the Kitov Dimitrov and Hamanov groups.
CM/ResDH(2013) 138	BGR / Marin Kostov	13801/07	24/10/2012 24/07/2012	Freedom of expression: <i>Disproportionate interference due to a detainee's disciplinary punishment (14 days solitary confinement) for having complained to the prosecutor about the actions of prison officials. (Article 10)</i>	The relevant legislation was changed. A new Execution of Punishments and Detention in Custody Act 2009 expressly provides that prisoners may not be subject to disciplinary punishment because of having made a request or lodged a complaint. At present, confinement in isolation cell of up to 14 days may be imposed by the prison governor; while the governors of penitentiary hostels may impose confinement of up to 5 days. The orders for disciplinary punishments issued by the prison governor may be appealed before the General Director, while the orders of the General Director may be appealed before the Minister of Justice. The appeal does not have an automatic suspensive effect, but the General Director or the Minister of Justice may decide to suspend the execution of the disciplinary punishment. The orders imposing solitary confinement to a disciplinary cell are subject to appeal before the district court, which has to examine the appeal within 3 days in the presence of the detainee. The appeal does not have an automatic suspensive effect, but the court may decide to suspend the execution of the disciplinary punishment. The judgment was translated, published and disseminated.
CM/ResDH(2013) 139	BGR / Mileva and Others	43449/02+	25/02/2011 25/11/2010	Protection of home and family life: <i>Failure by the authorities to take appropriate measures to protect from the disturbances coming from a</i>	The computer club was closed in 2004 and currently there is no information of nuisances. Isolated case. The judgment was translated, published and disseminated.

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				<i>computer club operating round the clock generating a high level of noise in and around a building of residential character. (Article 8)</i>	
CM/ResDH(2013)183	BGR / Penev	20494/04	07/04/2010 07/01/2010	Access to and efficient functioning of justice: <i>Unfair criminal proceedings due to failure to inform the applicant in detail of the nature and the cause of the accusation; lack of adequate time and facilities for the preparation of his defence, after the adoption, by the Supreme Court of Cassation, of a new legal characterisation of the facts of the case. (Article 6§3(a) and (b) taken together with Article 6§1)</i>	The applicant did not submit any request for re-opening of proceedings. The amendment of Article 422 of the Code of Criminal Procedure introduced in 2011 allows persons in a position similar to that of the applicant to request the reopening of the criminal proceedings, in which the accused will have the possibility to defend himself against the charge retained according to the more lenient characterisation of the facts. Article 422 CCP also provides for reopening of criminal cases where substantial violations had been committed under Article 348 §1: violation of substantive law; serious violation of the procedural rules; manifestly unfair punishment. The judgment was translated, published and disseminated.
CM/ResDH(2013)100	BGR / Riener	46343/99	23/08/2006 23/05/2006	Freedom of movement; <i>Automatic travel ban for unpaid taxes: legislation prohibiting leaving of the country for non-payment of tax debts and lack of effective remedy in this respect (Article 2 of Protocol No. 4, Article 13 taken in conjunction with 2 of Protocol No. 4)</i>	Relevant provisions under the Personal Documents Act were declared unconstitutional by the Constitutional Court in 2011. The provisions of the Aliens Act enacting the same ban for foreign citizens were repealed in March 2013. The judgment was translated, published and disseminated.
CM/ResDH(2013)101	BGR / Seidova and Others	310/04	18/02/2011 18/11/2010	Right to life: <i>Ineffective investigation into the death of a relative following an attack by private individuals, due to the impossibility for the family members to participate effectively in the investigation and to have access to the case file. (Article 2 procedural limb)</i>	A new Criminal Procedure Code 2006, in its Sections 74 and 75, governs the rights of victims of crime or their heirs granting their participation in preliminary investigations and trial court proceedings regardless of their constitution as civil parties and / or private accusers. Victims and their heirs have the following rights: to be protected and informed of his rights; be informed of the progress of the criminal proceedings; participate in criminal procedure as provided by the Code of Criminal Procedure; make requests, comments and objections; challenge acts of conclusion

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					<p>or suspension of the proceedings; have a lawyer. In 2010 a new provision ensured that the victim must be informed about opened preliminary investigations immediately. Articles 227-229 of the Criminal Procedure Code provide that, in cases where the offender was formally charged, victims of an offense (or their heirs) are entitled to be aware of survey results and make comments and suggestions. The prosecutor decides on requests, comments and objections of the victim. Other matters concerning the rights of victims of crime to participate effectively in the criminal proceedings are considered in the context of Angelova and Iliev group, especially in Dimitrova and Others. The judgment was translated, published and disseminated.</p>
<p>CM/ResDH(2013)102</p>	<p>BGR / Yankov and 9 other cases</p>	<p>39084/97+</p>	<p>11/03/2004 11/12/2003</p>	<p><i>Protection against ill-treatment and of rights in detention: Shaving of a detainee's head; disciplinary punishment for insulting officials in the draft manuscript of a book; lack of effective remedy in this respect; unlawful deprivation of liberty in a psychiatric hospital; problems concerning detention on remand; lack of an enforceable right to compensation for unlawful detention; excessive length of criminal proceedings and lack of effective remedy in this respect. (Article 5§§1(e)+3+4+5; Articles 6 and 13)</i></p>	<p>The applicants have been released or sentenced to a term of imprisonment. The practice of shaving detainees' heads before confining them in disciplinary cells does not exist anymore. This was confirmed in a letter from 08/02/2005 by the General Director of "Execution of Punishments" to the Ministry of Justice. The new Execution of Punishments and Detention in Custody Act 2009 provides that prisoners may not be subject to disciplinary punishment because of having made a request or lodged a complaint. Thus, the legal ground on which the applicant's disciplinary punishment was based does not exist anymore. At present confinement in isolation cell of up to 14 days may be imposed by the prison governors. The orders imposing solitary confinement to a disciplinary cell are subject to appeal before the regional court. The regional court has to examine the appeal within 3 days, in the presence of the detainee. The appeal does not have an automatic suspensive effect, but the court may decide to suspend the execution of the disciplinary punishment. General measures concerning detention on remand: see (ResDH(2000)109) Assenov and others and (CM/ResDH(2007)158) in Ilijkov, Roumen Todorov and Shishkov and (CM/ResDH(2012)166) in Georgieva. Concerning placement in psychiatric hospital see CM/ResDH(2010)40 in Varbanov group. In 2012, the State and</p>

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					Municipalities Responsibility for Damages Act provides that the State shall be liable for any damage inflicted on citizens by criminal investigation authorities, public prosecution authorities or court, including court-ordered arrest awaiting trial, house arrest, if they were annulled, court ordered obligatory hospitalization and treatment or other involuntary medical measures, if such were annulled, as well as in all other cases of unlawful detention. The new wording of the provisions ensures that all persons subject to detention in contradiction with Art. 5 of the Convention have an enforceable right to compensation even in situations in which the detention is not considered unlawful under domestic law. Questions relating to length of proceedings and lack of effective remedy in this respect in the Kitov group of cases as well as in Dimitrov and Hamanov pilot judgment. The judgment was translated, published and disseminated.
CM/ResDH(2013)225	CRO / Gluhakovic	21188/09	12/07/2011 12/04/2011	Protection of family life: <i>Authorities' failure to secure effective contact with the applicant's daughter, repeatedly ignoring his work schedule and personal circumstances when arranging contact with his daughter as well as the unsuitability of the premises of the Counselling Centre. (Article 8)</i>	The ECHR had expressly ordered the State to secure effective contact, "on the basis of the judgment by the Rijeka Municipal Court of 8 March 2010". Contacts of father and daughter resumed on a regular basis. Isolated case: The judgment was translated, published and disseminated.
CM/ResDH(2013)154	CYP / Gregoriou and 24 other cases	62242/00	09/07/2003 25/03/2003	Access to and efficient functioning of justice: <i>Excessive length of proceedings before civil courts; lack of an effective domestic remedy in this respect (Articles 6§1 and 13). The violations were found in cases from 1989 (when Cyprus accepted the individual right of petition) up to the present.</i>	In all cases except Shacolas (47119/99) where the appeal court ordered a re-trial, proceedings are closed. Regulatory measures (in particular a series of circulars issued by the Supreme Court 1995-2003) were adopted for the prevention of similar violations. Complaints concerning length of proceedings may be made under the new Law 2(I)/2010). It applies to cases which were pending at any stage before it came into force; thus applicants whose proceedings are concluded can still use this remedy. A number of practical measures were taken to improve the efficiency of the

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					judicial system including, inter alia, increasing the jurisdiction of single judges; the monitoring of reserved judgments/interim decisions by the Supreme Court; disciplinary measures against judges who fail to comply with Supreme Court directions; an increase in the number of judges; and a review of the Civil Procedure Rules. As regards Article 13, legislation came into force on 05/02/2010 providing a remedy for excessive length of civil and administrative proceedings. The judgment was published and disseminated.
CM/ResDH(2013) 105	CYP / Panayiotou	20009/06	20/04/2011 20/01/2011	Access to and efficient functioning of justice: <i>Excessive length of proceedings before criminal courts. (Article 6 §1)</i>	The criminal proceedings ended in 2005. Isolated incident of excessive length of criminal proceedings, which are usually determined within a reasonable time. The judgment was translated, published and disseminated.
CM/ResDH(2013) 104	CYP / Panovits	4268/04	11/03/2009 11/12/2008	Access to and efficient functioning of justice: <i>Lack of legal assistance during police questioning; the use of the applicant's confession obtained under police questioning at trial; and the Assize Court's handling of the confrontation with the applicant's defence counsel. (Article 6 §§1+3c)</i>	The applicant was released due to remission for good conduct under the relevant prison regulations. "The rights of persons arrested and detained law" 2005 provides that every person, immediately following arrest, has the right to communicate with their lawyer by telephone, and to communicate with a relative or other person. If under 18 years old, the arrested person has the right to inform a parent or guardian of his arrest or detention and place of detention. There is an obligation on the arresting police officer to inform the arrested person of his communication rights and to provide every facility and practical means necessary to exercise such rights before questioning. A police officer who infringes any of the above rights to communication is liable to criminal and disciplinary sanctions, including imprisonment. Civil proceedings may be brought against the State for compensation. Details of when the arrested person is informed of his communication rights, when he/she expresses an intention to avail himself/herself of such rights, and when he/she exercises them, must be recorded in the interrogation file. This law forms part of the curriculum for police basic training. Testimony is taken in the presence of the minor's parents or guardian or of an officer of the

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					<p>Social Welfare Department. Furthermore, it is the practice of the police – respecting persons under the age of 16 – to inform the Social Welfare Department when an investigation is over and to prepare a socioeconomic report on the minor and his/her family, before the file is transmitted to the Attorney-General for decision as to whether to prosecute or not. Before the file is so transmitted, it is studied by a committee comprising of a representative of the police and the Social Welfare Department which recommends to the Attorney-General whether or not the minor should be prosecuted. The trial court's confrontation with the applicant's defence lawyer is examined in the case of Kyprianou. The trial court's use of the confession obtained under police questioning was an isolated error. The judgment was translated, published and disseminated.</p>
<p>CM/ResDH(2013)58</p>	<p>CZE / Adamicék and 3 other cases</p>	<p>35836/05</p>	<p>12/01/2011 12/10/2010</p>	<p><i>Access to and efficient functioning of justice:</i> Denial of access to the Constitutional Court due to the lack of clear rules concerning the formalities and time-limits to be observed for a constitutional appeal following an appeal in cassation. The constitutional complaint against an appeal decision, contested in cassation before the Supreme Court, was rejected as belated by the Constitutional Court on the ground that the applicant had set out its reasons differently in the Court of Appeal and Supreme Court. (Article 6 § 1)</p>	<p>In 2 cases the reopening of proceedings before the Constitutional Court in accordance with Section 119 of the Constitutional Court Act (CCA) was granted as the appeal was directed against ordinary courts' decisions in criminal proceedings.</p> <p>For general measures see CM/ResDH(2010)68 in Drahorád and Drahorádová. Furthermore, in 2012, the Constitutional Court repealed as unconstitutional Section 237 § 1(c) of the Code of Civil Procedure (CCP) according to which an appeal on points of law is admissible if the decision of the court of appeal concerns a question "of crucial legal importance". The Constitutional Court held, among other things, that the contested provision did not define clearly the situations where an appeal on points of law was admissible. A new law entered into force on 01/01/2013, providing that before lodging a constitutional appeal an applicant will have to exhaust all remedies afforded by law for the protection of his/her rights, including those whose admissibility depends on the discretion of the competent authorities. A constitutional appeal should not be declared inadmissible as lodged out of time if lodged within two month time limit running from the delivery of the decision of the Supreme Court on the appeal on points of law.</p>

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CM/ResDH(2013) 155	CZE / Bermann and 1 other case	8857/08+	27/01/2012 27/10/2011	Protection of family life: Failure to adopt all measures reasonably expected to safeguard the applicant parents' rights in the context of disputes regarding visiting rights and care leading to prohibitions of contacts with their children. (Article 8)	Amendment to the Act on the Social and Legal Protection of Children was adopted by the Parliament in September and November 2012 and a new Act on Mediation entered into force in September 2012. These acts created new means of fast and extrajudicial resolution of various complicated situations including parental conflicts. The judgment was published and disseminated.
CM/ResDH(2013) 89	CZE / Bořánková and Hartman and 69 other cases	41486/98+	21/05/2003 07/01/2003	Access to and efficient functioning of justice: Excessive length of proceedings before civil, administrative and criminal courts and in certain cases, lack of an effective remedy; one case concerns the infringement of property rights in that the municipal court prohibited unlawfully the disposal of a building; keeping of recordings of the applicant's conversations with her counsel in disregard of a Constitutional Court' decision (Articles 6 §1, 13 and 1 of Protocol No. 1 as well as 8)	In 70 of the 71 cases domestic proceedings were closed. The Act on Liability for Damage Caused in the Exercise of Public Authority was amended in April 2006 to provide a compensatory remedy for unreasonable length of proceedings. This remedy was found effective by the European Court in its judgment Vokurka v. the Czech Republic (Appl. No. 40552/02, 16 October 2007). In April 2011, the Civil and Commercial College of the Supreme Court, called to monitor and evaluate courts' final decisions, adopted an opinion on the interpretation of the relevant provisions of the law on liability for damage. The Government took, through the Ministry of Justice, measures to expedite court proceedings, especially by the Justice Reform Concept for 2008-2010, which contained strategies aiming at preventing delays. The Ministry of Justice monitors the speed and effectiveness of court proceedings. The judgment was published and disseminated.
CM/ResDH(2013) 226	CZE / Day S.R.O. and Others	48203/09	16/02/2012 (Committee)	Access to and efficient functioning of justice: denial of access to a court established by law, resulting from an obligation to submit the applicant's dispute to private arbitrators.(Article 6 §1)	No individual measures necessary. General measures see CM/ResDH(2012)18 in Suda. The legal framework was amended by Act No. 125/2008.
CM/ResDH(2013) 141	CZE / Diallo	20493/07	28/11/2011 23/06/2011 26/04/2012	Protection against ill-treatment/ deportation: Automatic dismissal of asylum applications and applications for judicial review on the basis that the	Just satisfaction paid. Applicants are no longer in Guinea. On 09/12/2008, the Constitutional Court repealed Article 171 §1 of Act No. 326/1999 on the stay of foreigners on the territory of the Czech Republic, preventing an action against the decision on

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				<i>applicants from Guinea had arrived from a safe third country (Portugal) and deportation; absence of remedies with automatic suspensive effect. (Article 3 in conjunction with 13)</i>	administrative expulsion. Today, the action against the decision on administrative expulsion has an automatic suspensive effect. The concept of a "safe third country" in the European Union is no longer applied by the Ministry of Interior, which now proceeds according to "Dublin" Regulation (Regulation (EC) No 343/2003 of 18/02/2003) establishing the criteria and mechanisms for examining an asylum application. The formality of the "binding opinion" issued by the Ministry of Interior during the deportation procedure was adjusted. At present, the risk of ill-treatment is analysed in relation to all countries that can theoretically be destination countries in case of deportation. The judgment was translated, published and disseminated.
CM/ResDH(2013)122	CZE / Družstevní záložna PRIA and 1 other case	72034/01+	26/01/2009 31/07/2008 (Merits) 28/06/2010 21/10/2010 (Just satisfaction)	Protection of property and Access to and efficient functioning of justice: <i>Placement of a credit union in receivership without sufficient procedural guarantees against arbitrariness and limitations of judicial review. (Articles 1 of Protocol No. 1 and 6§1)</i>	Just satisfaction paid. Both domestic proceedings ended. In 2003, following a new Code of Administrative Court Procedure, the administrative courts have been entitled to review administrative acts in full jurisdiction and therefore no further general measure appears necessary. After the amendment of the Credit Unions Act by Act No. 280/2004, the applicant credit unions completely lost the opportunity to challenge the decision on placement in receivership as its supervisory board ceased to be entitled to lodge the respective procedural motion. The Credit Unions Act was amended in 2006 and sections concerning receivership were removed. Placement of a credit union in receivership is no longer possible under any circumstances. Placement in receivership still exist for subjects active on the financial market other than credit unions, such as banks, investment companies or funds, insurance companies, etc. However, Act No. 126/2002 amended the Banks Act inserting a rule that statutory bodies are no longer restricted from lodging appeals against imposition of receivership. Similar provisions are included in legislation regulating other subjects on the financial market, the Collective Investment Act, the Enterprise on Capital Market Act or the new Insurance Act. This legislative regulation also reflects the decision of the Supreme Administrative

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
					Court of 12/10/2004 No. 5 A 131/2001-69, which reinterpreted the former law on credit unions in the sense that a supervisory board is entitled to lodge an appeal during receivership. The right of access to documentation can be inferred from the general principles of Administrative Code [Act No. 500/2004]. The judgment was translated, published and disseminated in particular to the Constitutional Court, the Supreme Administrative Court, the National Bank and the Ministry of Finance.
CM/ResDH(2013) 120	CZE / Husak and 2 other cases	19970/04+	04/03/2009 04/12/2008	<i>Protection of rights in detention:</i> <i>Unlawful pre-trial detention due to lack of a hearing before the court.</i> <i>(Article 5§4)</i>	Applicants were released from detention on remand. Act No 459/2011 amending the Criminal Procedure Code entered into force on 01/01/2012 and introduced the new concept that of "detention hearing". Courts are now obliged to hold such a hearing in the presence of the accused. The law lists exceptional cases where the conduct of detention hearings will not be necessary (the accused refuses to appear in court; the accused was heard in the previous six weeks, and there are no new relevant facts; the health of the accused does not permit it; the accused will be released). The judgment was translated, published and disseminated.

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
CM/ResDH(2013)140	CZE / Kohlhofer and Minarik	32921/03+	01/03/2010 15/10/2009	Access to and efficient functioning of justice: Lack of access to a court as minority shareholders in joint stock companies were unable to legally challenge neither the company's resolution to wind up the company against their will nor an asset transfer granting all assets to the main shareholder. (Article 6 §1)	Just satisfaction paid. Invalidation of the transfer of assets would imply a disproportionate interference with third persons' rights. The regulation of transfer of assets to the majority was moved from the Commercial Code in 2008 to a new Companies Transformations Act No. 125/2008 without improvement of the position of minority shareholders. In 2011, the relevant legislation was amended by Act No. 355/2011, in particular, the impugned Section 131 (3) (c) of the Commercial Code was abolished. The Companies Transformations Act was modified to provide for a possibility to set aside a decision on transformation of the company (such as transfer of assets to the majority shareholder) after the entry of the transformation into the Commercial Register in case a minority shareholder changes the object of his motion or the decisions approving it are contrary to the legislation or internal statutes of the company. In case of transformation decisions, minority shareholders are now entitled to claim damages or a just satisfaction for non-pecuniary damage. The judgment was translated, published and disseminated.
CM/ResDH(2013)121	CZE / Pekárny a cukrárny Klatovy, a.s.v.	12266/07+	12/04/2012 12/01/2012	Access to and efficient functioning of justice: Lack of access to the Supreme Court due to its dismissal of a company's appeals against court interim measures prohibiting the company from convening general meetings in proceedings concerning a dispute over the ownership of 90 percent of the shares, without decision on merits. (Article 6 §1)	Change of case-law of domestic courts. The ECHR judgment was examined by judges of appellate courts as well as the Supreme and Constitutional Courts, and discussed 2012 at the joint meeting of High Courts competent to hear appeals in disputes concerning corporations. The judgment was translated, published and disseminated.
CM/ResDH(2013)227	CZE / Roman Minarik	58874/11	22/02/2013 22/11/2012	Access to and efficient functioning of justice: Limitation of the applicant's access to a court due to a refusal to consider the merits of a resolution adopted by a company's general	Just satisfaction paid. The relevant domestic legislation was modified (see CM/ResDH(2013)140 in Kohlhofer and Minarik).

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
				<i>assembly - of which he was a minority shareholder - resulting in his deprivation of his shares. (Article 6 §1)</i>	
CM/ResDH(2013)5	CZE / Tupa	39822/07	26/08/2011 26/05/2011	Protection of rights in detention: <i>Involuntary placement in a psychiatric hospital without hearing. (Article 5 §1)</i>	The applicant was released from psychiatric hospital. Case of an isolated nature. The judgment was translated, published and disseminated.
CM/ResDH(2013)218	CZE / Wallová and Walla + Havelka and Others	23848/04 23499/06	21/09/2007 21/06/2007	Protection of private and family life: <i>Order to take children into public care solely for socioeconomic reasons, in particular inadequate housing conditions. (Article 8)</i>	The new Civil Code explicitly stipulates that “inadequate housing conditions and material situation of parents of the child (...)” cannot per se be a reason for the court’s decision on institutional care (...).” It recognises institutional care only as a subsidiary measure. The best interest of the child is of primary consideration. Amendment No. 401/2012 of the Law No. 359/1999 on Social and Legal Protection of Children and of other relevant laws emphasises the protection of family and natural bonds and introduces new methods for social workers (assessment of the situation of the child in co-operation with NGOs; drafting of an individual plan for the protection of the child; organising, possibly in all cases, case specific conferences for relevant stakeholders, including parents and representatives of healthcare institutions and schools, before filing a motion for taking a child into institutional care, etc.). Amendment No. 401/2012 to the Family Act (Law No. 94/1963) explicitly prohibits a court to order institutional care of a child solely for inadequate housing conditions or financial situation of his/her parents. When ordering such care (for a maximum of three years with extension possible), the court is obliged to consider less severe alternatives, i.e. foster parents and care in centres for children requiring immediate help and to review the reasons for such a decision every six months. Amendment No. 134/2006 of the Law on Social and Legal Protection of Children imposes on the competent public authorities a duty to provide parents, after a removal of children from their care, immediate and comprehensive assistance with a view to effectively reunifying the family, including assistance with applications for financial and

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
					other benefits. Amendment No. 295/2008 of the Rules of Civil Procedure strengthens the right of the child to be heard and Amendment No. 404/2012 of 24 October 2012 of the Rules of Civil Procedure provides that the child can be accompanied by a person of his/her choice throughout the hearing. National Action Plans adopted. The judgment was transmitted to relevant authorities.
CM/ResDH(2013) 135	ESP / Gurguchiani	16012/06	15/03/2010 15/12/2009	No punishment without law: <i>Infringement of the principle of legality of criminal offences and punishments due to the imposition of a harsher sentence for an offence than the one foreseen in law at the time of its commission; replacement of a prison sentence on an alien with deportation and exclusion orders. (Article 7)</i>	As the applicant's location is unknown, just satisfaction could not be paid and expulsion not be executed. Isolated case. Extraordinary and exceptional review of proceedings could be requested, which is accepted exclusively in four cases established in Article 954.4 LECR (Code of Criminal Procedure) as interpreted by the Supreme Court and the Constitutional Court. The consideration of an ECHR judgment as a new fact justifying review depends on the nature of the fundamental right violated and the continuing effects of the violation. The judgment was translated, published and disseminated.
CM/ResDH(2013) 134	ESP / Lizaso Azconobieta	28834/08	28/09/2011 28/06/2011	Access to and efficient functioning of justice: <i>Infringement of presumption of innocence as the civil governor, in a press conference after the applicant's arrest, called him a member of an ETA commando unit responsible for three bomb attacks, therefore inciting the public to believe that he was guilty and prejudging an evaluation of the facts by the competent judges. (Article 6 § 2)</i>	The applicant was released and no charges brought against him. Isolated case. Today police spokesmen are bound by more stringent rules concerning media contacts in the investigation phase. An explanatory note on the obligations in relation to the presumption of innocence in the context of public communication of police authorities was sent to the Ministry of Interior. The Public Ministry, in Instruction No. 3/2005 on the relationship between the prosecution and the media, specifically stated that "at the time of delivering information, prosecutors must always keep in mind that the right to the presumption of innocence ... enjoyed by the person charged." The judgment was translated, published and disseminated.
CM/ResDH(2013) 8	EST / Andreyev	48132/07	22/02/2012 22/11/2011	Access to and efficient functioning of justice: <i>Deprivation of the right to appeal in criminal proceedings as the applicant's legal-aid lawyer had failed</i>	The case was reopened and the Supreme Court decided to adjudicate the respective appeals in cassation itself. In its 09/05/2012 judgment it referred to the Viru County Court ruling of 21/02/2012 in which it had already been decided that only the

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
				<i>to lodge an appeal within the applicable time-limit and no subsequent measures adequately remedied the situation. (Article 6 §1)</i>	operative part of the first Viru County Court judgment 03/11/2006 – imposing imprisonment and not expulsion -, shall be taken into account when implementing the judgment. Change in domestic courts' case-law underlining the discretion to assess various reasons for the restoration of a term for appeal in cassation, not only those of the applicant but also his/her legal counsel's. The judgment was translated, published and disseminated.
CM/ResDH(2013) 9	EST / Kochetov	41653/05	02/07/2009 02/04/2009	Protection against ill-treatment and conditions of detention: <i>Degrading treatment as a result of the poor material conditions of pre-trial detention at Narva Arrest House (overcrowding, inadequate ventilation, impoverished regime and poor hygiene) and lack of an effective remedy due to the restrictive approach by the domestic courts awarding compensation only in case of a government official's fault. (Article 3 and 13)</i>	Applicant released. Improvement of physical conditions of custodial institutions, including at Narva Arrest House. Building of new custodial institution for 150 detainees in the eastern region– Ida-Viru county, Jõhvi city – in 2008. Further plans concern the completion of new custodial institutions in Kuressaare end of 2012, in Pärnu in 2016, in Jõgeva in mid 2012, the mapping of construction opportunities for a new custodial institution in Haapsalu, the renovation of Valga Arrest House and Võru Arrest House in 2013. Change in case-law of domestic courts awarding non-pecuniary damage regarding complaints against conditions of detention independently of government officials' faults. The new draft State Liability Act is in the proceedings of Parliament. The judgment was translated, published and disseminated.
CM/ResDH(2013) 10	EST / Leas	59577/08	06/06/2012 06/03/2012	Access to and efficient functioning of justice: <i>Unfair criminal proceedings due to lacking access to a covert surveillance file leading to the charges and conviction. Failure to provide adversarial proceedings for disclosure of evidence and equality of arms or adequate safeguards to protect the interests of the accused. (Article 6 §1)</i>	The applicant's request to review the case on the basis of the violation found by the ECHR was granted by the Supreme Court. Isolated case. The judgment was translated, published and disseminated.

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CM/ResDH(2013) 7	EST / S.	17779/08	04/01/2012 04/10/2011	Protection of rights in detention: <i>Involuntary placement in a psychiatric hospital without being heard promptly. (Article 5 §1)</i>	The applicant was discharged from the psychiatric hospital. Case of an isolated nature. The judgment was translated, published and disseminated.
CM/ResDH(2013) 90	FIN / T. and Others and 4 other cases	27744/95+	13/03/2006 13/12/2005	Access to and efficient functioning of justice: <i>Excessive length of civil and criminal proceedings; lack of effective remedy in this respect; one case concerns unfairness of criminal proceedings due to a lack of possibility to question a victim who is minor. (Articles 6 §§1+3)</i>	The re-opening of domestic proceedings is possible under national law. Concerning excessive length of proceedings and remedy see CM/ResDH(2012)75 in Kangasluoma group. Concerning the possibility to question a victim who is minor see CM/ResDH(2011)205 in W.. The judgment was translated, published and disseminated.
CM/ResDH(2013) 60	FIN / Vilen	22635/04	17/05/2009 17/02/2009	Access to and efficient functioning of justice: <i>Unfairness of insurance proceedings concerning sickness benefits due to the impossibility to comment on medical statements included in the applicant's file. (Article 6§1)</i>	Reopening of proceedings is possible. In view of the Convention's and ECHR case-law's direct effect in the Finnish legal system, the judgment was disseminated to the Social Insurance Institution and the Appellate Board for Social Insurance, as well as to the Parliamentary Ombudsman, the Chancellor of Justice, the Committee for Constitutional Law of the Parliament, the Supreme Administrative Court, the Supreme Court, the Ministry of Justice, the Office of the Prosecutor-General, and the Ministry of Social Affairs and Health.
CM/ResDH(2013) 11	FRA / Y.P. and L.P.	32476/06	21/02/2011 02/09/2010	Protection against ill-treatment: <i>Risk of ill-treatment in case of deportation to Belarus. (Article 3 conditional)</i>	The applicants received a receipt for their residence application referenced "private and family life". Once its validity expired, they will receive a renewable residence permit of a year with the reference "private and family life". The judgment was published and disseminated via the websites of the Court of Cassation and "Legifrance" as well as on the intranet site of the administrative jurisdiction addressed to magistrates.
CM/ResDH(2013) 62	FRA / André and Others	18603/03+	24/10/2008 24/07/2008	Protection of private life and home as well as access to and efficient	The documents seized are at the disposal of the applicants. The judgment was published and disseminated, in particular to the

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	and 1 other case			functioning of justice: Searches and seizures in lawyers' premises at the request of fiscal administration were disproportionate to the aim pursued and lack of access to court to contest the measures' lawfulness. (Articles 6 §1 and 8)	officials in charge of the authorization of home searches, namely the judiciary, more specifically the Presidents of respective High Court. Concerning the absence of remedy see CM/ResDH(2012)28 in Ravon.
CM/ResDH(2013)184	FRA / Association Les Témoins de Jehovah	8916/05	30/09/2011 30/06/2011 (Merits) 05/10/2012 05/07/2012 (Just satisfaction)	Freedom of religion: Unforeseeable supplementary tax demands on donations with serious consequences on the applicant association's practice of religion were based on an insufficiently clear law. (Article 9)	An exemption was granted from the tax due, related mortgages on properties belonging to the applicant association discharged and the sums already paid were reimbursed. Just satisfaction was paid. The relevant legislation was amended (Article 757 of the General Tax Code amended by Law No.2003-709 of 01/08/2003 on patronage, associations and foundations) and a respective circular remedied the lack of clarity criticised by the Court. The judgment was published and disseminated.
CM/ResDH(2013)13	FRA / Chesne	29808/06	22/07/2010 22/04/2010	Access to and efficient functioning of justice: Unfair criminal proceedings due to lacking objective impartiality of two judges of the Criminal Appeals Chamber of the Orléans Court of Appeal, having previously been members of the Court of Appeal's investigation chamber delivering the judgments at issue, the reasoning of which amounted to a preconceived view of the applicant's guilt rather than a description of a "state of suspicion". (Article 6 § 1)	The case was re-examined. Case due to its particular circumstances. The judgment was published and disseminated.
CM/ResDH(2013)22	FRA / Cocaign	32010/07	20/04/2011 20/01/2011	Lack of an effective remedy: No possibility for detainees to have complaints under Article 3 examined by a judge before the execution of the	For General Measures see CM/ResDH(2013)21 in Payet.

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				<i>disciplinary measure at issue. (Article 13)</i>	
CM/ResDH(2013) 14	FRA / Consorts Richet and Le Ber	18990/07	18/02/2012 18/11/2010	Protection of property: <i>Refusal by the State to honour contractual obligations by denying owners the right to build on the island of Porquerolles following the introduction of new regulations. (Article 1 of Protocol No. 1)</i>	Just satisfaction paid. The judgment was published and disseminated. It was commented upon in various legal and specialised publications.
CM/ResDH(2013) 17	FRA / De Lesquien du Plessis-Casso	54216/09	12/07/2012 12/04/2012	Freedom of expression: <i>Disproportionate interference due to the applicant's criminal conviction for public defamation of a deputy mayor during a municipal council meeting through statements which, although provocative and controversial, were within the scope of public debate and not devoid of factual basis. (Article 10)</i>	As regards the other possible negative consequences of the conviction, in particular the registration of the conviction in the applicant's criminal record, the authorities specified that since the registration of a conviction is the outcome of a court ruling, the principle of parallelism of procedures requires that only another court ruling can annul the content of the criminal record. Following an ECHR judgment, a respective request for re-examination of the domestic decision may be made (Art. L 626-1 and following of the Code of Criminal Procedure). The judgment was published and disseminated.
CM/ResDH(2013) 16	FRA / Fontaine and Bertin and 4 other cases	38410/97+	10/11/2004 08/07/2003	Access to and efficient functioning of justice: <i>Unfair proceedings before the criminal chamber or the social chambers of the Cour de Cassation due to the failure to communicate, in whole or in part, the report of the reporting judge (conseiller rapporteur) and/or the conclusions of the Advocate-General to parties not represented by counsel, who as a consequence could not reply. Some of these cases also concern the presence of the advocate-general at the deliberations before the Cour de</i>	Applicants may request review of the criminal proceedings on the basis of the ECHR's judgment. For general measures, see CM/ResDH(2008)71 in Meftah and Others, CM/ResDH(2008)13 in Slimane-Kaid and Others No. 2, CM/ResDH(2007)42 in Delbec No.3 and CM/ResDH(2011)57 in Paturel.

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				<i>Cassation. (Article 6§1).</i>	
CM/ResDH(2013) 56	FRA / Gebremedhin	25389/05	26/07/2007 26/04/2007	Protection against ill-treatment: Lack of an effective remedy with automatic suspensive effect as requested by the Convention to defend the applicant's complaint that his return to Eritrea, exposed him to a risk of ill-treatment due to refusal of grant admission to the territory (Articles 13 combined with Article 3).	The law on the control of immigration, integration and asylum adopted on 07/11/2007 provides new possibilities of review in Article L213-9 of the Code of entry and residence of foreigners and asylum. A foreigner wishing to apply for asylum and subject of a refusal of entry into the French territory (issued by the Minister in charge of Immigration after consulting OFPRA - Office français de protection des réfugiés et apatrides), may, within forty-eight hours of notification of that decision, submit a reasoned request for its annulment to the administrative court. The OFPRA hearing report must in principle be communicated together with the decision. Aliens held in the waiting zone may seek the assistance of an interpreter and a doctor and communicate with counsel or any person of his choice (Articles L 213-2 and L221-4 of the Code of Entry and Stay). France concluded with Anafé (Association Nationale d'Assistance aux Frontières aux Etrangers) an agreement concerning assistance to be provided to foreigners kept in holding areas. Fifteen other associations received a ministerial authorization to allow their representatives to access the waiting area. Foreigner also benefits from the assistance of an interpreter during their interviews with OFPRA and at the hearing. The Administrative Court, acting through a single judge (the president of the administrative tribunal or a judge delegated by him), must decide within seventy-two hours of referral. The refusal of entry cannot be executed before the expiration of forty-eight hours after its notification or, in case of referral to the judge, before the latter had ruled. If the refusal of entry for asylum is cancelled by the judge, the alien is immediately authorized to enter France in order to take the necessary steps with OFPRA. Appeal against refusal of admission decisions in the territory is easily accessible.
CM/ResDH(2013) 12	FRA / H.R.	64780/09	22/12/2011 02/09/2010	Protection against ill-treatment: Risk of ill-treatment in case of deportation to Algeria. (Article 3 conditional)	The applicant received a provisional authorisation of renewable residence. This authorisation had the effect of repealing the prefectural orders ordering deportation to Algeria. It prevents any

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					expulsion measure.
CM/ResDH(2013) 23	FRA / Joubert	30345/05	10/12/2009 23/07/2009	Protection of property: <i>Disproportionate interference with the right to property due to legislation disposing retrospectively and finally, without justification on general-interest grounds, of the merits of tax litigation proceedings pending before domestic jurisdictions. (Article 1 of Protocol N°1)</i>	For details on GM see Final Resolution CM/ResDH(2011)62 in Zielinski and Others. The judgment was sent to all courts concerned as well as to the Conseil Constitutionnel and was published. Alignment of domestic case-law concerning “validatory legislation” provisions. On 09/03/2009 the Director of Legal Affairs of the Ministry for Foreign and European Affairs sent a note to the legal directorates of all ministries, to the Conseil d’Etat and to the Secretariat General of the government recapitulating the ECHR’s judgments concerning validatory legislation to raise awareness among all administrators concerned of the criteria laid down.
CM/ResDH(2013) 106	FRA / Karatas and Sari	38396/97	16/08/2002 16/05/2002	Access to and efficient functioning of justice: <i>Infringement of the right to be assisted by a lawyer during criminal proceedings in absentia due to refusal to allow the applicants’ lawyers to present their case on the ground that the applicants had failed to appear in court. (Article 6 §§1+3c)</i>	Under sections 489 and 492 of the Code of Criminal Procedure, judgment in absentia may be objected and may be annulled ab initio. Article 410 of the Criminal Procedure Code was supplemented in 2004 and now provides that if a lawyer is present to defend the accused, he must be heard if he so requests. The judgment was published and disseminated.
CM/ResDH(2013) 13	FRA / Klouvi	30754/03	30/09/2011 30/06/2011	Access to and efficient functioning of justice: <i>Breach of the presumption of innocence, the applicant having been automatically presumed guilty of false accusation on the basis of the dismissal of the charges brought against a man she had accused of rape and sexual harassment. (Article 6 §§1 and 2)</i>	The applicant may request review of the criminal proceedings on the basis of the ECHR’s judgment. The judgment was published and disseminated. The amendment of 09/07/2010 of Article 226-10 of the Criminal Code allows a person, who brought charges in criminal proceedings which were dismissed, to clear him/herself of the charge of false accusation.
CM/ResDH(2013) 15	FRA / Lilly France No.2	20429/07	25/02/2011 25/11/2010	Access to and efficient functioning of justice: <i>Unfair judicial proceedings due to the immediate application of Article 73 of the Law of 18/12/2003 “on social</i>	Domestic action for compensation of pecuniary damage due to the undue retroactive application of the legal provision in question is still pending. The judgment was published and disseminated. On 09/03/2009 the Director of Legal Affairs of the Ministry for Foreign

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				<i>security financing for 2004" in the absence of any "compelling grounds of the general interest" retroactively validating records drawn up during the inspection by social security services which were allegedly flawed. (Article 6)</i>	and European Affairs had sent a note to the legal directorates of all ministries, to the Conseil d'Etat and to the Secretariat General of the government recapitulating the ECHR's judgments concerning validatory legislation to raise awareness among all administrators concerned of the criteria laid down (see Resolution CM/ResDH(2011)62 in Zielinski and Others).
CM/ResDH(2013)158	FRA / Maat	39001/97	27/07/2004 27/04/2004	Access to and efficient functioning of justice: <i>Disproportionate restriction of access to court due to necessity to surrender to custody in order to be able to lodge an application to set aside a judgment given in absentia; failure to respect the rights of defence, due to the Court of Appeal's prohibition from being represented on the ground of the applicant's failure to appear in court. (Article 6 §§1+3c)</i>	The applicant could not be located. Change in case-law of the Court of Cassation on the question of admissibility of an appeal against a judgment by an absent accused person's lawyer with respective powers. With regard to the rights of defence, the possibility for the lawyer to intervene in proceedings in the absence of the accused was established by the Court of Cassation in its Dentico judgment. This legal development was ultimately enshrined in a law of 04/03/2004 which supplemented Article 410 of the Criminal Procedure Code. The judgment was published and disseminated.
CM/ResDH(2013)214	FRA / Martin and Others	30002/08	12/07/2012 12/04/2012	Freedom of expression: <i>Disproportionate interference with journalists' right to the protection of their sources in the context of a search of their offices and homes. (Article 10)</i>	Just satisfaction paid. The case, in the context of which the search took place, was discontinued. The judgment was translated, published and disseminated.
CM/ResDH(2013)261	FRA / Mo. M.	18372/10	18/07/2013 18/04/2013	Protection against ill-treatment: <i>Risk of ill-treatment if the applicant, suspected of collaboration with Darfur rebels, were deported to Chad. (Article 3 conditional)</i>	The applicant had been granted refugee status. The judgment was translated, published and disseminated.
CM/ResDH(2013)240	FRA / Moulin	37104/06	23/02/2011 23/11/2010	Protection of rights in detention: <i>Appearance before the deputy public prosecutor two days after arrest and placement in police custody is not an</i>	Just satisfaction paid. Enactment of Law No. 2011-392 of 14/04/2011 concerning detention in custody. Judges for civil liberties and detention (independent judges with security of office) now perform the duties formerly assigned to the public prosecutor

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				<i>appearance before a competent legal authority as the representative of the prosecuting authority did not offer sufficient guarantees of independence to be considered as a "judge or other officer authorized by law to exercise judicial functions". (Article 5 §3)</i>	in similar situations. The judgment was published and disseminated.
CM/ResDH(2013)241	FRA / Pascaud	19535/08	16/09/2011 16/06/2011 (Merits) 08/02/2013 08/11/2012 (Just satisfaction)	Protection of private and family life: <i>Inability for an adult to secure the judicial recognition of his biological father's parenthood (the father had died having owned a winegrowing estate that was ultimately left to the municipality) on the ground of the lack of express consent of the father to genetic testing having taken place before his death. (Article 8)</i>	Just satisfaction paid. After the judgment, the applicant introduced no further action for the recognition of his filiation. Very specific circumstances of the case. The judgment was published and disseminated.
CM/ResDH(2013)21	FRA / Payet	19606/08	20/04/2011 20/01/2011	Protection against ill-treatment: <i>Poor conditions of detention in a disciplinary cell at Fleury-Merogis prison and lack of effective remedy against the ordering of disciplinary sanctions. (Articles 3 and 13)</i>	Fleury-Merogis premises for disciplinary sanctions were renovated in 2010. To meet the European Prison Rules, every detainee has access to the command of light and a good level of natural light. A full renovation of the premises will be completed in 2017. Concerning the right to an effective remedy, detainees may submit a complaint to the Administrative Court and obtain a judicial decision very quickly. Under article L.521-1 of the Code of Administrative Justice, any defendant may request the judge of the Administrative Tribunal to order the suspension of an administrative decision's execution, or of some of its effects, when an emergency justifies it and in case of serious doubt as to the legality of the decision. The judge will rule within forty-eight hours. Detainees subjects to a disciplinary sanction may, in parallel to their (non-suspensive) application for annulment – request the judge to order suspension of the measure. This remedy's effectiveness with regard to disciplinary sanctions in prison

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					matters is reflected in case-law changes of the “Conseil d’Etat”. The introduction of a prior administrative appeal against the disciplinary decision taken by the Disciplinary Committee’s President does not prohibit the judge from hearing an application and from ordering safeguard measures. (EC. 9 August 2004, Husband Yilmaz, req. no270860). These proceedings provide for a remedy particularly adapted to the suspension of a contested disciplinary action thus protecting against inhuman and/or degrading treatment (EC, 27 March 2001 MINISTER OF INTERIOR c / Ahmed Djalout, No. 231735). The ECHR recognized that such an appeal constitutes an effective remedy concerning body searches (see El Shennawy, No. 51246/08, 20/01/2011 and also CMResDH(2012)81 in Frérot). These remedies allow an inmate to obtain a court decision before he has completed the punishment he contests.
CM/ResDH(2013) 19	FRA / Renaud	13290/07	25/05/2010 25/02/2010	Freedom of expression: <i>Disproportionate interference due to the applicant’s conviction for public defamation of a citizen holding a public mandate in articles published on the website of an association which he chaired - although the statements in question were within the framework of a debate of general interest and not devoid of any factual basis. (Article 10)</i>	As regards the other possible negative consequences of the conviction, in particular the registration of the conviction in the applicant’s criminal record, the authorities specified that since the registration of a conviction is the outcome of a court ruling, the principle of parallelism of procedures requires that only another court ruling can annul the content of the criminal record. Following an ECHR judgment, a request for re-examination of the domestic decision may be made (Art. L 626-1 and following of the Code of Criminal Procedure). The judgment was published and disseminated.
CM/ResDH(2013) 159	FRA / Société Canal Plus and Others	29408/08	21/03/2011 21/12/2010	Access to and efficient functioning of justice: <i>Lack of access to court to challenge the lawfulness of searches and seizures to which the applicants had been subjected in the framework of competition law proceedings. (Article 6 §1)</i>	Just satisfaction paid. For general measures see CM/ResDH(2012)28 in Ravon and Others and 3 other cases. The judgment was published and disseminated. It only concerns the transitional provisions of the respective Ordinance 13/11/2008 allowing its a retroactive application. Those companies that had been subject of a conviction by the Competition Authority had had the opportunity to challenge the search procedure before the Court of appeal of Paris. No further case is under investigation

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
					before the Competition Authority.
CM/ResDH(2013) 25	FRA / Stojkovic	25303/08	27/01/2012 27/10/2011	Access to and efficient functioning of justice: <i>Failure to grant a suspect the right to be assisted by a lawyer, when he was first questioned by Belgian police officers acting under an international request for judicial assistance issued by a French judge, who was present at the interview. (Article 6 §3(c) in conjunction with Article 6 §1). Application inadmissible in respect of Belgium.</i>	The applicant had the opportunity to request a review of the impugned criminal decision pursuant to relevant provisions of the Criminal Procedure Code. Since the facts of the case international law governing international letters rogatory changed and is now prescribed by Article 4§1 of the European Convention mutual assistance in criminal matters between the member States of the European Union ensuring that "the requested member State shall respect the formalities and procedures expressly indicated by the requesting member State (...)". The judgment was published and disseminated.
CM/ResDH(2013) 157	FRA and ROM / Dinu and 1 other case against France only	6152/02	06/04/2009 04/11/2008	Access to and efficient functioning of justice: <i>Delay in the enforcement of a final judicial decision ordering the applicant's former husband to pay maintenance for their son in the context of the application of the New York Convention on the Recovery Abroad of Maintenance due to lack of diligence by the relevant Romanian and French authorities to ensure speedy enforcement of judicial decisions awarding her maintenance for her son.(Article 6 §1)</i>	Romania: Just satisfaction paid. As from 18/06/2011, the EC Regulation No 4/2009 of the Council of the European Union, on Jurisdiction, applicable law, the recognition and enforcement of decisions and cooperation in maintenance obligations, is in force abolishing the exequatur procedure for the enforcement of respective judgments. As regards relationship with non-EU countries, the Hague Convention of 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance replaces the Convention on the recovery of maintenance abroad of 1956 (the instrument in force at the time the violation occurred in this case) and was approved by the European Union, on behalf of Member States, by the Council Decision No. 432/2011. It is applicable to Romania. France: Just satisfaction paid. Maintenance debt extinguished or recovered. To remedy the slowness in the exequatur delivery, an additional editor position was created and a

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					clerk was recruited. The Enforcement Office of maintenance claims abroad, is part of the Directorate for French abroad and consular administration within the Ministry of Foreign and European Affairs. This reorganisation significantly reduced the processing time for enforcement. Regulation (EC) No 4/2009 of 18/12/2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in maintenance obligations provides for the abolition of exequatur. The judgment was published and disseminated in both countries.
CM/ResDH(2013) 24	FRA/ Lagardère	18851/07	12/07/2012 12/04/2012	Access to and efficient functioning of justice: <i>Unfair proceedings and infringement of the presumption of innocence due to a posthumous finding of guilt for abuse of social goods in criminal proceedings engaging liability of the heirs in civil proceedings, despite the closure of the prosecution due to death. (Article 6§§ 1+2)</i>	Re-opening of the impugned civil proceedings cannot be envisaged due to the principle of legal certainty and the protection of legitimate expectations of third parties. The applicant may file action for State liability. The judgment was published and disseminated.
CM/ResDH(2013) 142	GEO / Dadiani and Machabeli	8252/08	12/09/2012 12/06/2012	Access to and efficient functioning of justice: <i>Non enforcement of a final domestic decision concerning the restitution of a plot of land due to excessive formalism by the competent registry. (Article 6§1)</i>	The applicant's property rights on the disputed land were registered by the National Agency of Public Registry on 15/01/2013. Isolated case. The judgment was translated, published and disseminated, in particular to the legal department of the National Agency of Public Registry for distribution to subordinate local agencies. Furthermore, for general measures concerning the non-enforcement of domestic judicial decisions see CM/ResDH(2011)108 in "Iza" Ltd and Makrakhidze and 2 other cases, confirming that the systemic problem of non-enforcement of the domestic judgments was solved.
CM/ResDH(2013) 244	GER / Rumpf and 70 other cases	46344/06+	02/12/2010 02/09/2010	Access to and efficient functioning of justice: <i>Lack of an effective remedy against the length of judicial proceedings before civil courts, labour</i>	Domestic proceedings closed in 66 out of 71 cases. Draft legislation was drawn up very soon after the pilot judgment. The Act on Legal Redress for Excessive Length of Court Proceedings and of Criminal Investigation Proceedings entered into force one

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
				<i>courts, administrative courts, social courts and criminal courts, as well as of criminal investigation proceedings. Pilot judgment. (Articles 6 §1 and 13)</i>	year after the pilot judgment became final on 03/12/2011. It provides a remedy against proceedings of excessive length in two steps: The “delay objection” permits judges to remedy the situation. If the proceedings continue to be delayed despite the complaint, a claim for compensation may be filed as a second step. In addition to compensation for a non-pecuniary disadvantage, there is appropriate compensation for a pecuniary disadvantage, for example if the unreasonably long proceedings lead to a company’s insolvency. The new claim to compensation is not dependent on fault. In addition to the new compensation rules, claims for official liability – as in the past – may also be lodged if the delay is based upon a culpable violation of official duties. In such cases, comprehensive compensation for damage may be claimed, for example compensation for lost profits. The judgment was translated, published and disseminated.
CM/ResDH(2013)27	GER / Tsikakis	1521/06	10/05/2011 10/02/2011	Protection of family life and excessive length of related proceedings: <i>Domestic courts’ failure to take effective measures (such as a coercive fine) against the mother to enforce the applicant’s access rights to his son, which were ordered by the domestic courts and agreed upon by the parties in excessively lengthy proceedings. (Articles 8 and 6)</i>	The applicant did not file a new request to have access to his son, who reached majority in March 2013, after the ECHR became final. Concerning effective legal protection against excessive length of court proceedings, see CM/ResDH(2013)244 in Rumpf. The judgment was translated, published and disseminated.
CM/ResDH(2013)178	GRC / Kosmopoulou	60457/00	05/05/2004 05/02/2004	Protection of family life: <i>Suspension by national courts of visiting rights with respect to the applicant’s daughter without her sufficient involvement in the decision-making process. (Article 8)</i>	The child reached majority. Amendment of Article 691 § 4 of Civil Procedure Code by Article 16 §1 of Law 4055/2012 provides for a hearing on the application for an interim order in a strict time limit of two working days. If the application for an interim order is granted, a hearing on interim measures is to be held within thirty days. At the material time of the case, Article 691 CCP did not provide for the appearance of the adverse parties; under its new wording, the preliminary examination by the competent judge of

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					the need to summon the defendant is compulsory. In family matters, in particular relating to custody, especially when it comes to protecting the interests of a child, the competent judge will always opt to hear the adverse parent. The judgment was translated, published and disseminated.
CM/ResDH(2013)176	GRC / Kostamides and Others	20299/09	26/09/2012 26/06/2012	Protection of property: <i>Erroneous interpretation and application of national law by the Audit Court when determining the date from which retroactive payment of pension rights may be received. (Article 1 of Protocol No.1)</i>	Just satisfaction paid. General measures see CM/ResDH(2012)87 in Kokkinis and Reveliotis. Change of the Court of Audit's case-law: the Court of Audit's plenary session considered that when pension rights are rejected by the administration, but granted in subsequent judicial proceedings, the starting-point for the time-limit for retroactive payment should be the final administrative decision (article no 60 §1 of Presidential Decree no 166/2000). The judgment was translated, published and disseminated.
CM/ResDH(2013)177	GRC / Takush	2853/09	17/04/2012 17/01/2012	Expulsion/extradition and procedural safeguards: <i>Decision to expel a lawful resident of Thessaloniki without thorough review and without opportunity to submit reasons against it. (Article 1 of Protocol No. 7)</i>	The applicant's name was deleted from the register of undesirable persons. The administrative court of Thessaloniki, by its decision of 30/09/2011, quashed the decision of the Aliens' Directorate of 30/09/2008 regarding the applicant's deportation. The judgment was translated, published and disseminated, in particular to the Ministry concerned. On 15/11/2012, the Police Headquarters addressed a Circular to all authorities involved in deportation proceedings.
CM/ResDH(2013)179	GRC / Tsitsiriggos	29747/09	17/04/2012 17/01/2012	Protection of rights in detention: <i>Lack of precise legal basis for the prolongation of pre-trial detention and lack of speedy review of its lawfulness. (Article 5 §§1c+4)</i>	The applicant was released. The case appears to be isolated as the competent prosecutor (and then the Indictment Division) acted in a way that was 'contrary' to the national law's provisions and therefore arbitrary. The judgment was translated, published and disseminated. General measures to guarantee speedy review of applications for release from pre-trial detention and relevant time limits needed by Indictment Divisions to determine requests for release are examined in Giosakis (No 1) group.
CM/ResDH(2013)29	IRL / Superwood	7812/04	08/12/2011 08/09/2012	Access to and efficient functioning of justice: <i>Excessive length of civil</i>	The judgment published and disseminated and laid before Dáil Éireann (the House of Representatives) and Seanad Éireann (the

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
	Holdings plc			<i>proceedings against insurance firms which refused to pay out damages following a fire at a factory. (Article 6 §1)</i>	Senate) on 20/09/2011. A range of measures to address delays in the Irish Courts were adopted: for details see Doran and 3 other cases, CM/ResDH(2011)224 .
CM/ResDH(2013)63	ITA / Capitani and Campanella and 2 other cases	24920/07+	17/08/2011 17/05/2011	Access to and efficient functioning of justice: <i>Impossibility to request a public hearing in proceedings with regard to preventive measures aimed at the seizure and confiscation of a person's property and movable assets, due to suspicions of membership of a criminal organisation. (Article 6 §1)</i>	The applicants participated in the proceedings following those at issue, which had resulted in confiscations. Two levels of jurisdiction decided on the merits of each case. For general measures see CM/ResDH(2011)123 in Bocellari and Rizza.
CM/ResDH(2013)109	LIT / Balciunas	17095/02	20/10/2010 20/07/2010	Protection of rights in detention: <i>Excessive length of detention on remand without specification of the manner in which grounds enumerated in the Code of Criminal Proceedings applied. (Article 5 §§3)</i>	Legislative amendments concerning detention on remand: see CM/ResDH(2004)56 in Jėčius. Since the entry into force of the new Code of Criminal Procedure on 01/05/2003, domestic authorities have aligned their practice accordingly. An explanatory note regarding the present judgment together with the judgment and its translation were placed on the internet site of the Ministry of Justice. The judgment was translated, published and disseminated.
CM/ResDH(2013)33	LUX / Wagner and J.M.W.L.	76240/01	28/09/2007 28/06/2008	Protection of family life, access to and efficient functioning of justice and discrimination: <i>Refusal to enforce a full adoption order by a foreign court in favour of a single mother living with her adopted daughter since the date of the foreign adoption order; failure of a court of appeal to examine the applicants' main grounds of appeal; discrimination in treatment compared with children whose full adoption granted abroad was recognized resulting in unjustified consequences of</i>	The foreign adoption judgment received an exequatur in Luxembourg and its enforcement became final. A reform of national legislation on adoptions, in particular to remove the distinctions between simple adoption and full adoption was initiated and a respective a bill to reform marriage and adoption was tabled in the House of Representatives in 2010. Changes in domestic courts' case-law with regard to adoption by single parents; in particular the Court of Appeal established that "Article 367 Civil Code excluding the full adoption by single persons is not in conformity with the ECHR and is thus to be disregarded". The judgment was published and disseminated.

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				<i>the refusal for child and parent. (Articles 8, 6 and 14 in conjunction with 8)</i>	
CM/ResDH(2013) 34	LUX / Schneider	2113/04	10/10/2007 10/07/2007	Freedom of association and protection of property: <i>Interference with the right to freedom of association as, according to a law of 1925, the applicant was forced to enroll in an association, a hunting syndicate, albeit she disapproved its aims and interference with property rights due to the obligation to include her land in a hunting area. (Articles 11 and 1 of Protocol. No. 1)</i>	Abrogation of 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, in 2011 so as to allow those opposed to hunting to refuse to join the associations.
CM/ResDH(2013) 161	MLT / Aquilina and Others and 1 other case	28040/08	14/09/2011 14/06/2011	Freedom of expression: <i>Disproportionate interference due to damages granted in the defamation proceedings. (Article 10)</i>	The defamation proceedings were civil, not criminal proceedings, therefore no need for reopening proceedings. Just satisfaction paid. Erroneous interpretation by the domestic courts of the Press Act: isolated cases. The judgment was published and disseminated.
CM/ResDH(2013) 162	MLT / Dadouch	38816/07	20/10/2010 20/07/2010	Protection of family life: <i>Refusal to register the applicant's marriage for a period of over two years. (Article 8)</i>	The applicant's marriage was registered in 2006. Isolated case The judgment was published and disseminated within the Public Registry for the purpose of better administrative co-ordination.
CM/ResDH(2013) 145	MLT / Mercieca and Others	21974/07	14/09/2011 14/06/2011	Access to and efficient functioning of justice: <i>Procedural rules on time limits for challenging the lower court's decision were construed by the Court of Appeal in such a way as to prevent the applicants' appeal being examined on the merits. (Article 6 §1)</i>	Domestic proceedings were reopened. Legislation regulating time limits for appeal was amended to avoid any future misinterpretation: Act XIII of 2005 amended Article 231(1) of the Code of Organisation and Civil Procedure. The judgment was published and disseminated.
CM/ResDH(2013) 160	MLT / Mizzi	26111/02	12/04/2006 12/01/2006	Access to and efficient functioning of justice, protection of family life and	Following an amendment to the Civil Code in 2007 the applicant had the opportunity to bring an action for disavowal of his

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				<i>discrimination: Denial of the possibility of a judicial determination of the claim of not being the biological father of a child born in wedlock in 1967 several months after the couple's separation; failure to take account of the fact that the DNA tests had not been available in 1967; failure to strike a fair balance between the applicant's legitimate interest in having a judicial determination of his presumed paternity and the protection of legal certainty and of the interests of third parties; discriminatory application of strict time-limit. (Articles 6 §1, 8 and 14 in conjunction with 6§1 and 8)</i>	daughter. The new Article 70(4) provides that any putative father who brought a claim which related to a child born prior to 1993 might benefit from the reforms enacted in 1993 provided that the claim was brought before 31/12/2008. Article 73 of the Civil Code was amended by the insertion of two new provisions allowing, upon the authorisation of the Court, the institution of an action for the repudiation of a child even after the time limits established by law. Domestic courts are now permitted, after examination of the circumstances of the case, to authorise a husband to institute an action to disown a child born in wedlock outside the relevant time limits. The judgment was published and disseminated.
CM/ResDH(2013) 146	MLT / San Leonard Band Club	77562/01	29/10/2004 29/07/2004	<i>Access to and efficient functioning of justice: Lack of a fair hearing before an impartial tribunal in the context of a petition for retrial of civil proceedings, when the same judges of the Court of Appeal were called upon to ascertain whether their previous judgment was based on a misinterpretation of the law. (Article 6 §1)</i>	In 2005, the Constitutional Court ordered that the applicant's petition for retrial of 1994 should be heard afresh. Change of judicial practice: in the event of a request for retrial the judges involved have, to date, always abstained from presiding over the retrial proceedings. The judgment was published and disseminated.
CM/ResDH(2013) 144	MLT / Stephens No.1	11956/07	14/09/2009 21/04/2009	<i>Protection of rights in detention: Detention after unlawful arrest order made during the course of extradition proceedings and declared illegal. (Article 5 §1)</i>	Just satisfaction paid. Isolated incident. The judgment was translated, published and disseminated.
CM/ResDH(2013) 64	MON / Barac and Others	47974/06	13/03/2012 13/12/2011	<i>Access to and efficient functioning of justice: Final domestic judgment based</i>	The applicants did not lodge a request for reopening of the impugned civil proceedings. Misapplication of the legislation by

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
				<i>on a law, which was no longer in force at the relevant time. (Article 6§1)</i>	the domestic courts in this particular case. The judgment was translated, published and disseminated.
CM/ResDH(2013)91	MON / Lakicevic and Others	27458/06+	13/03/2012 13/12/2011	Protection of property: <i>Suspension of pension rights due part-time work in legal practices (Article 1 Protocol No. 1)</i>	The payment of pensions in respect of all applicants resumed in January 2009. Inadequate legal provisions, in particular Section 112 §1 of the Law on Pension and Disability Insurance providing that a person's pension shall be suspended should he or she resume working or establish a private practice was repealed in 2008. Pursuant to amendments to the Law on Pension and Disability Insurance acquired pension entitlements cannot be repealed or restricted by subsequent measures, in particular on the basis of resumed professional activities. The judgment was translated, published and disseminated.
CM/ResDH(2013)117	NOR / Nunez	55597/09	28/09/2011 28/06/2011	Protection of family life (expulsion): <i>Interference in the event of a mother's expulsion entailing the separation from her children, born and living in Norway. (Article 8 conditional)</i>	Following the Court's Rule 39 decision, the Immigration Appeals Board suspended the obligation to leave Norway. Following the ECHR judgment, the Immigration Appeals Board reversed its expulsion decision on 17/11/2011. An application for family reunification with the applicant's children was lodged on 04/10/2011. Though the requirements for family reunification were not met, the Directorate granted the applicant a residence permit on humanitarian grounds (Section 38 of the Immigration Act). On 04/11/2011, the Ministry of Justice issued instructions to the Immigration Directorate regarding expulsion cases affecting children to ensure the authorities practices' in accordance with ECHR jurisprudence. The Ministry outlines more general principles and considerations to be taken into account in expulsion cases affecting children, e.g. the importance of a thorough assessment and the State's margin of appreciation. The judgment was translated, published and disseminated.
CM/ResDH(2013)248	POL / Bar-Bau SP.Z.O.O.	11656/08	10/04/2012 (Committee)	Access to and efficient functioning of justice: <i>Insufficient reasons given by the Supreme Court of Cassation for refusing the cassation appeal on points</i>	Just satisfaction in respect of non-pecuniary damage paid. No possibility for reopening of civil proceedings. A claim for compensation against the State Treasury for the so-called "court unlawfulness" may be submitted. Isolated decision by a single

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
				<i>of law in civil proceedings for damages instituted against the State Treasury. (Article 6 §1)</i>	Supreme Court's judge. The judgment was translated, published and disseminated and is used in training activities for judges.
CM/ResDH(2013)82	POL / Biziuk N°2	24580/06	17/04/2012 17/01/2012	Protection of rights in detention: <i>Unlawful detention due to lack of evidence that the applicant's mental condition necessitated his confinement in psychiatric hospital and delayed proceedings concerning this decision's challenge. (Article 5 §§ 1+4)</i>	Isolated case resulting from the hospital's disregard of a decision which stated that the applicant's condition had significantly improved, and based its conclusion not to release him on an earlier decision, given in another set of proceedings, ordering his confinement. The judgment was translated, published and disseminated. It is also included in the training programme addressed to judges and prosecutors.
CM/ResDH(2013)208	POL / Byrzykowski	11562/05	27/09/2006 27/06/2006	Protection of the right to life: <i>Deficiencies of investigations into the causes of death of the applicant's wife while giving birth in a hospital. (Article 2 procedural limb)</i>	Criminal investigation, civil and disciplinary proceedings terminated. An amendment (entry in force from 1/05/2009) of the "Act on a complaint of breach of the right to a trial by the court without undue delay" of 17/06/2004 provides for the possibility of a complaint in case of excessive length of investigations. The remedy against excessive length of criminal proceedings, with regards to a right to have a case heard within a reasonable time, is supervised in the Kudla group of cases (30210/96). In order to simplify and accelerate criminal proceedings, an appeal against the decision to refuse an investigation or to discontinue it shall be lodged directly to the court not via the prosecutor (Article 465 §2 Code of Criminal Proceedings). In case the prosecutor decides to refuse opening of the investigation or to discontinue it, the victim may initiate proceedings as an "auxiliary prosecutor" (Articles 329-330 CCP). Prosecutors' decisions on non-initiation or discontinuation of investigations, are subject to the close scrutiny of their superiors, in line with guidelines issued by the Prosecutor's General Office on 30/11/2012. On 2/12/2009, the new Chambers of Physicians Act, which regulates the professional responsibility of doctors, was adopted. The Act contains several provisions designed to broaden victims' rights in disciplinary proceedings. An amendment of Article 285 §1 CCP dated 09/05/2007 broadened the scope of instruments at the courts' disposal for disciplining

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					persons participating in particular criminal proceedings, inter alia, experts and provided for the possibility of imposing a penalty for unexcused absence of the court expert. Introduction of a remedy against excessive length of investigation. The judgment was translated, published and disseminated.
CM/ResDH(2013)163	POL / Garycki and 1 other case	14348/02	06/05/2007 06/02/2007	Protection of rights in detention and respect of the presumption of innocence: Excessive length of pre-trial detention and clear judicial declaration on the applicant's guilt before proven guilty. (Articles 5§3 and 6 §2)	The lack of respect of the presumption of innocence constituted an incident of isolated nature and resulted from the failure of specific national courts. The issue of the excessive length of detentions is being examined under the Trzaska group (25792/94).
CM/ResDH(2013)65	POL / Giszczak	40195/08	29/02/2012 29/11/2011	Protection of private and family life: Domestic court's refusal of the applicant's requests for compassionate leave to visit his dying daughter in hospital and the failure to provide a timely and adequate reply to the applicant's request for leave to attend her funeral. (Article 8)	On 01/01/2012 the law on compassionate leave was changed. Art. 141a §1 of the Executive Criminal Code now provides for a possibility of granting a prisoner a leave under escort of the officer of the Prison Service, a trustworthy person or alone in order to visit sick family member or attend a funeral. Moreover new provisions provide for a possibility of lodging a complaint on the decision of the head of penitentiary unit. The judgment was translated, published and disseminated.
CM/ResDH(2013)37	POL / Jakobski	18429/06	07/03/2011 07/12/2010	Freedom of religion: Refusal to provide a detainee with a meat-free diet in conformity with the requirements of his Buddhist faith. (Article 9)	The applicant was released. Isolated case. Article 109 of the 1997 Code of Execution of Criminal Sentences provides that a prisoner shall receive meals taking into consideration, where possible, religious and cultural requirements. By the end of August 2011, 927 prisoners and persons detained on remand were enjoying a diet taking into consideration their religious and cultural beliefs and 957 were granted a vegetarian diet. A convicted person may submit motions, complaints and petitions to the authorities carrying out the criminal decision and may appeal to the court against the decisions of the directors of the penitentiary establishments, regional directors of the Prison Service and the Director General of the Prison Service. The judgment was translated, published and disseminated.

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CM/ResDH(2013)228	POL / Klamecki No.2 and 58 other cases	31583/96+	03/07/2003 03/04/2003	Protection of correspondence and family life and access to and efficient functioning of justice: <i>Monitoring of correspondence in detention on remand and refusal of family visits; in some cases lack of procedural guarantees and excessive length in detention on remand. (Articles 8, 6 §1 and in one case also 34)</i>	Most applicants are no longer in detention on remand. In accordance with recent domestic case law, persons alleging infringement of their right to respect for their correspondence may claim compensation from the State Treasury under Article 448 in conjunction with Article 24§2 of the Civil Code. The Code of Execution of Criminal Sentences of 1997, with respect to the issue of monitoring of correspondence of persons deprived of their liberty was amended in September 2003 and in January 2012. Amendments to Article 217 of the Code of Execution of Criminal Sentences in 2010 provide that a detainee is entitled to at least one family visit per month. They indicate conditions for refusing a family visit and provide an appeal procedure. According to a further amendment in 2011, a visit in direct contact of detainee and visitor can be organised. Short guidelines on the standards in of ECHR jurisprudence with regards to the issue of prisoners' rights were published on the website of the Ministry of Justice. The judgment was translated, published and disseminated.
CM/ResDH(2013)81	POL / Kozak	13102/02	02/06/2010 02/03/2010	Discrimination on the ground of sexual orientation: <i>Denial by domestic courts of a right to succession to tenancy of the shared municipal flat, rented by the applicant's partner, after the latter's death, on the ground of the homosexual nature of their relationship. (Article 14 taken in conjunction with 8)</i>	The applicant's contradictory and inconsistent statements made before the domestic courts and administrative authorities in three separate sets of proceedings related to the succession of tenancy after his deceased partner played a role in his eviction from the flat in question. The 1994 Act Lease of Dwellings and Housing Allowances was repealed in 2001. Since then, the rules governing succession to lease have been included in the Civil Code in Article 691: In the event of a tenant's death, a person who had lived in de facto cohabitation with the tenant shall also succeed to the tenancy agreement. Thus, in contrast to previous regulation, the current law does not foresee that the cohabitation must be "marital". Domestic courts recognize same-sex partners as de facto cohabitants. They base their interpretation of the term "de facto cohabitation" on the Court's findings in the present case. This practice was further confirmed by the Supreme Court in its resolution of 28/11/2012. The judgment was translated, published and disseminated.

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
CM/ResDH(2013) 190	POL / Kulikowski and 12 other cases	18353/03+	19/08/2009 19/05/2009 (Merits) 21/03/2011 21/12/2010 (Just satisfaction)	Access to and efficient functioning of justice and protection of rights in detention: <i>Lack of access to a court due to a legal-aid lawyer's refusal to lodge a cassation appeal; excessive length of detention on remand in one case. (Article 6§1 in conjunction with 6§3(c)) as well as Article 5§3)</i>	The applicants had the possibility to lodge a request for a retrospective leave to appeal out of time. The Supreme Court gave a series of decisions ruling that in case of a legal-aid lawyer's refusal to assist an appellant in filing and lodging cassation appeals because of a lack of prospects of success, the appellate court is obliged to inform the appellant about the position of his lawyer and the right to lodge a cassation appeal prepared by a lawyer of his own choice and to notify the appellant that the time-limit for lodging a cassation appeal started to run on the date of being served with the refusal. General measures with regard to detention on remand are examined in the context of the Trzaska group of cases The judgment was translated and disseminated, and the topic forms a part of curricula of trainings for judges and prosecutors.
CM/ResDH(2013) 85	POL / Laskiewicz	28481/03	15/04/2008 15/01/2008	Protection of rights in detention: <i>Failure to ensure equality of arms and the adversarial principle due to impossibility to adequately challenge motions for prolongation of detention as neither the applicant nor her lawyer were served with copies of the prosecutor's motions or had the access to the case files. (Article 5 §4)</i>	The applicant was released. On 07/06/2004 the applicant's counsel was allowed to consult the file. For general measures see CM/ResDH(2011)142 in Chruściński. The judgment was translated, published and disseminated.
CM/ResDH(2013) 191	POL / Laskowska	77765/01	13/06/2007 13/03/2007	Access to and efficient functioning of justice: <i>Erroneous assumption that a cassation appeal was not available on an issue of entitlement to maintenance (compared to issues on the amount of maintenance) in the light of the Code of Civil Procedure's provisions in force in material time. (Article 6 §1)</i>	The applicant did not avail herself of the possibility of requesting the leave to appeal out-of-time. Following amendments to the Civil Procedure Code in 2000 no cassation appeal may be lodged with the Supreme Court in any cases relating to amounts of maintenance (Article 3921§2(1) and Article 3982§2(1)) after 2005.. The judgment was translated, published and disseminated.
CM/ResDH(2013)	POL / Luczak	77782/01	02/06/2008	Discrimination and protection of	Just satisfaction covering also unpaid contributions towards the

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
215			27/11/2007	property rights: <i>Refusal of admission to farmers' social security scheme due to nationality (Article 14 in conjunction with 1 of Protocol No. 1)</i>	applicant's retirement pension paid. Since 2004 the applicant has a right to join a social security scheme for farmers. He can also apply to the President of the Farmer's Social Security Fund for granting him extraordinary retirement pension in specific circumstances. On 02/04/2004, the 1990 Act was amended because of Poland's accession to the European Union, so that the difference in treatment in the farmers' scheme was remedied. The judgment was transmitted to relevant authorities.
CM/ResDH(2013)83	POL / Miernicki	10847/02	10/05/2010 27/10/2009	Protection of rights in detention and of correspondence: <i>Unlawfulness of a decision reviewing the applicant's detention on remand; censorship of the detained applicant's correspondence. (Articles 5 §1 and 8)</i>	The case was of an isolated nature and resulted from failure of a national court to comply with a procedure prescribed by the domestic law. The Code of Criminal Procedure provides that a judge is ex lege disqualified from his participation in a case, if, inter alia, he had participated, in a lower court, in the delivery of a decision subject to an appeal. This provision applies not only to judgments but also to all procedural decisions as i.a. the imposition of detention on remand. General measures concerning protection of correspondence are examined in the Klamecki (No. 2) group of cases (31583/96).
CM/ResDH(2013)84	POL / Miroslaw Garlicki and 2 other cases	36921/07	14/09/2011 14/06/2011	Protection of rights in detention: <i>Assessor (junior judge) deciding on detention on remand failed to offer the guarantees of independence required of an "officer". The possibility of conferring the exercise of judicial powers on assessors, provided for by the Law of 2001 on the Organisation of Courts, fell short of constitutional requirements because assessors did not enjoy the necessary guarantees of independence, notably vis-à-vis the Minister of Justice. (Article 5 § 3)</i>	The applicant is no longer detained on remand. In one case domestic law allowed reopening of criminal proceedings. As regards general measures see CM/ResDH(2012)197 in Henryk Urban and Ryszard Urban.
CM/ResDH(2013)	POL / Richert	54809/07	25/01/2012	Access to and efficient functioning of	Pursuant to article 540 §3 of the Code of Criminal Procedure,

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
66			25/11/2011	<i>justice: Conviction by a tribunal which was not "established by law"; failure to meet the necessary legal requirements to safeguard judicial independence due to a retrospective authorisation of a judge's assignment to sit on the bench in a court other than his/her own. (Article 6 §1)</i>	reopening of criminal proceedings is possible. An amendment to the Law on the Structure of Courts is in force from 28/03/2012 providing for a possibility to second a judge to another court of the same or lower level for uninterrupted period no longer than 6 months per year. The judgment was translated and published on the website of the Ministry of Justice.
CM/ResDH(2013) 247	POL / Rosenzweig and Bonded Warehouses Ltd.	51728/99	30/11/2005 28/07/2005 (Merits) 22/10/2012 05/06/2012 (Just satisfaction)	Protection of property rights: <i>Disproportionate control of property use due to the revocations without precise reason of an export permit (and later a licence to run a bonded warehouse) the applicant company had been granted, preventing the company from conducting further business. Ultimately, these decisions were set aside as being not in accordance with domestic law by the Main Customs Office. Failure of authorities to follow any genuine and consistent policy considerations when revoking and changing their decisions concerning the operation of Bonded Warehouses Ltd. (Article 1 of Protocol No. 1)</i>	Domestic decisions revoking the licenses were set aside, but the applicant company did not resume its business activities. The applicants' claims in respect of pecuniary damage had been dismissed as they had not been duly documented. Just satisfaction in respect of non-pecuniary damage paid. The revocation of the permit and the licence was not in conformity with applicable laws. The judgment was translated, published and disseminated.
CM/ResDH(2013) 147	POL / Siałkowska and 6 other cases	8932/05+	09/07/2007 22/03/2007	Access to and efficient functioning of justice: <i>Lack of access to the Supreme Court (or Supreme Administrative Court) due to lack of timely and reasoned information in writing on the refusal of legal-aid lawyers to assist in lodging cassation appeals in civil</i>	The Law amending the Code of Civil Procedure (entered into force on 18 April 2010). According to Article 118 § 5 of the Code of Civil Procedure, if an advocate or a legal counsel, appointed in connection with the cassation appeal proceedings, finds no grounds to file an appeal, he/she shall notify thereof in writing the party and the court immediately and not later than within two weeks since the notification of his/her appointment. New rules for

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
				<i>proceedings on the ground of lacking reasonable prospects of such appeals. (Article 6 §1)</i>	the expiry of a time-limit for lodging a cassation appeal were introduced. Moreover, the Supreme Bar Council, in its resolution no. 61/2007 of 15 September 2007, held that the analysis of the case files in order to verify whether there exist grounds for lodging a cassation appeal should be conducted by an advocate without undue delay. Based on a general rule of the lawyers' liability for incorrect or negligent conduct, a party may seek compensation before a civil court against legal aid lawyer, who refused to lodge a cassation appeal. This rule was confirmed by the Supreme Court's judgment of 18 April 2002 (case No. II CKN 1216/00) and Gdańsk Court of Appeal judgment of 25 November 2005 (case No. I ACA 1092/05). The judgment was translated, published and disseminated.
CM/ResDH(2013)209	POL / Skibinscy and 5 other cases	52589/99	26§03/2007 14/11/2006 (Merits) 06/04/2009 21/10/2008 (just satisfaction)	Protection of property rights: <i>Impossibility to build on land designated for public use in local development plans and thus for expropriation at some undetermined date without any compensation. (Article 1 of Protocol No. 1)</i>	Just satisfaction for pecuniary and non-pecuniary damage paid. All old local development plans adopted before 01/01/1995 were repealed as of 01/01/2004. They can thus not form a basis for any limitations of the owners' rights. By virtue of Article 36 of the Local Planning Act 1994, local authorities became obliged either to buy plots designated for future expropriation under local land development plans, to replace those plots by other plots, or to award the owners compensation for damage caused by the fact that their plots were designated for future expropriation. Analogous regulations pertaining to claims lodged by owners and perpetual users of a real estate are contained in Article 36 of the Local Planning and Development Act of 27/03/2003. Detailed rules concerning the calculation and terms of compensation are contained in its Article 37. Thus, in case a new local plan imposing limitations on the use of real estate, all respective owners are entitled on an equal footing to obtain redress through compensation or restitution. The judgment was translated, published and disseminated.
CM/ResDH(2013)111	POL / Sobolewski	19847/07+	09/09/2009 09/06/2009	Access to and efficient functioning of justice: <i>Lack of possibility to appear</i>	Reopening of the criminal proceedings possible. The judgment was translated, published and disseminated. The Supreme Court

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
	No.2 and 2 other cases			<i>before an appellate court and to defend oneself in person against charges. (Article 6§§1 and 3(c))</i>	adjusted its case-law. The judgments was also included in the curriculum of trainings for judges and prosecutors by the National School of Judiciary and Public Prosecution Service.
CM/ResDH(2013)112	POL / Wieczorek	18176/05	08/03/2010 08/12/2009	Access to and efficient functioning of justice: <i>Lack of access to a court to challenge refusal to grant legal aid without proper examination. (Article 6§1)</i>	The applicant had a right to apply for the lodging a cassation appeal out of time. For general measures see CM/ResDH(2011)239 in Tabor.
CM/ResDH(2013)38	POL / Witek	13453/07	11/04/2011 21/12/2003	Protection of rights in detention: <i>Unlawful placement in a psychiatric hospital on the basis of an expert opinion; delayed ordering and examination by the district court of a fresh expert opinion confirming that the applicant's mental condition necessitated detention; delayed examination of the applicant's appeals by the regional court. (Article 5 §§1+4)</i>	The applicant was released from hospital on 16/11/2007. Isolated case resulting from failure of national courts. The judgment was translated, published and disseminated.
CM/ResDH(2013)92	POL / Wojciechowski and Kazimierczak	5422/04+	05/06/2009 09/12/2008	Protection of rights in detention and efficient functioning of justice: <i>Disregard of presumption of innocence due to the grounds used by courts to motivate decisions extending the applicants' detention on remand; excessive length of detention on remand. (Articles 5§3 and 6 §2)</i>	The applicants are no longer detained on remand. Concerning the statements of bias made by the judges, the problem was an isolated one. General measures concerning detention on remand are supervised in Trazska group. The judgment was translated, published and disseminated.

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
CM/ResDH(2013) 39	POL / Wojtas-Kaletka	20436/02	16/10/2009 16/07/2009	Freedom of expression: Reprimand of a journalist by her employer, Polish Public TV, for having expressed, in an interview and in an open letter, her concerns about, inter alia, the quality of public television programmes, which could be kept on her record for up to a year, depending on her behaviour. On her request to have the reprimand withdrawn, the labour courts found her to having breached her obligation of loyalty towards her employer, as provided in the company's general regulation no 14 § 2. (Article 10)	Reprimand was removed from record. Case of an incidental nature resulting from the practice of the public television broadcaster and argumentation of domestic courts. The judgment was translated, published and disseminated.
CM/ResDH(2013) 67	POL / Wos and 6 other cases	22860/02+	08/09/2006 08/06/2009	Access to and efficient functioning of justice: Lack of judicial review of decisions taken by the Polish-German Reconciliation Foundation on the claims to compensate victims of Nazi persecution, slave and forced labour, under two compensation schemes established in 1991 and 2000 respectively due to the Supreme Administrative Court ruling that the administrative courts did not have such jurisdiction. (Article 6§1)	After the Supreme Court's resolution of 27/06/2007, the applicants were able to challenge decisions of the Polish-German Reconciliation Foundation before courts of general competence. General measures: The judgment was translated, published and disseminated. By Resolution No. 11/2002 of 07/06/2002, the Supervisory Board of the Foundation concluded payments under the first compensation scheme, the funds from the German Government having been exhausted. As of 30/09/2006, the second compensation scheme, established under joint statement of 17/07/2000, ceased its operation.
CM/ResDH(2013) 93	PRT / Almeida Santos	50812/06	06/01/2010 06/10/2009 (Merits) 22/11/2010 27/07/2010 (Just satisfaction)	Access to and efficient functioning of justice: Unfairness of civil proceedings and infringement of principle of equality of arms due to lacking possibility (as enjoyed by the opposite party) to participate in inventory legacy proceedings for estate division.	The applicant refused to accept the amount of just satisfaction fixed by the ECHR. Review proceedings are possible. Relevant legislation was modified: Article 1330 §2 Civil Procedure Code was repealed by Legislative Decree No. 227/94 of 08/09/1994. For the inventory procedures introduced after that date, all concerned must now be notified of the procedural steps. The judgment was translated, published and disseminated.

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
				(Article 6 §1)	
CM/ResDH(2013)230	PRT / Antunes Rocha	64330/01		Protection of private life and access to and efficient functioning of justice: Lack of clarity of the legal basis for the security investigation necessary for access to a certain professional activity in NATO Offices; excessive length of criminal proceedings which the applicant had joined as "auxiliary prosecutor" to claim respective damages.(Articles 8 and 6 §1)	The applicant's security file in the archives of the National Security Authority was destroyed. Isolated case. The judgment was translated, published and widely disseminated. A new organic law on the National Security Cabinet was adopted. (Law-Decree N° 170/2007. This legislation improved the protection of private life in the case of security investigations of an employee providing effective remedies in this regard.
CM/ResDH(2013)165	PRT / Beires Corte-Real	48225/08	11/01/2011 11/10/2011	Protection of property due to lacking enforcement of judgments delivered by administrative courts, ordering the refund of a sum paid in respect of motor vehicle tax including default interests. (Article 1 of Protocol No. 1)	The contested judgment was enforced on 22/02/2010. The judgment was translated, published and disseminated.
CM/ResDH(2013)262	PRT / Falcao dos Santos	50002/08	19/11/2012 03/07/2012	Access to and efficient functioning of justice: Denial of a fair trial in criminal proceedings, mainly due to the lack of effective legal assistance. (Article 6 §§ 1 and 3 b), c) and d))	Reopening of the impugned proceedings is possible. The judgment was translated, published and disseminated and is used in training of magistrates by the Centre of judicial studies.
CM/ResDH(2013)231	PRT / Laranjeira Marques da Silva	16983/06	19/04/2010 19/01/2010	Freedom of expression: Conviction of a journalist for defamation and breach of judicial secrecy, following the publication of an article on criminal proceedings against a public figure; unfairness of criminal proceedings, given that the Court of Appeal did not rule on the applicant's claim of non-applicability of the aggravating	Reopening of the impugned proceedings is possible. Just satisfaction paid. General measures with regard to defamation see CM/ResDH(2015)115 in Colaço Mestre and Others. Concerning length of proceedings: Isolated case. The judgment was translated, published and disseminated.

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
				<i>circumstance applied in its decision by the first instance court. (Articles 10 and 6§1)</i>	
CM/ResDH(2013)192	PRT / Novo and Silva	53615/08	25/12/2012 25/09/2012	Access to and efficient functioning of justice: <i>Failure to communicate to a party concerned information included in the file of another court; excessive length of adoption proceedings. (Article 6 §1 twice)</i>	Adoption proceedings are closed. The judgment was translated, published and disseminated. General measures with regard to excessive length of proceedings are examined in Oliveira Modesto group.
CM/ResDH(2013)249	PRT / Pontes	19554/09	24/09/2012 10/04/2012	Protection of family life: <i>Failure of the authorities to take measures enabling regular contact of parents with their son placed in an institution and lack of relevant and sufficient reasons for the decision to place the child for adoption. (Article 8 twice)</i> <i>Under Article 46, the applicants requested the quashing of the decision approving the adoption and the return of the child to the family home. The Court considered in this respect that it would be incumbent upon the domestic authorities to decide on the applicants' request, taking into account the current situation of the child and his best interest.</i>	The quashing of the adoption decision was not considered in the best interest of the child (11 years old and adopted since 2009). The judgment was translated, published and disseminated (also to the National Commission for the protection of child interests and the protection of youth at risk) and is used in training activities for magistrates.
CM/ResDH(2013)229	PRT / Santos Nunes	61173/08	22/08/2012 22/05/2012	Protection of family life: <i>Lack of diligence of the authorities in enforcing a court decision granting custody of a child. (Article 8)</i>	The court decision was enforced in January 2009. The judgment was translated, published and widely disseminated.

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
CM/ResDH(2013)133	ROM / A.M.M.	2151/10	14/05/2012 14/02/2012	Protection of private and family life: <i>Failure by the domestic courts to strike a fair balance between a child's right to have his interests safeguarded in paternity proceedings initiated by his mother and the right of his putative father not to take part in the proceedings or undergo a paternity test. (Article 8)</i>	Reopening of the impugned proceedings is possible. The case resulted from the non-compliance of domestic courts with existing legal procedural regulations in the Family Code. At present, the procedure requirements of the paternity proceedings are enhanced and the principle of the child's protection strengthened: - Articles 424 to 428 of the New Civil Code regulating the action to establish paternity of the child born out of wedlock; - Article 45 §1 of the Civil Code of Procedure in conjunction with Article 131 §1 of the Constitution on role of the Public Ministry and their representative (the prosecutors) concerning the protection of minors in pending the judicial proceedings;- the Child Protection Act No. 272/2004. The judgment was translated, published and disseminated.
CM/ResDH(2013)263	ROM / Amuraitei and 2 other cases	4351/02+	23/12/2008 23/09/2008	Access to and efficient functioning of justice and protection of property: <i>Breach of the res judicata principle due to the fact that the domestic courts disregarded the findings of final decisions previously rendered in other cases. (Article 6§1 and 1 of Protocol no. 1)</i>	Just satisfaction aid in one case, reopening of the impugned proceedings possible in the other case. Change of domestic courts practice with regard to the res judicata principle, in particular in the High Court for Cassation and Justice's case-law. The judgment was translated, published and disseminated.
CM/ResDH(2013)232	ROM / Androne	54062/00	06/06/2005 22/12/2004	Protection of property and access to and efficient functioning of justice: <i>Quashing of a final judgment ordering return of nationalized property following a request lodged by the prosecutor general and reopening of respective civil proceedings; interference with property rights. (Articles 6 §1 and 1 Protocol No. 1)</i>	The impugned proceedings were reopened. The new Civil Procedure Code 2013 contains provisions according to which, it is no longer be possible for public prosecutors to question the final character of court judgments in civil cases. In the matter of revision proceedings, Article 509 allows for final cases to be reopened if the State or other public authorities have not been defended or their defence was defective due to malice on behalf of their representative (§ 1 subdivision 7). The time-limit for the revision request is one month, beginning from the moment the authorities gained knowledge of defence deficiencies or of their representative's malice. The judgment was translated, published

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
					and disseminated.
CM/ResDH(2013) 148	ROM / Balasoiu No. 2	17232/04	20/03/2011 20/12/2011	Protection of private and family life: <i>Failure of authorities to protect the applicant's reputation following a police report describing her in unfavorable terms, added by two police officers to the file in criminal proceedings initiated by the applicant against them. (Article 8)</i>	The impugned file will be destroyed in November 2013. Access to the file by third parties requires justification. Isolated case. The judgment was translated, published and disseminated.
CM/ResDH(2013) 167	ROM / Birzerscu and Others and 1 other case	9304/05		Protection of property and access to and efficient functioning of justice: <i>Quashing of final court decisions by the Supreme Court following applications for nullity lodged by the Procurator General under Article 330 and Article 331 of the Code of Civil Procedure. (Article 6 §1 and 1 of Protocol No. 1)</i>	Article 322 §9 Code of Civil Procedure allows to lodge an extraordinary appeal in order to obtain restitutio in integrum. For general measures see CM/ResDH(2007)90 in Brumarescu.
CM/ResDH(2013) 71	ROM / Bock and Palade	21740/02	15/05/2007 15/02/2007 (Merits) 21/05/2008 (Just satisfaction)	Protection of property: <i>Disproportionate interference due to the transfer of part of the applicants' property to a town council pursuant to a wrongful application by domestic courts of the jurisprudential principle of "right acquired in rem" which, in certain circumstances, makes it possible to assume ownership of buildings built on someone else's land. (Article 1 of Protocol No. 1)</i>	The property was restored in August 2008. Erroneous application of domestic legislation. The Supreme Council of Magistracy, all courts of appeal, the High Court of Cassation and Justice and the municipal council concerned were informed on the principles arising from the ECHR judgment, which was translated, published and disseminated.
CM/ResDH(2013) 94	ROM / Cleja and Mihalcea	77217/01	08/05/2007 08/02/2007	Protection of property rights: <i>Disproportionate protection of the</i>	The applicants recovered their flat. The provisions which allowed owners to request the departure of tenants from their properties

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
				<i>interests of the tenants to the detriment of the owners due to the rejection by the Supreme Court of an action for eviction of the former state tenants conditional on an exchange of flats, despite a prior court order to the return the flat nationalised during the communist period. (Article 1of Protocol N°1)</i>	under certain conditions was repealed in 2011 and thus no longer applies, not even to newly concluded rent contracts. The judgment was translated, published and disseminated.
CM/ResDH(2013) 40	ROM / Constantin and Stoian and 1 other case	23782/06+	29/12/2009 29/09/2009	Access to and efficient functioning of justice: <i>Unfair proceedings resulting in criminal convictions for drug trafficking following active incitement by State agents and failure of the domestic courts to duly examine the applicants' plea of entrapment. (Article 6§1)</i>	The impugned proceedings were reopened and the applicants acquitted and released. Case resulted from an incorrect practice by the investigative authorities and not from inadequate legislation. The use of undercover agents was a fairly new investigative technique at the time the impugned fact occurred, having been introduced into the domestic criminal procedure only in 2000. In 2004 detailed rules on the use of undercover agents introduced in the Criminal Procedure Code Law No. 278/2003 entered into force applicable to investigations into various serious crimes. They contain a number of additional safeguards setting as a prerequisite for such measures the existence of "a reasonable suspicion" that a crime was committed or is about to be committed. Furthermore, the prosecutor must indicate, in particular: the concrete evidence that suggests that an offence was committed or is about to be committed and give reasons as to why the measure is justified; - the actions that the undercover agents are allowed to carry out; - the duration for which the measure is authorized. The judgment was translated, published and disseminated.
CM/ResDH(2013) 220	ROM / Creanga	29226/03	23/02/2012 Grand Chamber	Protection of rights in detention: <i>Deprivation of liberty of a suspect without legal basis; his remand in pre-trial detention following the Procurator</i>	The impugned period was taken into account for the purposes of Article 5. Identified shortcomings with regard to deprivation of liberty were a matter of application of relevant provisions of the CCP. The CCP provisions governing requests to have final judicial

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
				<i>General's application for quashing of the final decision ordering his release. (Article 5 §1)</i>	decisions quashed were repealed by Law No. 576 of 14/12/2004. The judgment was translated, published and disseminated and listed on the website of the Superior Council of Magistracy.
CM/ResDH(2013)42	ROM / Didu	34814/02	14/09/2009 14/04/2009	Access to and efficient functioning of justice: <i>Breach of the presumption of innocence, due to the fact that while it closed the criminal case against the applicant for expiry of the statute of limitation, the last instance court found the applicant guilty of the offences he was charged with and ordered him to pay the costs of proceedings, without hearing evidence in person from the applicant and the witnesses; excessive length of proceedings. (Article 6 §§1+2)</i>	The High Court of Cassation and Justice sent the case for retrial by the appeal. Misapplication of the domestic rules of procedure. For general measures see CM/ResDH(2011)29 in Constantinescu (in particular the amendments brought to the provisions of the CCP regulating the examination of the accused persons by Law No. 356/2006). The judgment was translated, published and disseminated and awareness-raising measures taken. Length of proceedings is supervised in the context of the Stoianova and Nedelcu group of cases (77517/01).
CM/ResDH(2013)221	ROM / Dimon	29117/05	27/02/2013 27/11/2012	Access to and efficient functioning of justice: <i>Rejection of an appeal on points of law in a claim concerning the attribution of formerly nationalised land due to failure to mention the defendant's official name and address. (Article 6 §1)</i>	Reopening of the impugned proceedings possible. The Constitutional Court declared the impugned provision of the Civil Procedure Code (Article 302 §1a) unconstitutional. A new Code of Civil Procedure (in force on 15/02/2013) abrogated the sanction of nullity of an appeal on points of law for failing to indicate the defendant's name and address (Article 486). Moreover, it provides for an express remedy for procedural deficiencies without rejection of the appeal as such. (Article 177 §1) The judgment was translated, published and disseminated.
CM/ResDH(2013)55	ROM / Grozescu	17309/02	27/12/2007 27/09/2007	Access to and efficient functioning of justice: <i>Unfairness of civil proceedings due to the hearing of the opposing party, without the applicant or his lawyer having been informed about it. (Article 6§1)</i>	Reopening of civil proceedings possible. Isolated case. The new Civil Procedure Code 2013 provides for the right to adversarial proceedings among the fundamental principles of civil procedure. The judgment was translated, published and disseminated.

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
CM/ResDH(2013) 194	ROM / Hulea	33411/05	02/01/2013 02/10/2012	Discrimination: Refusal by competent court to award compensation for the non-pecuniary damage caused by the national authorities' rejection of a male army employee's request for parental leave; absence of sufficient justification. (Article 14 in conjunction with Article 8)	Law No. 80/1995 on the status of military cadres provided at the material time that only women among staff of the army, were entitled to parental leave. Domestic courts refused to examine the possibility of paternity leave without pay despite the Constitutional Court's declaration on the unconstitutionality of the Law on status of military cadres. Act No. 18/2006 amended the law providing that women and men active within the army are equally entitled to parental leave. The judgment was translated, published and disseminated.
CM/ResDH(2013) 68	ROM / Lungoci and 2 other cases	62710/00	26/04/2006 26/01/2006	Access to and efficient functioning of justice: Denial of access to a court due to erroneous qualification of claims as being identical with claims already determined in previous proceedings. (Article 6§1)	The Code of Civil Procedure provides the possibility to reopen civil proceedings on the basis of a ECHR judgment. In Bacso case, the action to establish title lodged by the applicants against the third parties who bought the property from the State was successful. Isolated erroneous interpretation of Article 1201 of the Civil on res judicata. The judgment was translated, published and disseminated.
CM/ResDH(2013) 233	ROM / M. and C. and 2 other cases	29032/04+	27/12/2011 27/09/2011	Protection against ill-treatment / protection of family life: Lack of effective investigations into allegations of sexual abuse of children by relatives or third parties. (Article 3 in all and 8 in two cases)	The applicants may request the reopening. However, resuming the investigations 14 years after the alleged sexual abuse (1998) could hardly lead to establishing the truth and may infringe on the rights of the parents. Just satisfaction paid. Reforms were undertaken to enable judicial authorities and the police, to conduct speedily effective investigations in cases of alleged sexual abuses of minors. Awareness of the necessity of cooperation between the judiciary, police and administrative authorities for the protection of children's rights was improved. The judgment was translated, published and disseminated.
CM/ResDH(2013) 168	ROM / Maszni	59892/00	21/12/2006 21/09/2006	Access to and efficient functioning of justice Lack of independence and impartiality of the court due to conviction of a civilian by a military court. (Article 6§1)	Impugned proceedings may be reopened. According to the new Article 35 (2) of the Code of Criminal Procedure, as amended by Law No. 356/2006, in case of indivisibility or connection of offences committed by military staff and civilians, the competence belongs to the civil court. Following the entry into force of Law No. 360/2002 on the status of policemen, the latter have become civil

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
					servants. Consequently, policemen accused of offences are now also tried by ordinary courts. The judgment was translated, published and disseminated and included in training activities for judges.
CM/ResDH(2013)69	ROM / Mitrea	26105/03	01/12/2008 29/07/2008	Access to and efficient functioning of justice: <i>Infringement of the principle of legal certainty as a result of annulment of a final decision in the applicant's favour by means of an extraordinary appeal following a request lodged by a party to the proceedings. (Article 6§1)</i>	The Code of Civil Procedure provides the possibility to reopen civil proceedings on the basis of a ECHR judgment. Misinterpretation of a legal provision by domestic court. The judgment was translated, published and disseminated.
CM/ResDH(2013)222	ROM / Miu	7088/03	06/02/2013 06/11/2012	Access to and efficient functioning of justice: <i>Failure of domestic courts to examine demands of restitution of nationalized property on the merits due to rejections of the applicant's first action on the grounds that her claim should have been addressed to the administrative authorities pursuant to Law No. 112/1995 as well as her second action on the ground that the litigious immovable was not encompassed in the ambit of the said law. (Article 6 §1)</i>	Reopening of the impugned proceedings possible. Isolated case; Judicial error due to contradictory appreciation by the courts of the applicable law. The judgment was translated, published and disseminated.
CM/ResDH(2013)70	ROM / Nichifor No. 1	62276/00	13/10/2006 13/07/2006	Access to and efficient functioning of justice: <i>Excessive length of proceedings before administrative institutions responsible for the application of laws related to the restitution of properties. (Article 6 §1)</i>	The judgment was brought to the attention of the Supreme Council of the Judiciary for its transmission to all levels of court, with a recommendation to use it in ongoing training activities of judges. The judgment was translated and published on the website of the Higher Judicial Council. Other general measures are supervised in the context of Strain and Others (57001/00) et Nicolau (1295/02).

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
CM/ResDH(2013)41	ROM / Reiner and Others	1505/02	27/12/2007 27/09/2007	Access to and efficient functioning of justice: <i>Unfairness of criminal proceedings due to the impossibility to cross-examine witnesses for the prosecution and excessive length of proceedings. (Article 6 §§1+3 d)</i>	The High Court of Cassation and Justice referred the case for retrial. Case resulted from an incorrect practice by domestic courts. The judgment was translated, published and disseminated and awareness-raising measures taken. Length of proceedings is supervised in the context of the Stoianova and Nedelcu group of cases (77517/01).
CM/ResDH(2013)234	ROM / S.C. Granitul S.A.	22022/03	15/09/2011 22/03/2011 (Merits) 24/07/2012 24/04/2012 (Just satisfaction)	Protection of property: <i>De facto expropriation by the State of a piece of land without any compensation. (Article 1 of Protocol No. 1)</i>	Just satisfaction paid. The judgment was translated, published and disseminated and awareness-raising measures organized. For other general measures see CM/ResDH(2012)216 in the case of Burghilea.
CM/ResDH(2013)235	ROM / Samoila and Cionca and 5 other cases	33065/03+		Protection of rights in detention: <i>Failure to bring arrested applicants promptly before the judge; refusal of competent court to review the lawfulness of the applicants' continued detention; impossibility to attend the respective hearings; effective defence before the appellate courts non-respect of the presumption of innocence due to public statements of the officials concerning the guilt of the suspects and forcing them to wear convicted prisoners' uniform at court hearings; unlawful interference by prison administration of the detainee's right to correspondence. (Articles 5 §§3+4, 6 §2 and 8)</i>	The applicants were released. Concerning the right to be promptly brought before a judge, see CM/ResDH(2011)149 adopted in the case of Năstase-Silivestru. The legal framework for the extension of pre-trial detention was modified by Law No. 281/2003 and Emergency Ordinance No. 109/2003, now expressly providing for the possibility of lodging an appeal on points of law against a decision of prolongation of detention on remand after the committal for trial. At the procedural stage of registering the case with the trial court, the measure of detention pending trial is re-evaluated by the judge. The respective decision can be challenged by an appeal on points of law. As regards the criminal investigation stage of proceedings, the amendment of the Code of Criminal Procedure brought by Law No. 281/2003, provides that the presence of the defendant before the court dealing with the appeal on points of law against the interim decision ordering the prolongation of detention on remand is mandatory. With regard to public officials' statements: A Guide for proper practises between the courts, the prosecutor's offices and mass-media, was adopted in 2007 and amended by the Decision No. 542 of 2008., A Guide for proper practices for cooperation

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
					<p>between courts, prosecutors' offices and mass-media and a Manual for spokespersons and courts' and prosecutor's offices' structures for public information and relation with mass-media was adopted by the Superior Council of Magistracy's Decision No. 482 of 01/06/2012.</p> <p>Articles 34 and 82 §6 and Articles 85 and 225 § 2 of Law No. 275/2006 established that persons deprived of liberty are allowed to use their personal garments.</p> <p>Concerning the monitoring of prisoners' correspondence, see CM/ResDH(2007)92 in Petra and CM/ResDH(2010)180 in Cotlet.</p>
CM/ResDH(2013)132	ROM / Sega	29022/04	13/06/2012 13/03/2012	Access to and efficient functioning of justice: <i>Lack of access to court due to dismissal of a civil action for compensation as out of time on the grounds that it had been introduced the day of its filing in the registry and not the day of its initial mailing; excessive length of civil proceedings. (Article 6§1)</i>	Erroneous application of Article 140 of the Civil Procedure Code. Just satisfaction paid. The judgment was translated, published and disseminated. General measures taken to address excessive length of criminal proceedings, see CM/ResDH(2016)151 in Nikolau group.
CM/ResDH(2013)113	ROM / The Arges College of Legal Advisors and 1 other case	2162/05+	08/06/2011 08/03/2011	Freedom of association: <i>Dismissal of the request for registration as a professional association of legal advisers, on grounds that some provisions in the association's statutes contravened applicable legislation, even though the provisions at issue had been amended in the course of the impugned proceedings and validated by a court decision. (Article 11)</i>	The applicant applied for a review of the impugned decision; domestic county court ordered the registration of the applicant as a professional association of the legal advisers. The judgment was translated, published and disseminated.
CM/ResDH(2013)166	ROM/ Jones	36478/02	03/05/2009 03/02/2009	Protection of property: <i>Various actions by which the administration delayed the return of a property nationalized</i>	The property at issue was restored. Case resulted from an incidental set of circumstances. The judgment was translated, published and disseminated, a summary of it was send to the

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
				<i>during the communist regime. (Article 1 of Protocol No. 1)</i>	Ministry of Administration and Home Affairs for dissemination to all Prefect Offices and other decentralised administrative authorities involved in the restitution process. It was used in training activities for judges.
CM/ResDH(2013)44	SER / Backovic	47997/06	07/05/2012 07/02/2012	Access to and efficient functioning of justice: <i>Lack of access to court due to impossibility to seek judicial review of the administrative authorities' refusal to register an easement. (Article 6 §1)</i>	The applicant's request to register the easement in question was allowed by the Cadastre Service in 2011. A new Cadastre Act entered into force on 11/09/2009, repealing the Cadastre Act of 1992. Pursuant to its Article 180§, second instance cadastre-related decisions shall be subject to judicial review by means of administrative dispute. The judgment was translated, published and disseminated.
CM/ResDH(2013)72	SER / Motion Pictures Guarantors	28353/06	08/09/2010 08/06/2010	Access to and efficient functioning of justice: <i>Rejection of a request for procedural reinstatement without a public, adversarial hearing before the competent court (Article 6§1)</i>	Impugned proceedings were reopened. Isolated occurrence. The judgment was translated, published and disseminated.
CM/ResDH(2013)42	SUI / Association Rhino and Others	48848/07	08/03/2012 11/10/2011	Freedom of association: <i>Disproportionate interference resulting in the dissolution of a squatters' association as pursuing an illegal aim by final court judgment, in view of the previous long tolerance by the authorities of the buildings' occupation as well as the statutory aims of the association in question. (Article 11)</i>	No request for review of the impugned judgment was filed. Publication and dissemination of the ECHR judgment as the problem was caused by the law's application in this particular case.
CM/ResDH(2013)47	SVK / Aydemir and Michalko	44153/06	08/05/2011 08/02/2011	Protection of rights in detention: <i>Denial of release from detention pending trial without relevant and sufficient reasons; lack of adequate possibility to challenge the lawfulness of pre-trial detention; failure to</i>	The applicants in both cases were released from detention on remand. General measures: see CM/ResDH(2012)53 in Lexa No. 2 (lack of adequate possibility to challenge the lawfulness of the applicants' pre-trial detention); CM/ResDH(2011)158 in Kucera (failure to promptly examine the applicants' request for release from detention on remand); CM/ResDH(2011)34 in Pavletic (right

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
				<i>promptly examine the request for release from detention on remand and absence of an enforceable right to compensation. (Article 5 §§3+4+5)</i>	to compensation. The judgment was translated, published and disseminated.
CM/ResDH(2013)74	SVK / Gal and 6 other cases	45426/06+	28/02/2011 28/11/2010	Protection of rights in detention: <i>Failure to promptly examine the applicants' requests for release from detention on remand. (Article 5§4)</i>	The applicants' requests were finally examined. For general measures see CM/ResDH(2011)158 in Kucera; CM/ResDH(2007)10 in Krumpel and CM/ResDH(2011)34 in Pavletic.
CM/ResDH(2013)126	SVK / Masar	66882/09	03/05/2012 (Committee)	Access to and efficient functioning of justice: <i>Excessive length of criminal proceedings for alleged malpractice in the course of the surgery until the public prosecutor discontinued the proceedings on the ground that the facts in issue did not constitute a criminal offence. (Article 6 §1)</i>	The impugned criminal proceedings were discontinued because the facts in issue did not constitute a criminal offence. Change of practice of the Constitutional Court. General measures taken to address excessive length of criminal proceedings, see Krumpel and Krumpelová closed by CM/ResDH(2007)10 . Article 30 §1 of the Code of Criminal Procedure (Law No. 301/2005 Coll.), provides that the Prosecutor's Office shall direct pre-trial proceedings and ensure the legality and efficiency thereof and represent public prosecution in court. Article 167 of the Code of Criminal Procedure provides for the possibility of having an investigator's actions and delays reviewed, by request to be submitted to the prosecutor. The judgment was translated, published and disseminated.
CM/ResDH(2013)86	SVK / Michalak	30157/03	08/05/2011 08/02/2011	Protection of rights in detention and lack of effective remedy: <i>Lack of a speedy determination of the lawfulness of the applicant's remand in custody and lack of an enforceable right to compensation for unlawful detention; lack of effective remedy in respect of the monitoring of telephone communications. (Article 5 §§4+5 and 13 in conjunction with 8)</i>	For general measures with regard to detention see CM/ResDH(2011)158 in Kucera; CM/ResDH(2012)53 in Lexa and CM/ResDH(2011)34 in Pavletic. Concerning the monitoring of correspondence, practice at the Constitutional Court changed in 2006 and respective complaints were examined under Article 127 of the Constitution and, eventually, compensation in respect of non-pecuniary damage awarded. Thus, the law and relevant judicial practice now provide an effective remedy with regard to complaints about the monitoring of private communications. The judgment was translated, published and disseminated.
CM/ResDH(2013)	SVK / Mihal	22006/07	05/10/2011	Access to and efficient functioning of	Isolated case. However, the Criminal Procedure Code was

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
73			05/07/2011	<i>justice: No access to court due to domestic courts' denial of the right to appeal against decisions taken by senior court officers despite respective provisions in the Constitution and the Code of Civil Proceedings. (Article 6 §1)</i>	amended in 2007: Law No. 273/2007 specifically provides that an appeal to a judge against decisions taken by senior court officers is always available. The explanatory memorandum refers to Article 142 §2 of the Constitution and acknowledges that, under that provision, an appeal had been available against such decisions even previously. In conclusion, the issue of divergent case law of the Constitutional Court became obsolete. The judgment was translated, published and disseminated.
CM/ResDH(2013)195	SVK / Paulik	10699/05	10/01/2007 10/10/2006	Protection of family life and discrimination: <i>Impossibility to challenge one's paternity if it was established by a court decision; discrimination compared with fathers whose paternity has been only presumed on the basis of marriage or a declaration. (Articles 8 and 14 in conjunction with 8)</i>	The domestic proceedings were re-opened in 2008, with the result that the birth certificate of the applicant's presumed daughter was amended. The Code of Civil Procedure was amended in 2013 to provide individuals the possibility of applying to court to reopen proceedings based on scientific evidence which had not been available in the original court proceedings. The judgment was translated, published and disseminated.
CM/ResDH(2013)95	SVK / Ringier Axel Springer Slovakia	41262/05	26/10§2011 26/07/2011	Freedom of expression: <i>Conviction of a newspaper company for libel in civil proceedings initiated by a high-ranking police officer, following publication of articles about him without an acceptable legal assessment of the relevant facts in the examination of the case. (Article 10)</i>	Reopening of the proceedings was granted. The case was an isolated one. The judgment was translated, published and disseminated.
CM/ResDH(2013)87	SVK / Urbarska Obec Trencianske Biskupice and 3 other cases	74258/01+	02/06/2008 27/11/2007	Protection of property: <i>Disproportionate deprivation of possessions due to compulsory transfer of the applicant association's land to members of a gardening association for disproportionately low compensation and, preceding that</i>	Under Article 46 the systemic problem based on the legislation, which has affected a number of landowners whose land comes under the regime of Act 64/1997 applying to a specific category of citizens. Just satisfaction in respect of pecuniary and non-pecuniary damage was paid. Two legislative amendments were adopted in 2011: Amendment of Act 64/1997 Coll. and the Ministry of

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
				<i>transfer, compulsory letting of the property at a disproportionately low rent. (Article 1 of Protocol No. 1)</i>	Justice's amendment of its Regulation No. 492/2004 on "Determining the General Value of Property". As a result, the rental terms for the letting of land in garden allotments are able to take into account the actual value of the land and the current market conditions and compensation for the transfer of ownership of land has a reasonable relation to the market value of the property at the time of the transfer. The judgment was translated, published and disseminated.
CM/ResDH(2013)205	SWE / F.N. and Others	28774/09	18/03/2013 18/12/2012	Protection against ill-treatment: <i>Risk of ill-treatment in case of deportation to Uzbekistan. (Article 3 conditional)</i>	According to Swedish Law "if an international body that is competent to examine complaints from individuals has found that a refusal-of-entry or expulsion order in a particular case is contrary to a Swedish commitment under a convention, a residence permit shall be granted to the person covered by the order, unless there are exceptional grounds against granting a residence permit." On 27/02/2013, the Migration Board granted permanent residence permits. The judgment was translated, published and disseminated.
CM/ResDH(2013)118	SWE / Handölsdalen Sami village and Others	39013/04	04/10/2010 30/03/2010	Access to and efficient functioning of justice: <i>Excessive length of domestic civil proceedings concerning land dispute. (Article 6 §1)</i>	The proceedings in question are closed and the damage suffered by the applicants compensated. The judgment was translated, published and disseminated.
CM/ResDH(2013)196	SWE / Mendel	28426/06	07/07/2009 07/04/2009	Access to and efficient functioning of justice: <i>Impossibility to appeal against an administrative decision revoking the applicant's permission to participate in a programme organised by the State for the long-term unemployed. (Article 6 §1)</i>	The applicant did not ask for the reopening of proceedings. Legislative amendments concerning labour market policy programmes were introduced in 2010 through four ordinances. The judgment was translated, published and disseminated.
CM/ResDH(2013)96	SWE / N.	23505/09	20/10/2010 20/07/2010	Protection against ill-treatment/expulsion: <i>Risk of ill-treatment in case of enforcement of</i>	The Migration Board decided to grant the applicant a permanent residence permit in Sweden under the Swedish Aliens Act; thus the expulsion order ceased to apply. The judgment was translated,

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
				<i>deportation order against a dissident Afghan national. (conditional Article 3)</i>	published and disseminated.
CM/ResDH(2013)75	SWE / R.C.	41827/07	09/06/2010 09/03/2010	Expulsion/extradition and protection against ill-treatment: <i>Risk of ill-treatment in case of enforcement of a deportation order against an Iranian national. (conditional Article 3)</i>	The applicant was granted a permanent residence permit in Sweden. The judgment was translated, published and disseminated.
CM/ResDH(2013)170	SWE / S.F. and Others	52077/10	15/08/2012 15/05/2012	Protection against ill-treatment: <i>Risk of ill-treatment in case of deportation to Iran (Article 3 conditional)</i>	The applicant was granted permanent residence. The judgment was translated, published and disseminated.
CM/ResDH(2013)171	SWE / Strömblad	3684/07	05/07/2012 05/04/2012	Protection of family life: <i>Protracted judicial custody proceedings. (Article 8)</i>	The custody proceedings finally concluded that the applicant's former wife be granted sole custody of the child. Specific facts of the case. The judgment was translated, published and disseminated
CM/ResDH(2013)241	TUR / Aydemir	17811/04	24/08/2011 24/05/2011	Protection of home: <i>Vague wording of a search warrant, providing no information on the reason for the measure or the objects sought, thus not allowing any review of the warrant's scope during execution; inadequacy of the investigation into allegation of unlawfulness of the search. (Article 8 substantive and procedural limb)</i>	Just satisfaction paid. In the new Code of Criminal Procedure which came into force on 01/06/2005 search measures are regulated in detail as to the legal guarantees. According to Article 119 of the new Code, the search warrant or order shall include: a) justifying reasons b) the identity of the person with respect of whom the search shall be conducted, the address of the place to be searched or the material that is to be searched for; c) the validity period. In the Regulations on Judicial and Preventive Searches which came also into force on 01/06/2005, search measures are regulated in a further detail: A search warrant may be issued, only on condition that there is a reasonable doubt that the person concerned has committed a crime. The "reasonable doubt" is subject to strict conditions in the Regulation. General measures concerning Article 8 procedural limb is examined in the H.M. case. The judgment was translated, published and disseminated and is used in training activities for judges and prosecutors.

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
CM/ResDH(2013)149	TUR / Ertürk Hasan and 3 other cases	15259/02	12/07/2005 12/04/2005	Access to and efficient functioning of justice: Excessive length of criminal proceedings before Martial Law Courts and ordinary courts. (Article 6§1)	All criminal proceedings closed. For general measures see CMResDH(2002)86 in Şahiner and Others.
CM/ResDH(2013)256	TUR / Gençel and 205 other cases	53431/99+	24/03/2004 23/10/2003	Access to and efficient functioning of justice: Denial of a fair trial by an independent and impartial court on account of the presence of a military judge on the bench of the state security courts in criminal proceedings. (Article 6 §1)	A provisional article added to the Code of Criminal Procedure by “The Law Amending Certain Laws in the Context of Human Rights and Freedom of Expression” came into force on 30/04/2013 making it possible for the applicants to request the reopening of proceedings in all relevant cases under supervision of the Committee of Ministers by 15/06/2012. General measures concerning the presence of a military judge see DH(99)555 in Ciraklar. Further developments regarding the taking of the necessary legislative measures were examined in Hulki Güneş group of cases (see, in particular the interim resolutions adopted, ResDH(2005)113, CM/ResDH(2007)26 and CM/ResDH(2007)150). Excessive length of detention in police custody and absence of a domestic remedy: see CM/ ResDH(2002)110 in Sakik and Others. Concerning infringements of freedom of expression on account of convictions under former Article 8 Anti-terrorism Law: see CM/ ResDH(2006)79 in Arslan. The judgment was translated, published and disseminated.
CM/ResDH(2013)241	TUR / H.M.	34494/97	08/11/2006 08/08/2006	Protection of home on account of the prosecutor's office's refusal to carry out adequate investigations into allegations of an unauthorised search by police officers in the applicant's home. (Article 8 procedural limb)	A new Code of Criminal Procedure came into force on 01/06/2005 regulating search measures and respective legal safeguards in detail. Accordingly, a search can be conducted upon a warrant issued by the judge, in urgent cases upon public prosecutor's decision. According to the Regulations on Judicial and Preventive Searches (entry into force 01/06/2005), a search warrant may be issued for a person, only on condition that there is a reasonable doubt that this person has committed a crime. The “reasonable doubt” is subject to strict conditions. Article 120 of the Criminal Code 2005 defines the conduct of unlawful search as an offence. The public prosecutor shall, ex officio, launch an investigation

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
					about officials abusing or neglecting their statutory duties. A right to apply to the Constitutional Court in case in case fundamental rights are infringed, was introduced by constitutional amendments in 2010. In the event of a violation found, the Constitutional Court may send the case back to the competent court for retrial. If a retrial seems of no use, compensation for damages suffered may be awarded by the Constitutional Court (or the competent first-instance court). The judgment was translated, published and disseminated and is used in training activities for judges and prosecutors.
CM/ResDH(2013)254	TUR / Özbek	25327/04	27/08/2010 27/05/2010	Protection of property: <i>Unlawful occupation of land by the army and lack of compensation. (Article 1 of Protocol No. 1)</i>	The fences around the applicant's land were removed and the land excluded from the military zone. Article 375 of the Civil Code provides opportunity to apply for re-opening of proceedings. In May 2012, the High Council of Judges and Prosecutors and Justice Academy of Turkey organised training sessions under "In-Service Training on Expropriation Cases" for judges hearing expropriation cases. A right to apply to the Constitutional Court in case in case fundamental rights are infringed, was introduced by constitutional amendments in 2010. The judgment was translated, published and disseminated.
CM/ResDH(2013)175	UK / M.S.	24527/08	03/08/2012 03/05/2012	Protection against ill-treatment: <i>Police custody of a mentally ill person without appropriate psychiatric treatment due to co-ordination difficulties between the relevant authorities; conditions endured constituted an affront to human dignity. (Article 3)</i>	A Protocol between the relevant Health Service and the Police was drawn up. An amendment to the Mental Health Act 1983 and the Code of Practice were introduced to allow a mentally ill person to be transferred from a police station to a hospital. The National Policing Improvement Agency also published various documents to provide guidance to the police on how to recognise and best respond to people with mental health problems. The judgment has been published and disseminated.
CM/ResDH(2013)114	UK / A. And Others	3455/05	19/02/2009 Grand Chamber	Protection of rights in detention: <i>Unlawful detention under Part 4 of the Anti-Terrorism Crime and Security Act 2001 (allowing the detention pending</i>	The applicants are no longer detained under the impugned legislation, which is no longer in force. Domestic courts refer to the present judgment to proceedings under the replacement legislation. The judgment was published and disseminated.

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
				<i>deportation of foreign nationals even if removal was not currently possible if the Secretary of State reasonably believed that the person's presence in the UK was a risk to national security and reasonably suspected that the person was involved with international terrorism linked with Al Qa'ida); impossibility to effectively challenge the allegations brought and lack of an enforceable right to compensation for the above violations. (Article 5 §§1, 4 and 5)</i>	
CM/ResDH(2013)217	UK / Betteridge	1497/10	29/04/2013 29/01/2013	Protection of rights in detention: <i>Unreasonable delay in the Parole Board review of the applicant's eligibility for release, following the expiry of his tariff in December 2008 until 10 January 2010, and thus a breach of his right to a speedy review of the lawfulness of his detention. (Article 5§4)</i>	Recruitment of an additional 60 judges, changes in the Parole Board Rules to increase its capacity to hold oral hearings and introduction of a new case management system. Indeterminate sentences for public protection, which initially caused the delay, were abolished in December 2012. The Supreme Court set out a framework for domestic courts in determining compensation to be paid to prisoners following a breach of Article 5 (4), which should lead to an increased number of cases settling domestically.
CM/ResDH(2013)237	UK / Buckland	40060/08	18/11/2012 18/08/2012	Protection of family life and home: <i>Eviction of the applicant, a gypsy living on a caravan site in Wales, without sufficient procedural safeguards to allow her to challenge the decision in the courts on the basis of the alleged disproportionality of the measure in light of her personal circumstances. (Article 8 procedural limb)</i>	Following the Connors case (66746/01), the government brought into force in England and Wales legislation that provides improved protection against eviction for occupiers of local authority Gypsy and Traveller sites. In particular, the Housing and Regeneration Act 2008 was enacted. Section 318 makes changes to the definition of "protected site" within section 5(1) of the Mobile Homes Act 1983 so that Gypsies and Travellers who reside on local authority sites are now afforded greater security of tenure. In order to evict a Gypsy or Traveller from one of their sites a local authority will need to satisfy the court that a term of the agreement to occupy a pitch was breached, that the occupier failed to comply with a

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
					notice to remedy the breach, and that it is reasonable to terminate the agreement. Section 318 entered into force in England on 30/04/2011. Following a public consultation in Wales on consequential amendments to the Mobile Homes Act 1983 and the Housing and Regeneration Act 2008, which lasted for three months and involved Gypsies and Travellers, representative bodies and local authority site owners, section 318 of the Housing and Regeneration Act 2008 came into force on 10 July 2013.
CM/ResDH(2013) 174	UK / Connors	66746/01	27/08/2004 27/05/2004	Protection of family life and home: <i>Eviction of a family from a gypsy caravan site by a local authority without procedural safeguards. (Article 8)</i>	Amendments made to the Caravan Sites Act 1968 by the Housing Act 2004 enable courts to suspend, for up to twelve months at a time, the enforcement of a possession order made in respect of local authority Gypsy/Traveller sites. In addition, the Housing and Regeneration Act 2008, which received Royal Assent on 22/07/2008, amends the Mobile Homes Act 1983 so as to confer greater security of tenure on those living on residential caravan sites. Section 318 of the 2008 Act amends the definition of "protected site" in the Mobile Homes Act 1983, extending the protections in the 1983 Act to local authority Gypsy and Traveller sites. In order to evict a Gypsy or Traveller from their site a local authority will need to satisfy the court that (i) a term of the agreement to occupy a pitch has been breached and the occupier has failed to comply with a notice to remedy the breach, and (ii) it is reasonable to terminate the agreement. Secondary legislation came into force on 30/04/11. Section 318 of the Housing and Regeneration Act 2008 is not yet in force in Wales, where the provision is expected to enter into force on 26/06/2013. Implementation of the Court's judgment in Buckland addresses the situation in Wales.
CM/ResDH(2013) 52	UK / Gillan and Quinton	4158/05	26/06/2010 28/03/2010	Protection of private life: <i>Lack of adequate safeguards on police powers to "stop and search" individuals suspected of terror offences under section 44 of the Terrorism Act 2000.</i>	On 08/07/2010 a wider Government review examined various counter-terrorism measures and powers and finally recommended significant legislative changes to ensure that previous misuse associated with section 44 is not repeated. Thus an urgent remedial order under section 10 of and Schedule 2 to the Human

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
				(Article 8)	Rights Act 1998, to immediately repeal and replace section 44 with new, circumscribed powers was made. The Home Secretary made an urgent remedial order containing new provisions, which came into force on 18/03/2011. The Protections of Freedoms Act 2012 places the powers provided by the Terrorism Act 2000 (Remedial) Order 2011 on a permanent footing. Its Section 59 repeals the stop and search powers in sections 44 to 47 of the 2000 Act. Section 60 and Schedule 5 to that Act introduce new and tightly circumscribed powers. The new powers enable the police to stop and search people and vehicles with no suspicion only in exceptional circumstances, where a senior police officer reasonably suspects that an act of terrorism will take place and where the powers are considered necessary to prevent such an act. In addition to this significantly higher threshold for the police to authorise the use of the powers, Section 62 provides for a Code of Practice for terrorism stop and search powers. The Codes of Practice in Great Britain and Northern Ireland came into force on 10/05/2012.
CM/ResDH(2013) 198	UK / Othman (Abu Qatada)	8139/09	09/05/2012 17/01/2012	Access to and efficient functioning of justice in the context of deportation on national security grounds: Due to a real risk of a flagrant denial of justice following the admittance of evidence obtained by torture of third parties at the applicant's retrial in Jordan, his deportation would infringe his right to a fair trial. (Article 6 §1)	Diplomatic assurances were obtained from Jordan against the risk of evidence obtained by torture being used against the applicant at his retrial. Those assurances were challenged: In November 2012, the Special Immigration Appeals Commission concluded that the assurances did not remove the risk. That decision was upheld by the Court of Appeal in March 2013. A Mutual Legal Assistance Treaty in Criminal Matters with Jordan aiming notably at eliminating the risk that torture evidence would be used came into force on 01/07/2013 binding the Jordanian State Security Court. Once the Treaty was in force, the applicant confirmed his readiness to return voluntarily to Jordan, in correspondence between the authorities and his lawyers. Accordingly, the applicant's was deported on 07/07/2013. The Mutual Legal Assistance Treaty applies to individuals returned to Jordan from the United Kingdom against whom there are outstanding criminal charges or who are likely to face a criminal

Resolution No.	Reference	Appl. No.	Judgment final on/ delivered on	Violation	Main measures taken
					trial on their return. It imposes a burden on the Jordanian prosecutor to prove to a high standard that statements used at trial were provided by free-will and choice and not obtained by torture or ill-treatment. It forms part of domestic Jordanian law, having primacy over other provisions of domestic law. Any decision to deport an individual either based on the Treaty or diplomatic assurances could be reviewed by the domestic courts. Such a review has suspensive effect, and domestic courts must take into account ECHR jurisprudence. The judgment has also been widely published and reported.
CM/ResDH(2013)223	UK / Redfearn	47335/06	06/2/2013 06/11/2012	Freedom of association: <i>Inability, due to a deficiency in legislation, to bring proceedings for unfair dismissal on the grounds of one's political opinion and membership of the British National Party. (Article 11)</i>	No claim for damages made; no retroactive application of new legislation possible. As part of the Enterprise and Regulatory Reform Act 2013, Section 108 of the Employment Rights Act 1996 was amended to create a further exception to the qualifying period so as to exempt those individuals claiming unfair dismissal on the grounds of political opinion or affiliation from the (now) two year qualifying period of employment. The relevant provision came into force on 25 June 2013 and can be found in Section 13 of the Enterprise and Regulatory Reform Act 2013.
CM/ResDH(2013)76	UK / Reynolds	2694/08	13/06/2012 13/03/2012	Right to an effective remedy in the context of right to life: <i>Lacking availability of civil proceedings to establish any liability and compensation due as regards the non-pecuniary damage suffered by the mother on the death of her son, a psychiatric patient diagnosed with schizophrenia, following his fall from the sixth floor of a public care unit. (Article 13 in conjunction with 2)</i>	Just satisfaction paid. Windows in the specific psychiatric facility were reinforced and transfer the psychiatric facility to a two-story building planned. Change in domestic law further to a Supreme Court judgment in 2012 (Rabone), concerning a claim brought by parents of a voluntary patient who had committed suicide: The State does owe a patient an operational duty to take reasonable steps to protect him/her from a real and immediate risk of suicide and parents have a right to compensation for non-pecuniary loss for bereavement. This judgment institutes a right to apply to domestic courts to establish liability and for compensation for non-pecuniary loss. The judgment was published and disseminated.
CM/ResDH(2013)	UK / Sufi and	8319/07+	28/11/2011	Protection against ill-treatment in the	The applicants were granted Discretionary Leave to Remain;

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197	Elmi		28/06/2011	context of expulsion/deportation: <i>Risk of ill-treatment or killing in case of enforcement of a deportation order to Mogadishu following convictions for serious offences of two Somali nationals (one asylum-seeker and one holding refugee status). (Article 3 conditional)</i>	removal action would not be taken against them whilst the situation in Somalia remains unchanged. The Secretary of State will review their ongoing need for protection on a regular basis and periods of leave to remain for 6 months under the Discretionary Leave policy will be granted as long as necessary. The judgment was published and disseminated, in particular to domestic immigration courts.
CM/ResDH(2013)88	UK / Szuluk	36936/05	01/09/2009 02/06/2009	Protection of correspondence in detention: <i>Unjustified monitoring by prison authorities of medical correspondence between the applicant, a convicted prisoner detained in a high-security prison, and his external medical specialist. (Article 8)</i>	The applicant was released from custody in 2009. A Prison Service Instruction on prisoner communications sets out that: "Correspondence between a prisoner and a registered medical practitioner must be handled in confidence but only to the extent that the registered medical practitioner is acting in a professional capacity and the correspondence directly relates to the treatment of the prisoner". In respect of England and Wales, a Statutory Instrument 2010 amended Rule 20 of the Prison Rules 1999 and Rule 27 of the Young Offender Institution Rules 2000 to provide that a prisoner may correspond confidentially with a registered medical practitioner who has treated the prisoner for a life threatening condition, and such correspondence may not be opened, read or stopped unless the Prison Governor has "reasonable cause" to believe that the contents do not relate to the treatment of that condition. The Scottish Prison Service made provision in Rule 58 of the Prisons and Young Offenders Institutions (Scotland) Rules 2011 for the circumstances in which correspondence with medical practitioners may be opened or read, which is designed to be consistent with the decision in this case. The Northern Ireland Prison Service issued an Instruction to Governors in 2012 amending the Standing Orders of the Northern Ireland Prison Service. If a prisoner were to develop a life-threatening illness whilst in prison he/she would have no need to correspond with a consultant as he/she would receive care on-site from the healthcare professionals. There would be a duty of care on behalf of the prison healthcare team to make contact with the

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					prisoner's healthcare provider on the outside and any such contacts would be covered by the medical in-confidence procedures already in place. Finally, it is also intended to amend the NI Prison Rules in due course. The judgment was published and disseminated.