

## Summaries of Final Resolutions adopted by the Committee of Ministers in 2016

(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
<a href="#">CM/ResDH(2016)102</a>	ALB / Alimucaj	20134/05	09/07/2012 07/02/2012	<b>No punishment without law:</b> <i>Infringement of the principle of legality of criminal offences and punishments, due to imposition of a heavier penalty than the one liable for at the time of the commission of the criminal offence. (Article 7)</i>	The applicant was released. Reopening of proceedings possible. The criminal record can be amended, if a new decision of the Supreme Court on the matter is delivered. The Criminal Code is in line with the principle of “no punishment without the law”. The relevant jurisdiction, practice and legal framework in Albania has been consolidated and further improved since 2001 when the impugned domestic court decisions were issued. In particular, the Albanian Constitutional Court in its decision of 2004, had held that the exercise of judicial power is under judicial control of higher courts. The professional skills of judges are evaluated at least once every three years by the High Council of Justice. In case of professional insufficiency of judges, the High Council of Justice may dismiss the judge based on Article 147 of the Constitution. The Code of Criminal Procedure in Article 9 guarantees the right of anyone who is unlawfully sentenced to be awarded just satisfaction. The judgment was translated, published and disseminated. The Ministry of Justice and the High Council of Justice issued recommendations on the implementation of the principle and respective training activities for judges and magistrates were organised.
<a href="#">CM/ResDH(2016)210</a>	ALB / Dauti	19206/05	03/05/2009 03/02/2009	<b>Access to and efficient functioning of justice:</b> <i>Denial of access to court in proceedings challenging administrative decisions relating to the award of invalidity benefits; in particular on the</i>	Just satisfaction paid. Reopening of the impugned proceedings was possible. Law No.10447/2011 containing additional provisions to Social Security Law 7703/1993 consolidated the function and powers of the Medical Commission on capacity to work (KMCAP) in respect of the principles of impartiality and

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				<i>ground that the Commission of appeal on medical examinations regarding the capacity to work had not constituted an "independent and impartial tribunal" and that its decisions could not be challenged before courts. (Article 6§1)</i>	independence. The head of the commission and three of the members are appointed by common consent of the Minister of Health, Minister of Finance and Minister of Labour and Social Affairs. The fifth member must have a qualified legal background and is appointed by the Minister of Justice. Article 39 provides for eligibility criteria, term of office, removal or resignation and modalities of oath. With a view to further strengthening the impartiality and independence of the bodies involved, the Council of Ministers approved on 10.06.2015 Decision No. 505 "On the organization, functioning and reward of the High Commissions on Work Capability Assessment" (CMD). It also provides for the right to challenge the decisions of the lower/regional commissions to the Higher Commission on Capacity for Work. The decisions of the Higher Commission on Capacity for Work are enforceable and binding. An appeal against procedural shortcomings of such decisions can be lodged with the Administrative Court of First Instance. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)273</a>	ALB / Dybeku and Gori	41153/06+	02/06/2008 18/12/2007	<b>Protection of rights in detention/against ill-treatment:</b> <i>Ill-treatment suffered due to lack of appropriate medical treatment in prison during seriously illness; Indication under Article 46 of urgent necessary measures to secure appropriate conditions of detention and adequate medical treatment, in particular, for prisoners who need special care owing to their state of health.</i> <i>Unlawfulness of detention ordered by the Supreme Court on the basis of the European Convention on the International Validity of Criminal</i>	Just satisfaction paid. Both life-sentenced applicants were placed in appropriate conditions of detention with medical treatment adapted to their state of health. The existing legal framework for the provision of health care was improved by the Law "On the Rights and Treatment of Prisoners and Detainees" on 17/04/2014 covering with many aspects of medical treatment of persons deprived of liberty, including diagnosis, services, supply of medicines and equipment. It also provides for inclusion of prisoners in the compulsory health insurance scheme, guaranteeing free access to medical services for all detainees. Procedures for the provision of medical care were improved. Treatment of prisoners with mental health disorders is based on the Mental Health Law of 2012 which sets out modalities for the organisation of services offered, in particular in special medical institutions. It also provides for

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				<p><i>Judgments and the Convention on the Transfer of Sentenced Persons not yet in force in Albania and unjustified delay in complying with the ECHR's interim measure to transfer the applicant to a civilian hospital. (Articles 3 and 5 §1 as well as 34)</i></p>	<p>new standards on “physical restrictions of persons suffering from mental disorders”. A working group was set up by the Minister of Justice on the medical treatment of prisoners under “compulsory medical treatment” (109 prisoners at present). The Council of Ministers, by decision no. 347 dated 20/05/2015, approved new General Regulations for Prisons. The Ombudsman and NGOs have a right to access prisons in order to carry out inspections and meet with detainees. The European Convention on the International Validity of Criminal Judgments and the Convention on Transfer of Sentenced Persons were incorporated into domestic law and the relevant practice was modified accordingly. Concerning Article 34, the authorities explained that the delay in implementing Rule 39 of the Rules of the Court was due to a lack of experience in dealing with this procedure. The judgment was translated, published and disseminated. It is used in training activities on penitentiary management, in particular with regard to detainees with mental health problems, for prison staff and medical staff in prisons.</p>
<p><a href="#">CM/ResDH(2016)272</a></p>	<p><b>ALB / Laska and Lika and 3 other cases</b></p>	<p><b>12315/04</b></p>	<p><b>20/07/2010</b> 20/04/2010</p>	<p><b>Access to and efficient functioning of justice:</b> <i>Various short-comings in criminal proceedings (e.g. failure to secure the appearance of certain witnesses, failure to have due regard to certain testimonies, lack of convincing evidence, failure to remedy irregularities occurred at the investigation stage and related to the identification of the suspects, lack of guarantees surrounding criminal proceedings in absentia, use of incriminating statements obtained as a result of torture); lack of access to a lawyer in</i></p>	<p>Just satisfaction paid and impugned proceedings were reopened. Numerous amendments to the Code of Criminal Procedure define principles concerning the identification of suspects, access to a lawyer from the first moment of arrest or detention, the rights of the accused during interrogation and the prohibition of the use of statements obtained in violation of these rights, as well as general measures adopted to prevent ill-treatment of detainees. Wide-ranging awareness measures were adopted to ensure that relevant legal provisions are properly implemented in practice, including access to the Constitutional Court. General measures required in response to the other aspects of these cases, i.e. criminal proceedings in absentia, appearance of witnesses and excessive length of proceedings, continue to be examined in the Caka group of</p>

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				<i>police custody; lack of access to the Constitutional Court; excessive length of proceedings as well as ill-treatment during interrogation by the police. (Articles 6 §§1+3c+d and Article 3)</i>	cases and in the Luli group,
<a href="#">CM/Res DH(2016)357</a>	ALB / Marini	3738/02	07/07/2008 18/12/2007	<b>Access to and efficient functioning of justice:</b> <i>Excessive length of proceedings and failure to give final determination of a constitutional appeal due to tied vote as well as failure to enforce a final decision of the Plenary State Arbitration Commission in 1993, ordering the state to respect its partnership commitments in a joint venture company set up in 1991. (Articles 6§1, 13 and 1 of Protocol No. 1)</i>	Just satisfaction paid. The impugned proceedings were terminated. For general measures taken to address the issue of the lack of access to the Constitutional Court in case of tied vote, see the action plan in the Luli group of cases ( <a href="#">DH-DD(2016)1188</a> ). General measures required in response to the other issues are examined in the Luli and the Puto groups.
<a href="#">CM/ResDH(2016)80</a>	ALB / Mullai and Others	9074/07	23/06/2010 23/03/2010 (Merits) 18/01/2012 18/10/2011 (Just satisfaction)	<b>Access to and efficient functioning of justice and protection of property:</b> <i>Inability to obtain a conclusive judicial determination of the validity of a building permit which had been granted, then annulled and reinstated successively in several series of proceedings and infringement of property rights as - on the basis of the initial building permit which was subsequently rescinded – an old building situated on the plot of land concerned had already been demolished in view of the erection of a new building. (Articles 6§1 and 1 of Protocol No. 1)</i>	On the basis of a unilateral declaration, the authorities extended validity of the building period. Just satisfaction was paid. The legal framework on territorial planning was amended in 2011, clarifying division of competencies to review and approve building permits and their judicial control. Former provisions of the Law on Urban Planning, applicable at the material time, were declared incompatible with the Constitution. Furthermore, wide-ranging measures were adopted with a view to accelerate judicial proceedings and to improve transparency, reliability and efficiency of the judicial system. The judgment was translated and disseminated and included in the initial and continuing training by the School of Magistrates.

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<a href="#">CM/ResDH(2016)103</a>	ALB / Rrapo	58555/10	25/12/2012 25/09/2012	<b>Co-operation with the ECHR and right of individual petition:</b> Failure of the authorities to abide by the ECHR's Order under the rule 39 of the Rules of Court requesting not to extradite the applicant to the United States of America where he risked a death penalty. (Article 34)	In the USA, the applicant was convicted to 80 months' imprisonment. The government identified the case as isolated in a declaration of commitment. The judgment was translated, published and disseminated. Respective training activities for judges, prosecutors and magistrates were organised. The State Advocature, as the relevant institution in direct contact with the ECHR, shall notify the relevant institutions affected by such an interim measure immediately upon reception of the respective order.
<a href="#">CM/ResDH(2016)185</a>	ARM / Galstyan and 6 other cases	26986/06+	15/02/2008 15/11/2007	<b>Freedom of assembly:</b> Arrest and sentencing to several days' of detention either for alleged or effective participation in rallies, or in order to prevent participation in demonstrations calling for a referendum; infringement of the right to adequate time and facilities for the preparation of one's defence; breach of the right of appeal in criminal matters; unlawful deprivation of liberty on account of arbitrary arrest followed by short-term conviction. (Article 11, Articles 6 § 1 in conjunction with 6 § 3(b), 5 §1 and 2 of Protocol No.7)	The circumstances are identical to Mkrtchyan v. Armenia (6562/03) closed by Resolution <a href="#">CM/ResDH(2008)2</a> . A new Law "On Assemblies" adopted in 2011 is, according to the Venice Commission opinion no. 596/2010, to a large extent in accordance with international and European standards. Administrative detention is abolished in 2005; there is no possibility of repetition of such violation in future. The right to a fair trial and in particular the right to adequate time and facilities for the preparation of one's defence is examined in Kirakosyan group.
<a href="#">CM/ResDH(2016)241</a>	ARM / Ghuyumchyan	53862/07	21/04/2016 21/01/2016	<b>Access to and efficient functioning of justice:</b> The procedural requirement that appeals on points of law could only be lodged by advocates licensed to act before the Court of Cassation - in the absence of the possibility to be granted legal aid - made the Court of Cassation's access conditional on the applicant's	The applicants were granted reopening of the impugned proceedings. General measures see <a href="#">CM/ResDH (2016)104</a> in Shamoyan group.

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				<i>financial situation placing a disproportionate restriction on its effectiveness. (Article 6 §1)</i>	
<a href="#">CM/ResDH(2016)117</a>	ARM / Grigoryan	3627/06	17/12/2012 10/07/2012	<b>Access to and efficient functioning of justice:</b> <i>Excessive length of criminal proceedings due to suspension of proceedings without carrying any investigative measures. (Article 6 §1)</i>	Domestic proceedings closed. Isolated case. The study of the judgment is included in the curricula of judges, prosecutors and police officers as well as in trainings for the staff of detention facilities. The new draft Code of Criminal Procedure (Articles 12, 194 and 196) sets out time limits for public criminal prosecution. It is expected that they will prevent similar violations in the future. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)184</a>	ARM / Khachatryan and Others and 2 other cases	23978/06+	21/07/2013 21/11/2012	<b>Protection of rights in detention:</b> <i>Deprivation of liberty without reasonable suspicion; wrongful conviction of Jehova's witnesses for abandoning military (or alternative) service; lack of right to compensation for non-pecuniary damage suffered as a result of unlawful detention or conviction; lack of an effective remedy. (Articles 3 of Protocol No. 7, 5 §§ 1c + 5 and 13)</i>	The applicants were released. None of the applicants requested reopening. The Law on "Amendments and additions to the Civil Code" entered into force on 01/11/2014 establishing a mechanism for compensation of non-pecuniary damages for violation of fundamental rights and freedoms guaranteed by the Convention. A right to compensation is available for a convict who was acquitted based on the conditions prescribed by Article 3 of Protocol No. 7 ECHR. Abandoning a military unit or the place where one performed alternative service without an authorization constitutes an offence incorporated in the Criminal Code since 01/06/2006. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)37</a>	ARM / Piruzyan and 1 other case	33376/07+	26/09/2012 26/06/2012	<b>Protection against ill-treatment in prison:</b> <i>Failure to provide adequate medical assistance in a detention facility and placement of the applicants in a metal cage during hearings without without any real risk of their absconding or resorting to violence, amounting to degrading treatment as well as various</i>	The applicants did not avail themselves of the possibility to request reopening of proceedings. Reforms in the field of criminal justice were initiated. A series of significant amendments to the existing Criminal Code were adopted and pursuant to the President's Decree of 30/06/ 2012, No. NK-96-A, approving the 2012-2016 <i>Strategic Programme of Legal and Judicial Reforms</i> , a new Criminal Code is being drafted. As to the use of a metal cage courtrooms, reforms resulted in their

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				<i>other shortcomings of the domestic law in force at the time concerning one applicant's detention on remand. (Articles 3 and 5 §§ 1+3+4)</i>	removal from all domestic courts. With regard to the right to health care in prison, a wide range of awareness-raising and training activities for prison administration staff and prison health staff were organised. Training courses on specific aspects of Articles 3 and 5 was organised for staff of the Ministry of Justice, the Prosecutor's Office and the Judicial Department. The project " <i>Penitentiary reform – Strengthening the health care and human rights protection in prisons in Armenia</i> " should enable penitentiary staff to apply European prison standards. In order to grant effective access to medical care in detention, the Government, by its Decree No. 825-N of 26/05/2006, adopted guidelines for prison health care services stipulating i.a. the inmates' right of access to a doctor, the principle of regular out-patient consultations and emergency treatment as well as the accessibility of diets, physiotherapy and rehabilitation. The new draft Criminal Procedure Code also envisages that in addition to the medical examination carried out by a doctor called by the police authorities, an arrested person, prior to acquiring relevant rights of an accused, shall be granted the right to request a medical examination by a doctor of his choice. A new prison building for 1200 inmates is under construction. It will include premises for a health care service with new equipment. A Memorandum of Cooperation between the Ministry of Justice and the Yerevan State Medical University has been signed on 27/01/2015 with a view to set up clinical units for prison (penitentiary) medicine in the penitentiary institutions of the Ministry of Justice. A course on prison (penitentiary) medicine will be taught in the Yerevan State Medical University. The judgment was translated, published and disseminated. General measures with regard to the protection of rights in detention are supervised in the Poghosyan group.
<a href="#">CM/ResDH(2016)</a>	ARM /	7984/06	20/01/2016	<i>Access to and efficient functioning of</i>	The applicant appealed to the Court of Cassation for fresh

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<a href="#">211</a>	<b>Saghatelyan</b>		20/10/2015	<i>justice: Refusal by domestic courts to examine a claim against the Presidential Decree terminating the applicant's term of office as a judge, which domestic courts considered within the exclusive competence of the Constitutional Court under Article 160 of the Civil Procedure Code and to which the applicant had no right of access.(Article 6 §1)</i>	examination of the case at domestic level. Further to the Constitutional amendments of 2005 major legislative and judicial reforms have taken place: Article 160 Criminal Procedure Code was declared unconstitutional; a three-tier judicial system has been introduced in the field of administrative justice. As of 01/01/2008 a specialised Administrative Court of first instance started to function. On 07/01/2014 the Code of Administrative Procedure providing for precise and accessible regulations for contesting the lawfulness of the acts of public bodies and officials. Both the Constitution amended as of 2005 and 2015 enshrine the right to appeal to the Constitutional Court to challenge the constitutionality of the concrete provision of a legal act applied in his case. Dismissed judges have the benefit of subsequent control of the Presidential Decrees made upon the recommendation of the Council of Justice by a judicial authority. The Council of Justice meets the ECHR standards in terms of formation and composition, as well as the procedural safeguards applied during the disciplinary proceedings. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)104</a>	<b>ARM / Shamoyan</b>	<b>18499/08</b>	<b>07/10/2015</b> 07/07/2015	<i>Access to and efficient functioning of justice: The procedural requirement that appeals on points of law could only be lodged by advocates licensed to act before the Court of Cassation - in the absence of the possibility to be granted legal aid - made the Court of Cassation's access conditional on the applicant's financial situation placing a disproportionate restriction on its effectiveness. (Article 6 §1)</i>	The possibility of requesting reopening was not used. In its decision no. SDV-765 of 08/10/2008 the Constitutional Court, found Article 223 § 1 (1) of the Code of Civil Procedure and Section 29.1 of the Advocacy Act unconstitutional and abolished the institute of advocates licensed to act before the Court of Cassation. Since 01/01/2009, the procedural requirement to lodge appeals on points of law through licensed advocates ceased to exist. In 2015 the Constitutional Court examined the constitutionality of another procedural requirement stipulating that a person can have access to the Court of Cassation only through an attorney and declared it incompatible with the Constitution and, thus, invalid. The judgment was, published and disseminated and integrated in



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					the training curricula of the Justice Academy.
<a href="#">CM/ResDH(2016)242</a>	ARM / Tovmasyan	11578/08	21/04/2016 21/01/2016	<b>Access to and efficient functioning of justice:</b> <i>The procedural requirement that appeals on points of law could only be lodged by advocates licensed to act before the Court of Cassation - in the absence of the possibility to be granted legal aid - made the Court of Cassation's access conditional on the applicant's financial situation placing a disproportionate restriction on its effectiveness. (Article 6 §1)</i>	The applicants were granted reopening of the impugned proceedings. General measures see <a href="#">CM/ResDH (2016)104</a> in Shamoyan group.
<a href="#">CM/ResDH(2016)279</a>	AUT / Bartenbach	39120/03	20/06/2008 20/03/2008	<b>Access to and efficient functioning of justice:</b> <i>Length and unfairness of criminal administrative proceedings for illegally employing a foreign citizen; breach of the principle of equality of arms due to lack of proof that the observations obtained from the Independent Administrative Panel were submitted to the applicants for counterstatements. (Article 6 §1 twice)</i>	Domestic proceedings are terminated. For general measures concerning excessive length of proceedings see <a href="#">CM/ResDH(2015)222</a> in Rambauske group of cases. Pursuant to the Administrative Court Act applicable at the material time a copy of the counterstatement had to be served on the party. Deficiencies in the service of counterstatements appeared in only very isolated cases. Therefore the Supreme Administrative Court did not change its long standing practice for efficiency and economic reasons. In 2014, in the context of the establishment of the first instance Administrative Courts, the law of procedure was amended with effect of 01/01/2014 introducing i.a. the e-justice system. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)212</a>	AUT / Donner and 5 other cases	32407/04	22/05/2007 22/02/2007	<b>Access to and efficient functioning of justice:</b> <i>Excessive length of criminal proceedings and lack of an effective remedy in this respect. (Articles 6 §1 and 13)</i>	All domestic proceedings are closed. In order to improve the remedies within the criminal procedure Section 108a was introduced in the Code of Criminal Procedure and entered into force on 01/01/2015: The duration of the investigation procedure (counting from the first investigation against an accused person which interrupts the limitation period of the

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					criminality) must not exceed a period of three years. If the investigation procedure cannot be completed within this time, the Public Prosecutor is obliged ex officio to report to the competent court on the reasons for the delay. If there are no legal grounds for closing the proceedings the court will prolong the period for two more years and – considering all the aspects of the case – hold whether there is a responsibility of the Public Prosecutor for the delay. If the investigation procedure is not completed within the following two year's period the Public Prosecutor is obliged to inform the court accordingly and the court will once again proceed as mentioned above. The level of human resources (judges, public prosecutors and judicial officers) was partially increased. Statistics show a speeding up of criminal proceedings. The judgments were disseminated to the Federal Chancellery, the Federal Ministry for Europe, Integration and Foreign Affairs, the Federal Ministry of Justice, the High Courts and all other institutions involved.
<a href="#">CM/ResDH(2016)280</a>	AUT / E.B. and Others	31913/07+	07/02/2014 07/11/2013	<b>Discrimination and lack of effective remedy:</b> <i>Dismissal of requests to delete convictions under former Article 209 of the Criminal Code (sexual relations of a male adult with a consenting male minor aged between 14 and 18 years) from the criminal record despite a declaration of unconstitutionality of the provision by the Constitutional Court in 2002 as well as lack of an effective remedy to challenge the refusal. (Article 14 taken in conjunction with Article 8 and Article 13)</i>	Just satisfaction paid. According to the new legal the applicants can apply for their names to be deleted from the criminal records: The Federal Law providing for the deletion of the respective convictions from the criminal records (No 154/2016) entered into force in 01/01/2016. The convicted persons, their relatives or the Public Prosecutor's Office are entitled to apply for the deletion of respective convictions from the criminal records if the relevant conduct is not a criminal offence anymore. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)334</a>	AUT / Gorianny and 1 other	31356/04	10/05/2010 10/12/2009	<b>Access to and efficient functioning of justice:</b> <i>Excessive length of disciplinary</i>	The disciplinary proceedings in both cases were terminated; Just satisfaction paid. cases should be considered to be isolated

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	case			<i>proceedings against practising lawyers. (Article 6 § 1)</i>	incidents. The judgments were translated, published and disseminated. They are used in training seminars for lawyers. For general measures adopted in similar cases, see <a href="#">CM/ResDH(2000)141</a> in W.R., <a href="#">CM/ResDH(2005)69</a> in Luksch and <a href="#">CM/ResDH(2010)154</a> in Malek and Schmidt. General measures to shorten criminal proceedings: see <a href="#">CM/ResDH(2016)212</a> in Donner.
<a href="#">CM/ResDH(2016)21</a>	AUT / I.K.	2964/12	28/06/2013 28/03/2013	<b>Expulsion/extradition:</b> <i>Risk of ill-treatment in case of the applicant's, a Russian citizen of Chechen origin, removal to Russia. (Article 3 conditional)</i>	The applicant was issued a card for tolerated persons pursuant to § 46a, in conjunction with § 50, of the Federal Act regarding the Work of the Aliens Police, the Issuance of Documents to Aliens and the Granting of a Right of Entry (Aliens Police Act 2005) by the "Landespolizeidirektion Wien". The card is valid for one year and, after expiry, can be prolonged for further one-year periods if the legal requirements are met. The judgment was translated, published and disseminated to all authorities concerned.
<a href="#">CM/ResDH(2016)281</a>	AUT / Klein	57028/00	03/06/2011 03/03/2011 (Merits) 25/12/2014 25/09/2014 (Just satisfaction)	<b>Protection of property:</b> <i>Deprivation of a lawyer, who had lost the right to practice as a result of bankruptcy proceedings and a criminal conviction, of all entitlements to a pension from the Vienna Chamber of Lawyers despite his contributions to the pension scheme during the whole of his professional career. (Article 1 of Protocol No. 1)</i>	Just satisfaction paid - in the main, with the applicant's consent, to the insolvency administrator. The insolvency administrator, however, demanded payment of the entire sum awarded. The case will now be assessed by independent Austrian courts. Amendment of Article 50(2) of the Lawyer's Act, entered into force on 01/01/2004. The new system of old-age pensions for lawyers provides that being inscribed in the List of Lawyers at the time of reaching the retirement age is no longer a condition in order for an old-age pension to be granted. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)282</a>	AUT / Robathin	30457/06	03/10/2012 03/07/2012	<b>Protection of private life:</b> <i>Search and seizure of electronic data in a lawyer's office in connection with criminal proceedings. (Article 8)</i>	Just satisfaction paid. The confiscated disc is assumed to be destroyed. The judgment was discussed in a training course for judges and candidate judges on fundamental rights in 2014. The judgment was translated, published and disseminated.

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<a href="#">CM/ResDH(2016)40</a>	AUT / Wallishauser	156/04	19/11/2012 19/07/2012	<b>Access to and efficient functioning of justice:</b> Domestic courts denied to acknowledge deemed service against a foreign State made in accordance with rules of customary international law, by accepting the United States' refusal to serve the summons in the applicant's case as a sovereign act and by refusing to proceed with the applicant's case before labour and social courts. (Article 6 §1)	The summons to a hearing of the applicant's case was finally served. The applicant's claim is currently processed in regular court proceedings. The ECHR's consideration on the application to Austria of the rule of customary international law that the service of documents instituting proceedings against a State was deemed to have been effected on their receipt by the Ministry of Foreign Affairs of the State concerned was analysed and disseminated. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)243</a>	BEL / Anakomba Yula	45413/07	10/06/2009 10/03/2009	<b>Discrimination/Access to and efficient functioning of justice:</b> Refusal by the domestic courts to grant legal aid in proceedings, in which a mother contested her (separated) husband's paternity of her child, on the ground that she was not lawfully resident regularly in Belgium. (Article 6 § 1 in conjunction with Article 14)	The applicant was awarded the amount of the legal fees and costs incurred by the paternity proceedings, in which the domestic court found that she had brought evidence that her separated husband was not her child's father. Change of case-law granting legal aid to irregular foreigners despite the wording of Article 668 of the Judicial Code. In the context of a larger reform of legal assistance, an amendment of 06/07/2016 of the Judicial Code extended the benefit of legal aid to all foreigners residing irregularly in Belgium, provided that they had tried to regularize their stay, their request is of urgent nature and concerns the exercise of a fundamental right. The judgment was published and disseminated.
<a href="#">CM/ResDH(2016)41</a>	BEL / Muskhadzhiev a and Others and 1 other case	41442/07+	19/04/2010 19/01/2010	<b>Protection against ill-treatment and detention:</b> Unlawfulness and unacceptable conditions of four children's (Russian nationals of Chechen origin) detention pending expulsion, in closed facilities inappropriate to their young age. (Articles 3 and 5 § 1)	The applicant children were repatriated together with their mother to Poland. On 16/11/2011, Article 74/9 was inserted in the law of 15/12/1980 on "access to the territory, residence, settlement of foreigners" banning the detention of children in closed centres. By way of exception, detention is possible in places adapted to the needs of families with minor children (in which case the unity of the family is preserved and there are no contacts with other adults). Various options are now available for housing families with

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					<p>children not lawfully resident in the country, pending an expulsion order or where the family arrives at the border without meeting the requirements for entry and residence: - accommodation in open single-family houses; - residence in private housing; - accommodation in open centers for asylum seekers; - accommodation in specific places for families within the area of retention centers. The judgment was published and disseminated.</p>
<p><a href="#">CM/ResDH(2016)213</a></p>	<p>BEL / Yoh-Ekale Mwanje</p>	<p>10486/10</p>	<p>20/03/2012 20/12/2011</p>	<p><b>Protection against inhuman treatment, against expulsion and lack of effective remedy:</b> <i>Inhuman and degrading treatment suffered by a Cameroonian national, an illegal immigrant, suffering from AIDS, as the authorities did not take all the measures that could reasonably be expected from them to protect her and to avoid the worsening of her state of health, in the context of her detention with a view to her deportation; Insufficient examination by the authorities of the applicant's individual situation - concerning her state of health - before concluding that there was no risk under Article 3 in the case of her deportation to Cameroon; in view of her situation, there was no link between the applicant's detention and the Government's aim of removing her from the territory. (Articles 3, 13 combined with 3 as well as 5 §1)</i></p>	<p>The applicant was granted a residence permit for family reunion on basis with her legal cohabitation with a Dutch resident. Isolated mal-functioning. New instructions were given to the medical services operating in the 5 Centres hosting aliens managed by the Aliens' Office (Office des Etrangers) granting permanent access to medical staff and doctors. Prognosis concerning the evolution of a health problem lies in the remit of the alien's doctor, not the medical counsellor of the Aliens' Office. As concerns appeals to the Conseil du Contentieux des Etrangers (Council of litigation for foreigners, since the M.S.S. judgment of the ECHR (2011) the principle of an examination of the circumstances ex nunc and not only ex tunc applies. The Law on the admission of aliens 1980 was amended on several occasion: in 2014, new provision concerning the proceedings before the Litigation Council for Foreigners and the State Council (Conseil d'Etat) were introduced, obliging the authorities to take also into account most recent medical certificates, when evaluating the situation. As concerns the detention's lack of necessity, reference is made to the Directive 2008/115/EC of the European Parliament and of the Council 16/12/2008 on common standards and procedures in Member States for returning illegally staying third-country nationals and its transposition into national law and preventive measures to prevent flight risk it contains. The judgment was published and disseminated.</p>

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<a href="#">CM/ResDH(2016)153</a>	BGR / Belv and Others and 1 other case	16354/02+	02/07/2009 02/04/2007	<b>Access to and efficient functioning of justice and/or protection of property:</b> <i>Delay in enforcing final domestic judgments as a result of a series of actions and omissions by the public authorities in the enforcement proceedings (Articles 6 §1 and 1 Prot. No.1).</i>	Just satisfaction paid. Granting of privileges to the tax administration for the recovery of public claims must be accompanied by procedural guarantees to ensure that their implementation and their implications for other creditors are not arbitrary or unpredictable. Thus, the Code of Tax Procedure was amended in 2006 granting priority to enforcement proceedings recovering public debts, providing however that where the State Receivables Agency had interfered in enforcement proceedings and remained inactive (respectively, for 6 or 12 months), the interested parties may request that the stayed enforcement be resumed - under the Civil Procedure Code or as part of a bankruptcy procedure. A law establishing a national guarantee fund for salaries to compensation of employees in case of bankruptcy. Current regulations on compensation of employees were adopted in 2004. Following an amendment of the Civil Procedure Code, enforcement proceedings are not de facto suspended in case of appeal any longer. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)157</a>	BGR / Cholakov	20147/06	01/01/2014 01/10/2013	<b>Freedom of expression:</b> <i>Conviction to ten day's detention for an act of minor hooliganism for statements made in respect of public authorities in the wake of local elections without sufficient justification or meaningful analysis of the interests at stake. (Article 10)</i>	On 25/11/2011, the Decree 904/1963 on the Fight against Minor Hooliganism was amended allowing for a District Court's judgment imposing a sanction of detention to be appealed before the regional court. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)245</a>	BGR / Danev	9411/05	02/12/2010 02/09/2010	<b>Protection of rights in detention:</b> <i>Dismissal of a claim for non-pecuniary damage for unlawful detention on excessively formalistic grounds, as the domestic court required to adduce evidence of outward signs of physical or</i>	Just satisfaction paid. The government referred to the recent judgment Dzhabarov. It will continue to endeavour to allow the fine-tuning of the domestic courts' practice concerning compensation claims for unlawful detention. The judgment was translated, published and disseminated.

Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>psychological suffering during the detention contesting simultaneously that such effects could persist after release; lack of consideration of arguments concerning the applicant's fragile psychological condition while in detention as evidence. (Article 5 §5)</i>	
<a href="#">CM/ResDH(2016)53</a>	BGR / Dimitrova	15452/07	10/05/2015 10/02/2015	<b>Freedom of religion:</b> <i>Search and seizure carried out in the applicant's apartment in 1995 and police ordering not to host further meetings of Word of Life and the lack of effective remedy in this respect. (Articles 9 and 13 taken together with Article 9)</i>	Return of seized items ordered. General measures: see Boychev and others, Final Resolution <a href="#">CM/ResDH(2012)169</a> .
<a href="#">CM/ResDH(2016)154</a>	BGR / Khadzhiev	44330/07	03/09/2014 03/06/2014	<b>Protection of rights in detention:</b> <i>Unlawfulness of detention in the context of two extradition requests of Turkmenistan under a Treaty of 1975 between Bulgaria and the USSR due to lacking assessment by authorities whether extradition would be possible under the terms of this treaty. (Article 5 § 1 (f))</i>	Isolated case. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)306</a>	BGR / Krasimir Yordanov	50899/99	15/05/2007 15/02/2007	<b>Protection of correspondence and access to and efficient functioning of justice:</b> <i>Failure to return to the applicant items seized in the context of a criminal investigation due to their negligent loss by the Prosecutor's Office (personal and business correspondence, accounting documents, video cassettes containing</i>	Just satisfaction paid. The loss of the seized items as such was an isolated violation resulting from negligence). The question of deficiencies in judicial reviews of the Prosecutor's Office decisions concerning the restitution of seized items in terminated criminal investigation is examined in the context of the Dimitar Krastev case. Since 01/01/2000, any refusal by the investigating or prosecuting authorities to return seized items is subject to judicial review (Article 243 Code of Criminal

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				<i>business meeting recordings and international passport) and lack of an effective remedy; excessive length of criminal proceedings and lack of effective remedy. (Articles 8 and 13 as well as 6§1 and 13)</i>	Procedure). Compensation can be requested under Article 49 of the Law on Obligations and Contracts. Further information on compensation claims related to Convention rights: see <a href="#">CM/ResDH(2014)138</a> in Karamitrov case and <a href="#">CM/ResDH(2016)156</a> in Paraskeva Todorova. General measures concerning excessive length of the proceedings are examined in the Kitov group of cases. The possibility to request compensation for excessive length of criminal proceedings: see <a href="#">CM/ResDH(2015)154</a> in Dimitrov and Hamanov. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)156</a>	<b>BGR / Paraskeva Todorova</b>	<b>37193/07</b>	<b>25/06/2010</b> 25/03/2010	<b>Discrimination:</b> <i>Discriminatory refusal by a domestic court to suspend a sentence of imprisonment on account of the applicant's Roma origin. (Article 14 in conjunction with Article 6 § 1)</i>	The applicant was provisionally released. The Supreme Court of Cassation reopened the criminal proceedings against the applicant, quashed the lower courts' judgments and suspended the prison sentence imposed. Case based on very specific facts. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)55</a>	<b>BGR / Putter</b>	<b>38780/02</b>	<b>02/03/2011</b> 02/12/2010	<b>Access to and efficient functioning of justice:</b> <i>Rejection by the Supreme Administrative Court of the applicants' appeal against the valuation of their properties conducted by the administrative authorities; domestic courts had considered themselves bound by this valuation, in spite of the explicit right of appeal against valuations provided for in Section 18 (3) of the Privatisation of State and Municipal Enterprises Act. (Article 6 §1)</i>	Proceedings were reopened and the original decision on the amount of compensation was quashed. Erroneous application of the respective legal provisions. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)54</a>	<b>BGR / Rahmani and Dineva</b>	<b>20116/08</b>	<b>10/08/2012</b> 10/05/2012	<b>Protection of rights in detention:</b> <i>Lack of a timely review of an appeal contesting the lawfulness of detention pending deportation and lack of</i>	The applicant was released and granted a residence permit. Following legislative changes in 2009, domestic courts examining an appeal against a detention order pending deportation or expulsion are competent to release the



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>possibility for the court to order release even though the detention pending deportation had been considered unlawful. (Article 5 § 4)</i>	foreigner, if detention is found to be unlawful or no longer justified. To ensure prompt examination of appeals against detention, the relevant provisions foresee specific time-limits: one month in first instance and two months on appeal. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)214</a>	<b>BGR / Sarkizov and Others</b>	<b>37981/06+</b>	<b>24/09/2012</b> 17/04/2012	<b>Freedom of movement:</b> <i>Automatic ban to leave the country on the ground of a lacking rehabilitation following a criminal conviction. The bans remained in force not later than the respective legislative amendments in 2010 (Article 2 of Protocol No. 4)</i>	Travel bans were lifted not later than 2010. For general measures see <a href="#">CM/ResDH(2012)156</a> in Ignatov, Gochev and Nalbantski cases. The Personal Documents Act provided that a person who had been convicted of a wilful offence and was not rehabilitated could be barred from leaving the. On 01/10/2009 that provision was repealed as opposed to regulations of the European Union. A transitional provision of 10/04/2010 specified that within three months of its entry into force all existing measures previously imposed under section 76(2) would cease to have effect.
<a href="#">CM/ResDH(2016)155</a>	<b>BGR / Stoycheva and 1 other case</b>	<b>43590/04</b>	<b>19/10/2011</b> 19/07/2011	<b>Protection of property:</b> <i>Failure to enforce a final court judgment restoring a plot of land which had been expropriated during the communist regime and lack of an effective remedy in this respect. (Articles 1 of Protocol No. 1 and 13)</i>	Just satisfaction paid. National legislation provides for guarantees in order to amend errors and omissions in cadastral plans. Section 134(2) of the new Building Planning Act of 2001 regulates the possibility of amendments to the zone plan in cases of errors and omissions. Legislative amendments to the Cadastre and Property Register Act adopted in 2014, specified that judicial decisions are direct basis for modification of the cadastral maps and that no specific administrative act is necessary in such cases. A refusal to carry out such a modification is subject to judicial review. Finally, the Supreme Court of Cassation issued an interpretative decision in order to clarify, inter alia, that the owners whose property had been restored on the basis of the Law on the Restitution of Property Expropriated under Building Planning Legislation are entitled to bring rei vindication claims without using first the procedure set out in Section 53 and 54 of the Cadastre and Property Register Act (Civil Section of the Supreme Court of Cassation in case no.

Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
					8 /2014 from 23/02/2016). Further issues concerning the revocation of expropriation are not likely to occur in the future, as the time-limit for requesting restitution under the relevant legislation has expired in 1998. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)336</a>	BGR / Toni Kostadinov	37124/10	27/04/2015 27/01/2015	<b>Access to and efficient functioning of justice:</b> Breach of the presumption of innocence resulting from a public statement of the Minister of Interior with regard to the applicant's arrest. (Article 6 §2)	By final decision of the Supreme Cassation Court, the applicant was acquitted. Just satisfaction paid. Isolated case. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)10</a>	BGR / Tsonyo Tsonev No.3	21124/04	16/01/2013 16/10/2012	<b>Access to and efficient functioning of justice:</b> Refusal of Supreme Court of Cassation of the applicant's request for the appointment of counsel. (Article 6 § 1 and § 3 (c))	The Prosecutor General requested reopening of the criminal case. The Supreme Court of Cassation (SCC) revoked the decision of 09/03/1994 and sent the case to another Chamber of the SCC for fresh examination. The authorities provided legal assistance to the applicant. The judgment was translated, published and disseminated. The general measures adopted were examined in the context of the Zdravko Stanev and Raykov cases <a href="#">CM/ResDH(2015)40</a> .
<a href="#">CM/ResDH(2016)274</a>	BGR / Tzekov and 5 other cases	45500/99+	23/05/2006 23/02/2006	<b>Right to life and protection against ill-treatment:</b> Death, life-threatening injury or ill-treatment during arrests due to the unjustified and/or disproportionate use of fire-arms by police officers and/or the absence of adequate planning and control of police operations; failure of legal and administrative framework governing the use of fire-arms by the police to insufficiently protect against unjustified encroachments on their right to life or	Requests for reopening of investigations were submitted: in three cases resumption of investigation is excluded due to prescription; in one case the decision to terminate the preliminary investigation had been confirmed by final judicial decision; in two cases reopened investigations were terminated with the conclusion that the officers involved had acted in compliance with the domestic legislation in force. Former Article 72 of the 2006 Interior Ministry Act became Article 87 of the 2014 Interior Ministry Act stipulating that police officers may use firearms only in case of "absolutely necessity" in concrete strictly defined cases. They are under obligation to take all measures to protect the life of the persons

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				<i>their physical integrity; lack of effective investigation into these incidents. (Articles 2 and 3)</i>	against whom firearm is used and not to put at risk the life and health of other persons. The police officers must cease the use of fire-arms after the achievement of the legitimate aim. The Regulation of the Minister of internal affairs - 8121-z-1130/14.09.2015 provides more detailed regulation for the use of firearms and other assistive means. The Code of Ethics of Civil Servants in the Ministry of Interior lists a number of rules of conduct for police officers. Findings in disciplinary proceedings on offences must be notified to the human resources directorate. Special training courses are being organised for officers entitled to use fire arms. A course for professional qualification on "Police Practices and Human Rights" is available as e-learning. Monitoring reports on established violations of human rights caused by police officers are provided to the PACE Standing Committee for Human Rights. The Criminal Code was supplemented with qualifications for aggravated homicide and bodily injuries committed with racist or xenophobic motives and the offences of "crimes against peace and humanity" as from 27/05/2011. Article 12a of the Criminal Code requires assessing the necessity of the use of force in arrest operations. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)81</a>	BGR / Velyo Velev	16032/07	27/08/2014 27/05/2014	<b>Right to education:</b> <i>Disproportionate interference due to refusal to enrol the applicant in the Stara Zagora Prison School (Article 2 of Protocol No. 1).</i>	The applicant was released from prison. Under the Execution of Punishments and Detention in Remand Act 2009 all persons deprived of their liberty, including persons detained on remand, shall have access to educational, training, and qualification activities. Further amendments to clarify and explicit the legislative framework were adopted in 2015 and will enter into force in August 2016. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)38</a>	CRO / Ajdarić	20883/09	04/06/2012 13/12/2011	<b>Access to and efficient functioning of justice:</b> <i>Denial of a fair trial; conviction</i>	The impugned proceedings were reopened on 30/08/2012 on request of the applicant, who was serving his sentence in

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				<i>of a Bosnian national for murder solely on the basis of hearsay evidence and contradictory statements of a witness suffering from mental illness; the respondent State was requested by the ECHR to secure the reopening of the impugned criminal proceedings until 4 December 2012 at the latest. (Article 6 §1)</i>	Bosnia. The execution of the sentence was stayed and a fresh detention order issued by the competent domestic court. The authorities of Bosnia and Herzegovina declined to extradite the applicant, who was released in January 2013. In view of his subsequent absconding and unknown whereabouts, the court summons could not be served and the reopened proceedings not be brought to an end. Change in domestic courts' case-law, confirmed by the Constitutional Court with its references to the present case underlining the need to secure the proper adducing of evidence in trials. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)57</a>	CRO / Omerović (No. 2)	22980/09	14/04/2014 05/12/2013	<b>Access to and efficient functioning of justice:</b> <i>Denial of access to the Supreme Court, which rejected their appeal on points of law on the ground that they were not entitled to lodge it on their own behalf without being represented by an attorney, even though one applicant was himself an attorney. (Article 6§1)</i>	Reopening of proceedings was granted and the applicants' appeal on points of law examined. Isolated omission by the Supreme Court. . The judgment was translated, published and disseminated. An effective remedy was put in place through a change of the Constitutional Court's case-law on the admissibility of similar constitutional complaints.
<a href="#">CM/ResDH(2016)186</a>	CRO / Pavlovic and Others	13274/11	02/07/2015 02/04/2015	<b>Access to and efficient functioning of justice:</b> <i>Dismissal of the applicants' request for reimbursement of costs of proceedings by competent domestic court, which overlooked the applicant's itemised claim submitted at the hearing and thereby omitted to conduct a proper and reasonable examination of the applicants' submissions. (Article 6 §1)</i>	The domestic Civil Court granted reopening and examined the applicants' request for reimbursement of the costs of proceedings. Isolated event. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)</a>	CRO / Topcic-	19391/11	24/03/2014	<b>Discrimination:</b> <i>Refusal to grant an</i>	The impugned proceedings were reopened and due to passage

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<a href="#">187</a>	<b>Rosenberg</b>		14/11/2013	<i>adoptive mother maternity leave after the adoption of her child as opposed to a biological mother, who had such a right from the time of the birth. (Article 14 in conjunction with Article 8)</i>	of time the applicant did not request the paid adoption leave itself but only the related allowances for the period of nine months. Equal treatment for the purposes of maternity leave was granted with the enactment of the Maternity and Parental Benefits Act, which entered into force on 01/01/2009. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)337</a>	<b>CYP / Koni</b>	<b>66048/09</b>	<b>27/01/2016</b> 27/10/2015	<b>Access to and efficient functioning of justice:</b> <i>Unfair divorce proceedings before the Family Court in the applicant's absence and before her request for legal aid had been determined. (Article 6)</i>	Reopening of proceedings is not possible because the applicant's husband died during appeal proceedings. Individual error of court. The judgment was published and disseminated.
<a href="#">CM/ResDH(2016)5</a>	<b>CYP / Michael Theodossiou Ltd</b>	<b>31811/04</b>	<b>15/04/2009</b> 15/01/2009 (Merits) <b>14/07/2015</b> 14/04/2015 (Just satisfaction)	<b>Access to and efficient functioning of justice and property rights:</b> <i>Disproportionate interference with property due to the excessive delay between the service of a compulsory acquisition order in 1972 and the actual payment of compensation in 1995 and excessive length of compensation proceedings for expropriation (Article 1 of Protocol 1 and 6§1).</i>	Just satisfaction was paid. Unusual case stemming from the significant delay between the publication of the notice of acquisition and the actual payment of the compensation. The Director of the Land Registry sent a circular to all District Land Officers giving directions with the aim of reforming their practice to comply with the judgment by speeding up valuations and payment of compensation. Domestic courts apply the ECHR's judgment directly when examining similar cases. In respect of the excessive length of the proceedings, see <a href="#">CM/ResDH (2013)154</a> , the Gregoriou group.
<a href="#">CM/ResDH(2016)248</a>	<b>CZE / T.</b>	<b>19315/11</b>	<b>17/10/2014</b> 17/07/2014	<b>Protection of family life:</b> <i>Authorities' failure to ensure the maintenance of family ties between a father and his daughter, who was placed in care following the death of her mother (the applicant was in prison) due to lacking rules on the applicant's visiting or residence rights by way of a formal decision which could be challenged</i>	In May 2016 the domestic court issued a judgment with regard to custody and visitation rights. The child was placed in foster care and the applicant's written contact with his child was confirmed. In accordance with Act no 401/2012 amending Act no. 359/1999 on the Social and Legal Protection of Children, contact decisions must be taken by the courts and not by directors of facilities for children requiring immediate assistance with effect from 01/01/2013. Related training activities for judges are organised by the Judicial Academy. The

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				<i>before courts resulting in the absence of any possibility of family reunification.(Article 8)</i>	judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)205</a>	ESP / Manzanas Martin	17966/10	03/07/2012 03/04/2012 (Merits) 05/03/2013 (Just satisfaction)	<b>Discrimination and protection of property:</b> <i>Unjustified difference in treatment between Evangelical Church ministers and Catholic priests as regards number of years of pastoral activity taken into account when calculating pension rights; Catholic priests had been admitted to the general social-security regime twenty-two years earlier and had thus been able to comply with the minimum period of pensionable service. (Article 14 taken together with Article 1 of Protocol No. 1)</i>	Just satisfaction paid on the basis of an agreement. The Royal Decree 369/1999 laying down conditions for the integration of evangelical pastors in the General Social Security Scheme was aligned to the system established for Catholic priests. The Royal Decree 839/2015 of 21 September modifies the conditions for all those pastors of churches, which are part of FEREDE (Federation of Evangelical Religious Entities of Spain), allowing to bring into account their years of pensionable service pre-dating their integration into the social-security scheme. It applies retroactively as from 01/01/2015. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)238</a>	ESP / Varela Geis	61005/09	05/06/2013 05/03/2013	<b>Access to and efficient functioning of justice:</b> <i>Unfair criminal proceedings resulting in conviction to imprisonment for justification of genocide in which, the Audiencia Provincial of Barcelona, ruling on appeal reclassified the facts the applicant was accused of from "negation of genocide" to "justification of genocide", without the applicant being informed of the possibility of a reclassification, which deprived him of the possibility to exercise his defence rights in respect of the classification eventually retained. (Article 6§3 (a) and (b) in conjunction with Article 6§1)</i>	The execution of the prison sentence was suspended and finally extinguished. The applicant may request its erasure from his criminal record. Reopening of the impugned proceedings was possible. Isolated case. The Constitutional Court declared the Penal Code provision on "negation of genocide" unconstitutional in 2007. The judgment was translated, published and disseminated.

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<a href="#">CM/ResDH(2016)113</a>	ESP/ G.V.A.	35765/14	Decision with undertakings 17/03/2015	<b>Issues related to expulsion and protection of family life:</b> <i>Expulsion of an Argentinian citizen, a mother of a minor child, and prohibition of re-entry for 10 years: The Government has acknowledged the violation of the rights of the applicant under Articles 8 and 13.</i>	The administrative order of deportation and prohibition of re-entry was revoked; just satisfaction paid. The decision was formally notified to the Highest Tribunals, the State General Prosecutor and the Ministries of the Interior and of Employment. It was translated, published in the Bulletin of the Ministry of Justice and disseminated.
<a href="#">CM/ResDH(2016)139</a>	ESP/ R.M.S.	28775/12	18/09/2013 18/06/2013	<b>Protection of family and private life:</b> <i>Failure to secure the applicant's right to live with her child due to her placement in a foster family on account of the mother's financial situation and without taking into account subsequent changes in circumstances; failure of administrative authorities and domestic courts to provide ample justification for automatically issuing a guardianship order and declaring the child to have been abandoned. (Article 8)</i>	The applicant filed a Recurso de Amparo with the Constitutional Court seeking for the final judicial decision on foster care to be declared null and void on the ground of the ECR's judgment. On 01/11/015, an interim decision stayed the ongoing adoption proceedings still pending before the national courts. The Constitutional Court has also decided to grant the Recurso de Amparo the highest priority, to be adjudicated as soon as possible. Failure of authorities in the instant case does not reveal a systemic problem. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)307</a>	EST / Julin and 1 other case	16563/08+	29/08/2012 29/05/2012	<b>Protection against ill-treatment and access to and efficient functioning of justice:</b> <i>Inhuman and degrading treatment on account of confinement to a restraint bed in Tartu Prison and the cumulative effect of the measures applied (physical force, handcuffs, pepper spray, telescopic baton, and restraint bed) in Viru Prison; disproportionate restriction applied to court access in the context of a complaint concerning the applicant's strip-search. (Articles 3 substantive</i>	Just satisfaction paid. Reopening of administrative complaint proceedings granted in Julin case. On 05/09/2011, the Minister of Justice adopted Ruling no. 44 on "Supervisory control in prison" regulating the imposition of direct coercion and supervision of the state of prisoners' health. On 01/01/2013 amendments of the Imprisonment Act came into force, according to which means of restraint – i.e. handcuffs, leg-irons, means of fixation, restrain-jacket, restraint-stool or -bed – are considered as special equipment and are thus covered by the specific regulation of Article 71 (amended 2015) imposing after use of direct coercion the examination of the prisoner by a health care professional and the recording of the circumstances of the use of direct coercion

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				<i>aspect and 6 §1)</i>	and the results of the health examination. Domestic law and practice guarantee the right of access to a court to prisoners and in this respect the violation found was of isolated nature. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)105</a>	EST / Korobov and Others	10195/08	28/06/2013 28/03/2013	<b>Protection against ill-treatment:</b> <i>Ill-treatment due to the excessive use of force by law-enforcement officers and lack of an effective and independent investigation several applicants' allegations of ill-treatment during their arrest and/or detention during riots in Tallinn in 2007 following protests against the relocation of a monument commemorating the entry of the Soviet Army into Tallinn during the Second World War (Article 3 under its substantive and under its procedural limb).</i>	Reopening of investigations is not possible due to time limitations. The case would appear to be sui generis without need for specific legislative or regulatory action. By the new Police and Border Guard Act (entered into force on 01/01/2010) the protection of fundamental rights was regulated in more detail. A specific procedure for documenting a person's detention was established on 14/12/2009 by the Minister of the Interior's regulation No. 59. The use of direct coercion, in particular the use of special equipment and service weapons as well as handcuffs, shackles or binding means, water cannons, electric shock weapons, firearms and the aid to injured person was regulated. Police officers, in particular members of special intervention groups undergo training to ensure that the force used when performing duties should not exceed what is strictly necessary and that once a person has been brought under control, further use of force is not justified. Police officers are also trained in preventing and minimizing violence in the context of an apprehension. In 2011-2013 criminal proceedings have been initiated in 98 instances of alleged abuse of authority. Non-pecuniary damages may be claimed in civil or administrative proceedings, or by an application to the relevant agency. Examples of case-law were submitted. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)308</a>	EST / Martin	35985/09	07/10/2013 30/05/2013	<b>Access to and efficient functioning of justice:</b> <i>Infringement of defence rights as the applicant's lawyer had been denied access to him during the pre-trial</i>	Just satisfaction paid. The applicant's request for reopening was not granted, as the violation found did not concern the remaining factual evidence. Thus, the outcome of the proceedings resulting in the applicant's conviction was not



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				<i>proceedings and his conviction had been based on evidence obtained during those periods. (Article 6 §§1+3 (c))</i>	directly affected by the violation found. A suspect or the accused has the right to choose a counsel and only in exceptional cases – to guarantee the defence for a suspect or the accused – the defence is appointed by the Bar Association. The investigative authorities themselves cannot appoint a counsel any more, the state legal aid counsel is appointed by the Bar Association to avoid any kind of partiality. The case appears to be sui generis. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)59</a>	EST / Rummi	63362/09	15/04/2015 15/01/2015	<b>Protection of property, access to and efficient functioning of justice and lack of an effective remedy:</b> <i>on account of the lack of reasoning in and excessive length of criminal proceedings leading to the confiscation of the applicant's late husband's property. (Articles 6 §1, 1 of Protocol No. 1 and 13)</i>	Criminal proceedings were reopened. Draft legislative changes of the Code of Criminal Procedure are initiated granting the extension of the rights of third parties and their involvement in criminal proceedings. The availability of domestic remedies in respect of length of proceedings was already acknowledged: see <a href="#">CM/ResDH(2014)287</a> in Saarekallas OÜ and Others. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)22</a>	EST / Tunis	429/12	19/03/2014 19/12/2013	<b>Protection of rights in detention:</b> <i>Poor conditions in Tallinn prison amounting to degrading treatment (Article 3)</i>	The applicant was released in 2009. The Minister of Justice's regulation No 72 of 2000 on Internal Prison Rules was amended and as of 01/01/2014 foresees that there should be at least 3 m2 (instead of former 2.5 m2) of floor space per prisoner in a cell. That requirement has been implemented in practice. As of 01/01/2015 the new § 11 of the Imprisonment Act came into force providing that the number of prisoners in a prison shall not exceed the maximum number of prisoners established for the prison. Reference is made to case-law examples confirming the fact that domestic courts award compensation for insufficient detention conditions in prisons and arrest houses. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)309</a>	EST / Vronchenko	59632/09+	18/10/2013 18/07/2013	<b>Access to and efficient functioning of justice:</b> <i>Failure in criminal proceedings</i>	Just satisfaction paid. Requests for reopening were denied: In both cases, the Supreme Court concluded that the county court

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	<b>and 1 other case</b>			<i>resulting in convictions for sexual abuse of a child, to grant the accused the opportunity to put questions to the victim on whose video-recorded testimony given during the pre-trial proceedings the convictions had mainly been based. (Article 6 §§ 1 and 3 (d))</i>	and the court of appeal had sufficiently and properly evaluated the circumstantial evidence which in aggregation allowed the courts to conclude that the accused's guilt was established. As of 01/09/2011 the Code of Criminal Procedure was amended: Its new § 290 foresees that a court may allow to submit the testimony given by the minor in pre-trial procedure as evidence, only on specified occasions and provided the testimony was video-recorded, and the counsel had had the opportunity to pose questions to the witness in pre-trial procedure about the facts relating to the subject of proof. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)288</a>	<b>FIN / A.S.</b>	<b>40156/07</b>	<b>28/12/2010</b> 28/09/2010	<b>Access to and efficient functioning of justice:</b> <i>Lack of adequate opportunity to put questions to the minor victim of an offence with respect to the latter's videotaped account which had been used as the only direct evidence leading to the applicant's conviction. (Article 6 § 1 taken together with 6 § 3 (d))</i>	Just satisfaction paid. Reopening possible. For the general legal framework, see <a href="#">CM/ResDH(2011)205</a> in W. and 3 other cases. In particular, the Code of Judicial Procedure was amended on 01/10/2003 to the effect that the testimony of a person under 15 years of age, or a mentally disturbed person, recorded on audio or videotape during a pre-trial investigation may be used as evidence on condition that the accused has been provided with an opportunity to have questions put to the person giving the testimony. In the present case these provisions were not applied and the trial courts, the Court of Appeal in particular, gave detailed reasons for their derogation from those procedural rules. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)283</a>	<b>FRA / Cadene and 2 other cases</b>	<b>12039/08+</b>	<b>08/06/2012</b> 08/03/2012	<b>Access to and efficient functioning of justice:</b> <i>Lack of access to a tribunal to complain against fines for driving offences; appeals declared inadmissible on the basis of erroneous grounds and/or of abuses of power by the public prosecution. (Article 6 §1)</i>	Just satisfaction paid. The applicants did not request reopening of proceedings. Amendment of the Criminal Procedure Code by Decree of 02/12/2013, in consideration of a relevant Constitutional Council's decision of 2010. This decree specifies the manner in which the public prosecutor must notify the offender of his appeal's inadmissibility and of the reasons therefore as well as of the modalities to challenge this decision of inadmissibility. The Court of Cassation applied these new

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					provisions in a judgment of 25/03/2014. The judgment was published and disseminated.
<a href="#">CM/ResDH(2016)338</a>	FRA / Canali	40119/09	25/07/2013 25/04/2013	<b>Protection against ill-treatment:</b> <i>Degrading and inhuman treatment on the ground of conditions of detention in the Charles III Prison in Nancy, which was built in 1857 and shut down in 2009 on account of its extremely dilapidated state, and due to the cumulative effect of the cramped conditions and the failings in respect of hygiene regulations. (Article 3 substantive limb)</i>	The applicant left the prison in 2009. The judgment was disseminated to the Council of State and the Ministry of Justice. It is also available on the Legifrance consumer database and was commented on in several legal journals. A new penitentiary centre was set up in June 2009, replacing the Charles III prison. Avenues for complaint were opened to allow detainees to challenge their conditions of detention before the administrative and judicial courts.
<a href="#">CM/ResDH(2016)215</a>	FRA / Corbet and Others	7494/11+	19/06/2015 09/03/2015	<b>Protection of rights in detention:</b> <i>Unlawfulness of detention from the expiry of police custody until presentation before a judge (at the time of the events there had been no provisions in French law governing detention from the expiry of a period in police custody until the detainee was brought before an investigating judge). (Article 5 §1)</i>	The gap in the law caused by the absence of texts relating to the period of “mise à disposition” was filled by Law 2004-204 of 9/03/2004 “adapting the judicial system to the evolutions of criminality” determining, among other things, time-limits and procedures for detention between the end of the police custody and the actual presentation before the investigating judge. The Constitutional Council declared Article 803-3 of the Penal Procedure Code as constitutional. General measures see also <a href="#">CM/ResDH(2011)103</a> in Zrvudakis and X. The judgment was published and disseminated.
<a href="#">CM/ResDH(2016)216</a>	FRA / Darraj	34588/07	04/02/2011 04/11/2010	<b>Protection against ill-treatment:</b> <i>Excessive use of force and handcuffing by police officers on the occasion of an identity check of a minor at the police-station. (Article 3)</i>	Just satisfaction paid. The Ministry of the Interior adopted a list of new instructions for the police forces concerning the use of proportionate force and handcuffs. The judgment was published and disseminated and is used by the National Police General Inspectorate and in Training Schools of the National Police. A unified Code of Ethics for security force entered into force on 01/01/2014. An inspection service (IGPN – General Inspectorate of National Police) is competent to conduct judicial or administrative inquiries in complaints on security

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					officers' behaviour. Disciplinary proceedings can be conducted by the department or unit of the officer concerned. Judicial police officers are under control of the competent appeal court and general prosecutor in accordance with Article 13 of the Penal Procedure Code. Victims of offences may request compensation. The judgment was published and disseminated.
<a href="#">CM/ResDH(2016)290</a>	FRA / Douet	16705/10	03/01/2014 03/10/2013	<b>Protection against ill-treatment:</b> <i>Disproportionate use of force by police on the occasion of an arrest. (Article 3)</i>	Just satisfaction paid. Applicant released. The legal framework is not called into question. Excessive use of force in a very particular case. The judgment was published and disseminated.
<a href="#">CM/ResDH(2016)161</a>	FRA / François	26690/11	23/07/2015 23/04/2015	<b>Protection of rights in detention:</b> <i>Unlawful placement in police custody of a lawyer carrying out professional duties as a result of an altercation with a police officer. (Article 5 § 1 (c))</i>	The ECHR highlighted the specific circumstances of the case. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)6</a>	FRA / Guerdner and Others	68780/10	17/07/2014 17/04/2014	<b>Right to life:</b> <i>Use of lethal force during police custody following an attempt to escape of the applicants' relative. (Article 2 substantive limb)</i>	Just satisfaction paid. The judgment was translated, published and disseminated. The Code of internal security, which codifies the ethical conduct prescribed to the police and the gendarmerie entered force on 01/01/2014, providing in Article R. 434-18 that "A police officer or policeman may use force within the framework set by the law only when necessary, and proportionate to the goal or to the seriousness of the threat, depending on the case. Weapons are to be used only when absolutely necessary and within the legal framework related to his status".
<a href="#">CM/ResDH(2016)218</a>	FRA / Henri Kismoun	32265/10	05/03/2014 05/12/2013	<b>Protection of private and family life:</b> <i>Refusal to permit change of name requested with a view to unifying family surname; failure of authorities to take into account the identity-related aspect of the request. (Article 8)</i>	The applicant introduced a new request for name change, which was granted in March 2015. Change of case-law of the competent judges under the guidance of the State Council adopting a wider interpretation of the term "legitimate interest" of the request. The judgment was published and disseminated.

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<a href="#">CM/ResDH(2016)289</a>	FRA / Henri Rivère and Others	46460/10	25/10/2013 25/07/2013	<b>Access to and efficient functioning of justice:</b> <i>Rejection without motivation of the applicants' request to re-schedule a hearing in criminal proceedings leading to their conviction. (Article 6 §§1+3 (c))</i>	Reopening of proceedings may be requested. The Code of Criminal Procedure contains the legal obligation to motivate all judicial decisions, the application of which is now controlled by the Court of Cassation, as demonstrated in its case-law. The judgment was published and disseminated.
<a href="#">CM/ResDH(2016)249</a>	FRA / Henrioud	21444/11	05/02/2016 05/11/2015	<b>Access to and efficient functioning of justice:</b> <i>Excessive formalism of the Court of Cassation, which declared inadmissible the applicant's appeal on the ground of non-compliance with a formal condition attributable to the public prosecutor in proceedings concerning the return of his children abducted by their mother. (violation of Article 6§1)</i>	Just satisfaction paid. Reopening of proceedings unnecessary in the circumstances of the case: one of the children reached majority; with regard to the other minor child the divorce agreement granted visiting and accommodation rights to the applicant. The impugned procedural rules were amended since the facts of the case: Article 979 of the Civil Procedure Code no longer provides for the obligation of the contested decision's notification to bring an appeal, thereby avoiding inadmissibility of the appeal as a disproportionate penalty. The judgment was published and disseminated.
<a href="#">CM/ResDH(2016)310</a>	FRA / M.K.	19522/09	18/07/2013 18/04/2013	<b>Protection of private life:</b> <i>Collection and retention of fingerprints in the National Fingerprint database ("the FAED"), in accordance with Decree of 8 April 1987 concerning this database. The applicant's fingerprints had been collected in the context of an investigation against him concerning book theft, which ended with a decision not to prosecute. (Article 8)</i>	The applicant's fingerprints collected in the framework of the impugned proceedings were deleted. In December 2015, a Decree modifying the FAED Decree 1987 was adopted limiting its application to serious crimes and major offences. It also introduces a distinction between the systems for retaining the fingerprints of persons against whom the judicial authority considered that there were insufficient charges and the others. For persons who receive a final court decision declaring their innocence (discharge or acquittal), the data will be immediately and automatically deleted. In case of dismissal or discontinuation for insufficient charges, the data could be deleted upon the request of the person concerned but may be retained for three to ten years depending on the nature of the offence. After expiry of these deadlines, data's deletion is automatic. The judgment was published and disseminated.
<a href="#">CM/ResDH(2016)</a>	FRA / Palmero	77362/11	30/01/2015	<b>Access to and efficient functioning of</b>	Just satisfaction paid. Case due to particular, individual

Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
<a href="#">219</a>			30/10/2014	<i>justice: Excessive length of proceedings against the State under Article L. 781 of the Code of Judicial Organisation, on behalf of the applicant's dead father. (Article 6 §1)</i>	circumstances. The judgment was published and disseminated.
<a href="#">CM/ResDH(2016)60</a>	<b>FRA / Peduzzi and 1 other case</b>	<b>23487/12+</b>	<b>21/05/2015</b> 21/05/2015	<b>Access to and efficient functioning of justice:</b> <i>Denial of a fair trial, due to a lack of reasoning in the assize court judgment convicting and sentencing to imprisonment (Article 6§1).</i>	The applicant's counsel did not submit the information required for the payment of the just satisfaction. The applicant's request for reopening of proceedings was under examination. The ECHR had already taken note of the subsequent reform of the Code of Criminal Procedure in 2011. In the event of a conviction, the law now requires the reasoning to be based on those facts examined in the course of the deliberations which convinced the assize court in respect of each of the charges brought against the accused. In the Court's view this reform appears, on the face of it, to significantly strengthen the guarantees against arbitrariness and to help the accused understand the court's decision. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)160</a>	<b>FRA / Raw and Others</b>	<b>10131/11</b>	<b>07/06/2013</b> 07/03/2013	<b>Protection of family life:</b> <i>Failure to take all of the measures that could reasonably have been demanded of them to facilitate execution of a judgment ordering the return of the two children to the United Kingdom. (Article 8)</i>	Just satisfaction paid. One of the children returned voluntarily to his mother in the UK, the other has become major. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)24</a>	<b>FRA / Renolde and 3 other cases</b>	<b>5608/05+</b>	<b>16/01/2009</b> 16/10/2008	<b>Right to life and protection against torture of mentally disturbed prisoners:</b> <i>Failure of authorities to protect the right to life and/or against inhuman and degrading treatments due to placement of psychiatrically disturbed prisoners in</i>	Just satisfaction paid. To improve psychiatric care for detainees, the authorities launched a strategic action plan 2010-2014 which reviewed the organisation of psychiatric care in prison aiming to ensure graduated care adapted to the patient's concrete situation. The creation of specially equipped hospital units (UHSA) was provided for in principle by Law No. 2002-

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				<i>solitary confinement, where in 2 cases they committed suicide. Failure to sufficiently take into account the need for specialized medical care in an adapted facility. (Articles 2 and 3 substantial aspect)</i>	1138 of 08/09/2002 on Guidance and Planning for the Justice, aiming to improve detainees' conditions of hospitalization. An Interministerial Circular No. 105 of 18/03/2011 specifies the UHSA operating procedures. These units cover all psychiatric hospitalizations, with and without consent. Their security is assured by the prison administration. Pursuant to Article L 3214-1 of the code of public health, hospitalization within a UHSA follows the same principles as any full-time hospitalization of a detainee in psychiatric care. Circulars on guidance to provide and on methodological issues were adopted by the Directorate for Prison Administration comprising instructions on the monitoring of the in-take of prescribed medicine. On 15/06/2009 the Ministry of Justice adopted an Action Plan to prevent suicides in prisons comprising special references to detainees in solitary confinement. A circular was adopted on 19/06/2011 underlining the need to inform the psychiatrist in case of solitary confinement of mentally troubled detainees and the need to proceed to cell searches in case of risk. An audit of the implementation of the Action Plan highlighted the need for an individual approach in the matter, increased recourse to alternative sanctions and immediate interruption of solitary confinement in case of suicide risk. Furthermore, the Prison Act No. 2009-1436 of 24/11/2009 now provides that "placement in disciplinary cells or solitary confinement cannot exceed twenty days, with due consideration to be given to the mental and psychological state of the detainee". The period may be extended to 30 days in severe cases. Measures were taken to alleviate conditions in disciplinary quarters for fragile detainees'. The judgment was published and disseminated.
<a href="#">CM/ResDH(2016)250</a>	<b>FRA / Tetu and 1 other case</b>	<b>60983/09</b>	<b>22/12/2011</b> 22/09/2011	<b>Access to and efficient functioning of justice:</b> <i>Excessive length of compulsory liquidation proceedings, thus</i>	Just satisfaction paid. Bankruptcy proceedings closed. Change of case-law of the Court of Cassation with a judgment of 16/12/2014, declaring admissible a debtor's action claiming

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				<i>disproportionate infringement of the right to property, on account of the long period of deprivation of the right to administrate and dispose of his possessions; inavailability of an effective remedy, due to its patrimonial nature, to a person under compulsory liquidation. (Articles 6 §1; 1 of Protocol No. 1 and 13)</i>	compensation for excessive length of the bankruptcy proceedings. Change of practice by prosecutors, who do not raise the question of inadmissibility of the debtor's actions for State liability in judicial liquidation proceedings any longer. The judgment was published and disseminated.
<a href="#">CM/ResDH(2016)82</a>	GEO / Janiashvili	35887/05	27/02/2013 27/11/2012	<b>Protection of rights in detention:</b> <i>Decisions of domestic courts on detention pending trial framed in abstract terms and lacking reasoning relying on stereotyped formula paraphrasing the terms of the Code of Criminal Procedure; failure to examine the particular circumstances justifying extension of pre-trial detention and to consider the possibility of alternative non-custodial pre-trial restraint measures. (Article 5§3)</i>	The applicant refused the awarded just satisfaction. He was released. General measures: See <a href="#">CM/ResDH(2011)105</a> in Patsuria.
<a href="#">CM/ResDH(2016)25</a>	GEO / Jgarkava	7932/03	24/05/2009 24/02/2009	<b>Access to and efficient functioning of justice:</b> <i>Denial a fair trial due to the refusal, without clear or sufficient reasons, to award compensation after the applicant's detention on remand despite the discontinuation of criminal proceedings, in that the Supreme Court, in its ruling, had distinguished between "rehabilitation" and "restoration of rights" for the first time without giving any explanation. (Article 6 §1)</i>	Reopening of proceedings following an ECHR judgment possible. (See "FC "Mretebi" <a href="#">CM/ResDH(2010)163</a> ). The applicant did not avail himself of the possibility to request reopening. On 10/10/2010, a new Code of Penal Procedure came into force. The notion of rehabilitation was abandoned. According to Article 176 § 5, a detained person shall receive compensation for illegal or unjustified detention, independently of his/her conviction or acquittal, to be paid from the State budget in compliance with the rules of civil procedure. Article 276 (e) lays down that the decision on acquittal shall indicate the right of the acquitted person to be



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					reimbursed for incurred damage. As regards the rules of civil litigation, according to Article 1005 § 3 of the Civil Code, a person shall be compensated by the State regardless of investigative, prosecution bodies' officials' or judges' fault for the unlawfulness of conviction, prosecution, detention or correctional labour as administrative penalty. In case of intentional misconduct or gross negligence, these persons shall be held jointly responsible together with the State for the damage sustained. The complaint regarding the compensation for damage may also brought on the ground of Article 24 of the Code of Administrative Procedure, according to which the claim can be raised in respect of administrative bodies' decisions impacting legal rights or interests. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)93</a>	<b>GEO / Saghinadze and Others</b>	<b>18768/05</b>	<b>27/08/2010</b> 27/05/2010 (Merits) <b>01/05/2015</b> 13/01/2015 (Just satisfaction)	<b>Protection of property and private and family life; protection of rights in detention:</b> <i>Eviction of the applicant, an internally displaced person from Abkhazia, and unlawful deprivation of the right to use his house; prolonged pre-trial detention without relevant or sufficient reasons; lacking adversarial judicial proceedings on pre-trial detention issue. (Articles 1 of Protocol No. 1 and 8; Article 5 §§3+ 4)</i>	The applicant was released. The government granted a full property title to two two-room apartments in Tbilisi, which were recorded by the National Agency of Public Registry. Concerning protection of property, relevant measures have been examined in the case of Tchitchinadze, see Final Resolution <a href="#">CM/ResDH(2014)48</a> . Concerning the pre-trial detention, relevant measures have been examined in the case of Baisuev and Anzorov, see Final Resolution <a href="#">CM/ResDH(2011)105</a> . The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)42</a>	<b>GEO / The Georgian Labour Party</b>	<b>9103/04</b>	<b>08/10/2008</b> 08/07/2008	<b>Electoral rights:</b> <i>Infringement of the Labour Party's right to stand for legislative election on account of the Central Electoral Commission's (CEC) decision of 02/04/2004 to cancel the election results in Khulo and Kobuleti electoral districts without relevant and</i>	The applicant party participated in the Georgian Parliamentary and Presidential Elections of 2008, Parliamentary Elections of 2012 and Presidential Elections of 2013. In 2014 and 2015, legislative amendments detailed criterion of invalidation of election results by the CEC and its obligations in this regard. A new mechanism was put in place for dispute settlement in case of complaints against the decisions of the Precinct Election

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				<i>sufficient reasons or the possibility of legal remedies. (Article 3 Protocol No. 1)</i>	Commissions ("PEC"): "On its own initiative or based on an application/complaint, under the procedure determined in this Law for resolution of electoral disputes, the CEC verify the legality of decisions and acts of election commissions and their officials, and if any violation is identified, cancel or change the decisions and acts by its decree; decide by decree on opening of packages from the respective PEC and re-counting of ballot papers/lists of voters. If ballot papers are re-counted, the CEC shall notify thereof all the electoral subjects and observer organisations whose representatives attended the counting of ballot papers at an electoral precinct, and shall ensure, upon request, the attendance of their representatives at the re-counting process." Reports by the OSCE/ODHIR and the CoE Congress Rapporteur indicated improvement in the practice of election administration on the basis of the new legislative framework. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)177</a>	GER / Althoff and others	5631/05	08/03/2012 08/12/2011 (Merits)  27/09/2012 (Decision)	<b>Protection of property:</b> <i>Amendment in 1998 - with retrospective effect - of the statutory time-limit originally set for 31/12/1992 for filing restitution claims under the Property Act whose purpose was to settle property conflicts on the territory of the former GDR, determining that the time-limit did not apply to claims by the German State. As a result, the applicants' claim for property restitution was rejected in July 2001 on the grounds that the German State had paid compensation in 1997, inter alia, to the US heir of one of the original Jewish owners under an agreement made on 13 May 1992 between Germany and the</i>	Just satisfaction paid on the basis of a unilateral declaration by the government accepted by the ECHR. The case resulted from its very specific circumstances, notably the fact that, eight years after German reunification and six years after the expiry of the statutory time-limit for restitution claims based on the Property Act, legislature retrospectively amended section 30a(1) of the Property Act to the effect that this time-limit did not apply to the Federal Republic's rights under the German-US Agreement. There are no other known cases in which, after restitution was made following harmful measures taken under the National Socialist regime, a second injury occurred in the GDR and the injured parties are thus in competition with each other. The judgment was translated, published and disseminated.

Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>United States on the settlement of property claims ("the German-US Agreement") and that the applicants were no longer entitled to either restitution or payment of the proceeds from the sale; thus the legislative amendment of 1998 had created an inequality to the State's advantage to the detriment of the applicants. (Article 1 of Protocol No. 1)</i>	
<a href="#">CM/ResDH(2016)188</a>	GER / Herrmann	9300/07	26/06/2012 Grand Chamber	<b>Protection of property:</b> <i>Disproportionate interference due to obligation to tolerate hunting on property despite opposition to it for ethical reasons; failure of the Federal Hunting Act to sufficiently take account of ethical convictions of property owners who oppose hunting for reasons of conscience. [see two previous judgments Chassagnou v. France, 28443/95, and Schneider v. Luxembourg, 2113/04]. (Article 1 of Protocol No. 1)</i>	Just satisfaction paid. On 06/12/2013 the amendment to the Federal Hunting Act entered into force: The Act allows property owners who belong to a hunting association and oppose hunting on their premises for ethical reasons to withdraw from the hunting association upon request. The Act also contains accompanying rules on the liability of the withdrawing property owner for damages caused by wild game, on the pursuit of wounded or sick game into a neighbouring hunting ground and on hunting rights of appropriation. Furthermore, the criminal provision on poaching (section 292 of the Criminal Code is to be adjusted to take account of the newly created possibility of enclosing property for ethical reasons. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)312</a>	GRC / Alexandridis	19516/06	21/05/2008 21/02/2008	<b>Freedom of religion:</b> <i>Interference with the right not to divulge one's religious beliefs on the ground that the applicant had been obliged to reveal that he was not an Orthodox Christian when taking the oath of office as a lawyer and lack of an effective remedy in this respect. (Articles 8 and 13)</i>	Just satisfaction paid. Following an amendment to the Lawyers' Code (introduced by Act No. 4194/2013) it is not obligatory to reveal one's religious beliefs during the procedure when taking of the oath of office before a court. The judgment was translated, published and disseminated.

Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
<a href="#">CM/ResDH(2016)178</a>	GRC / Alvanos and Others and 3 other cases	38731/05+	20/06/2008 20/03/2008	<b>Access to and efficient functioning of justice:</b> Denial of access to the Supreme Court, due to the latter's formalistic approach regarding the admissibly grounds of an appeal in cassation; excessive length of proceedings and lack of an effective remedy to this respect. (Articles 6 §1 and 13)	Reopening of proceedings could prejudice a third party's vested rights and does thus not prevail over the principle of legal certainty and of protection of the rights of third parties of good faith. Change in case-law of the Supreme Court based on decision no 14/2010 regarding the admissibility criteria of applications in cassation and the judgments of the ECHR by the Plenary Session of the Supreme Court: the judge-rapporteur should make ample use of his power to make necessary additions in order to 'restore' the inadmissible reason for cassation as admissible, on the other hand, the Supreme Court should assess the admissibility of cassation appeals in a fair and lenient manner (see also <a href="#">CM/ReDH(2009)68</a> in Liakopoulou. As concerns excessive length of proceedings and a respective remedy, the cases concerned were closed with Final Resolution <a href="#">CM/ResDH(2015)230</a> in Vassilios Athanasiou and Others v. Greece and 205 cases.
<a href="#">CM/ResDH(2016)178</a>	GRC / Dimitras and Others No. 3 and 1 other case	44077/09+	08/04/2013 08/01/2013	<b>Freedom of religion:</b> Obligation based on national legislation, when taking an oath at criminal court hearings as witness, complainant or suspect, to reveal one's religious convictions, in order to be allowed to make a solemn declaration (instead of a religious oath) and not to be presumed Orthodox Christian; lack of an effective remedy in this respect. (Articles 9 and 13)	Just satisfaction paid. For general measures see Final Resolution <a href="#">CM/ResDH(2012)184</a> in Dimitras and others group.
<a href="#">CM/ResDH(2016)313</a>	GRC / Elyasin and 1 other case	46929/06	06/11/2011 24/05/2011	<b>Access to and efficient functioning of justice:</b> Lack of appropriate diligence of the bailiff when notifying a judgment convicting the applicant under the procedure for person of unknown address, even though the applicant had	Reopening of criminal proceedings was possible(Art. 525 §5 of the Code of Penal Procedure). Change of domestic courts case-law. Amendment of the Code of Penal Procedure by law no 3904/2010 providing for the nullity of any procedural act violating the rights of accused persons enshrined in the Convention. The judgment was translated, published and

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				<i>a known address; restriction to the right of access to court due to the formalistic interpretation of the legislation regulating service of summons to proceedings. (Article 6 §§ 1+3)</i>	disseminated.
<a href="#">CM/ResDH(2016)190</a>	GRC / Fakiridou and Schina	6789/06	14/02/2009 14/11/2013	<b>Protection of property:</b> <i>Disproportionate interference due to the authorities and courts' refusal to lift the encumbrance (revocation of expropriation imposed in 1933) affecting their property (Article 1 of Protocol No. 1).</i>	In 2008, the revocation of the appropriation on the applicant's land was formally decided. According to Article 32 §1 of Law no 4067/2012 (establishing the new building construction regulation) amended by Article 3 §2 of Law no 4315/2014, the ex officio revocation of the appropriation due to the lapse of reasonable time was established within the legal order. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)311</a>	GRC / Konstas	53466/07	28/11/2011 24/05/2011	<b>Access to and efficient functioning of justice:</b> <i>Breach of the presumption of innocence in the light of statements made against the applicant by the deputy Minister for Finance and the Minister of Justice in the House of Parliament, referring to the applicant's, a former Rector of University and Minister Plenipotentiary, criminal conviction at first instance while the case was still pending and lack of effective remedy in this respect. (Article 6 §2 and 13)</i>	Criminal proceedings ended in December 2015 by the Court of Cassation's decision to dismiss the applicant's request for cassation confirming his conviction by the court of appeal (after notification of the ECHR judgment). Isolated case. On the basis of Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings, new domestic legislation is under preparation. In case of an infringement of procedural rights of the accused, including the presumption of innocence – complaint procedures are available by the 2010 amendment of the Code of Criminal Procedure, which will be re-evaluated in the light of the above Directive. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)189</a>	GRC / Meïdanis	33977/06	01/12/2008 22/05/2008	<b>Protection of property:</b> <i>Preferential treatment in favour of the public law entity applied by domestic courts in a judicial dispute (calculation of default</i>	Just satisfaction paid. Domestic courts changed their relevant case-law. The judgment was translated, published and disseminated.

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				<i>interest at a rate which was lower than that applicable to disputes between individuals or between individuals and public-law entities) without justification. (Article 1 of Protocol No. 1)</i>	
<a href="#">CM/ResDH(2016)7</a>	GRC / Negrepontis-Giannisis	56759/08	28/11/2011 03/05/2011 (Merits) 14/04/2014 05/12/2013 (Just satisfaction)	<b>Protection of private and family life and property:</b> <i>Discriminatory non-recognition by the Court of Cassation of the applicant's adoption by his uncle, an orthodox bishop, made in the United States, as contrary to public order; denial of the right to a fair hearing due to this refusal; interference with property rights as the refusal to recognise the applicant's status as adopted child had resulted in depriving him of his rights as heir (Articles. 8 taken alone and in conjunction with 14 and 1 of Protocol No 1).</i>	Reopening in civil matters not possible. Just satisfaction paid. Erroneous interpretation of the applicable law in the instant case. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)94</a>	GRC / Papazoglou and Others and other 31 cases	73840/01+	13/02/2004 13/11/2003	<b>Access to and efficient functioning of justice:</b> <i>Length of proceedings before the Court of Audit and lack of an effective remedy in this regard. (Articles 6 §1 and 13)</i>	All domestic proceedings are closed. By virtue of law no. 4055/2012 several measures were taken with a view to accelerate proceedings before the Court of Audit (e.g. pilot proceedings, reinforced filtering of appeals, possibility to join appeals, possibility to submit documents electronically, etc.). The measures were codified in law no. 4129/2013 entitled "Ratification of the Code of Laws for the Court of Audit". On 12/02/2014 law no. 4239/2014 establishing a compensatory remedy to address the problem of possible excessive length criminal and civil proceedings and proceedings before the Court of Audit was adopted following the pilot judgments in Michelioudakis and Glykantzi and Others. The ECHR recognized the effectiveness of this remedy stating that this appeal meets

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					the requirements of Article 13 in Xynos c. Greece (No. 30226/09). The Court of Audit also adopted new Internal Rules on the organisation and functioning of the judicial services with a view to reduce length of proceedings. The Rules were published on 21/11/2014. Budgetary means were increased in 2014 from 443 mio Euros to 498 mio Euros. Currently there are 18500 cases pending in comparison to 31488 in 2013. Further improvements (projects on recruitment of lawyer trainees and e-justice) are under way. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)275</a>	GRC / Vallianatos and Others	29381/09	07/11/2013 (Grand Chamber)	<b>Discrimination on the ground of sexual orientation:</b> <i>Exclusion of same sex couples from the scope of law no 3719/2008 establishing civil unions, notwithstanding the law's title and Parliament's intentions of granting legal recognition to a partnership other than marriage.(Article 14 in conjunction with 8)</i>	Just satisfaction paid. The new Law 4356/2015 entitled "Civil union, exercise of rights, penal and other provisions" was published on 24/12/2015, the first chapter of which concerns "Civil Union". The explanatory report refers explicitly to the ECHR judgment and the State's obligation to comply therewith and underlines the need to modernize legislation on civil union by expanding it to same-sex couples. Article 1 stipulates that "a contract between two adults, irrespective of sex, governing their life as a couple ("civil union") can be concluded by means of a notarised instrument in the presence of the parties, extending equal treatment to all citizens irrespective of their sexual orientation. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)8</a>	GRC / Zouboulidis No. 2 and 1 other case	36963/06+	06/11/2009 25/06/2009	<b>Protection of property:</b> <i>Application of different limitation periods and starting points for default interest between State and private parties in labour proceedings granting a preferential treatment in favour of the State (shortest period of prescription, shortest period for calculation of default interest) without sufficient justification by public</i>	Just satisfaction paid. The judgment was translated, published and disseminated. Change of case-law of domestic courts adhering to the ECHR findings. In subsequent judgments in the cases Giavi and Viaropoulou as well as in the admissibility decision Grigoriou-Kanari, the ECHR held that the State privileges had been applied in compliance with the Convention on the grounds: a) the State had acted by exercising public power in the general interest and b) the difference of the default rate between the debts of the State and the debts of

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				<i>interest (Article 1 of Protocol No. 1).</i>	the individuals had not been grossly disproportionate.
<a href="#">CM/ResDH(2016)61</a>	HUN / Zoltán Németh	29436/05	14/09/2011 14/06/2011	<b>Protection of private and family life:</b> <i>Non-enforcement of the applicant's right of access to his son for several years; the measures taken proved to be ineffective or not sufficiently prompt. (Article 8)</i>	The applicant's son reached majority. The judgment was translated, published and disseminated. The case constituted an isolated incident.
<a href="#">CM/ResDH(2016)26</a>	ISL / Björk Eiðsdóttir and 3 other cases	46443/09+	10/10/2012 10/07/2012	<b>Freedom of expression:</b> <i>Disproportionate interference due to convictions of the applicant journalists in civil defamation proceedings brought against them on the basis of articles published in good faith in consistence with the diligence expected of a responsible journalist reporting on a matter of public interest (Article 10).</i>	The applicants did not make use of the possibility to seek reopening of proceedings. The judgment was translated, published and disseminated. Training was organised and awareness raising measures were taken to induce change of case-law of domestic courts. Penal legislation regarding defamation and freedom of speech is currently being reviewed with a view to abolish the possibility of prison sentences for defamation, even if this sanction is currently not applied any more in practice.
<a href="#">CM/ResDH(2016)13</a>	ITA / Alikaj and Others	47357/08	15/09/2011 29/03/2011	<b>Right to life:</b> <i>Excessive use of force by police resulting in the death of the applicants' relative, shot while resisting arrest; imprudent behaviour of the police agent responsible; lack of information on regulations on the use of firearms as well as lack of effective investigation into this death: lack of independence of the investigators; excessive length of proceedings terminated by effect of statutory limitation of the criminal liability of the police agent concerned and failure to institute disciplinary proceedings against him. (Article 2 substantive and</i>	By a decision of 09/05/2011, the civil court in Milan recognised the responsibility of the agent concerned for the applicants' relative's death and awarded the applicants compensation for the damage suffered, to be paid by the Ministry of Home Affairs. The shooting incident was not the consequence of a deficiency in legislation or the system of safeguards concerning the use of firearms by the police. Information on the existing statutory and regulatory framework for the use of firearms by police contained in domestic law was submitted. The Court of Cassation, in recent decisions interpreting of some of these provisions, underlined the requirements of necessity and proportionality in the assessment of the lawfulness of firearm use. Some regulations concern recruitment requirements, in particular the assessment of the moral qualities and the psychological skills of the candidate and in-service training of



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				<i>procedural limb)</i>	police agents. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)276</a>	ITA / Costa and Pavan	54270/10	11/02/2013 28/08/2012	<b>Protection of private and family life:</b> <i>Disproportionate interference due to inconsistency in the legal system in the field of medically-assisted procreation preventing healthy carriers of cystic fibrosis, to have access to medically-assisted procreation and, in this context, to an embryo screening in order to procreate a child who is not affected by this disease, while authorising the termination of pregnancy on medical grounds when a foetus is affected by the same pathology. (Article 8)</i>	On 23/09/2013, at the applicants' request, the court of first instance issued an injunction ordering the public health agency to perform the medical procedures at issue (medically-assisted procreation and an embryo screening) either directly or through other specialised structures. These procedures were completed; however, the embryo implant failed and a second cycle of medically-assisted procreation was started. On 14/05/2015, the Constitutional court declared the impugned legal provisions unconstitutional, thereby abrogating the prohibition of access to medically-assisted procreation of healthy carriers of cystic fibrosis. On a practical level, certain public structures already offer such medical treatment to couples in a similar situation. Two draft laws reforming medically-assisted procreation in the light of the ECHR judgment are pending before Parliament.
<a href="#">CM/ResDH(2016)358</a>	ITA / Di Bonaventura and 74 other cases	14147/88	02/09/1997	<b>Access to and efficient functioning of justice:</b> <i>Excessive length of administrative proceedings. (Article 6 §1)</i>	Following the entry into force of Legislative Decree no. 104 of 02/07/2010 implementing an administrative procedure reform, the backlog of administrative proceedings decreased by 42% since 2011. The average length of certain types of administrative proceedings, in particular before the Council of State, could also be reduced. 90% of the Regional Administrative Tribunals' decisions are not appealed against. Remaining questions concerning excessive length of administrative proceedings continue to be monitored in the Abenavoli group.
<a href="#">CM/ResDH(2016)221</a>	ITA / Hirsi Jamaa and Other	27765/09	23/02/2012 Grand Chamber	<b>Protection against ill-treatment and collective expulsion as well as lack of effective remedy:</b> <i>Return to Libya of 11 Somali and 13 Eritrean nationals</i>	The whereabouts of 9 of the applicants remain unknown. Just satisfaction for them was placed in an account at the applicants' disposal without objections as to this means of payment by their representatives. The Italian authorities made

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				<p><i>intercepted at sea, where they ran a real risk of being exposed detention in inhuman conditions, torture, poor hygiene conditions, lack of appropriate medical care and had insufficient guarantees protecting them from the risk of being arbitrarily returned to their countries of origin, having regard in particular to the lack of any asylum procedure or recognition of the refugee status granted by the UNHCR in Libya. The removal to Libya was of a collective nature, as it was carried out without any form of examination of each applicant's individual situation. Impossibility to lodge a complaint or obtain a thorough and rigorous assessment of the request before the enforcement of the removal measure. (Articles 3 (twice), 4 of Protocol No. 4 and in conjunction with Article 13)</i></p>	<p>contact, as a matter of urgency, with the Libyan authorities, who signaled the names of the applicants to their regional authorities and raised the issue at Ministerial level. However, objective difficulties arising from developments in Libya prevented them from obtaining the assurances. Faced with this situation, the Italian authorities considered other possible actions but concluded that it would not be reasonable to approach the countries that applicants with refugee status might have fled from. They continued their contacts with the Libyan authorities who state that if found, the applicants would be well treated and not repatriated arbitrarily. Operations to intercept the vessels on the high seas and to push the migrants back to Libya were the consequence of bilateral agreements, suspended following the events in 2011. In July 2012, the authorities confirmed that the policy of push-backs will not be resumed. Authorities assured that guarantees contained in Italian laws and regulations as regards the treatment of refugees and asylum seekers, in particular as regards the latter's access to relevant domestic procedures, would be consistently applied in all circumstances, including during military and coast guard operations on the high seas. Naval units have the necessary instructions to this effect and that, when migrant boats are intercepted, all passengers are to be disembarked in Italy where they can make a claim for asylum or humanitarian protection before Territorial Commissions. Legislative Decree 142/2015 was adopted to implement Directive 2013/33/EU on laying down standards for the reception of applicants for international protection and Directive 2013/32/EU on common procedures for granting and withdrawing international protection. The pushbacks at sea referred to in the judgment and the related risk identified by the UN Special Rapporteur (concerning the speedy return of groups of migrants from Palermo airport to Tunisia and Egypt following bilateral agreements with those States) is currently a</p>

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					matter before the ECHR in pending applications.
<a href="#">CM/ResDH(2016)314</a>	ITA / Hokic and Hrustic	3449/05	01/03/2010 01/12/2009	<b>Protection of rights in detention:</b> <i>Delay in releasing one of the applicants from a detention centre for foreigners despite the decision of the justice of the peace setting aside an expulsion order and ordering release. (Article 5§1)</i>	Just satisfaction paid. Isolated case. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)315</a>	ITA / Nicola Silvestri and 1 other case	16861/02+	09/09/2009 09/06/2009	<b>Access to and efficient functioning of justice:</b> <i>Non-enforcement or delayed enforcement of judicial decisions ordering the administration to reinstate the applicants in their posts and to pay an amount due for failure to observe the period of notice for the termination of the employment contract (Silvestri) as well as delay in the payment of the amount awarded by a judicial decision in conformity with the Pinto law (Gagliardi). (Articles 6 §1 and 1 of Protocol no. 1)</i>	Just satisfaction paid. Reinstatement of one of the applicants; termination of contract due to health reasons in the other case. Isolated cases. The judgments were translated, published and disseminated. Payment of amounts awarded by a judicial decision in conformity with the Pinto law is supervised in the Giuseppe Mostacciolo (No. 1) group.
<a href="#">CM/ResDH(2016)317</a>	ITA / Ogaristi	231/07	18/08/2010 18/05/2010	<b>Access to and efficient functioning of justice:</b> <i>Unfair criminal proceedings resulting in convictions on the basis of testimony given by prosecution witnesses without possibility of counter-examination in investigation or trial stage. (Article 6§§1 and 3(d))</i>	Revision proceedings lead to the acquittal of the applicant (released in 2010) in 2014. For general measures see <a href="#">CM/ResDH(2014)102</a> in Bracci. Change in interpretation and application of Articles 512 and 526 of the Code of Criminal Procedure regulating the use of evidence, which had not been acquired in an adversarial manner, in conformity with ECHR's case-law. Constitutional Court interpreted Article 630 of the Code of Criminal Procedure as allowing reopening of criminal proceedings on the basis of a ECHR judgment. (see AR 2014)
<a href="#">CM/ResDH(2016)</a>	ITA / Panetta	38624/07	15/10/2014	<b>Access to and efficient functioning of</b>	Just satisfaction paid. EC Regulation 4/2009 removed the

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<a href="#">63</a>			15/07/2014	<b>justice:</b> <i>Excessive length of national proceedings intended to provide assistance under the New York Convention of 1956 on the recovery of maintenance abroad. ( Article 6 §1)</i>	exequatur procedure the duration of which was originally found excessive, thereby shortening maintenance claims recovery proceedings. It also provides modern technical methods of communication (fax, email) and forms-type to be translated automatically, using the internet page of the European judicial network in civil matters. It foresees strict deadlines for informing the creditor on the state of recovery of the debt and allows location of the debtors and access to information on their property/income. The Ministry of Justice has been designated Central Authority.
<a href="#">CM/ResDH(2016)119</a>	ITA / Patrono, Cascini and Stefanelli and 2 other cases	10180/04+	20/07/2006 20/04/2006	<b>Access to and efficient functioning of justice:</b> <i>Inability to bring criminal proceedings for defamation against members of parliament enjoying parliamentary privilege and thus could not maintain their right to redress by becoming civil parties due to disproportionate application of the respective law concerning parliamentary immunity as the utterances at issue were not strictly linked to the exercise of the parliamentarians' role as legislators. (violation of Article 6§1)</i>	Just satisfaction paid. Change of the Constitutional Court's case-law acknowledging that the parliamentary privilege of Article 68 of the Constitution should not be extended to utterances without link to the exercise of the parliamentary function. If in judicial proceedings a legislative chamber states that the behavior of one of its members falls within the scope of Article 68, the judge shall raise a conflict of State powers before the Constitutional Court. Respective guidelines and recommendations on the scope of Article 68 on parliamentary immunity were contained in the Government report to Parliament on the execution of ECHR judgments in 2010. The judgment was translated, published and disseminated, in particular to the Ministry of Justice and the Chamber of Deputies through the observatory of ECHR judgments of the Chamber of Deputies' State Legal Advisor.
<a href="#">CM/ResDH(2016)27</a>	ITA / Roda and Bonfatti and 2 other cases	10427/02+	26/03/2007 21/11/2006	<b>Protection of family life:</b> <i>Authorities' failure to take the necessary measures to maintain contacts between children and their natural families while the children were in care (and partly declared adoptable), in particular through the organisation of regular</i>	The children concerned have reached the age of majority. The supervision of care measures was strengthened. Law 149/2001 regulates adoption and State guardianship: placement orders must indicate how a child's guardian is to exercise his responsibility, and how the parents and other members of the nuclear family are to maintain their links with the minor child. Placement orders must also lay down the duration of the

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				<i>visits (Article 8).</i>	placement. The social service department responsible for the placement must inform the judge of any significant event and must facilitate the minor's relations with and return to its family of origin. A 2003 Opinion by the Supreme Judicial Board (CSM) noted that the reinforced supervisory system is generally satisfactory (see also <a href="#">CM/ResDH(2008)53</a> in Scozzari and Giunta). Further legislative changes took place in 2012 and 2013 in the field of family law, in particular with regard to the possibilities of minors to be heard by the judge in procedures concerning them, including those relating to the minor's adoptability. New provisions included in Article 337 of the Civil Code govern the relations between biological parents and the child in proceedings relating to divorce, physical separation and interruption of cohabitation. The Issue of training measures for Social Services will be examined in the context of Piazzzi (No. 36168/09). Legislative Decree n. 154 of 2013 amended Law No. 184 of 1983 underlining that the purpose of the social services' intervention is to provide support for the family of origin. The judgment was translated, published and disseminated. The change of case-law of the Court of Cassation with regard to declarations of adoptability is examined in <i>Zhou and Akinnibosun</i> .
<a href="#">CM/ResDH(2016)120</a>	ITA / Sciacca	50774/99	06/06/2005 11/01/2005	<b>Protection of private life:</b> <i>Publication in a newspaper of photographs of the applicant taken upon arrest in the context of preliminary investigations following their communication by the financial police to the press without legal basis. (Article 8)</i>	Just satisfaction paid. Evolution in the legal framework since the facts of the case: Adoption of the Law on the Protection of Personal Data (Legislative Decree No 196/2003) taking into account CoE Convention for the protection of individuals with regard to the processing Automated Personal Data of 1981 and CM Recommendation (R(87)15) regulating the use of personal data in the sector police. The Code of Ethics relating to processing of personal data in journalism refers to the need to protect the dignity of persons. The Court of Cassation considers the Code as an integral part of the law on protection of personal data (ex multis Cass. No. 12834/2014). The law on

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					privacy provides that everyone can protect his/her rights before the judicial authority or by appealing to the Controller of the Data Protection Personal. Numerous decisions of the Controller of the Data Protection personal that have remedied violations similar to that which the applicant was a victim (ex multis Doc. Web n. 1053631). The Ministry of Interior's regulation on the treatment of personal data and the judiciary, identifying personal and judicial data to be used by the administration and police in the accomplishment of their institutional tasks, was adopted on 21/06/2006. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)121</a>	ITA / Sejdovic	56581/00	01/03/2006 Grand Chamber	<b>Access to and efficient functioning of justice:</b> <i>Unfair criminal proceedings; sentencing in absentia to several years' imprisonment although it had not been shown that the applicant had wilfully absconded or renounced to their right to attend the hearings. (Article 6 §§1 and 3)</i>	The international warrant against the applicant was revoked and the ECHR judgment was noted in his criminal record. Just satisfaction unpaid as the applicant could not be localised. General measures: see final resolution <a href="#">CM/ResDH(2011)122</a> in F.C.B. Article 175 of the CPP (Legislative Decree No. 17 of 21/02/2005, confirmed by Act No. 60 of 22/04/2005), was amended to determine the requirements of an application for suspension of the time-limit for appeal against sentence. The time-limit for appeals against judgments in absentia is reopened upon request of the accused unless he or she had "effective knowledge" of the proceedings against him or of the judgment and has wilfully decided not to appear or to appeal. The basic deadline was extended from ten to thirty days counting from the date on which the accused is surrendered to the Italian authorities. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)28</a>	ITA / Torreggiani and Others and 1 other case	43517/09+	27/05/2013 08/01/2013	<b>Protection of rights in detention:</b> <i>Conditions of detention resulting mainly from a structural problem of overcrowding in Italian prison facilities; in view of the scale of the problem, the</i>	<b>Pilot judgment:</b> The applicants were released or transferred to cells which are not overcrowded. Law-Decree No. 146/2013 of December 2013 establishes a new preventive remedy allowing an inmate to complain about any violation of their rights to a supervisory judge. This remedy can provide redress for

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				<p><i>ECHR requested Italy to put in place, by 27 May 2014, a remedy or combination of remedies providing redress in respect of violations resulting from overcrowding in prison. (Article 3)</i></p>	<p>detention in overcrowded conditions, conferring the judge the power to order the transfer of the complainant. Law-Decree 92/2014 which came into force on 28/06/2014 establishes a new compensatory remedy. Accordingly, an inmate may apply to a supervisory judge for a reduction of the remaining sentence: 1 day of reduction, for each 10 days spent in overcrowded detention condition. Persons already released can apply to civil courts for pecuniary compensation in the amount of 8 euros per day for time spent in overcrowded detention conditions. The pecuniary compensation remedy applies also to persons who spent less than 15 days in such conditions or if a sentence remaining to be served is shorter than a period which could be deducted. Substantive measures are taken on 3 lines of action: 1) legislative measures aimed at increasing the use of alternatives to imprisonment by removing mandatory imprisonment for a number of minor offences, thus limiting the use of detention on remand for minor offences; and increasing possibilities for prisoners to benefit from early release under supervision in certain cases; 2) organisational measures improving living conditions by increasing freedom of movement of prisoners outside their cells; 3) renovation of prisons. In particular, Law-Decree No. 146/2013 increased the number of days of imprisonment per semester for a prisoner to become entitled to early release, increased use of electronic tagging as an alternative to imprisonment, as well as house arrest, and introduced more lenient penalties for minor drug-related offences. The majority of detainees are now permitted to spend at least 8 hours per day outside their cells and have easier access to work. Information on the impact of the measures taken: In April 2012 the occupation rate of Italian prisons stood at 148%. In April 2014, the occupation rate had fallen to 124%. Statistics provided in September 2014 indicate that the number of persons deprived of liberty continues to decrease: from 58,092 on 30/06/2014 to 54,252 on 31/08/2014. By</p>

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					30/09/2014, the occupation rate had again decreased to 110%. Since 19/05/2014 no prisoner enjoys a vital space of less than 3m <sup>2</sup> . Statistics show an increased use of alternative measures to detention, a decrease of the overall prison population and a steady decrease in the number of people detained on remand. An office of a National "Garante", a type of Ombudsman for persons deprived of their liberty, was established. The Department of Prison Administration developed a computerised system for monitoring prison space and population, which guides reallocation of prisoners detained in overpopulated facilities.
<a href="#">CM/ResDH(2016)316</a>	ITA / Ventorino	357/07	17/08/2011 17/05/2011	<b>Access to and efficient functioning of justice:</b> <i>Failure of authorities to pay fees due to the applicant, a lawyer, and to enforce a final order to pay. (Article 6§1 and 1 of Protocol no. 1)</i>	Just satisfaction paid. Legislative Decree no. 1/2012 "Measures for the promptness of payments and extinction of old debts of the State administrations and the Treasury" set up special budgetary funds for prompt payment, the possibility of issuing State obligations in lieu of payment and the possibility of concluding, in a very flexible manner, friendly settlements. Provisions of Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on "combating late payment in commercial transactions" were confirmed in Legislative Decree no. 192/2012 applicable from 01/01/2013. Legal and financial means were earmarked to address the problem of debt payment by the public administration. Decree-Law no.35/2013 created a fund to ensure liquidity for the payment of debts. Legislative Decree 102/2013 triggered the second phase granting additional means. Finally, by Decree-Law 66/2014, additional resources made it possible for the State to guarantee payment of debts contracted by the public administrations. In addition, a computer platform was created to allow creditors of the State to obtain a debt obligation and facilitated payment. This platform was used to date by more than 21,000 companies submitting more than 91,000 requests.



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<a href="#">CM/ResDH(2016)320</a>	LIE / A.K.	38191/12	09/10/2015 09/07/2015	<b>Access to and efficient functioning of justice:</b> Objectively justified doubts in respect of the impartiality of the five judges in view of the procedure they had chosen to reject his motions for bias against all five of them; but no objectively justified doubts as to the judges' impartiality as such. (Article 6 § 1)	Just satisfaction paid. As solely the applied procedure was in violation of the Convention, there are no further consequences to be addressed. The Constitutional Court could have made use of available substitute judges or substitute appointments, as provided for by the Constitutional Court Act (Articles 9 and 11), in order to avoid the violation. These legal provisions are in force and the Constitutional Court still has the possibility to comply with them. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)341</a>	LIT / Albrechtas	18866/06	19/04/2016 19/01/2016	<b>Protection of rights in detention:</b> Failure by the authorities to allow sufficient access to the investigation case file resulting in the applicant's inability to adequately challenge the grounds for his pre-trial detention. (Article 5 § 4)	The applicant was found guilty. He was released from prison in January 2015. Change of case-law from the Senate of the Supreme Court and lower courts since 2007 so that the accused and their defence counsel have a right to access the information in the investigation case file when challenging pre-trial detention. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)97</a>	LIT / Baškienė	11529/04	10/12/2007 24/07/2007	<b>Access to and efficient functioning of justice:</b> Denial of access to court and the excessive length of civil proceedings seeking to have shares redeemed by a company (Article 6§1 double).	The domestic proceedings in the applicant's case are closed. Civil action against the State asking for pecuniary damage damages was rejected on 28/02/2011 by the Supreme Court. Concerning the applicant's initial claim seeking to oblige the company to redeem her shares, the court noted that the law in force at the material time did not provide for such an obligation. As regards general measures taken to address the problem of length of judicial proceedings and the lack of an effective remedy in respect thereof, see Final Resolution <a href="#">CM/ResDH(2014)291</a> in Šulcas group. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)340</a>	LIT / Buterlevičiūtė	42139/08	12/04/2016 12/01/2016	<b>Access to and efficient functioning of justice:</b> Lack of notification of oral hearings before the appellate court in proceedings concerning the applicant's	Just satisfaction paid. Improper application of the domestic law. The existing legal provisions of the Code of Criminal Procedure and the case-law of the domestic courts ensure the persons' participation in the hearings. The judgment was translated,

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				<i>temporary suspension from her post in the framework of a criminal investigation against her. (Article 6 § 1)</i>	published and disseminated.
<a href="#">CM/ResDH(2016)194</a>	LIT / Cudak	15869/02	23/03/2010 Grand Chamber	<b>Access to and efficient functioning of justice:</b> <i>Supreme Court's refusal, on the basis of state immunity, to hear a claim for compensation for unlawful dismissal lodged by an employee of the Polish Embassy. (Article 6 § 1).</i>	Following a reopening of proceedings at the applicant's request, her claim for compensation for unlawful dismissal was examined. The Court of Appeal granted the applicant's claim and awarded her compensation against the Polish Embassy. The case results from an extensive interpretation of the Supreme Court of State immunity The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)124</a>	LIT / Drakšas	36662/04	31/10/2012 31/07/2012	<b>Protection of private life:</b> <i>Disclosure to the media of the applicant's (a politician and founding member of the Liberal Democrats political party) telephone conversations, which had been intercepted by the State Security Department and lack of an effective remedy allowing for an examination of the legality and the implementation of the surveillance measures. (Articles 8 and 13)</i>	Criminal prosecution of the perpetrators became time-barred. Case due to to ineffective application of the regulatory framework. The Law on Operational Activities that was applicable at the material time on 01/01/2013 was replaced by the Law on Criminal Intelligence, which provides for effective domestic remedies for the protection of human rights enabling inter alia judicial examination of the legality and the implementation of surveillance measures. In June 2015 the Supreme Court published on its website a survey of the domestic case-law with regard to application of Article 154 of the Code of Criminal Procedure and Article 10 of the Law on Criminal Intelligence as concerns the monitoring, recording and storage of the information transmitted through the electronic communications networks explaining criteria for secret surveillance measures to comply with Article 8. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)65</a>	LIT / JGK Statyba LTD and Guseļnikovas	3330/12	05/02/2014 05/11/2013 (Merits) 27/04/2015	<b>Access to and efficient functioning of justice and protection of property:</b> <i>Denial of a fair trial on account of the excessive length of two sets of civil</i>	Just satisfaction paid. Domestic proceedings finalised. Introduction of an effective compensatory domestic remedy for excessive length of proceedings under Article 6.272 of the Civil Code (see detailed explanations in <a href="#">CM/ResDH(2014)291</a> in

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			27/01/2015 (Just satisfaction)	<i>proceedings relating to the ownership of two houses; prolonged seizure and prohibition on making use of the two houses (Articles 6 §1 and 1 of Protocol No. 1).</i>	Sulcas. Isolated case due to specific circumstances. New legislation on seizure of property came into force on 01/08/2015 through an amendment to Article 147 § 5(8) of the Civil Procedure Code. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)181</a>	LIT / Lalas	13109/04	01/06/2011 01/03/2011	<b>Access to and efficient functioning of justice:</b> <i>Denial of a fair hearing in that the applicant was found guilty of drug dealing following active incitement by undercover state agents without the applicant's plea of incitement being adequately addressed by the domestic courts. (Article 6 § 1)</i>	The impugned proceedings were reopened resulting in the applicant's acquittal. For general measures, see Final Resolution <a href="#">CM/ResDH(2011)231</a> in Ramanauskas and Malininas.
<a href="#">CM/ResDH(2016)66</a>	LIT / Pyrantienė and 3 other cases	45092/07+	05/02/2014 05/11/2013 (Merits) 27/01/2015 27/01/2015 (Just satisfaction)	<b>Protection of property:</b> <i>Significant disproportion between the compensation awarded for the deprivation of land by the authorities and the land's market value; deprivation of property under conditions imposing an excessive burden on the applicants. (Article 1 of Protocol No. 1)</i>	Just satisfaction paid. Domestic proceedings finalized. Erroneous application of domestic law. The judgment was translated, published and disseminated. Examples of changed case-law of domestic courts concerning the minimization of consequences following the annulment of land purchase agreements, the compensations for non-pecuniary damage due to unlawful action or inaction, errors or omissions of authorities, compensation for pecuniary damage and the necessity to act promptly while correcting mistakes of the State authorities, were submitted.
<a href="#">CM/ResDH(2016)193</a>	LIT / Sidabras and Dziautas and 2 other cases	55480+	27/10/2004 27/07/2004	<b>Discrimination and protection of private life:</b> <i>Discrimination due to employment restrictions (inability to apply for various private-sector jobs and dismissal from existing employment) with regard to former employees of the KGB in the private sector. (Article 14 taken in conjunction with Article 8)</i>	Just satisfaction paid. Two of the applicants are employed in the private sector, the third one is unemployed and the fourth one passed away. On 01/01/2009, the 10-year period of application of the formal employment restrictions concerning former KGB agents specified in the relevant legislative act came to an end. The judgment was translated, published and disseminated.

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<a href="#">CM/ResDH(2016)124</a>	LIT / Venskutė	10645/08	11/03/2013 11/12/2012	<b>Protection of rights in detention:</b> <i>Arbitrariness of detention by the State Border Guard Service without proper records of her arrest or the questioning as a suspect being drawn up. (Article 5 § 1)</i>	The applicant was released. The case seems to be an isolated incident. An explanatory note with a summary of the judgment was placed on the website of the Ministry of Justice and disseminated among all domestic courts and the relevant institutions, including the State Border Guard Service. A copy of the judgment is accessible for the public on the websites of the Ministry of Justice and of the National Courts' Administration.
<a href="#">CM/ResDH(2016)195</a>	LIT / Zickus	26652/02	07/07/2009 07/04/2009	<b>Discrimination and protection of private life:</b> <i>Professional restrictions in the private sector on the applicant who was dismissed from his post at the Ministry of the Interior in July 2001 and was disbarred from practising as a barrister on the ground that he was a "former secret collaborator of the KGB", pursuant to the "Law on registering, confession, entry into records and protection of persons who have admitted to secret collaboration with special services of the former USSR", enacted on 23/11/1999 with effect 01/01/2000. (Article 14 taken in conjunction with Article 8)</i>	The applicant neither applied to the Bar Association to be recognised and relisted as a practising barrister nor complained before the domestic courts. A law amending the relevant legal provisions came into force on 20/07/2010. Thus there are no more restrictions for secret collaborators with the special services of the USSR to find employment in the private sector, besides they are afforded a right to apply to the public service, with certain exceptions. The judgment was translated, published and disseminated. <i>The case differs from those of Sidabras and Džiautas (55480/00 and 59330/00) and Rainys and Gasparavičius (70665/01 and 74345/01), as in these cases similar restrictions were applied to "former KGB officers" on the basis of another special law ("Law on the Evaluation of the USSR State Security Committee (NKVD, NKGB, MGB, KGB) and the Present Activities of Permanent Employees of the Organisation") which came into effect on 01/01/1999.</i>
<a href="#">CM/ResDH(2016)180</a>	LVA / A.K.	33011/08	24/09/2014 24/06/2014	<b>Protection of private life:</b> <i>Procedural shortcomings in compensation proceedings on account of a gynaecologist's alleged medical negligence in antenatal care. (Article 8 in its procedural aspect)</i>	Reopening of proceedings was refused by the Supreme Court for lack of proper reasoning as to why the ECHR's judgment in the case should be considered as a newly disclosed circumstance. Just satisfaction for non-pecuniary damage paid. Isolated incident, which resulted from excessive formalism of national courts. Case-law examples of domestic courts demonstrate that the national courts do award compensation for damages in case of negligence by the medical personnel,

Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
					inter alia, under the provisions of the Medical Treatment Law. The judgment was translated, published and disseminated and included in the Judicial Training Centre's programme for the judges of the regional courts and the Supreme Court.
<a href="#">CM/ResDH(2016)191</a>	LVA / Baltins	25282/07	08/04/2013 08/01/2013	<b>Access to and efficient functioning of justice:</b> Domestic courts' failure to properly address the incitement plea in criminal proceedings, raised by the applicant who claimed that he had been incited by an undercover police agent to commit an offence (acquisition and sale of narcotic substances). (Article 6 § 1)	The request for reopening of the impugned proceedings was granted and the de novo adjudication proceedings addressed the applicant's incitement complaint. Amendments to the Criminal Procedure Law entered into force on 25/06/2014): Article 500 of the Criminal Procedure Law was supplemented with paragraph 4, which enhances the competence of judiciary when dealing with admissibility of evidence obtained as a result of special operative measures. Upon an arguable claim raised by the prosecutor, victim, defendant or the defence counsel, the trial court must acquaint itself with the materials pertaining to the special investigative measures which had not been included in the criminal case file and which concern the body of evidence used in the criminal proceedings. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)318</a>	LVA / Davidovs and 1 other case	45559/06	07/07/2015 07/07/2015	<b>Protection of rights in detention:</b> Detention on remand without valid domestic decision or other "lawful" basis and failure of domestic court to justify the applicant's prolonged detention on remand. (Article 5 §§ 1(c) and 3)	Just satisfaction paid. The applicants were released. Cases resulted from insufficient knowledge of competent authorities of Convention standards. Amendments were introduced in the Criminal Procedure Law in July 2012 providing that once an appellate court quashes a decision of a lower court and sends the case back for a new adjudication, it should also adopt a decision on the preventive measure to be applied to the person. Training for judges was organised by the Judicial Training Centre in 2013-2015, including on the application and revocation of security measures (pre-trial detention and house arrest) and reasoning of the respective decisions. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)</a>	LVA / Kadikis	62393/00+	04/08/2006	<b>Protection of rights in detention:</b>	Applicants were either released or transferred to other

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<a href="#">122</a>	<b>and 6 other cases</b>		04/05/2006	<i>Degrading treatment resulting from the conditions administrative detention in Liepaja State Police short-term detention facility, Jelgava State Police short-term detention facility, Daugavpils prison, Valmiera prison, Saldus State Police short-term facility and the Prison Hospital; lack of an effective and accessible remedy with respect to the conditions of detention; ban on correspondence with the family and opening by the prison authorities of the letters addressed to the ECHR. (Articles 3, 13 and 8)</i>	detention facilities. On 13/10/2005 the Law on Procedure of Keeping of Apprehended Persons was adopted providing for appropriate detention conditions. Those short-term detention facilities which did not comply with the requirements of the newly adopted Law were closed, while new short-term detention facilities were put in operation in Liepāja (since 2006), in Riga (since 2008), in Kuldīga (since 2011), in Ventspils (since 2012) and in Daugavpils (since 2013). The issue of privacy of in-cell toilet facilities was effectively addressed by the Constitutional Court in its judgment of 20/12/2010 in case no.2010-44-01. As of 2012 many short-term detention facilities underwent major repair and renovation works. In 2014 several places of deprivation of liberty were renovated or reconstructed: in Brasa prison, in the Cēsis Juvenile Correctional Institution, in the Daugavgrīva prison, in the Ilguciems prison, in the Jelgava prison, in the Jēkabpils prison, in the Liepaja prison, in the Rīga Central Prison, in the Slirotava prison and in the Latvian Prison Hospital. Amendments to Article 504 of the Law on Enforcement of Sentences entered into force on 09/12/2004, repealing the provision that permitted detention of life-sentenced prisoners in a solitary cell for up to six months. Today life-sentenced prisoners shall be detained in a specially designated prison block under enhanced supervision. Regulations for body-searches and the use of special restraint means were adopted. On 31/07/2007 the Administration of Places of Deprivation of Liberty closed the Prison Hospital located within the premises of the Central prison and opened the Latvian Prison Hospital within the premises of the Olaine prison on 01/08/2007. Following the legislative amendments of 2004 and 2005, correspondence of convicted or apprehended persons with international and national human rights institutions and organisations, the Prosecutor Office, courts and defence counsel may not be subjected to censorship. Following the entry into force of the Administrative Procedure Law on

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					01/02/2004, State authorities decisions and de facto actions are subject to the administrative courts' scrutiny. Thus, an additional remedy capable in substance to address the detained persons' complaints was put in operation. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)319</a>	<b>LVA / Miroļubovs and Others</b>	<b>798/05</b>	<b>15/12/2009</b> 15/09/2009	<b>Freedom of religion:</b> <i>Intervention by the Religious Affairs Directorate in the dispute between two groups of parishioners of the Old Orthodox Church by a decision without sufficient reasons, without consideration of all the relevant circumstances and in disregard of the State's duty of neutrality in religious matters, amounting to a disproportionate interference, which resulted in the expulsion of one group of parishioners from the temple. (Article 9)</i>	Just satisfaction paid. The applicants could request the reopening of administrative proceedings, but did not avail themselves of this opportunity. In 2008, the registration of religious organisations was handed over from the Ministry of Justice to the Enterprise Register which maintains the Registry of Religious Organisations. The registration can be refused on the basis of an opinion by the Ministry of Justice, which can be appealed against to the administrative court. In 2009 amendments were introduced in the Law on Religious Organisations, according to which the obligation of parishioners belonging to the same cult/denomination to unite under one leadership was lifted. Corresponding adjustments in the domestic case-law. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)192</a>	<b>LVA / Nassr Allah</b>	<b>66166/13</b>	<b>21/10/2015</b> 21/07/2015	<b>Protection of rights in detention:</b> <i>Excessive length of appeal proceedings against the first instance court decisions concerning detention in application of the Immigration Law. (Article 5 §4)</i>	The applicant was released on 07/10/2013 when he was issued a temporary one-year residence permit on the basis of the subsidiary protection status granted. His current whereabouts are unknown. A new Asylum Law entered into force on 19/01/2016 authorising the State Border Guard Service to detain an asylum seeker up to six days. The asylum seeker has a right to appeal against the detention to the district (city) court within 48 hours. The asylum seeker's further detention can be authorised only by the court. The district (city) court has to examine the application on the asylum seeker's detention within 24 hours; the asylum seeker participates in the hearing and is assisted by an interpreter, if necessary. The decision of the district (city) court, which is not subjected to an appeal, has

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					to be sent to the asylum seeker and the State Border Guard Service within 24 hours, if necessary ensuring its translation. An asylum seeker has a right to request the court to review the further necessity of one's detention at any time. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)96</a>	LVA / Pacula	65014/01	15/12/2009 15/09/2009	<b>Access to and efficient functioning of justice and protection of correspondence:</b> <i>Conviction based on a witness' statements without opportunity to question them at the hearing; opening by the prison authorities of the applicant's correspondence with the Court and their refusal to send certain items from his case file to the Court.. (Articles 6§§1+3d and 8)</i>	The applicant was released on parole. The Supreme Court dismissed the prosecutor's decision concerning the reopening of the criminal proceedings on the ground of the impossibility to question the witness who had already passed away. General measures: See Final Resolution <a href="#">CM/ResDH (2009)131</a> in Lavents and Jurjevs cases. According to the amended Article 50 of the Law on Execution of Sentences, which entered into force on 09/12/2004, prisoners' correspondence with, inter alia, international and national human rights institutions and organisations, the Prosecutor Office, courts and defence counsel must not be subject to censorship. The postal expenses should also be met by the respective place of deprivation of liberty from its own budget. As concerns detainees on remand, similar legal regulation has been introduced in Article 15 of the Law on Procedure of Detention on Remand. The judgment was translated, published and disseminated. Respective training activities for judges were organised. The ECHR's findings were explicitly referred to by domestic courts in similar cases, introducing a change of case-law.
<a href="#">CM/ResDH(2016)29</a>	LVA / Perry	30273/03	02/06/2008 08/11/2007	<b>Freedom of religion:</b> <i>Unlawful ban imposed on a foreign resident to exercise his functions as pastor when his residence permit was renewed. (Article 9)</i>	The applicant left the country in 2004. Erroneous application of the Aliens Act by the Office of Citizenship and Migration Affairs and subsequent erroneous interpretation by domestic courts. The Aliens Act became null and void after the entry into force of the Immigration Law on 01/05/2003. Its Article 34 lists exhaustive and clear grounds on which a residence permit can be refused, while Article 35 defines the basis for a temporary residence permit's annulment. Article 61 provides for a



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					procedure and states the grounds for including an alien in the list of persons to whom the entry is prohibited and a residence permit refused or annulled (threat to national security or public safety, member of a criminal organisation, etc.). Pursuant to the Constitutional Court's ruling of 06/12/2004 in the case no2004-14-01 this law was supplemented with a list of the authorities competent to issue an opinion in such cases (the Constitution Protection Bureau SAB, the Security Police and the State Police) and criteria concerning the contents of the decision. The law also contains procedural provisions for the lodging of an appeal before the administrative courts against the Minister of Interior's decision. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)64</a>	LVA / Shannon	32214/03	24/02/2010 24/11/2010	<b>Protection of rights in detention:</b> <i>Failure by a regional court to examine promptly appeals against the extension of remand in custody. (Article 5§4)</i>	The applicant was released and expelled. On 01/10/2005, the impugned regulation was replaced by the Criminal Procedure Law introducing the position of investigative judges, whose primary duty is to ensure observance of human rights during the pre-trial stage of criminal proceedings. Maximum procedural terms for detention are binding both during the pre-trial proceedings and the adjudication stage and detention orders are subject to regular judicial review at two levels of jurisdiction. Mandatory periodic control over the applied pre-trial detention is carried out every two months by the investigative judge. The individual concerned (or through his/her defence counsel) may at any time submit an application to the investigative judge asking to review the imposed security measure. Domestic court practice concerning the reasoning given in support of detention orders and their subsequent prolongation has considerably developed. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)123</a>	LVA / Ternovskis	33637/02	29/07/2014 29/04/2014	<b>Access to and efficient functioning of justice:</b> <i>Unfair proceedings in which the</i>	Just satisfaction paid. Case resulted from insufficient knowledge of national judges on the ECHR standards. The judgment was

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				<i>applicant contested the authorities' refusal to grant the necessary security clearance and his subsequent dismissal from service as a state border guard: lack of access to all the material relevant for the determination of the reasons for the security clearance refusal and examination of the applicant's appeal by the appellate court in his absence. (Article 6§1)</i>	translated, published and disseminated.
<a href="#">CM/ResDH(2016)98</a>	LVA / Užkauskas and 1 other case	16965/04+	06/10/2010 06/07/2010	<b>Access to and efficient functioning of justice:</b> <i>Infringement of the principle of equality of arms due to the domestic administrative courts finding against the applicants in proceedings instituted by them against their entry in an "operational records file", a database containing information compiled by law-enforcement officers, which had been used to revoke their firearms license without disclosure of the evidence or the possibility to respond to it. (Article 6 § 1)</i>	Reopening was possible, but not requested. Erroneous application and interpretation of law by the domestic courts. By a ruling of 15/05/2007, the Constitutional Court held that "no court decision can be entirely substantiated by the information constituting a state secret (or other classified information), which is unknown to the parties". For general measures see also case of Gulijev which is closed by Final Resolution <a href="#">CM/Res(2007)154</a> .
<a href="#">CM/ResDH(2016)147</a>	MDA / Cebotari and 2 other cases	35615/06+	13/02/2008 13/11/2007	<b>Protection of rights in detention and right to individual petition:</b> <i>Unlawfulness of detention in the Centre For Fighting Corruption and Economic Crimes ("CFECC") due to lack of a reasonable suspicion for the commission of an offence; insufficient amount of compensation awarded by domestic courts in respect of non-pecuniary damage for unlawful detention; criminal</i>	Just satisfaction paid. The applicants are no longer in detention on remand, the applicant in the <i>Cebotari</i> case was acquitted in June 2007 of all the charges wrongfully brought against him and the company Oferta Plus was eventually able successfully to proceed with its complaint to the ECHR. A substantial reform of the prosecution service was undertaken, improving its independence <i>vis-à-vis</i> legislature and executive and establishing the disciplinary accountability of prosecutors. According to the Constitutional Court's decision of 23/09/2013, State authorities are prohibited from interfering in the handling

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				<i>proceedings opened with the only aim to put pressure on the applicant in order to hinder the company Oferta Plus from pursuing its application before the ECHR; lack of confidentiality of discussion with lawyer; inability to sign the application forms affecting the applicant's right of petition to the ECHR. (Articles 5 §1, 18 in conjunction with 5 §1 and 34)</i>	of specific criminal cases. Subsequently a Law on the Prosecution Service was adopted in February 2016 following an overall positive assessment by Council of Europe experts. The Supreme Court's ruling of 24/12/2012 provided guidance to domestic courts on the amounts to be awarded, in conformity with the ECHR's case-law, for non-pecuniary damage for unlawful detention. The examination of other outstanding questions is raised in the framework of the joined <i>Muşuc, Guţu</i> and <i>Brega</i> groups.
<a href="#">CM/ResDH(2016)84</a>	MDA / Ciubotaru	27138/04	27/07/2010 27/04/2010	<b>Protection of private life:</b> <i>Impossibility to request a change of the ethnicity registered in civil status documents without despite objectively verifiable links with the Romanian ethnic group such as language, name, empathy and others, which the authorities failed to examine. (Article 8)</i>	Domestic civil proceedings were reopened and the Supreme Court ordered the competent civil status registration authority to change the ethnicity entry in the applicant's birth certificate from Moldovan to Romanian. On 22/03/2012 the Law on civil status documents was amended to allow the registration of ethnicity of a child's parents in the child's birth certificate at their request and on the basis of their own declarations and a possibility for a child to change his ethnicity according to his/her own declarations when he/she reaches his/her sixteen's birthday. The judgment was published and disseminated to all authorities directly concerned.
<a href="#">CM/ResDH(2016)146</a>	MDA / Colibaba and 1 other case	29089/06	23/01/2008 23/10/2007	<b>Protection of rights in detention and right to individual petition:</b> <i>Ill-treatment in police custody and lack of an effective investigation; intimidation by the Prosecutor General of the applicant's lawyer with a view to preventing him from exercising the right of petition to the ECHR; refusal to grant access for a medical doctor to the applicant and his medical files with a view to presenting an estimate of</i>	Reopening of domestic proceedings in the first case was not considered propitious given the factual barriers in gathering evidence; in the second case no pertinent evidence could be gathered in new investigations. On 30/07/2015 the Superior Council of Prosecutors adopted a Code of Ethics of Prosecutors stating that a prosecutor shall act in compliance with the Convention requirements and case-law, respect the rights and legitimate interests of all parties in the judicial process, observe the principles of integrity, responsibility, impartiality. A Law on the Prosecution Service, adopted on 25/12/2008, provided that a prosecutor may be subject to disciplinary proceedings for

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				<i>pecuniary damage before the ECHR. (Articles 3 substantive and procedural limbs and 34)</i>	conduct prejudicial to the interests of the prosecution service and for damaging its reputation and image. In particular, Article 61 of the law defines as a disciplinary offence any violation of the Code of Ethics as well as undignified behaviour towards any participant in the judicial process, including the lawyers. The disciplinary offences are examined by the Disciplinary Board established within the Superior Council of Prosecutors. In recent years the Prosecution Service underwent a comprehensive reform process that resulted in the adoption on 25/02/2016 of a new Law on the Prosecution Service which will enter in force on 01/08/2016. The draft law was elaborated by a working group composed of the representatives of the prosecution service, the Ministry of Justice and NGOs "Centre for Legal Resource from Moldova", "Institute for Penal Reforms" and "The Lawyers for Human Rights". It was reviewed jointly by the Venice Commission, CoE and EU experts and OSCE/ODIHR. Furthermore, following amendments of November 2012 to the Execution Code, a detainee shall undergo a medical examination immediately when entering a detention facility and at the release. General measures with regard to ill-treatment in detention and the failure to conduct an effective investigation are examined in the Corsacov group.
<a href="#">CM/ResDH(2016)291</a>	<b>MDA / Gorea and 1 other case</b>	<b>21984/05+</b>	<b>17/10/2007</b> 17/07/2007	<b><i>Protection of rights in detention and against ill-treatment: General practice of detaining defendants without court orders following the submission of their case files to the trial court as well as poor conditions of detention on remand in Prison No.13. (Articles 5§1 and 3)</i></b>	Just satisfaction paid and applicants released from pre-trial detention. The general practice of detaining defendants without issuing a court order after submission of their case files to the trial court seized to exist following the amendment of Article 186 of the Code of Criminal Procedure on 03/11/2006. The new procedure makes no distinction between arrest at the pre-trial stage and arrest during the trial. An explanatory ruling of the Supreme Court No. 1 of 15/04/2013 provided judges and prosecutors with clear indications. General measures taken in response to poor conditions of detention are examined in the Ciorap group of cases; remaining questions in response to other

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					violations of Article 5 §§1, 3 and 4 within the context of the Sarban group.
<a href="#">CM/ResDH(2016)164</a>	MDA / Societatea Română de Televiziune	36398/08	15/10/2013 Friendly settlement	<b>Freedom of information and protection of property:</b> <i>Friendly settlement with special undertaking: authorities acknowledged the breach of the right of the applicant, a public television company ("SRTV"), to impart information and the right to peaceful enjoyment of its possessions due to the interruption of its broadcasting despite the fact that its broadcasting license was still valid. (Articles 10 and 1 of Protocol No. 1).</i>	In accordance with National Audiovisual Coordinating Council (NACC) decision no. 174 from 15/11/2013 "On the transmission of TVR in Moldova programming services", the State Company "Radiocomunicații" entered into a contract with the applicant company's cooperation in the pilot project to test the technology of digital terrestrial television which provides broadcast services in digital format MPEG-4SD DVBT2, in particular the broadcasting of the applicant's TV programme "TVR Moldova", in Chișinău. The contract is renewed on an annual basis. On 04/01/2016 Contract No. 3 was concluded. A first functional digital terrestrial television multiplex with national coverage was created. On 04/01/2016, the NACC in a public meeting decided to provide the applicant's company with a broadcasting license for a slot in the first digital terrestrial multiplex with national coverage for the retransmission of the programme "TVR Moldova". The applicant company was issued a broadcasting license, being exempted from participation in tender, for a term of seven years until 2023. The decision was translated, published and disseminated.
<a href="#">CM/ResDH(2016)35</a>	MKD / Atanasovic and Others and 55 other cases	13886/02	12/04/2006 22/12/2005	<b>Access to and efficient functioning of justice and effective remedy:</b> <i>Excessive length of civil, labour, criminal and enforcement proceedings and lack of an effective domestic remedy in respect of excessive length of civil or enforcement proceedings (Articles 6§1 - in some cases also Article 1 Protocol 1 as well as 13). One of the cases concerns the excessive</i>	Proceedings in all cases but one were closed, just satisfaction was paid. Legislative measures adopted include the amendments of September 2010 to the Civil Procedure Code, the new Criminal Procedure Code of November 2010, the new Enforcement Law 2005 and its amendments of July 2010 as well as the Courts Act and its amendments of 2008. The procedural deadlines and discipline were tightened in civil proceedings, the evidence procedure was revisited and mediation introduced to alleviate the workload of civil courts. In criminal proceedings, hearings need not be restarted all over again in case of a trial

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				<p><i>length of criminal proceedings due to the failure of the domestic courts to secure the accused's attendance and the failure to protect his private life in that the domestic courts for this reason did not decide on the merits of his claims in the defamation proceedings as they became time-barred (Articles 6 and 8).</i></p>	<p>judge change within a single set of proceedings; second instance courts shall hold a hearing and decide on the merits if the case has already been subject to a remittal, thus eliminating repetitive remittals within one set of criminal proceedings. With respect to the enforcement proceedings, private bailiffs were introduced assuming responsibility for enforcement as from 2012. For measures taken to increase efficiency of administrative proceedings see <a href="#">CM/ResDH (2011)81</a> in Dumanovski group.</p> <p>The number of civil and judicial servants and judges was increased. The Academy for Judges and Public Prosecutors carried out trainings courses on the right to a hearing within a reasonable time. The court backlogs were addressed, monthly targets set for judges, leading to high clearance rates of the first instance courts in 2009, 2010 and 2011 (up to 170% in 2011) but also to more procedural discipline, due to performance monitoring of performance. Automated case management was introduced in all courts in 2010. On 22/07/2015 the Judicial Council started monitoring the status of all cases pending before domestic courts for more than seven years in order to ensure finalization of proceedings before the end of 2015. The Courts Act of 2006, which introduced a domestic remedy in January 2007, was amended as from 22/03/2008. Under the 2008 Act, the Supreme Court has exclusive competence to decide upon the remedy. A special department was set up within the Supreme Court to deal with length-of-proceedings cases. Complaints can be lodged while proceedings are pending, but not later than six months after the decision becomes final. The CEPEJ Report 2014 and the most recent data document the positive impact of these measures. Finally, the Criminal Code was amended to decriminalise defamation in line with the Resolution 1577(2007) of the Parliamentary Assembly and on 12/11/2012 the new Law on Civil Responsibility for Insult and Defamation was adopted. The Academy for Training</p>

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					of Judges and Prosecutors carried out several training courses on the subject with the support of the CoE and the Norwegian Ministry of Foreign Affairs.
<a href="#">CM/ResDH(2016)77</a>	MKD / Spasovski	45150/05	10/09/2010 10/06/2010	<b>Access to and efficient functioning of justice and protection of property:</b> <i>Dismissal of the applicant's action for compensation for damage as result of acts of violence or terrorism twice on procedural grounds without examining it on the merits because of the domestic courts conflicting positions with regard to the appropriate defendant (State or municipality). (Article 6§1)</i>	The impugned proceedings were reopened and the applicant was granted the requested compensataion. Domestic legislation (Section 166 of the Obligation Act) already provides for the State responsibility for any damage caused as result of acts of violence or terrorism. On 22/02/2011 the Civil Department of the Supreme Court adopted an opinion regarding the interpretation of this Section. The judgment was translated, published and disseminated. Domestic courts aligned their case-law following the ECHR judgment.
<a href="#">CM/ResDH(2016)142</a>	MKD / Šterjov and Others	40160/04	16/10/2014 16/10/2014	<b>Access to and efficient functioning of justice:</b> <i>Excessive length of civil proceedings before domestic courts and lack of an effective respective remedy. (Article 6 §1 and 13)</i>	The impugned domestic proceedings were closed. For general measures see Final Resolution <a href="#">CM/ResDH(2016)35</a> in the Atanasovic group of cases.
<a href="#">CM/ResDH(2016)342</a>	MLT / Abdi Mahamud	56796/13	03/08/2016 03/05/2016	<b>Protection of rights in detention and against ill-treatment:</b> <i>Arbitrary detention of asylum seekers without effective and speedy remedy under domestic law to challenge the lawfulness of their detention; failure of the national system as a whole to protect the applicants from arbitrary detention.</i>	The applicant was released. Just satisfaction paid. For general measures see <a href="#">CM/ResDH(2016)277</a> in Susa Muso.
<a href="#">CM/ResDH(2016)196</a>	MLT / Brincat and Others	60908/11+	24/10/2014 24/07/2014	<b>Protection of life and of family life:</b> <i>Exposure of ship-yard repair workers to asbestos for a number of years from the</i>	Just satisfaction for non-peduniary damage paid. Legislation enacted in 2002 to prevent and reduce environmental pollution by asbestos. In 2003, the "Protection of Workers from the Risks

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				<i>1950s to the early 2000s leading to asbestos related health conditions; failure of authorities to satisfy positive obligations to ensure that the applicants were adequately protected against and informed of the risk to their health and lives. (Article 2 in respect of the applicants whose relative had died and Article 8 in respect of the remainder of the applicants).</i>	related to Exposure to Carcinogens or Mutagens at Work and the Protection of Workers from the Risks related to Exposure to Asbestos” in Work Regulations were enacted. For the avoidance of any doubt, Maltese companies and companies in the shipping industry in Malta are prohibited from exposing their employees to any asbestos. The Occupational Health and Safety Authority created in 2000 provides preventive information and guidelines concerning the management and use of asbestos. Its functions include, inter alia, the dissemination of information regarding occupational health and safety, and the methods required to prevent occupational injury, ill health or death; and the promotion of education and training on occupational health and safety, and emergency and first aid response at work places. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)197</a>	MLT / Gera de Petri Testaferrata Bonici Ghaxaq	26771/07	05/07/2011 05/04/2011 (Merits) 03/12/2013 03/09/2013 (Just satisfaction)	<b>Access to and efficient functioning of justice and protection of property:</b> <i>Excessive length of proceedings, related to the requisition of property in 1958 and its subsequent de facto expropriation, before the Land Arbitration Board and the constitutional jurisdictions. (Articles 6 §1 and 1 of Protocol No.1)</i>	Civil proceedings closed and the impugned property was returned on the basis of an agreement. A number of measures were taken to ensure that the Land Arbitration Board can proceed with promptness as required. Delays in proceedings before the Constitutional jurisdictions are not a systemic problem. Delays in the present case were attributable to a lack of proper case management. The measures adopted will avoid excessive delay in future cases: monitoring, introduction of mediation and arbitration procedures, increase in the number of judges. The measures taken with regard to the requisition of property are being examined in the context of Saliba and Others. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)199</a>	MLT / Saliba and Others	20287/10	22/02/2012 22/11/2011 (Merits) 22/04/2013	<b>Access to and efficient functioning of justice and protection of property:</b> <i>Disproportionate control by the State from 1951 to 1993 of the applicants’ use</i>	The civil proceedings had ended before the ECHR application was lodged. The authorities acquired the property by outright purchase in 2010. Delays in proceedings before the Constitutional jurisdictions are not a systemic problem. Instead,



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
			22/01/2013 (Just satisfaction)	<i>of their property and subsequent de facto expropriation in 1993 of the same property; excessive length of the domestic civil proceedings. (Articles 6 §1 and 1 of Protocol No. 1)</i>	the delays in the case were attributable to a lack of proper case management. The Committee of Ministers examined the issue of delays in the Debono v. Malta case no.34539/02, closed by Final Resolution <a href="#">CM/ResDH(2014)280</a> . The measures adopted will avoid excessive delay in future cases. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)198</a>	<b>MLT / Schembri and Others and 5 other cases</b>	<b>42583/06+</b>	<b>10/02/2010</b> 10/11/2009 (Merits) <b>01/02/2011</b> 28/09/2010 (Just satisfaction)	<b><i>Access to and efficient functioning of justice and protection of property:</i></b> <i>Inability to institute actions in expropriation proceedings before the Land Arbitration Board; excessive length of proceedings before the Land Arbitration Board and Constitutional Court; disproportionate interference with property right due to the low level of compensation offered. (Articles 6 §1 and 1 of Protocol No.1)</i>	Just satisfaction paid. Civil proceedings closed. In 2009, Article 22 of the Land Acquisition (Public Purposes) Ordinance was amended to speed up the procedure. Article 18A, introduced in 2006, provides for the valuation of the land which is (a) still in the course of acquisition on 1 January 2005. The amended Article 22(6) of the Land Acquisition Ordinance provides that an individual can now directly lodge an application to the Land Arbitration Board for determination of the compensation due. General measures to address the excessive length of proceedings before the Land Arbitration Board see <a href="#">CM/ResDH(2016)197</a> Gera de Petri Testaferrata Bonici Ghaxaq. General measures in relation to the requisition of property see <a href="#">CM/ResDH(2016)199</a> in Saliba and Others.
<a href="#">CM/ResDH(2016)277</a>	<b>MLT / Suso Musa and 4 other cases</b>	<b>42337/12+</b>	<b>09/12/2013</b> 23/07/2013	<b><i>Protection of rights in detention and against ill-treatment:</i></b> <i>Arbitrary detention of asylum seekers without effective and speedy remedy under domestic law to challenge the lawfulness of their detention; failure of the national system as a whole to protect the applicants from arbitrary detention. Cumulative effect of inadequate detention conditions amounting due to the applicant's vulnerable position because of her immigration status and fragile health to</i>	Article 46 indications: Malta must, through appropriate legal and/or other measures, secure in its domestic legal order a mechanism which allows individuals challenging the lawfulness of their immigration detention to obtain a determination of their claim within Convention-compatible time-limits. It should also envisage taking the necessary general measures to ensure an improvement in the conditions of detention and to limit detention periods so that they remain connected to the ground of detention applicable in an immigration context. The applicants were released and just satisfaction was paid. Malta underwent an overall review of the National Immigration Policy and gave up its systematic detention policy. A new strategy document was published in December 2015 entitled

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				<p><i>degrading treatment. (Articles 5 §§1+4 as well as 3)</i></p>	<p>‘Strategy for the Reception of Asylum Seekers and Irregular Migrants’.</p> <p>Legislative changes: Act No. XXXVI of 2015 amended the Immigration Act empowering the Immigration Appeals Board to grant release from custody where the detention of a person is not or no longer required and in cases without prospect of return within a reasonable time. The amendments oblige the Board to provide individualized reasoning. Legal Notice 417 of 2015 entitled “<i>Reception of Asylum Seekers (Minimum Standards) Regulations</i>” transposes the provisions of Council Directive 2013/33/EU laying down standards for the reception of applicants for international protection providing for a review of the detention’s legality within 7 days. Free legal aid is granted. Detention for the purposes of removal is limited to six months by the Common Standards and Procedures for returning illegally staying third country nationals. This period may be extended for a further period of twelve months in the event of lack of cooperation by the third country national concerned and delays in obtaining travel documents from the country in question. If a person informs the authorities that he is vulnerable or a minor the person is not detained but stays in open reception conditions.</p> <p>Administrative measures: The Office of the Refugee Commissioner improved the management of asylum applications and increased staff thereby speeding up the proceedings. It also implemented a number of EU funded Projects. According to the latest data available, only 3 individuals are detained in the detention centres.</p> <p>Improvements to detention conditions were introduced: access to fresh air, to information, facilities for families, sanitary facilities and less overcrowding. A system for the official lodging of complaints about conditions of detention is in place and detainees have access to the Board of Visitors for Detained Persons</p>

Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
					The judgment was disseminated within the Ministry responsible for immigration, to the Refugee Commissioner, to the detention service and to the Principal Immigration Officer as well as to the Chamber of Advocates.
<a href="#">CM/ResDH(2016)224</a>	MON / Bijelic	11890/05	06/11/2009 28/04/2009	<b>Protection of property:</b> Failure to enforce a final domestic court decision in 1994, ordering the eviction of a third party from the applicants' flat. (Article 1 of Protocol No. 1)	Impugned eviction order was enforced. The sums awarded were deposited for the applicants' benefit with a court deposit and placed at their disposal. A new Enforcement Act 2011 introduced measures to ensure rapid and full enforcement of final decisions. Measures were taken to reduce the backlog of unenforced decisions. In 2007, a remedy was introduced in respect of excessive length of court proceedings, including enforcement proceedings. This remedy was considered effective in Vukelić, 58258/09. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)165</a>	MON / Boucke	26945/06	21/05/2012 21/02/2012	<b>Access to and efficient functioning of justice:</b> Failure to enforce a final domestic judgment ordering payment of child maintenance. (Article 6 §1)	Payment of child maintenance is enforced through monthly attachments on the debtor's salary. A new Enforcement Act was adopted in July 2011 entrusting the enforcement of final decisions to public enforcement officers with the goal to reduce workload in courts and increase efficiency of enforcement proceedings in general. The Act included special provisions concerning enforcement of decisions in respect of child maintenance imposing special diligence. The reform of the enforcement proceedings is still on-going. To this end, in March 2014 the Ministry of Justice prepared the Strategy for the Reform of the Judiciary 2014-2018. The Strategy provides for an objective to enhance further the efficiency of the enforcement proceedings. It is envisaged that a dedicated IT system in respect of enforcement cases will be put in place and that public enforcement officers will be able to access the database of government authorities to carry out enforcement. Pursuant to the most recent data for 2014, enforcement of child maintenance decisions lasted on average 90 days. The

Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
					judgment was translated, published and disseminated and is used in training activities.
<a href="#">CM/ResDH(2016)45</a>	MON / Koprivica	41158/09	22/02/2012 22/11/2011 (Merits) 23/09/2015 23/06/2015 (Just satisfaction)	<b>Freedom of expression:</b> Conviction in civil proceedings of a magazine editor for defamation of a fellow journalist to pay excessive damages. (Article 10)	Just satisfaction paid. The impugned judgment was quashed and further action withdrawn in reopened proceedings. The authorities took steps to ensure that inadequate case-law of domestic courts is brought into compliance with the Convention requirements. The judgment was translated, published and widely disseminated among the legal community. On 29/03/2011, the Supreme Court adopted a binding legal opinion on the obligation to respect the ECHR case-law and the Convention standards concerning freedom of expression.
<a href="#">CM/ResDH(2016)201</a>	MON / Mijanovic	19580/06	17/12/2013 17/09/2013	<b>Access to and efficient functioning of justice and protection of property:</b> Failure of domestic authorities to enforce a judgment against a company owned by State. (Articles 6 §1 and 1 of Protocol No. 1)	Just satisfaction paid. A new Enforcement Act was adopted in July 2011. By this law, the former model of judicial enforcement was abandoned and enforcement of final decisions entrusted to public enforcement officers. 29 public enforcement officers were appointed by the Ministry of Justice until 11 March 2016. They are entrusted with enforcement of judicial decisions with few exceptions. Courts will in particular have exclusive jurisdiction to deal with the enforcement of decisions concerning return of a child and reinstatement of an employee. The public enforcement officers are competent for enforcement of decisions rendered against companies mostly consisting of State-owned capital. In 2007 the Right to a Trial within a Reasonable Time Act was adopted, providing for the possibility to have lengthy proceedings expedited by means of request for review as well as an opportunity for the claimants to be awarded compensation by means of an action for fair redress. It also applies to enforcement proceedings. The judgment was translated, published and disseminated. The Centre for Training of Judiciary and Public Prosecutors carried out a large number of workshops aimed at enforcement

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					officers on the implementation of the Enforcement Act.
<a href="#">CM/ResDH(2016)225</a>	MON / Mijuskovic	49337/07	21/12/2010 21/09/2010	<b>Protection of family life:</b> Failure of authorities to make adequate and effective efforts to execute custody decisions and reunite the applicant with her children. (Article 8)	The applicant was reunited with her children. A new Enforcement Act 2011 introduced measures to ensure rapid and full enforcement of final decisions, including custody decisions. In particular, the Enforcement Act stipulated that courts shall pay particular attention to a need of protecting child's interest to the greatest possible extent when enforcing decisions concerning children. The court shall allow a period of three days for handing over a child to a parent or another guardian voluntarily. If the court's order is not complied with within the indicated time-frame, the court shall fine the responsible individual the child shall be taken away forcibly and handed over to the parent or another guardian. The court can request the assistance from the social care authority in the enforcement. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)223</a>	MON / Milic	28359/05	11/03/2013 11/12/2012	<b>Access to and efficient functioning of justice:</b> Non-enforcement of a judgment, which ordered a State-run medical institution his reinstatement, and lack of an effective remedy in this regard. (Articles 6 §1 and Article 13)	On 21/10/2009 the applicant concluded with the State-run medical institution an agreement terminating his employment and withdrew his enforcement request for reinstatement. Domestic court orders concerning salary arrears were enforced. A new Enforcement Act was adopted in July 2011 entrusting the enforcement of final decisions to public enforcement officers with the goal to reduce workload in courts and increase efficiency of enforcement proceedings in general. The Act included special provisions concerning enforcement of decisions in respect of reinstatement of an employee imposing special diligence. A number of steps were taken to enable the introduction of public enforcement officers in 2013. The Ministry of Justice appointed 29 public enforcement officers so far. Statistics clearly shows a progress achieved in increasing efficiency of enforcement proceedings. In 2007 the Right to a Trial within a Reasonable Time Act was adopted. It provided for

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					the possibility to have lengthy proceedings expedited by means of request for review as well as an opportunity for the claimants to be awarded compensation. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)200</a>	MON / Milic and Nikezic	54999/10+	28/07/2015 28/04/2015	<b>Protection against ill-treatment in prison and lack of effective investigation:</b> <i>Decisions by State Prosecutor to discontinue criminal proceedings against the prison guards concerned were not based on an adequate assessment of all the relevant factual elements. (Article 3 substantive and procedural limb)</i>	One of the applicants was released, the other still serves his sentence. Disciplinary proceedings were instituted against three prison guards, who were found responsible and fined with 20% reduction of their salaries for abusing their position or exceeding their authority in 2009. Fresh investigation is not possible as the case became time-barred. The judgment was translated, published and disseminated. It was used in training workshops for prison staff as well as of training activities for state prosecutor organised by the Judicial Training Centre.
<a href="#">CM/ResDH(2016)44</a>	MON / Šabanović	5995/06	31/08/2011 31/05/2011	<b>Freedom of expression:</b> <i>Conviction to suspended prison term for defamation of a public official (water inspector) in a matter of public interest amounting to an unnecessary interference. (Article 10)</i>	Criminal proceedings were reopened and the applicant acquitted on the basis of new favourable legislation. The impugned judgment was quashed. On 22/06/2011, amendments to the Criminal Code abolished defamation and criminal insult. The amendments were published in the Official Gazette in July 2011. The judgment was translated, published and disseminated.

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<a href="#">CM/ResDH(2016)292</a>	MON / Velimirovic	20979/07	02/01/2013 02/10/2012	<b>Access to and efficient functioning of justice:</b> <i>Non-enforcement of a final judgment ordering a socially-owned company to issue a decision on flat allocation. (Article 6 §1)</i>	Just satisfaction paid. On 11/07/2016 the legal successor of the debtor company rendered a final decision on the flat allocation and thus complied with the domestic judgement rendered in 1992. A new Enforcement Act was adopted in July 2011 entrusting the enforcement of final decisions to public enforcement officers with the goal to reduce workload in courts and increase efficiency of enforcement proceedings in general. 29 public enforcement officers were appointed by the Ministry of Justice until March 2016. Awareness-raising and training activities were undertaken for these officers. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)284</a>	NLD / Geerings	30810/03	01/06/2007 01/03/2007 (Merits) 14/05/2008 14/02/2008 (Just satisfaction)	<b>Presumption of innocence:</b> <i>Confiscation order of "illegally obtained advantage" in respect of criminal acts of which the applicant had been partially acquitted. (Article 6§2)</i>	The applicant was reimbursed the pecuniary damage that had resulted from the impugned proceedings. On 26/09/2007, the Board of Prosecutors-General, the highest authority of the public prosecution service, issued guidelines for confiscation cases emphasizing that no obtained advantage can be confiscated in case of acquittals unless "it has been established as fact that the individual concerned actually profited from the offence". The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)67</a>	NLD / Geisterfer	15911/08	09/03/2015 09/12/2014	<b>Protection of rights in detention:</b> <i>Detention on remand and subsequent release and re-detention during trial on the basis of a purely abstract assessment of the social need to continue deprivation of liberty on the ground of threat to the public order caused by an offence. (Article 5 §§ 1 (c) and 3)</i>	The case occurred in very specific circumstances. Usually detention on remand lasts for a much shorter period and suspects are not released during trial and then re-detained. The notion of threat to the public order caused by an offence as such had been accepted by the ECHR in earlier case-law. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)</a>	NLD / K.	11804/09	27/11/2012	<b>Protection of private life:</b> <i>Taking and</i>	The applicant's DNA profile, which had been taken and stored

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<a href="#">31</a>			<b>FS with undertaking</b>	<i>storing of the applicant's cellular material, after he had been convicted of a criminal offence, pursuant to the DNA Testing (Convicted Persons) Act. (Article 8)</i>	pursuant to the DNA Testing (Convicted Persons) Act was deleted from the DNA database and the costs for the applicant's proceedings fully covered by the domestic legal aid scheme.
<a href="#">CM/ResDH(2016)126</a>	<b>NLD / Mathew</b>	<b>24919/03</b>	<b>15/02/2006</b> 29/09/2005	<b>Protection of rights in detention:</b> <i>Inhuman treatment due to the keeping for an excessive and unnecessarily protracted period in solitary confinement in the Aruba Correctional Institution (KIA), the keeping in a cell which failed to provide adequate protection against the weather, the keeping in a location from which he could only gain access to outdoor exercise and fresh air at the expense of unnecessary and avoidable physical suffering. ( Article 3)</i>	The applicant was released. The KIA was renovated, as a result of which the prison cells and the place designated for outdoor activity are now on the ground floor. Disciplinary cells were renovated. Following the publication on 29/01/2008 of the CPT report (2008)2, the State Secretary of Internal Affairs and Kingdom Relations requested the governor of Aruba to report every six months. The Aruban Ministry of Justice has also set up a Commission on the Supervision of Prison Cells and Treatment of Detainees to supervise the adjustment of the prisons and to deal with legal, individual and personnel aspects. Special attention was paid to training and expanding prison staff and police personnel. All KIA prisoners are guaranteed the care – including specialist care – required by their state of health, free-of-charge to prisoners who do not have the necessary resources to pay. The policy regarding disciplinary punishments was adjusted. Constraint measures are no longer imposed automatically. All cases of placements in punishment cells are directly reported to the medical staff who visits these prisoners daily. If they consider continued solitary confinement a danger to the health of the prisoner, it is stopped. The judgment was published in several law journals.
<a href="#">CM/ResDH(2016)108</a>	<b>NOR / Hansen</b>	<b>15319/09</b>	<b>02/01/2015</b> 02/10/2014	<b>Access to and efficient functioning of justice:</b> <i>Failure of the High Court, as an appellate court entrusted with full jurisdiction, to give sufficient reasons for its refusal pursuant to Article 29-13(2) of the Code of Civil Procedure to admit for</i>	In reopened proceedings the High Court decided again to refuse to admit the appeal with specific reasons provided. With effect from 10/12/2010, Article 29-13 (5) was amended to include a requirement that a refusal of admission of an appeal under Article 29-13 (2) had to be reasoned (see § 46 of the judgment). This legislative change incorporated prior new case-



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				<i>examination the applicant's appeal against the first instance judgment in civil proceedings. (Article 6 § 1)</i>	law developed by the Supreme Court after the facts of the case. A summary translation of the judgment was published.
<a href="#">CM/ResDH(2016)68</a>	<b>NOR / Kaplan and Others</b>	<b>32504/11</b>	<b>24/10/2014</b> 24/07/2014	<b>Protection of private and family life:</b> <i>Expulsion of a family father to Turkey with a five-year re-entry ban. (Article 8)</i>	Just satisfaction paid. The expulsion decision was reversed and the re-entry ban lifted. A residence permit was granted to the father. The judgment was translated, published and disseminated. The instructions issued to the Immigration Directorate regarding expulsion cases affecting children in 2011 are still valid. In the Ministry's of Justice assessment the case was based on specific and unique circumstances.
<a href="#">CM/ResDH(2016)46</a>	<b>NOR / Lindheim and Others</b>	<b>13221/08+</b>	<b>22/10/2012</b> 12/06/2012	<b>Protection of property:</b> <i>Failure to strike a fair balance between the interests of the applicant landowners (the lessors) and the leaseholders (the lessees), notably because of an amendment, in 2004, to the Ground Lease Act 1996, regulating certain long land leases allowing lessees to claim the indefinite extension on unchanged conditions resulting in rents with no relation to actual value of the land. (Article 1 of Protocol No. 1)</i>	<b>Under Article 46</b> , the Court held "that the problem ... concerns the legislation itself and that its findings extend beyond the sole interests of the applicants in the instant case" (there appear to exist between 300,000 and 350,000 ground lease contracts in a population of 5 million inhabitants). On 19/11/2013, the Supreme Court decided to stay the applicant's reopening proceedings in anticipation of the amendments to the Ground Lease Act. Now the applicant is free to resume the reopening proceedings. Equally, a class action of a group of lessors was stayed and may be resumed now. A provisional act on extension of ground lease contracts of 14/12/2012 replaced section 33 of the 1996 Ground Lease Act. On 01/07/2015 the permanent amendments entered into force introducing a mechanism allowing one-off rent increases on extension which reflect the market value of the undeveloped plot: Lessees still have a right to extension of the ground lease when the contract expires. However, if the lessee now chooses to extend the contract, the amended law grants the lessor a one-off upward rent adjustment fixed to 2% of the value of the undeveloped plot. This rent adjustment is modified by a rent "ceiling" of NOK 9,000 per decare (1,000 m <sup>2</sup> ) of ground, adjusted every year (after 1 January 2002) in accordance with

Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
					inflation (currently about NOK 11,300, approx. EUR 1,250). According to a safeguard clause for exceptional cases, the rent adjustment can exceed this ceiling in cases of extraordinarily high value of the undeveloped land. Furthermore a mechanism allowing both parties to claim another one-off upward or downward adjustment of the rent to 2% of the market value of the undeveloped plot 30 years after extension of the contract was introduced. As regards contracts previously extended on unchanged conditions pursuant to the former rules of the Ground Lease Act 1996 (as in force since November 2004), the amended Ground Lease Act has retrospective effect, so that lessors are entitled to claim (ex nunc) rent adjustment according to the new rules. The judgment was translated, published and disseminated. See AR 2015
<a href="#">CM/ResDH(2016)148</a>	POL / Dzwonkowski and 7 other cases	46702/99+	12/07/2007 12/04/2007	<b>Protection of rights in detention/ right to life:</b> <i>Ill-treatment inflicted by the police as well as in two cases death and unintentional killing by the police and lack of effective investigation in this respect. (Articles 2 or 3 substantive and/or procedural limbs)</i>	The discontinued investigations can be resumed by the authorities or on request of the applicants. On 05/06/2013 the Act on the measures of direct coercion and firearms came into force according to which measures of direct coercion are applied in a manner necessary to achieve the goals of this application, proportionally to the level of danger, choosing a measure of least possible affliction. On 01/01/2004 the Decree of the Chief Police Commander on the principles of professional ethics of a police officer came into force. The Ordinance of the Minister of Internal Affairs dated 18/04/2012 on the qualification proceedings in relation to candidates applying to Police duty was issued. Decree no. 30 of the Chief Police Commander dated 16/12/2013 on the functioning of the hierarchy organisation in the Police forces established the obligations of the professional supervisor in respect of irregularities or improper behaviour of a subordinate. Training and educational activities were intensified and a publication titled "Police Officer's Powers in Respect of the Use of Measures of Direct Coercion and Firearms" was prepared. The

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					<p>issue of educational training was included in the Directional Police Strategy in respect of the development of the human rights protection system in 2013-2015. A System of Early Intervention created a consistent system of multidisciplinary actions to prevent abuse, irregularities and dysfunctions in police units and the plenipotentiaries for human rights protection in the Police were reinforced. As concerns the investigations into allegations of ill-treatment or death, the following legislative changes were introduced: A decree of the Minister of Internal Affairs dated 13/09/2012 on medical examinations of persons apprehended by the Police was issued. Guidelines of the General Prosecutor from 27/06/2014 covered the conduct of proceedings on crimes resulting in deprivation of life as well as inhuman or degrading treatment or punishment, caused by the actions of Police officers or public officers; these proceedings are monitored by the Department of Preparatory Proceedings of the General Prosecutor's Office. Statistics on such proceedings were provided. Police and the Prosecutor's Office coordinate actions with regard to the conduct of parallel penal and disciplinary proceedings. On 10/07/2014 the Minister of Internal Affairs signed a decision on the Guidelines to the rules and methods of communicating information on complaints to the Ombudsman and the Minister of Internal Affairs by the Police and Border Guard. By an amendment in force since 01/05/2009, the Act on a complaint for denial of a court trial without undue delay of 17/06/2004 provides for the possibility of a complaint for excessive length of investigations. In 2007 the Human Rights Advisers to the Chief Commander and Province Commanders of Police were given full-time positions. Their tasks include, inter alia, training of police officers, promoting police conduct and monitoring police operations. In 2008, the Ombudsman announced the creation within of a special body within his office competent to examine complaints on police and other services' actions. The</p>

Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
					judgment was translated, published and disseminated and used by the National School of Judiciary and Public Prosecution in their programmes.
<a href="#">CM/Res DH(2016)359</a>	POL / Fuchs and 33 other cases	33870/96	11/05/2003 11/02/2003	<b>Access to and efficient functioning of justice:</b> <i>Excessive length of proceedings before administrative courts and bodies and lack of an effective remedy. (Article 6 §1)</i>	Most of the impugned proceedings were closed. Amendments to the Law on proceedings before administrative courts entered into force in August 2015 allowing for termination of the practice of remittals of cases after annulment of administrative decisions, a reason for numerous delays in the proceedings. The supervision exercised by presidents of regional administrative courts and the Bureau of the Case-law of the Supreme Administrative Court was enhanced. Budgetary means and human resources remain stable. Outstanding issues concerning the length of administrative proceedings and the functioning of the remedies remain under supervision in the framework of the Beller group of cases.
<a href="#">CM/ResDH(2016)128</a>	POL / Horych and 4 other cases	13621/08+	05/04/2010 05/01/2010	<b>Protection of rights in detention and private and family life:</b> <i>The “dangerous detainee” regime, pursuant to Article 212a of the Code of Execution of Criminal Sentences, (placement in solitary cells on a high-security ward, only a single hour-long solitary walk per day in a segregated area, submission to strip searches on leaving and entering the cell, handcuffing when outside the cell, increased supervision, etc.) exceeded the legitimate requirements of security in prison due to its rigid rules for the imposition of the special regime, the lack of a meaningful review, and the duration and severity of the measures taken. The regime also imposed</i>	The applicants were either released or are serving their sentences but are no longer subject to the “dangerous detainee” regime. Immediate change of practice: The “dangerous detainee” status was applied only on an exceptional basis and can be challenged before domestic courts. Legislative amendments to the Code of Execution of Criminal Sentences entered into force on 24/10/2015, in particular Article 212 concerning the classification of a prisoner as dangerous and Article 88 concerning the restrictions applied. These amendments eliminate automatic application of the regime to certain categories of detainees. Supervision of the correct application of art. 88 § 3 and 212a § 1 of the Code of Execution of Criminal Sentences is done by the supervisory bodies of the Prison Service, which control the appropriateness and promptness of the decisions of penitentiary commissions. Article 7 of CECS provides the possibility of judicial review of such decisions. Statistical data indicate a reduction in the

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				<i>restrictions on visiting rights and correspondence. One case concerns excessive length of pre-trial detention and restrictions of access to case-files in proceedings to challenge the lawfulness of that detention, one other case concerns excessive the length of criminal proceedings. (Articles 3, 8, 5 §§ 3+4, 6 §1)</i>	number of “dangerous detainees” (from 260 on 30/06/2012, to 169 on 12/09/2014 and 156 on 31/12/2015) as confirmed by the CPT. Measures were taken to improve the treatment of detainees subject to the regime. The Act on measure of direct coercion and firearms of 05/06/2013 limits measures of direct coercion to “particular justified cases”. Directors of Regional Prison Services were reminded that “dangerous detainees” should have access to cultural, educational and sport activities. According to Instruction No. 16 of the Director General of Prison Services of 13/08/2010 activities for dangerous detainees to counterbalance negative consequences of their limited social interaction should be intensified. The issues concerning “dangerous detainee” status were included in training curricula of prison staff. Improvements made to visiting centres in two locations (Gdansk and Crakow) and appropriate conditions for family visits were established in almost every penitentiary unit in Poland. Measures addressing the issue of excessive length of criminal proceedings are currently examined in the Bak group of cases. Issues related to censorship of correspondence and restrictions of family visits are addressed in the Klamecki No. 2 group, closed by Final Resolution <a href="#">CM/ResDH(2013)228</a> and those relating to judicial review of detention in the Chruściński case, closed by Final Resolution <a href="#">CM/ResDH(2011)142</a> , while the issue of excessive length of detention on remand was examined by the Committee in the Trzaska group of cases, closed by Final Resolution <a href="#">CM/ResDH(2014)268</a> .
<a href="#">CM/ResDH(2016)259</a>	POL / Hutten-Czapska	35014/97	19/06/2006 Grand Chamber Pilot Judgment	<b>Protection of property:</b> <i>Systemic problem the malfunctioning of national legislation on housing in that: it imposed restrictions on landlords’ rights and did not provide for any procedure or mechanism enabling landlords to</i>	<b>Pilot-judgment</b> Just satisfaction settled by FS paid. The applicant's property was vacated of all occupants. Regulations concerning controlled rents ceased to apply effective in May 2005. Following the pilot-judgment, from 2006 to 2010 several legislative reforms were adopted. These

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			<p><b>28/04/2008</b>  <b>Friendly settlement</b>                      (individual and general measures)</p>	<p><i>recover losses incurred in connection with property maintenance. (Article 1 of Protocol No. 1)</i></p>	<p>included possibilities for rent increases; a system for monitoring the levels of rent; creation of a lease based on a fully contractual and freely determined rent (“occasional lease”) and funding for social accommodation to ensure that tenants could leave rent controlled properties. The 2006 amendment to the 2001 Act on the protection of the rights of tenants, housing resources of municipalities and on amendments to the Civil Code, introduced a clear definition of expenses incurred in the maintenance of rented property and a rule that they had to be covered by the rent derived from a flat. It enabled landlords to recover the difference between the rent paid by a tenant and a freely-determined and market-related rent. It aimed at stimulating investment in the construction of social accommodation and the adaptation, development and renovation of municipal buildings with residential dwellings. A 2009 amendment introduced the so-called “occasional lease” – a lease based on a fully contractual and market-related rent, to be freely determined by the parties. As a result, the owner of an unoccupied flat could conclude a lease agreement based on flexible rules and, as a prospective tenant was required to make a notarised declaration that he would vacate the flat on termination of the lease, the procedure for eviction was simplified and did not depend on the provision of social accommodation to the tenant. The vast majority of all the lease contracts are currently concluded in Poland on the basis of the Civil Code and are restricted only by the will of the parties, in particular as the length of contract, its termination and most of all – levels of rent are concerned. The Act of 8 December 2006 on financial assistance for social housing, protected accommodation, night shelters and houses for the homeless set out the conditions for obtaining financial assistance from the State for the construction of buildings or dwellings designated for social housing (as defined by the 2001 Act) and for the purpose of securing other forms of</p>

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					<p>accommodation for the less well-off. Such assistance can be obtained by municipalities, unions of municipalities and public benefit organisations in connection with the construction, renovation, conversion, alteration of use or purchase of buildings for social accommodation. The Act of 24 August 2007 on amendments to the 1997 Land Administration Act and certain other statutes introduced a new tool for monitoring the levels of rent in Poland – the so-called “rent mirror”, the purpose of which was to ensure transparency of rent increases. The 2011 amendment increased the effectiveness of enforcement and speeded up the implementation of judgments ordering the evacuation of premises. The 2008 Law on Supporting Thermo-Modernisation and Renovations is part of the Government’s housing programme, aimed at improving the existing housing stock. In particular, it concerns tenement houses – both State and privately-owned –which had fallen into disrepair as a result of the operation of the rent-control scheme, which made it impossible for landlords to receive rent that would secure investment in suitable maintenance and renovations. An amendment 2010 enabled a landlord to obtain a compensatory refund without the need to take out a bank loan for the investment. The ECHR in “The Association of Real Property Owners in Łódź” had made a positive assessment of the compensation scheme. The judgment was translated, published and disseminated.</p>
<a href="#">CM/ResDH(2016)4</a>	POL / Iwanczuk	25196/94	15/02/2002 15/11/2001	<p><i>Protection of rights in detention: Ill-treatment due to regular strip searches without justification; unjustified length of pre-trial detention, excessive length of criminal proceedings. (Articles 3, 5 §3 and 6 §1)</i></p>	<p>The applicant was released, the proceedings were closed. Incorrect one-off practice of prison staff. Translation and dissemination of the judgment; transmission to the Central Board of Prison Guards. Training sessions for 2604 prison staff in 2014 and for 2559 in 2015. Length of pre-trial detention: see Resolution <a href="#">CM/ResDH(2014)268</a> in Traska. Excessive length of criminal proceedings is examined in the Kudla group.</p>

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<a href="#">CM/ResDH(2016)127</a>	POL / Jaremowicz	24023/03	05/04/2010 05/01/2010	<b>Right to marry and effective remedy:</b> <i>Refusal to allow a prisoner to marry in prison; ineffectiveness of procedure for challenging the decision due to lack of promptness. (Articles 12 and 13)</i>	The applicant ultimately obtained a leave to marry. Case of an isolated nature. The judgment was translated, published on the website of the Ministry of Justice and disseminated among judges, prosecutors and prison staff. It was also used in training activities of the National School of Judiciary and Public Prosecution.
<a href="#">CM/ResDH(2016)278</a>	POL / Kapryjkowski and 7 other cases	23052/05+	03/05/2009 03/02/2009	<b>Protection against ill-treatment:</b> <i>Lack of adequate medical care in detention, inadequate detention conditions or insufficient consideration of detainees' state of health by the domestic courts when deciding on detention; in one case interference with the right to correspondence with the ECHR. (Articles 3, in one case also 8)</i>	<p>Article 46 indication in Musiał judgment with regard to the structural nature of the problems identified: The State should take the necessary legislative and administrative measures to secure appropriate conditions of detention, in particular adequate conditions and medical treatment for prisoners needing special care owing to their state of health. The State was also urged to secure adequate detention conditions for the applicant as soon as possible in an establishment capable of providing him with the necessary psychiatric treatment and constant medical supervision.</p> <p>Just satisfaction paid. Individual health care issues solved.</p> <p>The Regulation on the provision of medical services available to persons deprived of liberty, adopted on 14/06/2012 defines the scope of medical services offered to imprisoned persons; the Regulation on the cooperation of health care establishments for persons deprived of liberty with their civil counterparts, adopted on 09/05/2012, establishes principles of cooperation between public and prison health care institutions. A change to article 115(7) of the Code of the Execution of Criminal Sentences, abolishing the requirement for a prison guard to be present during the provision of health care services to inmates, following a judgment of the Constitutional Court of 26 February 2014.</p> <p>Further administrative measures include: programme to provide treatment to HIV positive prisoners in an equivalent manner to that offered outside prison; adjustments of medical units in prisons following the adoption of an ordinance on</p>



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
					<p>detailed requirements which should be met by facilities and equipment of medical units for persons deprived of liberty on 5 July 2012; programmes for detainees dependant on drugs, alcohol or nicotine; professional training for medical staff of the prison health care services; on-going training for medical staff within the penitentiary system, including on questions related to the functioning of penitentiary health care establishments; improvements in sanitary and living conditions in prisons and remand centers, for example by modernisation of sanitary facilities; removal of architectural barriers for disabled inmates. Detainees have a right to submit complaints about the conditions of detention to different domestic authorities, including prison authorities, penitentiary judges, the Patients' Rights Ombudsman, the Ombudsman and domestic courts. The penitentiary judge can order the authorities to ensure a person is detained in appropriate conditions, including with access to adequate health care. There is a right of appeal against a decision of the penitentiary judge to the domestic courts. Courts and prosecution authorities are obliged to verify whether a detainee's state of health permits the imposition, maintenance or extension of detention on remand at the moment they make the relevant decision, or ex officio at any other time during the detention. Finally, prisoners and detainees have the possibility to claim compensation in the domestic courts if they were detained in inappropriate conditions, including being deprived of access to health care. According to the authorities the average waiting time for consultation with a medical doctor (general and specialist) is shorter in penitentiary health care services than for the general population and persons deprived of liberty on average usually stay in hospital longer. All judgments were translated and published on the website of the Ministry of Justice. Training on health care in prison was organised for judges, prosecutors and prison staff. Training and awareness-raising activities were</p>

Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
					organised with the Prison Service and the Prosecution Service. On 29/04/2016 a team within the Ministry of Justice was called upon to examine modernization of the Prison Service, including health care for detained and imprisoned persons. Conditions of detention, in particular overcrowding: see <a href="#">CM/ResDH(2016)254</a> in the Orchowski group of cases. Various measures implemented by the authorities in this group have resulted in a substantial decrease in the number of inmates and a global increase in the capacity of penitentiary facilities. Monitoring of correspondence: general measures see <a href="#">CM/ResDH(2013)228</a> in Klamecki.
<a href="#">CM/ResDH(2016)32</a>	<b>POL / Ladent and 4 other cases</b>	<b>11036/03</b>	<b>18/06/2008</b> 18/03/2008	<b>Protection of rights in detention:</b> <i>Arbitrary detention disproportionate to the aim of securing the proper conduct of criminal proceedings, delays in release from detention on remand; failure to inform of the reasons for arrest and charges and failure to bring the arrested person promptly before a judge; lack of an initial automatic judicial review. (Article 5 § 1+2f+3)</i>	The applicants were released. Arbitrariness of detention due to erroneous practice of domestic authorities. As regards the delays in release, on 23/06/2015 the new Ordinance of the Minister of Justice on Administrative Acts concerning Execution of Pre-Trial Detention and Sentences and Coercive Measures resulting in Deprivation of Liberty was adopted, following the Constitutional Court's ruling on 04/10/2011 on the deficiencies of the previous Ordinance addressed to the Ministry of Justice. Documents authorising a prisoner's release can now be sent by fax and confirmed by e-mail with a secure electronic signature. On 07/07/2003 Article 72 of the Code of Criminal Procedure was amended providing that the accused is entitled to assistance of the interpreter if he/she does not speak Polish to a sufficient extent and should be served with the decision on charges together with its translation. The new Code of Criminal Procedure (entry into force 01/07/2015) enshrines the obligation to promptly bring before a court a defendant who has been detained on the basis of a warrant, unless the prosecutor who had interrogated the detainee repealed detention on remand or substituted it with a non-custodial preventive measure. Awareness-raising was organised and systemic trainings for judges and prosecutors held at the

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					National School of Judiciary and Public Prosecution. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)261</a>	POL / Miazdzyk	23592/07	24/04/2012 24/01/2012	<b>Freedom of movement:</b> <i>Indefinite ban on leaving Poland, imposed after release from pre-trial detention pending criminal proceedings on charges of running an organised criminal group; the ban was lifted five years and two months later, despite the applicant's family - including his three children - friends and business being based in France. (Article 2 of Protocol No. 4)</i>	The travel ban was lifted in 2011. According to the Code of Criminal Procedure the relevant authorities are obliged to change or quash a preventive measure (including ban on leaving the country) immediately after circumstances justifying its application cease to exist or new circumstances arise. Applicants may request such a measure to be changed or quashed and the request must be dealt with by a court or prosecutor within 3 days. Various awareness-rising measures were implemented, including trainings for judges and prosecutors. The judgment was translated, published and disseminated. There are no new ECHR judgments indicating the existence of a broader problem with the application bans on leaving the country. The frequency of its application is decreasing and trends in this respect are monitored and analysed by the relevant authorities.
<a href="#">CM/ResDH(2016)254</a>	POL / Orchowski and 6 other cases	17885/04	22/01/2010 22/10/2009	<b>Protection against ill-treatment/ Conditions of detention:</b> <i>Structural problem of inadequate detention conditions, particularly overcrowding, aggravated by factors such as the lack of outdoor exercise, lack of privacy, insalubrious conditions (indissociably linked to the solution of the excessive length of pre-trial detention, identified in Kauczor); frequent transfers and lack of consideration for vulnerable detainees with medical conditions. In one case monitoring of correspondence with the ECHR (Articles 3 and 8)</i>	Just satisfaction paid. The applicants are no longer detained in the conditions they complained about due to their release, or placement in other facilities. General measures taken with regard to over-crowding: <ul style="list-style-type: none"> <li>• amendment of the Code of Execution of Criminal Sentences, limiting the possibility of placing a detainee in a cell with personal space below statutory 3m<sup>2</sup> to only exceptional circumstances and for a specified period of time;</li> <li>• adoption of the Law on electronic surveillance of persons serving a sentence outside penitentiaries providing for a possibility of short-term penalties outside prison facilities;</li> <li>• acquisition of new places in prison facilities, through investments and renovation;</li> <li>• monitoring of the prison population's density by the Ministry of Justice;</li> </ul>

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					<ul style="list-style-type: none"> <li>amendment of the Criminal Code improving the accessibility of an earlier conditional release.</li> </ul> Measures were adopted to reduce detention pending sentencing and to partially de-penalise some offences (e.g., drunk driving of non-motor vehicles). See also measures taken in Trzaska group cases, which resulted in a reduction in the number of prisoners in pre-trial detention. The amendment of the Code of Execution of Criminal Sentences introduces a remedy against a decision of the Prison Administration to reduce cell space or placement in an overcrowded cell. Following developments in national jurisprudence, prisoners are able to bring compensation claims for periods of detention in overcrowded conditions under the relevant provisions of the Civil Code. The judgments Orchowski and Sikorski were translated, disseminated among prison staff and published. A guide on standards as to the rights of persons deprived of liberty was published. For the measures adopted to remedy the monitoring of correspondence see <a href="#">CM/ResDH(2013)228</a> in Klamecki group.
<a href="#">CM/ResDH(2016)257</a>	POL / R.S.	63777/09	21/10/2015 21/07/2015	<b>Protection of family life:</b> Domestic court's failure, in return proceedings under the Hague Convention concerning his children abducted by their mother, to consider parental rights and legitimate interests of the father; excessive length of these proceedings. (Article 8)	Just satisfaction paid. Children will soon reach majority. Case resulted from incorrect practice of domestic courts. The judgment was translated, published on the website of the Ministry of Justice and sent to the relevant courts. Workshops for judges on issues raised in the judgment were organised by the Ministry of Justice.
<a href="#">CM/ResDH(2016)255</a>	POL / Rachwalski and Ferenc	47709/99	28/10/2009 28/07/2009	<b>Protection against ill-treatment and of family and home:</b> Degrading treatment by the police, when determining the owner of an unlocked car parked in front of the applicants' house; unjustified search of the applicants flat	Applicants did not apply for re-opening of the investigation into the circumstances of the case. Under domestic law they may claim just satisfaction in civil proceedings. After 1997 a number of legislative changes took place along with the realization of a number of actions of educational character as well as related to the practice of performing duty actions by Police officers. On

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				<i>by police officers in the middle of the night – despite the guarantees of Article 221 of the Code of Criminal Procedure and in the Police Corps Act. (Articles 3 and 8)</i>	05/06/2013 the Act on the measures of direct coercion and firearms came into force, providing that measures of direct coercion are applied in a manner necessary to achieve their goals, proportional to the level of danger and by choosing a measure of least possible affliction. On 01/01/2004 the Decree of the Chief Police Commander on the principles of professional ethics of a police officer came into force. The Decree includes regulations, which provide that: the policeman is obliged to respect human dignity in all his actions, and to observe and protect human rights. The judgment was translated, disseminated and included in the curricula of trainings for police officers. The Bureau of Internal Affairs of the Main Police Command monitors threats and conducts preventive actions in the police environment, with regard to the prevention of cases of violence during duty. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)47</a>	POL / Sierpiński	38016/07	03/02/2010 03/11/2009 <b>(Merits)</b> 27/07/2010 27/07/2010 <b>(Just satisfaction)</b>	<b>Protection of property:</b> <i>Refusal to pay compensation for a property unlawfully expropriated in 1967 based the domestic courts' view, that the applicant's claims for compensation against the State Treasury were addressed to the wrong defendant. Shifting the responsibility of identifying the competent authority to be sued to the applicant and depriving him of compensation on that basis was a disproportionate requirement and failed to strike a fair balance between the public interest and the applicants' rights. (Article 1 of Protocol No. 1)</i>	Just satisfaction determined in a friendly settlement was paid. General measures: see Final Resolution <a href="#">CM/ResDH(2014)119</a> in Plechanow. The judgment was translated, published and disseminated.

Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
<a href="#">CM/ResDH(2016)256</a>	POL / Stankiewicz and Others	48053/11	03/02/2016 03/11/2015	<b>Freedom of expression:</b> <i>Imposition of sanctions in civil proceedings against journalists following the publication of three articles on a 2005 legislative amendment to the Polish Tax Act and the dubious role a well-known expert on tax law had played in the process. (Article 10)</i>	Just satisfaction paid. Change of domestic courts' case-law. For general measures see also <a href="#">CM/ResDH(2014)145</a> in Kubaszewski group. From 2012, information on violations found by the ECHR, concerning the domestic courts practice is sent to the relevant court's president and a president of a court of higher instance. Related training activities for judges are organised by the National School of Judiciary and Public Prosecution Service. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)2</a>	POL / Stankiewicz and Others and 1 other case	48723/07+	14/01/2015 14/10/2014	<b>Freedom of expression:</b> <i>Disproportionate interference due to conviction of the applicants (journalists, newspaper company as well as a film director author of articles) in civil proceedings brought by parties claiming protection of their personal rights. (Article 10)</i>	Enforcement proceedings were either not initiated or discontinued. Change of practice of domestic courts due to awareness-raising measures and training organised by the National School of the Judiciary and Public Prosecution Service. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)258</a>	POL / Tomaszewscy	8933/05	15/07/2014 15/04/2014	<b>Protection of rights in detention:</b> <i>Unlawful detention on the suspicion of having committed a misdemeanour and the lack of possibility to claim compensation for this kind of detention. (Article 5 §§ 1+5)</i>	Applicants released; just satisfaction paid. Change of domestic courts' practice. The judgment was translated, published and disseminated. It was sent to presidents of Courts of Appeal and used in training for judges and prosecutors organised by the National School of Judiciary and Public Prosecution and the Ministry of Justice. The judgment was also the subject of briefings for police officers.
<a href="#">CM/ResDH(2016)48</a>	POL / Wloch No. 2	33475/08	28/11/2011 10/05/2011	<b>Protection of rights in detention:</b> <i>Refusal of a domestic court to grant compensation under the relevant provisions for the applicant's unlawful detention on remand. (Article 5§5)</i>	Similar to Bruczynski v. Poland (19206/03), closed by Final Resolution <a href="#">CM/ResDH(2012)43</a> . The impugned proceedings were reopened and compensation awarded. The Supreme Court, in its judgment of 12/06/2012, clearly underlined that lower courts would have to follow indications from the ECHR judgment in the present case. In addition, in May 2014 the Ministry of Justice sent a letter to presidents of all the courts of

Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
					appeal, requesting to familiarize all relevant judges with the issues raised in the case. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)262</a>	PRT / Cunha Martins da Silva Couto	66436/12	30/04/2015 (Committee)	<b>Access to and efficient functioning of justice:</b> Excessive length of judicial proceedings. (Article 6 §1)	Just satisfaction paid. For general measures: see <a href="#">CM/ResDH(2016)149</a> in Oliveira Modesto and Others.
<a href="#">CM/ResDH(2016)227</a>	PRT / Assuncao Chaves	61226/08	09/07/2012 31/01/2012	<b>Access to and efficient functioning of justice:</b> Lack of access to a court due to failure to duly inform applicant, who was neither present nor represented at hearing, of procedure for challenging a court order withdrawing his parental authority. (Article 6 §1)	The reasons on which the domestic court based its decision to withdraw the parental authority and the visiting rights having not been criticized, the child was adopted in 2010. Just satisfaction paid. According to Law 142/2015 (Article 108 §4g), the presence of the parents' representatives is obligatory in proceedings relating to the withdrawal of parental authority in view of adoption. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)345</a>	PRT / Brito Ferrinho Bexiga Villa-Nova	69436/10	01/03/2016 01/12/2015	<b>Protection of private life:</b> Access to the bank accounts of a lawyer charged with tax fraud and consultation of the lawyer's bank statements without the applicant's participation and contrary to the requirements of domestic law (Article 8)	Isolated case. Domestic proceedings closed. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)166</a>	PRT / Ferreira Santos Pardal	30123/10	30/10/2015 30/07/2015	<b>Access to and efficient functioning of justice:</b> Dismissal of an action for civil liability against the State contrary to the Supreme Court's settled case-law in the matter; uncertainty in the case-law and absence of a mechanism, within the Supreme Court for ensuring its consistency. (Article 6 §1)	No individual measure taken. According to the amended Article 688, par. 1 of the Civil Procedure Code, parties can appeal to the Plenary Chamber of the Civil Chambers of the Supreme Court, if a judgment is in contradiction with previous case-law. (article 688, par. 1). The judgment was translated, published and disseminated.

Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
<a href="#">CM/ResDH(2016)49</a>	PRT / Gramaxo Rozeira	21976/09	21/04/2014 21/01/2014	<b>Access to and efficient functioning of justice:</b> Denial of a fair trial in civil proceedings, due to the failure to communicate to the applicant a letter by the Cabinet of the Prime Minister included in the case file. (Article 6 §1)	Just satisfaction paid. Isolated case. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)86</a>	PRT / Jorge Nina Jorge and Others	52662/99	19/05/2004 19/02/2004	<b>Excessive delay in determining and paying compensation</b> following the expropriation of agricultural properties of the applicants in the framework of the 1975 Agrarian Reform (Art. 1 Prot. 1).	See Final Resolution <a href="#">CM/ResDH(2014)11</a> in Carvalho Acabado and 30 others cases.
<a href="#">CM/ResDH(2016)99</a>	PRT / Martins de Castro and Alves Correia de Castro and 28 other cases	33729/06+	10/09/2008 10/06/2008	<b>Access to and efficient functioning of justice:</b> Lack of effectiveness of a compensatory remedy (action in tort against the State) available to victims of excessively lengthy proceedings. (Article 13)	Domestic proceedings are closed. Over the years, the case-law of administrative tribunals has evolved in line with requirements resulting from the judgment in the case of Martins Castro and subsequent cases of this group. This was recognized by the ECHR in Valada Neves (n.º73798/13) of 29/10/2015, final on 29/01/2016, where it stated that Article 12.º of Law n.º 67/2007 constitutes an effective remedy in a consolidated national jurisprudence, with particular reference to the judgment of the Administrative Supreme Court of 27/11/2013, as regards the criteria for the duration of the trial, the allocation of non-pecuniary damage and its payment. The judgment was translated, published and disseminated. Respective training activities for judges and magistrates were organised.
<a href="#">CM/ResDH(2016)33</a>	PRT / Martins Silva	12959/10	28/08/2014 28/05/2014	<b>Access to and efficient functioning of justice:</b> Denial of a fair trial in civil proceedings due to the failure to communicate documents in the case file (Article 6).	Reopening of proceedings possible. The judgment was translated, published and disseminated. Awareness-raising measures adopted.



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<a href="#">CM/ResDH(2016)149</a>	PRT / Oliveira Modesto and Others and 48 other cases	34422/97+	08/09/2000 08/06/2000	<b>Access to and efficient functioning of justice:</b> <i>Excessive length of civil, administrative or criminal proceedings. (Article 6 §1)</i>	Just satisfaction paid. Major legislative measures addressed the problem of excessive length of judicial proceedings. Encouraging results have been obtained and consolidated with regard to criminal proceedings, first instance civil declaratory proceedings and civil proceedings in general before the higher courts. The effectiveness of the remedy established for obtaining compensation in respect of excessive length of proceedings has been recognized by the ECHR. Outstanding questions concerning the impact of the adopted measures on the length of the proceedings in which no positive trend has been observed to date will be examined in the context of more recent cases pending.
<a href="#">CM/ResDH(2016)167</a>	PRT / Phostira Efthymiou and Ribeiro Fernandes	66775/11	01/06/2015 05/02/2015	<b>Protection of family life:</b> <i>Infringement of a mother's and daughter's right to family life in the event of the execution of a decision to return the child to her father in Cyprus, which was taken without adequate consideration of the best interests of the child. (Article 8)</i>	The domestic decision to return the first applicant to her former country of habitual residence, Cyprus, has not been executed since 2011 when it became final. The judgment of the ECHR was communicated to the relevant public ministry. Applicants have the right to request a review of the internal decision under the Article 696. <sup>o</sup> f) of the Code of Civil Procedure when it is inconsistent with the judgment of the ECHR. The judgment was published in the website of the General Prosecutor's Office, sent for distribution in the High Judicial Council and forwarded to the Centre for Judicial Studies for inclusion in training programmes.
<a href="#">CM/ResDH(2016)346</a>	PRT / Qing	69861/11	05/02/2016 05/11/2015	<b>Protection of rights in detention:</b> <i>Excessive length of pre-trial detention due to domestic courts' failure to address specific facts "sufficient" to justify continued detention, limiting themselves to paraphrasing the reasons for detention set out in the Code of Criminal Procedure, without explaining their application in the particular</i>	Just satisfaction paid. Domestic proceedings closed and imprisonment suspended. The judgment was translated, published and disseminated.

Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>situation. (Violation of Article 5 §3)</i>	
<a href="#">CM/ResDH(2016)226</a>	PRT / Santos Silva	52246/12	30/04/2015 (Committee)	<b>Access to and efficient functioning of justice:</b> <i>Excessive length of proceedings and the lack of effectiveness of a compensatory remedy available; (Articles 6 §1 and 13)</i>	Just satisfaction paid. General measures see <a href="#">CM/ResDH(2016)98</a> in Martins Castro and Alves Correia de Castro.
<a href="#">CM/ResDH(2016)264</a>	PRT / Stegarescu and Bahrin	46194/06	04/10/2010 06/04/2010	<b>Access to and efficient functioning of justice:</b> <i>Denial of a fair trial due to the lack of a remedy to challenge one's placement in security cells, which had a significant impact on the persons civil rights. (Article 6 § 1)</i>	Justly satisfaction paid; the applicants were released. Concerning the right to appeal the decisions of the prison administration: A new Penitentiary Code 2009 lacked the possibility for prisoners to submit requests for review of placement decisions. The Constitutional Court in its decision No. 20/2012 declared unconstitutional Article 200 of the Penitentiary code. According to this decision, the detainee has the right directly to appeal against any decision adopted against him in connection with the execution of punishments, including a decision on placement in security cell. Subsequent change of case-law of domestic courts in accordance with the decision of the Constitutional Court. According to the General Prison Regulations of April 2011, the decision of the prison director ordering placement in security cells is to be notified to the prisoner unless the security reasons require the contrary. Notification in person is mandatory. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)110</a>	ROM / Al-Agha and 5 other cases	40933/02+	12/04/2010 12/01/2010	<b>Protection of rights in detention and issues related to deportation:</b> <i>Unlawful detention of aliens with a view to deportation as well as lack of access to a court to examine the lawfulness of this detention; lack of an enforceable right to compensation for unlawful detention with a view to deportation; degrading</i>	All applicants were released. As concerns the lawfulness of an alien's detention in view of deportation and procedural guarantees in expulsion proceedings, Emergency Ordinance No. 194/2002 was amended on several occasions – reference is made to <a href="#">CM/ResDH(2015)50</a> in Kaya and Lupsa. In accordance with art. 101 of the Emergency Ordinance No. 194/2002 a foreigner may be placed in custody in the following cases: if there is a risk that the foreigner will avoid removal or prevents

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				<i>detention conditions in the holding center at Bucharest airport; infringement of the procedural guarantees of the expulsion procedures); the lack of an effective investigation into complaints of ill-treatment by private parties. (Articles 5 §§ 1+4+5; Article 1 of Protocol No. 7; Article 3 substantive and procedural)</i>	his return or is subject to a deportation measure ordered by the criminal court. The risk of escape is presumed in the case of an alien who has not meet the deadline for voluntary return, a foreigner declared undesirable or after the lifting of his "tolerated" status. Custody may be ordered only if it is not possible proceed to the foreigner's immediate removal under escort. The custody measure is decided by the prosecutor at the Court of Appeal Bucharest, for a period of 30 days on request of the Inspectorate General for Immigration. It can be extended for justified reasons up to 6 months, in exceptional situations to 12 months (due to actions of the person to be returned or the attitude of third countries refusing the issuing of travel documents). A custody measure may be challenged before the Court of Appeal. As concerns the right to compensation for unlawful detention, see information submitted in Degeratu, Tase and Sâncrăian. As concerns the lack of effective investigation into ill-treatment, reference is made to <a href="#">CM/ResDH(2014)152</a> in Bucureşteanu. Regarding conditions of detention, reference is made to CPT-reports 2002 and 2008, in which the material conditions in the centres were found to be satisfactory. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)348</a>	<b>ROM / Association for the defence of human rights in Romania – Helsinki Committee on behalf of Ionel Garcea</b>	<b>2959/11</b>	<b>24/06/2015</b> 24/03/2015	<b>Right to life:</b> <i>Ineffective criminal investigations into a death occurred in prison allegedly as a result of deficiencies in the medical care and treatment. (Article 2 procedural limb)</i>	On 19/05/2014 the prosecutor decided not to institute criminal proceedings with respect to the medical treatment received by Mr. Ionel Garcea. The said decision was not known by the Court when it delivered the judgment. Prosecution for abuse of office and ill-treatment became time-barred. Thus, the criminal investigation cannot be reopened. Prosecutor General issued a whitepaper regarding the investigation of alleged crimes against vulnerable persons in State institutions with guidelines (e.g. on the need for a proactive approach by the investigative body, the in quest's urgency, the analysis of the causes and conditions of death or

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					injury on the basis of an autopsy report or a physical examination). According to order no. 204/28 September 2015, all decisions not to prosecute such crimes will be monitored both by the Prosecutor's Office attached to the Court of Appeal and to the High Court of Cassation and Justice. See also <a href="#">CM/ResDH(2015)93</a> in Gagi.
<a href="#">CM/ResDH(2016)150</a>	<b>ROM / Barbu Anghelescu and 35 other cases</b>	<b>46430/99+</b>	<b>05/01/2005</b> 05/10/2004	<b><i>Protection against ill-treatment: Abuse suffered by the applicants or their relatives in police custody or upon arrest, ineffectiveness of related criminal investigations and proceedings and absence of an effective remedy as regards compensation for damages sustained; racially-motivated ill-treatment inflicted to an applicant of Roma origin and failure of the authorities to investigate such motives. (Articles 3 and 13 as well as 14 taken together with Articles 3 and/or 13 – in certain cases also Articles 6 §1, 8 and 34 were concerned)</i></b>	Criminal liability became time-barred, therefore reopening of investigations was impossible in most cases. A far-reaching reform 2002 resulted in the demilitarization of police. The organisation and functioning of the police are now governed by Law No. 218/20021 while Law No. 360/20022 regulates the status of its members. Police staff lost their status of active officers of the armed forces, acquiring that of civil servants. The Code of Criminal Procedure (the "CCP") was modified accordingly so that the criminal investigations and trial in cases involving police staff fall henceforth within the province of civil prosecutor's offices and courts. A number of amendments were made in 2015 to the law governing the statute of police officers with regard to disciplinary procedure. Law no. 364/2004, regulating the organisation of the judicial police was also amended. A new Criminal Code (Law no. 286/2009) and a new Criminal Procedure Code (Law no. 135/2010) entered into force 01/02/2014. A new law on the execution of custodial sentences and measures ordered by the judicial authorities in criminal proceedings (Law no. 254/2013) was adopted on 19/07/2013. Law no. 35/1997 governing the activity of the Ombudsman was amended by Government's Emergency Ordinance no. 48 of 26/06/2014, designating the Ombudsman as national preventive mechanism under the Optional Protocol to the UN Convention against Torture. Law No. 278/2006 amending the Criminal Code introduced the ethnic/racial motivation as a statutory aggravating factor creating an obligation for the prosecuting authorities to verify, on their own motion, its

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					incidence in a given case. For general measures required in response to the other issues are or were examined in the context of the groups of cases Vlad and Others and Bota (closed by Final Resolution <a href="#">CM/ResDH(2011)27</a> ) and of the cases of Varga (closed by Final Resolution <a href="#">CM/ResDH(2011)23</a> ) and Gagi (closed by Final Resolution <a href="#">CM/ResDH(2015)93</a> ).
<a href="#">CM/ResDH(2016)135</a>	ROM / Butnaru and Bejan Piser	8516/07	23/09/2015 23/06/2015	<b>Access to and efficient functioning of justice:</b> Conviction by domestic courts in spite of the fact that a judgement of acquittal for facts substantially the same had previously become final; infringement of the res judicata principle. (Article 4 of Protocol No. 7)	The applicant has the possibility to ask for the reopening of the domestic proceedings. Domestic authorities' incorrect assessment, in the case at hand, of the applicability of the ne bis in idem principle. The summary of the case and a translation of the judgment were forwarded to all national courts and prosecution offices. Professional training activities were organised.
<a href="#">CM/ResDH(2016)203</a>	ROM / Caraian	34456/07	19/10/2015 23/06/2015	<b>Access to and efficient functioning of justice:</b> Breach of the presumption of innocence in criminal proceedings terminated by a prosecutor's decision on grounds that they were time barred, upheld by the domestic courts, containing express statements in respect of the applicant's guilt despite the fact he had not been proven "guilty according to the law". (Article 6 §2)	Just satisfaction paid. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)70</a>	ROM / Codarcea	31675/04	02/09/2009 02/06/2009	<b>Protection of private life and access to and efficient functioning of justice:</b> Absence of legal means to enforce the compensation awarded by the domestic courts for bodily injuries caused by medical errors and lack in the domestic law at the material time of a mechanism of liability insurance for malpractice	Law 95/2006 reformed the health sector and its Title XV Chapter V requires medical staff to contract professional liability insurance to guarantee compensation for damages that may be caused by their fault in the exercise of their profession. Order 346/2006 issued by the National Fund for Health Insurance sets a minimum threshold for insured damages. Law No 95/2006 also provides explicitly that civil liability of the medical unit that hires the wrongdoer may be engaged. Judicial

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				<i>claims; domestic courts' failure to hold liable in tort the public hospital which employed the doctor involved as well as excessive length of criminal proceedings against the doctor joined by the applicant as a civil party. (Articles 8 and 6§1)</i>	practice is almost unanimous in recognizing also the civil responsibility of the health units, which may also be held criminally responsible for negligence when providing medical services. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)136</a>	ROM / Costel Gaciu	39633/10	23/09/2015 23/06/2015	<b>Protection of rights in detention discrimination:</b> <i>Degrading treatment due to conditions of detention in Cluj detention centre and Gherla Prison; refusal of his requests for conjugal visits during his pre-trial detention solely because he had not been a convicted prisoner. (Articles 3 and 14 in conjunction with 8)</i>	The applicant was released. Conditions of detention are examined in the Bragadireanu group of cases. Regulation on the application of Law No. 254/2013 on the execution of penalties and custodial measures ordered by the judicial bodies during the criminal trial (No. 157) was adopted and published in the Official Bulletin No. 271/11 in April 2016. According to Article 145, corroborated by Article 249, said regulation, beneficiaries of the right to conjugal visits are sentenced prisoners, prisoners on remand and persons detained temporarily during the phase of criminal investigations. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)71</a>	ROM / Csoma	8759/05	15/04/2013 15/01/2013	<b>Protection of private life:</b> <i>Medical procedure, necessary due to pregnancy complications leading to permanent inability to bear children, carried out without the applicant's informed written consent; disregard by the prosecutor in the ensuing criminal investigation, of decisive medical evidence, failing thus to clarify factual issues crucial for establishing a possible medical negligence; lack of effective judicial system for complaints of medical negligence. (Article 8)</i>	Erroneous application of Law No. 3/1978 on public health which established the requirement to obtain the patient's informed consent for medical interventions. A series of laws on public health service and patients' rights detailed the obligation to inform a patient about any surgical procedure proposed, the risks involved in the procedure, alternative treatment, and diagnosis and prognosis (Laws Nos. 3/1978 and 306/2004 on public health insurance; Law No. 74/1995 on the establishment and functioning of the College of Doctors; Law No. 46/2003 on patients' rights ("Law no. 46/2003"). A new Law no. 95/2006 on the reform of the medical sector allows for victims of medical negligence to seek compensation in the absence of a finding of guilt in criminal procedure. It introduced the notion of medical negligence as a basis for the liability of medical personnel and

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					created an obligation on them to obtain insurance for any civil liability resulting from their work. Evolution of the administrative and judicial practice between 2005 and 2016: Several practitioners were sanctioned by the National Medical Order for their failure to obtain the patient's informed consent and compensation for malpractice was granted in several cases. The judgment was translated, published and disseminated. Training activities for medical staff were organised. See also Eugenia Lazar and Baldovin cases.
<a href="#">CM/ResDH(2016)130</a>	ROM / Danis and the Association of ethnic Turks	16632/09	21/07/2015 21/04/2015	<b>Electoral rights and discrimination:</b> <i>Entry into force 7 months before the parliamentary elections 2008 of a new legal eligibility condition imposed on the applicants in order to present their candidacy, unlike national minority organisations already represented in Parliament, which did not have to fulfil this new requirement. (Article 14 of the Convention taken together with Article 3 of Protocol No. 1)</i>	No individual measures necessary. Facts of the case relate very specifically to the elections 2008. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)134</a>	ROM / Dumitru Popescu (No. 2)	71525/01	26/07/2007 26/04/2007	<b>Protection of private life and correspondence:</b> <i>Interception of telephone conversations during criminal proceedings by intelligence services on the basis of Law No. 51/1991 on national security, which lacked sufficient safeguards against arbitrariness. (Article 8)</i>	The applicant's request for reopening was dismissed. The intelligence services initiated legal proceedings in order to destroy the recordings no longer necessary. Amendments were brought to Law No. 51 of 29 July 1991 on national security and to Law No. 14 of 24 February 1992 on the organisation and operation of the Intelligence Service. These amendments (entry into force on 01/02/2014) aim at remedying the lack of safeguards for the respect of private life in the challenged legislation. The new legislation requires prior judicial authorization for the specific activities regarding the collecting of information by the intelligence services that may constitute interferences with private life. These requirements as well as

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					the recent amendments brought to the legislation regarding the national security, are currently examined in the case Bucur and Toma v. Romania.
<a href="#">CM/ResDH(2016)133</a>	ROM / Fălie	23257/04	19/08/2015 19/05/2015	<b>Access to and efficient functioning of justice:</b> Failure of domestic court of last resort to analyse the merits of the applicant's civil action without justification on any legitimate grounds. (Article 6 §1)	Reopening of proceedings is possible. Incorrect application by domestic courts of the applicable law. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)137</a>	ROM / Georgel and Georgeta Stoicescu	9718/03	26/10/2011 26/27/2011	<b>Protection of private life and access to and efficient functioning of justice:</b> Failure to comply with the obligation to protect the applicant's physical and psychological integrity due to lack of sufficient measures taken by the authorities in addressing the issue of stray dogs, combined with their failure to provide appropriate redress to the applicant as a result of the injuries sustained and lack of an effective right of access to a court due to dismissal of the applicant's civil case without an examination on the merits, on the ground that she had failed to identify the authority against which she should have brought her claim. (Articles 8 and 6 §1)	The first applicant passed away. Regarding the development of legal framework in this matter, Emergency Ordinance no. 155/2001 (in force at the time of the events) was amended by Law no. 258, in force since 26/09/2013 providing for ways of tackling the stray dogs' issue, that is, their placement in public shelters, adoption and euthanasia, in specific conditions. According to the Authority for Surveillance and Protection of Animals (ASPA) attached to the Bucharest City Hall, that since September 2013, 59,229 stray dogs were captured out of which 25,575 dogs were adopted, 32,229 underwent euthanasia and the rest are still in public shelters. At present, an average number of 800 dogs are captured every month. The reported estimated number of the stray dogs in March 2013, before these measures being taken, was 64,704. According to information submitted by the Hospital for Infections and Contagious Illnesses "Victor Babes", 17 patients accused they had been bitten by stray dogs in 2013, 19 patients in 2014 and 4 patients in the first half of 2015. The new law is clear and foreseeable as to the authority against which a victim of stray dogs can bring a civil claim. The courts of Bucharest have developed a well-established case law in which the Authority for Surveillance and Protection of Animals has been obliged to pay damages for such aggressions occurred within the territory



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					of Bucharest Municipality. In other cases, the city halls were found accountable for failing to tackle the stray dogs' issue when persons were injured by animals, and obliged to pay damages. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)322</a>	ROM / Grosaru	78039/01	02/06/2010 02/03/2010	<b>Electoral rights:</b> <i>Lack of clarity of the 1992 electoral law provisions governing the allocation of parliamentary seats to the representatives of national minorities, under which the electoral authority refused to allocate to the applicant a seat to the Chamber of Deputies; lack of sufficient safeguards guaranteeing the electoral bodies' impartiality. (Article 3 of Protocol No. 1 taken alone and in conjunction with Article 13)</i>	Just satisfaction paid. The impugned law was repealed and replaced by Law no. 208/2015. In the current system there are two autonomous bodies competent in the electoral field: the Permanent Electoral Authority and the Central Electoral Bureau. According to the decision no. 325 of the Constitutional Court of 14/09/2004, the rulings delivered by the Central Electoral Bureau are defined as jurisdictional administrative acts and thus can be challenged before the ordinary administrative courts. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)265</a>	ROM / Iorga and Others	26246/05	25/04/2011 25/01/2011	<b>Right to life and ineffective investigations:</b> <i>Death of a relative in prison following violence inflicted by an inmate due to failure of prison staff to monitor the victim despite his particular vulnerability due to alcohol withdrawal, and his specific situation of a person detained for the purpose of the execution of an administrative prison sentence; ineffectiveness of criminal investigations conducted by the military prosecutor's office against prison staff and medical staff due to hierarchic and institutional bonds existing at the material time between the prosecutor in</i>	Following the ECHR's judgment, the prosecutor's office reopened the criminal investigation against the prison staff. By prosecutor's order of 20/01/2012, the persons concerned were discharged of criminal liability on the ground that the prosecution of the offences of manslaughter and abuse in office was statute barred even before the Court delivered its judgment. On 21/06/2016, the district court dismissed the applicants' complaint against the prosecutor's order. Imposition of prison sentences for administrative offences was abolished in 2003. General measures concerning the ineffectiveness of investigations are examined within the framework of the Barbu Anghelescu group of cases.

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				<i>charge of the case and the persons involved; lack of access to the investigation which exonerated the State agents involved and impossibility to challenge the results of such investigation either through judicial review of the military prosecutor's decision to close the investigation or within the investigation conducted by the civil prosecutor's office against the inmate involved, which ended with his conviction on charges of murder. (Article 2 substantive and procedural limb)</i>	
<a href="#">CM/ResDH(2016)131</a>	ROM / Milena Felicia Dumitrescu	28440/07	24/06/2015 24/03/2015	<b>Protection against ill-treatment:</b> <i>Lack of an effective investigation into assault allegations resulting in proceedings being time-barred and the accused exonerated. (Article 3 procedural limb)</i>	Reopening of the impugned decision was possible. Awareness-raising organised among judges, prosecutors and law-enforcement officers. The judgment was translated and published on the website of the Superior Council of the Magistracy; it was also sent to the courts of appeal, the prosecutor's office attached to the High Court of Cassation and Justice and to the General Police Inspectorate, for dissemination to all lower courts, prosecutor's offices and police units. As regards the unreasonable length of domestic proceedings, the issue is supervised in the Stoianova and Nedelcu group of cases.
<a href="#">CM/ResDH(2016)39</a>	ROM / Moldovan and Others No.1+2 and 1 other case	41138/98+	05/07/2005	<b>Discrimination and access to the efficient functioning of justice, protection against ill-treatment and protection of private and family life and home:</b> <i>Length and result of domestic proceedings brought by Roma villagers following racially-motivated</i>	Just satisfaction and the sums awarded in the friendly settlements accepted by one part of the applicants were paid. Some applicants left, others continue to reside in Hădăreni and respective measures were adopted on community level. General measures already taken and issues outstanding in June 2011 were presented in document CM/Inf/DH(2011)37. Remaining issues concerned the reconstruction/renovation of

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				<p><i>violence in 1993 in the locality of Hădăreni (Mureş County); improper living conditions following the destruction of their homes amounting to ill-treatment; general discriminatory attitude of the authorities, including their prolonged failure to put an end to the breaches of the applicants' rights. (Articles 3, 6, 8, 13, and 14 in conjunction with Articles 6 and 8)</i></p>	<p>certain houses destroyed in the conflict, the construction of a community medical dispensary and of an industrial building, the acquisition of equipment, the finalisation of the local cultural centre, school and kindergarten as identified by the inter-institutional working group co-ordinated by the Private Office of the Deputy Prime Minister. As difficulties in clarifying the legal status of the lands on which the houses are to be rebuilt persisted, the working group, joined meanwhile by the relevant local and departmental authorities, submitted its proposals in November 2013. On 28/04/2014, the Prime Minister approved the new strategy. A legal framework for financing the construction of a local medical centre and an industrial hall for the manufacturing of concrete products for construction works was approved by Parliament in June 2015. Representatives of the working group and NGOs from Mureş County as well as national NGOs agreed on additional measures with regard to education and the training of adult. A visit of representatives of the working group, the General Police Inspectorate, the Regional Bureau for Roma – organised within the Institution of the Prefect of Mureş County – and of the National Agency for Roma to Târgu Mureş and Hădăreni took place in September 2015 to evaluate risks of interethnic violence and to discuss issues related to education, health, employment and housing needs with community representatives. It showed that the risk of violence was low, that, however, awareness of the importance of education still needed improvement. The housing situation in the community was considered satisfactory. An integrated training programme in the field of non-discrimination, bringing together officials from the Cheţani city hall, teachers, medical personnel and officials from the county administration is planned. Communication between authorities and the community and between communities themselves needs strengthening. In order to monitor the overall situation in Hădăreni, an efficient</p>

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					annual reporting system shall be put in place, involving local and county authorities (the mayor of Chețani and the county level Bureau for Roma).
<a href="#">CM/ResDH(2016)170</a>	ROM / Morar	25217/06	07/10/2015 07/07/2015	<b>Freedom of expression:</b> <i>Criminal conviction and civil liability of a journalist working for a satirical weekly for defamation against the political adviser to an electoral candidate. (Article 10)</i>	Just satisfaction paid; conviction erased from the applicant's criminal record. For general measures see CM/ResDH(2011)73 in Dalban. Insult and defamation are no longer identified as offences in the new Penal Code in force since 01/022014.
<a href="#">CM/ResDH(2016)202</a>	ROM / Neagoe	23319/08	21/10/2015 21/07/2015	<b>Access to and efficient functioning of justice:</b> <i>Breach of the presumption of innocence due to a statement made by the Court of Appeal's spokesperson to the public before the Court of Appeal had delivered its judgment; a subsequent conviction has no impact on the right to the presumption of innocence, which had to be complied with before the delivery of any judicial decision. (Article 6 §2)</i>	No reopening of proceedings as their fairness was not at stake. Inadequate wording of the spokesperson in her statement. The Superior Council of the Magistrate developed and disseminated a Guide on the relationship between the judiciary and the media and a Manuel for spokespersons and public information structures. Training seminars are organised on initiative of the Public Information Bureau. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)151</a>	ROM / Nicolau and 79 other cases	1295/02+	03/07/2006 12/01/2006	<b>Access to and efficient functioning of justice:</b> <i>Excessive length of civil or criminal proceedings and the absence of an effective remedy in this respect; interference with property rights; in some cases the lack of effective means to obtain payment of compensation awarded by courts due to the excessive length of proceedings; unfairness of proceedings; lack of access to court due to excessive court fees require; delayed</i>	Proceedings at issue in these cases were completed. Wide-ranging judicial reform completed in September 2013 addressed i.a. excessive length of civil and criminal proceedings. New Codes of Civil and Criminal Procedure introduced a number of measures: diversification of the methods by which judicial acts can be served, simplification of the contentious procedure and improvement of the system of evidence-taking; in criminal matters broadening the scope of conciliation, streamlining of the stages of the ordinary procedure, simplified procedures and limitation of the possibility of referring cases back to the prosecutor's office. In both matters, the reform

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				<p><i>enforcement of a final court decision. (Articles 6 §1, 13 and 1 of Protocol No. 1)</i></p>	<p>simplified the appeals system: suppression of the possibility to lodge appeals on points of law for certain types of disputes, introduction of more restrictive admissibility criteria when this appeal remains available to the parties and restriction of the possibilities for the appellate courts to quash a ruling and refer the case back to the first instance court. To ensure the viability of the reform, the authorities increased the budget of the Ministry of Justice by 46% between 2013 and 2015, allowing the creation of 390 posts for judges and auxiliary staff. The judicial organisation will be reformed by merging or suppressing a number of first instance courts and prosecutors' offices. The Superior Council of Magistracy SCM monitors the performance of the courts, using a methodology inspired in particular by the SATURN Guidelines developed by the CEPEJ. In case of under-performance, the SCM determines the measures to improve the efficiency of the court at issue. The Public Prosecutor's Office carries out reinforced monitoring of criminal proceedings pending for more than two years before prosecutors' offices. Preliminary data show a decrease in the backlog and a slight decrease in the average length of civil proceedings between 2013 and 2015. The average length of criminal proceedings increased between 2014 and 2015 (from 118.9 to 137.4 days), but the authorities indicate that this is a transitional situation, related to the efforts made by the criminal courts to adapt to the substantial changes introduced by the new Code of Criminal Procedure. The new Codes introduced acceleratory remedies. A compensatory remedy consists of a civil action against the State: several shortcomings of this remedy have been overcome and no longer hinder its effectiveness. The impact of these measures and the questions related to the setting up of effective remedies in this field will be examined in the context of the remaining cases of the groups of Nicolau and Stoianova and Nedelcu, and in particular Vlad and Others, where the judgment contains relevant</p>

Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
					indications for the execution under Article 46 of the Convention. General measures required in response to the other violations in some of these cases were examined in the group of cases Săcăleanu, the case of Weissman and others (Final Resolution <a href="#">CM/ResDH(2011)249</a> ) and the Calmanovici group (Final Resolution <a href="#">CM/ResDH(2014)13</a> ) as well as in the case of Albina (Final Resolution <a href="#">CM/ResDH(2010)181</a> ).
<a href="#">CM/ResDH(2016)321</a>	ROM / Nitulescu	16184/06	22/12/2015 22/09/2015	<b>Access to and efficient functioning of justice:</b> <i>Conviction by the High Court of Cassation and Justice for influence peddling mainly on the basis of audio taped conversations between the applicant and the accuser, despite the fact that they had been recorded without proper judicial authorisation and although the authenticity and integrity of the recordings could not be established by an expert. (Article 6 §1)</i>	The applicant could request the reopening of administrative proceedings, but did not avail herself of this opportunity. Government Ordinance no. 75/2000 provides the legal framework for the forensic expert reports regarding voice and speech. The report can be drafted in public (the National Institute of Forensic Reports) or private laboratories by forensic experts appointed by the Ministry of Justice. Forensic experts, irrespective of their employer, are under the obligation to be impartial and independent in expressing and drafting their scientific opinions. Parties in proceedings can appoint an authorized forensic. A survey conducted with domestic courts lead to the conclusion that the framework concerning forensic reports on the issue of voice and speech is effective and accessible to individuals charged with the commission of a crime when the said charges are based on recordings done via police surveillance, wiretapping but also by individuals that are not under the supervision of the investigative authorities. The judgment was translated, published and disseminated. The remaining issues were dealt with in the Constantinescu group (see <a href="#">CM/ResDH(2011)29</a> ) and Flueraș group respectively. Regarding the safeguards concerning the authorisation of the recordings under the Code of Criminal Procedure, see <a href="#">CM/ResDH(2014)13</a> in Calmanovici group.
<a href="#">CM/ResDH(2016)169</a>	ROM / Opris and 1 other	15251/07+	23/09/2015 23/06/2015	<b>Access to and efficient functioning of justice and protection of rights in</b>	The applicants may request the reopening of the impugned proceedings under Article 465 of the Code of Criminal

Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
	case			<i>detention: Criminal conviction for drug trafficking following active incitement by State agents and failure by the domestic courts to duly examine the applicants' plea of entrapment; conditions of detention amounting to ill-treatment in the second case. (Article 6 §1 and 3)</i>	Procedure. The second applicant was released. For general measures with regard to incitement, see Final Resolution <a href="#">CM/ResDH(2013)40</a> in Constantin and Stoian. The new Code of Criminal Procedure of 2014 reinforced the guarantees instituted by the former CCP and by Law No. 143/2000 on the prevention and control of illicit drug traffic and guarantees the obligation of courts to analyse all the relevant elements brought before them regarding the use of undercover agents. Conditions of detention are examined in general measures required in the Bragadireanu group of cases.
<a href="#">CM/ResDH(2016)50</a>	ROM / Pop and Others	31269/06	24/06/2015 24/03/2015	<i>Access to and efficient functioning of justice: Lack of independence and impartiality of the military courts which convicted civilians for trafficking in visa. (Article 6 § 1)</i>	Reopening of criminal proceedings possible. At the time of the events, civilians could be tried by military courts if accused of committing offences together with military personnel. According to Article 35 (2) of the Code of Criminal Procedure, as amended by Law No. 356/2006, in case of indivisibility or connection if one of the courts is a civil court and the other one is a military court, the competence belongs to the civil court. For general measures see Mazsni closed by final Resolution <a href="#">CM/ResDH(2013)168</a> .
<a href="#">CM/ResDH(2016)132</a>	ROM / S.C. Uzinexport S.A.	43807/06	30/06/2015 31/03/2015	<i>Access to and efficient functioning of justice: Dismissal by the High Court of Cassation and Justice of a claim by a company seeking to obtain default interest for late payment in respect of a sum owed to it by the State as out of time; arbitrary decision incompatible with the principle of legal certainty. (Article 6 §1)</i>	Reopening of proceedings is possible. Erroneous interpretation by High Court of Cassation. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)171</a>	ROM / Samoilă	19994/04	16/10/2015 16/07/2015	<i>Access to and efficient functioning of justice: Final judgment of the Bucharest Court of Appeal in the applicant's action</i>	Insolvency proceedings were finalised and no reopening of the impugned proceedings is possible. Punctual omission of the Court of Appeal. The judgment was translated, published and

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				<i>in insolvency proceedings for repayment of the amount owed to him by the debtor company referred only to twelve companies as having lodged the appeal without mentioning the applicant as a party to the proceedings. (Article 6 §1)</i>	disseminated.
<a href="#">CM/ResDH(2016)349</a>	<b>ROM / Tatar and 1 other case</b>	<b>67021/01+</b>	<b>06/07/2009</b> 27/01/2009	<b>Protection of private, family life and home:</b> <i>Breach by the State of its obligations to assess risks and consequences of hazardous industrial process and to keep the public informed on potential risks for human health and/or environment. (Article 8)</i>	No just satisfaction for non-pecuniary damage awarded. Adoption of the new legislation regulating hazardous industrial activity: Law no. 86/2000 which ratifies the United Nations Economic Commission for Europe (UNECE) Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, the Industrial Emissions Act No. 278/2013, Act No. 59/2016 on the Control of major accident hazards involving hazardous substances, Emergency Ordinance No. 152/2005 on the prevention and integrated control of pollution, Emergency Ordinance No. 195/2005 on Environmental Protection and the Order on Environmental Protection of the Minister for Agriculture, Forestry, Water and Environment No 818/2005. Conditions and operating parameters of an existing or new industrial activity, which may have a significant impact on the environment, shall be established by the competent authority for the protection of the environment, within the framework of an environmental authorization. With regard to the activities of the industrial plants concerned: S.C. Romaltyn Mining seized to function in 2006; at its site sanitation work was undertaken. A new request for an integrated authorisation was rejected in 2016. Water management activities on the site are closely monitored. S.C. Sometra SA interrupted its activities temporarily in 2009. An integrated authorisation was obtained for a partial production sector. Air and water quality is regularly monitored by the competent government agencies. The judgment was translated,



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					published and disseminated.
<a href="#">CM/ResDH(2016)168</a>	ROM / Tăutu	17299/05	09/05/2010 09/02/2010 (Merits) 28/10/2015 28/07/2015 (Just satisfaction)	<b>Access to and efficient functioning of justice and protection of property:</b> Supreme Court's annulment of a final court decision granting the applicant's action to establish a title concerning a plot of land, lodged against a third party. (Articles 6 § 1 and 1 of Protocol no. 1)	Just satisfaction paid. For general measures see Final Resolution <a href="#">CM/ResDH(2007)90</a> in Brumarescu.
<a href="#">CM/ResDH(2016)293</a>	ROM / Trufin and 5 other cases	3990/04	20/01/2010 20/10/2009	<b>Right to life:</b> Ineffectiveness of criminal investigations into the deaths of the applicants' relatives, on account in particular of their length and/or failure to elucidate the circumstances of the deaths. (Article 2, procedural limb)	Just satisfaction paid. Reopening is statute-barred in 4 cases. Two cases lead to convictions. Provisions of the new Code of Criminal Procedure, which entered into force on 01/02/2014, enhance the overall effectiveness of the criminal investigations. Article 185 provides for forensic autopsy on the prosecutor's order in case of death occurred in police custody or prison, during mandatory hospitalization or in any situation raising suspicions of ill-treatment. A family member must be informed on the date of the autopsy and their right to assign an independent expert to assist. Awareness-raising measures were undertaken. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)88</a>	ROM / Zaiet	44958/05	24/06/2015 24/03/2015	<b>Protection of family life:</b> Annulment of an adoption order, 31 years after its issue and at the request of the adoptee's sister without relevant and sufficient reasons. (Articles 8 §1 and 1 of Protocol No. 1)	Inappropriate examination of the applicant's action and erroneous motivation of the domestic decisions. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)72</a>	RUS / Konovalova	37873/04	16/02/2015 09/10/2014	<b>Protection of private life:</b> Unlawful presence of medical students during the birth of the applicant's child resulting	A set of rules regulating the participation of medicine students was adopted in 2007 in the form of Order no. 30 of the Ministry of Healthcare and Social Development under the Healthcare

Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>from the lack of sufficient procedural safeguards in domestic law regulating this matter. (Article 8)</i>	Act. This order required the patient's consent for such participation. On 01/01/2012 the new Federal Law "On the Fundamental Health Protection Principals" entered into force. Pursuant to the Act and the Federal Law "On Personal Data", information concerning medical consultation, an individual's health, his or her diagnosis and other data obtained in the course of medical examination or treatment shall be considered as confidential (medical secrecy). In addition, the order of the Ministry of Healthcare adopted in 2013 under the Education Act 2012 provides that such participation is only possible with the consent of the patients or their lawful representatives, in accordance with medical ethical standards and under supervision of the teaching staff and/or medical institution staff. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)268</a>	RUS / Timofeyev and 234 other cases	58263/00	18/05/2010 18/02/2010	<b>Access to and efficient functioning of justice/Protection of property/Effective remedy:</b> <i>Non-enforcement of domestic judicial decisions concerning the State's monetary obligations including the State's failure to assist with effective enforcement of such judgments delivered against non-State parties resulting in interferences with property rights; lack of an effective remedy in this respect. (Articles 6 §1, 1 of Protocol No. 1 and 13)</i>	In most of the cases, domestic judgments were enforced and just satisfaction for non-pecuniary damage paid. A brief overview of the general measures taken is contained in Interim Resolution <a href="#">CM/ResDH(2009)43</a> : - continuous improvement of the legislative and regulatory framework which resulted particularly in the setting up of execution and enforcement mechanisms; - adoption of a number of organisational measures, thus ensuring better monitoring of the execution by the state and its entities of court decisions; - reform of the budgetary regulations with a view to guaranteeing additional funding to avoid unnecessary delays in the execution of judicial decisions in case of shortfalls in the initial budgetary appropriations". A specific procedure for execution of judicial decisions delivered against the State and its entities was introduced in 2005 in the Budgetary Code. A new federal Law on enforcement proceedings was adopted in 2007. Daily monitoring of enforcement of judgments delivered against the State and its entities was introduced by the Ministry of

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					<p>Finance's Order No. 271 in 2006. In 2008, Resolution No. 579 on the form of the writ of execution, reduced the risk of execution documents being returned to claimants without execution. The Administrative Rules on the execution by the Federal Treasury of court decisions delivered against budgetary institutions entered into force in 2009. They provide for uniform procedures of execution of court decisions for all territorial departments of the Federal Treasury; an exhaustive list of documents to be submitted by claimants and debtors in the framework of the execution of a court decision; personal liability of Federal Treasury employees for improper implementation of the procedures provided by the Rules; and a procedure for challenging actions of the Federal Treasury. A monitoring procedure set up 2008 within the Federal Treasury allowed to identify those authorities facing difficulties with timely execution of court decisions. In 2006 the Supreme Commercial Court held that bailiffs have competence to initiate enforcement proceedings in respect of public authorities' assets when such authorities fail to comply with judicial decisions after the expiry of the three-month period provided for by the Budgetary Code. Between 2004 and 2008 the number of bailiffs was increased. The law providing for a domestic remedy in case of excessive length of judicial and enforcement proceedings ("Compensation Act") entered into force on 4 May 2010 and was considered as effective remedy by the ECHR (see Nagovitsyn and Nalgiyev; Gerasimov and Others; Krasnov). In November 2011 Interim Resolution <a href="#">CM/ResDH(2011)293</a> closed the examination of an effective domestic remedy in this respect. The remaining concern is highlighted in Interim Resolution <a href="#">CM/ResDH(2009)43</a> and relates to the effects of the reforms undertaken. The measures indeed resulted in improved efficiency of enforcement of domestic courts' decisions concerning the State's monetary obligations. General measures with regard to the principle of</p>

Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
					legal certainty on account of the quashing of final domestic decisions by way of the supervisory-review procedure and excessive length of civil proceedings are examined within the context of the Ryabykh group and Kormacheva group. Issues of non-enforcement of domestic judgments concerning the State's obligations in kind, obligations of the State and municipal enterprises and of private parties are examined in the framework of the Gizatova group of cases and the Gerasimov and Others pilot judgment. A domestic remedy in case of excessive length of judicial and enforcement proceedings was introduced in the framework of the execution of the pilot judgment delivered in the Burdov No. 2 (see Interim Resolution <a href="#">CM/ResDH(2011)291</a> ). The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)152</a>	SER / Bjelajac and 10 other cases	6282/06+	18/12/2012 18/09/2012	<b>Access to and efficient functioning of justice and/or protection of property:</b> <i>Length of proceedings and failure to enforce a final domestic decisions. (Articles 6 §1 and/or 1 of Protocol No. 1)</i>	The domestic decisions were enforced. Measures were taken with a view to ensuring the effectiveness of the enforcement of decisions in civil, commercial and family-related matters, as well as eviction orders within the context of the special "protected tenancy regime". The exact number of unenforced decisions rendered against socially-owned companies in respect of salary arrears and the amount of aggregate debt was established. The measures aimed at ensuring the enforcement of decisions rendered against municipal authorities, demolition orders in respect of unauthorised constructions and decisions rendered in the pension matters remain under examination. The new remedy in respect of excessive length of enforcement proceedings and further measures required will be examined in the context of the remaining cases of the EVT Company group.
<a href="#">CM/ResDH(2016)204</a>	SER / Jovanovic	32299/08	02/01/2013 02/10/2012	<b>Access to and efficient functioning of justice:</b> <i>Rejection of the Supreme Court of an appeal on points of law without further clarification on the ground that</i>	The Supreme Court of cassation granted leave for reopening and reconsidered the applicant's appeal on points of law. Isolated case based on erroneous interpretation of law. The judgment was translated, published and disseminated.

Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>the dispute value assessment by a lower court was unlawful and did not meet the applicable statutory threshold. (Article 6 §1)</i>	
<a href="#">CM/ResDH(2016)240</a>	SUI / Borer	22493/06	10/09/2010 10/06/2010	<b>Protection of rights in detention:</b> <i>Unlawful detention after having served his prison sentence and while awaiting the final outcome of proceedings concerning the replacement of psychotherapeutic measures with preventive detention, without sufficient legal basis. ( Article 5 §1)</i>	The applicant did not seize the Federal Court with a revision request. The unlawful detention ended in April 2006. A comprehensive reform of the criminal procedural law took place in Switzerland replacing cantonal procedural codes for criminal matters with a national Swiss Criminal Procedure Code, which entered into force on 01/01/2011. Its chapter 3 sections 4 to 8 (Articles 220-240) provides a comprehensive legal basis for pre-trial detention and detention during trial including an appeal procedure. The judgment was published and disseminated in all three official languages.
<a href="#">CM/ResDH(2016)175</a>	SUI / Dembele	74010/11	17/02/2014 24/09/2013	<b>Protection against ill-treatment:</b> <i>Unjustified use of force amounting to inhuman treatment by the police during an identity check, including the use of batons; lack of the requisite diligence and unjustified delays in the investigation of the complaint. (Article 3 substantive and procedural limb)</i>	The applicant did not request reopening of proceedings. The judgment was published and disseminated to all authorities concerned. According to the Federal Court's well-established case-law, in case of alleged ill-treatment a prompt and impartial investigation must be conducted. As regards the Canton of Geneva in particular, a general service inspection was established in 2008 that is after the events in question. This body deals with grievances against members of the police corps. The applicant's case would thus no longer be treated in the same manner. On the judicial level, respective complaints are treated more swiftly and in a more in-depth manner than in the past. A brochure elaborated by the cantonal police of Berne and different NGOs aiming at ensuring the correct handling of notably identity checks is used by the majority of police corps.
<a href="#">CM/ResDH(2016)297</a>	SUI / Gajtani	43730/07	09/12/2014 09/09/2014	<b>Access to and efficient functioning of justice:</b> <i>Inadmissibility of an appeal in proceedings under the Hague</i>	Just satisfaction paid. Reopening of the case is not necessary as the applicant moved back to Macedonia and lives with her children there. Change of case-law by the Federal Court in

Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>Convention against the return of a mother's children to "the former Yugoslav Republic of Macedonia" as being lodged out of time even though it was lodged within the time-limit erroneously indicated by the lower court; failure to take into consideration all the circumstances of the case, specifically that the applicant was not represented by a lawyer. (Article 6 §1)</i>	March 2009. The judgment was published and disseminated to all authorities directly concerned.
<a href="#">CM/ResDH(2016)76</a>	SUI / Haldimann and Others	21830/09	24/05/2015 24/02/2015	<b>Freedom of expression:</b> <i>Conviction of four journalists for secretly filming an interview with an insurance broker (the broker's face had been pixelated and his voice had been altered) and subsequently broadcasting it in a documentary on the poor quality of the advice provided by private insurance brokers. (Article 10)</i>	The Federal Court quashed the applicants' convictions. Deficient assessment by the Federal Court of the circumstances in this particular case. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)325</a>	SUI / Hansabasic	52166/09	07/10/2013 11/06/2013	<b>Protection of private and family life:</b> <i>Refusal to renew the first applicant's settlement permit because of, inter alia, both applicants' (husband and wife) dependence on public funds despite the considerable length of time spent in Switzerland and their undeniable social integration there. (Article 8)</i>	The applicants seized the Federal Court with a revision request. On 27/05/2014 the Federal Court admitted their request and ordered the competent authorities to issue a renewable residence permit. Just satisfaction was paid. The judgment was translated, published and disseminated, including to the federal and cantonal authorities directly concerned.
<a href="#">CM/ResDH(2016)296</a>	SUI / M.P.E.V. and Others	3910/13	07/10/2014 08/07/2014	<b>Protection of family life:</b> <i>Rejection of an asylum request and ordering of expulsion to Ecuador due to several criminal convictions; failure of</i>	On 17/03/2015 the Federal Administrative Court held that the applicant should be granted a temporary renewable residence permit in Switzerland on the same conditions as his ex-wife and daughter. The judgment was published and disseminated in all

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				<i>authorities to give due consideration to the applicant's child's interest in preserving close personal contacts to her father, to the moderate nature of the criminal offences committed and to the applicant's poor state of health. (Article 8 conditional)</i>	three official languages.
<a href="#">CM/ResDH(2016)182</a>	SUI / Mäder	6232/09	08/03/2016 08/12/2015	<b>Protection of rights in detention:</b> <i>Lack of a speedy review of the lawfulness of the applicant's detention from the psychiatric clinic where he was detained on grounds of protective care due to an obligation to obtain a decision on release from a guardianship authority before being able to apply to a court. (Article 5 §4)</i>	The applicant was released from the psychiatric clinic. The Court's judgment was published and disseminated, including to the authorities directly concerned. On 01/01/2013 amendments to the Swiss Civil Code entered into force. Article 439 of the Civil Code now provides that the detention/placement in a medical institution without consent of the person concerned can be appealed directly to the court.
<a href="#">CM/ResDH(2016)326</a>	SUI / Perincek	27510/08	15/10/2015 Grand Chamber	<b>Freedom of expression:</b> <i>Disproportionate interference due to criminal conviction of a Turkish politician and doctor of law for having publicly rejected the legal characterisation as "genocide" of atrocities committed against the Armenian people in the Ottoman Empire in 1915 and after. (Article 10)</i>	On 29/01/2016, the applicant seized the Federal Court with a revision request. On 25 August 2016 the Federal Court quashed the applicant's conviction and remitted the case to the lower instance, which annulled the conviction. The case resulted from the application of Article 261 bis § 4 of the Criminal Code and did not put in question its compatibility with the ECHR as such. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)327</a>	SUI / Polidario	33169/10	30/10/2013 30/07/2013	<b>Protection of private and family life:</b> <i>Authorities' failure to take appropriate measures to preserve the relationship between a Philippines mother and her child abducted to Switzerland by the father, due to their refusal to grant the</i>	On 25/10/2012 the applicant was granted a renewable residence permit. The applicant could have applied for the reopening of her administrative proceedings, but did not avail herself of this opportunity. The judgment was widely published and disseminated, including to the authorities directly concerned.

Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>mother a residence permit enabling her to have contact with her child and later to exercise her access rights. (Article 8)</i>	
<a href="#">CM/ResDH(2016)295</a>	SUI / Schweizerische Radio und Fernsehgesellschaft SRG	34124/06	21/09/2012 21/06/2012	<b>Freedom of expression:</b> <i>Interference with a TV and radio company' rights on account of the refusal by the domestic authorities to allow the company to register a televised interview inside a prison with a prisoner serving a sentence for murder. (Article 10)</i>	No revision request was submitted. Change of relevant case-law: In a recent case in 2010, the Federal Court authorised to carry out a televised interview in a penitentiary establishment. The judgment was published and disseminated in all three official languages.
<a href="#">CM/ResDH(2016)328</a>	SUI / Udeh	12020/09	09/09/2013 16/04/2013	<b>Protection of private and family life:</b> <i>Disproportionate interference in case of deportation of an immigrant Nigerian father of two minor children living in Switzerland on the basis of one serious criminal conviction. (Article 8 conditional)</i>	The ban imposed on the applicant was lifted. On 13/12/ 2013 the applicant seized the Federal Court with a revision request. On 13/02/2014 he was issued a renewable residence permit making his revision request obsolete. The judgment was widely published and disseminated, including to the authorities directly concerned.
<a href="#">CM/ResDH(2016)34</a>	SVK / Ďurdovič and Trančíkova	16639/11	07/01/2015 07/10/2014	<b>Access to and efficient functioning of justice:</b> <i>Lack of access to Constitutional Court due to a restrictive requirement, imposed by the Constitutional Court's practice at the relevant time, according to which the time-limit to lodge a constitutional complaint was not respected if the Supreme Court rejected an appeal on point of law as inadmissible (6 §1).</i>	Following a legislative amendment in September 2014, reopening of proceedings before the Constitutional Court is possible. The applicant's request for reopening was allowed by the Constitutional Court on 27/10/2015. The case presents certain similarities to Franek closed by <a href="#">CM/ResDH(2015)12</a> in the light of a change in practice of the Constitutional Court. More recent examples dating 2011-2014 confirming this practice were submitted.
<a href="#">CM/ResDH(2016)236</a>	SVK / Hoholm	35632/13	01/06/2015 13/01/2015	<b>Access to and efficient functioning of justice and effective remedy:</b> <i>Failure to provide speedy proceedings for the</i>	Return proceedings finalised on 31/12/2012. It was found to be in the children's best interest to remain in Slovakia. As of 01/01/2016, Articles 178a to 178h in the Code of Civil



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>return of the applicant's children under the Hague Convention after their abduction (through recourse to extraordinary remedies) from Norway to Slovakia and lack of an "effective remedy" due to the fact that the Constitutional Court failed to examine the overall length of the impugned proceedings. (Articles 6 §1 and 13)</i>	Procedure will ensure the speedy and effective conduct of return proceedings of minors. The use of extraordinary remedies will be not allowed. The requirement for the speedy proceedings in family matters is referred to in training of judges and legal trainees. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)75</a>	SVK / Horváth and 3 other cases	5515/09+	27/02/2013 27/11/2012	<b>Protection of rights in detention:</b> <i>Excessive length of proceedings related to the applicants' requests for release from detention on remand. (Article 5§4)</i>	The applicants were released. All cases were isolated incidents. The judgment was published in the Judicial Review No. 12/2011 and sent by the Minister of Justice to the President of the Constitutional Court. Training activities were organised by the Judicial Academy. As regards the compensation awarded in cases of excessive length of proceedings for review of the lawfulness of detention, examples of judgments submitted allowed to observe that the practice of the Constitutional Court concerning the providing of appropriate redress in cases of violation of Article 5 § 4 had evolved.
<a href="#">CM/ResDH(2016)233</a>	SVK / Kormos and 5 other cases	46092/06	08/03/2012 08/11/2011	<b>Protection of rights in detention:</b> <i>Unlawful pre-trial detention from 2005 to 2010; the Constitutional Court explicitly acknowledged a breach of rights, but failed to grant just satisfaction. (Article 5 §1)</i>	The applicants were released from detention on remand. Just satisfaction in respect of non-pecuniary damage paid. Improper judicial practice at the material time. The new Code of Criminal Procedure (Law no. 301/2005 Coll.) obliges a court to decide on further detention of an accused within fifteen days of indictment. Section 76 §1 CCP provides that detention in pre-trial proceedings can last only for "a necessary period of time". The case-law of the Constitutional Court confirms that in similar situations release was ordered and compensation awarded (II. US 595/2012, II. US 597/2012). Change of case-law of the Constitutional Court: see <a href="#">CM/ResDH(2016)75</a> in Horvath group. The judgment was published and disseminated among all regional and district courts, as well as to the Constitutional

Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
					Court.
<a href="#">CM/ResDH(2016)138</a>	SVK / Kovárová	46564/10	23/09/2015 23/09/2015	<b>Access to and efficient functioning of justice:</b> <i>Lack of access to the Constitutional Court due to rejection of the relevant part of the applicant's constitutional complaint due to excessive formalism in the assessment of compliance with the relevant procedural time limit. (Article 6 §1)</i>	Article 133 of the Constitution (effective 01/09/2014) offers a new option of reopening of the impugned Constitutional Court proceedings. For general measures see <a href="#">CM/ResDH(2012)221</a> in Stavebna spolocnosr TATRY Poprad,s.r.o. and <a href="#">CM/ResDH(2015)12</a> in Franek. The Constitutional changed its practice: in case of concurrent lodging of the appeal on points of law and the constitutional complaint, the constitutional complaint is admissible only after the decision of the Supreme Court on the appeal on points of law. However, the statutory time-limit is considered to be preserved not only in respect of the decision on appeal on points of law but also in respect of the previous decision against which the appeal on points of law has been lodged. The judgment was published and disseminated.
<a href="#">CM/ResDH(2016)235</a>	SVK / Lopez Guio	10280/12	13/10/2014 03/06/2014	<b>Protection of family life:</b> <i>Lack of procedural protection of a parent in proceedings concerning the return of his child under the Hague Convention after the child's abduction from Spain to Slovakia. The mother's use before the Slovak courts of extraordinary remedies before the Constitutional Court against the return, of which the applicant was not informed, resulted in the status of the child remaining undetermined for a protracted period of time and led to a final decision that the child was well established in Slovakia and it was not in its best interest to be returned to Spain. (Article 8)</i>	Just satisfaction paid. On 01/01/2015 the Article 51 of the Constitutional Court Act was amended (Law No. 353/2014 Coll.) in the context if this judgment. Under this new provision, if the Constitutional Court decides at the preliminary hearing to proceed with a complaint it shall notify the interested parties who shall have the right to submit observations in the time-limit given. In March 2015 special civil proceedings were introduced concerning the return of a child, wrongfully removed or retained. Strict time frames were introduced to ensure swift ruling on these cases and to avoid delays caused by the procedural behaviour of the parties to the proceedings. Moreover, a possibility to submit extraordinary remedies was excluded in this type of proceedings to ensure swift and effective rulings. These provisions shall enter into force on January 2016. The judgment was published and disseminated among all judges of the Constitutional Court and regional courts. It is also used in training activities organized by the

Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
					Judicial Academy.
<a href="#">CM/ResDH(2016)231</a>	SVK / Majchrak	21463/08	23/01/2013 23/10/2012	<b>Access to and efficient functioning of justice:</b> <i>Lack of opportunity to comment on information procured by the Constitutional Court of its own motion which was crucial to its decision to declare his application out of time and incorrect. (Article 6 § 1).</i>	The proceedings were reopened by the Constitutional Court following an amendment to the Constitution and are currently pending. Isolated incident of erroneous interpretation of the domestic law by the Constitutional Court. The judgment was published and disseminated among all judges of the Constitutional Court.
<a href="#">CM/ResDH(2016)234</a>	SVK / Maslak and 1 other case	15259/11+	28/07/2015 28/04/2015	<b>Protection of rights in detention:</b> <i>Excessive length of time to take review decisions on requests for release from pre-trial detention and lack of enforceable right to compensation. (Article 5 §§4+5)</i>	Just satisfaction paid. Lack of promptness in examining the applicants' requests for release were isolated incidents of an improper judicial practice. Accordingly, awareness-raising measures were implemented with a view to prevent similar violations from reoccurring: see also <a href="#">CM/ResDH(2016)75</a> in Akhadov. The complaint under Article 127 of the Constitution shall be regarded as sufficient remedy for the purposes of Article 5 §5. The judgments were published in the Judicial Revue and sent by the letters of the Minister of Justice to the President of the Constitutional Court and the presidents of the regional courts for dissemination.
<a href="#">CM/ResDH(2016)16</a>	SVK / Mikolajova	4479/03	18/04/2011 18/01/2011	<b>Protection of private life and presumption of innocence:</b> <i>Disproportionate interference with the right to protect one's reputation due to the disclosure by police of a decision stating that the applicant had committed an offence, even though no criminal proceedings had been brought against her and lack of any available recourse to obtain a subsequent retraction or clarification of the terms in the police decision. (Articles 6 §2 and 8)</i>	One off-case. The applicant's case was re-examined and a new decision on discontinuing the criminal prosecution given. The judgment was translated, published and disseminated in particular to the Constitutional Court, the General Police Corps and the General Prosecutor's Office drawing attention to the fact that the existing remedy (petition to the Public Prosecution Service according to Article 31 of the Public Prosecution Service Act) was not properly applied in the circumstances of the present case.

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<a href="#">CM/ResDH(2016)17</a>	<b>SVK / Mizigarova</b>	<b>74832/01</b>	<b>14/03/2011</b> 14/12/2010	<i><b>Right to life:</b> Failure of authorities to protect the health and well-being of the applicant's husband of Roma origin, who allegedly committed suicide while in police custody, and failure to conduct an independent and effective investigation. (Article 2 substantive and procedural limb)</i>	Investigation cannot be reopened due to the suicide of the police officer involved. Allocating, carrying and storing service weapons during performance of official duties are ruled by a respective Resolution of the Ministry of Interior of 1995. The compliance with the Resolution is regularly monitored and members of the Police Corps are educated in this respect. One prosecutor in each judicial district, a special police department within the office of the head of police and in each police district deal with extremism and 231 police officers specialised in minorities/ Roma issues operate at the level of regional police departments. The police undergo periodic training on measures to combat new forms of extremist criminal acts and to prevent the excessive use of police force against Roma. An increase of the number of police officers of Roma origin is planned. A Committee for Prevention and Elimination of Racism, Xenophobia, Anti-Semitism and Other forms of Intolerance acts as an advisory body under the Ministry of Interior. As of August 2013 any investigation related to extremism must be conducted by a police investigator (not any more by an ordinary police officer). An amendment to section 115 of the Code of Criminal Procedure is envisaged to allow the use of wire-tapping also in the investigation of extremist offences. The possibility of a mandatory requirement to record all interventions by security forces on an audio-visual tape is under consideration. Police also undergo periodic training on measures to combat new forms of extremist criminal acts and to prevent excessive use of force against Roma. In case of alleged criminal acts committed by a police officer, investigation is conducted by a fully independent inspection service, not related to the Police Corps, carrying out operative-inquisitive actions and criminal investigation. The judgment was published and disseminated and is used in the training of judges, prosecutors and members of the Police Corps.

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<a href="#">CM/ResDH(2016)18</a>	SVK / Trancikova	17127/12	13/04/2015 13/01/2015	<b>Access to and efficient functioning of justice:</b> <i>Unfair civil appeal proceedings, in particular because the defendant's observations in response to the applicant's appeal had not been communicated to her and because her appeal had not been heard publicly. (Article 6)</i>	The applicant did not request reopening of proceedings. According to the Supreme Court's meanwhile established case-law, the lower-court's judgment is automatically quashed with reference to Article 237 of the Code of Civil Procedure and the case returned to re-examination, if a party to the civil proceedings lodges the appeal on points of law due to the failure to forward a copy of the other party's written observations in appellate proceedings. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)237</a>	SVK / Vrabec and Others	31312/08	26/06/2013 26/03/2013	<b>Access to and efficient functioning of justice:</b> <i>Dismissal by the Constitutional Court of the applicants' complaint without addressing their arguments concerning the varying practice on the part of the Supreme Court when determining whether expropriation of land under Ordinance 15/1959 fell under Law no. 503/2003 („restitution proceedings“). (Article 6 §1)</i>	The applicants did not request the Constitutional Court to reopen the impugned proceedings. Isolated problem of interpretation by the Constitutional Court. Subsequently, the Constitutional Court in its judgment IV. ÜS 209/2010 found that the varying practice on the part of the Supreme Court when determining whether expropriation of land under Ordinance 15/1959 fell under Law no. 503/2003 ran contrary to the principle of legal certainty. The Constitutional Court quashed the Supreme Court's judgment in issue and returned the case to the latter. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)232</a>	SVK / Yegorov	27112/11	02/09/2015 02/06/2015	<b>Protection of rights in detention:</b> <i>Unlawful and arbitrary arrest and detention pending trial for various charges between 2002 and 2013 under different remand orders and lack of proper examination of an appeal against detention order. (Articles 5 §§1(c)+3+4)</i>	The applicant was released in 2013 and just satisfaction for non-pecuniary damage paid. Case caused by formalistic application of general principle of law. The judgment was published and disseminated among all judges of the Constitutional Court and regional courts. It is also used in training activities organized by the Judicial Academy.
<a href="#">CM/ResDH(2016)294</a>	SVK / Zachar and Cierny	29376/12+	21/10/2015 21/07/2015	<b>Access to and efficient functioning of justice:</b> <i>Breach of the right to legal representation at pre-trial stage and of</i>	Reopening of proceedings was granted; they are still pending. The right to assistance by a lawyer from the very first stage of proceedings and during police questioning is enshrined in

Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>the privilege against self-incrimination. (Article 6 §1 in conjunction with 6 §3(c))</i>	Article 36 et seq. of the Code of Criminal Procedure. Awareness-raising and training activities by the judicial Academy were undertaken. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)112</a>	SVN / Kuric and Others	26828/06	26/06/2012 (Merits) 12/03/2014 (Just satisfaction)  Grand Chamber	<b>Protection of private and family life and discrimination:</b> <i>Automatic deprivation without prior notification of the applicants' status as permanent residents in Slovenia after its declaration of independence. The "erasure" of the resident status concerned former citizens of the Socialist Federal Republic of Yugoslavia (the "SFRY") with permanent residence in Slovenia and citizenship of one of the other SFRY republics at the time of Slovenia's declaration of independence; lack of an effective remedy in respect of the status deprivation; discrimination of the applicants whose situation was significantly altered after independence in comparison to aliens who did not originate from other SFRY republics (Articles 8, 13 and 14, both in conjunction with 8).  <i>The Court applied the pilot-judgment procedure and requested the respondent State to introduce within one year after the judgment became final (i.e. by 26/06/2013), an ad hoc domestic compensation scheme for the "erased" who are still denied compensation for the infringement of</i></i>	<b>Pilot judgment</b> - The applicants' residence status was regularised and the just satisfaction for pecuniary and non-pecuniary damage paid. The Act on Compensation for Damage to Persons Erased from the Register of Permanent Residents entered into force on 18/12/2013 and became applicable on 18/12/2014. Beneficiaries of the compensation scheme are defined as those "erased" persons who have acquired a permanent residence permit or citizenship as well as those "erased" persons who made an unsuccessful application to that effect under the legislation applicable prior to the enactment of the Amended Legal Status Act 2010. Special attention was thus devoted to develop a proper solution with regard to those whose applications for citizenship or permanent residence permits had been rejected. Claims for compensation under the Act will have to be filed no later than three years after its entry into force or after notification of the decision on permanent residence or citizenship. The amount of compensation is calculated on the basis of a lump sum of 50 EUR for each completed month of "erasure" covering both pecuniary and non-pecuniary damage sustained. The amount of compensation took into account the current financial situation and considerations relating to the welfare State. In addition, claims for additional compensation can be lodged under the general rules of the Code of Obligations. Beneficiaries are entitled to other forms of allowances: compulsory health insurance, benefits and preferential treatment under social security programmes; access to other forms of public assistance and State grants; benefits and preferential treatment in the matter of housing (non-profit rent); access to the education system;

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				<p><i>their fundamental rights. At the same time, the Court decided to adjourn for one year the examination of all similar applications pending the adoption of the remedial measures at issue.</i></p>	<p>and, lastly, preferential treatment under programmes for aliens who are not citizens of EU member States, with a view to their integration into cultural, economic and social life. Adequate funds have been set aside to meet the compensation claims. The actual amount paid as pecuniary compensation claimed through administrative and judicial proceedings in 2014 and 2015 stood at EUR 3 972 128.63 and EUR 5 137 542.37, respectively. The 2016 and 2017 budgets have foreseen a total of EUR 7 110 200 and EUR 10 007 000 for compensation, respectively. By 26/02/2016, 7 268 claims for the determination of financial compensation in administrative proceedings were lodged and 7081 decisions adopted, amounting to 97.5 % of the claims.</p> <p>The Legal Status Act was amended in 2010 in order to regulate its incompatibilities with the Constitution entering into force on 24/07/2010. These legislative and other developments in the practice of domestic authorities, secured the regulation of the residence status of the "erased". The Act provided for the acquisition of both <i>ex nunc</i> and <i>ex tunc</i> (that is, since 26/02/1992) permanent residence permits by the "erased" persons "actually residing" in Slovenia. By July 2013, 10 046 of the 25 671 "erased", including 5 360 minors, had settled their residence status (2 807 by acquisition of a permanent residence permit and 7 239 by acquisition of Slovenian citizenship). By January 2016, 1 907 requests for permanent residence were lodged (of these, 1 608 had been filed by erased citizens, 70 by children of the erased persons, and 229 by citizens of other republics of the SFRY who have resided in Slovenia uninterruptedly since 25/06/1991 ). By January, 2016, a total of 259 permanent residence permits had been issued (of these 217 to the erased), 1 395 requests for permanent residence permit had been rejected and 253 are pending. 933 requests for a special <i>ex tunc</i> decision had been filed, 254 by the "erased", 70 by the children of the "erased", and 609 by</p>

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					nationals who had been erased before acquiring citizenship. 612 of such requests were granted (111 to the “erased”, 39 to the children of the “erased”, and to 462 citizens) while 255 requests were rejected, and 66 remain pending. The judgment was translated, published and disseminated. Awareness-raising measures were organised to inform potential beneficiaries of the compensation scheme.
<a href="#">CM/ResDH(2016)354</a>	SVN / Lukenda and 263 other cases	23032/02+	06/01/2006 06/10/2005	<p><b>Access to and efficient functioning of justice:</b> <i>Excessive length of civil, criminal, enforcement or administrative proceedings and lack of an effective remedy in this respect for various reasons, including:</i></p> <ul style="list-style-type: none"> <li>•delays and/or inactivity of the courts (including excessive time to schedule the first hearings, long delays in production of expert opinions or unsuccessful service of court documents in civil proceedings);</li> <li>•multiple remittals both in civil and criminal proceedings;</li> <li>•reassignment of a case to a new judge in criminal proceedings; or</li> <li>•lack of special diligence in labour disputes. (Articles 6 §1 and 13)</li> </ul>	<p>Domestic proceedings are closed except in 4 cases. All issues concerning the payment of just satisfaction are settled. Between 2005 and 2012 the Lukenda Project was implemented with the goal was to eliminate backlogs in domestic courts and to provide for the structural and organisational reform of judiciary.</p> <p>a. Legislative and capacity-building measures aimed at reducing excessive length of proceeding:</p> <ul style="list-style-type: none"> <li>• Civil proceedings, including labour and bankruptcy proceedings: adoption of the Act on the Alternative Dispute Resolution in Judicial Matters 2010; amendments of the Civil Procedure Act 2008 reduced the possibility of multiple remittals; delays and inactivity of civil courts was addressed by upgraded IT systems and improved case management; The 2010 Rules on Court Experts and Certified Appraisers (amended in 2015) oblige experts to carry out their work diligently and regularly within a maximum period of 60 days; amendments to the Courts Act in 2015 changed the system of appointment of court experts; the Labour and Social Courts Act 2005 strengthened procedural discipline in labour proceedings; the Financial Operations, Insolvency Proceedings and Compulsory Dissolution Act (ZFPPIPP) 2008 governs insolvency proceedings, in which compulsory mediation and consented mediation was introduced in 2013; the number of judges and assistants was increased: 2016 EU Justice Scoreboard shows Slovenia had on average 45 judges per 100 000 inhabitants in 2014; modern</li> </ul>



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
					<p>technology was introduced in the administration of justice; the 2015 CEPEJ data show satisfactory clearance rates and disposition times (number of days necessary to resolve a pending case).</p> <ul style="list-style-type: none"> <li>• Criminal proceedings: amendments of the Criminal Procedure Code in 2011 introduced plea bargaining and pre-trial hearings; human resources were increased, audio recordings of hearings was introduced; CEPEJ data show satisfactory clearance rates.</li> <li>• Enforcement proceedings: amendments to the enforcement legislation 2010; further amendments 2014 to speed up enforcement of real estate; dedicated court department created to deal exclusively with enforcement of invoices, cheques and other debt-related papers subject to fast-track enforcement procedure.</li> <li>• Administrative proceedings: Adoption of a new General Administrative Procedure Act 2000, amended in 2004, 2007 and 2013; new Administrative Dispute Act in 2007; creation of a public portal for electronic services for citizens; very good disposition time before administrative courts according to the EU Justice Scoreboard 2016.</li> <li>• Supreme Court: Amendment of the Civil Procedure Code reducing the access; additional human resources allocated clearance rates over 100%.</li> <li>• Constitutional Court: amendments to the Constitutional Court Act 2007 ensuring expedient and fast-track decision-making without extensive reasoning; modification of the threshold to grant leave for constitutional complaint; 2004 introduction of a dedicated case-management IT system.</li> <li>• Reduction of the backlog: amendments to the Courts Act 2011 concern disciplinary supervision, distribution of the workload and the project of 2008 which introduced a strategic management system Judicial Data Warehouse and Performance Dashboard eliminating backlogs in all types of courts as well as</li> </ul>

Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
					<p>preventing new backlog. The number of pending cases (without minor offences cases) in 2010 amounted to 427.967 and decreased to 190.894 pending cases without minor offences in September 2016.</p> <p>b. Introduction of effective remedies</p> <ul style="list-style-type: none"> <li>The Act on the Protection of the Right to a Trial without undue Delay ("the 2006 Act") provided two sets of remedies to prevent excessive length of proceedings, namely acceleratory and a compensatory remedy in civil and criminal proceedings. In 2009, the compensatory remedy was also made available in the proceedings pending before the Supreme Court. Pursuant to the amendments introduced in 2012, compensatory remedy was also made available to parties to the lengthy proceedings brought to an end before the 2006 Act entered into force but which had not until then filed an application for length of proceedings before European Court. Statistics confirm the effectiveness of the remedies.</li> </ul>
<a href="#">CM/ResDH(2016)355</a>	SWE / F.G.	43611/11	23/03/2016 Grand Chamber	<b>Right to life and protection against ill-treatment:</b> <i>Proposed expulsion to Iran without adequate investigation of reality and implications of conversion to Christianity after arrival in Europe; Obligation of authorities to proceed to an ex nunc assessment of the consequences of the religious conversion to Christianity when deciding on the applicant's deportation to Iran. (Article 2 and 3 conditional)</i>	The applicant was granted a permanent residence permit and refugee status by the Migration Agency. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)239</a>	SWE / Karin Andersson and Others	29878/09	25/12/2014 25/09/2014	<b>Access to and efficient functioning of justice:</b> <i>Inability to obtain a full judicial review of the authorities' decisions permitting the construction of a railway</i>	Just satisfaction paid. A Government decision may be challenged by a petition for judicial review. An application for judicial review must be submitted to the Supreme Administrative Court within three months from the date of the

Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>on or close to their properties, including the question whether the location of the railway infringed their rights as property owners; thus lack of access to a court to determine civil claims. (Article 6 § 1)</i>	challenged decision. After the said time-limit an applicant may have the option to apply for restoration of expired time according to Section 37 c of the Administrative Court Procedure Act. Seven of the applicants in the case, whose land partly was used for compensatory measures for encroachment on a Natura 2000 site, have received monetary compensation. Two other applicants and the new owner of one of the applicants' property, have entered into voluntary agreements with the SNRA for reduced residential value or for permanent loss of market value. Supreme Administrative Court found in 2011 that, although it could not be established at that stage exactly how the future road would affect the individual applicants (all of whom owned property within the suggested corridor), the location of the road was in fact decided through the Government's decision and the only possibility of a court review of the location issue therefore lied in a judicial review of the Government's aforementioned decision. Consequently, in the Supreme Administrative Court's view, the contested decision entailed an assessment of the applicants' civil rights or obligations within the meaning of Article 6 (1) of the Convention, and thus, they were considered to have <i>locus standi</i> in the judicial review of the Government's permissibility decision (Yearbook of the Supreme Administrative Court 2011 not. 26). The Government notes that the jurisprudence thus established has not been overturned by subsequent case-law. Accordingly, there is now a right to judicial review of Government decisions on road constructions for applicants in the same situations as those in the aforementioned case. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)141</a>	SWE / Lucky Dev	7356/10	27/02/2015 27/11/2014	<b>Access to and efficient functioning of justice:</b> <i>Conviction in tax proceedings despite an acquittal in criminal proceedings for the same offence.</i>	The applicant's claim for non-pecuniary damages to the Chancellor of Justice was rejected on 13/11/2015 on the ground that she had been fully compensated by the just satisfaction awarded by the ECHR. The applicant has the option

Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				(Article 4 Protocol No. 7)	of bringing an action for damages against the State in the general courts or to apply for a re-opening of the tax proceedings with the Supreme Administrative Court, in accordance with Section 37 b of the Administrative Court Procedure Act, invoking the ECHR's judgment. Amendments to relevant legislation ensuring the respect of the principle of ne bis in idem entered into force on 01/01/2016. A new provisions in the Tax Procedure Act prohibits the Tax Agency from deciding on tax surcharges if a prosecutor already initiated proceedings on tax offences concerning the same individual and relating to the same error or omission. Conversely, a new provision in the Tax Offences Act prohibits proceedings on tax offences if the Tax Agency has decided on tax surcharges. In conformity with the principle of lis pendens, these provisions go further than the requirements of Article 4 of Protocol No. 7, which provide protection only once a matter has become res judicata. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)140</a>	SWE / Olsby	36124/06	21/09/2012 21/06/2012	<b>Access to and efficient functioning of justice:</b> Lack of access to a court due to dismissal of an appeal against an attachment order on formal grounds even though it had been submitted within the prescribed time-limit. (Article 6 §1)	Amendments of the relevant legislation entered into force on 01/01/2016. According to Chapter 18 of the Enforcement Code, an order for the distribution or payment of attached funds to the creditor can be appealed against by the debtor within the same time-limit as is prescribed for an appeal against the attachment order, if the time-limit for the attachment order expires later. Hence, the order for distribution or payment will not be final until the time-limit for an appeal against the attachment has passed. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)206</a>	TUR / Adirbelli and Others	20775/03	02/03/2009 02/12/2008	<b>Protection of rights in detention:</b> Unlawful detention in police custody and lack of an effective remedy in this regard as well as the absence of an	General measures see <a href="#">CM/ResDH(2008)29</a> in Ayaz and Others.

Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>enforceable right to compensation for unlawful detention. (Article 5 §§1+4+5)</i>	
<a href="#">CM/ResDH(2016)330</a>	TUR / Ahmet Arslan and Others	41135/98	04/10/2010 23/02/2010	<b>Freedom of thought, conscience and religion:</b> <i>Disproportionate interference due to criminal convictions for wearing religious headgear and garments, which were banned in public areas under domestic law as contrary the principle of secularity. (Article 9)</i>	The applicants did not request reopening of impugned domestic proceedings. Their criminal records were deleted and just satisfaction was paid. Article 526 § 2 of the Criminal Code providing for criminal sanctions for wearing of religious headgear and garments in contravention of the Law No. 671 and Law No. 2596 was abrogated in 2014. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)300</a>	TUR / Akdas	41056/04	16/05/2010 16/02/2010	<b>Freedom of expression:</b> <i>Disproportionate interference due to conviction of the publisher of the Turkish translation of the erotic novel "Les Onze Mille Verges" by Guillaume Apollinaire and seizure of the book. (Article 10)</i>	The impugned proceedings were reopened and the applicant acquitted. The conviction was deleted from the crime register. The Criminal Code was amended in 2004: Article 226 provides that "obscenity" in academic publications and publications with artistic and literary value shall not be banned, providing that children are prevented from accessing them. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)285</a>	TUR / Akdemir and Evin and 6 other cases	58255/08+	17/06/2015 17/03/2015	<b>Access to and efficient functioning of justice:</b> <i>Denial of a fair trial on account of excessive length of administrative proceedings. (Article 6§1)</i>	Just satisfaction paid. Impugned proceedings closed. For general measures aimed at preventing excessive length of domestic proceedings see <a href="#">CM/ResDH(2014)298</a> in the Ormanci group. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)209</a>	TUR / Alkaya	42811/06	09/01/2013 09/10/2012	<b>Protection of private and family life:</b> <i>Domestic courts' failure to protect the applicant's private life due to dismissal of proceedings against a newspaper, which had disclosed her residential address in an article concerning the burglary of her home relying on the fact that the applicant was a public figure</i>	Just satisfaction paid. The case concerns the failure of the domestic courts in their assessment of conflicting interests and the notion of public-interest. Change of case-law operated by the Court of Cassation. Isolated case. The judgment was translated, published and disseminated and used in training activities for national judges.

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				<i>and subject of public-interest. (Article 8)</i>	
<a href="#">CM/ResDH(2016)207</a>	TUR / Ato	29873/02	08/09/2010 08/06/2010	<b>Protection of property:</b> <i>Administration's delay in paying additional compensation for the expropriation of land. (Article 1 of Protocol No. 1)</i>	General measures see <a href="#">CMResDH(2001)71</a> in Akkus group.
<a href="#">CM/ResDH(2016)286</a>	TUR / Ballıklıçeşme Beldesi Tarım Kalkınma Kooperatifi and Others and 4 other cases	3573/05+	28/02/2011 30/11/2010	<b>Access to and efficient functioning of justice:</b> <i>Domestic courts' failure to provide a copy of the written opinion of Public Prosecutor In proceedings before the Council of State. (Article 6 § 1)</i>	In four cases reopening of the impugned proceedings was requested and in 3 cases granted; in one case the procedural shortcomings were considered not serious enough. For general measures see Resolution <a href="#">CM/ResDH(2012)226</a> adopted within the context of the Meral group of cases.
<a href="#">CM/ResDH(2016)287</a>	TUR / Bashan	15685/07	12/01/2011 12/10/2010	<b>Access to and efficient functioning of justice:</b> <i>Excessive length of the criminal proceedings before the State Security Courts</i>	Just satisfaction paid. For general measures to prevent excessive length of criminal proceedings before State Security Courts, see <a href="#">CM/ResDH(2008)83</a> in the Sertkaya group of cases. Measures aimed at preventing excessive length of proceedings and introducing an effective remedy in this respect have been taken within the framework of the Ormanci group of cases (see <a href="#">CM/ResDH(2014)298</a> ). The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)114</a>	TUR / Behçet Taş	48888/09	10/06/2015 10/03/2015	<b>Access to and efficient functioning of justice:</b> <i>Excessive length of civil proceedings before administrative courts (Article 6 §1)</i>	Impugned proceedings were closed. General measures: The case falls under the Ormanci group of cases which was closed by <a href="#">CM/ResDH(2014)298</a> . The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)332</a>	TUR / Demirel and 195 other cases	39324/98+	28/04/2003 28/01/2003	<b>Protection of rights in detention:</b> <i>Excessive length of detention on remand and absence of sufficient reasons given by domestic courts in their decisions extending such detention; lack of</i>	Just satisfaction paid. No applicant is currently under detention on remand, all of them being either released or convicted. Six of the convicted applicants' appeals are pending at the Court of Cassation. Appeals for excessive length of proceedings are pending in five cases out of 110. As to the reopening of the

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				<p><i>domestic remedy to challenge the lawfulness of detention on remand in Turkish law; absence of a right to compensation for unlawful detention on remand. (Article 5 §§3+4+5)</i></p> <p><i>Structural nature of the problem and Article 46 indication in Cahit Demirel: Cases “originated in widespread and systemic problems arising out of the malfunctioning of the Turkish criminal justice system and the state of the Turkish legislation, respectively” requiring general measures at national level to ensure the effective protection of the right to liberty and security.</i></p> <p><i>In some cases the ECHR also found other violations, such as violations of the applicants’ right to a fair trial and to their private life. (Articles 6, 13 and 8)</i></p>	<p>impugned proceedings, the applicants did not avail themselves of this opportunity with regard to their right to legal assistance during their police custody and the lack of independence and impartiality of the state security courts. In respect of the lack of adversarial proceedings and equality of arms, procedural shortcomings were not serious enough to pose doubt as to the outcome of the domestic proceedings. In one case concerning the presumption of innocence, the applicant did not request reopening of the impugned proceedings.</p> <p>Legislative amendments of the Code of Criminal Procedure (2012) and Anti-Terrorism Law (2014) limit the maximum length of detention to five years for most serious crimes and the scope of measures alternative to detention was broadened. As a result the ratio changed considerably in favour of the alternative measures. While 25911 suspects benefited from these measures in the 2012, this number increased to 70574 in 2013 and 104929 in 2015. In 2015, over 90% of the detainees on remand were held in detention less than two years. As to the consideration of minors’ ages, measures taken under the Selcuk group were found effective by the Committee of Ministers in 2010. These amendments also ensure that the domestic authorities provide sufficient reasoning in their detention orders and explain why alternative measures are not possible. Amendments of the Code of Criminal Procedure in 2013 allow challenging the lawfulness of detention on remand in an adversarial procedure. According to this new procedure, courts shall decide on extension of detention on remand after hearing a detainee or his/her legal representative and in their presence. The right to compensation for unlawful detention on remand was introduced in the CCP in 2005 and 2013.</p> <p>Concerning continued detention after a release order, see <a href="#">CM/ResDH(2014)123</a> in the Hamşioğlu group; or the case constituted an isolated incident which resulted from confusing decisions of two different courts on pre-trial detention in</p>

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					respect of the same applicant. Excessive length of criminal proceedings and the lack of an effective remedy: see <a href="#">CM/ResDH(2014)298</a> in Ormanci group - The absence of legal assistance during police custody is examined in the Salduz group of cases - Lack of independence and impartiality of the state security courts: The state security courts were abolished in 2004. (see Çıraklar and <a href="#">CM/ResDH(2013)256</a> in Gençel group) - Right to adversarial proceedings and equality of arms: see <a href="#">CM/ResDH(2011)307</a> in Göç group of cases. – The presumption of innocence is examined in Dicle and Sadak (appl. no. 48621/07) - Right to correspondence is examined in Tamer group of cases (appl. no. 6289/02).
<a href="#">CM/ResDH(2016)208</a>	TUR / Eryilmaz	32322/02	10/05/2010 27/10/2009	<b>Protection of property:</b> <i>Inability to obtain compensation following the seizure of land for public use. (Article 1 of Protocol No. 1)</i>	General measures see <a href="#">CM/ResDH(2007)98</a> in I.R.S. and Others group.
<a href="#">CM/ResDH(2016)115</a>	TUR / Fatma Nur Erten and Adnan Erten	14674/11	25/02/2015 25/11/2014	<b>Access to and efficient functioning of justice:</b> <i>Denial of a fair trial on account of the fact that the applicant's rectification request of the initially requested compensation amount was rejected by the Supreme Military Administrative Court for being lodged out of the statutory deadlines. (Violation of Article 6§1)</i>	As a result of reopened proceedings the applicants were awarded the amount claimed as compensation. Article 46 of the Law No. 1602 was amended in April 2013. The current law allows for one adjustment request to be made before the domestic judgment becomes final. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)331</a>	TUR / Gözüm	4789/10	20/04/2015 20/01/2015	<b>Protection of private and family life:</b> <i>Inability under domestic law for a single adoptive mother to have her forename recorded on child's identity papers in place of the biological mother's</i>	On 09/11/2010 the applicant's forename was registered as that of the mother of her adoptive son. The Regulation on the Adoption of Juniors was amended on 15/03/2009 to clarify the application of the Civil Code, thus enabling a single adoptive parent to have his or her forename registered in the place of



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				<i>forename. (Article 8)</i>	that of the biological parent. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)116</a>	TUR / Güzel Erdagöz	37483/02	06/04/2009 21/10/2008	<b>Protection of private life:</b> <i>Domestic court's refusal of the applicant's request for rectification of her name lacking a clearly established legislation or sufficient and relevant reasoning. (Article 8)</i>	As a result of reopened proceedings, the applicant's name was rectified as demanded. The Civil Code (Law no. 4721) was amended in 2003 and the Civil Registration Act (Law no. 1587) was repealed in 2006 allowing requesting name changes on justified demand. The assessment of the reason put forward shall be made by the judge on case-by-case basis. Change of the Court of Cassation's case-law insofar applications for name change cannot be dismissed on the ground that the requested name is not available in Turkish language. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)303</a>	TUR / Ibrahim Gürkan	10987/10	03/10/2012 03/07/2012	<b>Access to and efficient functioning of justice:</b> <i>Lack of independence and impartiality of military courts, due to the presence on the panel next to two military judges of military officers who remained in the service of the army, were subject to military discipline, were appointed as judges by hierarchical superiors and did not enjoy the same constitutional safeguards provided to the other two military judges. (Article 6 §1)</i>	Reopening of the impugned criminal proceedings before the Military Criminal Court in 2013. Amendment of the Law on the Establishment and Procedure of Military Courts: the provision requiring the presence of a military officer in the court panel was abolished on 19/20/2010. A military court panel shall consist of three military judges. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)305</a>	TUR / Kan	54898/11	02/02/2016 (Committee)	<b>Protection of rights in detention:</b> <i>Confinement to a disciplinary room as a sanction imposed on the applicant by his military superiors. (Article 5§1)</i>	Just satisfaction paid. For general measures see <a href="#">CM/ResDH(2014)122</a> in Pulatli group of cases.
<a href="#">CM/ResDH(2016)</a>	TUR / Kayak	60444/08	10/10/2012	<b>Right to life and access to and efficient</b>	Just satisfaction paid. Reopening of administrative proceedings

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<a href="#">302</a>			10/07/2012	<b>functioning of justice:</b> <i>Death of the applicants' relative after being stabbed by a pupil outside school; failure of authorities to ensure supervision on the school premises; excessive length of administrative compensation proceedings. (Articles 2 and 6 §1)</i>	was possible, but not requested. Awareness-raising measures undertaken to prevent violence in schools. Preparation of a strategic action plan by the Ministry of Education, according to which executive boards in charge of preventing and deescalating violence among peers were set up in provinces, districts and schools. In the school where the incident took place, additional security measures were taken: a wire fence was erected, a guardian was stationed at the security gate, the number of teachers on duty was increased and a video security system was installed. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)301</a>	TUR / Küçük	33362/04	10/10/2012 10/07/2012	<b>Protection of rights in detention:</b> <i>Detention of a father and his child for several hours on police premises at Ankara Esenboga airport in the context of an international child abduction case, without any legal basis. (Article 5 §1)</i>	Just satisfaction paid. Isolated inappropriate practice of the police at Ankara airport in contravention to the national law applicable at the time. In 2012, the Ministry of Interior issued two circular letters setting out binding instructions for the police as regards their actions at border crossings, in particular the necessity of a legal basis and a valid arrest warrant in case of a person's arrest and detention. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)304</a>	TUR / Nart	20817/04	06/08/2008 06/05/2008	<b>Protection or rights in detention:</b> <i>Excessive length of detention on remand of a minor and lack of an effective remedy. (Article 5 §§3 and 4)</i>	Just satisfaction paid. Law No. 5395 on the protection of minors came into force on 15/07/2005. Under the terms of its first provision, its purpose is to determine the guiding principles and the procedures relating to measures to safeguard the rights and health of minors who have committed an offence, and to the establishment of juvenile courts. (see also <a href="#">CM/ResDH(2010)1151</a> in Selcuk) Training projects entitled "Justice for Children" and "Primarily Children" were carried out between January 2012 and December 2014 to ensure the effective implementation of the Juvenile Protection Law. Article 101 §2 of the Code of Criminal Procedure 2005 provides that decisions on detention be furnished with legal and factual grounds and reasons. The article was amended by the Law No.

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					6352 in 2012 requiring in addition a strong suspicion of an offence, the existence of grounds for detention and the proportionality of the detention measure, as well as a clear indication of the supporting factual evidence. For general measures concerning an effective remedy to challenge the lawfulness of the detention see <a href="#">CM/ResDH(2016)332</a> in Demirel group. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)329</a>	TUR / Yavuz Selim Güler	76476/12	15/03/2016 15/12/2015	<b>Protection of rights in detention:</b> <i>Administrative restrictions and room confinement imposed as a disciplinary sanction by the applicant's military superior and not by an independent and impartial tribunal. (Article 5§1)</i>	For general measures see <a href="#">CM/ResDH(2014)122</a> in Pulatli group of cases. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)298</a>	UK / Al-Skeini and Others	55721/07	07/07/2011 Grand Chamber	<b>Right to life:</b> <i>Lack of independent and effective investigation into the deaths the applicants' relatives, Iraqi nationals, during operations conducted by UK Armed Forces in Iraq. (Article 2 procedural limb)</i>	Just satisfaction paid. The UK Ministry of Defence established a robust investigative process that combines criminal investigations by the Iraq Historic Allegations Team (IHAT) with an inquest-style inquiry (termed a Fatality Investigation). The cases at stake are all either complete or nearing completion. After its restructuring the IHAT, in a judgment of the High Court of England and Wales from 2013, was found sufficiently independent. A public procedure (similar to a coroner's inquest) fully involves the families of the victims, is accessible to the wider public and considers broader issues of State responsibility including instructions, training and supervision given to soldiers. The High Court also provided further directions and detailed guidance, in response to which, the Ministry of Defence agreed to set up a number of "Iraq Fatality Investigations", conducted by a retired judge, on conclusion of IHAT investigations. The IHAT's caseload increased significantly since its establishment, primarily owing to fresh allegations

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					<p>being notified between June 2014 and October 2015. The total number of allegations stood at 3,368; however, of these 1,555 did not disclose a potential criminal offence. The IHAT is resourced until December 2019, and allocated a lifetime budget of £57.2M. A further £2.5M was allocated for Fatality Investigations. The judgment was widely disseminated across Government and published in a number of legal journals.</p>
<p><a href="#">CM/ResDH(2016)356</a></p>	<p>UK / McDonnell</p>	<p>19563/11</p>	<p>09/03/2015 09/12/2014</p>	<p><i>Right to life: Excessive delay in the investigation into the death of the applicant's son in prison in Northern Ireland. ( Article 2 procedural limb)</i></p>	<p>Just satisfaction paid. The inquest was concluded in May 2013. General measures in response to the issue of excessive delays in legacy inquests continue to be examined in the context of the McCaughey and Others group of cases. Measures taken to ensure expeditious non-legacy inquest proceedings in Northern Ireland comprise: -the appointment of the Lord Chief Justice as President of the Coroner's courts on 1 November 2015; the appointment of a new High Court judge as Presiding Coroner for the coroners service on 8 February 2016; -the appointment of a new coroner on 8 February 2016; -the allocation of more complex inquests to higher tier judges; -the appointment, in November 2015, of new Counsel to the Panel who provide advice to coroners; -a reduction in the number of adjournments and improved case management and allocation; -the establishment of a "Coroner's Users Group" involving all key stake holders; -the appointment of investigative support staff to provide advice to coroners; -revised processes for listing cases to ensure that investigations are complete and statements provided speedily. In May 2015, after a review of the coroners' service, 13 recommendations to improve efficiency and reduce delay in inquest proceedings were made. A review of coronial legislation to identify areas for modernisation is planned as well as the separation of Troubles related inquests from non-legacy inquests to reduce the impact of Troubles inquests on routine coronial work. The judgment was translated, published and disseminated.</p>

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<a href="#">CM/ResDH(2016)143</a>	UK / R.E.	62498/11	27/01/2016 27/10/2015	<b>Protection of private life:</b> <i>Covert surveillance of a detainee's consultations with his lawyer and the person appointed to assist him, as a vulnerable person, following his arrest; the legal regime failed to provide sufficient safeguards for the protection of material obtained by covert surveillance of lawyer-client consultations. (Article 8)</i>	The covert surveillance ended in 2010. The legal lacuna was rectified on 22/06/2010 when the Implementing Code to provide for the secure handling, storage and destruction of material obtained through covert surveillance was brought into operation. The judgment has been published and disseminated.
<a href="#">CM/ResDH(2016)20</a>	UK. / Piper	44547/10	27/07/2015 21/04/2015	<b>Access to and efficient functioning of justice:</b> <i>Excessive length of criminal proceedings to seize assets under the 1994 Drug Trafficking Act, which allows the State to confiscate assets equivalent in value to the proceeds received from drug trafficking. (Article 6 § 1)</i>	The delays involved were the result of error rather than any systemic fault. The judgment was published and disseminated.
<a href="#">CM/ResDH(2016)79</a>	UKR / Chorniy	35227/06	16/08/2013 16/05/2013	<b>Access to and efficient functioning of justice and protection of property:</b> <i>Failure of judicial authorities to provide the applicant with adequate facilities for the preparation of his defense in a criminal case by not serving upon him a copy of an appeal court's decision in due time. (Article 6 §3(b) in conjunction with Article 6 § 1)</i>	Reopening of proceedings was not requested. The present case resulted from the "malpractice of the national courts" and, therefore, no legislative changes were required. Information on the publication and dissemination of the judgment, together with an explanatory note, to all the authorities concerned, was provided.
<a href="#">CM/ResDH(2016)36</a>	UKR / Pichkur	10441/06	07/02/2014 07/11/2013	<b>Discrimination with regard to property rights:</b> <i>Entitlement to the pension dependent on the retired person's place of residence, resulting in the applicant's deprivation of his entitlement on the</i>	The applicant did not ask for review of the impugned proceedings. On 09/10/2009, the Constitutional Court declared the practice of depriving non-residents of their pension entitlement unconstitutional and invited Parliament to adopt legislation in conformity with its decision. The Pension Fund

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				<i>ground that he no longer lived in Ukraine. (Article 14 in conjunction with a of Protocol No. 1)</i>	resumed payment of pension to the applicant from the date of the Constitutional Court's decision. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)91</a>	UKR / Shapovalov	45835/05	31/10/2012 31/07/2012	<b>Access to and efficient functioning of justice and protection of property:</b> <i>Termination of proceedings instituted by a journalist challenging a local electoral commissions' refusals to give him copies of its decisions and to allow him to attend its meetings without examination of the merits on the ground that he had allegedly lodged it under the wrong provisions of the Code of Civil Procedure. (Article 6 § 1)</i>	The applicant could to apply for the review of the impugned proceedings. The right and procedure of challenging of decisions, actions or omissions of the election commissions is now regulated by Article 172 of the Code of Administrative Procedure of 2005. The judgment was translated, published and disseminated.
<a href="#">CM/ResDH(2016)92</a>	UKR / Zagorodniy	27004/06	24/02/2012 24/11/2011	<b>Access to and efficient functioning of justice:</b> <i>Unlawful restriction of the right to free choice of defence counsel arising from continuous uncertainty in the relevant domestic legislation as to whether only licensed advocates could be defence counsels. (Article 6 §§1 and 3)</i>	The impugned proceedings were reopened. On 13/04/2012 Parliament adopted the new Code of Criminal Procedure. According to its Article 45 the defence counsel is an advocate who protects the rights of the suspect, accused, convicted, and acquitted person or the person subject to compulsory medical or educational measures and/or extradition. Information on the advocate is included in the Unified Register of Advocates. Thus, only duly licensed advocates are now entitled to participate in criminal proceedings ensuring that the legal aid provided is qualified and effective. The judgment was translated, published and disseminated. The ECHR's conclusions in the above judgment were transmitted to the Cabinet of Ministers of Ukraine and to the judges of the relevant domestic courts.