

Last update: 15/03/2021

## Austria

Membership to the Council of Europe	16 April 1956
Entry into force of the European Convention on Human Rights	3 September 1958
First case under supervision of execution	<i>Pataki and Dunshirn</i> (596/59) Committee of Ministers' decision (Article 32) of 06/08/1963
Total number of cases transmitted for supervision since the entry into force of the Convention	402
Total number of cases closed by final resolution	389

### MAIN ISSUES BEFORE THE COMMITTEE OF MINISTERS - ONGOING SUPERVISION\*

#### > Private and family life

**Failure of domestic courts to examine in a comprehensive manner questions both of legal standing and on the merits of a claim in defamation proceedings** initiated by a Holocaust survivor against a right-wing periodical, which had used terms like "mass murderers", "criminals" and "a plague" to describe people like him, liberated from the Mauthausen concentration camp complex in 1945.

*Lewit* (4782/18)  
Judgment final on 20/11/2019

**Status of execution**  
Standard supervision

**Shortcomings in the conduct of return proceedings of wrongfully removed children** due to the authorities' failure to take swift and adequate steps to enforce return orders.

*Severe* (53661/15)  
Judgment final on 21/12/2017

**Status of execution**  
Standard supervision

#### > Freedom of religion - Discrimination

**Prolonged failure of the authorities to grant legal personality to a religious group** without providing relevant and sufficient reasons in this regard; **discrimination as a result of inconsistencies in the application, on different religious communities, of the requirement of a ten-year qualifying period for eligibility to register as a religious society.**

*Religionsgemeinschaft Der Zeugen Jehovas and Others* (40825/98)  
Judgment final on 31/10/2008

**Status of execution**  
Standard supervision

\* Detailed information concerning the Committee of Ministers' supervision of the execution of judgments and decisions of the European Court of Human Rights, notably the distinction between enhanced and standard supervision, are available on [the website of the Department for the Execution of Judgments](#).

## SUPERVISION CLOSED - MAIN REFORMS ADOPTED \*\*

## &gt; Reception / Expulsion / Extradition

Under the new Article 12 of the Asylum Law, a **second asylum request alleging a deterioration of the reception conditions in the country of destination since the issuing of the expulsion order now carries automatic suspensive effect** until a domestic court has examined the question.

**Mohammed** (2283/12)  
Judgment final on 06/09/2013

Final Resolution  
CM/ResDH(2018)376

The **Aliens Act 1997 was amended** to take into account not only threats from states bodies but also all threats whatever the source.

**Ahmed** (25964/94)  
Judgment final on 17/12/1996

Final Resolution  
ResDH(2002)99

**Reform of the Aliens Act** as to ensure a fair balance between the protection of private and family life and the public interest when imposing residence restrictions.

**Yildiz** group (37295/97)  
Judgment final on 31/01/2003

Final Resolution  
CM/ResDH(2009)117

## &gt; Fairness of criminal proceedings - Public trial

**Reform in 2005 of the procedure relating to compensation for detention after acquittal or discontinuation of proceedings** and abolition of the possibility to voice doubts about innocence after acquittal.

**Szücs** group (20602/92+)  
Judgment final on 24/11/1997

Final Resolution  
ResDH (2006)2

## &gt; Fairness of administrative proceedings

**Introduction of a general right to public hearing in civil administrative proceedings.**

**Koottummel** (49616/06)  
Judgment final on 10/03/2010

Final Resolution  
CM/ResDH(2017)199

## &gt; Length of judicial proceedings

**Administrative proceedings:**

Measures taken to alleviate the Administrative Court's case-load and accelerate proceedings (examination of many issues by the independent administrative tribunals, examination of clone cases through a special accelerated procedure, possibility to have joint hearings and decisions, etc.).

**G.S.**(26297/95)  
Judgment final on 21/12/1999

Final Resolution  
ResDH(2004)77

**Reorganisation of the administrative court system in 2014:**

- implementation of a single administrative instance and a two-stage system of administrative court review of decisions of administrative authorities;
- creation of new administrative courts with a new division of competences between them;
- introduction of new remedies to speed up proceedings and/or broadening of the scope of existing remedies.

**Rambauske** group (45369/07)  
Judgment final on 28/04/2010

Final Resolution  
CM/ResDH(2015)222

\*\* This section may also include certain major reforms already implemented in the context of cases still pending.

For a thorough overview of reforms adopted since the entry into force of Protocol No. 11 in 1998 see the [Annual Report 2015](#), Part IV "Main achievements". As regards the period 1959-1998, see the overview provided by the European Court in its special publication "Survey : 40 years of activity", section IV "Effects of judgments and decisions" – both documents, together with a number of additional ones, are available also on the website of the Department for the Execution of Judgments of the European Court of Human Rights.

## SUPERVISION CLOSED - MAIN REFORMS ADOPTED\*\*

**Criminal proceedings:**

**Reform of the Code of Criminal Procedure in 2008** enshrining the principle of criminal proceedings conducted rapidly and the prohibition of unnecessary delays at all stages of criminal trials; **introduction of a new remedy** to apply for acceleration of pending criminal proceedings.

**Schweighofer and Others** (35673/97, 35674/97, 36082/97 and 37579/97)  
Judgment final on 09/01/2002

**Final resolution**  
**CM/ResDH(2007)113**

**Donner** group (32407/04)  
Judgment final on 22/05/2007

**Final Resolution**  
**CM/ResDH(2016)212**

**Civil proceedings:**

**Legislative amendments aiming at ensuring the efficient and speedy conduct of proceedings**, such as time-limits for parties' and experts' submissions, sanctions for abuses or non-cooperation for delaying purposes etc.

**Schreder** group (38536/97+)  
Judgment final on 13/03/2002

**Final Resolution**  
**CM/ResDH(2009)118**

> **Fairness of judicial proceedings**

**Re-enforcement of the right to a public and oral hearing**, notably in criminal proceedings under the Media Act, in family law and guardianship proceedings.

**A.T.** (32636/96)  
Judgment final on 21/06/2002

**Final Resolution**  
**CM/ResDH(2007)76**

**Moser** (12643/02)  
Judgment final on 21/12/2006

**Final Resolution**  
**CM/ResDH(2010)1**

The Austrian Disciplinary Act was amended in 2017 so that **prior to the ordering of an interim measure in disciplinary proceedings initiated against a lawyer, an oral hearing has to take place** if the Disciplinary Council finds it necessary or upon request of the accused lawyer.

**Helmut Blum** (33060/10)  
Judgment final on 30/01/2017

**Final Resolution**  
**CM/ResDH(2019)42**

> **Enforcement of domestic judicial decisions for the protection of family life**

**Prompt enforcement of return orders of children and parental visiting rights under the 1980 Hague Convention** after the setting-up of a single specialised court on the basis of a law in 2005.

**Sylvester** (36812/97)  
Judgment final on 24/07/2003

**Final Resolution**  
**CM/ResDH(2010)84**

**The Law on the Return of Children was adopted in 2017 and provides for a new national procedure in Hague return proceedings.** It incorporated the procedural rules for abduction cases into the Non-contentious Proceedings Act. This new law simplifies and accelerates the return of wrongfully removed or retained children as it stipulates the immediate enforceability of the return order.

**M.A.** (4097/13)  
Judgment final on 15/04/2015

**Final Resolution**  
**CM/ResDH(2018)273**

## SUPERVISION CLOSED - MAIN REFORMS ADOPTED\*\*

## &gt; Protection of private life and property

Since 2014, **ex-post reassessment of decisions to sell real estate in a judicial sale is now possible in exceptional cases: such decisions may be lifted** upon the debtors' request if they urgently need the property for accommodation.

**The guardianship system for adults was also modernised in 2018**, focusing on the autonomy, self-determination and decision-making guidance of those concerned.

**Zehentner** (20082/02)  
Judgment final on 16/10/2009

**Final Resolution  
CM/ResDH(2019)333**

## &gt; Discrimination

**Same sex couples:**

- abrogation of the distinction between same-sex and different-sex couples for the enjoyment of benefits under the scheme for sickness and accident insurance offered to civil servants;
- possibility of "second-parent" adoption for unmarried same-sex couples.

**P.B. and J.S.** (18984/02)  
Judgment final on 22/10/2010

**Final Resolution  
CM/ResDH(2011)42**

**X and Others** (19010/07)  
Judgment final on 19/02/2013

**Final Resolution  
CM/ResDH(2014)159**

**Abrogation of the distinction between homosexuals and heterosexuals** as regards the age from which consensual sexual relations are permitted.

**L. and V. and S.L.** (39392/98 and 45330/99)  
Judgments final on 09/04/2003

**Final Resolution  
CM/ResDH(2007)111**

**Improvements in the situation of fathers of children born out of wedlock** addressing their discrimination compared to father who had originally held parental authority and later separated from the child's mother or divorced.

**Sporer** (35637/03)  
Judgment final on 03/05/2011

**Final Resolution  
CM/ResDH(2015)19**

## &gt; Electoral rights - Right to vote

**Better guarantee for prisoners' voting rights:** decisions of disenfranchisement are to be taken by the judge at the time of sentencing and have to take into account the gravity of the offence committed and other relevant factors.

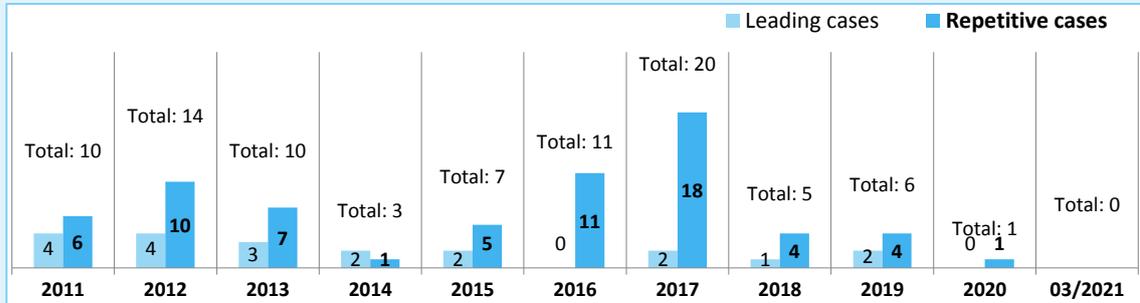
**Frodl** (20201/04)  
Judgment final on 04/10/2010

**Final Resolution  
CM/ResDH(2011)91**

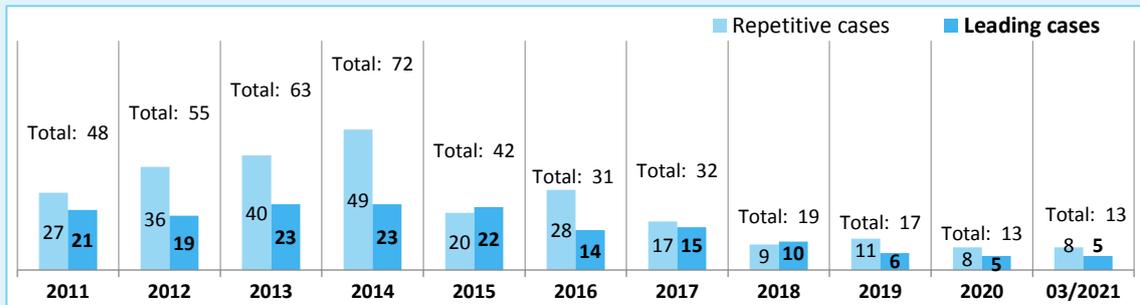
STATISTICS\*\*\*

New cases

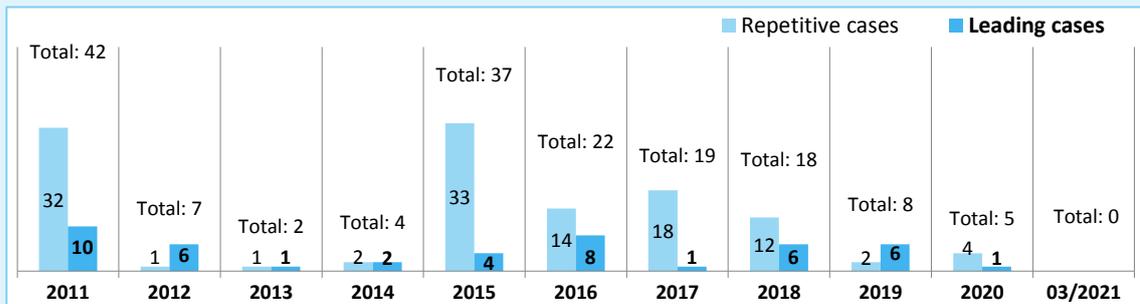
(judgments transmitted for supervision of their execution during the year)



Pending cases



Cases closed by final resolution



Just satisfaction awarded by the European Court



\*\*\* Detailed statistics are available in the annual reports of the Committee of Ministers. Figures are reported as they appear in the annual report for each year.