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Human Rights and Rule of law

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I. Main achievements

This chapter presents short summaries of a selection of the main reforms and achievements reported in final resolutions since the Convention system was amended in 1998 by Protocol No. 11, with a clear focus on recent reforms, referring however also to important earlier developments.

In view of the wealth of cases closed, the selection concentrates on those which have led to changes of legislation, government regulations, the adoption of new policies or general guidance from superior courts. As a rule, the overview does not cover information on measures providing individual redress to applicants.

The reforms are in principle presented in the order corresponding to the thematic domains used in the specialised database HUDOC-EXEC of the Department for the Execution of Judgments of the European Court of Human Rights.

Many reforms address issues which appear to be on-going challenges in member states. The effects of reforms adopted at one point in time may thus need to be monitored and possibly revisited as conditions change.[1]

Definitions of the terms used in the context of the supervision of the execution of the European Court's judgments are available in the dedicated Glossary.

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

Conditions of detention / medical care

Prisoners' health care, including mental health care, was improved following the adoption of the Mental Health Law of 2012 and the Law "On the Rights and Treatment of Prisoners and Detainees" in 2014.

Dybeku (41153/06)
Final Resolution CM/ResDH(2016)273

Functioning of justice

- Fairness of proceedings and the principle of legal certainty

The supervisory review procedure which allowed quashing of final domestic judgments was repealed in 2001.

Vrioni (2141/03)
Final Resolution CM/ResDH(2011)85

- Remedies in case of excessive length of proceedings concerning a judge's dismissal

In 2016, the High Judicial Council was created to ensure the accountability and appropriate functioning of the judicial system. The HJC is, among other things, responsible for the appointment, promotion and transfer of judges as well as the direction and management of the court administration. Furthermore, the office of High Justice Inspector was created to supervise the judges' performance of duties, including their decision-making within a reasonable time. Moreover, recent amendments of the Code of Civil Procedure in 2017, which put in place acceleratory and compensatory remedies for excessive length of proceedings, provide for the possibility to obtain compensation for excessively lengthy administrative proceedings (issues of excessive length of judicial proceedings and effectiveness of the remedies are examined in the pending *Luli and Others* group).

Mishgjoni (18381/05)
Final Resolution CM/ResDH(2018)73

- Enforcement of judicial decisions

In 2014, the Council of Ministers adopted a strategy and an action plan for the transparent settlement of overdue State obligations and the respect for financial discipline. The governmental objective to settle all financial obligations accumulated before 2013 was achieved by 2015. Today State obligations payments are monitored by the Ministry of Finance and Economy. Other reform measures enhanced the effectiveness of the enforcement of final judicial decisions in general and, in particular, the privatisation of the bailiff service and the compulsory cooperation between the General Police and the Private Bailiff Service to enforce executive titles in 2008 as well as the creation of an electronic management system of bailiffs in 2011 (the impact of these measures is examined in the pending *Brahimaj* case).

Puto and Others (609/07+)
Final Resolution CM/ResDH(2020)300

- Lack of access to court

In 2018, a comprehensive reform strengthened the free legal aid system through legislative amendments and bylaws. Legal aid is now provided at central and local centers nationwide. These efforts led to a significant increase of the number of persons benefiting from legal aid, increased budget for the legal aid, improved inter-institutional cooperation through the signing of several Memoranda of Understanding and training of legal professionals, and greater public awareness.

Laçi (28142/17)
Final Resolution CM/ResDH(2024)343

- Fairness of criminal proceedings

In 2016, an extensive reform of the judiciary was implemented. In 2017, amendments to the Criminal Procedure Code were introduced. As concerns the

Caka (44023/02)
Final Resolution CM/ResDH(2017)417

summoning of witnesses and the procedures for witness testimonial, new rules were introduced into the Criminal Procedure Code in 2013 and completed in 2017 with regulations concerning the refusal to testify. The right to defend oneself in courts of first instance and appeal was established through domestic case-law in 2013/14 and enshrined in the Code of Criminal Procedure in 2017 together with legal aid provisions. As concerns the opportunity to obtain revision of the merits of charges in the case of judgments in absentia, the related request must be filed within 30 days after the convicted person's information of the trial and its result. Concerning the reopening of proceedings following European Court's judgments, the Supreme Court recognised such possibility following a relevant decision of the Constitutional Court dated 2011.

Protection of private and family life

- Access to one's children and international child abduction

In order to take all necessary measures to secure the reunion of parents with their children in accordance with a final judgment of a domestic court and to introduce remedies to prevent or punish cases of abduction of children, the Hague Convention "On Civil Aspects of International Child Abduction" was ratified in 2005 identifying the Ministry of Justice as the central authority. In addition, in 2001 the Agency for the Protection of the Rights of the Child was created to implement the UN Convention on the rights of the child.

Bajrami (35853/04)
Final Resolution CM/ResDH(2018)173

Protection of property rights

- Compensation/restitution of properties nationalised under former communist regime

In view of the structural problem of the lack of an adequate mechanism to honour the commitment made by the State to compensate for property nationalised under the communist regime and to enforce final domestic judicial and administrative decisions recognising the right to compensation (pecuniary or in kind), after lengthy preparatory work, a new compensation mechanism was adopted and became fully operational in 2015.

Manushaqe Puto and Others (604/07+)
Final Resolution CM/ResDH(2018)349

II. Main issues pending before the Committee of Ministers

This chapter presents the main issues pending in cases/groups of cases currently under the Committee of Ministers' supervision. The relevant supervision procedure is indicated for each case/group of cases.

Detailed information on the status of execution of these cases as well as on the Committee of Ministers' supervision process is available on the specialised database HUDOC-EXEC of the website of the Department for the Execution of Judgments of the European Court of Human Rights.

Definitions of the terms used in the context of the supervision of the execution of the European Court's judgments are available in the dedicated Glossary.

Right to life

Issues of effectiveness of investigation and ensuing adequate opportunity for victims or next of kin to participate in criminal trial relating to an explosion in 2008 at Gërdec weapon decommissioning facility resulting in deaths and grievous bodily injuries.

Durdaj and Others (63543/09)
Judgment final on 07/02/2024

Enhanced supervision
Status of execution

Unjustified use of lethal force by State agents during a political protest resulting in the death of the applicants' relative from a gunshot wound **and ineffectiveness of the investigation.**

Nika (1049/17)
Judgment final on 14/02/2024

Enhanced supervision
Status of execution

Protection against ill-treatment

Inhuman and degrading treatment of a forensic psychiatric patient who has an imposed court order "compulsory treatment", due to the poor living conditions and failure to ensure his adequate therapy; unlawful detention in an inadequate (penitentiary) institution without proper psychiatric treatment.

Strazimiri (34602/16)
Judgment final on 21/05/2020

Enhanced supervision
Status of execution

Length of judicial proceedings

Excessive length of civil, administrative and criminal proceedings: failures in the case management system causing a multiplication of proceedings on the same issue and repeated referrals of a case to lower jurisdictions; lack of effective remedy in this respect.

Luli and Others (64480/09)
Judgment final on 01/07/2014

Enhanced supervision
Status of execution

Enforcement of final judicial decisions

Non-enforcement of judicial decisions awarding damages or ordering perfomance of certain actions, and lack of an effective remedy in this respect.

Brahimaj (4801/13)
Judgment final on 06/10/2016

Standard supervision
Status of execution

Demolition of flats and business premises in an Albanian coastal town in disregard of an interim court order restraining the authorities from taking any action that could breach the applicants' property rights (the remaining issue in this case concerns the payment of just satisfaction).

Sharxhi and Others (10613/16)
Judgment final on 28/05/2018

Enhanced supervision
Status of execution

Protection of property rights

Prolonged failure to enforce a final domestic court judgment and to **register the applicant's property.**

Ramaj (17758/06)
Judgment final on 28/04/2025

Enhanced supervision
Status of execution

Prohibition of discrimination

Failure to implement swift and comprehensive desegregation measures in an elementary school attended almost exclusively by Roma and Egyptian children.

X and Others (73548/17)
Judgment final on 31/08/2022

Enhanced supervision
Status of execution

Protection of private and family life

Failure to provide adequate protection against attack on the applicant's son's physical integrity by another pupil with a rubber catapult at the private school they

Biba (24228/18)
Judgment final on 07/08/2024

both attended, and the defective manner in which domestic legal mechanisms were applied by Albanian civil courts in 2011-2018 on account of an insufficient examination of the incident by these courts and disregard for the protection of the rights of the child.

Standard supervision
Status of execution

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The Council of Europe is the continent's leading human rights organisation. It comprises 46 member states, including all members of the European Union. The Committee of Ministers is the Council of Europe's decision-making body, composed by the foreign ministers of all 46 member states. It is a forum where national approaches to European problems and challenges are discussed, in order to find collective responses. The Committee of Ministers participates in the implementation of the European Convention on Human Rights through the supervision of the execution of judgments of the European Court of Human Rights.

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