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Table of contents

I. MAIN ACHIEVEMENTS 4

Expulsion and related issues 5

Detention and other rights 5

Disclosure of personal information in public land register 5

Access to court and fair and public hearings/ excessive length of proceedings 6

Private and family life 8

Ne bis in idem 8

Freedom of expression 8

Freedom of religion - Discrimination 9

Discrimination based on sexual orientation 9

Discrimination with regard to succession law 9

Discrimination with regard to parental rights 9

International child abduction 10

Prisoners' voting rights 10

II. MAIN ISSUES PENDING BEFORE THE COMMITTEE OF MINISTERS 11



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 thea verification of the compatibility of draft laws, existing laws and administrative practice with standards laid down in the European Convention on Human Rights.

Expulsion and related issues

With regard to the examination of risks of death or torture and ill-treatment in the country of origin when considering deportation following a criminal conviction, the Aliens Act 1997 was amended to take into account not only threats from State bodies but also all threats whatever the source due to the absence of State authority at the present time.

Ahmed (25964/94)
Final Resolution CM/ResDH(2002)99

In order to secure a full examination of all relevant aspects of family and private life when deciding on issues of removal and residence permits, the respective requirements of Article 8 § 2 of the Convention were explicitly included in the Aliens' Act 2005.

Yildiz (37295/97+)
Final Resolution CM/ResDH(2009)117

With regard to detention in view of expulsion, aliens have to be informed promptly and adequately of the underlying reasons thereof in a language they understand. Information sheets for detainees under the 2005 Aliens Act were translated into various languages and are available to police authorities and detention centres via the Intranet site of the Ministry of the Interior. When foreigners are questioned by the Aliens authorities shortly after their arrest, an interpreter has to be present to explain the reason for detention.

Rusu (34082/02)
Final Resolution CM/ResDH(2012)70

With regard to the lack of a suspensive effect of a second asylum request, the impugned provision of the asylum-law was repealed on the basis of a Constitutional Court's judgment and subsequently amended. Under this new provision, 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.

Mohammed (2283/12)
Final Resolution CM/ResDH(2018)376

Detention and other rights

- *Compensation for detention*

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

Szücs (20602/92)
Final Resolution CM/ResDH(2006)2

Disclosure of personal information in public land register

In its decision of 30 March 2022, the Supreme Court ruled that, despite the lack of a legal basis and the resulting legal gap, which had to be filled by way of analogy, the relevant domestic court (the Land Registry Court) may decide to publish only a partial copy in the archive document collection in order to take into account the persons' fundamental right to the protection of personal data within the meaning of Article 8 of the Convention. Hereafter, the legislative gap identified in the Supreme Court judgment has been filled with the adoption of new legislation and its entry into force in September 2024.

Liebscher (5434/17)
Final Resolution CM/ResDH(2024)344

Access to court and fair and public hearings/ excessive length of proceedings

Administrative proceedings

First reform steps started in the 1980ies, when the organisation chart of the Tyrol regional administration was changed in order to ensure the property transactions authority's independence. Later, provisions in the Food Code allowing for a procedural inequality of arms between the Federal Food Control Institute's expert and the defence's expert were declared unconstitutional in 1985 by the Constitutional Court.

Sramek (8790/79)
Final Resolution CM/ResDH(85)6

Bönisch (8658/79)
Final Resolution CM/ResDH(87)1

Administrative reform processes:

Following an amendment to the Federal Constitution in 1988, as a first step in the fundamental reorganisation process of the Austrian administrative court system, independent administrative tribunals were set up in 1991. Their competence comprises the determination of both the legal and factual issues in regard to administrative offences.

Schmautzer (15523/89)
Final Resolution CM/ResDH(96)153

Several other reform steps have addressed the problem of excessively lengthy proceedings, notably the Administrative Reform Act 2001 aimed at alleviating the caseload of the administrative courts and accelerating administrative proceedings.

G.S. (26297/95)
Final Resolution CM/ResDH(2004)77

An extensive overall restructuring of the administrative court system was implemented with effect from January 2014, notably to speed up proceedings. New acceleratory remedies were introduced, and the scope of existing remedies broadened by the jurisprudence of the Supreme Court.

Rambauske (45369/07)
Final Resolution CM/ResDH(2015)222

The right to a public and oral hearing in administrative proceedings was improved in several steps. It was also improved in other specific fields, notably in proceedings under the Media Act, in family law and guardianship proceedings and in certain succession proceedings.

Alge and Others (38185/97)
Final Resolution CM/ResDH(2007)110

Koottummel (49616/06)
Final Resolution CM/ResDH(2017)199

A.T. (32636/96)
Final Resolution CM/ResDH(2007)76

Moser (12643/02)
Final Resolution CM/ResDH(2010)1

Osinger (54645/00)
Final Resolution CM/ResDH(2010)37

➢ *Criminal proceedings*

In 1963, the Criminal procedure law was amended in order to effectively and retroactively implement the principle of equality of arms in appeal proceedings.

Pataki and Dunshirn (596/59 and 789/60)
Final Resolution (63)DH2

According to the Code of Criminal Procedure amendment of 1987, the supervision of conversations between a suspect in detention because of danger of collusion and his defence counsel lies in the discretionary power of the investigating judge only in exceptional cases. However, the investigating judge's decision in this regard must be reasoned and the detained person can lodge an appeal against such a decision.

Can (9300/81)
Final Resolution CM/ResDH(88)5

Persons who, through their statements, would expose themselves to the risk of criminal prosecution, or who run the risk of incriminating themselves, in connection with criminal proceedings brought against them, were exempted from the obligation to testify in 1994.

K. (16002/90)
Final Resolution CM/ResDH(93)42

Further legal amendments of 2000 ensured the summoning of detained persons to granted public hearings in appeal proceedings unless the right was waived.

Michael Edward Cooke (25878/94)
Final Resolution CM/ResDH(2004)76

Pobornikoff (28501/95)
Final Resolution CM/ResDH(2004)74

➢ *Duration of proceedings*

Under the new Act of the Organisation of the Courts of 1990, when a court delays taking procedural steps such as drawing up a judgment, the parties may request the higher court to prescribe a time-limit for the taking of such procedural steps as an acceleratory remedy.

B. (11968/86)
Final Resolution CM/ResDH(90)41

Further measures taken in 2008 also promoted celerity of proceedings: a remedy was introduced to request termination acceleration of lengthy proceedings or mitigation of sentence could be ordered as compensation.

Schweighofer and Others (35673/97+)
Final Resolution CM/ResDH(2007)113

Acceleratory remedies were further improved and the opportunity to obtain the discontinuation of such proceedings in less important criminal cases was introduced in 2015 through amendments to the Code of Criminal Procedure. In addition, the duration of the investigation phase was limited to three years, and the Public prosecutor was obliged to report to the competent court on the reasons for any delay if the investigation is not completed within this period.

Donner (32407/04+)
Final resolution CM/ResDH(2016)212

As concerns civil proceedings, the Code of Civil Procedure was amended in 2003 with a view to streamlining and accelerating civil proceedings

Schreder (38536/97+)
Final Resolution CM/ResDH(2009)118

Private and family life

The Committee of Ministers, in its final resolution, noted the government's position that the scope of the Court's judgment is limited to the use of the prefix "*von*" as a name component and does not extend to its use as a title of nobility. The Austrian Ministry of the Interior issued circular notes to the authorities concerned and the Constitutional Court addressed the issue to ensure adequate balancing of the competing interests under Article 8 in the future.

Künsberg Sarre (19475/20)
Final Resolution CM/ResDH(2026)43

Ne bis in idem

Relevant provisions of the Road Traffic Act were abrogated in order to prevent a person to be convicted for a second time by another jurisdiction in respect of facts that had already been subject of a final judicial decision by criminal courts.

Gradinger (15963/90)
Final Resolution CM/ResDH(97)501

Freedom of expression

Under the Supreme Court's guidance, domestic courts gradually adapted their interpretation of the term of defamation in the Criminal Code to ECHR requirements, in particular with regard to journalists.

Lingens (9815/82)
Final Resolution CM/ResDH(87)2

Oberschlick (11662/85)
Final Resolution CM/ResDH(93)60

Schwabe (13704/88)
Final Resolution CM/ResDH(94)23

Scharsach and News Verlagsgesellschaft GmbH (39394/98)
Final Resolution CM/ResDH(2006)68

To remedy the domestic courts' failure to conduct a comprehensive assessment of the applicant's defamation claim under the Media Act concerning an article published in 2016, in a right-wing periodical and affecting his privacy rights as a Holocaust survivor, activist and former prisoner of the Mauthausen concentration camp, the Attorney General's Office lodged a plea of nullity for observance of the law with the Supreme Court. As a result, in June 2021, the Supreme Court found that the domestic courts had violated their statutory duty to provide reasons for their decisions by denying the applicant's legal standing. This ruling should induce more comprehensive reasoning in lower courts' future case-law.

Lewit (4782/18)
Final Resolution CM/ResDH(2021)256

Radio broadcasting and cable and satellite broadcasting were liberalised, and licences are now granted to all applicants who meet the formal requirements and who can give reasonable assurances that they will meet the listed quality requirements. However, the national terrestrial television and radio remained monopolies entrusted to the Austrian Broadcasting Company. The programmes broadcasted must respect principles of

Informationsverein Lentia and Others (13914/88)
Final Resolution CM/ResDH(98)142

objectivity and diversity of opinion and should adequately represent the public, cultural and economic life in the area covered. The judgment was disseminated to the relevant authorities together with a circular note. Furthermore, a thorough analysis of the judgment by the Ministry of Justice was brought to the specific attention of the Supreme Court. Training courses and seminars were organised, to raise awareness regarding the requirements deriving from the judgment.	***Standard Verlagsgesellschaft mbH*** (39378/15) **Final Resolution CM/ResDH(2025)178**
Freedom of religion - Discrimination Discriminatory treatment of the applicants with respect to their freedom of religion on account of a ten-year waiting period for "religious communities" before they can apply for recognition as a "religious society", lacking any objective and reasonable justification in the applicants' cases, as well as on account of the resulting non-applicability of certain exemptions for "religious societies" under domestic law, concerning employment of foreigners for pastoral work and taxation of donations. In 2010, the Constitutional Court quashed the impugned waiting period of the 1998 Religious Communities Act with effect from October 2011. In August 2011, the 1998 Religious Communities Act was amended to make conditions and requirements for the legal recognition as a "religious society" more flexible and non-discriminatory.	***Religionsgemeinschaft der Zeugen Jehovas and Others* group** (40825/98+) **Final Resolution CM/ResDH(2021)342**
Discrimination based on sexual orientation Discrimination between homo- and heterosexuals as regards the age as from which consensual sexual relations were permitted was abrogated in 2002.	***L. and V. and S.L.*** (39392/98 and 45330/99) **Final Resolution CM/ResDH(2007)111**
Discrimination of same sex couples in the enjoyment of benefits under the scheme for sickness and accident insurance offered to civil servants was abrogated in legislation in 2007.	***P.B. and J.S.*** (18984/02) **Final Resolution CM/ResDH(2011)42**
Also, second parent adoption in same sex couples was authorised without termination of family relationships with the natural parent by an amendment of the Civil Code in 2013.	***X. and Others*** (19010/07) **Final Resolution CM/ResDH(2014)159**
Discrimination with regard to succession law The provision that legitimate children shall always take precedence over out-of-wedlock children when determining the principal heir was abrogated and replaced in the Carinthian Hereditary Farms Act 1990.	***Inze*** (8695/79) **Final Resolution CM/ResDH(90)21**
Discrimination with regard to parental rights Discrimination against unmarried fathers with respect to child custody was addressed by amendments to the Child Custody Law and the Law on Names in 2013.	***Sporer*** (35637/03) **Final Resolution CM/ResDH(2015)19**

International child abduction

Prompt enforcement of return orders and visiting rights under the 1980 Hague Convention was ensured by a law from 2005 which provides that requests for such enforcement are dealt with in a concentrated manner by specialised judges.

Sylvester (36812/97+)
Final Resolution CM/ResDH(2010)84

The Law on the Return of Children of 2017 provides for a new national procedure under the Hague Convention on the Civil Aspects of International Child Abduction. This law simplifies and speeds up the return of wrongfully removed or retained children and provides for the immediate enforceability of the return order. The law also provides for the re-establishment of contact between the abducted child and the affected parent during as of the beginning of the return proceedings.

M.A. (4097/13)
Final Resolution CM/ResDH(2018)273

Prisoners' voting rights

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

Frodl (20201/04)
Final Resolution CM/ResDH(2011)91



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.

No cases pending before the Committee of Ministers



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