DENMARK



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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.

Functioning of justice

- Fairness of proceedings

Judges involved in decisions on pre-trial remand in custody or investigative steps are prevented to act as trial or appeal judges in the case concerned, according to the 1990 amendments of the Administration of Justice Act, which also included a general clause setting out impartiality requirements of judges.

Hauschildt (10489/83)

Final Resolution CM/ResDH(91)9

- Excessive length of proceedings

New specific remedies to obtain the acceleration of proceedings were introduced in January 2007 and July 2007, through amendments to the Administration of Justice Act and the Bankruptcy Act, to prevent excessive length of proceedings.

Christensen, Valentin and Nielsen (247/07+)

Final Resolution CM/ResDH(2012)73

Protection from inhuman or degrading treatment and right to private life due to the withdrawal of rape charges

The maximum period for the reversal of the decision to withdraw or dismiss charges in criminal proceedings was extended from two to four months by legislative measures adopted prior to the Court's judgment. Furthermore, it is possible to proceed with claims for compensation in certain criminal cases when there have been errors committed by the Police or the Prosecution Service, if the error relates to the new four-month time-limit. The prosecution services and the police also adjusted existing and adopted new relevant guidelines.

Daugaard Sorensen (25650/22)

Final Resolution CM/ResDH(2026)73

Private and family life

- Family reunification for individuals under temporary protection status

Amendments to the Alien Act entered into force on 1 July 2022 reducing the previous three-year waiting period to two years, so that individuals under temporary protection status will thus generally have access to family reunification after two years, except in certain exceptional circumstances.

M.A. (6697/18)

Final Resolution CM/ResDH(2023)119

- Disproportionate expulsion orders against settled migrants

Amendments to the Danish Aliens Act entered into force on 23 June 2022, which clarify that a subsequent review of an expulsion order must be made in full compliance with Article 8 of the Convention and that Danish courts must be able to reduce the period of the imposed re-entry ban. Similar amendments to the Aliens Act were already adopted in May 2018 (subsequent to the facts of the cases) which gave Danish courts the discretion to set, in criminal trials, periods of re-entry bans for expulsion decisions in line with the Convention requirements. The authorities also provided examples of domestic case law showing how practice is now aligned with Convention requirements. The European Court's judgments have been widely disseminated and incorporated into guidance for the Public Prosecution Service.

Savran (57467/15)

Final Resolution CM/ResDH(2024)182

- Disproportionate refusal to allow adoption of children born abroad through surrogacy

On 1 January 2025, amendments to the Children Act (*børneloven*) came into force. According to the new legislation, it is possible to apply for establishment of parenthood for intended parents in Denmark based on a foreign surrogacy

K.K. and Others (25212/21)

Final Resolution CM/ResDH(2025)140

agreement. To establish parenthood, a number of conditions must be met. For instance, the surrogate mother, at the time of concluding the surrogacy agreement, must have been residing abroad for at least the past six months. While the administrative application of the rules on stepchild adoption in the Adoption Act had been adjusted already subsequent to the Court's judgment, legislative amendments to those rules also came into force on 1 January 2025. Those amendments remove the absolute ban on allowing stepchild adoption for intended parents in cases of children born through foreign commercial surrogacy agreements.	
Freedom of association A person's affiliation to a union or non-membership of a union can no longer be taken into account in recruitment or dismissal procedures according to the Act on protection against dismissal due to association membership, as amended in April 2006.	***Sørensen and Rasmussen*** (52562/99) **Final Resolution CM/ResDH(2007)6**
Discrimination on ethnic grounds with regard to family reunion The discrimination against Danish citizens of foreign ethnic origins resulted from the more favourable conditions for family reunion applying to persons who had held Danish citizenship for at least 28 years (so-called 28-years rule converted to a 26-year rule by a later amendment) in the Aliens Act. In May 2017, the impugned provisions were repealed. Prior to that, the Minister of Immigration and Integration published a memorandum to Parliament regarding the legal consequences of the Court's judgment and the Immigration Service applied the Aliens Act in accordance with the interpretation described in the memorandum.	***Biao*** (38590/10) **Final Resolution CM/ResDH(2018)155**



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.

Conditions of detention

- Deployment of pepper-spray in detention facilities

Inhuman or degrading treatment on account of the lack of effective investigation into deployment of pepper spray by prison guards against an aggressive prisoner held in an observation cell and the failure to demonstrate its strict necessity.

El-Asmar (27753/19)
Judgment final on 03/01/2024

Standard supervision
Status of execution

- Use of restraint measures in psychiatric hospital

Inhuman or degrading treatment in 2013 of a man suffering from paranoid schizophrenia who was strapped to a restraint bed in a psychiatric hospital for nearly 23 hours.

Aggerholm (45439/18)
Judgment final on 15/12/2020

Standard supervision
Status of execution

Inhuman or degrading treatment in 2016 of a man suffering from paranoid schizophrenia who was strapped to a restraint bed in a psychiatric hospital for 11 days and 11 hours.

Makki (10297/23)
Judgment final on 30/06/2026

Standard supervision
Status of Execution

Private and family life

- Expulsion order combined with de fact permanent re-entry ban

Disproportionate **interference** with the applicant's (a "settled migrant" who was born in Denmark) **right to private life due to expulsion order combined with de facto permanent re-entry ban** issued against him following his criminal convictions, finally upheld during criminal proceedings in September 2022.

Sharafane (5199/23)
Judgment final on 17/03/2025

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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