



Summary of Final Resolutions adopted by the Committee of Ministers in 2012 (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
CM/ResDH(2012)1	AUT / Eigentstiller	42205/06	14/01/2011 14/10/2010	<i>Access to and efficient functioning of justice: Excessive length of divorce proceedings. (Article 6 § 1)</i>	Just satisfaction paid. Isolated incident. The judgment was translated, published and an analysis thereof disseminated by circular note of 3 June 2011 of the Federal Chancellery to all Federal Ministries, the Constitutional Court, the Administrative Court, the Supreme Court, the Asylum Court, Parliament, the Governments of all "Länder", all Human Rights Coordinators of the Federal Ministries, as well as all Directorates-General of the Federal Chancellery (Prime Minister's Office).
CM/ResDH(2012)2	AUT / European University Press GmbH	36942/05	24/09/2010 24/06/2010	<i>Access to and efficient functioning of justice: Lack of equality of arms due to a correction by the Supreme Court of a clerical mistake which went beyond a "manifest and minor mistake" without further exchange of submissions by the parties. (Article 6 § 1)</i>	Just satisfaction paid. Isolated incident. The judgment was translated, published and an analysis thereof disseminated by means of Circular Note BKA-670.311/0023-V/5/2010 of 22 September 2010 to all Federal Ministries, the Constitutional Court, the Administrative Court, the Supreme Court, the Asylum Court, Parliament, the Governments of all "Länder", all Human Rights Coordinators of the Federal Ministries, as well as all Directorates-General of the Federal Chancellery (Prime Minister's Office).



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CM/ResDH(2012)3	AUT / Krumpholz	13201/05	18/06/2010 18/03/2010	<i>Access to and efficient functioning of justice: Interference with the right to remain silent and the presumption of innocence due to the Independent Administrative Panel's applicant's conviction for speed excess based on inferences drawn from his refusal to disclose the driver's identity and lacking respective sufficient procedural safeguards. (Article 6 §§1+2)</i>	Just satisfaction paid. Isolated incident. The judgment was translated, published and disseminated.
CM/ResDH(2012)4	AZE / Jafarli and Others	36079/06	21/02/2011 29/07/2010	<i>Access to and efficient functioning of justice and/or protection of property: Delay in enforcing final domestic judgments as a result. (Article 6 §1 and Article 1 of Protocol No. 1)</i>	Just satisfaction paid. Contrary to the Mirzayev and Tarverdiyev groups of cases relating to systematic problems in the enforcement of domestic judgments, the present case concerns the budgetary allocations to a single military unit in order to execute the relevant judgment. The judgement was translated and published.
CM/ResDH(2012)5	BEL / Claes and Others	46825/99+	02/09/2005 02/06/2005	<i>Access to and efficient functioning of justice: Extension of the Court of Cassation's competence in the absence of any statutory provision governing connected offences, therefore the court cannot be considered "established by law". (Article 6 §1)</i>	Just satisfaction for non-pecuniary damage awarded in case of rejection of the request for reopening of the impugned proceedings. Reopening was granted. General measures: see Coëme and Others, closed by Final Resolution DH(2001)164 referring to a special law of 1998 to solve the issue of "connected offences", which was however not applied to the proceedings at issue ending in December 1998, due to a transitional provision of the new law. The judgment was published and disseminated.
CM/ResDH(2012)6	BEL / Tillack	20477/05	27/02/2008 27/11/2007	<i>Freedom of expression: Searches and seizures at a journalist's home and place of work in the context of criminal</i>	Just satisfaction for non-pecuniary damage paid. Investigations closed; seized objects were restituted. General measures: see Ernst (33400/96) closed by CM/ResDH (2010)39, referring to a



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				<i>investigations following the publication of confidential documents of the European Anti-Fraud Office. (Article 10)</i>	law on the protection of journalists' sources of April 2005, which prohibits, with certain exceptions, the search for journalists' sources of information. The judgment was published and disseminated.
CM/ResDH(2012)7	BEL / Cottin	48386/99	02/09/2005 02/06/2005	<i>Access to and efficient functioning of justice: Failure to respect the adversarial principle in criminal proceedings for assault due to the establishment of an expert medical opinion in the applicant's absence. (Article 6 §1)</i>	The sentence was not executed. Striking out of the conviction of the criminal records is possible upon request of the person concerned. The source of the violation does not reside in legislation but in the circumstances of the case and the previous practice of the Court of Cassation. Change of case-law of domestic courts. The judgment was published and disseminated.
CM/ResDH(2012)8	BEL / Leschiutta and Fraccaro	58081/00	17/10/2008 17/07/2008	<i>Protection of family life: Failure to ensure the right of two fathers to have their respective children returned to Italy after their abduction by their mother to Belgium. (Article 8)</i>	The children were returned to their fathers in 2000. Exceptional facts of the case. Change of legislation, in particular Article 1322undecies Judicial Code, due to the ratification of the Hague Convention on the civil aspects of international child abduction on 09/02/1999 and adoption of Council Regulation (EC) No 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000. The judgment was published and disseminated.
CM/ResDH(2012)9	BEL / Wynen	32576/96	05/02/2003 05/11/2002	<i>Access to and efficient functioning of justice: Unfair criminal proceedings - infringement of the principle of equality of arms – due to the Court of Cassation declaration of inadmissibility of the applicants' appeal on points of law, as being out of the delay prescribed by Article 420 bis of the Code of Criminal</i>	Satisfaction could not be paid due to inactivity of the applicants and their representative, who did not take any initiative. Isolated case due to specificities of cassation procedure in combination with specificities of circumstances (as was also underlined in three judges' separate opinions out of 7). The judgment was published and disseminated.



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				<i>Investigation for appellants but not for civil party respondents. (Article 6 §1)</i>	
CM/ResDH(2012)10	BIH / Jeličić and 3 other cases	41183/02	31/01/2007 31/10/2006	<i>Access to and efficient functioning of justice and/or protection of property: Non-enforcement of final domestic judgment ordering the payment of "old" foreign currency savings due to a statutory provision. (Articles 6 §1 and 1 of Protocol No. 1)</i>	All domestic judgments were enforced. Article 27 of the Law on Settlement of Obligations arising from Old Foreign Currency Savings of BiH was amended specifying that the courts are obliged to submit final judgments to the ministries of finances on entity or other level for their settlement. The laws and by-laws of the entities (RS and FBiH) and Brčko District allowed the depositors also to submit the judgments to the relevant ministries of finance and created a legal basis for enforcement of final judgments concerning old foreign currency savings. Nearly all of the outstanding unenforced judgments ordering release of "old" foreign savings to persons other than applicants were found in Republika Srpska, which, in April 2009, adopted an action plan outlining measures aimed at recording these judgments and settling the related debt. The general measures taken are examined in detail in the memorandum prepared by the Secretariat (CM/Inf/DH(2010)22).
CM/ResDH(2012)11	CRO / Bistrović	25774/05	31/08/2007 31/05/2007	<i>Protection of property: Failure to establish all the relevant factors, including the reduction of the value of the remaining land, when assessing the compensation payable on the expropriation of part of the applicants' farm. (Article 1 of Protocol No. 1)</i>	In reopened proceedings, the County Court quashed the contested decision and awarded appropriate compensation for expropriation. Isolated event resulting from a wrongful application of the law. Pursuant to the Expropriation Act, the expropriated property's owner is entitled to receive compensation under the market conditions. The judgment was translated, published and disseminated.
CM/ResDH(2012)12	CRO / Lesjak	25904/06	18/05/2010 18/02/2010	<i>Access to and efficient functioning of justice: Refusal by domestic courts to</i>	The impugned proceedings were reopened and are still pending. Isolated event resulting from a wrongful application



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				<i>examine the applicant's case merits and to rule on the lawfulness of his employment termination. (Article 6 §1)</i>	of the law. The judgment was translated, published and disseminated.
CM/ResDH(2012)13	CRO / Trgo	35298/04	11/09/2009 11/06/2009	<i>Protection of property: Refusal of domestic courts to acknowledge ownership of certain plots of land acquired ex lege by adverse possession on the basis of a provision, which was subsequently abrogated as unconstitutional. (Article 1 of Protocol No.1)</i>	The applicant's request for reopening of proceedings was rejected since it was lodged out of time. Isolated event resulting from a wrongful application of the law. The judgment was translated, published and disseminated.
CM/ResDH(2012)14	CRO / Orlić	48833/07	21/09/2011 21/06/2011	<i>Protection of home: Omission of domestic courts to apply the proportionality test in eviction proceedings against the applicant who, was not legally entitled to occupy the flat he lived in. (Article 8)</i>	No request for reopening of proceedings was filed. For general measures see CM/ResDH(2011)48 in <i>Ćosić and Paulić</i> . The facts of the <i>Orlić</i> case occurred before the Constitutional Court's change of practice. The judgment was translated, published and disseminated.
CM/ResDH(2012)15	CRO / Bernobić	57180/09	21/09/2011 21/06/2011	<i>Protection of rights in detention: Failure of the Constitutional Court to speedily decide on the lawfulness of the applicant's detention as a fresh decision extending detention had meanwhile been adopted. (Article 5 §4)</i>	For general measures see CM/ResDH(2011)195 in the cases <i>Peša and Hađi</i> as well as <i>Getoš-Magdić Ćosić</i> . On 07/09/2010, the Constitutional Court had passed a Decision on the establishment of the Third section of the Constitutional Court in charge of deciding on constitutional complaints in cases which require special promptness. The judgment was translated, published and disseminated.
CM/ResDH(2012)16	CRO / Ismeta Bačić	43595/06	01/12/2008 19/06/2008	<i>Access to and efficient functioning of justice: Dismissal of pecuniary damage claims recognized in civil proceedings,</i>	The impugned bankruptcy proceedings against the applicants' debtor were closed in 2004. The issue being of a technical rather than legal nature, the solution requires no legislative



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				<i>submitted in bankruptcy proceedings against the applicant's former employer as lodged out of time, despite the fact that the bankruptcy administrator was legally obliged to include it in the list of claims against the debtor. (Article 6 § 1)</i>	changes or changes of case-law. The nature of the problem requires setting up a system of cooperation between municipal and commercial courts in such matters. An e-file system was introduced and full electronic connection of the two relevant data-bases has been established in November 2011. Additionally, the list of all bankruptcy proceedings opened before the new function of the ICMS became operational was delivered to all municipal and county courts, in order to prevent similar situations in this transitional period. The judgment was translated, published and disseminated.
CM/ResDH(2012)17	CZE / Zirovnicky	23661/03	21/02/2011 30/10/2010	<i>Protection of rights in detention: Lack of judicial decision authorising deprivation of liberty; failure to secure a prompt examination of applications for release and lack of enforceable right to compensation for unlawful detention. (Article 5 §§ 1c+4+5)</i>	The applicant was released and received compensation. As concerns Article 5 §1, the impugned transitional on the prolongation of the detention created by an amendment of the Code of Criminal Procedure in 2001 ended. As concerns the length of decision-making on applications for release: see CM/ResDH(2011)9 in Fešar and 8 other cases. Compensation for non-pecuniary damage in cases of violations of the right to liberty and security was introduced by Law No. 160/2006 providing that in cases of illegal decisions and irregular official processes compensation may cover both material and non-pecuniary damage.
CM/ResDH(2012)18	CZE / Suda	1643/06	28/01/2011 28/10/2010	<i>Access to and efficient functioning of justice: Obligation based on law to submit a dispute between two private entities to private arbitrators. (Article 6 §1)</i>	No request for reopening of final decisions of domestic courts was submitted. The Commercial Code (Companies and Cooperatives Transformations Act) was amended by Act no. 125/2008 abolishing the arbitrators' jurisdiction established by a contract between third parties.
CM/ResDH(2012)19	CZE / Crabtree	41116/04	04/10/2010 25/02/2010	<i>Protection of rights in detention: Unlawful detention on remand without</i>	The applicant was sentenced to a term of imprisonment meanwhile. Isolated case. The Constitutional Court had held in



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				<i>legal basis and lack of enforceable right to compensation for unlawful detention. (Article 5 §§ 1c+5)</i>	November 2004 that the municipal court should have decided on the extension of the applicant's pre-trial detention or his release within the statutory time-limit. Compensation for non-pecuniary damage in cases of violations of the right to liberty and security was introduced by Law No. 160/2006.
CM/ResDH(2012)20	CZE / Hubka and 4 other cases	500/06+	03/05/2011 03/02/2011	<i>Access to and efficient functioning of justice: Denial of a fair hearing in civil proceedings due to the lack of opportunity to comment on documentary evidence produced at the request of the Constitutional Court. (Article 6 §1)</i>	The finding of a violation provided in itself sufficient just satisfaction for the non-pecuniary damage sustained. Moreover, all civil cases had been decided by domestic courts of at least two bodies, and the lack of transmission of the observations of the other parties to the proceedings before the Constitutional Court was not considered as having influenced the results of those proceedings. Reopening of proceedings would therefore be in contradiction to the principle of legal security. For general measures see ResDH(2006)71 Milatová and Others and CM/ResDH(2010)13 in Mareš. On 03/05/2011 the Plenary Assembly of the Constitutional Court adopted Recommendation No. 20/11, providing that the observations requested from the other parties to the proceedings will always be transmitted to the complainant for reply, except in cases where such observations contain only a reference to the decisions rendered previously and challenged by the constitutional complaint.
CM/ResDH(2012)21	CZE / Macready	4824/06	04/10/2010 22/04/2010	<i>Protection of private and family life: Unreasonable length of return proceedings under the Hague Convention on the Civil Aspects of International Child Abduction with regard to the applicant's child and failure of domestic courts to ensure his</i>	Proceedings ended in 2007. Act no. 295/2008 amended the Rules of Civil Procedure, providing in particular, for a separate legal scope for the proceedings relating to the international child abduction as set down by the Hague Convention (determination of a special tribunal for return proceedings; the possibility for the court to decide on conditions for the return of a child and/or on interim arrangements on the



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				<i>exercise of the interim measures arranging for his right to contact with his child. (Article 8)</i>	complainant's contact with his/her child; implementation of the statutory six-weeks' time-limit for deciding on the merits). Mediation in parental disputes was enhanced. The Office for International Legal Protection of Children-OILPC has the task to reach solutions with the least possible negative impacts on the children caused by their illegal international removals. Concerning the preventive remedy against an unreasonable length of proceedings, an amendment of Act no. 6/2002 on Courts and Judges came into force on 01/07/2009 removing the contentious relation between the motion for the determination of a time limit for making a procedural act and the complaint filed with an authority responsible for the State's administration of courts according to Section 164 of the Act. The judgment was translated, published and disseminated as well as used in the training of judges.
CM/ResDH(2012)22	FIN / Marttinen	19235/03	21/07/2009 21/04/2009	<i>Access to and efficient functioning of justice: Denial of a fair trial and the right to silence and not to incriminate oneself; in proceedings to recover a debt, the debtor was fined for refusing to give an overall account of his assets under the Enforcement Act and suspected of a tax fraud concerning the same assets in other proceedings. (Article 6 §1)</i>	The Enforcement Act was amended in 2004 and a new mechanism was introduced prohibiting the use of incriminating information to circumvent provisions on testimony or to have the debtor charged with a criminal offence. In 2009, the Supreme Court stated that, if information about a debtor's property relates to both a pending criminal case and to enforcement or bankruptcy proceedings, the debtor is entitled to refuse to declare the property. Further Supreme Court case-law refers to ECHR case-law of concerning the right to not incriminate oneself.
CM/ResDH(2012)23	FIN / Suuripää	43151/02	12/04/2010 12/01/2010	<i>Access to and efficient functioning of justice: Failure of the Supreme Court, reversing the lower court's favourable judgment, to hold an oral hearing and</i>	Reopening of criminal proceedings is possible under the national law. According to the Code of Judicial Procedure, the Supreme Court shall hold a hearing where necessary. Isolated decision by the Supreme Court not to hold a hearing in this



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				<i>excessive length of criminal proceedings. (Article 6 §1)</i>	case. The judgment was translated, published and disseminated. The issue of excessive length of criminal proceedings is examined in the case Kangasluoma 48339/99.
CM/ResDH(2012)25	FRA / Paradysz	17020/05	01/03/2010 29/10/2009	<i>Protection of rights in detention: Excessive length of detention on remand. (Article 5 §3)</i>	General measures were already adopted in the framework of the cases of Muller (Final Resolution ResDH(2003)50 and Etcheveste and Bidart (Final Resolution CM/ResDH(2007)39).
CM/ResDH(2012)26	FRA / Ben Naceur and 1 other case	63879/00+	03/01/2007 03/10/2006	<i>Access to and efficient functioning of justice: Infringement of the principle of equality of arms in criminal proceedings, in view of the extended time-limit in which the public prosecutor could make an appeal under article 505 of the Code of Criminal Procedure, without a possibility for the applicant to lodge a cross-appeal. (Article 6§1)</i>	Re-examination of the impugned proceedings may be requested under articles L 626-1 ss. of the Code of Criminal Procedure. The judgment was published and disseminated. On 04/12/2004, the Ministry of Justice sent a note to the Prosecutors General of all Courts of Appeal, specifying that if Prosecutors General lodge an appeal within the time-limit set by Article 505 of the Code of Criminal Procedure, they must ensure that the admissibility of any appeal lodged by the accused is requested within in a supplementary limit of 5 days. The provisions of the Code of Criminal Procedure at issue were amended by Article 73 of Act No. 2009-1436 of 24/11/2009. Article 498 of the Code now provides, in particular, that: "Without prejudice to Article 505, an appeal shall be lodged within 10 days of the delivery of the judgment". Article 505, on the other hand, provides that in the event of an appeal by the public prosecutor, the other parties have a time limit five days to file a cross-appeal.
CM/ResDH(2012)27	FRA / Chaudet	49037/06	28/06/2010 29/10/2009	<i>Access to and efficient functioning of justice: Unfair proceedings due to the presence of the Government Commissioner at the deliberation of the bench of the Conseil d'Etat. (Article 6§1)</i>	According to the ECtHR, the applicant had not met the requirements for the allowance she had requested in the national proceedings. Just satisfaction paid. General measures were already adopted in the framework of the Kress case (Resolution CM/ResDH(2007)44).



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CM/ResDH(2012)28	FRA / Ravon and Others and three other cases	18497/03+	21/05/2008 21/02/2008	<i>Access to and efficient functioning of justice: Inability to challenge the lawfulness of the house searches and seizures to which they had been subjected in the framework of fiscal proceedings, on the basis of Article L.16B of the Code of Tax Procedure. (Article 6 §1)</i>	None of the applicants was prosecuted by the tax administration following the procedures at issue. Just satisfaction paid. The Code of Tax Procedure was amended by Article 164 of Law No. 2008-776 of 04/08/2008, opening the possibility to appeal against an order authorising searches before the court of appeal's first president who is competent to examine the facts and the law. The article also provides for the latter's competence to examine appeals lodged in respect of the conduct of the search and seizure operations.
CM/ResDH(2012)30	GRC / Tritsis	3127/08	10/09/2010 10/06/2010	<i>Access to and efficient functioning of justice: Rejection by the Council of State of the applicant's joint application with two other persons on the grounds of divergent interests without any specific reason to justify the inapplicability of the relevant provision of national law; excessive length of proceedings. (Article 6 §1 twice)</i>	Reopening of proceedings before the Council of State following a judgment by the European Court is not provided for in national law. In view of the explicit provision of the national law and the constant case-law of the Council of State, the lack of justification for the inapplicability of the relevant constitutes an isolated incident. For general measures to accelerate proceedings before the administrative courts and the Council of State see ResDH(2005)65 in Pafitis and Others and 14 other cases. Additional issues are supervised in the context of the pilot judgment Vassilios Athanasiou. The judgment was translated, published and disseminated.
CM/ResDH(2012)31	GRC / Paschalidis, Koutmeridis and Zaharakis	27863/05+	10/07/2008 10/04/2008	<i>Electoral rights: Breach of the principle of legitimate trust and lawfulness due to an unforeseeable reversal of the Special Supreme Court's constant case-law resulting in the forfeiture of the applicants' parliamentary seats. (Article 3 of Protocol No 1)</i>	The just satisfaction paid included the parliamentary allowances the applicants would have received if they had not forfeited their parliamentary seats. Parliament adopted a new provision, Article 1 of Law No. 3434/2006, to specify that blank ballot papers are not taken into account for the calculation of the electoral quotient. The judgment was translated, published and disseminated.
CM/ResDH(2012)32	GRC /	44858/04	26/10/2007	<i>Access to and efficient functioning of</i>	Just satisfaction paid. Following the recent case-law of the



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	Markoulaki (No. 1)		26/07/2007	<i>justice: Dismissal of a civil party's request to lodge an appeal on the merits in criminal proceedings and refusal of the Prosecutor before the Court of Cassation to lodge an appeal on points of law, by means of a handwritten note containing no reasons (Article 6§1).</i>	ECtHR the violation found in the present case is no longer relevant. (Overturn in ECHR case-law: In its Grand Chamber judgement in the case of Gorou v. Greece (n°2) (12686/03) the ECHR noted that "the handwritten note placed on the applicant's request simply gives information about the discretionary decision taken by the public prosecutor. [...], the public prosecutor does not have a duty to justify his response but only to give a response to the civil party. To demand more detailed reasoning would place on the public prosecutor at the Court of Cassation an additional burden that is not imposed by the nature of the civil party's request for him to appeal on points of law against an acquittal" – new case-law confirmed in Vervesos (of 14/05/2009) and Giannatos (of 02/07/2009, with reference to the Gorou judgment). The latter referred to refusals of prosecutors both on appeal and on cassation.)
CM/ResDH(2012)33	GRC / Tsotsos	25109/07	30/07/2009 30/04/2009	<i>Access to and efficient functioning of justice: Denial of right of the accused to have witnesses against him examined and the excessive length of criminal proceedings. (Article 6 §§ 3d+1)</i>	In reopened proceedings the applicant's conviction was quashed. Charges against him were dropped on the grounds of prescription. The judgment was translated, published and disseminated. For general measures to accelerate proceedings before the criminal courts see ResDH(2005)66 in Tarighi Wageh Dashti and 7 other cases. Additional issues are supervised in the Manios group.
CM/ResDH(2012)34	GRC / Zeibek	46368/06	09/10/2009 09/07/2009	<i>Protection of property and discrimination: Discriminatory interference with the right to peaceful enjoyment of possessions as a result of the dismissal of a mother's application for a pension as mother of a large family on grounds that one of her four children</i>	Just satisfaction for non-pecuniary and pecuniary damage paid. According to legal opinion No 308/2009 of the Legal Council of the State, the relevant provisions of the Ministerial Decision No. 440/1991 which had amended the initial Article 63 of Law No. 1892/1990 and introduced the nationality of the children as a prerequisite for acquiring the status of mother of a large family were considered inapplicable. The Legal Council



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				<i>did not have Greek nationality. (Article 1 of Protocol No. 1 taken alone and in conjunction with Article 14)</i>	of the State concluded that "the nationality of the children of persons with large families should not be taken into consideration when processing the award of the relevant allowances". This legal opinion is binding on the Administration. The judgment was translated, published and disseminated.
CM/ResDH(2012)35	GRC / Fawsie and Saidoun	40080/07+	28/01/2011 28/10/2011	<i>Protection of property and discrimination: Unjustified discrimination due to the refusal to grant the allowance paid to mothers of large families on the ground that neither the applicant nor her children had Greek nationality or the nationality of one of the EU member States or were refugees of Greek origin. (Article 14 in conjunction with Article 8)</i>	Just satisfaction for non-pecuniary and pecuniary damage paid. In 2008 the legislature amended the law in question and it now provides that people officially recognised as refugees, together with their families, are included among the beneficiaries of the "large family" allowance. According to legal opinion No 308/2009 of the Legal Council of the State, "the nationality of the children of persons with large families should not be taken into consideration when processing the award of the relevant allowances". This legal opinion is binding on the Administration. The judgment was translated, published and disseminated.
CM/ResDH(2012)40	MDA / Tănase	7/08	27/04/2010 Grand Chamber	<i>Electoral rights: Legislative ban imposed on nationals with dual or multiple nationalities to stand as candidate in parliamentary elections (Article 3 of Protocol No. 1)</i>	Just satisfaction paid. Law no. 273 that banned certain categories of public servants to hold dual citizenship, including elected MPs with multiple nationalities from taking seats in Parliament, was amended by Law no. 127 of December 2009 lifting the bans for all categories of public servants. The judgment was translated into Romanian, published and disseminated.
CM/ResDH(2012)43	POL / Bruczyński	19206/03	04/02/2009 04/01/2009	<i>Protection of rights in detention: Excessive length of detention on remand without "relevant and sufficient" grounds and lack of enforceable right to</i>	The applicant was released in 2004. General measures concerning detention on remand are examined in the context of the Trzaska group of cases (25792/94). The Law of 17/06/2004 on amendments to the Civil Code and other



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				<i>compensation for unlawful detention on remand. Article 5 §§ 3+5)</i>	statutes enlarge the scope of the State Treasury's liability for tort. Its Article 4171 provided a possibility to claim compensation in relation to detention on remand which had occurred after 01/09/2004 (see also the judgment of 30/01/2007 in the Ryckie case, no. 19583/05). The judgment was translated into Romanian, published and disseminated.
CM/ResDH(2012)45	PRT / Jorge de Jesus Ferreira Alves No. 4	41870/05	14/07/2009 14/04/2009	<i>Access to and efficient functioning of justice: Unfairness of civil proceedings due to breach of the principle of equality of arms, on account of the failure to communicate to the applicant a note from a first-instance judge to the appellate court and of the failure by the court of appeal to decide on the claim of nullity of the first instance decision. (double violation of Article 6§1)</i>	The applicant may submit a request for a review of the impugned proceedings to be assessed by domestic. As part of the reform of the Code of Civil 2008, article 744 of the Code was repealed. Thus notes written by the trial judge to the appellate court must now be transmitted to the parties. The judgment was translated, published and disseminated.
CM/ResDH(2012)46	ROM / Albert	31911/03	16/05/2010 16/02/2010	<i>Access to and efficient functioning of justice: Unfairness of proceedings brought by the applicant to challenge a fine of considerable gravity imposed on him for a minor offence, due to the courts' failure to address his submissions and grounds for appeal. (Article 6 §1)</i>	The just satisfaction awarded covered the amount of the fine at issue. In addition, the applicant may request the publication of the judgment in the Official Journal and lodge a request for reopening. As regards basic guarantees in criminal trials to challenge penalties imposed for minor offences, see general measures referred to in CM/ResDH(2011)300 in Anghel. General measures with regard to fair proceedings see also CM/ResDH(2011)71 in Boldea.
CM/ResDH(2012)48	ROM / Stanca Popescu	8727/03	07/10/2009 07/07/2009	<i>Access to and efficient functioning of justice: Infringement of the principle of legal certainty due to the reopening of a final judgment ordering the return of a</i>	No request for reopening of the impugned proceedings was submitted. Specific circumstances of the present case due to an erroneous reasoning in the domestic court's decision to reopen a final judgment. The judgment was translated, published and



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				<i>plot of land to the applicant, by means of an application made by the opposite party to the proceedings. (Article 6 §1)</i>	disseminated.
CM/ResDH(2012)50	SVK / E.S. and Others	8227/04	15/12/2009 15/09/2009	<i>Protection against ill-treatment and protection of private and family life: Failure of authorities to protect the applicants, wife and daughter, from ill-treatment (physical and sexual abuse) inflicted by husband and father, and failure to meet the positive obligation to respect their family and private life. (Articles 3 and 8)</i>	Just satisfaction paid. As of 01/01/2003, courts may, through an interim measure under the Code of Civil Procedure, impose upon the party not to enter temporarily a house or an apartment occupied by a close person or person in his/her care or education on suspicion of violence. Under Section 705a of the Civil Code, if a further cohabitation became unacceptable due to physical or mental violence or threats of such violence from a spouse or former spouse or from a close person using an apartment, the court can limit the right of use of the other spouse or former spouse or exclude her/him totally from the right of use of an apartment. Under Section 712a § 8 in fine of the Civil Code, if a former husband, during marriage or after divorce committed the psychological or mental violence against the spouse or against a person living with him in an apartment, the court shall decide that he is not entitled to a substitute dwelling. Under the new legislation interim measures are available to ensure that the authorities would be able to act quickly. The judgment was translated, published and disseminated.
CM/ResDH(2012)51	SVK / DMD group, A.S.	19334/03	05/01/2011 05/10/2010	<i>Access to and efficient functioning of justice: Denial of the right to a hearing before a tribunal established by law due to the district court's president's decision to reassign to himself a case brought by the applicant company seeking enforcement of a financial claim against</i>	Reopening of the impugned proceedings is possible. Act no. 757/2004 on Courts and the Ministry of Justice's Regulation of 543/2005 on Rules for district courts, regional courts, the Special Court and military courts, provide for random assignment of cases to judges, using the electronic registry. Petitions received by the court registry shall immediately be registered and run through the system of random selection of



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>a major company involved in arms production and then rule on it in private in the same day. (Article 6 §1)</i>	the legal judge. The Act defines exemptions from assigning cases via electronic registry; urgent decisions in pre-trial proceedings following the Code of Criminal Procedure (i.e. relating to custody or legal counsel etc.) or decisions under the confidential regime or certain decisions in civil proceedings (e.g. preliminary measures in case of domestic violence). In these instances cases are assigned according to the rules established in the courts work schedule. The judgment was translated, published and disseminated.
CM/ResDH(2012)52	SVK / Zupal'	44065/06	09/02/2011 09/11/2010	<i>Protection of home: Disproportionate interference due to the police search of the applicant's house on the basis of a judicial order, in the context of criminal proceedings against several other people suspected of having produced and sold forged paintings, in the applicant's absence and without having heard him. (Article 8)</i>	Just satisfaction paid. Isolated case due to erroneous application of law. The judgment was translated, published and disseminated.
CM/ResDH(2012)53	SVK / Lexa (no. 2)	34761/03	05/04/2010 05/01/2010	<i>Protection of rights in detention: Lack of adequate possibility to challenge the lawfulness of the applicant's pretrial detention due to restricted access to the case file and dismissal of his complaint in a session held in camera. (Article 5§4)</i>	Just satisfaction. Case of an isolated nature. The current Code of Criminal Procedure (Act no. 301/2005 Coll.) was not in force at the time of the facts of the case. The applicant benefitted from a similar provision under Article 65 of the Code of Criminal Procedure (Act no. 141/1961 Coll.) then in force. Currently the accused person's right of access to his case file is regulated in Article 69§1 of the CCP. The judgment was translated, published and disseminated.
CM/ResDH(2012)54	SVK / Lawyers	54252/07+	06/11/2009 16/06/2009	<i>Access to and efficient functioning of justice: Unjustified refusal by domestic</i>	Just satisfaction paid. The district court was ready to register the applicant company's original electronic submissions;



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	Partners a.s			<i>courts to register actions submitted by the applicant company in electronic form despite a respective provision for electronic filing included in the Code of Civil Procedure. (Article 6§1)</i>	however, the company failed to cooperate. At the time of the facts of the case, district courts lacked the necessary equipment for registering the electronic actions. They are now provided with the necessary technical means. As from 2008 the district courts effectively register the electronic actions. The judgment was translated, published and disseminated.
CM/ResDH(2012)55	SVK / Kvasnica	72094/01	09/09/2009 09/06/2009	<i>Protection of private life and correspondence: Unlawful and unnecessary interference due to interception of the applicant's professional telephone communications in the context of a criminal investigation into the financial activities of a group for which the applicant acted as a legal representative. (Article 8)</i>	Evidence of the intercepted communications has been destroyed. The judgment was translated, published and disseminated.
CM/ResDH(2012)56	SVK / K.H and Others	32881/04	06/11/2009 28/04/2009	<i>Protection of private and family life and access to and efficient functioning of justice: Refusal of authorities to allow eight women of Roma ethnic origin, to photocopy their own medical records when they suspected that their infertility might have resulted from a sterilisation procedure performed in hospitals during caesarean deliveries, denying them the opportunity to bring a claim for damages. (Articles 8 and 6 §1)</i>	According to the legislation introduced in 2004, seven of the applicants were able make photocopies of their files (one was lost). Section 16 of the Health Care Act 1994, which granted patients or their legal representative the right to receive only excerpts from medical records, was repealed on 01/01/2005 by the Health Care Act 2004. Section 25 of the 2004 Act expressly empowers patients or those authorised by them to make copies of medical records. The judgment was translated, published and disseminated.
CM/ResDH(2012)57	SVK / Hudáková	23083/05	27/07/2010 27/04/2010	<i>Access to and efficient functioning of justice: Failure of the Supreme Court to</i>	The case was not considered to call for the reopening of domestic proceedings. Change of Supreme Court's case-law:



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				<i>communicate written observations submitted by the plaintiffs resulting in the dismissal in its merits of the applicant's appeal on points of law: the appeal on point of law. (Article 6 §1)</i>	The failure by appellate courts to communicate the comments of one party to the other party constitutes an admissible ground for an appeal pursuant to Article 237f of the Code of Civil Procedure. The appellate court decisions affected by such error are quashed and the matter is referred back for further hearing. The judgment was translated, published and disseminated.
CM/ResDH(2012)58	SVK / Hajduova	2660/03	28/02/2011 30/11/2010	<i>Protection of private and family life: Failure to protect the applicant from her former husband's abusive and threatening behaviour due to the court's failure to comply with its statutory obligation to order the applicant's ex-husband detention for psychiatric treatment following his conviction for having attacked her in public and uttered death threats. (Article 8)</i>	Just satisfaction paid. The District Court finally had arranged for psychiatric treatment of the applicant's ex-husband in 2002. Under the Code of Criminal Procedure, the president of the chamber shall order protective treatment in a specific medical institution. Should the person pose an immediate threat, the president of the chamber shall without further delays provide for his/her delivery to the medical institution. The judgment was translated, published and disseminated.
CM/ResDH(2012)59	SVK / Jakub and 109 other cases	2015/02+	28/05/2006 28/02/2006	<i>Access to and efficient functioning of justice: Excessive length of civil proceedings, some of them concerning disputes which should have been resolved with special diligence (labour law, compensation for damage resulting from an accident, parental rights) and ineffectiveness of the constitutional complaint under Article 127 of the Constitution (Articles 6 §1 and 13)</i>	Two sets of amendments of the Code of Civil Procedure 1963 and of the Law No. 71/1992 on court costs. The changes in 2007 comprise four administrative measures on allocation of powers, procedures for transmission of documents, management of case files in courts of appeal and simplification/reduction of court costs. Four substantive changes in the Code concern judicial procedure. The amendment 2008 ("big" amendment) concerns: - harmonisation of the procedure for challenging judges in order to reduce referrals to another judge; - possibility for courts to appoint joint counsel for several parties to the proceedings in cases with over twenty plaintiffs or respondents, making it



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
					possible in particular to expedite proceedings; - simplification of the procedure on inheritance which a notary conducts by permission of the court, being able to issue certificates of succession; - possibility for the parties to serve and to be served documents electronically; - extension of the possibility for the court to determine a case without a hearing and introduction of a simplified procedure for the settlement of minor litigation; - extension of the scope of the legal rules governing court orders, so that courts are authorised to issue not only an order to pay but also an injunction to take or refrain from action; - limitation of the possibility for courts of appeal to challenge the decisions delivered at first instance and to refer them back for review; - introduction of the principle of review in proceedings before the Court of Cassation, enabling it to rectify certain decisions which are appealed on points of law instead of overturning them and referring them to a court below for review. A reform of the Constitution in 2002 introduced a constitutional petition for alleged violations of human rights protected by international treaties.
CM/ResDH(2012)60	ESP / Gomez de Liano y Botella and 1 other case	21369/04+	22/10/2008 22/07/2008	<i>Access to and efficient functioning of justice: Lack of objective impartiality of the courts which convicted the applicants (in one case three judges on the bench had already ruled in the case, when they upheld an indictment on appeal; in the other case three members of the Chamber of the Audiencia Provincial which convicted him had previously been part of the Chamber of the same court that had remanded him</i>	One of the applicants obtained a pardon concerning the disqualification from public service. In 2002, the Judicial Service Commission decided to reinstate him in the judicial profession. The other applicant did not ask for reopening, but requested compensation. Change of case-law of the Supreme Court calling for a more rigorous and "case by case" (considering the concrete circumstances of the case) application of the precept of the Organic Law of the Judiciary on the abstention of judges in cases in which they were involved in earlier stages of the proceedings. The judgment was translated, published and disseminated.



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>in custody by using a wording conveying the impression of his guilt. (Article 6 § 1)</i>	
CM/ResDH(2012)61	SUI / Gsell	12675/05	08/01/2010 08/10/2009	<i>Freedom of expression: Unjustified interference due to a journalist's prohibition to enter the Davos World Economic Forum (WEF) as the measure had not been prescribed by law. (Article 10)</i>	Just satisfaction paid. On 28/11/2001, the Cantonal Parliament of Graubünden adopted a new regulation on the cantonal police filling the legal void existing at the material time. This provision was subsequently replaced by Article 12 of the law on the police of the Canton of Graubünden of 20/10/2004 (in force since 01/07/2005). The judgment was published and disseminated.
CM/ResDH(2012)62	TUR / Paşaoğlu	8932/03	08/10/2008 08/07/2008	<i>Protection of private and family life: Rejection of the applicant's request for renewal of his passport on account of a "restriction note" registered in his name by the Ministry of the Interior to which the applicant had no access, in the absence of any criminal charge against him. (Article 8)</i>	The restriction notice on the applicant's passport was lifted and there is no restriction on the applicant's entering and leaving the Turkish territory. Isolated issue. The judgment was translated, published and disseminated.
CM/ResDH(2012)64	UK / Allen	18837/06	30/06/2010 30/03/2010	<i>Protection of rights in detention: Denial of the right to test the lawfulness of one's detention before a court, due to the refusal of a request by her counsel for the applicant to be present at the</i>	The applicant is no longer held on remand. England and Wales: An amendment was introduced in 2010 to Criminal Procedure Rule 19(17) which governs the right of the defendant to be present at the hearing of a prosecution appeal to the Crown Court against the grant of bail made in a magistrates' court. –



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>hearing of an appeal filed by the prosecutor against a previous judicial decision granting her bail. (Article 5§4)</i>	Scotland: On 24 November 2010, the Lord Justice General passed an Act of Adjournment amending the Criminal Procedure Rules to grant the accused an express right to attend Crown bail appeal hearings. In Northern Ireland, the current practice is that defendants are routinely present (often by means of live video link) for the hearing of prosecution appeals against the grant of bail in the High Court. Additionally, a guidance document was issued in June 2010 to all judges with a criminal jurisdiction. The judgment was published and disseminated.
CM/ResDH(2012)65	UK / M.A.K and R.K	45901/05+	23/06/2010 23/03/2010	<i>Protection of family life and effective remedy: Medical treatment of a child in a public hospital, in particular conducting tests, without parental consent; prevention without legal basis of the father from visiting his daughter due to suspicion of sexual abuse and failure to consult a dermatologist with due urgency. (Articles 8 and 13)</i>	Just satisfaction paid. Statutory guidance to local authorities and others, set out in "Working Together to Safeguard Children", was revised and issued in 2006 and 2010; Volume I of The Children Act 1989 Guidance and Regulations on Court Orders was revised and reissued in 2008: paragraph 4.53 in the chapter on the Protection of Children, sets out clearly that where a Court makes an Emergency Protection Order (EPO) it may give additional directions as to the contact the child may have with certain persons and may be allowed to have with others. Both of the publications above give guidance on EPOs. Tests conducted without consent: The General Medical Council (GMC), the independent regulator for doctors, has issued a range of guidance. The judgment was published and disseminated.
CM/ResDH(2012)66	UK / A.D and O.D	28680/06	16/06/2010 16/03/2010	<i>Protection of family life and effective remedy: Treatment of a mother and son by local authority care services, in particular their relocation to a family centre without the correct assessment during their stay at the centre;</i>	Revised statutory guidance 'Working Together to Safeguard Children' was issued in both 2006 and 2010. Volume I of The Children Act 1989 Guidance and Regulations on Court Orders was revised and reissued in 2008: Advice is provided for cases of concern about a child's welfare, in particular that a child may be suffering, or is at risk of suffering, harm. Assessment



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>placement of the son in foster care due to the lack of a correct assessment and an unreasonable delay in returning him to his family. (Article 8 and 13 together with 8)</i>	processes to be followed are set out and emphasise the importance of evidence based decisions being taken by the local authority to safeguard and promote a child's welfare. The processes before and after care proceedings focus on the power of the Court to give any directions it considers appropriate about medical or psychiatric examination or other necessary assessment of a child when an interim order is made. The purpose of these assessments is to provide the court with the information required to make its decisions.
CM/ResDH(2012)67	UK / Financial Times Ltd and Others	821/03	15/03/2010 15/12/2009	<i>Freedom of expression: Disproportionate interference due to a court disclosure order obliging the applicants to provide documents for the purpose of identifying an anonymous journalistic source which had provided confidential information.(Article 10)</i>	The Government was not a party to the proceedings in question so is not in a position to apply for the order made by the court to be revoked. However any action to enforce it now would be time-barred. The judgment was published and disseminated.
CM/ResDH(2012)68	UK / Al-Saadoon and Mufdhi	61498/08	04/10/2010 02/03/2010	<i>Protection against ill-treatment and remedy: Transfer of two Iraqi nationals to Iraqi custody to stand trial for war crimes despite the indication of an interim measure under Rule 39 by the European Court to the effect that the applicants should not be removed from British custody. (Articles 3, 34 and 13)</i>	<i>Under Article 46 the ECHR stated that "compliance with the obligations under Article 3 of the Convention requires the Government to seek to put an end to the applicants' suffering as soon as possible, by taking all possible steps to obtain an assurance from the Iraqi authorities that they will not be subjected to the death penalty".</i> Al Saadoon and Mufdhi were released from custody by the Iraqi authorities in 2011. This followed the Cassation Court's ratification of the decision made by the Iraqi High Tribunal ("IHT") to acquit the applicants on the basis that there was insufficient evidence against them in relation to the charges that they faced. The Supreme Court came into existence on 01/10/2009; the Supreme Court Rules (Statutory Instrument



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					2009 No. 1603 (L. 17)) now allow for urgent applications to be made in person, the expedition of proceedings, and that either the Court below (which refused the application) or the Registrar of the Supreme Court may stay the execution of an order pending the determination of the case. At times when the Registry is closed, the Registrar can for urgent business be contacted by telephone (Supreme Court Practice Direction 2). The judgment was published and disseminated.
CM/ResDH(2012)69	AUT / Wieser and Bicos Beteiligungen GmbH	74336/01	16/01/2008 16/10/2008	<i>Protection of correspondence: Unlawful search and seizure of electronic data in a lawyer's (owner and general manager of a limited-liability company) office and the company's premises, on the basis of a search warrant issued upon a request for legal assistance by the Naples Public Prosecutor's Office. (Article 8)</i>	The data in question had not been used as evidence during the proceedings in Italy and that it could no longer be used in the future either, as the Italian court's judgment had become final. The domestic courts' case-law that the Code of Criminal Procedure provisions for the seizure of objects also apply to the search for and seizure of electronic data. Isolated incident resulting from its particular circumstances. The judgment was translated, published and disseminated.
CM/ResDH(2012)70	AUT / Rusu	34082/02	02/01/2009 02/10/2009	<i>Protection of rights in detention: Arrest and detention pending expulsion by the Austrian border police of a Romanian national attempting to return to Romania from Spain on the basis of documents issued by the French police following the theft of her passport in France; failure to provide her with prompt and adequate information of the reasons underlying her arrest and detention. (Article 5 §§1f + 2)</i>	The applicant was expelled to Romania. Information sheets for detainees under the new 2005 Aliens Act are available in various languages to police authorities and detention centres via the Intranet site of the Ministry of the Interior. A project was carried out to provide improved electronic information for download by foreigners in 40 languages (short video demonstrations and information about reasons for arrest, about access to legal advice including possibilities of appeal against detention pending expulsion and about return. Today Romanian nationals would fall under the procedures and safeguards of Directive 2004/38/EC. The option of (assisted) voluntary return would be offered in such a case, so that a citizen of a third State under comparable circumstances would



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
					be able to return to the country of origin without being detained. Statistics on the number of cases of detention pending deportation and the number of cases where more lenient measures were adopted for the years 2002 – 2009 were provided showing that in 2009, the number of detention cases pending deportation was reduced to 5 996 (almost half of the number of the year 2002), with more lenient measures having been ordered in 1 877 instances (more than double the figure of the year 2002). The judgment was translated, published and disseminated.
CM/ResDH(2012)71	BEL / Lelièvre	11287/03	31/03/2008 08/11/2007	<i>Protection of rights in detention: Excessive length of detention on remand in the context of highly publicised court proceedings relating to the kidnapping of minors. (Article 5 §3)</i>	Just satisfaction paid. The applicant was sentenced to 25 years of imprisonment. The present case stems from an application in concreto of the legislation 1990 on preventive detention isolated incident in its particular circumstances: the complexity of the case, the multiplicity of actors, the gravity of the offenses, the publicity of the case, etc.), closely related to the particularities of the Dutroux case. The judgment was published and disseminated.
CM/ResDH(2012)72	CRO / Majski (No. 2)	16924/08	19/10/2011 19/07/2011	<i>Access to and efficient functioning of justice: Refusal of domestic courts to examine the applicant's case on merits, despite the fact that the State Attorneys Council had informed him to resort to a wrong remedy. (Article 6 §1)</i>	The applicant's petition for reopening of proceedings was dismissed as it was lodged out of time. The new Law on Administrative Disputes entered into force on 01/01/2012 regulating proceedings before first instance administrative courts and the High Administrative Court. It stipulates that court shall prevent ignorance of parties to harm their procedural rights prescribed by law. The court shall call upon the plaintiff to remedy the deficiency within a set time-limit. The same rule applies in appellate proceedings regarding the deficiencies of an appeal. Regarding remedies available against decisions of the State Attorney's Council, the Administrative



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					Court held in November 2004 that such decisions could only be challenged by a request for the protection of constitutionally guaranteed rights. The judgment was translated, published and disseminated.
CM/ResDH(2012)73	DNK / Christensen, Valentin and Nielsen	247/07+	22/04/2009 22/01/2009	<i>Access to and efficient functioning of justice, lack of respective remedy and protection of property: Excessive length of one set of civil proceedings for medical malpractice, another set of proceedings concerning the applicant's responsibility for stripping the assets of his former company as well as a third set of bankruptcy proceedings; absence of an effective remedy to complain about the length of the proceedings as well as unjustified interference with property rights as a consequence of the deprivation of the possibility to administer one's assets for almost the entire duration of the proceedings. (Articles 6 §1, 13 and 1 of Protocol No. 1)</i>	Just satisfaction paid. In the cases at issue the excessive length was closely linked to the special circumstances of these cases, and that the general obligation to respect the reasonable-time requirement is today well anchored in judicial practice, see ResDH(96)606 in A.. New specific acceleratory remedies were introduced to prevent excessive length of proceedings (section 152a of the Administration of Justice Act and section 127a of the Bankruptcy Act, with entry into force in January 2007 and July 2007). Possibilities of compensation are ensured by the Administration of Justice Act. The length of the bankruptcy proceedings were an isolated incident due to its special circumstances. The judgments were translated, published and disseminated.
CM/ResDH(2012)74	EST / Mikolenko	10664/05	08/01/2010 08/10/2009	<i>Protection of rights in detention: Excessive length of detention of a Russian national in view of his deportation to the Russian Federation due to periods due to lacking realistic prospects of deportation and failure to conduct the proceedings with due diligence. (Article 5 §1f)</i>	The applicant was released and his request for re-opening of the proceedings concerning his placement in the deportation centre was granted. Isolated case. The judgment was translated, published and disseminated.



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CM/ResDH(2012)75	FIN / Kangasluoma and 34 other cases	48339/99+	14/06/2004 20/01/2004	<i>Access to and efficient functioning of justice and lack of respective remedy: Excessive length of civil and criminal proceedings and in several cases also absence of an effective remedy enabling the applicants to complain about the length of the proceedings. (Articles 6 §1 and 13)</i>	Just satisfaction paid. The domestic proceedings are closed in all the cases. Organisational measures to expedite criminal and civil proceedings were adopted and legislative reforms introduced effective compensatory and preventive remedies. The Act on Compensation for Excessive Duration of Judicial Proceeding entered into force on 01/01/2010. Applicants are entitled to obtain reasonable compensation from the state budget in case of excessive length of proceedings when the delay in proceedings has been attributable to the authorities. The assessment of the length of proceedings and the amount of compensation (to be determined by the court examining the merits of the case) should correspond to ECHR practice. The Code of Judicial Procedure (4/1734) was amended: new Chapter 19 provides a possibility for district courts to order a matter to be considered urgent at the request of a part, if there is a compelling reason. As a rule, a request for urgent consideration is decided by a judge other than the one considering the merits of the case.
CM/ResDH(2012)76	FRA / Tedesco	11950/02	10/08/2007 10/05/2007	<i>Access to and efficient functioning of justice: Denial of a fair hearing on account of the presence of both the Rapporteur and the Government Commissioner at the deliberations of several judgments delivered by the Regional Audit Commission of Alsace. (article 6 §1)</i>	Just satisfaction paid. Reopening of civil proceedings not possible due to principle of judicial security. A new law meeting the criteria of the Convention and the case law of the European Court was adopted. Act No. 2001-1248 of 21/09/2001 on the regional audit chambers and the Audit Court and Decree No. 2002-1201, 27/12/2002 provides that, in matters of management of facts and fines, the bench "deliberates without the presence of the reporter." The same decree also provides that the Commissioner of the Government does not take part in the deliberations. The judgment was published and disseminated.



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CM/ResDH(2012)77	FRA / Cliniques des Acacias	65399/01	13/01/2006 13/10/2005	<i>Access to and efficient functioning of justice: Failure to respect the right of the applicants (private hospitals) to an adversarial trial, insofar as their appeals have been dismissed by the Cour de cassation in 2000, on a ground raised ex officio by the court, without informing the parties beforehand. (Article 6§1)</i>	No just satisfaction for material damage awarded. Reopening of civil proceedings was not possible due to the principle of judicial security. The laws had not been challenged in this case. The judgment was published and disseminated.
CM/ResDH(2012)78	FRA / Arma	23241/04	09/07/2007 08/03/2007	<i>Access to and efficient functioning of justice: Lack of access to a court due to impossibility for a commercial company's manager to lodge an appeal against a judicial decision declaring the company bankrupt. (Article 6 §1)</i>	No just satisfaction for material damage awarded. Reopening of civil proceedings was not possible due to the principle of judicial security. Law No. 2005-845 of 26/07/2005 repealed the legal provision (former Article L 622-9 of the Commercial Code) which prevented a company director, in a situation similar to that of the applicant, to exercise any remedy, and replaced it with a new provision (Article L 641-9 of the Commercial Code) allowing it. The judgment was published and disseminated.
CM/ResDH(2012)79	FRA / Blandeau	9090/06	01/12/2008 10/07/2008	<i>Access to and efficient functioning of justice: Denial of right of access to the Conseil d'Etat due to the omission to notify in due time two decisions rejecting appeals made by the applicant. (Article 6 §1)</i>	The finding of a violation constitutes a sufficient redress. Reopening of civil proceedings was not possible due to the principle of judicial security. Case closely linked to its special circumstances. The judgment was published and disseminated, in particular to the Conseil d'Etat.
CM/ResDH(2012)80	FRA / Baumet	56802/00	24/10/2007 24/07/2007	<i>Access to and efficient functioning of justice: Unfairness of proceedings before the courts of audit due to disclosure of certain documents to the prosecutor and the reporting judge of the Cour des Comptes (second instance court) without</i>	No just satisfaction for material damage awarded. Reopening of civil proceedings was not possible due to the principle of judicial security. For general measures see CM/ResDH(2010)124 in Martinie. Decree of 27/09/2002 inserted Article R131-42 into the Code of Financial Jurisdictions, which now provides expressly for all parties to be



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>information of the applicant. (Article 6 §1)</i>	provided with all new documents or submissions in the case-file in order to be able to submit their observations to the court. Furthermore, Act No. 2008-1091 of 28/10/2008 on the Court of Auditors and the Regional Audit Chambers clearly establishes the principle of adversarial proceedings both for the proceedings. The judgment was published and disseminated.
CM/ResDH(2012)81	FRA / Frérot	70204/01	12/09/2007 12/06/2007	<i>Protection against ill-treatment, of correspondence in prison and lack of effective remedy as well as access to and efficient functioning of justice: Degrading treatment of a former member of "Action Directe", a left-wing armed faction, serving a life-sentence, due to strip searches without any convincing argument related to security or prevention of criminal offences. Failure to respect of his correspondence, due to the refusal of the prison governor to forward a letter to another detainee; absence of a remedy; excessive length of certain proceedings before the Conseil d'Etat. (Articles 3, 8, 13 and 6§1)</i>	Just satisfaction paid. The applicant is on conditional release and proceedings are closed. The legal framework concerning body searches was changed (Penitentiary Law of 24/11/2009, accompanied by a new Decree and a circular letter). Body searches must now comply with the principles of necessity and proportionality. Freedom of correspondence in prison is enshrined in article 40 of the Act No. 2009-1436 as "correspondence sent or received by detained persons subject to security requirements". This principle is reflected in application decree of 23 /12/2010 which amended article R. 57-8-16 of the Code of Criminal Procedure and in the circular of 9/06/2011 to prison staff. The administrative courts' case-law extended the possibility to use the complaint for "excessive use of power", in particular with regard to protection against ill-treatment and of correspondence. The administrative case-law accepts that an administrative appeal may be lodged against such a decision to retain correspondence. There is little jurisprudence on this issue because there is no referral to the courts, which clearly reflects the very small number of incidents involving the retention of correspondence. For general measures with regard to excessive length of proceedings before the Conseil d'Etat see ResDH(2005)63 in Broca and Texier-Micault. The judgment was published and



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					disseminated.
CM/ResDH(2012)82	FRA / Khider	39364/05	09/10/2009 09/07/2009	<i>Protection against ill-treatment and conditions of detention: Classified as a "prisoner requiring special supervision" the applicant was subjected to repeated transfers from one prison to another, prolonged periods in solitary confinement and regular strip searches, which amounted to inhuman and degrading treatment and lack of effective remedy to complain about these measures. (Article 3 and 13 in conjunction with 3)</i>	Just satisfaction paid. The applicant was released. For general measures in respect of body searches see CM/ResDH(2012)81 in Frérot. Isolation measures were reviewed by Decree No. 2010-1634 of 23 December 2010. Article 57-7-63 of the Code of Criminal Procedure requires that detainees who are subject to segregation measures be seen by a doctor at least twice a week and as often as the latter deems necessary. Concerning the repeated transfers of detainees from one prison to another (see also Payet) a balance is to be struck between the needs of security and the well-being of the prisoner: respective decisions are subject to the supervision of the administrative judge. Moreover, a circular of 16/08/2007 repealed the memorandum from the Ministry of Justice of 20/10/2003 on the management of the most dangerous prisoners in detention centers. Transfers and body searches can be appealed against at administrative courts. The judgment was published and disseminated.
CM/ResDH(2012)83	GER / Brauer	3545/04	28/08/2009 28/05/2009	<i>Discrimination and protection of family life: Discriminatory interference with the right to family life in that the applicant, born out of wedlock, was unable to assert her inheritance rights in respect of her late father. (Article 14 in conjunction with Article 8)</i>	The amount of just satisfaction was concluded in the framework of a friendly settlement and paid. In April 2011, the "Second Act for equal inheritance rights for children born outside of marriage, amending the Code of Civil Procedure and the Fiscal Code" entered into force, partly retroactively as from May 2009, thereby eliminating the existing unequal treatment under the law of succession of children born outside marriage. According to this Act, all children born outside marriage, including those born before 01/07/1949, will in particular have a statutory right of inheritance in respect of their fathers and their paternal relatives. The new rules will apply to all



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
					inheritance cases which have occurred since the delivery of judgment on 29/05/2009. As regards cases in which the State became the statutory heir because a child born outside wedlock before 01/07/1949 had no statutory right of inheritance in respect of their father or father's relatives, compensation may be claimed from the State. The judgment was translated, published and disseminated.
CM/ResDH(2012)84	GRC / Mavroudis	72081/01	22/12/2005 22/09/2005	<i>Access to and efficient functioning of justice: Failure of university authorities to comply with domestic judgments concerning the applicant's appointment to the post of lecturer; excessive length of proceedings before administrative courts relating to the applicant's appointment and relating to two requests for damages. (Article 6 §1)</i>	Just satisfaction paid. The applicant was awarded compensation by the national courts in the amount of a sum equivalent to the salary that he would have received if the administration had appointed him for those three years. The proceedings lodged by the applicant for further damages concerning the period after the initial three years were rejected as ill-founded in 2006. Measures concerning non-compliance with domestic courts' judgments are examined in the Beka-Koulocheri group. Measures concerning excessive length of proceedings before administrative courts are being supervised in the context of the pilot judgment Vassilios Athanasiou. The judgment was translated, published and disseminated.
CM/ResDH(2012)85	GRC / Reklos and Davourlis	1234/05	15/04/2009 15/01/2009	<i>Protection of private life and access to and efficient functioning of justice: Dismissal by national courts of the applicants' action for damages, by which they were complaining about the taking of photographs of their new-born baby without their prior consent and denial of access to the Court of Cassation, due to its excessively formalistic approach as</i>	Impossibility to trace the photographer and to destroy the negatives. Reopening of civil proceedings legally not possible. Just satisfaction paid. The judgment was translated, published and disseminated. As concerns the Court of Cassation's formalistic approach, measures are being examined in the Alvanos group.



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>regards admissibility grounds. (Articles 6 §1 + 8)</i>	
CM/ResDH(2012)86	GRC / Stamouli and Others and Christodoulou	1735/07+	28/08/2009 28/05/2009	<i>Access to and efficient functioning of justice: Lack of access to a court due to the application by the Court of Audit of a procedural rule no longer in force, resulting in annulment ipso jure of the proceedings that the applicants had initiated and in the filing of their case in the archives. (violation of Article 6 §1)</i>	Just satisfaction paid. National law does not allow reopening of proceedings before the Court of Audit following a judgment by the European Court. No similar case pending before ECtHR. The judgment was translated, published and disseminated, including to the Court of Audit.
CM/ResDH(2012)87	GRC / Kokkinis and Reveliotis	45769/06+	04/12/2008 06/11/2008	<i>Protection of property: Interference due to random interpretation and application by the Audit Court of national law in determining the date of entitlement to retroactive payment of pension rights. (Article 1 of Protocol No. 1)</i>	Just satisfaction paid. The case-law of the Court of Audit that appeared contradictory for some time, has now fully endorsed the ECHR's findings. The judgment was translated, published and disseminated, including to the Court of Audit.
CM/ResDH(2012)88	HUN / Ternovszky	67545/09	14/03/2011 14/12/2010	<i>Protection of family life: Lack of regulation of home birth resulted in a situation incompatible with the notion of foreseeability and lawfulness. Therefore the interference with the mothers' right to give birth at home was not prescribed by law. (Article 8)</i>	Government Decree no. 35/2011 of 21 March 2011 introduced rules governing the professional and material conditions of home birth. The regulation, affecting births after 01/05/2011, lays down all the duties, responsibilities and competencies of those assisting homebirths. Professionals home birth assistants have to have the required qualification (professional obstetricians or midwives with labour room experience exceeding two years or registered assistance at minimum 50 births) as well as a license from the public health and medical officer service. The judgment was translated, published and disseminated.



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
CM/ResDH(2012)90	HUN / Lánchíd Hítel és Faktor Zrt.	40381/05	02/02/2011 02/11/2010	<i>Protection of property: Declaration of non-enforceability by domestic courts of certain debts - in particular social security contributions - previously assigned to the applicant company by the tax authorities. (Article 1 of Protocol No. 1)</i>	Just satisfaction paid. The case resulted from a problematic interpretation by the courts of Section 3(3) c) of the (Old) Taxation Order Act 1990 repealed by Act no. LVI of 2005, as the interpretation of the Supreme Court in Uniformity Decision no. 2/2004.PJE – an economically unjustified misconception of the law running counter to the intentions of the lawmaker – rendered unenforceable and thus worthless those tax debts which could not be recovered in the liquidation of the original debtors. Thus a legal avenue of a civil action was opened for the assignees of such claims vis-à-vis those with vicarious liability. The judgment was translated, published and disseminated.
CM/ResDH(2012)91	HUN / Potapenko	32318/05	01/05/2011 01/02/2011	<i>Access to and efficient functioning of justice and freedom of movement: Excessive length of criminal proceedings and excessive length of passport confiscation. (Articles 6 §1 and 2§2 of Protocol No. 4)</i>	The Criminal Code was amended and the former travel restrictions abroad until the final conclusion of the criminal procedure were abolished in 2003,. The issue of excessive length of judicial proceedings is being examined within the context of the Timár group. The judgment was translated, published and disseminated.
CM/ResDH(2012)92	HUN / Szepesi	7983/06	21/03/2011 21/12/2010	<i>Protection of rights in detention: Excessive length of detention on remand due to period of inactivity irreconcilable with the requisite "special diligence". (Article 5 §3)</i>	Just satisfaction paid. The excessive time spent in pre-trial detention was taken into account by the court in the sentence. For general measures concerning excessive length of pre-trial detention see CM/ResDH(2011)222 in Imre, Maglódi, Csáky and Bärkányi. The judgment was translated, published and disseminated.
CM/ResDH(2012)93	LUX / Kemp and Others	17140/05	24/07/2008 24/04/2008	<i>Access to and efficient functioning of justice: Denial of access to a court due to excessive formalism shown by the Court of Cassation in declaring inadmissible</i>	Just satisfaction paid. Reopening of civil proceedings prohibited by the principle of legal security. Possibility of the applicants to introduce an action for State responsibility according to the Law on Civil Responsibility of the State of 01/09/1988. Law of



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>appeals on points of law. (Article 6 §1)</i>	03/08/2010 amended the amended law of 18 February 1885 on the appeals and cassation proceedings: now statement of means in cassation "may be supplemented by points of law." Under this new law, the case-law of the Court of Cassation has evolved towards more flexibility with regard to formal requirements. The judgment was published and disseminated.
CM/ResDH(2012)94	LUX / Dattel No. 2	18522/06	10/12/2009 30/07/2009	<i>Access to and efficient functioning of justice: Denial of access to a court due to excessive formalism shown by the Court of Cassation in declaring inadmissible appeals on points of law. (Article 6 §1)</i>	Just satisfaction paid. Reopening of civil proceedings prohibited by the principle of legal security. Possibility of the applicants to introduce an action for State responsibility according to the Law on Civil Responsibility of the State of 01/09/1988. Law of 03/08/2010 amended the amended law of 18 February 1885 on the appeals and cassation proceedings: now statement of means in cassation "may be supplemented by points of law." Under this new law, the case-law of the Court of Cassation has evolved towards more flexibility with regard to formal requirements. The judgment was published and disseminated.
CM/ResDH(2012)95	LUX / Nunes Guerreiro	33094/07	05/02/2010 05/11/2009	<i>Access to and efficient functioning of justice: Denial of access to a court due to excessive formalism shown by the Court of Cassation in declaring inadmissible appeals on points of law. (Article 6 §1)</i>	Just satisfaction paid. Reopening of civil proceedings prohibited by the principle of legal security. Possibility of the applicants to introduce an action for State responsibility according to the Law on Civil Responsibility of the State of 01/09/1988. Law of 03/08/2010 amended the amended law of 18 February 1885 on the appeals and cassation proceedings: now statement of means in cassation "may be supplemented by points of law." Under this new law, the case-law of the Court of Cassation has evolved towards more flexibility with regard to formal requirements. The judgment was published and disseminated.
CM/ResDH(2012)96	LUX / Ewert	49375/07	21/10/2010 22/07/2010	<i>Access to and efficient functioning of justice: Denial of access to a court due to</i>	Just satisfaction paid. Reopening of civil proceedings prohibited by the principle of legal security. Possibility of the applicants to



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>excessive formalism shown by the Court of Cassation in declaring inadmissible appeals on points of law. (Article 6 §1)</i>	introduce an action for State responsibility according to the Law on Civil Responsibility of the State of 01/09/1988. The amended law of 18 February 1885 was modified in 2010 with regard to appeals and cassation proceedings: now statement of means in cassation "may be supplemented by points of law." Under this new law, the case-law of the Court of Cassation has evolved towards more flexibility with regard to formal requirements. The judgment was published and disseminated.
CM/ResDH(2012)99	ESP / Juez Albizu	25242/06	10/02/2010 10/11/2009	<i>Access to and efficient functioning of justice: Denial of a fair trial due to the lack of reasoning in a court decision, dismissing the appeal in civil proceedings brought against a property development company for failure to honour its contractual obligations concerning the building of a villa. (Article 6 §1)</i>	No just satisfaction for pecuniary damage awarded. Reopening of civil proceedings not possible due to principle of legal security. Isolated case as domestic law provides for the obligation of the judiciary to deliver reasoned decisions (Article 24 and 120 of the Constitution) and there is a consolidated doctrine of the Constitutional Court on the right to reasoned and sufficient reasoning of judgments. As stated in the judgment of TC 95/1990, "incongruity of judicial resolutions may imply a technical denial of justice and, consequently, a violation of the right to effective judicial supervision guaranteed by the Constitution". The judgment was translated, published and disseminated and is used in training of judges and magistrates.
CM/ResDH(2012)100	ESP / Stone Court Sipping and 7 other cases	55524/00+	28/01/2004 28/11/2003	<i>Access to and efficient functioning of justice: Denial of access to a court on account of the inconsistent or particularly strict interpretation by the court of rules of procedure by the Supreme Court or the Constitutional Court in civil proceedings. (Article 6 §1)</i>	Just satisfaction paid. Reopening of civil proceedings prohibited by the principle of legal security. Possibility of the applicants to introduce an action for State responsibility according to the Law on Civil Responsibility of the State of 01/09/1988. Change of the Constitutional Court's and Supreme Court's case-law, allowing the establishment of criteria to assess an application's admissibility which does not fulfil all requirements provided for by the codes of procedure. The



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
					judgment was translated, published and disseminated.
CM/ResDH(2012)101	SUI / Werz	22015/05	17/03/2010 17/12/2009	<i>Access to and efficient functioning of justice: Excessive length of criminal proceedings due to a judgment notification of the Supreme Court of the Canton of Berne 15 months after an oral hearing, despite the cantonal criminal procedure code (Article 314) requiring a 60 daytime-limit; denial of a fair hearing as submissions made by the prosecutor's office and the cantonal Supreme Court during the proceedings before the Federal Court were not communicated to the applicant. (Article 6 §1 twice)</i>	Just satisfaction paid. The applicant did not avail himself of the possibility to request reopening of proceedings. The case was clearly of a singular nature with regard to the excessive length of procedure. The judgment was translated, published and disseminated, including to the Cantonal Supreme Court.
CM/ResDH(2012)102	SUI / Losonci Rose and Rose	664/06	09/02/2011 09/11/2010	<i>Protection of private life and discrimination: Discrimination with regard to a binational couple's choice of surname. (Article 14 in conjunction with 8)</i>	Just satisfaction paid. The applicants requested review of their request concerning the choice of their surname, which finally was granted on the basis of new legislation. The judgment was translated, published and disseminated. In a first step the Federal Tribunal changed its case-law. In a second step, on 30/09/2011, a bill was adopted according to which, each spouse will retain his/her name. The couple may, however, declare to the civil status officer a common surname. They can choose between the bridegroom's and the bride's birth name (new version of Article 160 of the Civil Code). Under a transitional arrangement, "the spouse who had changed his/her name before the entry into force of this amendment of the Civil Code may declare at any time to the civil status officer that he/she will use her birth name. The amended provisions



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					entered into force on 01/01/2013.
CM/ResDH(2012)103	SUI / Schaller-Bossert and Ellès and Others	41718/05+	28/01/2011 28/10/2010	<i>Access to and efficient functioning of justice: Breach of the principle of equality of arms in proceedings before the Federal Tribunal: in one case concerning the applicant's termination of employment as a school teacher and in the second case concerning the related to the attribution of three children to a school located outside their municipality of residence (Article 6 § 1).</i>	Just satisfaction paid. Reopening was not envisaged in both cases due to time lapse and principle of legal security. Change of case-law by the Federal Tribunal in 2005 after the fact of the cases. The judgment was translated, published and disseminated.
CM/ResDH(2012)105	TUR / N.A. and Others and 22 other cases	37451/97	11/02/2006 11/11/2005	<i>Protection of property: Absence of compensation for the annulment of the registration of property belonging to the applicants in that the plots of land in question were located on the seashore and could not be privately acquired. (Article 1 of Protocol No. 1)</i>	Just satisfaction awarded for pecuniary damage was paid. The Court of Cassation established new case-law in 2007/08 according to which the State has an objective responsibility for keeping the records in the land register and the administration has to pay compensation for damages from incorrect registration. It considered that the responsibility enshrined in Article 1007 of the Civil constituted an objective responsibility which did not depend on the existence of a fault on behalf of the authorities and that a plaintiff is presumed to have acted in good faith if he/she bought his/her property relying on the information in the land registers. As for the amount of the compensation determined by the Court of Cassation, this should correspond to the exact value of the land in question. The judgment was translated, published and disseminated.
CM/ResDH(2012)106	TUR / Turgut and Others and	1411/03+	26/01/2009 08/07/2008	<i>Protection of property: Lack of compensation following the annulment of titles of plots of land in the framework</i>	Just satisfaction awarded for pecuniary damage was paid. In November 2009, the joint civil divisions of the Court of cassation, relying on the ECHR's case-law, held that the State



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
	18 other cases			<i>of the public forest law regime. (Article 1 of Protocol No. 1)</i>	bore responsibility for any irregularities in the land registers. The State could be held liable for the loss or privation of any interest or rights as a result of incorrect entries in the land registers and that the State was accountable for any damage stemming from entries that were incorrect or had no basis. Where an individual's document of title had been declared void because the land was part of the public forest estate, the individual concerned was entitled to claim compensation under Article 1007 of the Civil Code. In October 2011 the 20th Civil Division of the Court of Cassation ruled that anyone whose title to property had been annulled and transferred to the Treasury could bring a claim for compensation under Article 1007 of the Civil Code within 10 years, in accordance with Article 125 of the Code on Obligations. It specified that the amount of compensation should be assessed on the basis of the use, nature and value of the property in question. The judgment was translated, published and disseminated.
CM/ResDH(2012)108	UK / MacKay and BBC Scotland	10734/05	07/03/2011 07/12/2010	<i>Freedom of expression and information and effective remedy: Inability to challenge a court order which imposed reporting restrictions in a criminal trial in Scotland, as the procedure for challenge was informal and did not include the requisite safeguards. (Article 13 in conjunction with Article 10)</i>	No just satisfaction was claimed or awarded. The order about which the applicants complained had been recalled by the domestic court on 21/06/2005. Legislative measures, the Act of Adjournment (Criminal Procedure Rules Amendment No. 3) 2011 had been put in place to provide an effective procedural remedy. The instrument put the previous administrative arrangements into a legally binding form. The judgment was published and disseminated.
CM/ResDH(2012)110	AUT / Zeman	23960/02	29/09/2006 29/06/2006	<i>Discrimination and protection of property: Discriminatory treatment as a result of the application of the amended Pension and Pension Allowance Act</i>	A friendly settlement covering the entire applicant's claims in respect of his widower pension, was confirmed by the Court in its judgment on Article 41, delivered on 10/02/2008. Solitary incident due to the transitional arrangements of the Pension



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				<i>according to which, widowers were entitled to receive 40% of the pension their deceased wife had acquired before January 1995 while widows were entitled to 60% of the pension of their deceased husband. (Article 14 in conjunction with Article 1 of Protocol No. 1)</i>	and Pension Allowance Act. No further complaints occurred. If such complaints were to occur, the relevant transitional provisions in line with the present ECHR judgment would be applied. The judgment was translated, published and disseminated.
CM/ResDH(2012)111	BEL / Poncelet	44418/07	04/10/2010 30/03/2010	<i>Access to and efficient functioning of justice: Breach of the presumption of innocence due to the prosecution of senior civil servant on basis of reports compiled during an administrative inquiry that was biased against him. (Article 6 §2)</i>	Just satisfaction paid. Proceedings were time-barred. Police services were reformed and all police inspectors benefit from a sound judicial police training, in particular with a focus on human rights. In addition, the code of ethics adopted on 10/05/2006 stipulates in Article 127 that: "Staff members shall avoid any act or attitude likely to undermine the presumption of impartiality. They must prohibit all arbitrariness in their interventions, in particular by preventing, in the way they intervene or because of the object of their intervention, the impartiality which citizens are entitled to expect from them Article 235bis §5 C.I.C. (Code d'Instruction Criminelle) determining the court competent to examine the grounds of inadmissibility raised by the parties was amended in the framework of the law of 21/12/2009 on the reform of the Assize Court, clarifying that the grounds of inadmissibility based on public policy cannot be examined before the trial judge, if the Indictments Chamber (investigating court) had ruled on them. Thus, difficulties in the application of Article 235bis §5 in the present case could no longer arise. The judgment published and disseminated.
CM/ResDH(2012)112	BEL /	926/05	16/11/2010	<i>Access to and efficient functioning of</i>	Just satisfaction paid. The proceedings were reopened on



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
	Taxquet		Grand Chamber	<i>justice: Lack of a fair trial due to the insufficient safeguards enabling the applicant to understand the reasons why he had been found guilty by the Assize Court (Article 6 § 1).</i>	request of the applicant. The law of 21/12/2009 on the reform of the Assize Court (entry into force 21/01/2010) reformed and modernised the procedure before that court aiming at a reduction of cases, an improved quality of the judgments and the promotion of the rights of the defense. The jury's decision on guilt must henceforth be substantiated. The jury initially deliberates on the guilt, then the judges together with the jurors and the clerk hold a second deliberation to establish the motivation in writing (Articles 322-338 of the Code of Criminal Procedure). The judgment published and disseminated.
CM/ResDH(2012)117	DNK/ Osman	38058/09	14/09/2011 14/06/2011	<i>Protection of private and family life: Refusal to renew the applicant's, a Somali national, residence permit after she had spent more than two years living in Kenya without a fair balance being struck between her interests and the State's interest in controlling immigration. (Article 8)</i>	Just satisfaction paid. The applicant's residence permit was reinstated. A memorandum interpreting and explaining the legal consequences of the judgment was made public on 08/07/2011 on the webpage of the Ministry of Integration. The judgment was translated, published and disseminated.
CM/ResDH(2012)118	FRA / Gouttard	57435/08	30/09/2011 30/06/2011	<i>Access to and efficient functioning of justice: Excessive length of proceedings before administrative courts preventing the applicant from working his farm during this period. (Article 6 §1)</i>	Just satisfaction paid; proceedings closed in 2004. Case based on a different interpretation of the "reasonable length" criteria of national courts and the ECHR. The judgment was published and disseminated.
CM/ResDH(2012)119	FRA / Katritsch	22575/08	04/02/2011 04/11/2010	<i>Access to and efficient functioning of justice: Infringement of the right to have adequate time and facilities for the preparation of one's defence and of assistance by a lawyer, due to the Court</i>	Just satisfaction paid. The applicant had the possibility of requesting reopening of proceedings. Isolated case. The judgment was published and disseminated.



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>of Appeal's refusal to postpone a hearing. (Article 6 §3 b+c).</i>	
CM/ResDH(2012)120	FRA / Staszkow	52124/08	06/01/2012 06/10/2011	<i>Access to and efficient functioning of justice: Impossibility, in civil proceedings, to lodge an appeal in due time due to an error by a Legal Aid Office which resulted in the designation of a legal aid lawyer only after the expiration of the time-limit for appeal. (Article 6 §1)</i>	Just satisfaction paid. According to article L 141-1 of the Code on Judicial Organisation the applicant may seek State responsibility for the consequence of the occurred public service deficiency. Isolated case. The judgment was published and disseminated.
CM/ResDH(2012)121	FRA / Vellutini and Michel	32820/09	06/01/2012 06/10/2011	<i>Freedom of expression: Conviction of two unionists to pay a criminal fine and damages on account of comments against a mayor, contained in a flyer. (Article 10)</i>	Just satisfaction paid. Reopening of criminal proceedings and erasure of conviction from criminal records may be requested. See also other means of rectification of criminal records in CM/ResDH(2011)57. Case was due to its particular circumstances. The judgment was published and disseminated.
CM/ResDH(2012)122	FRA / Baucher	53640/00	24/10/2007 24/07/2007	<i>Access to and efficient functioning of justice: Unfair criminal proceedings and breach of the rights of defence due to impossibility to obtain disclosure of the reasons for a first-instance conviction (tribunal correctionnel) before the expiry of the 10-day time-limit for lodging an appeal. (Article 6 §§ 1 and 3 b)</i>	Just satisfaction paid. The applicant may request reopening of proceedings. Article 500-1 of the Criminal Code was amended on 15/06/2011 allowing the appellant to withdraw his main appeal within one month, which would result in the lapsing of incident appeals, including those of the prosecution. The judgment was published and disseminated.
CM/ResDH(2012)123	FRA / Girard	22590/04	30/09/2011 30/06/2011	<i>Protection of life and of private and family life: Lack of effective investigation following the suspect</i>	Just satisfaction paid. Case due to its particular circumstances. The judgment was published and disseminated.



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>disappearance of the applicants' daughter, finally found dead and excessive delay for the restitution of samples taken from the daughter's body for the investigation. (Articles 2 and 8)</i>	
CM/ResDH(2012)124	FRA / Ligue du monde islamique and Organisation islamique mondiale du secours islamique	36497/05	15/04/2009 15/01/2009	<i>Access to and efficient functioning of justice: The obligation imposed on a foreign association without a head office in France to make a declaration to the prefecture in order to be able to take part in court proceedings constituted an insufficiently foreseeable restriction, which affected the substance of the right of access to a tribunal, as their complaints for defamation being declared inadmissible. (Article 6 §1)</i>	Just satisfaction for non-pecuniary damage paid. In a judgment of 08/12/2009, the Court of Cassation stated that "any foreign legal person claiming to be a victim of an offence, is entitled to institute proceedings before a French court under the conditions laid down in Article 2 of the Code of Criminal Procedure, even without establishment in France or a preliminary declaration to the prefecture". Thus, under current case-law, a foreign association having neither its head-office nor an establishment in France can now initiate legal action. The judgment was published and disseminated.
CM/ResDH(2012)125	GEO / Pandjigidze and Gorgiladze	30323/02+	20/10/2009 20/07/2009	<i>Access to and efficient functioning of justice and protection against ill-treatment: Trial court was "not established by law" as two of the three judges sitting at the bench convicting the applicants were not professional judges and the exercise of their functions had no sufficient legal basis in domestic law; the Gorgiladze case also concerns conditions of the applicant's detention at Tbilisi prison No. 5 amounting to ill-treatment. (Articles 6 §1 and 3)</i>	Just satisfaction for non-pecuniary damage paid. Mr Gorgiladze is currently serving his sentence in Prison No. 17 of Gegouti. Tbilisi Prison No 5 was demolished end of 2008. On 1/1/2012, Article 310 e of the Code of Criminal Procedure was amended allowing to request, before 1 July 2012, reopening of proceedings. However, the applicants did not avail themselves of this opportunity. Additional amendments to the Code of Criminal Procedure of 25/03/2005 abolished the institution of non-professional judges. The judgment was translated, published and disseminated.



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
CM/ResDH(2012)126	GER / Hellig	20999/05	01/10/2011 07/07/2011	<i>Protection against ill-treatment: Ill-treatment due to detention in security cell for 7 days without clothing in the absence of sufficient reasons for such a deprivation. (Article 3)</i>	Just satisfaction paid. A survey was carried out showing that most Laender perceived a much lesser danger in the provision of garments to those at risk of suicide than estimated in Hesse. Hamburg, Lower Saxony, Rhineland-Palatinate, Saxony-Anhalt, Brandenburg, North Rhine-Westphalia, Saxony, Saarland and Thuringia provide normal tracksuits or similar garments, and in some cases even quilts or woollen blankets. Bavaria plans to introduce a rule to stipulate the provision – in addition to a piece of disposable underwear made from non-woven material – of a shirt and a cover, each made of tear-resistant material. In Baden-Württemberg, aside from underwear made of non-woven material, some prisoners are given shirts made out of tear-proof, non-twistable material. Hessen decided – in addition to a cover and a piece of underwear made of non-woven paper – to provide prisoners with a paper shirt. The judgment was translated, published and disseminated.
CM/ResDH(2012)128	LUX / Guill	14356/08	16/02/2012	<i>Access to and efficient functioning of justice: Excessive length of civil bankruptcy proceedings bankruptcy. (Article 6 §1)</i>	Just satisfaction paid. Proceedings closed. Liquidation proceedings are currently in general rapid and effective. In an exceptionally long case such as the one at issue, a domestic remedy for the length of proceedings now exists and was recognized as effective by the ECHR. Furthermore, the Act on the civil liability of the State and public authorities 1988 explicitly provides that "the State and other legal persons governed by public law hold responsibility, each in the framework of its public service missions, for any damage caused by the defective functioning of their services, whether administrative or judicial. Thus, it is possible to obtain compensation for the loss suffered as a result of dysfunctioning of the administration by means of an action for damages, brought either on the basis of Articles 1382 et seq. of the Civil



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
					Code or on the basis of the special law of 1988. The judgment was published and disseminated.
CM/ResDH(2012)129	NDL / Lalmahomed	26036/08	22/05/2011 22/02/2011	<i>Access to and efficient functioning of justice: Denial of a fair trial on account of the fact that the single-judge chamber of the Court of Appeal sitting as the President refused leave to appeal, holding that the grounds for appeal were implausible, without having undertaken a full and thorough evaluation of the relevant factors. (Article 6 §1 combined with 6 §3 (c))</i>	The applicant did not file any request for retrial in application of Article 457 §1 (3) of the Code of Criminal Procedure. The judgment was translated, published and disseminated. Furthermore, in September 2011, the Minister of Security and Justice brought the judgment to the attention of the chair of the Council for the Judiciary pointing out that, in certain cases, a more proactive investigative stance is necessary on the part of the court hearing an application for leave to appeal.
CM/ResDH(2012)130	NDL / Van Velden	30666/08	19/01/2012 19/07/2011	<i>Protection of rights in detention: Domestic courts' rejection of the applicant's appeal against pre-trial detention as out of time, due to wrongful application of domestic law. (Article 5 §4)</i>	The applicant was sentenced to a term of imprisonment from which the time which he had spent in detention on remand was deducted in its entirety. Isolated incident. The judgment was translated, published and disseminated.
CM/ResDH(2012)131	NDL / S.T.S.	277/05	19/10/2011 19/07/2011	<i>Protection of rights in detention: Excessive length and lack of efficiency of proceedings on the lawfulness of the minor's custodial placement in a confined institution due to the Supreme Court's failure to decide the case before the expiry of the validity of the placement order resulting in the subsequent dismissal of the case. (Article 5 §4)</i>	Just satisfaction paid. The applicant was released in 2006. Change in the Supreme Court's case-law according to which "anyone who seeks a remedy against a temporary depriving him of his liberty should not have his interest in bringing an action denied solely because the period for which that order applied has already elapsed." The Supreme Court also adjusted its internal work processes in order to reduce the average throughput time for cases of this type. The judgment was translated, published and disseminated.



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
CM/ResDH(2012)132	PRT / Reigado Ramos	73229/01	22/02/2006 22/11/2006	<i>Protection of private and family life: Authorities' failure to take adequate and sufficient action to enforce the applicant's right of access to his daughter, born in 1995. (Article 8)</i>	No just satisfaction sought or awarded. With the assistance of the judicial police, the whereabouts of the mother and the child had been identified. As agreed before the judge in June 2007, the child and both parents underwent psychological examinations and preparatory psychological support. The child clearly showed her refusal to see her father. In June 2010, following the judge's order, a psychotherapeutic intervention only with the child began. On 03/05/2011, the applicant's daughter, now aged 16, expressed again before the judge her wish not to have any contact with her father. The judge noted that the mother indeed continued to disrespect the established visit regime (of 1997) and imposed a new fine on. Furthermore, in light of the best interests of the child and on the basis of the favorable opinion of the public prosecutor, the judge closed the case on the grounds that it was undesirable to continue it or to impose visits by force, against the will of the child, and the applicant did not wish for the latter. The judgment was translated, published and disseminated.
CM/ResDH(2012)133	PRT / Diana Karoussiotis and Michael Dore	23205/08+	01/05/2011 01/02/2011	<i>Protection of private and family life: Failure of judicial authorities to deploy effective means in civil proceedings concerning the return of children under the Hague Convention and the regulation of parental authority. (Article 8)</i>	No satisfaction awarded. Return proceedings closed. The exercise of parental authority was regulated before family tribunals in 2010 and 2011 respectively. Isolated cases. Domestic law provides for the urgent examination of provisional measures for the organisation of guardianship of minors. The judgment was translated, published and disseminated. The awareness of judges was raised concerning the requirement of the 1980 Hague Convention's application.
CM/ResDH(2012)134	RUS / Malysh and Others and	30280/03+	28/06/2010 11/02/2010	<i>Protection of property: Unjustified interference on account of the State's failure over several years to adopt</i>	Just satisfaction was paid as awarded. The applicants could apply for redemption of their bonds under the 2009 Act. Mr Malysh availed himself of that possibility and received money



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
	2 other cases			<i>legislation providing for the procedure of the settlement of the debt arising out of the Urozhay-90 bonds. These bonds were issued by the Government of the Russian Socialist Federative Soviet Republic (RSFSR) in order to encourage agricultural workers to sell produce to the State in exchange for the right to priority purchasing of consumer goods in high demand at the time (such as refrigerators, washing machines and cars). (Article 1 of Protocol No. 1)</i>	for his bond, in November 2010. On 19/07/2009, a federal law governing the procedure for the buyout of the Urozhay-90 bonds was adopted (no. 200-FZ – “the Buyout Act”). It established that holders of the bonds would be paid, in the period between 15 December 2009 and 31 December 2010, an amount equivalent to the nominal value of the bonds divided by 1 000 (section 2). The law also amended the Commodity Bonds Act by removing the reference to the Urozhay-90 bonds from its Section 1. On 15 September 2009, the government issued Resolution No. 749, setting out the detailed procedure for payments in exchange for the bonds in question. The judgment was translated, published and disseminated.
CM/ResDH(2012)139	SUI / Emre and Emre No. 2	42034/04+	22/09/2008 22/05/2008	<i>Protection of private and family life and failure to execute ECHR judgments: Unjustified deportation and indefinite re-entry ban, following a decision of the department for foreigners, upheld by the Federal Court, as well as failure of the Federal Court to revoke that order for the foreigner's exclusion from the national territory despite the ECHR's finding a violation of right to family life by just reducing the originally indefinite entry ban to 10 years. (Article 8 and Article 8 in combination with Article 46).</i>	Just satisfaction paid. Entry ban lifted. Very specific incident due to a difference in opinion on the correct implementation of the first ECHR judgment. The judgment was published and disseminated.
CM/ResDH(2012)140	SUI / Khelili	16188/07	08/03/2012 08/10/2011	<i>Protection of private life: Unjustified registration as a “prostitute” in the police files for 15 years, on the sole basis of business cards found on her during a</i>	Just satisfaction paid. Qualification as “prostitute” was erased from police files. The facts of the case relate to the entry into force of the Law on Prostitution 2009. Since then, the Geneva police had abandoned, with immediate effect, the declaration



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>police control. (Article 8)</i>	of practicing prostitution during the registration process which automatically generated the creation of an identity in the computer system of the police (irrespective of the file of the brigade of manners) with the mention of the profession. The judgment was published and disseminated.
CM/ResDH(2012)142	TUR / Mürsel Eren	60856/00	03/07/2006 07/02/2006	<i>Right to education: Cancellation of the applicant's university entrance exam despite his high scores by an academic committee composed of three professors, without relying on a lawful reason or concrete evidence in the decision. (Article 2 of the Additional Protocol No. 1)</i>	Just satisfaction paid. Upon the applicant's appeal, the proceedings were reopened and the judgment regarding the cancellation of the applicant's exam was quashed in 2007. The decision became final with the approval decision of the General Board of Administrative Cases of the State Council dated 23/12/2010. Subsequently, necessary information was given to the Ankara University Chancery for the placement of the applicant to the Ankara University Faculty of Law. Isolated incident. The judgment was translated, published and disseminated.
CM/ResDH(2012)144	UK / Kay and Others	37341/06	21/12/2010 21/09/2010	<i>Protection of private and family life: Impossibility for the applicants to challenge the proportionality of decisions to terminate their leases for state housing and subsequently evict them in possession proceedings before domestic courts. (Article 8)</i>	Just satisfaction paid. The applicants may be entitled to accommodation as a homeless family if the development project goes ahead in the future. They would now be able to raise Article 8 rights as a defence. A recent Supreme Court decision in Manchester City Council vs Pinnock clarifies the existing domestic law position. It modified the law, as set out in the respective House of Lords decision, holding that, any public sector occupier at risk of losing his home must have the opportunity to have the proportionality of that step considered by the county court. This consideration can include factors such as the occupier's personal circumstances. As the Supreme Court's decision sets a binding precedent for lower courts, the Department does not consider that any further steps are necessary to implement the judgment. The judgment was



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
					translated, published and disseminated.
CM/ResDH(2012)145	UK / McCann	19009/04	13/08/2008 13/05/2008	<i>Protection of home: Lack of adequate procedural safeguards resulting in an disproportionate interference with the right to respect for one's home following the applicant's eviction pursuant to the service of a common law 'notice to quit', without the possibility to have the proportionality of the measure determined by an independent tribunal. (Article 8)</i>	Just satisfaction paid. The Supreme Court clarified the law in relation to possession proceedings in the case of Pinnock vs Manchester City Council given on 03/11/2010. Pinnock modified the law as set out in the House of Lords decision in Kay v Lambeth. It also takes into account the McCann decision. Consistently with the judgment in Kay v UK, it holds that, in principle, any public sector occupier at risk of losing their home must have the opportunity to have the proportionality of that step considered by the county court. This consideration can include factors such as the occupier's personal circumstances. The judgment was translated, published and disseminated.
CM/ResDH(2012)146	BEL / Houtman and Meeus	22945/07	17/06/2009 17/03/2009	<i>Protection of rights in detention: Unjustified refusal by domestic courts of compensation for unlawful psychiatric confinement despite the acknowledgment of its unlawfulness. (Article 5 §5)</i>	Just satisfaction paid. Case resulted from the erroneous application of domestic law due to its specific circumstances. The judgment was translated, published and disseminated.
CM/ResDH(2012)147	BEL / Faniel	11892/08	01/06/2011 01/03/2011	<i>Access to and efficient functioning of justice: Denial of access to court due to the applicant's lack of information on relevant formalities and time-limits to lodge an appeal against a judgment in absentia sentencing him to six months' imprisonment for failing to present his daughter in accordance with the child-custody arrangements. (Article 6 §1)</i>	Just satisfaction. Reopening of criminal proceedings possible according to Article 442 of the Code of Criminal Investigation. Following the ECHR judgment in Da Luz Domingues Ferreira (see CM/ResDH(2009)119) a circular was adopted (18/06/2008) on the notification of a judgment in criminal proceedings, in which the Public Prosecutor's Office instructs the bailiffs, when serving a judgment or judgment in absentia, to include, in the notification document, all the necessary elements to request that the conviction be set aside, as prescribed by Articles 187 and 208 of the Code of Criminal



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
					Investigation, supplemented by Royal Decree No. 236 of 20/1/1936. The judgment was translated, published and disseminated.
CM/ResDH(2012)148	BIH / Karanović as well as Sekerovic and Pasalic	39462/03 5920/04+	20/02/2008 20/11/2007	<i>Access to and efficient functioning of justice, protection of property and discrimination: Failure to enforce a court decision which ordered the transfer of the applicant's pension entitlement from the Republika Srpska Pension Fund to the Federation of Bosnia and Herzegovina Pension Fund; additional discriminatory treatment of the applicant Pašalić due to differential treatment without any objective and reasonable justification in comparison to other pensioners. (Articles 6§1, 1 of Protocol No. 1 and 14 in conjunction with Article 1 Protocol No. 1)</i>	<i>Article 46 indication: The issues raised in both cases disclosed the existence of a shortcoming affecting a whole class of citizens and might trigger large number of potential applications. The respondent State must secure, within six months from the date on which the judgment became final, the amendment of the relevant legislation in order to render the applicants and others in similar situation eligible to apply, if they so wish, for the Federation Pension Funds (this deadline expired on 15 March 2012).</i> Just satisfaction paid and pension transfers realised as requested by applicants. The Amendments to the Pension and Disability Insurance Law entered into force on 28/06/2012. They provide that individuals who were granted pensions in what is today the FBiH before the war, who then moved to what is today the RS during the war, and who, for that reason only, still receive RS Fund pensions despite their return to the Federation after the war, are eligible to apply for FBiH Fund pensions. The judgments were translated, published and disseminated.
CM/ResDH(2012)149	BGR / Kushoglu	48191/99	10/08/2007 10/05/2007 (Merits) 01/12/2008 03/07/2008 (Just satisfaction)	<i>Protection of property: Arbitrary decisions of domestic courts denying the applicants the restitution of property they were forced to sell to the local municipality, when the communist regime forced tens of thousands of ethnic Turks, among them the</i>	Just satisfaction for pecuniary damage paid. Isolated incident confined to specific circumstances of the case, which did not reveal the existence of any repeated or systemic problem. The judgment was translated, published and disseminated.



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>applicants, to emigrate. (Article 1 of Protocol No. 1)</i>	
CM/ResDH(2012)150	BGR / Bulinvar OD and Hrusanov	66455/01	12/07/2007 12/04/2007	<i>Access to and efficient functioning of justice: Infringement of the applicant company's right of access to a court to challenge the refusal by a state commission to authorise the use of its new building due to the Supreme Administrative Court's refusal to examine an administrative decision on the merits. (Article 6§1)</i>	Just satisfaction paid. The judgment of the Supreme Administrative Court was quashed on the grounds of art. 239§6 of Code of Administrative Procedure of. In the reopened proceedings, the Supreme Administrative Court confirmed the lower court's decision which was in the applicant company's favour. Isolated case in the field of urban development. The legal framework applicable was repealed and replaced. A new Code of Administrative Procedure was adopted in 2006. The judgment was translated, published and disseminated.
CM/ResDH(2012)151	BGR / Svetoslav Hristov	36794/03	13/04/2011 13/01/2011	<i>Protection of rights in detention: Breach of the principle of legal certainty as domestic law did not prohibit explicitly two consecutive periods of prosecutor-ordered detention for up to three days each on the basis of two separate provisions of the Code of Criminal Procedure of 1974; accumulation of the two consecutive periods of three-day detention mentioned above before the applicant was brought before a judge; lack of a possibility of judicial control of the lawfulness of prosecutor-ordered detention; unavailability in domestic law of an enforceable right to compensation for unlawful detention. (Article 5 §§1c+3+4+5)</i>	Just satisfaction paid. Applicant was released. The relevant provisions of the Code of Criminal Procedure of 1974, were superseded by new legislation. The new Code of Criminal Procedure, in force since 2006, provides for prosecutor-ordered detention only where it is necessary to ensure an accused's appearance before the court deciding on his detention on remand. Such detention cannot last for more than 72 hours. The unavailability of judicial review of prosecutor-ordered detention is examined in the Kandzhov group. The lack of any enforceable right to compensation for unlawful detention is examined in the Yankov group. The judgment was translated, published and disseminated.



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
CM/ResDH(2012)152	BGR / Nedelcho Popov	61360/00	22/02/2008 22/11/2008	<i>Access to and efficient functioning of justice: Inadmissibility of the applicant's action for unfair dismissal on the basis of a legal provision excluding from judicial review work-related disputes concerning certain categories of employees such as the applicant, who had been holding the post of "Chief Adviser" at the Council of Ministers. (Article 6 §1)</i>	No just satisfaction for pecuniary damage awarded. Just satisfaction for non-pecuniary damage paid. As the applicant's claim for unfair dismissal was not decided in a final court judgment, it was not open for him to request reopening of the judicial proceedings. The impugned provision of the Labour Code, namely Article 360 § 2 (2) was repealed in 2001. The judgment was translated, published and disseminated.
CM/ResDH(2012)153	BGR / Mincheva	21558/03	02/12/2010 02/09/2010	<i>Access to and efficient functioning of justice, protection of family life: Excessive length of custody proceedings and lack of effective remedy in this respect as well as failure to take the necessary practical measures to enforce contact rights granted by a final judicial decision. (Articles 6 §1, 13 and 8)</i>	Just satisfaction paid. Regular contact with the child established. The current domestic legal framework concerning execution of contact rights is provided in Articles 323, 527 and 528 of the Code of Civil Procedure 2008, as well as in Article 59 of the Family Code 2009 and Article 23 (6) of the Law for the Protection of the Child, allowing parties in divorce proceedings to request temporary measures regarding the care of the children and their maintenance to be examined either immediately or within two weeks after the hearing at which it has been submitted. The judgment was translated, published and disseminated. The remaining violations concerning the length of the civil proceedings and the lack of effective remedies in that regard are examined in the Djangozov group.
CM/ResDH(2012)154	BGR / Mihalkov	67719/01	10/07/2008 10/04/2008	<i>Access to and efficient functioning of justice: Lack of objective impartiality of a court deciding on a compensation claim under the 1988 State Liability Act for the damage sustained through his conviction and imprisonment. by the same court, excessive amount of court</i>	Just satisfaction paid. Isolated case due to incorrect application of legal provisions on judges' withdrawals in actions brought against them in an attempt to establish their liability in tort. Reopening of proceedings possible. The issue of excessive court fees are examined in the Stankov case. The issue of excessive length of civil proceedings is examined in the Djangozov group. The judgment was translated, published and



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>fees imposed in these proceedings and excessive length of those proceedings. (Article 6 §1)</i>	disseminated.
CM/ResDH(2012)155	BGR / Ivanova	52435/99	12/07/2007 12/04/2007	<i>Freedom of religion: Dismissal of the applicant, whose functions did not include teaching, from a state-owned school, motivated by religious considerations, as part of a campaign against the activities of a religious organisation, "Word of Life", of which the applicant was an adherent. (Article 9)</i>	Just satisfaction paid. The applicant did not avail herself of the possibility to ask for reopening of civil proceedings. The Protection Against Discrimination Act of 2003, which was adopted and entered into force after facts of the case, affords sufficient protection of the right not to be dismissed on the basis of one's religious convictions. Anyone alleging discrimination may directly address the courts. There exists already abundant practice of the courts in the application of the Act. In addition, the Labour Code (Article 8 §3) prohibits discrimination in the exercise of labour rights based on religion. The judgment was translated, published and disseminated.
CM/ResDH(2012)156	BGR / Ignatov, Gochev and Nalbantski	50/02	02/10/2009 02/07/2009	<i>Freedom of movement: Restrictions of the freedom to leave the territory imposed on different legal grounds, i.a. for failure to pay debts towards private persons even after the debts' settlement or following criminal conviction. (Articles 2 of Protocol No. 4 and, in one case, Articles 6 §1 and 13)</i>	Just satisfaction paid. The travel bans were based on the International Passports Act, now repealed, and after that on the Personal Documents Act of 1998 providing that the Ministry of the Interior could impose a prohibition on leaving the country on any individual who had debts established by judicial means. In 2009 that provision (namely, section 75(6) of the Act) was amended to provide that the Ministry of the Interior was obliged to impose a prohibition on leaving the country on any individual who owed "substantial amounts" to other physical or legal persons. In a judgment of 31/03/2011, the Constitutional Court declared that provision unconstitutional. In one case the travel ban was based on section 76(2) of the Personal Documents Act, which, at the time, provided that a person who had been convicted and had not been rehabilitated could be barred from leaving the



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
					country and his international passport confiscated. On 01/10/2009 that provision was repealed as conflicting with regulations of the European Union. Issues concerning the length of the criminal proceedings and a respective remedy are examined in the context of the Kitov group and the pilot judgment in the Dimitrov and Hamanov case. The judgment was translated, published and disseminated.
CM/ResDH(2012)157	BGR / Hovanesian	31814/03	21/03/2011 21/12/2010	<i>Access to and efficient functioning of justice: Denial of the right to have the free assistance of an interpreter in criminal proceedings due to a reimbursement order of respective fees by domestic courts. (Article 6 § 3(e))</i>	Just satisfaction in the amount of the requested fee was paid. The new Code of Criminal Procedure, in force since 2006, expressly exempts convicted person from any interpreter fees incurred during the criminal proceedings in Article 189 §2. The domestic courts apply this provision allowing no more incoherences in domestic case-law.
CM/ResDH(2012)158	BGR / Borisova	56891/00	21/03/2007 21/12/2006	<i>Access to and efficient functioning of justice: Denial of a fair trial in the context of proceedings under the Decree on Combating Minor Hooliganism as a result of which the applicant was sentenced to a 5-day arrest - unfairness due to lack of prompt and detailed information on the nature and cause of the accusation and lack of adequate time and facilities for the preparation of the defence, lack of opportunity to contact a lawyer, lack of possibility to appeal against to judgment as well as lack of possibility to call and examine witnesses. (Article 6 §§1 and 3(a), (b) and (d) taken together)</i>	The applicant has served the 5-day sentence and was released. The conviction has not been entered into her criminal record. Just satisfaction for non-pecuniary damage paid. The amendments of November 2011 the Decree on Combating Minor Hooliganism 1963 provide for procedural safeguards and guarantees and stipulates that the Administrative Offences and Punishments Act is to be applied to proceedings under the Decree on a subsidiary basis. That Act, which, on its turn, refers on a subsidiary basis to the Code of Criminal Procedure, provides for all the necessary guarantees of fair trial in proceedings concerning administrative offences, such as the rights to effective defence, to legal assistance, to present evidence and to equality of arms. It is also provided that first-instance decisions under the Decree can be appealed against before the respective regional court. The judgment was translated, published and disseminated.



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
CM/ResDH(2012)159	BGR / Velted-98 AD	15239/02	11/03/2009 11/12/2008	<i>Access to and efficient functioning of justice: Unfair administrative proceedings brought by the applicant company seeking revocation of a ministerial decree relating to the privatisation of a public company for which it had unsuccessfully submitted a bid due to the fact that the five-member panel of the Supreme Administrative Court had failed to examine an issue qualified as substantial at first instance by the three-member panel of the same court and on which the parties had exhaustively commented. (Article 6 §1)</i>	Just satisfaction paid. Fresh administrative proceedings were discontinued due to the withdrawal of the annulment request of a final judgment before the Supreme Administrative Court by the applicant. Isolated case. The judgment was translated, published and disseminated.
CM/ResDH(2012)160	BGR / Simeonov	30122/03	28/04/2010 28/01/2010	<i>Protection of private and family life: Prohibition of the applicant while in pre-trial detention to receive visits of his spouse, a co-accused, and of his minor daughter in violation of the relevant domestic legislation. (Article 8)</i>	Just satisfaction paid. Visits were allowed in 2006. Isolated case.
CM/ResDH(2012)161	BGR / Kostadin Mihaylov	17868/07	27/06/2008 27/03/2008	<i>Access to and efficient functioning of justice: Denial of access to court as a result of the dismissal of the applicant's claim due to the conflicting positions taken by domestic courts concerning the question which institution was the proper defendant for the claim. (Article 6 §1)</i>	Just satisfaction for non-pecuniary damage paid. On 19/11/2008, the Supreme Court of Cassation dismissed the applicant's request for reopening on the ground that the 2007 Code of civil procedure did not provide reopening following an ECHR judgment, which possibility was introduced on 05/06/2009. In view of the just satisfaction awarded the decision was considered not to have important negative consequences for the applicant. Isolated case.



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
CM/ResDH(2012)162	BGR / Bevacqua and S	71127/01	12/09/2008 12/06/2008	<i>Protection of private and family life: Failure to take appropriate action in the context of divorce proceedings, in particular to decide rapidly on interim custody measures concerning the divorcees' minor child and to impose sanctions or otherwise react adequately to the father's unlawful and violent behaviour. (Article 8)</i>	Just satisfaction for non-pecuniary damage paid. The divorce proceedings ended in 2002 and the first applicant obtained custody of the child. New legislation was enacted: The new Code of Civil Procedure of 2008 ensures speedy decisions concerning interim custody measures (Article 323 §2). The Protection Against Domestic Violence Act was adopted in 2005 and provides for administrative and policing measures in cases of physical, psychological or sexual violence in the home. Courts may issue injunctions or take other measures to remove the perpetrator from the common home, ban them from approaching the victim's home, workplace or place of social contacts, temporarily remove the child from the custody of the perpetrator, or impose compulsory education programs. The courts can also fine the perpetrator. Failure to comply with measures imposed on the perpetrator may result in arrest and prosecution. The Child Protection Act of 2000 created a State Child Protection Agency and regional Social Care Offices, which are competent to take protection measures in respect of children in danger.
CM/ResDH(2012)163	BGR / Andreev	11578/04	10/05/2011 10/02/2011	<i>Access to and efficient functioning of justice: Lack of examination by the Supreme Administrative Court of the merits of the applicant's appeal against an administrative decision in a restitution procedure fixing the amount of compensation for a land due to an obvious judicial mistake, leading the Supreme Administrative Court to believe that the appeal concerned another decision which was not subject to further</i>	No just satisfaction awarded as the reopening of the case would be the most appropriate measure. The applicant did not request reopening of his case. Isolated case. The judgment was translated, published and disseminated.



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>judicial review. (Article 6 §1)</i>	
CM/ResDH(2012)164	BGR / Evgeni Ivanov Titovi, Özver and Shipkov	44009/02+	22/08/2008 22/05/2008	<i>Protection of rights in detention: Excessive length of pre-trial detention and failure to bring the applicant promptly before a judge as well as deficiencies in the judicial review of the lawfulness of the detention. (Article 5 §§3+§4)</i>	The applicants are no longer in pre-trial detention. Just satisfaction for non-pecuniary damage paid. The group of cases occurred immediately after an extensive reform of the criminal procedure in 2000 which introduced new rules on detention (In relation to the powers of placement, the reasons for placement, the judicial review, etc.). Following a divergence in the interpretation of this new regulation, the Supreme Court of Cassation clarified its scope in an interpretative judgment no. 2/2002 excluding any possibility of compulsory detention and requesting the existence of a real danger of the accused evading justice or committing a criminal offense to be proved by the authorities in each case (see CM/ResDH(2007)158). In 2005, a new Code of Criminal Procedure (CPP 2005) came into force, incorporating in similar terms the regulations introduced in 2000 (see Article 63 of the 2005 CPP). Furthermore, Article 56 §3 obliges the competent authorities to take account of the different aspects of the defendant's personal situation, such as his state of health, family situation, age and other personal circumstances. The 2005 CPP provides very short deadlines for reviewing requests for release at the preliminary inquiry stage - three days for the trial court and seven days for the appeal court (Article 65). Specific time-limits for the examination of applications for release at the judicial stage are not provided for (Article 270). The court hearing an appeal against a court order on pre-trial detention must rule "within a reasonable time" which may not exceed one month (Article 270 in combination with Article 345). The judgment was translated, published and disseminated.



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
CM/ResDH(2012)165	BGR / AI-Akidi and 5 other cases	35825/97+	31/10/2003 31/07/2003	<i>Protection of rights in detention and access to and efficient functioning of justice: Excessive length and unlawfulness of detention on remand and lack of its judicial review; excessive length of criminal proceedings and lack of respective effective remedy. (Articles 5 §§3+4 and 6§1 and 13)</i>	The applicants were released and just satisfaction was paid. A new Code of Criminal Procedure, adopted in 2005, entered into force on 29/04/2006. Its adoption was part of a global reform of criminal justice aimed at accelerating criminal proceedings. For general measures concerning detention on remand by the public prosecutor or the investigating magistrate at the preliminary investigation stage and the compulsory placement in pre-trial detention in certain circumstances and lack of special diligence in the conduct of proceedings, see ResDH (2000)109 and ResDH (2000)110 in Assenov and Others and in Nikolova - after the reform of the criminal procedure 2000 detention on remand at the preliminary investigation stage is ordered by the court of first instance. The decision of the court of first instance may be appealed to the higher court. As concerns the absence of adversarial proceedings before a court of appeal and the Supreme Court, see CM/ResDH(2007)158 in Iljiov. The judgments Dimov and E.M.K. were translated, published and disseminated and used in training seminars of judges, magistrates, officials of the Ministry of Justice and the police. Remaining issues, i.e. the failure to examine the existence of plausible reasons to suspect that a prisoner has committed a criminal offense in the context of the supervision of detention at the judicial stage of a criminal case is examined in the Bochev group of cases and the absence of an enforceable right to compensation for unlawful detentions is examined in the Yankov group of cases. The issues of excessive length of criminal proceedings and lack of an effective remedy in this respect are being examined in the Kitov group and the Dimitrov and Hamanov pilot cases.
CM/ResDH(2012)166	BGR /	45114/98+	22/03/2005	<i>Protection of rights in detention and</i>	The applicants were released and just satisfaction was paid.



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
	Bojilov and 8 other cases		22/12/2004	<i>access to and efficient functioning of justice: Problems related to pre-trial detention; unlawful continued detention pending trial despite release ordered by the courts; lack of an enforceable right in law to compensation for unlawful detention contrary; excessive length of criminal proceedings and lack of effective remedies. (Articles 5 §§1+3+4+5, 6 §1 et 13)</i>	Criminal proceedings are closed. A new Code of Criminal Procedure entered into force on 29/04/2006. Its adoption was part of a global reform of criminal justice aimed at accelerating criminal proceedings. For general measures concerning detention on remand by the public prosecutor or the investigating magistrate at the preliminary investigation stage and the compulsory placement in pre-trial detention in certain circumstances and lack of special diligence in the conduct of proceedings, see ResDH (2000)109 and ResDH (2000)110 in Assenov and Others and in Nikolova - after the reform of the criminal procedure 2000 detention on remand at the preliminary investigation stage is ordered by the court of first instance. The decision of the court of first instance may be appealed to the higher court. As concerns the absence of adversarial proceedings before a court of appeal and the Supreme Court, see CM/ResDH(2007)158 in Iljiov. The judgments Dimov and E.M.K. were translated, published and disseminated and used in training seminars of judges, magistrates, officials of the Ministry of Justice and the police. Remaining issues, i.e. the failure to examine the existence of plausible reasons to suspect that a prisoner has committed a criminal offense in the context of the supervision of detention at the judicial stage of a criminal case is examined in the Bochev group of cases and the absence of an enforceable right to compensation for unlawful detentions is examined in the Yankov group of cases. The issues of excessive length of criminal proceedings and lack of an effective remedy in this respect are being examined in the Kitov group and the Dimitrov and Hamanov pilot cases.
CM/ResDH(2012)167	BGR /	56796/00+	30/12/2004	<i>Protection of rights in detention:</i>	The applicants were released and just satisfaction was paid.



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
	Nikolova No. 2 and two other cases		30/08/2004	<i>Excessive length of detention remand and about being placed under house arrest without legal possibility to challenge its lawfulness; excessive length of criminal proceedings. (Articles 5 §§3+4 and 6 §1)</i>	Criminal proceedings are closed. A new Code of Criminal Procedure entered into force on 29/04/2006. Its adoption was part of a global reform of criminal justice aimed at accelerating criminal proceedings. For general measures concerning detention on remand by the public prosecutor or the investigating magistrate at the preliminary investigation stage and the compulsory placement in pre-trial detention in certain circumstances and lack of special diligence in the conduct of proceedings, see ResDH (2000)109 and ResDH (2000)110 in Assenov and Others and in Nikolova - after the reform of the criminal procedure 2000 detention on remand at the preliminary investigation stage is ordered by the court of first instance. The decision of the court of first instance may be appealed to the higher court. As concerns the absence of adversarial proceedings before a court of appeal and the Supreme Court, see CM/ResDH(2007)158 in Iljikov. The judgments were translated, published and disseminated and used in training. The insufficient motivation for pre-trial detention and failure to examine promptly applications for judicial release in cases subsequent to the 2000 reform are examined in the Evgeni Ivanov group. The issues of excessive length of criminal proceedings and lack of an effective remedy in this respect are being examined in the Kitov group and the Dimitrov and Hamanov pilot cases.
CM/ResDH(2012)168	BGR / Zdravko Petrov	20024/04	23/09/2011 23/06/2011	<i>Respect of right to individual petition: Unjustified interferences due to the authorities' refusal to provide the applicant with copies of documents related to criminal proceedings against him. (Article 34)</i>	No just satisfaction claimed. Isolated issue. The judgment was translated, published and disseminated.



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
CM/ResDH(2012)169	BGR / Boychev and Others	77185/01	27/04/2011 27/01/2011	<i>Freedom of religion: Interference with the right to manifest one's religion due to the interruption of a religious meeting of followers of the Unification Church founded by Sun Myung Moon; search and seizure of documents and other items by the police without legal basis and lack of an effective remedy in this respect. (Articles 9 and 13 taken in conjunction with Article 9)</i>	Just satisfaction paid. The applicants did not avail themselves of the possibility to request the restitution of the remaining seized objects (books and video recordings). Article 185 of the Code of Criminal Procedure granting almost unlimited discretionary power to prosecutors was revoked in 2003. The new Code of Criminal Procedure 2005 does not contain such provision. A new Religious Denominations Act was adopted in 2002 providing that a judicial body - the Sofia City Court - and no longer the executive, is competent to register religious communities wishing to obtain legal personality. The judgment was translated, published and disseminated.
CM/ResDH(2012)170	CZE / Breukhoven	44438/06	21/10/2011 21/07/2011	<i>Access to and efficient functioning of justice: Lack of a possibility to cross-examine several witnesses in criminal proceedings for trafficking in human beings and procuring prostitution due to lack of effort to secure their attendance or to counterbalance handicaps under which the defence laboured. (Article 6 §§ 1 and 3 (d))</i>	No just satisfaction awarded. Case due to its very particular and specific circumstances. The judgment was translated, published and disseminated.
CM/ResDH(2012)171	FIN / Kaura	40350/05	23/09/2009 23/06/2009	<i>Access to and efficient functioning of justice: Unfairness of administrative proceedings due to a refusal by the Insurance Court to hold an oral hearing. The proceedings concerned the applicant's civil rights and obligations initiated by him in 2000–2005 against the authorities' refusal to pay him</i>	Just satisfaction paid. Reopening of proceedings possible. Isolated decision by the Insurance Court to reject the applicant's request and not to hold a hearing. The judgment was translated, published and disseminated.



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>unemployment benefit because he had failed to respond promptly to a potential employer; excessive length of the same administrative proceedings. (Article 6 §1 twice)</i>	
CM/ResDH(2012)172	FIN / R.H.	34165/05	02/09/2009 02/06/2009	<i>Access to and efficient functioning of justice: Unfair criminal proceedings due to the Appeal Court's failure to make a full examination of the case or to organise an oral hearing, using instead a «filtering procedure» based on Chapter 26, sections 2 and 2a of the Code of Judicial Procedure. (Article 6§1)</i>	Just satisfaction paid. Reopening of proceedings possible. Isolated decision of the Court of Appeal to apply the filtering procedure and to reject the request for an oral hearing. The judgment was translated, published and disseminated.
CM/ResDH(2012)173	FRA / Baccichetti	22584/06	18/05/2010 18/02/2010	<i>Access to and efficient functioning of justice: Unfair disciplinary proceedings before the National Council of the Medical Order due to non-compliance with the adversarial principle, because of lack of communication to the applicant of a pre-expert report. (Article 6 §1)</i>	No just satisfaction awarded. Very particular circumstances of the fact of the case. The judgment was translated, published and disseminated.
CM/ResDH(2012)174	FRA / Bowler International Unit	1946/06	23/10/2009 23/06/2009	<i>Protection of property: Lack of a remedy to challenge the confiscation by customs for bona fide owner whose goods were used to conceal fraud by third parties. (Article 1 of Protocol No. 1)</i>	Just satisfaction paid. The applicant company recovered its goods. On 13/01/2012, the Constitutional Council declared the impugned provision unconstitutional. Article 61 of Law 2012-387 of 22/03/2012 amended Article 376 Customs Code providing for a remedy for the bona fide owner of merchandise, which had been used in fraudulent context and seized, offering release of the good without bond or consignment. The judgment was published and disseminated.



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
CM/ResDH(2012)175	FRA / Chatellier	34658/07	30/06/2011 31/03/2011	<i>Access to and efficient functioning of justice: Unfair civil proceedings due to striking out of the applicant's because of his failure to comply with first-instance judgment ordering enforcement to repay a bank loan. (Article 6 §1)</i>	Just satisfaction for non-pecuniary damage paid. Application of a legal provision which led in the very specific circumstances of the case to a disproportionate interference with the applicant's right of access to a tribunal. The judgment was published and disseminated.
CM/ResDH(2012)176	FRA / Mancel and Branquart	22349/06	22/11/2010 24/06/2010	<i>Access to and efficient functioning of justice: Lack of impartiality of the Court of cassation in the framework of criminal proceedings against a local politician and a company manager, due to its chamber's composition delivering the judgment. (Article 6§1)</i>	No just satisfaction for non-pecuniary or pecuniary damage awarded. Reopening of the impugned proceedings is possible. Change of case-law to taken into account the present ECHR judgment and amendment of Article L. 431.6 of the Code of Judicial Organisation by Article 1 of Order No. 2006-673 of 08/06/2006. The chamber deciding on referral should not include any of the magistrates who sat in the examination of the first appeal. The judgment was published and disseminated.
CM/ResDH(2012)177	FRA / Poirot	29938/07	15/03/2012 15/12/2011	<i>Access to and efficient functioning of justice: Dismissal of a civil party's appeal against the investigating judge's order to send a case concerning her allegation of sexual assault at a residential care home to a lower criminal court competent for offences and not to a Court of Assizes competent for crimes on excessively formalistic grounds. (Article 6§1)</i>	Just satisfaction for non-pecuniary damage paid. Since the facts of the case, the Court of Cassation's case-law: by a judgment dated 23/02/2011, it no longer requires express reference to Article 186-3 of the Code of Civil but only to the need for the civil party to express its opposition to correctional proceedings. The judgment was published and disseminated.
CM/ResDH(2012)178	FRA / Patoux	35079/06	14/07/2011 14/04/2011	<i>Protection of rights in detention: Failure to conduct a speedy review of the lawfulness of a detention as it took the</i>	Just satisfaction for non-pecuniary damage paid. The Law of 5 July 2011 on rights and protection of persons subject to psychiatric care and the related procedures as well as the



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>civil judge 46 days to decide on the request for immediate release lodged by a person compulsorily placed in mental hospital. (Article 5§4)</i>	Decree of 18 July 2011 on the judicial procedure for the release or maintenance of control of measures amended the provisions of the Public Health Code in order to ensure that applications for release are promptly examined. The judgment was published and disseminated.
CM/ResDH(2012)179	FRA / Baudouin	35935/03	18/02/2011 18/11/2010	<i>Protection of rights in detention: Unlawful hospitalisation of a detainee, (between the annulment of the prefectural order for lack of form and the adoption of the new order), lack of effective remedy against the measures and lack of an speedy review of its lawfulness due to the articulation between the ordinary courts and administrative courts, the former being competent to rule on the merits of a confinement and to decide on the release of the confined person and the latter to rule on the legality of administrative decisions of confinement and to set them aside. (Article 5 §§1+4)</i>	Just satisfaction for non-pecuniary damage paid. The unlawful hospitalisation ended in November 2004. The legislator adopted Act No. 2011-803 of 5 July 2011 on rights and protection of persons subject to psychiatric care amending Article L 3216-1 of the Code of Public Health, providing for a remedy to have that the lawfulness of administrative decisions reviewed before judicial courts. The judgment was published and disseminated.
CM/ResDH(2012)180	FRA / Walchli	35787/03	26/10/2007 26/07/2007	<i>Access to and efficient functioning of justice: Unfairness of criminal proceedings due to excessive formalism when domestic courts rejected the applicant's motion for setting aside the investigation proceedings which led to his conviction. (Article 6 §1)</i>	Just satisfaction for non-pecuniary damage paid. Article L 626-1 of the Code of Criminal Procedure allows applying for reopening of penal proceedings. According to Article 173 CCP, a motion to set aside a judicial investigation must, on pain of inadmissibility, be the subject of a "declaration" to the registry of the court concerned (the investigation chamber). Isolated case. The judgment was published and disseminated and was used in training at the National School of Registrars.



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
CM/ResDH(2012)181	FRA / Mor	28198/09	15/03/2012 15/12/2011	<i>Freedom of expression: Conviction of a lawyer for breaking professional secrecy following an interview with the press on the subject of an expert report submitted to an investigating judge in the context of judicial information on deaths following vaccination against hepatitis B. (Article 10)</i>	Just satisfaction for non-pecuniary damage paid. The applicant was exempted from punishment by the national courts and sentenced to a civil penalty of one symbolic euro. As regards the erasure of the conviction from criminal records, see CM/ResDH(2011)57 in Paturel. The judgment was published and disseminated.
CM/ResDH(2012)182	FRA / Vernes	30183/06	20/04/2011 20/01/2011	<i>Access to and efficient functioning of justice: Absence of public hearing before Stock Exchange Regulatory Authority in disciplinary proceedings resulting in a permanent ban of the applicant from engaging in any activity in finance and lacking impartiality due to the absence of indications on the composition of the hearing panel as well as due to the Government Commissioner's presence in the deliberations of the State Council reviewing the panel's decision. (Article 6 §1 three times)</i>	The Stock Exchange Regulatory Authority hanged its internal rules to allow public hearings and concerning the possibility to learn the identity of the members of the hearing panel and to request their recusation under certain circumstances. Concerning the Government Commissioner's presence at the deliberations of the State Council, see CM/ResDH(2007)44 in Kress. The judgment was published and disseminated.
CM/ResDH(2012)183	GRC / Mohd and John	11919/03+	27/07/2006 27/04/2006	<i>Protection of rights in detention / deportation issues: Unlawful detention without official deportation order as well as extension of detention after the maximum period provided for by law. (Article 5§1(f))</i>	In one case the Council of State quashed the applicant's administrative expulsion order. In the other case, the applicant was expelled from Greece to Nigeria. Just satisfaction for non-pecuniary damage awarded and paid in the second case. The Aliens Law was amended, in particular the conditions under which aliens irregularly entering the country could be detained pending administrative expulsion, as well as the maximum period of detention, remedies to challenge expulsion orders or



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
					decisions ordering detention were introduced. Domestic courts' case-law and administrative practice were aligned to the new framework. Subsequently new problems arose (unlawful detention with a view to expulsion of an asylum seeker who could not be deported). The general measures in this respect are examined in the group S.D. The judgment was translated, published and disseminated.
CM/ResDH(2012)184	GRC / Dimitras and Others and Dimitras and Others No. 2	42837/06+	03/09/2010 03/06/2010	<i>Freedom of religion: Obligation under national legislation, when taking an oath at criminal court hearings as witnesses, complainants or suspects, to reveal one's religious convictions if one did not want to be presumed as Orthodox Christians, in order to be allowed to make a solemn declaration instead of a religious oath; lack of respective remedy. (Article 9 and 13)</i>	Just satisfaction for non-pecuniary damage paid. Legislative amendment introduced by Law No 4055/2012 ensured that in the context of criminal proceedings one is not obliged to disclose his religious beliefs: Article 218 of the Code of Criminal Procedure now offers a choice between taking a religious oath and making a solemn declaration. This measure follows the procedure of oath taking before civil courts. No separate measures concerning Article 13 necessary. The judgment was translated, published and disseminated.
CM/ResDH(2012)185	GRC / Tsirikakis, Hatzitakis and Karagiannis and Others	46355/99+	09/07/2003 23/01/2003	<i>Protection of property: Depreciated compensation and/or inability to use property or non-expropriated part of property in excessively lengthy land expropriation proceedings. (Article 6 §1 and 1 of Protocol No. 1)</i>	Just satisfaction for pecuniary and non-pecuniary damage paid. Previous legislation governing expropriation procedures (law No 797/1971) was replaced by Law No. 2882/2001 setting simplified and strict rules for deadlines in judicial proceedings for recognition of land ownership. Standard case-law provides for a global evaluation of expropriation issues in a single set of proceedings (see CM/ResDH(2011)217 in Azas group). The recognition of land ownership and the amount of compensation is decided together. Additional compensation in case of delays in the compensation procedure is foreseen. General measures with regard to lengthy proceedings are examined in the context of the Manios group of cases. The



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
					judgment was translated, published and disseminated.
CM/ResDH(2012)187	HUN / Daroczy	44378/05	01/10/2008 01/07/2008	<i>Protection of privation and family life: obligation to change the applicant's married name (from "Tiborné Daróczy" to "Tibor Ipolyné Daróczy"), established by mistake and used since her marriage in 1950 and for which the state authorities had issued her with several official documents, including her identity card. (Article 8)</i>	Just satisfaction for non-pecuniary damage paid. The Act no. 17 of 1982 on maternal register, marriage procedure and names was amended in 2009, which made it possible to file a petition in order to change the name of the applicant. The judgment was translated, published and disseminated.
CM/ResDH(2012)188	HUN / Darvas	19547/07	11/04/2011 11/01/2011	<i>Protection of rights in detention: Unjustified pre-trial detention of the applicant until his release on bail because the underlying reasons were not supported by adequate factual elements. (Article 5 §1)</i>	Just satisfaction for non-pecuniary damage paid. The applicant was released from pre-trial detention. General measures to ensure that specific reasons are provided for decisions ordering detention on remand were adopted in the context of the cases of Imre, Maglódi, Csáky and Bárkányi, see CM/ResDH(2011)222 . The judgment was translated, published and disseminated.
CM/ResDH(2012)189	HUN / Lajos Weller	44399/05	30/06/2009 31/03/2009	<i>Protection of privation and family life and discrimination: Refusal of maternity benefits because the mother of the children had not been eligible on account of her nationality. (Article 14 in conjunction with 8)</i>	Just satisfaction for non-pecuniary damage paid. Act no. 84 of 1998 on Family Support was amended and its scope extended to every woman legally residing in Hungary. The judgment was translated, published and disseminated.
CM/ResDH(2012)190	HUN / Block	56282/09	25/04/2011 25/01/2011	<i>Access to and efficient functioning of justice: Unfair criminal proceedings due to infringement of the applicant's right to be informed in detail of the nature</i>	Just satisfaction for non-pecuniary damage paid. In reopened proceedings, the Supreme Court upheld the applicant's conviction on 23/11/2011. The judgment was translated, published and disseminated.



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>and cause of the accusation against him and to have adequate time and facilities for the preparation of his defence as the appeal court and the Supreme Court re-characterised the offence for which he had been found guilty without giving him the possibility to readjust his defence. (Article 6 §1 in conjunction with 6 §3a+b)</i>	
CM/ResDH(2012)191	HUN / Társaság a Szabadságjogok ért	37374/05	14/07/2009 14/04/2009	<i>Freedom receive information: Interference with the applicant association's freedom of information, a non-governmental organisation active in the field of drug policy, on account of the courts' refusal to grant access to a complaint pending before the Constitutional Court by which a parliamentarian had requested the constitutional scrutiny of amendments to the Criminal Code with regard to drug-related offences. (Article 10)</i>	The applicant association was granted unlimited access to complaint at issue before the Constitutional Court. The Registry of the Court makes it possible to look into any appeal. Administrative problem. The judgment was translated, published and disseminated.
CM/ResDH(2012)192	HUN / Károly Hegedűs	11849/07	03/02/2012 03/11/2011	<i>Access to and efficient functioning of justice and protection of property: Excessive length of criminal proceedings and interference with property rights due to the attachment of the applicant's assets throughout most of the time. (Article 1 of Protocol No. 1).</i>	Just satisfaction for non-pecuniary damage paid. The applicant regained the right of disposal over these assets when he was finally acquitted in 2006. Issues related to excessive length of proceedings are examined in the context of the Timár group. The origin of this violation is to be found in the excessive length of the criminal proceedings, not the measure of freezing the assets as such. The judgment was translated, published and disseminated.



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
CM/ResDH(2012)193	ITA / Di Cecco	28169/06	15/05/2011 15/02/2011	<i>Protection of correspondence: Arbitrary monitoring of the correspondence of a prisoner, deriving from a lack of a clear legal framework and, later, from non-compliance with the new legislation. (Article 8)</i>	Just satisfaction for non-pecuniary damage paid. For general measures, see CM/ResDH(2010)56 in Guidi, De Pace and Zara.
CM/ResDH(2012)194	ITA / Guadagnigno	2555/03	20/06/2011 18/01/2011	<i>Access to and efficient functioning of justice: Disproportionate denial of access to courts to examine the merits of a work-related dispute brought by a contract employee at the Ecole Française of Rome, for the purpose of complying with international law. (Article 6 §1)</i>	The applicant is meanwhile retired. Just satisfaction for pecuniary and non-pecuniary damage paid. If the principle of jurisdictional immunity of the State impedes the right of access to justice, the concrete circumstances of the case should justify such an obstacle. No legislative or organisational reforms necessary. The judgment was translated, published and disseminated.
CM/ResDH(2012)195	LUX / Claude Wagner	43490/08	06/01/2012 06/10/2012	<i>Access to and efficient functioning of justice: Denial of a fair trial due to lacking full information on the consequences of the conviction incurred following a driving offence resulting in the deduction of points of the applicant's driver's licence depriving him of the possibility to effectively prepare his defence in due time. (Article 6 §1)</i>	No just satisfaction awarded. The applicant recovered all points with regard to his driving licence. The Attorney General issued a circular stipulating that all penal orders must mention the risk of losing points in the event of a final conviction, which was circulated on 17/09/2010. The judgment was published and disseminated.
CM/ResDH(2012)196	LUX / Alliance Capital S.A	24720/03	18/04/2007 18/01/2007	<i>Access to and efficient functioning of justice: Denial of access to court on account of a material error made by the Court of Cassation, subsequently endorsed and thus penalising the</i>	The litigation between the applicant company and the two other parties was closed by a settlement agreement. There is no explicit regulation for the rectification of material errors in judicial decisions. However, requests for interpretation or correction are possible and recently the Court of Cassation



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>applicant company against which it had no effective means of redress. (Article 6 §1)</i>	granted such requests for rectification of material error or for interpretation in situations comparable to those of the present case. The judgment was published and disseminated.
CM/ResDH(2012)197	POL / Henryk and Ryszard Urban	23614/08	28/02/2011 30/11/2010	<i>Access to and efficient functioning of justice: Lacking independence of the trial court in criminal proceedings being composed of an "assessor" (junior judge), who could be removed by the Minister of Justice at any time during the term of office, without adequate guarantees against the arbitrary exercise of that power by the Minister. (Article 6 §1)</i>	In its judgment the ECHR found no grounds which would require the reopening of the applicants' case. The office of assessor was abolished altogether in 2009.
CM/ResDH(2012)198	POL / Nowinski	25924/06	20/01/2010 20/10/2009	<i>Access to and efficient functioning of justice: Disproportionate restriction on access to court due to refusal to accept the applicant's claim for compensation against the Court of Appeal for damage allegedly caused by that court, on the ground that the applicant not provided his home address. (Article 6 §1)</i>	Just satisfaction for non-pecuniary damage paid. Case of incidental nature resulting from excessive formalism. The judgment was translated, published and disseminated.
CM/ResDH(2012)199	POL / Gajewski	27225/05	21/03/2011 27/12/2010	<i>Access to and efficient functioning of justice: Lack of objective impartiality of a tribunal in insolvency proceedings in which the applicant had been appointed a trustee, on the ground that one judge who sat in the bench deciding on the amount of this remuneration, had prior</i>	Just satisfaction for non-pecuniary damage paid. Case of an isolated nature. The judgment was translated, published and disseminated.



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>to that submitted a motion contesting the applicant's claims for remuneration. (Article 6 §1)</i>	
CM/ResDH(2012)200	POL / Frankowicz	53025/99	04/05/2009 16/12/2008	<i>Freedom of expression: Conviction of a gynaecologist by medical courts as a disciplinary sanction for having prepared a critical opinion on hepatological and dermatological treatment prescribed by another doctor for one of his patients. (Article 10)</i>	Just satisfaction for non-pecuniary damage paid. The notice of reprimand was removed from the relevant register. In 2003 Article 52 §2 the Code of Medical Ethics was amended. However, on 23/04/2008 the Constitutional Court found the article unconstitutional in so far as it prohibited the truthful public assessment of the activity of a doctor by another doctor in the public interest. The relevant provision was not quashed as only its particular restrictive interpretation was considered to breach freedom of expression. The judgment was translated, published and disseminated.
CM/ResDH(2012)203	ROM / Stefan	28319/03	06/07/2010 06/04/2010	<i>Access to and efficient functioning of justice: Unfair criminal proceedings due the annulment of a final judgment by the High Court of Cassation and Justice following an application for nullity lodged by the Procurator General resulting in a conviction to a more severe prison sentence. (Article 6§1)</i>	Just satisfaction for non-pecuniary damage awarded. The applicant died. The applicant's heirs did not apply for reopening of the impugned proceedings. For general measures see CM/ResDH(2011)27 in Bota, Sergiu Popescu and Precup.
CM/ResDH(2012)204	ROM / Begu	20448/02	15/06/2011 15/03/2011	<i>Protection of rights in detention and of property: Lack of sufficient justification for continued detention on remand and failure to decide on the applicant's demand for restitution of items placed under seal by the authorities during a search of his home. (Articles 5 §3 and 1</i>	Just satisfaction for non-pecuniary damage paid. The length of pre-trial detention was deducted for the applicant's sentence. The Prosecutor's Office confirmed that the seized goods would be restored if the applicant filed a respective petition. General measures concerning the justification of detention on remand is examined in the Calmanovici group of cases. As concerns the failure to decide on the restitution of seized goods, the case



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
				<i>of Protocol no. 1)</i>	constitutes an isolated situation. The judgment was translated, published and disseminated.
CM/ResDH(2012)205	ROM / Bozgan	35097/02	11/01/2008 11/10/2007	<i>Freedom of association: Arbitrary refusal of domestic courts to register the association the applicant intended to create, on mere suspicion that the association would pursue an unconstitutional aim, i.e. to set up parallel structures to the public prosecutors' offices, which was not reflected in its statutes. (Article 11)</i>	The applicant can introduce at any time a new request for registration of the association created. He can also request reopening of the impugned proceedings. Case of isolated nature. The judgment was translated, published and disseminated.
CM/ResDH(2012)207	ROM / Hirschhorn	29294/02	26/10/2007 26/07/2007	<i>Access to and efficient functioning of justice and protection of property: Failure to comply with a final judgment, ordering the restitution of a building on account of the diplomatic immunity of the tenant organisation; lack of independence and impartiality of a tribunal due to an opinion expressed during proceedings by an inspecting judge and, implicitly the President of the court of appeal, in favour of the rejection of the applicant's claims; deprivation of ownership rights over the building in question due to government decisions to place it on the State-owned property list. (Articles 6 §1 and 1 of Protocol No. 1)</i>	Just satisfaction for pecuniary and non-pecuniary damage paid. The property in question has been returned to the applicant. Isolated case resulting from the wrongful application of principles related to State immunity in the enforcement proceedings. Concerning independence and impartiality of domestic courts, the law prohibits judges from voicing opinions in public about trials in progress and inspecting judges are formally prohibited from interfering in proceedings. The judgment was translated, published and disseminated. Various problems related to the restitution of property nationalised under the Communist regime are examined in the context of the Străin and others group.
CM/ResDH(2012)208	ROM /	1434/02+	14/03/2007	<i>Access to and efficient functioning of</i>	Just satisfaction for non-pecuniary damage paid. The judgment



Resolution No.	Reference	Appl. No.	Judgment final on/delivered on	Violation	Main measures taken
	Lupaş and Others (No. 1)		14/12/2006	<i>justice: Lack of access to a court in proceedings related to property nationalised under the communist regime due to the rigid application of a case-law rule requiring unanimity amongst co-owners in order to bring an action for recovery of a joint property. (Article 6 §1)</i>	was translated, published and disseminated as well as used in awareness-raising and training activities of magistrates. Domestic court decisions from 2009/10 indicate a change in the courts' approach of the unanimity rule, which is no longer applied automatically: the courts now assess all the relevant circumstances of a given case to determine whether the unanimity rule places an excessive burden on the claimant and, if this is the case, they move to examine the merits of the claimant's action. The unanimity rule was abandoned with the entry into force of the Civil Code on 1st October 2011, section 643 of which provides that the co-owners have individually standing in any civil proceedings related to the joint property.
CM/ResDH(2012)209	ROM / Petrina	78060/01	06/04/2009 14/10/2008	<i>Protection of private life: Failure of domestic courts to adequately protect one's reputation in criminal proceedings for defamation and insult brought by the applicant, a politician, against two journalists following their media coverage presenting him as a former officer in the Communist secret services. (Article 8)</i>	Just satisfaction for non-pecuniary damage paid. Case of an isolated nature. The judgment was translated, published and widely disseminated.
CM/ResDH(2012)210	ROM / Adrian Constantin	21175/03	12/07/2011 12/04/2011	<i>Access to and efficient functioning of justice: Unfair criminal proceedings which ended with the applicant's conviction to a suspended prison sentence for negligence in the performance of his duties, as the applicant's rights of defence were not fully observed when the Supreme Court</i>	Just satisfaction for non-pecuniary damage paid. Under Article 408 Code of Criminal Procedure the applicant can request the reopening of the impugned criminal proceedings. Article 334 of the Code of Criminal Procedure allows for the legal reclassification of the facts by the appellate courts, only subject to specific safeguards for the rights of the defence. The judicial authorities are aware of their obligation to construe and apply the domestic law in a manner compatible with the ECHR. The



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				<i>of Justice, sitting as last-instance court, changed during the deliberations the legal classification of the acts the applicant was charged with. (Article 6 §§1 and 3 (a) and (b))</i>	judgment was translated, published and widely disseminated.
CM/ResDH(2012)211	ROM / Avram	25339/03	18/01/2012 18/10/2011	<i>Protection of rights in detention: Unlawful detention on the basis of a court order prolonging detention on remand without specification of its duration, contrary to domestic law as interpreted by the Constitutional Court. (Article 5§1).</i>	The period of detention on remand had been deducted in its entirety from the applicant's sentence. Just satisfaction for non-pecuniary damage paid. For general measures with regard to the lawfulness of detention on remand see CM/ResDH(2011)22 adopted in the case of Konolos.
CM/ResDH(2012)213	ROM / Postolache No. 2 and SC Marolux SRL and Jacobs	29419/02 48269/08	01/12/2008 21/02/2008	<i>Access to and efficient functioning of justice: Lack of access to court due to excessive court fees. (Article 6 §1)</i>	Just satisfaction for non-pecuniary damage paid. Reopening in impugned civil proceedings possible. For general measures concerning excessive court fees see CM/ResDH(2011)24 in Iorga.
CM/ResDH(2012)214	ROM / Valentin Dumitrescu	36820/02	01/07/2008 01/04/2008	<i>Access to and efficient functioning of justice and protection of property: Lack of access to court due to the refusal of a domestic court to review the lawfulness of an administrative decision concerning the allocation of a plot of land; excessive length of civil proceedings; delay in executing a final court decision ordering the restitution of real property nationalised by the Communist authorities. (Articles 6 §1 and 1 of</i>	Just satisfaction for pecuniary and non-pecuniary damage paid. Reopening in impugned civil proceedings possible. Civil proceedings ended in 2002. The final court decision ordering restitution of the nationalised real property was executed in 2003. For general measures concerning access to court see CM/ResDH(2011)255 in Hauler and Stancu. Issues concerning length of civil proceedings and delay in executing final court decisions ordering the restitution of nationalised real property are being examined in the context of the Nicolau (1295/02) and Strain and Others (57001/00) groups of cases.



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				<i>Protocol No. 1)</i>	
CM/ResDH(2012)215	ROM / Geleri	33118/05	15/09/2011 15/02/2011	<i>Protection of private and family life and issues related to expulsion/deportation: Arbitrary expulsion of a political refugee and interdiction to enter the territory for 10 years imposed on national security grounds without any reason given; failure to provide minimum procedural guarantees against arbitrariness as the national courts only performed a formal examination of the case without providing any indication of the offences of which the applicant was suspected. (Articles 8 and 1 of the Protocol No. 7)</i>	As the applicant could not be located, the sum awarded for just satisfaction for pecuniary and non-pecuniary damage was placed at the applicant's disposal in a bank account within the time-limit laid down by the European Court. Article 322 §9 of the Code of Civil Procedure allows to ask for reopening of internal proceedings by lodging a request for revision. The applicant's request for revision would be admissible, as his previous requests for revision were based on different factual and legal issues. Outstanding issues concerning general measures with regard to illegal interference with one's private life resulting from the expulsion measures for security reasons, which were not provided by a law responding to the requirements of the Convention or/and the breach of the procedural guarantees of the expulsion procedures are examined in Lupsa and Kaya cases. The judgment was translated, published and widely disseminated.
CM/ResDH(2012)216	ROM / Burghilea	26985/03	27/04/2009 27/01/2009	<i>Protection of property: Illegal land acquisition of land by authorities without agreement on the terms or compensation, as part of a hydroelectric power station construction project. (Article 1 of Protocol No. 1)</i>	Just satisfaction for pecuniary damage paid. Incidental case. Erroneous neglect of the applicant's property rights by the authorities and of Law No. 33/1994 on expropriation. Domestic courts usually grant compensation in case of expropriations for public use. The judgment was translated, published and widely disseminated.
CM/ResDH(2012)217	ROM / AGVPS-Bacau	19750/03	09/02/2011 09/11/2010	<i>Access to and efficient functioning of justice: Lack of publicity of contentious civil proceeding - due to the erroneous application of procedural rules for non-contentious proceedings of registration</i>	No just satisfaction awarded. Case due to an error in interpretation and application of procedural law by domestic courts. No violation under Article 11. The judgment was translated, published and widely disseminated.



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				<i>of associations and foundations- resulting in the dissolution of the "General association of Romanian hunters and anglers", a private-law entity with its registered office in Bacău. (Article 6 §1)</i>	
CM/ResDH(2012)218	ROM / Forum Maritime S.A.	63610/00 + 38692/05	04/01/2008 04/10/2007	<i>Access to and efficient functioning of justice: Excessive length of civil proceedings; dismissal by a public prosecutor of a criminal complaint with a civil-party application without the requisite independence from the executive and without possibility to have this decision examined by an independent and impartial tribunal; unreasonable restriction of access to the material in the prosecution file. (Article 6 §1 twice)</i>	Just satisfaction for non-pecuniary damage paid. The procedural deficiency was compensated in subsequent commercial proceedings. As concerns judicial decisions taken by prosecutors as members of the procurator general's department without the requisite independence from the executive, see CM/ResDH(2011)18 in Grecu. Following the amendment of Article 173 of the Code of Criminal Procedure in 2003, lawyers of the civil party may be present during the course of all prosecution acts. The issue of excessive length of commercial proceedings is examined in the Nicolau group.
CM/ResDH(2012)219	ROM / Sissanis and Rosengren	23468/02 + 70786/01	25/04/2007 25/01/2007	<i>Freedom of movement: Unlawful or disproportionate prohibition to leave the country (or the city) in the framework of criminal proceedings. (Article 2 §2 of Protocol No. 4)</i> <i>Access to and efficient functioning of justice: Excessive length of criminal proceedings. (Article 6 §1)</i>	Just satisfaction for non-pecuniary damage paid. In the first case, the stamp in question was removed from the passport in 2004. In the second case, the criminal proceedings in question ended and the prohibition on leaving the city was lifted in 2002. Article 27 of Law No. 25/1969 had been declared unconstitutional on 11/04/2001, thus the prohibition to leave the country had been unlawful from that date onwards. Emergency Ordinance No. 194 on the status of foreigners was adopted in 2002 and republished in the Official Journal on 05/06/2008. At present, the prohibition to leave the country by foreigners may be applied under two circumstances: 1) the



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					foreigner is accused in criminal proceedings and the competent magistrate (judge or prosecutor) orders the prohibition on leaving the country or the city; 2) the foreigner was sentenced by a final court decision and has to serve a prison sentence. The procedure for applying the preventive measures forbidding an individual to leave the country or the city is regulated by the Code of Criminal Procedure, as amended in 2003 and 2006. According to the relevant provisions of the Code of Criminal Procedure, the decision imposing the prohibition on leaving the country or the city must state the concrete grounds which make it necessary. It may be ordered by the prosecutor or the judge and shall not exceed 30 days. The measure may be prolonged on the basis of a motivated decision. The judicial practice adjusted to the new regulations. The judgments were translated, published and widely disseminated. General measures with regard to excessive length of criminal proceedings are examined in the Stoianova and Nedelcu group of cases.
CM/ResDH(2012)221	SVN / Stavebna spolocnost Tatry Poprad	7261/06	03/08/2011 03/05/2011	<i>Access to and efficient functioning of justice: Denial of right to court due to the rejection by the Constitutional Court of an appeal as introduced outside the statutory time-limit and thus excluding from its review part of the applicant company's arguments concerning the evidence put before the ordinary courts in order to challenge the validity of a construction contract between the applicant and another company. (Article 6 §1)</i>	No just satisfaction claims submitted. The principle of legal certainty would not allow reopening of litigation proceedings at the national level. Change of practice of the Constitutional Court: in case of concurrent lodging of an appeal on points of law and a constitutional complaint, the constitutional complaint is admissible only after the Supreme Court's decision on the appeal. However, the statutory time-limit for lodging of the constitutional complaint is considered to be preserved. The judgment was translated, published and disseminated.



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CM/ResDH(2012)222	SWE / Segerstedt-Wiberg and others	62332/00	06/09/2009 06/06/2009	<i>Protection of private life, freedom of expression and association and lack of domestic remedy: Unjustified storage by the Security Service of information on the applicants' former political activities and refusal to impart full extent of personal information contained in such records as well as lack of any effective remedy. (Articles 8,10, 11 and 13)</i>	Just satisfaction for non-pecuniary damage paid. The information on the applicants was eliminated from the records of the Swedish Security Service and is therefore neither searchable nor accessible to Swedish Security Service personnel. In January 2008 the Commission on Security and Integrity Protection started operating. It supervises personal data processing by the Swedish Security Service and ensures transparency by means of its strong links with the Riksdag (Swedish Parliament). Legislative amendments were introduced in order to enable the Commission on Security and Integrity Protection and the Data Inspection Board to exercise effective supervision of lawfulness of personal data storage by law enforcement agencies. Work is currently in progress at the Ministry of Justice to modernize the legislation regulating processing of personal data by the Police Service. The new provisions provide clearer and more detailed regulation concerning elimination of data. For certain types of personal data a considerably shorter period before elimination, as compared to the current legislation, is envisaged. The proposal will also require the Swedish Security Service to take a special decision if data need to be kept longer than the ten-year limit for elimination. The judgment was translated, published and disseminated.
CM/ResDH(2012)223	TUR / Erkus	30326/03	29/12/2009 29/09/2009	<i>Protection of rights in detention: Arrest and unlawful detention of a conscript on suspicion of being an army deserter. (Article 5 §1)</i>	Just satisfaction paid. Applicant released. Isolated incident resulting from an erroneous administrative act. In addition, section 80 §3 of the Law on the Constitution of Military Courts and Criminal Procedure was amended in June 2006, providing that the time in custody shall not exceed twenty-four hours, excluding the time necessary to transfer the detainee to the nearest military court, and that the time necessary for transfer



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					could not be more than twelve hours. The judgment was translated, published and disseminated.
CM/ResDH(2012)224	TUR / Karataş and Yıldız and Others	4889/05+	16/10/2009 16/07/2009	<i>Access to and efficient functioning of justice: Excessive length of civil proceedings on account of the fact that the first instance court judgments could not become final since they were not served to the Treasury because of the non-payment of court fees for service, prior to the appellate stage.</i>	Just satisfaction paid; proceedings terminated. Article 302 of the new Code on Civil Proceedings was amended in 2011. According to these provisions any party is able to request the enforcement or notification of the judgment even if that party cannot pay legal fees. The parties are able to lodge an appeal. National authorities cannot refuse enforcement or notification requests for lack of payment of court fees. The judgment was translated, published and disseminated.
CM/ResDH(2012)225	TUR / Kazim Tavli	11449/02	09/02/2007 09/11/2006	<i>Protection of private and family life: Impossibility for the applicant to prevail himself before the national courts of DNA tests proving that he was not the father of his former wife's child. His paternity had been established by legal presumption in 1982, when DNA tests were not available. Nevertheless, the national courts rejected the applicant's request, maintaining that scientific progress could not be considered as "force majeure" justifying a retrial (Article 8)</i>	Just satisfaction paid. In reopened proceedings the domestic court ruled for the denial of the paternity as requested by the applicant, relying on the DNA analysis report prepared by Ankara Forensic Medicine Institution on 19/08/1998. Case of isolated nature. The judgment was translated, published and disseminated.
CM/ResDH(2012)226	TUR / Meral and 10 other cases	33446/02+	02/06/2008 27/11/2007	<i>Access to and efficient functioning of justice: Unfair domestic proceedings due to the failure by courts to provide the applicants with a copy of the written</i>	Domestic proceedings closed. The procedural shortcomings in the impugned proceedings were not serious enough to pose doubt as to the outcome; therefore reopening was not envisaged. After amendments made to the Law on the Council



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				<i>opinion of Public Prosecutor before the Council of State and the excessive length of domestic (Article 6 §1)</i>	of State in July 2012, prosecutors no longer submit their opinion with regard to cases at the appeal stage. If the Council of State acts as first instance court, the Public Prosecutor's opinion is notified to the parties. General measures concerning excessive length of domestic proceedings are examined in the context of Ormançı group of cases and Ümmühan Kaplan pilot judgment.
CM/ResDH(2012)228	UK / A.A.	8000/08	20/12/2011 20/09/2011	<i>Protection of private life: Disproportionate interference based on a deportation order against a foreigner who had committed a serious offence as a minor, without carefully weighing his exemplary conduct, commendable efforts to rehabilitate himself and to reintegrate into society over a period of seven years. (Article 8 conditional)</i>	Deportation action is no longer being pursued. As the appellant had been granted Indefinite Leave to Remain (ILR) and will retain that status. Due to the specific facts of the concrete case deportation to Nigeria would be disproportionate to the legitimate aim of the prevention of disorder and crime. The judgment was published.
CM/ResDH(2012)229	UK / Al Khawaja + Taherty	22228/06 + 26766/05	15/12/2011 Grand Chamber	<i>Access to and efficient functioning of justice: Unfair criminal proceedings due to a conviction based on statements from witnesses who could not be cross-examined in court without sufficient counterbalancing factors to compensate for the difficulties to the defence which resulted from the admission of the statement. (Article 6 §1 in conjunction with §3)</i>	Just satisfaction paid. An application to the Criminal Cases Review Commission for review of the case can be made. The importance of the case is confined to its specific facts. The safeguards contained in the 1988 and 2003 Criminal Justice Acts, supported by those contained in the Police and Criminal Evidence Act and the common law, are, in principle, strong safeguards designed to ensure fairness. The judgment was published and disseminated.
CM/ResDH(2012)230	UK / Hanif and Khan	52999/08 +	20/03/2012 20/09/2012	<i>Access to and efficient functioning of justice: Unfair criminal proceedings due</i>	Just satisfaction paid. It is open to the applicants to make applications to the Criminal Cases Review Commission for



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		61779/08		<i>to the presence of a police officer on the jury in a drug's case involving disputed police evidence, which resulted in the applicants' conviction. (Article 6 §1)</i>	review of their cases. The case is confined to its own specific facts and does not give rise to any policy changes. The UK courts already have the power to discharge a juror. Should a similar case arise again, the UK courts would be obliged by the Human Rights Act 1998 to take into account the present judgment. The judgment was published and disseminated.
CM/ResDH(2012)231	UK / J.M.	37060/06	28/12/2010 28/09/2010	<i>Discrimination on the ground of sex: The applicant, in a same-sex relationship, could not benefit from the same reduction in child maintenance payments as she would have done if she were in a heterosexual relationship (Article 14 in conjunction with Article 1 Protocol No. 1)</i>	Just satisfaction paid. The Civil Partnership Act 2004 and subordinate legislation were amended to provide that, in the relevant situation, same sex relationships are taken into account in an equivalent way to relationships between persons of the opposite sex. The judgment was published and disseminated.
CM/ResDH(2012)232	UK / Minshall	7350/06	20/12/2011 20/03/2012	<i>Access to and efficient functioning of justice: Excessive length of confiscation proceedings with regard to delay waiting for a judgment from the House of Lords following a conviction of conspiracy to evade excise duty. (Article 6 §1)</i>	Just satisfaction for pecuniary and non-pecuniary damage paid. The new Supreme Court came into existence on 01/10/2009 taking over the jurisdiction previously exercised by the Appellate Committee of the House of Lords and now hears final appeals. Research showed that the length of time proceedings took in the House of Lords was in some cases extensive. The Supreme Court took a number of measures to prevent such delays from arising in the Rules of Court and Practice Directions for the Supreme Court and the Supreme Court. There are performance indicators for dealing with casework and better management information tools available than to staff in the House of Lords Judicial Office. The judgment was published and disseminated.