



## Summary of Final Resolutions adopted by the Committee of Ministers in 2014

(with the exception of those concerning Friendly Settlements)

These summaries are made under the sole responsibility of the Department for the Execution of the 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  |
|-----------------------------------|----------------------------------|-----------|--------------------------------|---|--|
| <a href="#">CM/ResDH(2014)96</a>  | ALB / Xheraj                     | 37959/02  | 01/12/2008<br>29/07/2008       | <i>Unfair criminal proceedings due to a violation of the principle of legal certainty: Quashing by Supreme Court of a final acquittal following an unjustified request by the prosecutor for leave to appeal beyond time-limit (Article 6§1).</i> | Reopening of criminal proceedings: acquittal of the applicant by Supreme Court on 07/03/2012 and criminal records erased.<br>The judgment was translated, published and disseminated and is used in training. Other general measures are examined in the Caka-group.   |
| <a href="#">CM/ResDH(2014)225</a> | ARM / Bayatyan and 2 other cases | 23459/03  | 07/07/2011<br>Grand Chamber    | <i>Disproportionate interference with religious freedom: Conviction of conscientious objectors to prison sentences (Article 9).</i>   | Applicants released and criminal records erased in 2006. Law on "Alternative Service of 2004 amended in 2013 taking into account the opinion of the Venice Commission reduced duration of alternative military or labour services to 30, respectively 36 months. A Republican Commission to examine applications for alternative service was established. To remedy the situation of conscientious objectors convicted before the entry into force of this law and those in ongoing pre-trial of trial proceedings, the Code of Criminal Procedure was amended providing that convicted objectors should be released, if they apply for alternative service before 01/08/2013. The duration of service will be reduced by the duration of the sentence already served. (see AR 2014) |
| <a href="#">CM/ResDH(2014)44</a>  | ARM / Melikyan                   | 9737/06   | 19/05/2013<br>19/02/2013       | <i>Denial of access to court: Domestic courts indiscriminately denied examination of claims contesting the legality of a Government decree (Article 6§1).</i>   | Amendments to the Constitution of the Republic of Armenia were adopted in 2005 granting effective legal remedies to protect one's rights and freedoms before judicial as well as other public bodies. The impugned provision of the Code of Civil Procedure of Armenia was declared invalid by the Constitutional Court in 2006. The judgment was published  |



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|                                   |                        |           |                                |   | and translated. It is included in training curricula of Police Academy, Prosecutors' School, Judicial School, Public Service Training Courses and detention facilities staff members.  |
| <a href="#">CM/ResDH(2014)108</a> | ARM / Sarukhanyan      | 38978/03  | 27/08/2008<br>27/05/2008       | <i>Disproportionate interference with right to stand in general parliamentary elections: Annulment of a candidate's registration on the ground of omissions in the property declaration submitted (Article 3 of Protocol No. 1).</i>  | New Electoral Code, in force since June 2011, submission of a property and income declaration is not required for registration and no sanction for non-compliance; candidates are entitled to challenge acts or omission of electoral commissions before higher commissions and administrative and constitutional Courts. (see AR 2014)                  |
| <a href="#">CM/ResDH(2014)135</a> | AUT / Kopf and Liberda | 1598/06   | 17/04/2012<br>17/01/2012       | <i>Interference with the right to family life: Lack of diligence in proceedings concerning examination of a request to grant foster parents visiting rights of their former foster child (Article 8).</i>   | According to the Court's judgment, on the substance, the domestic courts had struck a fair balance between competing interests. The judgment was published and widely disseminated in conjunction with a Circular Note of the Federal Chancellery.   |
| <a href="#">CM/ResDH(2014)159</a> | AUT / X. and Others    | 19010/07  | 19/02/2013<br>(Grand Chamber)  | <i>Discriminatory treatment of unmarried same-sex couples: legal impossibility of "second-parent" adoption in unmarried same-sex couples without severing the links with the original parent, preventing courts from examining whether a requested adoption was in the child's interest as it was possible in case of adoptions in unmarried heterosexual couples (Article 14 in conjunction with Article 8).</i> | After amendment of relevant provision in Civil Code (entry into force August 2013) second-parent adoptions in same-sex couples are possible, including for the applicants. The respective prohibition was deleted by the Registered Partnership Act in August 2013. (see AR 2014)  |
| <a href="#">CM/ResDH(2014)110</a> | BEL / El Haski         | 649/08    | 18/03/2013<br>25/09/2012       | <i>Denial of a fair trial: Conviction for participation in a terrorist organisation's activities based to a decisive extent on statements obtained in Morocco, where there existed a real risk that those statements had been</i>   | Criminal proceedings were reopened. Applicant released on 19/10/2011. Specific instructions were adopted by Federal Prosecutor's Office (Note 32/2013). New law of 23/10/2013 amended Criminal Procedure Code providing for the exclusion of evidence obtained irregularly, thus evidence obtained through torture. Integration of Court's case-law into |



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|                                    |   |           |                                | <i>obtained through inhuman or degrading treatment (Article 6§1).</i>   | Court of Cassation's case-law. (see AR 2014)   |
| <a href="#">CM/ResDH(2014) 255</a> | BEL / Firoz Muneer and 1 other case         | 56005/10  | 11/07/2013<br>11/04/2013       | <i>Lack of a speedy judicial review of the lawfulness of the applicant's detention in view of deportation (Article 5§4).</i>  | The applicant, released in 2010, has a temporary residence permit and has been joined by his wife and child. The judgment, resulting from a decision in contradiction with the case-law of the Cassation Court, was translated, published and disseminated to the competent authorities and is used in training of judges.   |
| <a href="#">CM/ResDH(2014) 272</a> | BEL / M.S.S.                                | 30696/09  | 21/01/2011<br>Grand Chamber    | <i>Conditions of detention and subsistence for asylum-seekers amounting to ill-treatment; risk of expulsion due to deficiencies in asylum procedure in Greece and lack of an effective remedy against the authorities decision to expose the applicant to these risks: Expulsion of an asylum-seeker by Belgium to Greece under Dublin II Regulation (Articles 3 and 3 in conjunction with 13).</i> | The applicant enjoys refugee status in Belgium since 2012. Belgium ceased to operate transfers of asylum-seekers to Greece on the basis of the application of Article 3§2 of the Dublin II regulation (sovereignty clause). Change of case-law of the "Conseil du contentieux des étrangers" ((CCE) – Litigation Council for foreigners) concerning the rules on the evaluation of evidence in asylum-proceedings with regard to allegations of ill-treatment in the country of origin. Amendments of the Law on Foreigners in 2014 concerning the burden of proof in case of ill-treatment in the country of origin and modalities to examine the situation in the country of origin, the urgent suspension of removal decisions. According to an internal circular note, a delay of a minimum of 4 hours is foreseen between the introduction of the request of urgent suspension of the removal order and the respective hearing.<br>The examination of measures taken by Greece to implement the judgment will continue. |
| <a href="#">CM/ResDH(2014) 226</a> | BEL / Mubilanzila Mayeka and Kaniki Mitunga | 13178/03  | 12/01/2007<br>12/10/2006       | <i>Inhuman treatment, unlawful detention, deportation and disproportionate interference with family life of an unaccompanied</i>  | Following diplomatic interventions, the child was reunited with her mother in Canada in 2002. A Law dated 2007 put an end to the practice to detain unaccompanied foreign minors; another Law dated 2004 establishes that a guardian is  |



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|                                   |                        |           |                                | <i>foreign minor seeking to unite with her mother: Inadequate conditions of detention for minors, lack of protection or precautions with regard to the child's deportation, granted release rendered ineffective (Articles 3, 5§§1+4 and 8).</i>   | appointed for such minors providing care under the supervision of the Guardianship Department; a Law 2012 tasks the Aliens Office with ensuring that these minor will be properly received and cared for on arrival in case of deportation. The judgment was translated, published and disseminated.   |
| <a href="#">CM/ResDH(2014)92</a>  | BEL / Riad and Idiab   | 29787/03+ | 24/04/2008<br>24/01/2008       | <i>Inhuman and degrading treatment of detained illegal aliens and unlawful continuation of their detention despite a release order: Detention of illegal aliens in the transit zone of an airport for more than ten days without providing for their basic needs (Articles 3 and 5§4).</i> | The applicants had been expelled in March 2003. Practice of placing illegal aliens in the transit area of an airport following a release decision by a court, ceased in 2008. The alien's liberation, however, does not make his residence legal. Therefore he may become subject of a new retention measure for removal on the occasion of an identity check by police forces. The judgment was disseminated to all services concerned. |
| <a href="#">CM/ResDH(2014)112</a> | BEL / Singh and Others | 33210/11  | 02/01/2013<br>02/10/2012       | <i>Failure to examine the merits of Article 3 complaints and thus to ensure effective protection against risk of ill-treatment: Rejection of documentary evidence submitted by asylum seekers without prior verification of its authenticity (Article 13 in conjunction with Art. 3)</i>   | Asylum requests were re-examined and refugee status granted. Change in case-law of the competent immigration authorities, the CCE ( <i>Conseil du contentieux des étrangers</i> ) and the CGRA ( <i>Commissariat général aux réfugiés et apatrides</i> ). Elaboration of an instruction on the basis of the Court's judgment, which was also translated, published and disseminated.   |
| <a href="#">CM/ResDH(2014)111</a> | BEL / Stagno           | 1062/07   | 07/10/2009<br>07/07/2009       | <i>Disproportionate limitation of the right of access to a court: impossibility to bring legal proceedings on the basis of an insurance policy because the applicants' capacity to take action had been statute-barred before they reached the age of majority (Article 6, §1).</i>        | Amendment of the Law on Insurance, entered into force on 04/04/2014, abolishing time limitation for minors. Amounts to be paid to minors must be paid into an escrow account until the age of majority. (see AR 2014)  |
| <a href="#">CM/ResDH(2014)</a>    | BEL / Trevalet         | 30812/07  | 28/11/2011                     | <i>Lack of vigilance by authorities with</i>   | Just satisfaction was paid. The federal police decided to  |



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| <a href="#">136</a>               |   |           | (Merits)<br>25/09/2013<br>(Just satisfaction)<br>14/06/2011<br>(Merits)<br>25/06/2013<br>(Just satisfaction) | <i>regard to the use, by mistake, of potentially lethal force by police officers: thereby posing a serious risk to the life and causing injuries to a reporter during a police intervention that he was filming with the authorisation of the police (Article 2 substantive limb).</i> | further refuse the authorisation of the participation of third parties in the activities of the federal police on the grounds. The steering committee of the federal police and the office of the local police concluded that it was appropriate to discourage local police teams to be accompanied by the media during field operations.   |
| <a href="#">CM/ResDH(2014)259</a> | BGR / Aliykov and 1 other case                      | 333/04    | 03/03/2010<br>03/12/2009   | <i>Denial of a fair trial: Unjustified refusal by the Supreme Court of Cassation to reopen criminal proceedings resulting in their convictions in absentia (Article 6§1).</i>  | Criminal proceedings were reopened. A new Code of Criminal Procedure was adopted in 2006 and amended in 2008 and 2011 regulating the reopening of proceedings conducted in absentia and to be applied <i>ex nunc</i> according to the Supreme Court's judgments, except in the case of lacking official notification of the charge raised. Specific questions concerning reopening of criminal proceedings are examined in Stoyanov-Kobuladze |
| <a href="#">CM/ResDH(2014)137</a> | BGR / Decheva and Others                            | 43071/06  | 26/09/2012<br>26/06/2012   | <i>Denial of fair trial and unlawful deprivation of property: Non-enforcement of a final domestic judgment in restitution proceedings concerning private property, which had been formerly nationalised (Articles 6§1 and 1 of Protocol No. 1).</i>                                    | Compensation for damages paid. General measures are covered by <a href="#">CM/ResDH(2013)238 in Kehaya and Others</a> (47797/99 and 68698/01). The Code of Administrative Procedure and relevant case-law changed. Supreme Court of Cassation issued an interpretive decision on the binding effect of restitution judgments on civil courts on 14/01/2013.   |
| <a href="#">CM/ResDH(2014)198</a> | BGR / Dimitar and Anka Dimitrovi and 11 other cases | 56753/00  | 12/05/2009<br>12/02/2009   | <i>Lacking fair balance in deprivation of property (annulment of property titles acquired under Communist regime) without clear and foreseeable possibility to obtain compensation (Article 1 of Protocol No. 1).</i>  | Amendment of section 7 of the Restitution Law in June 2006, providing that persons having lost their property under section 7 are entitled to compensation in bonds and may submit prioritised applications to purchase municipal apartments. If no apartment is available, the claimant may receive the face value of the bonds from the Ministry of Finance.  |
| <a href="#">CM/ResDH(2014)277</a> | BGR / Getzov  | 30105/03  | 04/06/2010<br>04/03/2010   | <i>Unlawful placement in a psychiatric institution: on the order of a</i>  | The applicant was released in May 2003 and confined again on the basis of a court order in 2005. General measures are   |





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|                                   |                                   |           |                                | <i>prosecutor, without prior medical advice, for the purpose of determining whether he needed compulsory psychiatric treatment (Article 5§1 (e)).</i>  | covered by <a href="#">CM/ResDH (2010)40</a> in the Varbanov group.   |
| <a href="#">CM/ResDH(2014)17</a>  | BGR / Gulub Atanasov              | 73281/01  | 06/02/2009<br>06/11/2008       | <i>Transfer to a psychiatric hospital of a person under house arrest without the requisite court order on decision of an investigator for the purpose of an examination; impossibility to challenge the committal before a court and lack of enforceable right to compensation (Art. 5§§1+4+5).</i>  | Isolated case: Erroneous application of domestic law by investigator. Lack of Habeas Corpus appeal is examined in the cases Stoichkov (9808/02), Svetoslav Dimitrov (55861/00) and Gavril Yosifov (74012/01). The introduction of a right to compensation has been covered in <a href="#">CM/ResDH(2013)102</a> .                               |
| <a href="#">CM/ResDH(2014)67</a>  | BGR / Iordan Iordanov and Others  | 23530/02  | 02/10/2009<br>02/07/2009       | <i>Lack of a fair hearing due to "profound and long-standing differences" in the Supreme Administrative Court's interpretation of the relevant domestic legal provisions governing official and internal investigation procedures in the Ministry of the Interior, leading to dismissal from employment; excessive length of criminal proceedings (Article 6§1).</i> | Judicial proceedings were reopened and the applicants' dismissal repealed. New Law on the Ministry of the Interior contains provisions for disciplinary proceedings; the Ministry of the Interior adopted an instruction in 2011 containing detailed rules on their application. Length of criminal proceedings is examined in the Kitov-group. |
| <a href="#">CM/ResDH(2014)260</a> | BGR / Ivan Stoyanov Vasilev       | 7963/05   | 04/09/2013<br>04/06/2013       | <i>Denial of a fair trial: Unfair review proceedings before the Supreme Administrative Court, which upheld the Ministry of Interior's decision to terminate the applicant's employment refusing to examine four witnesses in his favour (Article 6 § 1).</i>   | Proceedings were reopened. Administrative Procedure Code has been in 2006 providing an ex officio examination of all the prerequisites for the validity and the legality of the administrative act. In cassation proceedings only documentary evidence is admissible. The judgment was translated, published and disseminated.                  |
| <a href="#">CM/ResDH(2014)138</a> | BGR / Karamitrov and Others and 1 | 53321/99  | 10/04/2008<br>10/01/2008       | <i>Unlawful car seizure and retention in criminal proceedings and lack of effective remedy; excessive length of</i>  | Seized cars were returned to applicants. In 2000, amendment of the 1974 Code of Criminal Procedure; a new CCP was adopted in 2006 allowing requests to the  |



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|                                   | other case                        |           |                                | <i>those proceedings (Article 1 of Protocol No. 1 and Article 13).</i>  | prosecutors for the return of seized objects and judicial review of the relevant decision. Change in case-law allows seeking compensation for damages caused by improper and prolonged retention of property. The judgment was translated, published and disseminated. Excessive length of proceedings is examined in the Kitov-group.                   |
| <a href="#">CM/ResDH(2014)199</a> | BGR / Kayriakovi and 1 other case | 30945/04  | 07/04/2010<br>07/01/2010       | <i>Disproportionate interference with property rights: Retroactive liability for damages for continued use of such property between the entry into force of the 1992 Restitution Law and a final judgment in favour of restitution by a domestic court (Article 1 of Protocol No. 1).</i> | Change of case-law of the Supreme Court of Cassation concerning retroactive liability for damages for continued use.   |
| <a href="#">CM/ResDH(2014)77</a>  | BGR / Kroushev                    | 66535/01  | 03/10/2008<br>03/07/2008       | <i>Unlawful detention in psychiatric hospital on the basis of a prosecutor's order and lack of review by a court; excessive length of civil proceedings (Articles 5§4 + 6§1).</i>   | General measures concerning detention in psychiatric hospital covered in <a href="#">CM/ResDH(2010)40</a> . Length of proceedings examined in Djangofov group.   |
| <a href="#">CM/ResDH(2014)22</a>  | BGR / Lyubenova                   | 13786/04  | 18/01/2012<br>18/10/2012       | <i>Failure of authorities to take necessary measure to enable family life due to failure to re-establish the mother's custody of a child handed over to the parental grand-parents (Article 8)</i>  | An agreement on the exercise of parental rights and visiting rights was made with the approval of the domestic court. New Family Code entered into force in October 2009 introducing safeguards for the protection of family life. Its Articles 126/127 regulate the relationship between parents and minor children, when parents do not live together. |
| <a href="#">CM/ResDH(2014)201</a> | BGR / Mancheva and 1 other case   | 39609/98  | 30/12/2004<br>30/09/2004       | <i>Non-enforcement of final court judgments ordering municipalities to pay compensation (Articles 6§1 and 1 of Protocol No. 1).</i>   | New 2008 Code of Civil Procedure provides for enforcement proceedings for municipality debts recognised in final judgments. It also provides for civil responsibility in case of enforcement agents' unlawful behaviour in the enforcement proceedings. The judgment was translated, published and disseminated.   |
| <a href="#">CM/ResDH(2014)</a>    | BGR / Milen                       | 40026/07  | 03/12/2013                     | <i>Interference with freedom of</i>   | The relevant provision in the Personal Documents Act was   |



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| <a href="#">248</a>               | Kostov and 1 other case        |           | 03/09/2013                     | <i>movement and lack of effective remedy: Automatic travel ban imposed due to a prior conviction during the statutory period for legal rehabilitation (Articles 2 of Protocol No. 4 and 13).</i>  | revoked, see <a href="#">CM/ResDH(2012)156</a> .   |
| <a href="#">CM/ResDH(2014)21</a>  | BGR / Nenov                    | 33738/02  | 16/10/2009<br>16/07/2009       | <i>Denial of a fair trial due to lacking grant of legal aid for mentally-ill person in proceedings concerning visiting rights with respect to children (Article 6§1)</i>  | The new Civil Procedure Code, in force since 2008, contains provisions for the eligibility to free legal aid. In practice, a person in the applicant's position would be granted legal assistance for the institution of and participation in proceedings.   |
| <a href="#">CM/ResDH(2014)286</a> | BGR / Nicolay Dimitrov (No. 2) | 30544/06  | 08/01/2013<br>08/01/2013       | <i>Denial of access to a court: Excessive court fees imposed in civil proceedings initiated against the State for damages (Article 6§1).</i>  | Just satisfaction paid. General measures are covered in <a href="#">CM/ResDH(2011)8</a> in Stankov and Tzvyatkov.  |
| <a href="#">CM/ResDH(2014)261</a> | BGR / Petko Petkov             | 2834/06   | 19/05/2013<br>19/02/2013       | <i>Denial of access to a court: Dismissal of an inheritance claim exclusively on the basis of retroactive application of new case-law of the Supreme Court of Cassation concerning an unforeseeable procedural requirement applied also to already pending cases (Article 6 § 1).</i>   | Impugned proceedings were reopened. The judgment was translated, published and disseminated. No similar cases, concerned by the retroactivity of the Supreme Court's new case law, occurred on a national level.   |
| <a href="#">CM/ResDH(2014)258</a> | BGR / Petrov and 9 other cases | 15197/02  | 22/08/2008<br>22/05/2008       | <i>Disproportionate and discriminatory interference with private and family life and correspondence; excessive length of criminal proceedings and lack of remedy: Unjustified routine monitoring of correspondence in prison, including correspondence with lawyers and the Registry of the Court; prohibition to telephone his unmarried partner with whom he has a child (Articles 8, 8 in conjunction with 14;</i> | Proceedings with regard to all applicants are terminated. In 2009 a new Execution of Punishments and Pre-Trial Detention Act entered into force regulating the right to correspondence and telephone use of prisoners. The control of prisoners' correspondence concerns only the material content and not the written content of the letter. In a judgment of 25/04/2013, the Supreme Court of Cassation held that claims for compensation brought by prisoners alleging a breach of their right to correspondence should be examined by the administrative courts under the State and Municipalities Liability for Damage Act 1988/1988 Act. |





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|                                   |                |           |                                | 6§1 and 13).  | Concerning right to compensation see <a href="#">CM/ResDH(2013)102</a> in Yankov. Excessive length of proceedings is examined in the Kitov group.   |
| <a href="#">CM/ResDH(2014)227</a> | BGR / Radeva   | 13577/05  | 03/10/2012<br>03/07/2012       | <i>Denial of access to a court: Dismissal of an appeal by the Supreme Administrative Court for non-observance of the statutory time-limit, based on a calculation manifestly contrary to the domestic law (Article 6 § 1).</i>  | The applicant did not request reopening of proceedings. The judgment, based on an isolated incident, was translated, published and disseminated.  |
| <a href="#">CM/ResDH(2014)203</a> | BGR / Sadaykov | 75157/01  | 22/08/2008<br>22/05/2008       | <i>Unlawful detention pending deportation and impossibility to have the lawfulness of detention decided speedily by a court (Articles 5§1(f) and 5§4).</i>  | The applicant was released. Amendments of the Aliens Act in April 2003 and May 2009 Introduced changes of the rules on detention pending deportation. The judgment, based on errors imputable to the authorities, was translated, published and disseminated.   |
| <a href="#">CM/ResDH(2014)68</a>  | BGR / Shopov   | 11373/04  | 02/12/2010<br>02/09/2010       | <i>Unlawful committal to a psychiatric hospital and continuing interference with private life resulting from compulsory psychiatric treatment in outpatient clinic for more than five years without regular judicial review of the need to continue the treatment (Articles 5§1 and 8).</i>   | Compulsory treatment ended in January 2009. New Public Health Act 2004 provides for a judicial control mechanism to regularly review the need of continued treatment. The patient concerned can initiate such judicial review. The judgment was circulated to prosecutors and competent courts.   |
| <a href="#">CM/ResDH(2014)249</a> | BGR / Stamose  | 29713/05  | 27/02/2013<br>27/11/2012       | <i>Unjustified and disproportionate interference with freedom of movement and absence of effective remedy: Two years' travel ban for having breached the Immigration Rules of the US, where the applicant's mother and brother lived, and lack of possibility to obtain a judicial review of the proportionality of the measure</i> | The relevant provision in the Personal Documents Act was revoked by an amendment which came into force on 20/10/2009. A further amendment was enacted (entry into force on 10/04/2010) specifying that the validity of all travel bans imposed prior to the entry into force of the impugned provision's revocation, would cease within three months. |



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|                                   |                           |           |   | (Articles 2 of Protocol No. 4 and 13).   |  |
| <a href="#">CM/ResDH(2014)202</a> | BGR / Yavashev and Others | 41661/05  | 18/03/2013<br>06/11/2012  | <i>Disproportionate interference with the applicants' right to peaceful enjoyment of possessions: Impossibility for the applicants to apply for compensation for a plot of land and accessory buildings nationalised during communist era for reasons imputable to the authorities as the time-limit foreseen had expired (Article 1 of Protocol No. 1).</i>   | In March 1998 the Constitutional Court held that restitution was not possible in respect of property belonging to the public domain. There is no legal possibility to file an application for compensation under the Compensation of owners of Nationalised Real Property Act when the time-limit expired. The judgment, based on errors imputable to the authorities, was translated, published and disseminated. |
| <a href="#">CM/ResDH(2014)97</a>  | BGR / Yordanov Stanimir   | 50479/99  | 18/04/2007<br>18/01/2007  | <i>Lack of public hearing: Impossibility for the applicant to appear and defend the case, either in person or through a lawyer, before administrative courts (Articles 6 §§ 1 and 3 c).</i>  | Administrative Offences and Punishments Act 1960 does not provide for reopening of the proceedings. Article 217 § 2 of the Administrative Procedure Code 2006, provides for a public hearing in the cassation instance. With this amendment the prior discretion given to the last instance was abandoned and a public hearing became mandatory.   |
| <a href="#">CM/ResDH(2014)256</a> | BGR / Zaharievi           | 22627/03  | 10/12/2009<br>02/07/2009 (Merits)<br>14/02/2014<br>14/11/2013 (Just satisfaction) | <i>Interference with peaceful enjoyment of possessions: Refusal by domestic courts to examine the applicants' requests for readjustment of compensation they received, on the basis of a final judgment, in form of shares of a company, which had meanwhile been taken over; the shares offered after the take-over represented only one-fourteenth of the compensation initially awarded by the Supreme Administrative Court (Art. 1 of Protocol No. 1).</i> | Just satisfaction paid. Legislation on restitution applicable at the material time was abrogated in 2002. The judgment, based on an isolated incident, was translated, published and disseminated to the competent authorities and is used in training of judges.  |
| <a href="#">CM/ResDH(2014)257</a> | BGR / Zhelyazkov          | 11332/04  | 09/01/2013<br>09/10/2012  | <i>Denial of the right of appeal in criminal matters: Impossibility to file</i>  | Just satisfaction paid. General measures (legislative changes) covered in <a href="#">CM/ResDH(2013)99</a> in Kamburov and Stanchev.   |



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|                                   |                                      |           |                                | <i>an appeal against a conviction for a minor public-order offence imposing a sanction of fifteen days' detention (Article 2 of Protocol No. 7).</i>  |   |
| <a href="#">CM/ResDH(2014)186</a> | BIH / Al Hamdani                     | 31098/10  | 09/07/2012<br>07/02/2012       | <i>Irregular detention in view of deportation: Detention of an Iraqi national on security grounds although no valid deportation order had been issued (Article 5§1).</i>  | Amendment of the 2008 Aliens Act (entry into force November 2012) providing that aliens can henceforth be detained on security grounds only after the issuing of a deportation order. |
| <a href="#">CM/ResDH(2014)19</a>  | BIH / Bobić                          | 26529/10  | 03/08/2012<br>03/05/2012       | <i>Lack of a fair trial and interference with peaceful enjoyment of possession due to non-enforcement of a Constitutional Court's decision on salary and employment benefits resulting from dismissal in 1992 from socially-owned company privatised in 2002 (Article 6 and 1 of Protocol No. 1).</i> | Outstanding salary and work-related benefits were paid. Reinstatement impossible as post no longer exists. The judgement was translated and disseminated.                             |
| <a href="#">CM/ResDH(2014)187</a> | BIH / Milisavljević and 1 other case | 7435/04   | 03/06/2009<br>03/03/2009       | <i>Denial of a fair trial and peaceful enjoyment of their possession: Non-enforcement of final court decisions ordering allocation of suitable replacement apartments in the applicants' favour (Articles 6§1 and 1 of Protocol No. 1).</i>   | The applicants' were allocated suitable replacement apartments. The judgments, based on isolated incidences, were translated, published and disseminated.                             |
| <a href="#">CM/ResDH(2014)20</a>  | BIH / Murtić and Ćerimović           | 6495/09   | 22/10/2012<br>19/06/2012       | <i>Lack of access to a court and interference with peaceful enjoyment of possession due to non-enforcement of Human Rights Chamber's decision confirming shareholdings in a company (Article 6§1 and 1 of Protocol No. 1).</i>  | Isolated case: Non-enforcement occurred in a very specific context of privatisation of a company and related complexity. The judgment was translated, published and disseminated.     |
| <a href="#">CM/ResDH(2014)197</a> | BIH / Tokić and Others and 1         | 12455/04+ | 08/10/2008<br>08/07/2008       | <i>Unlawful detention in psychiatric unit in prison: Detention of acquitted</i>   | Some of the applicants were released, others have their detention regularly reviewed. The authorities furthermore   |



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|                                   | other case                   |           |                                | <i>persons on grounds of insanity either based on expired court orders or administrative decisions of social assistance centres without civil court decision (Article 5§1).</i>   | identified a total of 129 persons in similar situations and took measures to ensure that these individuals' detention is based on a civil court decision and regularly reviewed in accordance with Article 410 of the amended Criminal Procedure Code (entered into force in 2009).                              |
| <a href="#">CM/ResDH(2014)228</a> | CRO / Bulfracht Ltd          | 53261/08  | 21/09/2011<br>21/06/2011       | <i>Denial of access to a court: Supreme Court refused to examine the merits of a company's appeal on points of law on the ratione valoris ground (Article 6§1).</i>   | Impugned proceedings were reopened. Change of case-law of the Constitutional Court in 2008. The judgment was translated, published and disseminated.   |
| <a href="#">CM/ResDH(2014)229</a> | CRO / Damjanac               | 52943/10  | 24/03/2014<br>24/10/2013       | <i>Disproportionate interference with property right: Authorities stopped the pension payment after the applicant's change of residence to Serbia, despite contrary provisions in a Social Security Treaty (Article 1 of Protocol No. 1).</i>   | The applicant did not request reopening of the impugned proceedings. The judgment, based on erroneous decisions by the Pension Fund and the Administrative Court in the specific case, was translated, published and disseminated.   |
| <a href="#">CM/ResDH(2014)205</a> | CRO / Golubović              | 43947/10  | 27/02/2013<br>27/11/2012       | <i>Denial of a fair trial: Lacking impartiality of a tribunal as the bench of the appellate court included a judge, who had presided over the first-instance court in the concrete case (Article 6§1).</i>  | Reopening of proceedings was possible. Minister of Justice enacted new Rules of Court on 14 March 2014 providing that information on appellate courts' judges will be provided to the parties and published on the internet. The judgment, based on a singular case, was translated, published and disseminated. |
| <a href="#">CM/ResDH(2014)230</a> | CRO / Lelas and 1 other case | 55555/08  | 20/08/2012<br>18/10/2011       | <i>Unlawful interference with right to the peaceful enjoyment of possessions: Dismissal of the applicants' claims for daily allowances for work in demining operations as time-barred without foreseeable legal basis and due to lacking clear provisions as to the authority competent to acknowledge such debts (Article 1 Protocol No. 1).</i> | Domestic proceedings were reopened and claims granted. The judgment was translated, published and disseminated. The case-law of domestic courts changed.   |
| <a href="#">CM/ResDH(2014)</a>    | CRO / Peruško                | 36998/09  | 15/04/2013                     | <i>Denial of access to a court: Domestic</i>  | Impugned proceedings were reopened. The judgment, based  |



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| <a href="#">1914</a>             |                               |           | 15/01/2013   | <i>courts erroneously discontinued administrative proceedings concerning the termination of the applicant's employment with the Ministry of the Interior (Article 6§1).</i>  | on an incident resulting from an obvious error made by the Administrative Court, was translated, published and disseminated.   |
| <a href="#">CM/ResDH(2014)93</a> | CYP / Shchukin and Others     | 14030/03  | 29/10/2010<br>29/07/2010   | <i>Ineffective investigations into alleged ill-treatment in police custody: Refusal of Attorney General to conduct investigations and ineffective investigations by Ombudsman due to his limited powers (Article 3 procedural limb).</i>             | Reopened investigations carried out by new independent body could not identify any evidence to disclose a criminal offence. Thus in November 2013, the Attorney-General decided not to proceed with any prosecution. In 2006, after the facts of the case, the Independent Authority for the Investigation of Allegations and Complaints Against the Police was established. It has power and duty to carry out criminal investigations into complaints and allegations against members of the police. It submits its investigation file to the Attorney-General for decision. According to the statistics submitted for the period between January 2012 and November 2013, in 53 out of 56 cases, the Attorney-General followed the recommendation of the Independent Authority. The judgment was translated, published and disseminated. |
| <a href="#">CM/ResDH(2014)54</a> | CZE / Chadzitaskos and Franta | 7398/07+  | 27/12/2012<br>27/09/2012   | <i>Lack of access to court in proceedings regarding compensation claims for expropriated shares and expropriation of shares without any public interest and adequate compensation (Articles 6§1 and 1 of Protocol No. 1).</i>                        | Just satisfaction paid. General measures, in particular abrogation of Section 220k (1) of the Commercial Code by Act no. 125/2008 (Companies and Cooperatives Transformations Act) as of 01/07/2008 covered by <a href="#">CM/ResDH(2012)18</a> in Suda.   |
| <a href="#">CM/ResDH(2014)69</a> | CZE / Eremiašová and Pechová  | 23944/04  | 16/05/2012<br>16/02/2012<br><br>20/09/2013<br>20/06/2013<br>(Revision) | <i>Failure of the authorities to protect life, health and well-being of persons in detention: Death of a relative in an attempt to escape from a police station and lack of effective investigation (Article 2 substantive and procedural limb).</i> | Due to time elapsed, no opening of new investigations. The rules governing the investigation by the police of such incidences have changed and an independent Police Inspectorate was created in 2011. The judgment was translated, published and disseminated. It is used in police training activities. It is referred to by the Constitutional Court in its decision concerning the effectiveness of investigations   |





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|                                   |                                      |           |  |   | regarding similar incidents.   |
| <a href="#">CM/ResDH(2014)38</a>  | CZE / Forminster Enterprises Limited | 38238/04  | 09/01/2009 (Merits)<br>15/09/2011 (Just satisfaction)<br><br>09/10/2008 (Merits)<br>10/03/2011 (Just satisfaction) | <i>Seizure of shares in the applicant company's possession and suspension of right to dispose of them, ordered in criminal proceedings against a third person: Excessive burden due to length of interference with property rights (11 years) and with regard to the considerable value of assets concerned (Article 1 of Protocol 1).</i>  | The seizure of shares, which was as such lawful, was terminated in June 2010. The judgment, based on an isolated incident, was translated, published and disseminated.   |
| <a href="#">CM/ResDH(2014)139</a> | CZE / Kinsky                         | 42856/06  | 09/05/2012<br>09/02/2012   | <i>Denial of a fair trial: Inacceptable public statements of Government representatives in the context of civil proceedings instituted against the State aiming at the restoration of property confiscated after the Second World War; reasonable concerns as to the independence and impartiality of the tribunals; manifestly abusive investigations and criminal proceedings against the plaintiff (Article 6§1)</i> | Reopening of civil proceedings. According to the Constitution Court's decision 2006, a civil action for determination of ownership could not be used to circumvent the restitution legislation. The impugned misbehaviour of office holders in the concrete case is not a systemic problem and did not affect the outcome of the proceedings. The judgment was translated, published and disseminated. |
| <a href="#">CM/ResDH(2014)46</a>  | CZE / Otava                          | 36561/05  | 27/08/2010 (Merits)<br>10/11/2011 (Friendly Settlement)<br>27/05/2010 (Merits)<br>10/11/2011 (Friendly             | <i>Interference with peaceful enjoyment of possessions: Excessive burden due to deprivation of property acquired in good faith without adequate compensation (Article 1 of the Protocol No. 1).</i>   | Individual measures covered by Friendly Settlement. General measures covered in <a href="#">CM/ResDH(2007)30</a> in Pincová and Pinc (No. 36548/97) and Zvolský and Zvolská (No. 46129/99).  |



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|                                  |              |           | Settlement)                    |  |   |
| <a href="#">CM/ResDH(2014)99</a> | CZE / Rashed | 298/07    | 27/02/2009<br>27/11/2008       | <i>Unlawful detention of an asylum-seeker and lack of effective and speedy review by a court of legality of the detention: asylum law in force at the relevant time constituted insufficient legal basis and did not afford adequate protection or the necessary legal certainty to prevent arbitrary interferences (Articles 5§§1 and 4).</i> | Translation and dissemination of the Court's judgment to the authorities concerned. Procedure and delays for decision on the right to enter the territory are now governed by Article 73 of Asylum Law. Another amendment, in force since 01/01/11, introduced judicial review proceedings for decisions refusing entry to the country. These proceedings and a further legislative amendment to the Asylum Act that will be examined in the context of the Buishvili case. |
| <a href="#">CM/ResDH(2014)55</a> | CZE / Tseber | 46203/08  | 22/02/2013<br>22/11/2012       | <i>Denial of a fair trial and right to question witnesses: National courts had not properly and fairly assessed the reliability of incriminating evidence as the basis of a conviction leading to a prison sentence and expulsion order (Article 6 § 1 in conjunction with Article 6 § 3 d).</i>   | Criminal proceedings were reopened on the basis of a respective judgment by the Constitutional Court. Video recordings of witness statements are regulated by the Rules of Criminal Procedure. The judgment was translated, published and disseminated. Awareness raising activities among police officers were held.   |
| <a href="#">CM/ResDH(2014)56</a> | CZE / Vecsek | 3252/09   | 21/05/2013<br>21/02/2013       | <i>Non-compliance with procedural safeguards in proceedings concerning applications for release in pre-trial detention: Absence of hearing of the accused (Article 5§4).</i>   | General measures covered by <a href="#">CM/ResDH(2013)120</a> in Husak. Concept of "detention hearing" introduced in Penal Procedure Code by law No. 459/2011.  |



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| <a href="#">CM/ResDH(2014)284</a> | ESP / Alony Kate        | 5612/08   | 17/04/2012<br>17/01/2012       | <i>Denial of a fair trial: Judge Rapporteur of the Audiencia Nacional chamber that convicted the applicant had previously been Judge Rapporteur of the chamber that had decided on the detention on remand of the applicant. In the concrete circumstances, the objective impartiality of the trial court could appear questionable. The applicant's respective fears were objectively justified Article 6 § 1).</i> | The applicant had been released prior to the Court's judgment. A request for revision was possible. General measures are covered in <a href="#">CM/ResDH(2012)60</a> in Gomez de Liano y Botella. Change of case-law of the Supreme Court in due line with the judgment.   |
| <a href="#">CM/ResDH(2014)223</a> | ESP / C.C.              | 1425/06   | 06/01/2010<br>06/10/2009       | <i>Disproportionate interference with private life: Disclosure of the applicant's identity and health state in a judgment delivered in civil proceedings between him and his insurance company (Article 8).</i>  | The Registrar of the relevant court ordered on 05/05/2014 to substitute the applicant's full name by his initials in the first instance domestic judgment. The Court's judgment, based on an isolated incident, was translated, published and disseminated to the relevant judicial authorities.   |
| <a href="#">CM/ResDH(2014)107</a> | ESP / Del Río Prada     | 15476/02  | 08/03/2012<br>13/09/2013       | <i>Retrospective application of a new precedent set by the Supreme Court in its judgment No. 197/2006 ("Parot doctrine"), which was not foreseeable and adversely modified the scope of the penalty imposed, authorising continued detention beyond the date initially foreseen for final release (Articles 7 and 5§1).</i>  | Decision on the applicant's release by Audiencia Nacional (specialised high court) on 22/10/2013. Application of "Parot doctrine" – affecting only persons convicted before 2006 under previous Criminal Code - was discontinued, an approach endorsed by the Criminal Division of the Supreme Court. Constitutional Court sent all pending cases back to Audiencia Nacional for new decision and all persons concerned were released. |
| <a href="#">CM/ResDH(2014)158</a> | ESP / Lacárcel Menéndez | 41745/02  | 11/12/2006<br>15/06/2006       | <i>Denial of effective access to a court in proceedings leading to the seizure of property of a person subsequently declared incapable: The courts' reasoning for refusing to declare those proceedings void, based on the non-retrospective nature of a declaration of</i>  | Compensation paid. The judgment, based on an erroneous application of the law, was translated, published and disseminated.   |



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|                                   |  |           |                                | <i>incapacity, seemed too formalistic and was incompatible with the applicant's involuntary placement in a psychiatric hospital on the orders of two other judges in the same city (Article 6§1).</i>                          |   |
| <a href="#">CM/ResDH(2014)286</a> | EST / Saarekallas Oü and 4 other cases | 11548/04  | 08/02/2008<br>08/11/2007       | <i>Excessive length of civil or administrative proceedings and lack of an effective remedy (Articles 6§1 and 13).</i>  | Amendment to the Courts Act 2013 establishing the new position of a judicial clerk. A Court Information System (KIS 2) has been launched. According to § 45 of the Courts Act (in force as of 01/09/2011) if a judge fails to perform a necessary procedural act, the chairman of the court may take acceleratory measures. § 46 of the Courts Act requests first instance and appeals courts to submit statistical reports to the Ministry of Justice. Regarding the lack of an effective remedy, amendments 2011 to the Code of Criminal Procedure, to the Code of Civil Procedure and to the Code of Administrative Procedure were enacted, introducing the possibility to expedite court proceedings and to ask for compensation. |
| <a href="#">CM/ResDH(2014)09</a>  | FRA / Agnelet and 2 other cases        | 61198/08  | 01/02/2013<br>10/01/2013       | <i>Denial of a fair trial due to failure to give reasons for decision taken in criminal proceedings: Insufficient safeguards to enable the accused to understand why he was found guilty (Article 6 §1).</i>                   | The 2011 reform of the Code of Criminal Procedure requires the reasoning to be based on those facts examined in the course of the deliberations which convinced the assize court in respect of each of the charges brought against the accused. In the Court's view this reform appears to significantly strengthen the guarantees against arbitrariness and to help the accused understand the court's decision. Applicants were entitled to ask for reopening of proceedings.   |
| <a href="#">CM/ResDH(2014)47</a>  | FRA / Alboreo                          | 51019/08  | 20/01/2012<br>20/10/2011       | <i>Ill-treatment in custody, in particular in isolation and punishment cell, and lack of an effective remedy to complain about security rotation regime from one prison to another (Articles 3 +3 in conjunction with 13).</i> | Circular instruction by Penitentiary Administration dated 09/05/2007 on the use of force and relevant training of intervention and security forces. In three Assembly decisions of 14/12/2007, the Conseil d'Etat extended the right of prisoners to apply to the administrative court, in particular in connection with security rotations, and acknowledged that a decision subjecting a detainee to a security regime did not  |



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|                                   |   |           |   |   | constitute an internal regulatory measure, but an administrative decision amenable to judicial review.  |
| <a href="#">CM/ResDH(2014)100</a> | FRA / Association culturelle du Temple pyramide and 2 other cases | 50471/07  | 30/04/2013<br>31/01/2013  | <i>Interference with right to freedom of religion: The Court held that supplementary tax demands which had had serious consequences on the practice of the applicant's religion were based on a law that had not been formulated with sufficient clarity (Article 9).</i>                               | The judgment was translated, published and disseminated. Amendments of fiscal legislation not necessary, see <a href="#">CM/ResDH(2013)184</a> in Témoins de Jehovah.   |
| <a href="#">CM/ResDH(2014)39</a>  | FRA / C.N. AND V.   | 67724/09  | 11/01/2013<br>11/10/2012  | <i>Failure to protect against subjection to servitude: Failure by the State to comply with its positive obligation to put in place a legislative and administrative framework to combat servitude and forced labour effectively (Article 4).</i>  | Amendments of the Criminal Code in 2003 presented in <a href="#">CM/ResDH(2011)210</a> in Siliadin. Law No. 2013-711 from 2013 amended Article 225-4-1 of the Penal Code defining the offence of "human trafficking" by adding that exploitation consisted in submitting a person to slavery or to forced labour or services. |
| <a href="#">CM/ResDH(2014)10</a>  | FRA / Eon   | 26118/10  | 14/06/2013<br>14/03/2013  | <i>Political activist's criminal conviction for insulting French President by waving a satirical placard reproducing a phrase uttered earlier by the President himself: Disproportionate interference with freedom of expression, unnecessary in a democratic society (Article 10).</i>                 | Applicant entitled to ask for reopening of proceedings. The judgment, based on the specific circumstances of the case, was translated and disseminated. In 2013, Article 26 of the Act of Offence of the Head of State of 1881 was abrogated.   |
| <a href="#">CM/ResDH(2014)57</a>  | FRA / Fabris  | 16574/08  | 07/02/2013 (Grand Chamber)<br>28/06/2013 (Friendly Settlement, Grand Chamber) | <i>Discrimination of a child « born of adultery »: Impossibility to assert his inheritance rights before entry into force of the 2001 Law granting children "born of adultery" identical inheritance rights as to legitimate children (Article 14 in conjunction with Article 1 of Protocol No. 1).</i> | Just satisfaction was determined by a Friendly settlement. The judgment was published and disseminated. The Government is of the opinion that with these measures, the national judges are in a position to avoid new, similar violations. A modification of the transitional provisions of the 2001 Act is not necessary.    |





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| <a href="#">CM/ResDH(2014)114</a> | FRA / Fernandez and Others and one other case | 28440/05  | 21/04/2010<br>21/01/2010       | <i>Disproportionate interference with the right to the peaceful enjoyment of possessions: Failure to enforce expulsion measures ordered by courts in respect of land illegally occupied by Corsican nationalists (Article 1 of Protocol No. 1).</i> | Administrative proceedings concerning compensation for material damage due to illegal occupation are still pending. The properties concerned are no longer occupied. The judgment was published and disseminated.  |
| <a href="#">CM/ResDH(2014)141</a> | FRA / K.K.                                    | 18913/11  | 10/01/2014<br>10/10/2013       | <i>Risk of ill-treatment in case of expulsion to Iran: Failure of competent authorities to put in serious doubt the reality of the applicant's fears of being arrested upon his arrival at Teheran airport upon return (Article 3).</i>             | The expulsion decision was abrogated. The applicant will not be subject to expulsion measures as long as circumstances demand. The judgment was published and disseminated to competent authorities.   |
| <a href="#">CM/ResDH(2014)282</a> | FRA / Lafargue and 2 other cases              | 37284/02  | 13/10/2006<br>13/07/2006       | <i>Non-enforcement of a court decision granting visiting rights with regard to minor children: Failure to take appropriate or sufficient measures to ensure access to and residence with the child (Article 8).</i>                                 | Different actions were undertaken to establish viable visiting rights between parents and children. The children concerned are today between 15 and 19 years old. A new Civil Code 2011 ensures a speedy decision-making process in proceedings concerning children, developing the possibility of mediation and peaceful settlement of disputes and ensuring cooperation of parents in raising their children. The National Authority for Child Protection has increased its involvement in interpreting the law and issuing manuals and codes of good practices. Further provision to visiting rights in Law No. 369/2004 implementing the 1980 Convention on the Civil Aspects of International Child Abduction were adopted in 2014. Numerous training activities were undertaken by the Institute for the Magistracy. (see AR 2014) |
| <a href="#">CM/ResDH(2014)78</a>  | FRA / Medvedyev and Others                    | 3394/03   | 29/03/2010<br>Grand Chamber    | <i>Lack of legal basis for the deprivation of liberty: Confinement to ship of foreign vessel's crew arrested on high seas (Article 5 §1).</i>   | Law No. 2011-13 of 2011 on the fight against piracy and the exercise of police powers of the State at sea, introduced into the Defence Code a new section on the "Exercise by the State of its supervisory powers at sea" providing for a sui generis regime of deprivation of liberty on ships arrested by French soldiers as part of the action at sea.  |



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| <a href="#">CM/ResDH(2014)140</a> | FRA / R.J.               | 10466/11  | 19/12/2013<br>19/09/2013       | <i>Risk of ill-treatment in case of expulsion to Sri Lanka: Failure of authorities to determine the origin of the applicant's injuries found with a strong presumption of ill-treatment (Article 3)</i>  | The applicant was admitted to enter the territory. He will not be subject to expulsion measures as long as circumstances demand. The judgment was published and disseminated to competent authorities.  |
| <a href="#">CM/ResDH(2014)113</a> | FRA / R.L. and M.-J.D.   | 44568/98  | 10/11/2004<br>19.05/2004       | <i>Ill-treatment during intervention and arrest by police, unlawfulness of arrest and detention in psychiatric infirmary and lack of reparation for the prejudice suffered as a result of being detained (Articles 3+ 5§1c+ 5§1e+ 5§5).</i>  | Since 2011 the "Défenseur des Droits" (Rights Defender) ensures that deontology is respected by security officers, including police. The judgment is part of the police human rights instruction. Measures, in force since 12/01/2005, were taken to ensure that a doctor of the psychiatric clinic empowered to authorize immediate release when the person's state of health no longer justifies detention, may be reached any moment. The judgment was circulated to the competent national courts and public prosecutors. |
| <a href="#">CM/ResDH(2014)08</a>  | FRA / Ressiot and Others | 15054/07  | 28/09/2012<br>28/06/2012       | <i>Searches and seizures at offices and homes of journalists accused of breaching confidentiality of judicial investigations into possible doping in cycle racing: No fair balance struck between different interests involved, in particular the interest of a democratic society in securing freedom of the press (Article 10).</i>                          | Journalists may recover the items seized. Erroneous appreciation, by the authorities, of the proportionality of measures taken. The judgment was translated, published and disseminated.  |
| <a href="#">CM/ResDH(2014)288</a> | FRA / Vassis and Others  | 62736/09  | 27/09/2013<br>27/06/2013       | <i>Unjustified interference with the right to individual liberty due to lack of judicial supervision of detention and breach of the right to be brought promptly before a judge: Detention in police custody of a ship's crew for 48 hours prior to their first appearance before a judicial authority, after having been detained on the high seas for 18</i> | Impugned detention has ended. General measures are covered in <a href="#">CM/ResDH(2014)78</a> in Medvedyev, in particular concerning legislative changes by Law No. 2011-13 of 2011 on the fight against piracy and the exercise of police powers of the State at sea. The judgment was published and disseminated.  |



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|                                   |                                   |           |  | <i>days transfer time during which the ship was escorted to France (Article 5§3).</i>   |   |
| <a href="#">CM/ResDH(2014)208</a> | GEO / Davtayan and 1 other case   | 73241/01  | 27/10/2006<br>27/07/2006   | <i>Ill-treatment in police custody: Lack of effective investigation into the allegations and denial of access to independent medical examination (Articles 3 procedural limb and 13).</i>   | Investigations were reopened in both cases: due to time elapsed tangible proof for ill-treatment could not be adduced. General measures are examined in the Garibashvili group of cases.  |
| <a href="#">CM/ResDH(2014)209</a> | GEO / Ghavtadze and 4 other cases | 73241/01  | 27/10/2006<br>27/07/2006   | <i>Pilot judgment: Structural inadequacy of medical care in prison, in particular concerning hepatitis and tuberculosis: Lack of adequate facilities and sufficient medical staff, ineffectiveness of complaint procedure (Article3).</i> | Applicants were released or received adequate treatment. Extensive reforms undertaken in 2010-2013: New Prison Code including the right to health and respective procedural rights. Reform of the penitentiary health system in line with European Prison Rules and CPT-Recommendations. Infrastructure and qualification of medical staff was improved. A Strategy 2014-2017 for the further development of the penitentiary health system was adopted.            |
| <a href="#">CM/ResDH(2014)162</a> | GEO / Jashi                       | 10799/06  | 08/04/2013<br>08/01/2013   | <i>Authorities' failure to provide timely and adequate care in prison for mentally-ill detainee (Article3)</i>  | The applicant was released in November 2012. Penitentiary institutions are staffed with psychiatrists and consultants to ensure adequate prevention of mental health problems, reveal and control them. Training sessions and programmes were initiated for medical personnel. The Ministry of Corrections and Legal Assistance developed a Strategy to improve Penitentiary Health Care System based on guiding instruments of WHO, CoE and the CPT. (see RA 2014) |
| <a href="#">CM/ResDH(2014)48</a>  | GEO / Tchitchinadze               | 18156/05  | 27/08/2010 (Merits)<br>29/08/2012 (Just satisfaction)<br>27/05/2010 (Merits)<br>29/05/2012 (Just | <i>Quashing of a final and enforceable decision in favour of the applicant, in which a property sale – allegedly made under duress – had been annulled and the proceedings reopened (Articles 1 of Protocol No. 1 + 6 § 1).</i>           | Just satisfaction, in particular compensation for material damage, paid. The judgment, based on an isolated incident as confirmed by subsequent national jurisprudence, was translated, published and disseminated.   |



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|                                   |                             |           | satisfaction)                  |  |   |
| <a href="#">CM/ResDH(2014)289</a> | GER / Gäfgen                | 22978/05  | 01/06/2010<br>Grand Chamber    | <i>Inhuman treatment: Police interrogators threatening a suspect of child abduction with physical harm to secure information on the child's whereabouts; modest and suspended fines as well as lacking disciplinary sanctions for police officers involved; inadequate and inefficient reaction by domestic courts failing to decide on appropriate redress (Article 3).</i>   | The Frankfurt Regional Court awarded compensation as a result of official liability proceedings. Federal and Länder police authorities evaluated the judgment, which figures in a report of the Ministry of Justice and organised appropriate training to prevent similar violations. (see AR 2014)   |
| <a href="#">CM/ResDH(2014)211</a> | GER / Hümmer                | 26171/07  | 19/10/2012<br>19/07/2012       | <i>Denial of a fair trial and the right to obtain the attendance and examination of witnesses in proceedings concerning psychiatric placement following assaults: Impossibility to examine the main witnesses, family members having made use of their right not to testify in court, while their pre-trial testimonies were introduced at the trial by the testimony of an investigating judge in the absence of the applicant and counsel (Article 6 § 1 in conjunction with Article 6 § 3 (d)).</i> | Applicant was released on probationary suspension of his placement in March 2011 subject to supervision of conduct until March 2016. He did not request reopening of the proceedings. The judgment, based on the specific circumstances of the case, was translated, published and disseminated.  |
| <a href="#">CM/ResDH(2014)290</a> | GER / M. and 12 other cases | 19359/04  | 10/05/2010<br>17/12/2009       | <i>Retroactive application of criminal legislation: Unlawful retrospective extension of ordering "preventive detention" (Sicherungsverwahrung) of dangerous criminal after they had served in full their sentences (Article 5§1 and 7§1).</i>  | Retrospective ordering of preventive detention was abolished on 01/01/2011. The Act to Effect Implementation under Federal Law of the Distance Requirement in the Law Governing Preventive Detention entered into force on 01/06/2013 amending relevant provisions of the criminal Code and setting out guiding principles regarding the treatment and placement of preventive detainees. The Länder, responsible for the execution of preventive |



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|                                   |   |           |   |   | detention, modified their laws accordingly. (see AR 2014)   |
| <a href="#">CM/ResDH(2014)264</a> | GER / Schüth  | 1620/03   | 23/12/2010<br>23/09/2010 (Merits)<br>28/09/2012<br>28/06/2012 (Just satisfaction) | <i>Disproportionate interference with private life: Failure of domestic labour courts to weigh the rights of the applicant against those of the Church having dismissed him as an organist for having engaged in an extra-marital relationship (Article 8).</i>   | Just satisfaction paid. Request for reopening was dismissed as time-barred. The judgment was translated, published and disseminated.  |
| <a href="#">CM/ResDH(2014)163</a> | GER / Zaunegger   | 22028/04  | 03/03/2010<br>03/12/2009  | <i>Discriminatory treatment of a father of a child born out-of-wedlock vis-à-vis fathers who had originally held parental authority and later separated or divorced concerning custody (Article 14 in conjunction with Article 8).</i>  | The Act to Reform Parental Custody of Parent Not Married to Each Other entered into force on 19/05/2013 and provides that, upon a motion by a parent, joint custody shall be granted, as far as not contrary to the child's best interest. This interest is presumed, if the mother does not submit any reasons to the contrary and if no such reasons are otherwise apparent. Between 2010 and May 2013, transitional measures were ordered by the Federal Constitutional Court. |
| <a href="#">CM/ResDH(2014)233</a> | GRC / Anonymos Touristiki Etariria Xenodocheia Kritis and 3 other cases | 35332/05  | 21/05/2008 (Merits)<br>21/02/2008<br>11/04/2011 (Just satisfaction)<br>02/12/2010 | <i>Disproportionate interference with property rights and length of related proceedings: Failure of the authorities to compensate for restrictions and limitations imposed on the use of land for the protection of the physical or cultural environment; one case also concerns the lack of effective remedy (Articles 1 of Protocol No. 1 and 6§1; 13).</i> | Just satisfaction paid. Evolution of State Council's and administrative judicial authorities' case-law taking into account the judgments. Compensation for property restrictions can be requested on the basis of Article 24§6 of the Constitution as well as Article 22 of Law No. 1650/2013. The judgment was translated, published and disseminated. Length of proceedings is examined in the Manios group. (see AR 2014)  |
| <a href="#">CM/ResDH(2014)59</a>  | GRC / Kortesis  | 60593/10  | 12/09/2012<br>12/06/2012  | <i>Unlawful detention: beyond the time-limit set out by the law for bringing the arrested person before the investigating judge and failure to inform him promptly of the reasons for detention (Article 5 § 1 c) and § 2).</i>   | The judgment, based on an isolated incident confined to its own specific facts, was translated, published and disseminated.   |
| <a href="#">CM/ResDH(2014)</a>    | GRC /   | 48883/07  | 24/07/2012  | <i>Excessive length of detention in view</i>  | The applicant was released in 2007. The relevant provision of   |





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| <a href="#">232</a>                | Mathloom            |           | 24/04/2012   | <i>of expulsion and of related review proceedings: Criminal Code failed to lay down a maximum period for such detention and did thus not satisfy the foreseeability requirement (Articles 5 § 1f + §4).</i>   | the Criminal Code was amended by Law 4055/2012: detention period in view of judicial deportation is six months; can be extended to 12 months in case of refusal to cooperate in the deportation procedure; in very exceptional situations when deportation procedure is still uncompleted, detention can be extended to a maximum of 18 months. Length of proceedings to review the lawfulness of such detention is examined in the Giossakis No. 1 group.                      |
| <a href="#">CM/ResDH(2014) 36</a>  | GRC / Melis         | 30604/07  | 22/10/2010 (Merits)<br>17/07/2012 (Just satisfaction)<br><br>22/07/2010 (Merits)<br>17/04/2012 (Just satisfaction) | <i>Denial of access to a court: Rejection of an application to reopen civil proceedings, allegedly flawed as a result of false evidence given by a witness convicted on that account, as being out of time. Interpretation and application of Art. 544 Code of Civil Procedure by the national courts imposed an obligation that could not be realistically expected to be met (Article 6 § 1).</i> | The Plenary of the Supreme Court (Areios Pagos), in its judgment 13/2011, adopted the Court's view that the starting point of the three years' period within which reopening can be requested should not be the termination of the proceedings to be reopened, but the delivery of the criminal court's judgment acknowledging that false evidence had been given in the civil court.. The judgment, based on an isolated incident, was translated, published and disseminated. |
| <a href="#">CM/ResDH(2014) 58</a>  | GRC / Zolotas No. 2 | 66610/09  | 29/04/2013<br>29/01/2013   | <i>Failure to protect citizen by requiring banks to inform dormant account holders of upcoming limitation period expiry before transferring the account to the State: Excessive burden on account holder (Article 1 of Protocol No. 1).</i>   | Legal Framework governing dormant deposit accounts was reformed by "Law 4151/2013 on "Arrangements amending and improving pension-related, fiscal, administrative and other provision of the Ministry of Finance establishing an automated notification procedure. Supervisory tasks are assigned to the National Bank. The judgment was translated, published and disseminated, including to credit institutions.  |
| <a href="#">CM/ResDH(2014) 273</a> | IRL / A., B. and C. | 25579/05  | 16/12/2010<br>16/12/2010   | <i>Disproportionate interference with private life: Lack of access to lawful abortion, absence of any legislative of regulatory regime providing an accessible and effective procedure for lawful abortion if the mother's life is</i>  | Protection of Life during Pregnancy Bill 2013 (entry into force 01/01/2014) provides a framework establishing whether individuals qualify for lawful abortion in accordance with the Constitution, setting out criteria and actions to be taken for the assessment of the pregnancy's risks for the mother's life. An urgent procedure and a review procedure before a  |



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|                                   |                                     |           |  | <i>at risk (Article 8).</i>   | committee of medical practitioners are provided for.  |
| <a href="#">CM/ResDH(2014)234</a> | IRL / D.G.                          | 39474/98  | 16/08/2002<br>16/05/2002                             | <i>Interim placement of a minor suffering from personality disorders in a penal institution and lack of enforceable right to compensation: Authorities' failure to provide in time appropriate accommodation and special care and protection suited to the applicant's condition; detention orders considered by authorities' to be in conformity with national law (Articles 5§1+5).</i> | The applicant was released and reached majority. The Child Care Act 1991 was amended in 2011 creating a statutory framework for the High Court to deal with special care cases. A Special Care Unit provides a secure residential service to children and young people who are in need of specialised targeted intervention. The European Convention on Human Rights Act 2003 as amended in 2014 now provides that a person unlawfully deprived of his or her liberty as a result of a judicial act may institute proceedings to recover compensation.  |
| <a href="#">CM/ResDH(2014)102</a> | ITA / Bracci and one other case     | 36822/02  | 15/02/2006<br>13/10/2005                             | <i>Unfair criminal proceedings resulting in convictions on the basis of testimony given by prosecution witnesses without possibility of counter-examination in investigation or trial stage (Article 6§§1 and 3(d)).</i>  | Domestic courts declared unenforceable a fraction - or the totality in the second case - of the prison sentences concerned by the impugned criminal proceedings. Change in interpretation and application of Articles 512 and 526 of the Italian Code of Criminal Procedure regulating the use of evidence, which had not been acquired in an adversarial manner, in conformity with Court's case-law. Constitutional Court, by <i>sentenza additiva</i> no. 113 of 04/04/2011, interpreted Article 630 of the Code of Criminal Procedure as allowing reopening of criminal proceedings on the basis of a Court's judgment. (see AR 2014) |
| <a href="#">CM/ResDH(2014)71</a>  | ITA / Buffalo S.R.L. in liquidation | 38746/97  | 03/10/2003<br>03/07/2003<br>15/12/2004<br>22/07/2004 | <i>Interference with peaceful enjoyment of possessions on account of the authorities' delay in paying back to the applicant company (in liquidation since 1994) the tax rebates relating to 1992 (Article 1 of Protocol No. 1).</i>   | Several measures have been taken in Italy in order to facilitate and speed up tax refunds. All information needed for rebates is on the website of the tax office. Pursuant to Articles 37 and 38 of Presidential Decree (Law) 1973, n. 602 (as amended by Article 2 of Legislative Decree of 30 May 2005, n. 143), it is possible to make an application to the competent tax office (Agenzia delle entrate). An action can be brought before the tax court also in case where the application is formally dismissed. In both cases the decision given by the tax court is subject to appeal. Proceedings                                |



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|                                    |                               |           |                                |  | before the tax courts are regulated by Civil Procedure Code, which provides immediate enforceability of first instance courts' decisions.   |
| <a href="#">CM/ResDH(2014)116</a>  | ITA / Errico                  | 29768/05  | 24/05/2009<br>14/02/2009       | <i>Interference with the right to respect for his family life: on account of excessive delays in concluding the preliminary investigation in his respect for sexual abuse on one of his children (Article 8).</i>  | Disciplinary proceedings were opened against two magistrates involved in the delays without any direct responsibility being proved. The judgment was translated published and disseminated. It is used in training of magistrates. General measures with regard to excessive delays in criminal proceedings are examined in Ceteroni (Appl. No. 22461/93).  |
| <a href="#">CM/ResDH(2014)2014</a> | ITA / Giacomelli              | 59909/00  | 26/03/2007<br>02/11/2006       | <i>Lacking protection of private life and home in environmental matters: Authorisation of a company to run a plant for the storage and treatment of special waste in non-compliance with domestic legislation and non-enforcement of judicial decisions invalidating said authorisations (Article 8)</i> | Just satisfaction for non-pecuniary damage paid. The authorisation procedure was regularised on the basis of the authorities confirmation that the plant functions in conformity with environmental requirements. The judgment was translated, published and disseminated.  |
| <a href="#">CM/ResDH(2014)65</a>   | ITA / Hamidovic               | 31956/05  | 04/03/2013<br>04/12/2012       | <i>Expulsion of the applicant having resided illegally on Italian territory: Disproportionate interference with her right to respect for her private and family life as she was forced to leave her husband and children residing in Italy (Article 8).</i>  | The applicant did not ask for a new residence permit. The judgment was translated, published and disseminated and is used as training material for judges dealing with expulsion matters.   |
| <a href="#">CM/ResDH(2014)215</a>  | ITA / Saadi and 9 other cases | 37201/06  | 28/02/2008<br>Grand Chamber    | <i>Risk of ill-treatment in case of deportation to Tunisia (Article 3).</i>  | All the expulsion orders at issue against the applicants have been lifted. In a decision of 03/05/2010 (No. 10636) the Court of Cassation held that justices of the peace should assess the concrete risks that an irregular immigrant would face in his country of origin before an expulsion order can be executed. On 27/05/2010 the Ministry of Justice sent to all Italian courts of appeal - and through them, to the Justices of |



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|                                   |                                |           |                                |  | the Peace - a circular stressing the obligation to respect interim measures under Rule 39. (see AR 2014). The judgment was translated, published and disseminated.   |
| <a href="#">CM/ResDH(2014)278</a> | ITA / Sarigiannis              | 14569/05  | 05/07/2011<br>05/04/2011       | <i>Ill-treatment due to disproportionate use of force during an identity check by the revenue police at Rome airport (Article 3).</i>  | The judgment, based on an incident in the light of the specific circumstances of the case was published, translated and widely disseminated.   |
| <a href="#">CM/ResDH(2014)40</a>  | ITA / Šneersone and Kampanella | 14737/09  | 12/10/2011<br>12/07/2011       | <i>Disproportionate interference with the right to respect of family life due to return order of a minor child: Judicial decisions taken in 2008 and 2009 on the basis of the Hague Convention of 1980 and Council Regulation (EC) No. 2201/2003, ordering the return of a minor child to his father in Italy, whereas mother and child had moved in 2006 to settle in Latvia; lacking considerations of the child's best interests (Article 8).</i> | The return orders have not been enforced, the child still lives in Latvia with his mother. The Rome Youth Court cancelled on 04/10/2013 all decisions impugned by the Court. The judgment translated, published and disseminated. Training of judges dealing with family law, in particular on interactions of the Hague Convention, the EU Regulation Brussels 2bis and the Convention. |
| <a href="#">CM/ResDH(2014)02</a>  | ITA / Udorovic                 | 38532/02  | 18/08/2010<br>18/05/2010       | <i>Denial of a fair trial in proceedings concerning the evacuation of a nomad camp due to failure by the domestic courts to examine the possibly discriminatory character of the authorities' decision appealed against by the applicant of Sinti origin (Article 6 §1).</i>   | The applicant had left the nomad camp voluntarily in 2005, when the case was still pending. Erroneous appreciation by domestic courts of certain relevant facts in the concrete case. The judgment was translated, published and disseminated.   |
| <a href="#">CM/ResDH(2014)80</a>  | ITA / Villa                    | 19675/06  | 04/10/2010<br>20/04/2010       | <i>Interference with freedom of movement due to delay in notifying the decision to lift a supervision order after the respective hearing (Article 2 of Protocol No.4)).</i>  | The judgment, based on an isolated incident, was translated, published and disseminated.   |



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| <a href="#">CM/ResDH(2014)41</a>  | LIT / Esertas                    | 50208/06  | 31/08/2012<br>31/05/2012       | <i>Breach of the principle of legal certainty by depriving of the res judicata effect a final court decision in a second set of civil proceedings concerning the same parties and the same facts (Article 6§1).</i>   | The judgment, based on an isolated incident, was translated, published and disseminated.   |
| <a href="#">CM/ResDH(2014)291</a> | LIT / Šulcas and 14 other cases  | 35624/04  | 05/04/2010<br>05/01/2010       | <i>Excessive length of civil and criminal proceedings and lack of an effective remedy (Articles 6§1 and 13).</i>  | Effective domestic compensatory remedy for lengthy proceedings based on Supreme Court's decision of 06/02/2007. Several amendments of Criminal Procedure Code between 2010 and 2014 introduce acceleration of pre-trial investigations, maximum length of adjournment of trial proceedings and the right to lodge a complaint to be examined within 7 days. Amendments to the Law on Administrative proceedings concern the transfer of certain offences to court of general jurisdiction, the possibility to use information and communication technologies for recording hearings, the possibility of Friendly settlements. The Code of Civil Procedure was amended between 2011 and 2014 introducing the possibility to adopt judgment in absentia, appellate proceedings under written procedure and to introduce group claims. Amendments of the Law on Conciliatory Mediation in Civil Disputes enhance judicial mediation. Organisation measure shorten the length of proceedings, notably the establishment of an e-justice platform in July 2013 providing for the possibility to consult, submit and deliver all procedural documents. (see AR 2014) |
| <a href="#">CM/ResDH(2014)26</a>  | LUX / Saint-Paul Luxembourg S.A. | 26419/10  | 18/07/2013<br>18/04/2013       | <i>Disproportionate interference with a newspaper company's right to respect for home and freedom of expression; search and seizures in the offices of a newspaper with the aim to confirm the identity of an article's author under investigation for defamation; orders</i> | Seized items were returned. Isolated case. The judgment was translated, published and disseminated.  |





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|                                    |                                    |           |                                | <i>for search and seizure couched in such wide terms that did not preclude discovery of journalist's sources (Articles 8 and 10).</i>   |   |
| <a href="#">CM/ResDH(2014)2016</a> | LUX / Schumacher and 8 other cases | 63286/00  | 25/02/2004<br>25/11/2003       | <i>Excessive length of criminal proceedings and of civil proceedings postponed until the end of the relevant criminal proceedings; in two cases, lack of an effective remedy (Articles 6§1 and 13).</i>   | Domestic proceedings closed in all cases. Reinforcement and reorganization of the judicial police. Staff increase with regard to the Public Prosecutor and the investigating judges. Routine operations of criminal justice have been simplified. A statistical system had been introduced confirming a trend towards lower procedural duration. Compensation for damage due to dysfunction of the administration may be requested in an action based either on Article 1382 of the Civil Code or a special Act 1988, which, since its entry into force has acquired sufficient legal certainty, as confirmed by the Court in recent admissibility decisions. |
| <a href="#">CM/ResDH(2014)279</a>  | LVA / Ādamsons                     | 3669/03   | 01/12/2008<br>24/06/2008       | <i>Disproportionate interference with right to free elections: Disqualification of a candidate from parliamentary elections due to his past as a border guard officer, an organisation under KGB supervision without being accused of any anti-democratic actions; the candidate was Minister of the Interior in 1994 and elected member of Parliament in 1996 (Article 3 of Protocol No. 1).</i> | The applicant has successfully stood for election in 2009 to the Riga City Council and in 2010, 2011 and 2014 elections to Parliament. Amendments in the Parliamentary Elections Act from 2009 and 2014 have narrowed the scope of eligibility restrictions, excluding only those persons, who were formerly directly involved in KGB's primary functions.  |
| <a href="#">CM/ResDH(2014)251</a>  | LVA / Longa Yonkeu                 | 57229/09  | 15/02/2012<br>15/11/2011       | <i>Unlawful detention in view of deportation: Detention order lacking a legal basis in domestic law, which was not sufficiently precise and foreseeable; arbitrary detention during the applicant's deportation (Article 5 §1).</i>   | Amendment of the Immigration Law in line with the requirements of the EU Council Directive 2008/115/EC on common standards and procedures for returning illegally staying third-country nationals entered into force on 16/02/2011. Amendments to the Ministry of Interior's internal regulations No 73 were introduced (entry into force on 27/09/2012) imposing on the Office of Citizenship and  |



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|                                   |  |           |  |  | Migration Affairs and the State Border Guard Service the use of electronic means for the immediate notification of changes in an asylum seeker's legal situation to the competent authorities involved. The Administrative District Courts have been requested to use electronic means to provide timely information about the ruling adopted in an asylum case. As concerns the erroneous interpretation and application of the Asylum Law, the judgment, was translated, published and disseminated to the competent authorities and is used in training of judges. |
| <a href="#">CM/ResDH(2014)266</a> | MCO / Navone and Others+                           | 62880/11  | 24/01/2014<br>24/10/2013   | <i>Unfair criminal proceedings: Applicants had not been informed of their right to remain silent and deprived of their right to be assisted by a lawyer while in police custody (Articles 6§1+ § 3 (c)).</i>   | The applicants were released on 07/11/2011. They may require "rehabilitation". The Code of Criminal procedure was amended (entry into force 25/06/2013) replacing the impugned articles with new provisions in line with the Court's judgment.  |
| <a href="#">CM/ResDH(2014)49</a>  | MDA / Asito  | 40663/98  | 08/02/2006 (Merits)<br>24/04/2007 (Just satisfaction)<br>08/11/2005 (Merits)<br>24/04/2007 (Just satisfaction) | <i>Breach right to a fair hearing and the principle of legal certainty and interference with the right to peaceful enjoyment of possessions: Quashing of two final domestic judgments in favour of the applicant based on Article 38 § 3 of Law 970 of 24/07/07 on request of the Prosecutor General (Articles 6 and 1 of Protocol No. 1).</i> | Individual measures covered by Friendly Settlement. In the Code of Civil Procedure of 2003 the Prosecutor General's power to challenge final judgments with requests for annulment was abolished. Article 38 of the Law on Economic Courts was repealed by Law No. 89-XVI of 05.04.2007, in force since 27/04/2007. The judgment was translated, published and disseminated.  |
| <a href="#">CM/ResDH(2014)37</a>  | MDA and RUS / Ilașcu and Others and one other case | 48787/99  | 08/07/2004 (Grand Chamber)   | <i>Illegal and arbitrary detention in the entity unrecognised by international community called the "Moldavian Republic of Transnistria: Responsibility of Russia in respect of acts of the "Moldavian Republic of Transnistria" and positive</i>  | The applicants had been released after the adoption of five Interim Resolutions ( <a href="#">CM/ResDH(2005)42</a> , <a href="#">CM/ResDH(2005)84</a> , <a href="#">CM/ResDH(2006)11</a> , <a href="#">CM/ResDH(2006)26</a> , <a href="#">CM/ResDH(2007)106</a> ). Just satisfaction was paid and the judgment translated, published and disseminated.  |



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|                                   |                                    |           |   | <i>obligations of Moldova with regard to parts of its territory over which it has no control:<br/>Ill-treatment of detainees and conditions of detention amounting to ill-treatment; unlawful detention on the basis of conviction by the court of a regime not recognised in international law; hindrance of the exercise of the right of petition; lack of remedy and lack of respect for correspondence and private life (Articles 1, 3, 5§1 (a) and 34 – Articles 13, 8).</i> |  |
| <a href="#">CM/ResDH(2014)292</a> | MLT / Bezzina Wettinger and Others | 15091     | 08/07/2008<br>08/04/2008  | <i>Excessive length of proceedings before the Land Arbitration Board: Article 6§1</i>   | Excessive delays before the Land Arbitration Board are examined in Gera de Petri Testa ferrata Bonici Ghaxaq. The Court recognised the existence of an effective remedy in law in the judgment Central Mediterranean Development Corporation Ltd. The judgment was published and disseminated.   |
| <a href="#">CM/ResCH(2014)142</a> | MLT / Camilleri                    | 42931/10  | 27/05/2013<br>22/01/2013  | <i>Unclear criminal law: lack of guidelines as to which type of court - Criminal or Magistrates' Court – should try a person accused of drug-trafficking, and therefore the range of sentence. (Article 7)</i>  | Amendment of the Criminal Code to provide guidelines to the Attorney General when determining the trial court. These amendments also set out a new procedure as to the exercise of the prosecutor's discretion under the scrutiny of the courts and grants the right to the accused to submit a request to the Criminal Court to be tried by the Magistrates' Court. The judgment was published and widely disseminated.               |
| <a href="#">CM/ResDH(2014)280</a> | MLT / Debono and 1 other case      | 34539/02  | 07/05/2006<br>07/02/2006 (Merits)<br>24/01/2007<br>24/10/2006 (Just satisfaction) | <i>Excessive length of civil proceedings (Article 6§1).</i>   | The civil proceedings in all the cases are closed. Measures to alleviate the burden on the courts: mediation and arbitration proceedings, simplification of formalities for various judicial acts. Amendments to the Code of Organisation and Civil Procedure: possibility to request the Chief Justice to change the presiding member of the Judiciary in case of proceedings pending for over three years. Increase in the number of |



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|                                   |                       |           |                                |   | judges. The judgment was translated, published and disseminated.  |
| <a href="#">CM/ResDH(2014)165</a> | MLT / Gatt            | 28221/08  | 27/10/2010<br>27/07/2010       | <i>Disproportionate detention for failure to pay a bail guarantee: No distinction in law between breach of bail conditions and other less serious considerations; no legal ceiling of detention duration (Article 5§1).</i> | The applicant was released on 17/08/2010. Amendment to Article 586 of the Criminal Code provides for different ceilings on detention duration for non-payment of personal guarantee depending on amount of bail bond in case of breach of bail conditions. The judgment was translated, published and disseminated.   |
| <a href="#">CM/ResDH(2014)265</a> | MLT / M.D. and Others | 64791/10  | 17/10/2012<br>17/07/2012       | <i>Disproportionate interference with family life: Automatic forfeiture of parental rights after a conviction as well as lack of access to a court to challenge this measure. (Article 8)</i>                               | <a href="#">Article 46 indications of the Court</a> . In June 2012, the minors were reunited with their mother, who under the new legislation can request reinstatement of her parental authority. Legislative changes comprise the amendment of the Children and young Person Act (August 2014) providing for an access to court for review of final care orders and the amendment of the Criminal Code (February 2014) providing that forfeiture of parental authority as a result of conviction is no longer automatic for certain offences. (see AR 2014) |
| <a href="#">CM/ResDH(2014)104</a> | NLD / A.              | 4900/06   | 20/10/2010<br>20/10/2007       | <i>Risk of ill-treatment in case of expulsion to Libya (Article 3).</i>   | On 10/11/2010, the Minister for Immigration, Integration and Asylum Policy rejected the request for revocation of the exclusion order issued as the conditions for revocation of the Aliens Act were not fulfilled, confirmed however that the applicant will not be expelled to Libya. On 18/02/2011, the Government reconfirmed that decision. The judgment was translated, published and disseminated.   |
| <a href="#">CM/ResDH(2014)42</a>  | NLD / Emin            | 28260/07  | 29/08/2012<br>29/05/2012       | <i>Denial of right to enforceable compensation for unlawful detention: Domestic courts recognised the unlawfulness of detention but nonetheless denied compensation (Article 5§5).</i>                                      | The applicant was paid compensation for six days of unlawful aliens' detention. Change of the practice of permitting a reduction of State's liability to nil in certain cases of unlawful deprivation of liberty in aliens detention. The judgment was translated, published and disseminated and brought to the attention to the European Law Court Coordinators' Network.   |
| <a href="#">CM/ResDH(2014)293</a> | NLD / G.R.            | 22251/07  | 10/04/2012<br>10/01/2012       | <i>Lack of an effective remedy: Refusal to exempt the applicant from the</i>  | The applicant was exempted from the fee, his application was examined afresh and rejected. The administrative rules   |



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|                                   |                                 |           |                                | <i>statutory administrative charge, which he could not afford to pay, required to obtain a decision on his request for a residence permit as a family member (Article 13).</i>   | were amended in 2012. An alien's request for exemption from paying the fee will be examined on an individual basis, with account of any evidence he managed to collect that he's unable to pay. A judgment was adopted by the Council of State in December 2013 according to which authorities cannot require further proof of the financial situation of third parties who say that they cannot or do not want to contribute towards payment of the fee. (see AR 2014)  |
| <a href="#">CM/ResDH(2014)294</a> | NLD / Morsink and 2 other cases | 48865/99  | 10/11/2004<br>11/05/2004       | <i>Excessive length of pre-placement detention of mentally-ill offenders in ordinary remand centres: Mentally-ill offenders posing a danger to society were ordered confinement in a custodial clinic once the prison sentences were served; due to a shortage of places, a considerable delay occurred in their transfer from prison to the custodial clinic (Article 5§1).</i> | In its judgment of 21/12/2007, the Supreme Court held that pre-placement detention exceeding 4 month was unlawful. Compensation is now available to those held longer. Between 2006 and 2011, the custodial clinics' capacities were enlarged. In 2013, the average waiting time amounted to 100 days. In June 2014, 14 persons awaited such placement. (see AR 2014)  |
| <a href="#">CM/ResDH(2014)117</a> | NLD / Romet                     | 7094/06   | 14/05/2012<br>14/02/2012       | <i>Interference with the right to respect for private life due to authorities' failure to invalidate the applicant's stolen driving licence when reported, leading to identity abuse for criminal purposes (Article 8).</i>  | All adverse effects of the registration mark entries made in the name of the applicant have been reversed. On 02/04/2004, the Road Transport Agency deleted all registrations of vehicles in the applicant's. By judgment of 22/06/2005, the appeal court removed proceedings from the Criminal Records Register. By judgment of 19/07/2005, the limited jurisdiction judge reversed 39 fines imposed under the Traffic Regulations (Administrative Enforcement) Act. Finally, the Tax and Customs Administration will no longer seek to recover past motor vehicle tax arrears from the applicant. The judgment was translated, published and disseminated. |
| <a href="#">CM/ResDH(2014)169</a> | NOR / Butt                      | 47017/09  | 04/03/2013<br>04/12/2012       | <i>Interference with family and private life in case of deportation to Pakistan</i>  | Immigration Appeals Board granted permanent residence in 2012. One of the applicants is no longer prohibited to enter  |





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|                                   |                                   |           |                                | (Article 8).   | the territory. The judgment, based on a very isolated incident in immigration practice, was translated, published and disseminated to the competent authorities.   |
| <a href="#">CM/ResDH(2014)171</a> | POL / Adamkiewicz                 | 54729/00  | 04/10/2010<br>02/03/2010       | <i>Denial of a fair trial: Use of a minor's confession to police as evidence, the minor having been denied access to a lawyer; lack of impartiality of the court as the judge having led the investigation subsequently ruled as president of the trial in juvenile proceedings (Articles 6 § 3 (c) in conjunction with 6 § 1 and 6 § 1).</i>  | The applicant requested reopening of proceedings. Amendment to the Act on the Proceedings in Juvenile Cases came into force on 02/01/2014 providing for the obligation to assign a defence counsel to a juvenile and abolishing the possibility for the same judge to lead the investigation and rule in the examination on merits The judgment was translated, published and disseminated (together with a specific instruction by the Office of the Prosecution General to prosecutors participating in juvenile proceedings) and used in respective training activities organised by the National School of Judiciary and Public Prosecution. |
| <a href="#">CM/ResDH(2014)147</a> | POL / Białas Janusz               | 29761/03  | 28/10/2010<br>28/07/2009       | <i>Denial of access to a court concerning certain benefits related to the applicant's service as a prison officer: The opinions of the Supreme Court and the Supreme Administrative Court diverged as to which hierarchy of courts had jurisdiction, so no court considered itself competent to hear the case failure to indicate any remedy the applicant could have availed himself (Article 6§1).</i> | The applicant did not initiate new proceedings as he would have been entitled to. Change of court practice. Admissibility of similar claims before civil courts confirmed by Supreme Court's Resolution of 26/01/2006. Amendment of the Act on the Prison Service of 09/04/2010 claims of cash equivalents by prison officers may be filed with civil courts. The judgment was translated, published and disseminated.   |
| <a href="#">CM/ResDH(2014)190</a> | POL / Ciechonska and 1 other case | 19776/04  | 14/09/2011<br>14/06/2011       | <i>Ineffective investigations into the applicants' relatives' death: Failure to provide an adequate and timely investigation into a negligent act (Article 2 procedural limb).</i>   | Prescription periods for instituting new investigations elapsed. Various reforms aiming at the acceleration of preparatory measures introduced in between 2007 and 2012. Measures to reduce length of criminal proceedings are examined in the Kudla group of cases. Measures to solve a wider problem of excessive length of judicial proceedings and delays in investigating alleged violations of Articles 2 and 3 are examined in the Dzwonkowski group of cases. The  |



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|                                   |                    |           |                                |   | judgment was translated, published and is used in respective training activities organised by the National School of Judiciary and Public Prosecution.   |
| <a href="#">CM/ResDH(2014)148</a> | POL / Giza         | 48242/06  | 13/10/2010<br>13/07/2010       | <i>Non-enforcement of a final administrative decision ordering the applicant's neighbour to demolish an illegally constructed sawmill (Article 6§1).</i>  | The illegally constructed sawmill was demolished in May 2013. The judgment was translated, published and disseminated. Training activities for administrative officials were organised.  |
| <a href="#">CM/ResDH(2014)85</a>  | POL / Grzelak      | 7710/02   | 22/11/2010<br>15/06/2010       | <i>Discriminatory treatment of agnostic pupils and those following religious classes: Failure to provide a pupil excused from religious instruction with ethics classes and associated marks (Article 14 in conjunction with Article 9)</i>   | Ordinance of Minister of Education on religious instruction of 14/04/1992 was amended as to annul the minimum threshold required to the organisation of ethic classes. Details information on conditions and organisation of ethics classes were circulated to all school superintendents. The judgment was published and disseminated.  |
| <a href="#">CM/ResDH(2014)27</a>  | POL / Jasińska     | 28326/05  | 01/09/2010<br>01/06/2010       | <i>Failure of the authorities to comply with positive obligation to protect the life of a prisoner as deficiency of the prison system: Suicide of a detainee suffering from mental problems, by taking a lethal dose of drugs without knowledge of the medical staff supervising the ingestion of his medicine (Article 2).</i> | New Article 116 § 5a Code of Execution of Criminal Sentences allows the monitoring of the detainees' behaviour in justified cases, based on medical reasons or the need to ensure their security. Director General of the Prison Service adopted Instruction No. 16/2010 on the prevention of suicides of persons deprived of liberty and Ordinance No. 43/2010 on methods and activities for the protection of the organisational units of the Prison Service, thereby unifying existent practice and setting clear criteria of conduct in case of risk of suicide by a prisoner. Specialized training sessions related to the suicide prevention of detainees are organised in detention centres for psychologists, prison tutors and security employees. Data show that the number of deaths caused by self-harm is constantly decreasing. The judgment was translated, published and disseminated. (See AR 2014) |
| <a href="#">CM/ResDH(2014)60</a>  | POL / Joanna Szulc | 43932/08  | 13/02/2013<br>13/10/2013       | <i>Authorities' failure, for more than ten years, to grant access to all pertinent documents collected by security</i>  | Law of 18/12/1998 on the Institute of National Remembrance, was amended by 27/05/2010 providing for a right of access to all documents deposited with the Institute.   |



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|                                   |                                   |           |                                | <i>services: Obstacles of legislative and administrative nature to obtain full access to the secret services files kept by the National Remembrance Institute (Article 8).</i>  |   |
| <a href="#">CM/ResDH(2014)235</a> | POL / Kaperzyński                 | 43206/07  | 03/07/2012<br>03/04/2012       | <i>Disproportionate interference with freedom of expression: Excessive penalty, including a two years' work-ban, imposed on a journalist in criminal proceedings for refusing to grant right to reply or provide reasons for the refusal (Article 10).</i>  | The applicant requested reopening of the impugned criminal proceedings and his conviction was revoked. The Constitutional Court declared the impugned provisions unconstitutional, which are thus no longer in force since 14/06/2012. An legislative amendment entered into force on 02/11/2012 providing that the right to reply or correction only concerned factual information. The judgment was translated, published and disseminated.   |
| <a href="#">CM/ResDH(2014)143</a> | POL / Kowalski                    | 43316/08  | 11/06/2013<br>11/06/2013       | <i>Unfair criminal proceedings: Refusal by the court of appeal, in 2008, to appoint a legal-aid lawyer with a view to assist in the preparation of the cassation appeal based on an erroneous ground (expiration of the time-limit) and without examination of the merits of the request, including the applicant's financial situation (Article 6 § 1 in conjunction with Article 6 § 3(c)).</i> | Request for retroactive leave for appeal may be lodged. The judgment based on an isolated incident due to an error made by a particular court of appeal, was translated, published and disseminated. It is used in training by the National School of Judiciary and Public Prosecution Services.  |
| <a href="#">CM/ResDH(2014)172</a> | POL / Matyjek and 11 others cases | 38184/03  | 24/09/2007<br>24/04/2007       | <i>Unfair lustration proceedings: Cumulative application of restrictions on access to case file; inadequate time and facilities to prepare for defence resulting in the applicants' disqualification from public office, placing an unrealistic burden on them failing to respect the principle of equality of arms (Article 6§1 taken together with Article 6§3).</i>                            | Possibility to reopen impugned lustration proceedings provided by Code of Criminal Procedure. Series of legislative changes: Lustration Act of 18/10/2006 on disclosure of documents of State security organs from 1944-1990 providing that files used in lustration proceedings are partly public with the possibility to request exclusion of publicity when sensitive data are concerned; other legal amendments concern the legal status of classified information and the definition of State/official secret in general; obligatory regular reviews are to be conducted to verify the |



| Resolution No.                    | Reference                       | Appl. No. | Judgment final on/delivered on | Violation  | Main measures taken  |
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|                                   |                                 |           |                                |  | classification of documents; the Director of Lustration may initiate declassification of archive material; number of classified materials used in lustration proceedings decreased significantly; Ordinance of the Minister of Justice of 20/02/2012 providing for the possibility to make copies and notes from the classified documents and to use them in the secret registries of the courts. (See AR 2014)  |
| <a href="#">CM/ResDH(2014)219</a> | POL / Moskal and 29 other cases | 10373/05  | 01/03/2010<br>15/09/2009       | <i>Disproportionate interference with property rights: Quashing by the Social Security Board of decisions granting an early-retirement pension to persons raising children requiring constant care due to their serious health conditions, which constituted the applicants' sole source of income (Article 1 of Protocol No. 1.)</i>            | Article 114 (1) of the 1998 Act on retirement and disability pensions paid from the Social Insurance Fund provides for a redetermination of rights to retirement/disability benefit, in particular following a Court's judgement. Change of practice of the Social Security Board and implementation of new guidelines. Change of case-law of the Supreme Court. The judgment, based on the ill-practice of just one branch of the Social Security Board as statistical data show, was translated, published and disseminated.                         |
| <a href="#">CM/ResDH(2014)144</a> | POL / Nieruchomości Sp. Z O.O.  | 32740/06  | 02/05/2010<br>02/02/2010       | <i>Restriction of access to a court: Arbitrary domestic court's refusal to exempt the applicant company from payment of the court fees for bringing a civil action without invoking any legal or economic arguments (Article 6§1).</i>   | The judgment based on an isolated incident due to an error made by a particular court of appeal, was translated, published and disseminated. Concerning the compatibility of the legal framework with the Convention, see <a href="#">CM/ResDH(2011)67</a> .   |
| <a href="#">CM/ResDH(2014)295</a> | POL / Pawlik and 4 other cases  | 11638/02  | 19/09/2007<br>19/06/2007       | <i>Disproportionate interference with family life: Failure of authorities to facilitate the enforcement of arrangements for the applicant's access to his minor son. Other cases in this group concern the non-enforcement of return orders on the basis of the Hague Convention on International Child Abduction of 25/10/1980 (Article 8).</i> | Some of the children concerned reached majority, contact between the applicants and the remaining minors was re-established. The Code of Civil Procedure was amended in 2011 to streamline proceedings for the execution of contact orders. A special publication was prepared by the Ministry of Justice. The National School of Judiciary and Public Prosecutors conducted periodic seminars. The judgment was published, translated and disseminated. Trends with regard to the execution of family contact/return orders are constantly monitored. |



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| <a href="#">CM/ResDH(2014)119</a> | POL / Plechanow                 | 22279/04  | 07/10/2009<br>07/07/2009       | <i>Failure to comply with positive obligation to provide measures safeguarding the applicants' right to the effective enjoyment of their possession: impossibility to obtain compensation for loss caused by unlawful administrative act as the applicants, due to the inconsistency of the domestic case-law, had sued the wrong authority (Article 1 of Protocol No. 1)</i> | The applicants availed themselves of the domestic remedy which was found by the Court to be effective in its judgment of 15/10/2013. On 27/04/2012 the applicants claimed compensation from the State Treasury on the basis of article 160 of the Code of Administrative Procedure. The proceedings are still pending. The change in the Supreme Court's interpretation of Article 160 of C.A.P. confirmed it as effective remedy. The judgment was translated, published and disseminated to judges and prosecutors. |
| <a href="#">CM/ResDH(2014)145</a> | POL / Sanocki and 4 other cases | 28949/03  | 17/10/2007<br>17/07/2007       | <i>Disproportionate interference with freedom of expression: Civil convictions for defamation (Article 10).</i>   | Change of practice of domestic courts. The judgment was translated, published and disseminated. It is used in regular training on the Convention criteria by the National School of Judiciary and Public Prosecution Services.  |
| <a href="#">CM/ResDH(2014)218</a> | POL / Sosinowska                | 10247/09  | 18/01/2012<br>18/10/2012       | <i>Disproportionate interference with freedom of expression: Conviction of a doctor in disciplinary proceedings for criticising her superior on the basis of the Code of Medical Ethics (Article 10)</i>  | Reopening of the disciplinary proceedings is possible. In a judgment of 23/04/2008, the Constitutional Court found that the impugned interpretation of Article 52 § 2 of the Code of Medical Ethics was unconstitutional. The judgment was translated, published and disseminated.  |
| <a href="#">CM/ResDH(2014)146</a> | POL / Toziczka                  | 29995/08  | 24/10/2012<br>24/07/2012       | <i>Denial of the right to an impartial tribunal in civil proceedings : Same judge sitting on the bench of the Supreme Court called upon to decide whether or not his previous legal interpretation or application of substantive law in the same case was to be upheld or not (Article 6§1)</i>   | The applicant may lodge a request for reopening. According to a Constitutional Court judgment on 20/07/2004, the term "lower court" in the provision of the disqualification of a judge by law should comprise all lower court levels thereby eliminating reasonable doubts as to impartiality and objectivity of a tribunal. The judgment was translated, published and disseminated.  |
| <a href="#">CM/ResDH(2014)268</a> | POL / Trzaska                   | 25792/94  | 11/07/2000<br>11/07/2000       | <i>Excessive length of pre-trial detention and ineffective review proceedings of its lawfulness (Articles 5§3+4).</i>   | Change of domestic courts' practice through extensive training for judges and prosecutors and setting-up of a monitoring system. Legislative amendments limiting the grounds for detention, limiting the maximum periods of   |





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|                                   |  |           |                                |  | detention, providing an appeal mechanism against certain types of decision extending pre-trial detention; some of these amendments were introduced following relevant judgments by the Constitutional Court. Statistics show a significant reduction in the use of pre-trial detention and an increase in the use of alternative measures to detention. Leading to a drop in the Court's judgments finding violations. The authorities will continue to seek improvements: a new Code of Criminal Procedure will enter into force in 2015 limiting pre-trial detention for less serious offences and increasing the flexibility in the use of bail. (see AR 2014) |
| <a href="#">CM/ResDH(2014)11</a>  | PRT / Carvalho Acabado and 30 others cases                           | 30533/03  | 15/02/2006<br>18/10/2005       | <i>Excessive delay in determining and paying compensation following the expropriation of agricultural properties of the applicants in the framework of the 1975 Agrarian Reform (Art. 1 Prot. 1).</i>  | Domestic proceedings closed and compensation paid. 25 remaining compensation proceedings are pending at national level and closely monitored. The authorities consider that, since the issue is related to the historic event of the Agrarian Reform of 1975, further applications are improbable. The judgment was translated, published and disseminated.   |
| <a href="#">CM/ResDH(2014)149</a> | PRT / Publico - Comunicaçao Social, S.A. and Others and 1 other case | 39324/07  | 07/03/2011<br>07/12/2010       | <i>Disproportionate interference with freedom of expression: Civil judgment ordering a newspaper and four of its staff to pay severe penalties for defamation following the publication of a critical article (Article 10).</i>  | Compensation paid. The judgment was translated, published and disseminated. Awareness-raising and training activities were organised.   |
| <a href="#">CM/ResDH(2014)236</a> | PRT / Ramos Ferreira and Others                                      | 23321/11+ | 09/12/2013<br>16/07/2013       | <i>Disproportionate interference with property rights: Excessive delay in determining and paying compensation following the expropriation of agricultural properties of the applicants in the framework of the 1975 agrarian reform (Article 1 of Protocol No. 1).</i> | Just satisfaction paid. The judgment was translated, published and disseminated. Other general measures are covered in <a href="#">CM/ResDH(2014)11</a> in Carvalho Acabado.  |
| <a href="#">CM/ResDH(2014)188</a> | ROM / Agache and Others  | 2712/02   | 20/01/2010<br>20/10/2009       | <i>Ineffectiveness of investigations into the death of the applicants' relative, a</i>   | Domestic criminal proceedings were reopened with regard to one of five defendants. Retrial proceedings were finally   |



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|                                   |                     |           |                                | <i>police officer killed in the 1989 anti-communist demonstrations: Length of the criminal proceedings against five defendants, shortcomings in the handling of evidence and failure to take the necessary steps to secure the extradition from Hungary of three convicted defendants in order for them to serve their sentences (Article 2 procedural limb).</i> | terminated before the High Court of Cassation and Justice on account that they have become statute barred and the applicant's civil claims dismissed. Four of the five defendants lodged an application (No. 1505/02) resulting in <a href="#">CM/ResDH(2013)41</a> in Reiner and Others.<br>As concerns taking of evidence and length of investigations, general measures are examined in the framework of the Trufin and Stoianova and Nedelcu groups of cases. Measures to secure extradition from Hungary failed due to the fact that the defendants had been convicted in absentia. Meanwhile, Law No. 302/2004, amended in 2006, introduced provisions on the cooperation with European Union member States with regard to the implementation of the European arrest warrant and surrender procedures. The New Code of Criminal Procedure, in force since 01/02/2014, allows persons convicted in absentia to request a re-trial. |
| <a href="#">CM/ResDH(2014)150</a> | ROM / Amănălăchioai | 4023/04   | 26/08/2009<br>26/05/2009       | <i>Lack of protection of family life: Impossibility for the applicant to obtain the return of his daughter, who remained at her maternal grandparents after school holidays spent with them in 2001 with the applicant's consent (Article 8).</i>   | Domestic authorities organised encounters between father and child, who is major now. The right to maintain personal ties between child and parent is regulated by the Law No. 272/2004<br>on the protection and promotion of children's rights, republished on 14/03/2014, following its revision. The competent national authority in the matter is the Directorate for Child Protection operating within the Ministry of Labour, Family, Social Protection and Elders.   |
| <a href="#">CM/ResDH(2014)176</a> | ROM / Balasa        | 21143/02  | 20/07/2010<br>20/04/2010       | <i>Lack of a fair trial and partial non-enforcement of a property title without compensation (Articles 6§1 and 1 of Protocol No. 1).</i>  | Reopening of proceedings possible. As concerns the property aspects, the case is a clone of Toscuta and Others (Appl. No. 36900/03) and respective general measures are examined in the context of the group Maria Atanasiu and Others. As concerns the fairness of proceedings, the new Code of Civil Procedure provides for fundamental principles of civil litigation, such as equality of arms and adversarial trial. Concerning the administration of evidence, general measures   |



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|                                   |                                     |           |                                |   | are covered by <a href="#">CM/ResDH(2010)181</a> in Albina.  |
| <a href="#">CM/ResDH(2014)12</a>  | ROM / Belasin and 9 other cases     | 15402/04  | 15/02/2008<br>15/11/2007       | <i>Breach of legal certainty and interference with property rights: Annulment of favourable final court decisions following appeals by the Prosecutor General in disputes concerning the restitution of a nationalised building (Art. 6§1 and Art. 1 Prot. 1).</i>                              | General measures are covered in <a href="#">CM/ResDH(2007)90</a> in Brumărescu. Articles 330 of Civil Procedure Code were abrogated in 2004.   |
| <a href="#">CM/ResDH(2014)151</a> | ROM / Birlă                         | 18611/04  | 27/08/2010<br>27/05/2010       | <i>Denial of a fair hearing: Quashing of a final judgment by the High Court of Cassation and Justice by means of an extraordinary appeal by the Attorney General (Article 6§1).</i>   | The applicant could request reopening of proceedings following the Court's judgment. General measures are covered in <a href="#">CM/ResDH(2011)27</a> in Bota business, Sergiu Popescu and Precup.   |
| <a href="#">CM/ResDH(2014)240</a> | ROM / Botea                         | 40872/04  | 10/03/2014<br>10/12/2013       | <i>Unfair criminal proceedings: Conviction based in a decisive manner on audio recordings the authenticity of which was challenged by the defence and never confirmed through a technical expert report (Article 6§1).</i>  | Reopening of proceedings can be requested. The judgment, based on an erroneous application of the rules concerning administration of evidence in the specific case, was translated, published and disseminated.  |
| <a href="#">CM/ResDH(2014)152</a> | ROM / Bucureşteanu                  | 20558/04  | 16/07/2013<br>16/04/2013       | <i>Ineffectiveness and excessive length of investigations into allegations of ill-treatment by private individuals (Article 3 procedural limb).</i>   | The reopening of investigations is time-barred. The length of investigations is examined in Stoianova and Nedelcu group of cases. The enhancement of effectiveness of investigations through police training and awareness-raising is examined in Barbu Anghelescu group.  |
| <a href="#">CM/ResDH(2014)13</a>  | ROM / Calmanovici and 7 other cases | 42250/02  | 01/10/2008<br>01/07/2008       | <i>Unlawfulness of initial and continued pre-trial detention on remand and unjustified prolongation; denial of the right to be brought promptly before the judge; lack of a speedy determination of the request for release; unfair criminal proceedings; illegal interception of telephone</i> | The Code of Criminal Procedure (CCP) provides for the possibility of reopening criminal proceedings following a Judgment by the ECHR. 2003 amendments of the CCP and change of domestic courts practice addressed the issue concerning decisions on detention. General measures concerning fairness of proceedings are covered in <a href="#">CM/ResDH(2013)235</a> , <a href="#">CM/ResDH(2011)29</a> , <a href="#">CM/ResDH(2011)41</a> . The issue of interception of telephone |



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|                                   |                                   |           |   | <i>communications; automatic prohibition of the parental rights after conviction; automatic prohibition of the right to vote after conviction (Articles 5 §§1+3+4, Article 6§1; Article 8 and Article 3 of Prot. no. 1).</i>   | communications is regulated in detail in the new CCP in force since February 2014. According to a 2007 finding of the High Court of Cassation and Justice, courts have to determine the need for complementary penalties, e.g. prohibition of electoral rights on an individual basis. Privation of parental rights is covered in <a href="#">CM/ResDH(2011)73</a> . (See also AR 2014)  |
| <a href="#">CM/ResDH(2014)30</a>  | ROM / Diacenco                    | 124/04    | 07/05/2012<br>07/02/2012  | <i>Breach of the presumption of innocence: Despite upholding the applicant's acquittal, the Court of Appeal, acting as court of last instance, nevertheless held him criminally liable in the reasoning part of its judgment and ordered him to pay civil damages (Article 6§2).</i> | The error in the reasoning part of the Appeal Court's judgment does not impact upon the order to pay damages. The judgment was translated and disseminated.  |
| <a href="#">CM/ResDH(2014)274</a> | ROM / Drăculeț and 83 other cases | 20294/02  | 31/03/2008<br>06/12/2007 (Merits)<br>05/05/2009<br>05/02/2009 (Just satisfaction) | <i>Interference with property rights: Refusal of domestic authorities to take measures in order to grant the effective restitution of nationalised land property, without compensation (Article 1 of Protocol 1).</i>  | New law of 2013 reforming the mechanism of redress (restitution or compensation) for property nationalised during the communist had been considered by the Court, in its Preda judgment of 29/04/2014, as, in principle, capable of offering appropriate redress in such situations and implementation of an active mechanism monitoring the application of this law. Still outstanding questions will be examined in the framework of the supervision of the pilot judgment Maria Atanasiu and Others and the Strain group. |
| <a href="#">CM/ResDH(2014)28</a>  | ROM / Driha and 17 other cases    | 29556/02  | 21/05/2008<br>21/02/2008  | <i>Unlawful subjection of reserve officers' assignment allowance to income tax and discriminatory treatment with regard other reserve officers whose allowances were not subject to income tax (Article 1 of Prot. no. 1 and 14 in conjunction with it).</i>                         | Article 31 of Law No. 138/1999 regulating the salaries and other financial rights of the military personnel was abrogated. At present, allowances received by military reserve personnel are assimilated to salary benefits and taxable in conformity with the Fiscal Code and its methodological norms. The judgment was translated and disseminated.   |
| <a href="#">CM/ResDH(2014)29</a>  | ROM / Găgă                        | 1562/02   | 29/09/2008<br>25/03/2008  | <i>Denial of a fair trial due to conviction in absentia by the Supreme Court of Justice due to an error in the service of</i>  | Domestic law provided and continues to provide a remedy for similar situations, although due to the "special circumstances" in the present case this remedy failed before  |



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|                                   |  |           |                                | <i>the summons to appear in court (Article 6).</i>   | the Supreme Court. According to the relevant provision in the new Code of Criminal Procedure a final penal decision can be appealed for annulment in case of an error in the notification to appear in court. The judgment was translated and disseminated.  |
| <a href="#">CM/ResDH(2014)153</a> | ROM / Gridan and Others                        | 28237/03+ | 04/06/2013<br>04/06/2013       | <i>Denial of a fair trial: Quashing of final judgments in their favor following extraordinary appeals (review, annulment or supervisory review proceedings) and interference with the right to the peaceful enjoyment of their possessions (Articles 6 § 1 and 1 of Protocol no. 1).</i> | Violation results from erroneous interpretation of legal provisions by certain domestic courts. General measures covered in CM/ResDH(2007)90 in Brumarescu (Articles 330 to 330 of the Civil Procedure Code were repealed by Article 17 § 1 of the Emergency Government Regulation approved by Parliament on 25/05/2004) and CM/ResDH(2013)69 in Mitrea. As concerns supervisory review proceedings and annulment, the judgment was translated, published and disseminated, including to the Supreme Council of Magistrates for training purposes. |
| <a href="#">CM/ResDH(2014)237</a> | ROM / Hamvas and 3 other cases                 | 6025/05   | 09/10/2013<br>09/07/2013       | <i>Unlawful detention on remand: Failure of the domestic courts to justify continued pre-trial detention and length of review proceedings (Article 5§3+4).</i>   | All applicants were released. General measures are covered in <a href="#">CM/ResDH(2014)13</a> - Calmanovici group and <a href="#">CM/ResDH(2013)235</a> - Samoila and Cionca group.   |
| <a href="#">CM/ResDH(2014)189</a> | ROM / Ileana Constantinescu                    | 32563/04  | 11/03/2013<br>11/12/2012       | <i>Disproportionate interference with freedom of expression: Criminal conviction to a fine and payment of moral damages for insult and defamation in a book criticizing a public figure (Article 10).</i>  | Conviction erased from criminal record. General measures covered in <a href="#">CM/ResDH(2011)73</a> in Dalban.  |
| <a href="#">CM/ResDH(2014)296</a> | ROM / Irinel Popa and Others and 3 other cases | 6289/03+  | 01/03/2010<br>01/12/2009       | <i>Unlawful detention on remand; lack of effective access to the criminal investigation file and lack of adversarial proceedings during the judicial review concerning the prolongation of detention on remand; breach of the right to be brought</i>                                    | As concerns the right to be brought promptly before a judge: <a href="#">CM/ResDH(2011)149</a> and <a href="#">CM/ResDH(2014)13</a> in Calmanovici and in Nastase-Silivestru. Access to the investigation file is provided for by Laws No. 109/2003 and No 356/2006. As concerns the adversarial principle in review proceedings the judgment was published, translated and disseminated and forms part of training activities for judges.   |





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|                                   |                     |           |                                | <i>promptly before the judge (Article 5 §§1+3+4).</i>   |   |
| <a href="#">CM/ResDH(2014)241</a> | ROM / Jenița Mocanu | 11770/08  | 17/03/2014<br>26/03/2013       | <i>Denial of the right to have one's case heard by a tribunal established by law: The bench examining the applicant's final appeal in civil proceedings had not been composed in accordance with the domestic law in force at the material time (Article 6§1).</i>                          | Reopening of proceedings can be requested. The judgment, based on an erroneous interpretation of the former Civil Procedure Code in the specific case, was translated, published and disseminated and is used in the training of judges.  |
| <a href="#">CM/ResDH(2014)154</a> | ROM / Lauruc        | 34236/03  | 23/07/2013<br>23/04/2013       | <i>Conditions of detention in Bacau prison amounting to ill-treatment and unlawfulness of detention on remand ordered by a prosecutor (Articles 3 substantive limb and 5§§1 (c), 3 and 4).</i>  | The applicant was released in 2003. General measures concerning Article 5 covered in <a href="#">CM/ResDH(2014)13</a> in Calmanovici and in Nastase-Silivestru and concerning Article 3 they are examined in the Bragadireanu group of cases.   |
| <a href="#">CM/ResDH(2014)66</a>  | ROM / Luka          | 34197/02  | 21/10/2009<br>21/07/2009       | <i>Lack of independence and impartiality of first instance labour courts due to insufficient statutory safeguards with regard to "judicial assistants" sitting in the panel of judges and appellate court's failure to address one of the applicant's grounds for appeal (Article 6§1).</i> | Applicant could ask for reopening of proceedings. Law No. 92/1992 was replaced by Law No. 304/2004, containing provisions related to the "judicial assistants" and providing that consultant magistrates are nominated ex lege as "judicial assistants" (Art.105). The new legal status of judicial assistants addressed all the issues raised, the current role of judicial assistants being only advisory. Concerning the non-examination of appeal grounds, see general measures covered in <a href="#">CM/ResDH(2011)19</a> in Vlasia Grigore Vasilescu and <a href="#">CM/ResDH(2010)182</a> in Dima. The judgment was translated, published and disseminated. |
| <a href="#">CM/ResDH(2014)31</a>  | ROM / Marariu       | 23957/03  | 16/06/2010<br>16/03/2010       | <i>Lack of a fair trial due to domestic courts' refusal to examine the applicant's request for reimbursement of court costs in connection with proceedings brought against him following the plaintiffs' withdrawal (Article 6§1).</i>  | New Code of Civil Procedure, entered into force in 2013, reiterates in Art. 246 that court costs may be requested by the defendant after withdrawal of the plaintiff. The judgment, based on an omission of domestic courts and not on deficient legislation, was translated, published and disseminated.   |



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| <a href="#">CM/ResDH(2014)238</a> | ROM / Moculescu           | 15636/04  | 02/06/2010<br>02/03/2010       | <i>Disproportionate interference with property rights: Dismissal of the owner's application – after having succeeded in recovering possession of a nationalised plot of land - for the payment of rent by the user, a cooperative society with free right of use of the land in conformity with the law (Article 1 of Protocol No. 1).</i>  | The concrete interference ceased in May 2003. The impugned legal provisions were abrogated by Law No. 1/2005. In 2009, the Constitutional Court declared with effect erga omnes the rent-free use of land by cooperative societies unconstitutional.   |
| <a href="#">CM/ResDH(2014)242</a> | ROM / Niculescu-Dellakeza | 5393/04   | 226/06/2013<br>26/03/2013      | <i>Denial of a fair trial in libel and slander proceedings as well as unjustified and disproportionate interference with freedom of expression: Absence of hearing of the applicant, an actor, in last instance court; heavy sanctions imposed in criminal and civil liability proceedings for critical remark on the theatre director published in an open letter (Articles 6§1 and 10).</i> | Reopening of proceedings may be requested. The provisions of the Code of Criminal Procedure for the hearing of the accused were amended by Law No.356/2006 providing for the obligation of the last instance court to hear the accused when he had not been heard by the first instance court or if he had not been condemned. The judgment was translated, published and disseminated and is used in the training of judges. General measures related to freedom of expression are examined in Ieremeiov No. 1 group. |
| <a href="#">CM/ResDH(2014)243</a> | ROM / Oprea               | 26765/05  | 10/03/2014<br>10/12/2013       | <i>Unlawful detention: Arrest by the border police and custody based on a warrant for the execution of a prison sentence, which had been imposed in absentia and later revoked on grounds that the execution of the sentence had become time-barred (Article 5§1).</i>  | The judgment, based on the failure by the judicial authorities to transmit the annulment of the warrant to the police and of the prison authorities to clarify the situation, was translated, published and disseminated and is used in the training of judges.  |
| <a href="#">CM/ResDH(2014)244</a> | ROM / Potcovă             | 27945/07  | 17/03/2014<br>17/12/2013       | <i>Denial of a fair trial: Criminal conviction to a prison sentence on the basis of statements made while in police custody in the absence of a legal counsel (Article 6§§1 and 3 (c)).</i>   | Reopening of proceedings may be requested. The judgment, based on the erroneous application of legal provisions, was translated, published and disseminated and is used in the training of judges. The new Criminal Procedural Code (entry into force on 01/02/2014) enshrines specific safeguards against this type of misconduct.  |



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| <a href="#">CM/ResDH(2014)239</a> | ROM / Radovici and Stănescu and 19 other cases | 68479/01+ | 02/02/2007<br>02/11/2006       | <i>Disproportionate interference with property rights: Extension of lease agreed with former laNLDord, with no rent paid for several years to the new owner, as a consequence of his failure to comply with formalities for termination of lease; in one case, failure of the domestic court to duly examine and answer the applicant's main arguments in the expulsion proceedings (Article 1 of Protocol No. 1; in once case Article 6§ 1).</i> | The applicants recovered their properties and tenants were evicted. The effects of the impugned Emergency Government Order No. 40/1999 as amended by Law no. 241/2001 ceased 08/04/2004. The judgment was translated, published and disseminated and is used in the training of judges. General measures concerning procedural failures are covered in <a href="#">CM/ResDH(2010)181</a> in Albina.   |
| <a href="#">CM/ResDH(2014)253</a> | ROM / Rotaru                                   | 28341/95  | 04/05/00<br>Grand Chamber      | <i>Interference with private life and lack of effective remedy: Insufficient safeguards against arbitrary processing of personal data as well as storage and public disclosure of information by intelligence service; failure of domestic courts to consider the applicant's claims for non-pecuniary damages in civil proceedings (Articles 8,13 and 6§1).</i>  | Impugned misleading entries were removed for registers concerned. Emergency Regulation No. 24/2008, approved in Law no. 293/2008 provides that processing of information contained in the archives of the former communist secret service was transferred to a civilian administrative body, the NCSAS. Interested persons can apply for access and rectification of information to this body, whose decision is subject to judicial review. The judgment, was translated, published and disseminated to the competent authorities and is used in training of magistrates. Assurances were given that efforts will be made to remedy other shortcomings of the legal framework, examined in Haralambie group and in Bucur and Toma group. |
| <a href="#">CM/ResDH(2014)177</a> | ROM / S.C. IMH Suceava S.R.L.                  | 24935/04  | 29/01/2014<br>29/10/2013       | <i>Denial of a fair trial: Different decisions, without sufficient reasons, by two domestic courts as to the validity and reliability of the same piece of evidence in two proceedings on account of facts that constituted simultaneously a breach of consumers' rights and a tax offence (Article 6§1).</i>   | Revision of proceedings possible. The judgment, based on an erroneous interpretation of the law, was translated, published and disseminated.  |



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| <a href="#">CM/ResDH(2014)245</a> | ROM / Săncrăian | 71723/10  | 14/04/2014<br>14/01/2014       | <i>Unlawful detention after extradition on the occasion of the reopening of criminal proceedings in which the applicant had been sentenced in absentia; lacking legal provisions on judicial review of a person's detention after reopening of criminal proceedings and absence of a right to compensation for unlawful detention (Articles 5§§1, 4 + 5).</i>  | The new Code of Criminal Procedure Romanian, entry into force on 01/02/2014, provides that in reopened proceedings the sentence pronounced in absentia is cancelled and the person released, with the exception of cases in which preventive measures seem necessary. General measures with regard to the right to compensation for unlawful detention is examined in Degeratu et Tase group. |
| <a href="#">CM/ResDH(2014)156</a> | ROM / Siegle    | 23456/04  | 16/07/2013<br>16/04/2013       | <i>Denial of a fair trial and breach of legal certainty: calling into question of an acquittal in administrative proceedings by the same court which delivered it (Article 6§1).</i>   | Proceedings were reopened. Case-law of domestic courts presented in <a href="#">CM/ResDH(2013)263</a> in Amurăriței. The judgment, based on an erroneous application of the law, was translated, published and disseminated.  |
| <a href="#">CM/ResDH(2014)174</a> | ROM / Sipos     | 26125/04  | 03/08/2011<br>03/05/2011       | <i>Failure of the domestic courts to adequately protect the applicant's reputation in private criminal proceedings for insult and defamation: Publication, after removing the applicant from a programme she produced and presented, of a press release by the management of the Romanian State TV channel, containing statements lacking factual basis and judgments based on elements of her private life (Article 8).</i> | Publication and dissemination of judgment. General measures are covered by <a href="#">CM/ResDH(2012)209</a> in Petrina.  |
| <a href="#">CM/ResDH(2014)157</a> | ROM / Stoian    | 12221/06  | 12/10/2010<br>12/10/2010       | <i>Denial of a fair trial and interference with property rights: Quashing of a final judicial decision following an appeal of General Prosecutor (Articles</i>   | The applicant's request for revision was accepted. General measures covered in <a href="#">CM/ResDH(2007)90</a> in Brumarescu (Articles 330 to 330 of the Civil Procedure Code were repealed by Article 17 § 1 of the Emergency Government Regulation No. 58 of 25/06/2003, approved by Parliament on   |



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|                                   |                      |           |                                | 6 § 1 and 1 of Protocol No. 1).   | 25/05/2004   |
| <a href="#">CM/ResDH(2014)175</a> | ROM / Tănăsioaica    | 3490/03   | 19/09/2012<br>19/06/2012       | <i>Unlawful interference with freedom of expression: Criminal conviction under legislation in force at that date for having published articles criticising a public figure for acts performed in his official capacity (Article 10).</i>  | Possibility to request reopening of proceedings. General measures, in particular legislative changes decriminalising defamation and insult are covered by <a href="#">CM/ResDH(2011)73</a> in Dalban and four other cases.   |
| <a href="#">CM/ResDH(2014)246</a> | ROM / Teodor         | 46878/06  | 07/10/2013<br>04/06/2013       | <i>Incompatibility with presumption of innocence: Reasoning of civil courts - dismissing two civil actions brought by the applicant against his former employer - was based to decisive extent on comments made by prosecutor as to guilt when discontinuing criminal proceedings on technical grounds (Article 6§2).</i> | Reopening of proceedings may be requested. The judgment, based on a misconduct of judicial authorities in the specific case, was translated, published and disseminated and is used in the training of judges.   |
| <a href="#">CM/ResDH(2014)221</a> | ROM / Vartic (No. 2) | 14150/08  | 17/03/2014<br>17/12/2013       | <i>Disproportionate interference with freedom of religion: Refusal of the penitentiary administration to provide meat-free diet in accordance with the requirements of the applicant's Buddhist faith. (Article 9)</i>  | The applicant's diet requirements were respected. Article 50 of Law No. 254/2013 on the execution of punishments and custodial measures, in force since 01/02/2014, provides explicitly that the penitentiary administration must ensure adequate conditions for the preparation and distribution of food in accordance with religious beliefs. The judgment, based on an erroneous application of domestic law, was translated, published and disseminated. |
| <a href="#">CM/ResDH(2014)155</a> | ROM / Voiculescu     | 5325/03   | 03/05/2009<br>03/02/2009       | <i>Ineffectiveness and excessive length of investigations into the circumstances of a fatal traffic accident involving a military vehicle driven by an army sergeant causing the applicant's mother death, lacking independence of military prosecutors</i>   | The reopening of investigations is time-barred. The length of investigations is examined in Stoianova and Nedelcu group of cases. The enhancement of effectiveness of investigation through police training and awareness-raising is examined in Barbu Anghelescu group. The lacking independence of military prosecutors is examined in Association 21 December and Others.   |





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|                                   |               |           |                                | <i>(Article 2 procedural limb).</i>   |   |
| <a href="#">CM/ResDH(2014)14</a>  | SER / Đokić   | 1005/08   | 20/03/2012<br>20/12/2011       | <i>Denial of access to a court by Supreme Court in criminal proceedings rejecting mistakenly appeal on points of law as belated and thus breaching Article 428 of the Code of Criminal Procedure (Article 6§1).</i>   | Impugned judgment of Supreme Court quashed. Isolated case based on human error. The judgment was translated, published and disseminated.  |
| <a href="#">CM/ResDH(2014)18</a>  | SER / Ristić  | 32181/08  | 18/04/2011<br>18/01/2011       | <i>Excessive length of criminal proceedings (Article 6).</i>  | New Criminal Procedure Code (CPC) entered into force in January 2013 containing provisions aimed at accelerating criminal proceedings and introduction of prosecutorial investigation. Prosecutors are to adduce evidence on the grounds for indicting a person before trial. A special law dating 2005 – not correctly applied in this case - provides that criminal proceedings are urgent if minors are victims. The judgement was translated and disseminated and used in training. |
| <a href="#">CM/ResDH(2014)283</a> | SMR / Toniolo | 44853     | 19/11/2012<br>26/06/2012       | <i>Unlawful detention pending extradition: Domestic law was not sufficiently accessible, precise and foreseeable in its application to avoid the risk of arbitrariness (Article 5 § 1 (f)).</i>   | The applicant was released in 2009. The new Law No. 41 of March 2014, entitled "Rules on Extradition" provides for a comprehensive procedure, in particular procedural and substantive safeguards relating to the possibility to review decisions on extradition and detention.   |
| <a href="#">CM/ResDH(2014)297</a> | SUI / Nada    | 10593/08  | 12/09/2012<br>Grand Chamber    | <i>Interference with family life and lack of effective remedy: Restrictions on the cross-border movement of the applicant living since 1970 in an Italian enclave surrounded by the Canton of Ticino preventing him from entering or transiting through Switzerland, and inclusion of his name on a list of persons and organisations associated with al-Qaeda annexed to a federal</i> | The restrictions ended in 2009. The judgment was published, translated and disseminated. On a diplomatic level, Switzerland will endeavour to strengthen the legitimacy of sanctions and the consistency of the Security Council' sanctions with the Convention's principles and fundamental freedoms.  |



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|                                   |                              |           |                                | <i>Ordinance, in the context of the implementation by Switzerland of United Nations Security Council counter-terrorism resolutions. Failure of authorities to harmonise the international obligations that appeared contradictory (Articles 8 and 13).</i>  |  |
| <a href="#">CM/ResDH(2014)72</a>  | SVK / Ferencikova            | 39912/09  | 25/12/2012<br>25/09/2012       | <i>Denial of access to court in respect of a claim for child maintenance due to the domestic court's refusal to re-examine the case, which had first been declared inadmissible (Article 6§1).</i>  | Domestic court's refusal to re-examine the applicants' fresh claim for maintenance on the basis that the matter was already res judicata was an isolated problem of interpretation by the domestic courts. The judgment was translated, published and disseminated.  |
| <a href="#">CM/ResDH(2014)222</a> | SVK / Laduna                 | 31827/02  | 04/06/2012<br>13/12/2011       | <i>Unjustified discrimination based on domestic law of persons detained on remand compared to convicted persons with regard to visiting rights in prison and access to television broadcasting (Article 14 in conjunction with Article 8).</i>  | Law no. 371/2013 amending Detention Act of 2006 came into force on 01/01/2014 changing the rules on visiting rights and access to television. The judgment was translated, published and disseminated.   |
| <a href="#">CM/ResDH(2014)43</a>  | SVK / V.C. and 2 other cases | 18968/07  | 08/02/2012<br>08/11/2011       | <i>Sterilisation without informed consent of a woman of Roma origin; breach of the right to effectively enjoy her right to respect of her private and family life due to the absence at the relevant time of safeguards giving special consideration to the applicant's reproductive health (Articles 3 in substantive limb and 8). In one case lack of promptness and reasonable expedition of investigations (Article 3 procedural limb).</i> | Health Care Act enacted in 2004 governing in detail the need of the patient's informed consent. A new Regulation was adopted in 2013 to ensure that the requirement of consent is uniformly understood by all health establishments and to unify the conduct of health professionals. Systematic and targeted training of health workers on the issue of informed consent prior to sterilisation. The judgment was published and partly translated. Relevant training of prosecutors and judges was organised. |
| <a href="#">CM/ResDH(2014)</a>    | SVK /                        | 59102/08  | 25/12/2012                     | <i>Denial of a fair trial: Failure by</i>   | Impugned proceedings were reopened. The judgment, based  |



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| <a href="#">195</a>               | Vojtechova            |           | 25/09/2012                     | <i>domestic courts to give sufficient reasons for their decision to allow termination of the applicant's tenancy in the light of the arguments before them and the law applicable at the relevant time (Article 6 § 1).</i>   | on the lack of reasoning despite the requirements of the Civil Procedure Code, was translated, published disseminated. It is used in trainings organised by the judicial academy.   |
| <a href="#">CM/ResDH(2014)61</a>  | SVK / Zborovský       | 14325/08  | 23/01/2013<br>23/10/2013       | <i>Lack of access to court in proceedings brought against a State-owned enterprise due rejection of appeal on points of law as well as two constitutional complaints without an examination on the merits on the ground that one was premature and the second one out of time (violation of Article 6 § 1).</i> | General measures covered in <a href="#">CM/ResDH(2012)221</a> in Stavebna spolocnost Tatry Poprad, in particular concerning change of practice of the Constitutional Court.   |
| <a href="#">CM/ResDH(2014)62</a>  | SWE / Andersson       | 17202/04  | 07/03/2011<br>07/12/2010       | <i>Denial of right to an oral hearing in administrative proceedings related to claims for occupational injury compensation on issues which were not entirely technical in nature (Article 6 §1).</i>  | Applicant passed away before judgment became final. Change in Swedish Supreme Administrative Court's case-law taking into account the Court's judgment.   |
| <a href="#">CM/ResDH(2014)224</a> | SWE / I.              | 61204/09  | 20/01/2014<br>05/09/2013       | <i>Risk of ill-treatment in case of deportation to Chechnya (Article3).</i>   | The applicant was granted permanent residence. The judgment was translated, published and disseminated.   |
| <a href="#">CM/ResDH(2014)32</a>  | SWE / P.Z. and Others | 68194/10  | 18/03/2013<br>18/12/2012       | <i>Risk of ill-treatment in case of expulsion to Afghanistan (Article 3)</i>  | Expulsion orders became statute-barred; no further risk to be expelled to Afghanistan. The judgment was translated, published and disseminated.   |
| <a href="#">CM/ResDH(2014)73</a>  | SWE / Rousk           | 27183/04  | 25/10/2013<br>25/07/2013       | <i>Disproportionate interference with the right to peaceful enjoyment of property and to respect of his private and family life and his home due to the sale of his property at public auction and his ensuing eviction from his home, for a tax debt amounting to</i>  | The judgment was circulated to the Enforcement Authority (Kronofogdemyndigheten). Government Offices and the Enforcement Authority analysed its implications. A partial translation of the judgment was published and disseminated. |



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|                                   |                  |           |  | <i>approximately 800 euros the day of the auction (Articles 1 of the Protocol N°1 and 8).</i>  |  |
| <a href="#">CM/ResDH(2014)106</a> | SWE / Söderman   | 42750/09  | 12/11/2013 (Grand Chamber)   | <i>Lack of protection of the right to respect of private life: National law at the material time did not prohibit the filming of other persons, in particular minors, without their consent in private settings (Article 8).</i>   | As of 1 July 2013, a new provision on "Intrusive Photography" was enacted criminalising acts of covert filming of individuals in private places, such as bathrooms and changing rooms, without their permission. The judgment was translated, published and disseminated.  |
| <a href="#">CM/ResDH(2014)121</a> | TUR / Arif Erden | 37171/04  | 23/06/2010 (Merits)<br>22/05/2011 (Just satisfaction)<br>11/09/2013 (Revision)<br><br>23/03/2010<br>22/02/2011<br>11/06/2013 | <i>Disproportionate interference with right to peaceful enjoyment of possessions due to annulment of property title and transfer to Treasury; deprivation of property, designated forest area, without compensation (Article 1 of Protocol No. 1).</i>                           | Just satisfaction for pecuniary damages paid. Recent case-law of the Court of Cassation holds the State liable for incorrect entries in the land registers and any damage stemming thereof. In its inadmissibility decision in the case of Altunay v. Turkey (42936/07), the Court found that the case-law of the Court of cassation constituted sufficient basis for receiving compensation in similar cases. Other general measures covered in <a href="#">CM/ResDH(2012)106</a> Turgut and Others. The judgment was translated, published and disseminated. |
| <a href="#">CM/ResDH(2014)125</a> | TUR / Bora       | 14719/03  | 09/05/2010 (Merits)<br>20/06/2011 (Just satisfaction)<br>09/02/2010<br>25/01/2011  | <i>Interference with right to peaceful enjoyment of possessions: Failure by domestic authorities to enforce a final judgment and stay of execution order of the Administrative Court in the applicant's favour regarding a title deed of land (Article 1 of Protocol No. 1).</i> | The applicant received a plot of land of higher value than the original plot of land. The "Law on the Settlement of Cases before the ECHR by means of compensation" entered into force on 19/01/2013 providing an effective remedy in case of non-enforcement of domestic courts' judgments. The judgment was translated, published and disseminated   |
| <a href="#">CM/ResDH(2014)124</a> | TUR / Dikel      | 8543/05   | 29/12/2009<br>29/09/2009   | <i>Denial of a fair trial before Supreme Military Administrative Courts due to lack of access to classified information submitted by the Ministry of Defence to the Supreme Military Administrative</i>  | None of the applicants requested reopening of proceedings possible since the 4 <sup>th</sup> Legal Reform Package 30/04/2013. Amendments of Section 47 of the Law on Supreme Administrative Military Court entered into force on 03/06/2012. The judgment was translated, published and  |



| Resolution No.                    | Reference                                     | Appl. No. | Judgment final on/delivered on | Violation   | Main measures taken  |
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|                                   |   |           |                                | <i>Court in judicial proceedings before that court and the non-communication of the written opinion of that court's principal public prosecutor (Article 6 §1).</i>   | disseminated.  |
| <a href="#">CM/ResDH(2014)123</a> | TUR / Hamşioğlu and 4 other cases             | 2036/04   | 19/05/2008<br>19/02/2008       | <i>Continued unlawful detention despite release order delivered by domestic court and lack of a remedy allowing to obtain compensation Article 5§§ 1+5).</i>  | The National Judiciary Informatics System (UYAP) was set up to increase efficiency and speed of transmitting decision, documents, etc. Articles 141 and 142 of the new Code of Criminal Procedure (entry into force on 01/07/2005) regulate the right to claim compensation for unlawful arrest and detention. The judgment was translated, published and disseminated.  |
| <a href="#">CM/ResDH(2014)126</a> | TUR / Karataş Şahin                           | 161103    | 17/09/2008<br>17/06/2008       | <i>Unlawful detention: imprisonment 43 days longer than the term of the sentence. Absence of a remedy to obtain compensation for the period of unlawful detention (Article 5§§ 1+ 5).</i>   | Compensation paid. Articles 141 and 142 of the new Code of Criminal Procedure (entry into force on 01/07/2005) regulate the right to claim compensation for unlawful arrest and detention. The judgment based on an isolated incident due to misinterpretation of legal provisions, was translated, published and disseminated.  |
| <a href="#">CM/ResDH(2014)127</a> | TUR / Keçecioğlu and Others                   | 37546/02  | 08/07/2008<br>08/04/2008       | <i>Interference with peaceful enjoyment of possessions: Failure by administrative authorities to put the expropriated property to the declared use of expropriation and rejection by the judicial authorities of the applicant's request for the restitution (Article 1 of Protocol No. 1).</i> | Just satisfaction for pecuniary damage paid. The judgment based on an isolated incident due to the non-application of domestic legal provisions concerning protection against arbitrary expropriations, was translated, published and disseminated.  |
| <a href="#">CM/ResDH(2014)298</a> | TUR / Ormanci and Others+ and 281 other cases | 43647/98  | 21/03/2005<br>21/12/2004       | <i>Excessive length of proceedings before administrative, civil, criminal, labour, land registry, military, commercial and consumers' courts and lack of an effective remedy (Articles 6§1 and 13).</i>   | Proceedings in 250 cases closed; the remaining cases can now bring grievances before the Constitutional Court. As concerns administrative proceedings: the Council of State jurisdiction has been limited to acts with nation-wide applicability; procedures before tax and administrative courts have been streamlined. As regards civil, labour and social security proceedings, rules have been simplified. In criminal |





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|                                   |                                 |           |                                |   | proceedings, a number of offences were reclassified as administrative offences. The Court of Cassation has been re-organised. The use of modern information technologies has been promoted. New alternative dispute settlement mechanisms have been set up to ensure compensation for damages caused by terrorism or the fight against terrorism. In criminal matters a reconciliation procedure has been introduced. An Ombudsman institution has been created. Financial and human resources have been significantly increased. Numerous training activities have been put in place. Statistics demonstrate the positive impact of the reforms. A new compensatory remedy has been put in place as of 19/01/2013 in the form of the Commission for the Compensation of Excessively Lengthy Proceedings. Its decisions are appealable to the Regional Administrative Court. The general remedy before the Constitutional Court has been in place since 23/09/2012. (see AR 2014) |
| <a href="#">CM/ResDH(2014)122</a> | TUR / Pulatli and 3 other cases | 38665/07  | 26/07/2011<br>26/04/2011       | <i>Unlawful detention on the basis of a disciplinary decision taken by the applicant's immediate military superior and not by an independent and impartial tribunal (Article 5 § 1).</i>                                | Under Article 46, the Court considered that a mechanism is required for ensuring that disciplinary sanctions involving deprivation of liberty were imposed or reviewed in proceedings before an authority affording judicial guarantees. Law No. 6413, Disciplinary Code of Army Forces, entered into force on 16/02/2013, ensuring judicial guarantees for disciplinary sanctions. Prior to the legislative amendment, there was a change in case-law of military courts. The judgment was translated, published and disseminated.   |
| <a href="#">CM/ResDH(2014)128</a> | TUR / Tanay                     | 18753/04  | 09/03/2009<br>09/12/2008       | <i>Denial of a fair trial regarding the increase of compensation in an expropriation procedure: Court of Cassation's unreasoned decision, holding against applicable provisions that the case had been time-barred,</i> | According to Article 445 § 11 of the Code on Civil Procedure, domestic proceedings were reopened after the Court's judgment. The judgment based on an isolated incident due to a factual error made by the Court of Cassation, was translated, published and disseminated.  |



| Resolution No.                    | Reference                                | Appl. No. | Judgment final on/delivered on | Violation   | Main measures taken  |
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|                                   |  |           |                                | <i>was based on a factual error (Article 6).</i>  |  |
| <a href="#">CM/ResDH(2014)130</a> | TUR / Ürper and Others and 8 other cases | 14526/07+ | 20/01/2010<br>20/10/2009       | <i>Disproportionate interference with the right to free expression based on anti-terrorism legislation due to orders banning future publication of newspapers and periodicals (Article 10).</i>                             | In its judgments Gözel and Özer as well as Ürper and Others, the Court held under Article 46 that the violations found disclosed a structural problem and that Article 6 §§2+5 of Anti-Terrorism Law No. 3713 should be revised. These provisions were abolished by legislative amendment entering into force on 05/07/2012.   |
| <a href="#">CM/ResDH(2014)129</a> | TUR / Uslu No. 2                         | 23815/04  | 20/04/2009<br>20/01/2004       | <i>Disproportionate interference with private life: Denial of access to doctor's report after examination in prison on grounds of security and public order (Article 8).</i>  | Circular of the General Directorate of Prisons and Detention Places dates 05/12/1990 was abolished. New legislation adopted since 2005 (Code on the Execution of Sentences and Security Measures, Regulation on the Administration of the Facilities and Executions of Sentences and Security Measures and Circular of Ministry of Justice from 22/01/2007) grant detainees the right to take copies of document and to obtain access to files.  |
| <a href="#">CM/ResDH(2014)134</a> | UK. / Abdi                               | 27770/08  | 09/07/2013<br>09/04/2013       | <i>Unlawful detention of a foreign national pending deportation: Failure of the domestic authorities to conduct the regular reviews as provided for by national law (Article 5 §1).</i>                                     | The applicant was released on 13/04/2007. Change of practice to ensure compliance with statutory duty of review of detention; guidelines and instruction on detention reviews for all asylum seekers; comprehensive training organised. The judgment was published and widely disseminated.  |
| <a href="#">CM/ResDH(2014)271</a> | UK. / Al-Jedda                           | 27021/08  | 07/07/2011<br>Grand Chamber    | <i>Unlawful preventive detention in a centre run by British forces in Iraq: Internment of an Iraqi civilian without bases in Iraqi law in a centre under the responsibility of the UK as occupying power (Article 5§1).</i> | Significant resources were committed to investigations, litigations and settlement awards with regard to compensation claims of former detainees held on security grounds in Iraq like Mr Al-Jedda. Factual circumstances are under investigation by the Iraq Historic Allegations Team (IHAT). Authorities take due account of the Court's judgment in relevant operations in other countries, like Afghanistan and in setting future policies. The judgment published and widely disseminated. Academic and expert seminars were held. Awareness-raising activities were coordinated by the Ministry of Justice. |
| <a href="#">CM/ResDH(2014)</a>    | UK. / Aswat                              | 17299/12  | 09/09/2013                     | <i>Risk of ill-treatment in case of</i>   | On the basis of information submitted by the USA on  |



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| <a href="#">285</a>              |                         |           | 16/04/2013                     | <i>extradition to the USA of a person with severe mental health problems: Uncertainty of facilities and treatment available in the USA having regard to the applicant's medical condition (Article 3).</i> | procedures, facilities and medical services available the extradition order was upheld. The decision was challenged with suspensive effect before the High Court of England and Wales. The Secretary of State obtained further assurances from the USA, which the High Court considered compatible with the Convention. Following a new application with the Court and examination of further information submitted, the Court lifted its indications under Article 39 of the Rules of Court. The applicant was extradited in October 2014. As concerns general measures: extradition decision require the possibility to be reviewed by domestic courts with due regard to the Court's case-law. (see AR 2014) |
| <a href="#">CM/ResDH(2014)15</a> | UK. / Beggs             | 25133/06  | 29/04/2013<br>06/11/2012       | <i>Excessive length of criminal appeal proceedings (Article 6§1)</i>   | Changes in the law and practice relating to criminal appeals and to disclosure were introduced, in particular in the High Court of Justiciary. As from 2008, measures were taken to address the backlog and identified increase in the number of outstanding appeals against conviction. Staff was increased to support efficient management of court business. The judgment has been disseminated and is used by the Judicial Institute in training on general case management.  |
| <a href="#">CM/ResDH(2014)34</a> | UK. / C.N.              | 4239/08   | 13/02/2013<br>13/11/2012       | <i>Domestic servitude and ineffective investigations: Inadequate legislation to afford practical and effective protection against treatment falling within the scope of "forced labour" (Article 4).</i>   | New criminal legislation came into effect in 2010 making holding someone in slavery or servitude or requiring a person to perform forced or compulsory labour a criminal offence. Similar provisions were introduced in the Criminal Justice and Licensing (Scotland) Act 2010. Guidance on the new laws was circulated to criminal justice agencies, courts and prosecutors. Reopening of criminal proceedings against the persons allegedly responsible for the applicant's servitude impossible as the new criminal legislation has no retroactive effect.   |
| <a href="#">CM/ResDH(2014)16</a> | UK. / Eweida and Others | 48420/10  | 27/09/2013<br>15/01/2013       | <i>Disciplinary measures taken by employer for visibly wearing a cross contrary to uniform code: Lack of a</i>   | Publication and dissemination of the judgment (i.a. to the Employment Tribunal and Employment Appeal Tribunal as well as other domestic courts) and the adaptation of legal   |



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|                                   |                          |           |                                | <i>fair balance struck by courts between the applicant's desire to manifest religious belief at work and the employer's wish to project a certain corporate image (Article 9).</i>   | training curricula.  |
| <a href="#">CM/ResDH(2014)91</a>  | UK. / Goggins and Others | 30089/04+ | 08/03/2012<br>19/07/2011       | <i>Interference with private and family life: Collection and retention of their DNA samples, fingerprints and associated data despite either being acquitted of criminal charges brought against them or having criminal proceedings against them dropped (Article 8).</i> | Striking out of the case, as the Government admitted the violation and made certain undertakings. Protection of Freedoms Act, which requires the destruction of the DNA profiles and fingerprints of the vast majority of those who have not been convicted, received Royal Assent on 01/05/2012 and, for the most part, came into force on 31/10/2013. The supervision of all aspects of the coming into force and implementation of the Act is being followed by the Committee of Ministers in the case of S. and Marper.  |
| <a href="#">CM/ResDH(2014)133</a> | UK. / H.L.               | 45508/99  | 05/01/2005<br>05/10/2004       | <i>Unlawful detention in a psychiatric institution of a compliant, legally incapacitated person as "informal patient": Absence of procedural safeguards and lack of a review procedure (Article 5§§ 1+4).</i>  | The applicant was discharged from hospital on 12 December 1997. In England and Wales, the Deprivation of Liberty Safeguards (DOLS) in Section 50 and Schedules 7, 8 and 9 introduced a series of procedural safeguards to the Mental Health Act 2007. A code of practice was published on 28/08/2008. No amendments were required to the Scottish legislation. In Northern Ireland, in October 2010, the Department of Health, Social Services and Public Safety published guidance. The Health and Social Board, which commissions all health and social care services in Northern Ireland, monitors the application of the guidance through bi-annual reports and an assurance process. Judicial review is available to challenge any failure to apply the Guidance by a public authorities. A Mental Capacity Bill will be introduced into the Northern Ireland Assembly in 2015 and enacted before March 2016. The judgment was published and widely disseminated. |
| <a href="#">CM/ResDH(2014)05</a>  | UK. / Hode and Abdi      | 22341/09  | 06/02/2013<br>06/11/2012       | <i>Discriminatory denial of family reunion for post-flight spouses of</i>  | Immigration Rules were amended to erase the discrimination and to allow refugees enjoying time-limited leave to be   |



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|                                   |                            |           |                                | <i>refugees: Impossibility for a refugee enjoying a time-limited leave to remain in the UK to be joined by a spouse married abroad "post-flight", when this limitation does not apply to spouses married abroad before the flight (Article 8 in conjunction with Article 14).</i>  | joined by post-flight spouses during the period of validity of their leave to remain. The judgment was translated, published and disseminated. The applicant's family has thus been granted time-limited visas.  |
| <a href="#">CM/ResDH(2014)132</a> | UK. / James, Wells and Lee | 25119/09+ | 11/02/2013<br>18/08/2012       | <i>Arbitrary and unlawful detention of detainees sentenced to "indeterminate sentences for public protection" (IPP): After the expiry of their tariff periods, failure of the authorities to provide appropriate rehabilitative courses considered necessary by the Parole Board for demonstrating a reduction of risk and thus their release (Article 5§1).</i> | Applicants have been provided new opportunities to demonstrate a reduction of risk. Two of them were released. Changes introduced in statutory construction of IPP in July 2008, limiting the number of IPP prisoners with inadequate time to address the risk problem. On 03/12/2012, the IPP sentence was abolished and replaced by a new regime to determinate sentences. IPP prisoners continue to be a priority group to receive interventions with a view to demonstrating to the Parole board that they may be effectively and safely managed in the community. All those serving indeterminate sentences must have a personalised sentence plan drawn up by prison and probation staff. Release on temporary licence policy has been relaxed. The Parole Process has been streamlined. (see AR 2014) |
| <a href="#">CM/ResDH(2014)74</a>  | UKR / Chaykovskiy          | 2295/06   | 01/03/2010<br>15/10/2009       | <i>Denial of the right of individual petition to the Court due the retention by prison authorities of an enclosure to a letter sent by the Court to the applicant for two years (Article 34).</i>  | The judgment, based on an isolated incident in contradiction with Article 113 of the Code of Enforcement of Sentences, was translated, published and disseminated.   |
| <a href="#">CM/ResDH(2014)75</a>  | UKR / Kechko               | 63134/00  | 08/02/2006<br>08/11/2005       | <i>Arbitrary interference with the right to the peaceful enjoyment of possessions due to the retroactive application of a legislative act by the domestic courts in civil proceedings brought a teacher claiming benefits</i>  | The judgment, based on an isolated incident due to wrong application of national law, was translated, published and disseminated.  |





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|                                   |                     |           |                                | <i>provided under the Education Act (Article 1 Protocol No. 1).</i>   |  |
| <a href="#">CM/ResDH(2014)63</a>  | UKR / Khristov      | 24465/04  | 05/06/2009<br>19/02/2009       | <i>Quashing of a final judgment by way of extraordinary review and interference with peaceful enjoyment of possessions as a result: Unfair administrative proceedings in a case concerning the confiscation of a car and the imposition of a fine (Article 6 § 1).</i>  | Amendment of the Code of Administrative Offences in 2008 for an ordinary appeal procedure for challenging decisions given by first-instance courts in administrative cases. In respect of criminal and civil proceedings, extraordinary review was also abolished (see Agrotehservis and others, <a href="#">CM/ResDH(2011)313</a> (civil) and Savinskiy, <a href="#">CM/ResDH(2011)312</a> (criminal)). |
| <a href="#">CM/ResDH(2014)270</a> | UKR / Novoseletskiy | 47148/99  | 22/05/2005<br>22/02/2005       | <i>Lacking protection of the right to respect for home, private and family life and interference with right to enjoy his possessions: Eviction from a State-owned flat which was granted to the applicant for unlimited duration and lack of efficient and impartial investigation into allegations that his belongings had been removed in proceedings aiming at recovering the flat (Articles 8 and 1 of Protocol No. 1).</i> | Additional investigations into the whereabouts of the applicant's belongings were conducted and the authorities tried to ascertain the state of the material condition of the flat. The judgment, based on an isolated incident, was translated, published and disseminated and is used in training courses for judges.  |