

Armenia

EXECUTION OF THE EUROPEAN COURT OF HUMAN RIGHTS' JUDGMENTS

MAIN ACHIEVEMENTS IN MEMBER STATES

The present survey presents short summaries¹ of a selection of the main reforms and achievements reported in final resolutions since the Convention system was amended in 1998 by Protocol No. 11, with a clear focus on recent reforms referring, however, also to important earlier developments.

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

The presentation is, in principle, presented in the order corresponding to the thematic domains used in the Council of Europe's specialised database HUDOC EXEC and the Committee of Ministers' Annual Reports on the Supervision of the Execution of the European Court of Human Rights' judgments.

Many reforms address issues which appear to be on-going challenges in the member State. The effects of reforms adopted at one point in time may thus need to be monitored and possibly re-evaluated as conditions change.²

¹ The summaries are the sole responsibility of the Department for the execution of the judgments of the European Court of Human Rights.

² The presentation is limited to the information provided at the time of the adoption of the final resolution. It is recalled in this context that the Committee of Ministers has issued [Recommendation \(2004\)5](#) on the verification of the compatibility of draft laws, existing laws and administrative practice with standards laid down in the European Convention on Human Rights.

➤ *Medical care in detention*

A series of general measures has been adopted to improve the prison healthcare system. Thus, in September 2019, the Centre for Penitentiary Medicine started its work. In April 2023, it was transferred from the Ministry of Justice to the Ministry of Health. The new Penitentiary Code of June 2022 and amended sub-laws now regulate prison healthcare in more detail. The measures adopted also include improvement of access to specialised civil medical institutions and to primary health care in prisons, regular screenings, and introduction of telemedicine. The outstanding problems related to health care in prison are examined in the framework of the *Shirkhanyan* group of cases.

Ashot Harutyunyan
(34334/04)

Final Resolution
CM/ResDH(2024)114

➤ *Ill-treatment in police custody and the lack of its effective investigation*

A wide range of legislative, institutional and practical measures have been adopted to address the problem of ill-treatment in police custody. These included:

- the adoption in 2021 of the new Criminal Code and the Code of Criminal Procedure, which abolished pardons, amnesties and the statute of limitations for torture; improved safeguards against ill-treatment, including the documentation and reporting of cases of ill-treatment; and the introduction of an obligation on investigative authorities to conduct video recording of investigative actions;
- the installation of audio and video surveillance at the entrances and exits of police stations;
- measures to ensure effective investigation of political motives underlying ill-treatment;
- comprehensive police reform, continued capacity building for investigative bodies, and measures to increase public confidence in the police.

The examination of the remaining problems is continued in the framework of the *Vardanyan and Khalafya* group of cases.

Virabyan (40094/05)

Final Resolution
CM/ResDH(2024)330

➤ *Functioning of justice*

➤ *Access to a court and fairness of proceedings*

The right to challenge the lawfulness of Government decrees was introduced by an amendment to the Constitution in November 2005. The amendment allows for appeals to the Constitutional Court to contest the constitutionality of legislative acts, including Presidential and Government decrees.

Melikyan (9737/06)

Final Resolution
CM/ResDH(2014)44

In 2009, in addition to being exempt from court fees, commercial entities' right to pursue judicial proceedings was further enforced, notably to allow them to challenge the legality of administrative actions, in cases in which the levying of such fees would make the pursuit of proceedings impossible.

Paykar Yev Haghtanak
(21638/03)

Final Resolution
CM/ResDH(2011)185

The procedural requirements for lodging an appeal on points of law to the Court of Cassation were amended and the requirement that only specially licensed advocates could lodge such appeals was abolished in 2009. The lodging by attorneys of an appeal in cassation was upheld by the Constitutional Court in 2015, and legal aid is offered to ensure effective access to a court.

Shamonyan (18499/08)

Final Resolution
CM/ResDH(2016)104

The Court of Cassation and the Constitutional Court improved the reasoning of their decisions.

Sholokhov (40358/05)

Final Resolution
CM/ResDH(2015)116

➤ Administrative proceedings (concerning minor offences)

Oral hearings in administrative cases were introduced by the new 2013 Code of Administrative Procedure.

This new Code gives the parties full fair trial guarantees, including the right to present evidence and take part in its examination, to benefit from the free assistance of an interpreter, to file a motion in order to get more time and facilities for the preparation of the defence. Administrative detention was abolished in 2005.

➤ Metal cages

In 2007, metal cages were removed from all courtrooms where criminal proceedings take place.

➤ Principle of legal certainty

In 2014, more circumscribed rules on appeals on points of law were introduced by amendments to the Code of Civil Procedure, in order to avoid several final judgments concerning the same case.

➤ Enforcement of domestic judicial decisions

In 2014, a remedy was introduced to the new Code of Administrative Procedure to contest Government decrees before the administrative courts, including cases of slow or negligent enforcement. In order to secure the payment of State debts in case of lack of funds, fixed amounts were allocated from the state budget to the Compulsory Enforcement Service. In addition, the electronic governance system of the judiciary was synchronized with that of the Compulsory Enforcement Service, notably ensuring that the latter always receive a copy of final judgments.

Stepanyan (45081/04)

[Final Resolution
CM/ResDH\(2015\)38](#)

Kirakosyan (31237/03)

[Final Resolution
CM/ResDH\(2015\)169](#)

Piruzyan (33376/07)

[Final Resolution
CM/ResDH\(2016\)37](#)

Amirkhanyan (22343/08+)

[Final Resolution
CM/ResDH\(2017\)185](#)

Khachatryan (31761/04)

[Final Resolution
CM/ResDH\(2015\)37](#)

➤ **Freedom of expression**

➤ Broadcasting licenses

To protect against unwarranted refusals by the National Television and Radio Commission (NTRC) to grant broadcasting licences, the Television and Radio Broadcasting Act was amended in 2010, introducing the obligation for NTRC to provide properly substantiated and reasoned decisions with respect to the selection, refusal or invalidation of such licences.

➤ Banning a newspaper during a state of emergency

The power to declare a state of emergency, which in this case served as the basis for the publication bans and could not be appealed against, was transferred from the President to the Government (as part of the 2015 constitutional reform). The relevant legislation was amended in 2020. As a result, the declaration of a state of emergency is now subject to judicial review and can also be wholly or partially lifted by Parliament. The practice of the Administrative Court during the state of emergency due to the Covid-19 pandemic was to accept its jurisdiction in case of contestation.

Meltex Ltd and Mesrop

Movsesyan (32283/04)
[Final Resolution
CM/ResDH\(2011\)39](#)

Dareskizb LTD (61737/08)

[Final Resolution
CM/ResDH\(2022\)182](#)

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| <p>➤ Freedom of religion</p> <p>➤ <u>Conscientious objection to military service</u></p> <p>In 2013 legislation provided for a system of alternative service under civilian management and aligned the length of service to that of military service. The Criminal Code was amended to incorporate transitional clauses concerning the release of conscientious objectors serving a sentence, termination of ongoing proceedings against conscientious objectors as well as the clearance of their criminal records.</p> | <p><i>Bayatyan</i> (23459/03+) Final Resolution CM/ResDH(2014)225</p> |
| <p>➤ Freedom of assembly</p> <p>The penalty of administrative detention was abolished in 2005 and a more precise legal framework for peaceful assemblies was adopted in 2011, providing additional safeguards.</p> <p>Additional guarantees for freedom of assembly, in general, spontaneous or urgent assemblies, or those with less than 100 participants, which no longer require prior notification, were introduced by amendments of the Constitution in 2015.</p> | <p><i>Galstyan</i> (26986/03+) Final Resolution CM/ResDH(2016)185</p> <p><i>Helsinki Committee of Armenia</i> (59109/08) Final Resolution CM/ResDH(2017)297</p> |
| <p>➤ Effective remedy – Compensation for non-pecuniary damage</p> <p>Amendments of the Civil Code in 2014 and 2016 introduced of the right to non-pecuniary damages for violations of rights and freedoms guaranteed by the Convention, i.a. unlawful detention, ill-treatment or miscarriage of justice. Compensation is thus also available to persons who were wrongfully convicted.</p> | <p><i>Khachatryan and Others</i> (23978/06+) Final Resolution CM/ResDH(2016)184</p> |
| <p>➤ Protection of property rights</p> <p>The 2006 Law on expropriation for the needs of society and the State provided for a more foreseeable, accessible and precise framework for expropriations, including a respective right to compensation.</p> | <p><i>Minasyan and Semerjyan</i> (27651/05+) Final Resolution CM/ResDH(2015)91</p> |
| <p>➤ Electoral rights</p> <p>The 2011 Electoral Code abolished the obligation to submit a property and income declaration and resulting restrictions to the right to register as candidate in general elections. In addition, the Electoral Code introduced remedies for violations of electoral rights, allowing for appeals to be lodged before courts.</p> | <p><i>Sarukhanyan</i> (38978/03) Final Resolution CM/ResDH(2014)108</p> |