

Bosnia and Herzegovina

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 organised country-by-country and reforms are, 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.

<p>➤ Right to liberty and security</p> <p>▢ <u>Psychiatric confinement</u> By a 2009 amendment to the 2003 Criminal Procedure Code, Social Assistance Centres are no longer competent to order psychiatric placement of criminal offenders found not guilty for reason of insanity; it henceforth falls upon the competent criminal court to order such placement (for a maximum period of six months), at the same time as referring the matter directly to a civil court for a final decision. Mental health patients detained in inappropriate institutions were transferred to adequate psychiatric facilities.</p> <p>▢ <u>Detention in view of deportation</u> By a 2012 amendment to the 2008 Aliens Act, the detention of foreign nationals on security grounds requires a prior deportation order to be issued by the Aliens Service.</p>	<p><i>Tokić and Others</i> (12455/04+) Final Resolution CM/ResDH(2014)197</p> <p><i>Hadžić and Suljić</i> (39446/06+) Final Resolution CM/ResDH(2018)114</p> <p><i>Al Hamdani</i> (31098/10) Final Resolution CM/ResDH(2014)186</p>
<p>➤ Functioning of justice</p> <p>▢ <u>Access to court</u> New Rules of the Constitutional Court were adopted in April 2014 to avoid rejections of constitutional appeals on the grounds that the Constitutional Court cannot reach a required majority.</p>	<p><i>Avdić</i> (28357/11) Final Resolution CM/ResDH(2015)170</p>
<p>➤ No punishment without law</p> <p>The Constitutional Court and the State Court changed their practice in 2014 to ensure that persons accused of war crimes and crimes against humanity are not sentenced to heavier sanctions than those foreseen by the law in force at the time when the crimes were committed.</p>	<p><i>Maktouf and Damjanović</i> (2312/08) Final Resolution CM/ResDH(2017)180</p>
<p>➤ Ne bis in idem</p> <p>In 2014 the Constitutional Court conducted a change of its case-law to ensure protection of the principle of <i>ne bis in idem</i> at domestic level.</p>	<p><i>Muslija</i> (32042/11) Final Resolution CM/ResDH(2017)30</p>
<p>➤ Protection of property rights</p> <p>▢ <u>Repayment of "Old" foreign currency savings</u> The Federation decided in 2009 and 2010 to issue government bonds to allow the repayment of these "old" savings.</p> <p>▢ <u>Pensions for persons displaced during the war</u> Individuals who were granted pensions before the war in what is today the Federation of Bosnia and Herzegovina (FBiH), and who moved to Republika Srpska during the war, were allowed upon their return to FBiH to apply for a FBiH pension.</p> <p>▢ <u>Honouring State debt for war damages</u> The payment schemes set up in 2011 and 2012 in the Federation and in the Republika Srpska (with subsequent amendments) to ensure the enforcement</p>	<p><i>Suljagić</i> (27912/02) Final Resolution CM/ResDH(2011)44</p> <p><i>Karanović</i> (39462/03) Final Resolution CM/ResDH(2012)148</p> <p><i>Čolić and Others</i> (1218/07+) Final Resolution CM/ResDH(2018)116</p>

of domestic court judgments awarding war damages have proven effective. The overwhelming majority of claims have now been dealt with.

➤ Repayment of other State debts

In 2012 a domestic Debt Act was adopted providing for the settlement of other internal debts of Republika Srpska following domestic court judgments, either in cash or through the acceptance of five-year bonds. The settlement plans have since been implemented.

Momić and Others
(1441/07+)

Final Resolution
CM/ResDH(2017)29

➤ Electoral rights

In July 2020, the Election Act was amended, in line with OSCE requirements and Venice Commission recommendations, to enable local elections in Mostar.

Baralija (30100/18)

Final Resolution
CM/ResDH(2020)240