

# Denmark

## EXECUTION OF THE EUROPEAN COURT OF HUMAN RIGHTS' JUDGMENTS

### MAIN ACHIEVEMENTS IN MEMBER STATES

The present survey presents short summaries<sup>1</sup> 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.<sup>2</sup>

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

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

### ► Functioning of justice

#### ➤ Fairness of proceedings

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

*Hauschildt* (10486/83)

[Final Resolution  
CM/ResDH\(91\)9](#)

#### ➤ Excessive length of proceedings

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

*Christensen, Valentin and  
Nielsen* (247/07+)

[Final Resolution  
CM/ResDH\(2012\)73](#)

### ► Private and family life

#### ➤ Family reunification for individuals under temporary protection status

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

*M.A.* (6697/18)

[Final Resolution  
CM/ResDH\(2023\)119](#)

#### ➤ Disproportionate expulsion orders against settled migrants

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

*Savran* (57467/15)

[Final Resolution  
CM/ResDH\(2024\)182](#)

### ► Freedom of association

A person's affiliation to a union or non-membership of a union can no longer be taken into account in recruitment or dismissal procedures according to the Act on protection against dismissal due to association membership, as amended in April 2006.

*Sørensen and Rasmussen*  
(52562/99)

[Final Resolution  
CM/ResDH\(2007\)6](#)

### ► Discrimination on ethnic grounds with regard to family reunion

The discrimination against Danish citizens of foreign ethnic origins resulted from the more favourable conditions for family reunion applying to persons who had held Danish citizenship for at least 28 years (so-called 28-years rule converted to a 26-year rule by a later amendment) in the Aliens Act. In May 2017, the impugned provisions were repealed. Prior to that, the Minister of Immigration and Integration published a memorandum to Parliament regarding the legal consequences of the Court's judgment and the Immigration Service applied the Aliens Act in accordance with the interpretation described in the memorandum.

*Biao* (38590/10)

[Final Resolution  
CM/ResDH\(2018\)155](#)

