

Estonia

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.

► **State responsibility for unlawful action, in particular with regard to the right to life and the prohibition of ill-treatment**

Domestic remedies were improved, in particular by the codification in the State Liability Act (2013) of a right to compensation for unlawful state action and the strengthening of state liability in case of violations of the right to life or prohibition of torture.

Kochetkov (41653/05)
 Final Resolution
 CM/ResDH(2013)9

► **Actions of security forces and effective investigations**

Reforms, notably through legislative measures in 2010, ensured that the use of force during arrests and other interventions by security forces must be proportionate. These measures included more precise instructions, notably as regards the use of lethal force and dangerous immobilisation techniques. They were complemented by extensive professional training. The independence of investigations is guaranteed, as pre-trial investigations are carried out by the investigative bodies of the Ministry of Interior under the supervision of the Director General of the Police and Border Guards Board unconnected with operational activities, while the prosecutor's office belongs to the Ministry of Justice and ensures the legality and efficiency of investigations. In addition, a right to damages is available in case of abuse by security forces.

Korobov and Others (10195/08+)
 Final resolution
 CM/ResDH(2016)105

Mikhailov (64418/10)
 Final resolution
 CM/ResDH(2017)365

► **Right to liberty and security**

An arrested person may claim compensation for unjust detention under the Unjust Deprivation of Liberty (Compensation) Act if the person concerned is not brought before a judge within 48 hours. In addition, an explicit right to compensation was granted in the State Liability Act in case activities of a public authority have been established to be contrary to the Convention by the European Court. The review of the lawfulness of pre-trial detention was improved in 2014, allowing suspects to request access to relevant parts of the casefile.

Harkmann and Bergmann (2192/03+)
 Final Resolution
 CM/ResDH(2010)158

Ovsjannikov (1346/12)
 Final Resolution
 CM/ResDH(2015)136

► **Functioning of justice**

▢ **Fairness of proceedings**

According to an amendment to the Code of Criminal Procedure in 2011, courts can refuse a party's request to summon a minor to a hearing in cases related to sexual abuse or domestic violence; the testimony given by a minor during the pre-trial procedure can be allowed as evidence only in certain circumstances. According to amendments to the Code of Misdemeanour Procedure adopted in 2017 the counsel may request the appeal hearing to take place without the presence of the appellant.

Vronchenko (59632/09)
 Final Resolution
 CMResDH(2016)309

Tolmachev (73748/13)
 Final Resolution
 CM/ResDH(2018)43

▢ **Access to a court**

The protection of third parties' rights in criminal proceedings has been reinforced by legislative amendments of 2015.

Rummi (63362/09)
 Final Resolution
 CM/ResDH(2016)59

► **No punishment without law**

Legal certainty was improved as a result of the repeal of a provision imposing criminal liability in cases where certain acts had caused what was vaguely referred to as "significant damage to the State".

Liivik (12157/05)
 Final Resolution
 CM/ResDH(2010)157

► Protection of private life

▢ Acquisition, use, disclosure or retention of private information

Guarantees were introduced to oblige the Security Service to use the proportionality test in the application of the "Disclosure Act" before publishing any information on a person, who had been in the service of the security authorities or the intelligence or counter-intelligence authorities of the former USSR and the Estonian SSR.

Sõro (22588/08)

[Final resolution
CM/ResDH\(2017\)152](#)

▢ Secret surveillance

A 2013 amendment of the Code of Criminal Procedure foresees that the use of information obtained by surveillance activities as evidence requires prior authorisation and that their conduct be in compliance with domestic law. The Supreme Court changed its case-law in 2017, stressing that judicial *ex post* control cannot eliminate the inadmissibility of evidence obtained without prior, sufficiently reasoned authorisations. Moreover, under the terms of the 2015 Compensation of Damage Caused in Offence Proceedings Act, compensation may also be requested for damages caused by unlawful surveillance activities.

Liblik and Others (173/15+)

[Final Resolution
CM/ResDH\(2021\)58](#)

► Freedom of expression

▢ Prisoners' right to receive information

The Imprisonment Act was amended in 2019, enabling prisoners to access public legislation databases and registers of judicial decisions, the webpages of Parliament and the Chancellor of Justice.

Kalda (1574/13)

[Final Resolution
CM/ResDH\(2019\)109](#)