

Iceland

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.

➤ *Right to liberty and security*

▢ Lawfulness of detention

The provisions on arrest in the interest of public peace and order were removed from the Code of Criminal Procedure and included in the new Police Act in 1997, thus clarifying police powers to arrest and detain a person in case of disorderly conduct.

Hafsteinsdóttir (40905/98)
Final Resolution
CM/ResDH(2008)44

▢ Compensation for unlawful detention

The Code of Criminal Procedure was again amended in 1999 to grant the right to compensation for an accused person for whom the investigation was discontinued, the indictment not issued on the grounds that the person's alleged conduct was deemed to be not criminal, proof thereof could not be obtained, or in case of acquittal.

Vilborg Yrsa Sigurðardóttir (32451/96)
Final Resolution
CM/ResDH(2000)111

➤ *Functioning of justice*

▢ Fairness of proceedings

To resolve the problem of possible ties between members of the State Medical Board and hospitals in tort proceedings for malpractice, the Board was abolished in 2008 and its competence transferred to special chambers of ordinary courts.

In 2001, a right to appeal to the Supreme Court against fines imposed by the Labour Court was introduced.

In 2018, a Court of Appeal was set up in the context of a global reform of the judicial system. It is competent both for civil and criminal cases and can hear witnesses directly. In addition, the Code of Civil Procedure was amended in 2019 so that the Court of Appeal and the Supreme Court can conduct an oral hearing even if a party has not submitted documents within the given time limit.

Sara Lind Eggertsdóttir (31930/04)
Final Resolution
CM/ResDH (2015)201

Siglfirdingur EHF (34142/96)
Final Resolution
CM/ResDH(2002)67

Súsanna Rós Westlund (42628/04)
Final Resolution
CM/resDH(2019)119

▢ Organisation of the judiciary

Until recently, the civil and criminal courts system consisted only of district courts and the Supreme Court. In the context of a general reform of the judicial system, a Court of Appeal was set up in 2018 by the Act on the Judiciary of 2016, to deal with civil and criminal matters. The Court of Appeal has access to recordings of testimony from the proceedings before district courts and can also hear witnesses directly.

Strymir Þór Bragason (36292/14)
Final Resolution
CM/ResDH(2020)262

▢ Judicial appointment procedure

The European Court found grave irregularities in the appointment procedure of one judge of the Court of Appeal that upheld the applicant's criminal conviction (these irregularities applied similarly to three other judges on the bench). Immediately after the ECHR's Chamber judgment, no new Court of Appeal cases were allocated to the four irregularly appointed judges. In compliance with Convention requirements, four new judges were then appointed to the bench. Individuals who had their cases heard by one or more of the irregularly appointed judges have the possibility to apply for reopening of their cases. To prevent similar violations, guidelines were issued by the Ministry of Justice clarifying the legal framework governing the judicial

Guðmundur Andri Ástráðsson (26374/18)
Final Resolution
CM/ResDH(2022)48

appointment procedure and the involvement of national institutions (the Evaluation Committee, the Minister of Justice and the Parliament).

► *Ne bis in idem*

In 2018, the Supreme Court adapted its jurisprudence to the Court's findings in this case with regard to the authorities' conducting parallel administrative tax and criminal proceedings in respect of the same offence. In April 2021, the Act on the investigation and prosecution of tax offences was passed by Parliament to make the tax system more transparent and efficient, by drawing a clear distinction between criminal and administrative proceedings.

Johannesson and Others
(22007/11)
Final Resolution
CM/ResDH(2022)396

► *Freedom of expression*

◻ *Defamation*

Following the present judgment in this case, judicial practice in defamation proceedings against journalists changed: sanctions imposed must be justified by relevant and sufficient grounds, demonstrating the journalists' bad faith or lack of diligence. A reform of penal legislation with a view to formally abolish the possibility of prison sentences for defamation appeared not necessary as this sanction had not been applied since 1995.

Björk Eiðsdóttir group
(46443/09+)
Final Resolution
CM/ResDH(2016)26

► *Freedom of association*

The requirement for taxi operators to belong to a specified union in order to obtain a business licence was abolished in 1995.

In 2011, the statutory obligation imposed on non-members of a private law organisation – in this case, the Federation of Icelandic Industries – to pay the "Industrial charge" (a levy on industrial activities) was abolished.

Sigurjonsson (16130/90)
Final Resolution
CM/ResDH(95)36
Vörður Ólafsson (20161/06)
Final Resolution
CM/ResDH(2015)200