

Latvia

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.

► Protection against ill-treatment

By April 2015, the use of metal cages in first instance and appellate courts had ceased completely.

With regard to actions of security forces, the Internal Control Bureau was set up in 2015 to ensure service discipline and legality in structural units of the State police and to analyse, plan, coordinate and implement measures aimed at preventing and detecting offences committed by State Police officials and employees. The Bureau ensures the timely collection of evidence and assesses the necessity and proportionality of use of force. Measures were also taken to enhance the effectiveness of the prosecutors' supervision. The 2016 report of the CPT underlined a positive trend in the prevention of ill-treatment by the police.

To further strengthen prosecutorial supervision of investigations of offences allegedly committed by officials submitted to the Ministry of the Interior, the Section on Supervision of the Pre-trial Investigations of the Criminal Law Department of the Prosecutor General Office performed an audit of criminal proceedings within the responsibility of the Internal Security Office of the State Police. Finally, in 2016, a Prosecutorial Information system was set up.

Calovskis (22205/13)
Final Resolution
CM/ResDH(2017)212

Holodenko (17215/07)
Final Resolution
CM/ResDH(2018)382

Balajevs (8347/07)
Final Resolution
CM/ResDH(2020)189

Emars (22412/08)
Final Resolution
CM/ResDH(2021)233

► Conditions of detention / remedies

According to a governmental regulation of 2003, on detention centres' internal rules, their administrations must allow a detainee to contact his family or other persons. In 2004, stricter conditions for the monitoring of correspondence during the pre-trial investigation were provided for: correspondence could only be supervised when investigating grave or extremely serious crimes and only for a maximum period of 30 days.

After 2005, further progress comprised the: renovation or reconstruction of several prisons; construction of a new Prison Hospital; adoption of new legislation providing standards for minimum living space per detainee and supplying detainees with personal hygiene products; adoption of new regulations for body searches and use of special restraint means; possibility for detainees to submit their complaints to administrative courts.

In 2010, an Act on Mutual Cooperation between Prison Administration and the State Police was adopted to prevent risks of bodily harm for inmates after their collaboration with law enforcement agencies. The Code on Enforcement of sentences was amended in 2011 and 2013 to ensure a better assessment of risks of inter-prisoner violence and the resulting needs of convicts. Procedures concerning the investigation of incidents of inter-prisoner violence were improved in 2015.

Kadikis group (62393/00+)
Final Resolution
CM/ResDH(2016)123

Lavents and Jurjevs (58442/00 and 70923/01)
Final Resolution
CM/ResDH(2009)131

J.L. (23893/06)
Final Resolution
CM/ResDH(2018)129

► Right to liberty and security

◻ Lawfulness of detention

The judicial supervision of pre-trial detention was improved through the creation, in 2005, of the post of investigative judge with the power to decide on the application and extension of certain means of restraint (detention, house arrest, placement in an institution) and through the imposition of time-limits for pre-trial detention.

Mandatory periodic control of detention by the investigative judge and the right of the individual concerned to submit an application to the investigative

Lavents and Jurjevs (58442/00 and 70923/01)
Final Resolution
CM/ResDH(2009)131

Shannon (32214/03)

judge for judicial review of the detention order were also regulated in detail. Further amendments in 2012 and 2013 provided for a better review of detention after conviction at first instance.

➤ Lawfulness of administrative detention

In 2020, the Supreme Court of Latvia underlined that a person's administrative detention under the Code of Administrative Offences must be proportional to the specific circumstances of the case and a measure of last resort. Furthermore, the 2020 Law on Administrative Liability restricted the grounds for application of administrative detention to: establishment of the person's identity and the person's failure to respond to the invitation to terminate the offence.

Amendments to the Criminal Procedural Law, in 2016, provided for the mandatory periodic judicial review of the lawfulness of the detention in the context of extradition proceedings. The review shall be carried out by the investigative judge upon the request of the person concerned or their lawyer. In the absence of such a request, it shall be carried out by the investigative judge *proprio motu* every two months.

➤ Detention of persons with mental disabilities

The law on Medical Treatment of 2007 introduced a judicial review procedure in cases of involuntary hospitalisation. Compulsory medical measures now also require a recent medical assessment of the person's mental health. The mandatory participation in the court hearing on compulsory measures of persons with mental disabilities was introduced in 2014 (Criminal Procedure Law).

Decisions *in absentia* are possible only if, according to an expert opinion, the health condition of the person concerned does not permit their participation. In this case, the person's representative should participate in the hearings.

➤ Detention pending the outcome of asylum proceedings

According to the Asylum Law of 2016, an asylum seeker may appeal against his detention by the State Border Guard Service (which can be for a maximum of six days) to the district (city) court within 48 hours, which has to examine this application within 24 hours.

Final Resolution
CM/ResDH(2016)64

Bannikov (19279/03)
Final Resolution
CM/ResDH(2015)137

Zelčs (65367/16)
Final Resolution
CM/ResDH(2020)322

Calovskis (22205/13)
Final Resolution
CM/ResDH(2017)212

L.M. (26000/02)
Final Resolution
CM/ResDH(2017)209

Beiere (30954/05)
Final Resolution
CM/ResDH(2017)311

Nassr Allah (66166/13)
Final Resolution
CM/ResDH(2016)192

➤ Functioning of justice

➤ Criminal proceedings

In 2005, the possibility was introduced for judges to hear witnesses who are unable to appear before the court on account of their state of health, at their location. In order to properly address a defendant's incitement plea in criminal proceedings, amendments to the Criminal Procedure Code in 2014 provided for the admissibility of evidence obtained as a result of special operative measures upon an arguable claim raised by the prosecutor, victim, defendant or the defence counsel.

Pacula (65014/01)
Final Resolution
CM/ResDH(2016)96

Baltins (25282/07)
Final Resolution
CM/ResDH(2016)191

Protection of the rights of persons with mental disabilities in court

Persons deprived of their legal capacity are allowed to personally defend their rights before the domestic courts and State institutions. Following amendments to the Criminal Procedure Law made in 2014, defendants who are subject to measures of a medical nature must henceforth participate in the court hearings. Decisions *in absentia* are possible only if, according to an expert opinion, the health condition of the person concerned does not permit their participation, in which case the person's representative should participate in the hearings.

In 2013, a system of partial restriction of the legal capacity of individuals was adopted providing for a court to review the respective decision on request. Previously, the 2003 Law on social services and social assistance had already provided that the placement and stay in long-term social institutions was based on the voluntary and contractual principle. An amendment in 2006 provided explicitly that a person may request to leave the long-term social care and assistance institutions. Detailed procedural provisions were inserted in 2008. In 2012 the procedure for submitting such requests was simplified and the local municipalities were put under the obligation to ensure a place of residence to persons leaving institutions and unable to return to their previous place of residence. The Ministry of Welfare controls the quality of social rehabilitation services and decides on complaints.

Remedies against excessive length of court proceedings

Measures adopted to reduce the length of court proceedings included: introduction of written proceedings before the appellate courts, use of modern technologies in the courts, possibility for the courts to impose sanctions if the parties continuously fail to attend the hearings, etc. Also, a compensatory remedy was adopted in 2005 for complaints of unreasonably lengthy criminal proceedings.

In 2013, amendments to the Law on Judicial Power in conjunction with the relevant provisions of the Civil Procedure Law introduced acceleratory remedies and provided for a strict supervision of compliance with procedural time limits by the court presidents and the Judicial Council. In the period 2017-2018, further measures helped to reduce the length of proceedings, *inter alia* the introduction of an online monitoring system, the possibility to transfer cases to balance the courts' caseload, a territorial reform of courts and an increase in the number of judges. Mediation as an alternative out-of-court dispute resolution was promoted.

Presumption of innocence

A Law on Administrative Liability entering into force in 2020 abolished the notion of a "repeated administrative offence" and administrative arrest as a type of administrative penalty.

Raudevs (24086/03)

Final Resolution
CM/ResDH(2017)208

Beiere (30954/05)

Final Resolution
CM/ResDH(2017)311

Mihailovs (35939/10)

Final Resolution
CM/ResDH(2018)286

Černikovs (71071/01)

Final Resolution
CM/ResDH(2017)123

Weiss (15152/12)

Final Resolution
CM/ResDH(2021)155

Kangers (35726/10)

Final Resolution
CM/ResDH(2020)107

Protection of private life

Secret surveillance

In 2011, the Constitutional Court recognised a requirement for law enforcement authorities to obtain the judicial authorities' approval for

Meimanis (70597/11)

operational activities like telephone interception, even if the measure in question may last less than 72 hours.

Final Resolution
CM/ResDH(2017)211

▢ Acquisition, use, disclosure or retention of personal medical data

Concerning the protection of personal patient data, the 2009 Law on the Rights of Patients provided that such data may be used only with the written consent of the patient or in cases provided by this law. The law lists public healthcare institutions, including the Health Inspectorate, that may receive, collect and use patient data. The Health Inspectorate's supervisory functions are defined in its Statute of 2008. The procedure for collection of patient data was established in its Internal Rules of 2013.

L.H. (52019/07)

Final Resolution
CM/ResDH(2017)64

▢ Transplantation of tissue and organs

The Law of the Rights of Patients of 2010 guarantees the right of the closest relatives to take a decision on medical treatment or to refuse it, if the patient is unable to take such a decision. The Health Inspectorate is competent for receiving complaints by relatives, and its decisions can be appealed before administrative courts.

Petrova (4605/05)
Elberte (61243/08)

Final Resolution
CM/ResDH(2018)244

▢ **Electoral rights**

Amendments in the Parliamentary Elections Act from 2009 and 2014 narrowed the scope of eligibility restrictions, excluding only those persons who were formerly directly involved in KGB's primary functions.

Adamsons (3669/03)

Final Resolution
CM/ResDH(2014)279