

# Luxembourg

## 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.

### ➤ *Right to liberty and security*

In 2018, the Criminal Procedure Code was amended to introduce a judicial review of orders revoking releases on parole and to set up the Appeal Court's Chamber on the application of sanctions to decide on appeals against the General Prosecutor's decisions regarding the enforcement of sentences.

*Etute (18223/16)*  
Final Resolution  
CM/ResDH(2020)323

### ➤ *Functioning of justice*

#### ▢ *Fairness of proceedings and access to a court*

The Conseil d'État was reorganised in 1995 to improve its impartiality by changing past practice according to which certain members successively performed advisory as well as judicial functions in certain cases.

*Procola (14570/89)*  
Final Resolution  
CM/ResDH(96)19

A 2010 law aimed to resolve the problem of the Court of Cassation's excessive formalism with regard to the admissibility of appeals by allowing it to rule on the entire application and not only on the alleged legal grounds.

*Kemp and Others (17140/05)*  
Final Resolution  
CM/ResDH(2012)93

The Penal Code and the Code of Criminal Investigation were amended in 2017 to grant additional rights to the suspects. Furthermore, clear regulations concerning the right of access to a lawyer as from the first interrogation, also in the context of a European arrest warrant were introduced.

*A.T. (30460/13)*  
Final Resolution  
CM/ResDH(2017)234

#### ▢ *Eliminating and remedying excessive length of proceedings*

Between 2001 and 2008, the Judicial Police Service was reinforced and reorganised, the coordination between police and judicial authorities was improved and the prosecutors' and investigating judges' staff increased with a view to accelerating criminal proceedings. Compensation for the administration's dysfunction may be requested on the basis of the Civil Code or a special Act of 1988.

*Schumacher (63286/00+)*  
Final Resolution  
CM/ResDH(2014)216

### ➤ *Protection of property rights*

#### ▢ *Hunting areas*

The mandatory inclusion of all landowners, including those opposed to hunting, in hunting associations created under the law, with the consequent duty to give up their lands for hunting, was repealed in 2011 so as to allow those opposed to hunting to refuse to join these associations.

*Schneider (2113/04)*  
Final Resolution  
CM/ResDH(2013)34