

North Macedonia

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.

► *Actions of security forces and effective investigations*

The Public Prosecution Law of 2008 obliged public prosecutors to take procedural steps within 30 days after an ill-treatment complaint is filed and the 2010 Code of Criminal Proceedings obliged them to take a decision on a criminal complaint within three months. According to a binding resolution of the Courts of Appeal, compensation for ill-treatment should be increased to the level of amounts awarded by the European Court.

In April 2016, an external oversight mechanism (specialised unit within the Public Prosecution Service) and a new civil review body, comprised of independent external members without any affiliation with the police or other law-enforcement agencies, were created. In 2018, the role of criminal courts in prosecuting ill-treatment by law enforcement agents was enhanced and these cases were allocated to the Department for organised crime and corruption within the Skopje Criminal Court.

Jašar (69908//01+)
Final Resolution
CM/ResDH(2018)72

Selami and Others (78241/13)
Final Resolution
CM/ResDH(2019)65

El-Masri (39630/09)
Final Resolution
CM/ResDH(2019)369

► *Functioning of justice*

▢ *Fairness of proceedings*

Overall consistency of judicial practice was enhanced through the creation of a special department for case-law within the Supreme Court. According to the new Courts Act of 2008, a court cannot reject any request related to the exercise of a particular right on the sole ground of a legal gap and shall thus be obliged to decide on the merits. Pursuant to amendments of the Civil Procedure Code in 2015, domestic courts are now under an obligation to communicate to a party a copy of even belated observations of the opposing party.

Atanasovski (36815/03+)
Final Resolution
CM/ResDH(2015)125

Petrovski and Others (27736/03)
Final Resolution
CM/ResDH(2018)55

Naumaski (25248/05)
Final Resolution
CM/ResDH(2018)56

▢ *Remedies against excessive length of proceedings*

In 2006, administrative proceedings were accelerated following the adoption of new laws on Courts and on General Administrative Procedure and the setting-up of a specialised Administrative Court with jurisdiction for administrative disputes previously decided by the Supreme Court. Furthermore, any request made to administrative authorities will be considered as accepted if the administration fails to respond within a certain deadline (the concept of "tacit authorisation"). Rules on serving documents were simplified and their service in electronic format was introduced. Furthermore, the second-instance authority may decide on the merits under certain circumstances. The new General Administrative Proceedings Act of 2016 established the principle of efficiency in the administrative proceedings and prescribed a time limit of 30 days for the adoption of decisions by the administrative authorities. In 2019, the principle of oral hearing was established as one of the core administrative law principles.

Dumanovski, Docevski and Blage Ilievski (13898/02+)
Final Resolution
CM/ResDH(2011)81

Mitkova (48386/09)
Final Resolution
CM/ResDH(2019)195

The excessive length of civil and criminal proceedings was addressed by a series of legislative reforms as of 2008. As regards civil proceedings, procedural deadlines were tightened, and a mediation procedure was introduced in order to alleviate the workload of the civil courts.

Petrović (30721/15)
Final Resolution
CM/ResDH(2019)315

As regards criminal proceedings, in 2010, the rule to restart hearings in case of a trial judge's change within a single set of proceedings was abolished and multiple remittals were eliminated. Available capacities for interpretation in criminal proceedings were reinforced and the public prosecutor was entrusted a major role in investigations.

Atanasovic and Others
 (13886/02+)
 Final Resolution
 CM/ResDH(2016)35

▢ Execution of final judicial decisions

The Enforcement Act was amended in 2010 and 2012, with a view to streamlining the enforcement proceedings and increasing their efficiency. The responsibility for enforcement was transferred to private bailiffs.

Atanasovic and Others
 (13886/02+)
 Final Resolution
 CM/ResDH(2016)35

➤ **Protection of private and family life**

▢ Personal data protection

In 2013, the Code of Criminal Procedure provided for the public prosecutors' supervision of police access to personal data. In 2020, a Personal Data Protection Act implemented respective EU regulations. The Personal Data Protection Agency adopted Rules on data protection impact assessments. A Law on the protection of personal data for the purposes of prevention, investigation, detection or prosecution of criminal offences or execution of criminal penalties is under way.

J.M. and A.T. (79783/13)
 Final Resolution
 CM/ResDH(2021)123

➤ **Freedom of expression**

The criminal offence of defamation was abolished by the 2012 legislative amendment. The Law on Civil Liability for Insult and Defamation was adopted, providing that any restriction imposed for violation of honour and reputation of physical and legal persons through insults or defamation, must be justified in the light of the European Court's jurisprudence.

Makraduli (64659/11)
 Final Resolution
 CM/ResDH(2019)190

➤ **Freedom of association**

The new Law on Associations and Foundations of 2010 facilitated registration procedures. The registration authority is competent to examine only procedural requirements. Dissolution of an association requires a well-reasoned court decision. 200 associations representing national minorities have been registered since 2010.

*Association of citizens
 Radko and Paunkovski*
 (74651/01)
 Final Resolution
 CM/ResDH(2017)293

➤ **Protection of property rights**

Confiscation of objects acquired in good faith is only possible when it can be established that the third person knew or should have known that they would be used for the transportation or distribution of smuggled goods. In 2018, the Criminal Code was amended to abolish the automatic confiscation of means of transport used for smuggling of migrants in the context of criminal proceedings.

Vasilevski (22653/08)
 Final Resolution
 CM/ResDH(2017)145
Andonovski (16225/08)
 Final Resolution
 CM/ResDH(2019)301