

Russian Federation

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.

► **Use of firearms by security forces**

By a Presidential Decree of 2015, the regulations allowing discretionary use of lethal force to prevent escape from a military unit were repealed and replaced by a new provision in the Military Police Statute, providing that all possible alternative measures must be taken to arrest a person before resorting to firearms.

Putintseva (33498/04)
 Final Resolution
 CM/ResDH(2019)126

► **Right to liberty and security**

▢ Detention on remand

Legislative reforms and rulings of the Constitutional Court and the Supreme Court in 2009 and 2013 ensured that detention on remand require a reasoned court decision rendered within a time-limit. Hearings are held in presence of the defendant and their representatives.

Bednov (21153/02+)
 Final Resolution
 CM/ResDH(2015)249

▢ Involuntary hospitalisations

Since 2011, the Psychiatry Act stipulates that, in the absence of consent by the person concerned, psychiatric hospitalisation is considered involuntary and must be subject to judicial authorisation.

Rakevich (58973/00)
 Final Resolution
 CM/ResDH(2020)333

► **Functioning of justice**

▢ Fairness of proceedings and legal certainty

The 2003 reform amended the supervisory review procedure (“nadzor”) in commercial matters and aligned domestic law with the requirements of legal certainty inherent in the Convention. Under the new system, binding and enforceable decisions are only liable to challenge once, before a supreme judicial instance, upon a request by the parties or certain other persons affected, based on strictly defined grounds and time limits.

Arshinchikova (73043/01)
 Final Resolution
 CM/ResDH(2011)151

A similar reform in civil matters was engaged as from 2002, with important contributions from the Constitutional Court and the Supreme Court, leading to a reform in 2012, essentially transforming “nadzor” into a normal cassation appeal, and allowing only the Presidium of the Supreme Court to initiate the extraordinary supervisory review. This has led to a drastic decrease in its application.

Ryabykh (52854/99+)
 Final Resolution
 CM/ResDH(2017)83

▢ Access to a court

The 2002 Code of Criminal Procedure did not establish any specific rules concerning the presence of a person with mental disabilities at trial and appeal hearings and did not require their presence. In 2007, the respective provision was declared unconstitutional by the Constitutional Court and replaced by amendments of 2007 and 2010, providing for the participation in criminal proceedings of all persons engaged therein if their mental health so permitted. In 2016, a new law abolished the principle of absolute immunity of foreign state bodies from civil actions, thus bringing domestic law in line with international law and practice.

Romanov (63993/00)
 Final Resolution
 CM/ResDH(2019)205

Oleynikov (36703/04)
 Final Resolution
 CM/ResDH(2019)100

▢ Remedies against excessive length of proceedings

A new appellate review procedure was introduced in 2012 for both civil and criminal cases, with the appeal instance’s competence to examine new evidence and decide on the merits directly without remitting the case to the lower court. Tight deadlines were set for the appeal courts to examine cases:

Kormacheva (53084/99+)
 Final resolution
 CM/ResDH(2017)188

three months for civil cases and 45 days for scheduling a hearing in criminal cases. Notification of parties in both civil and criminal cases via text messages, indicating the date, time and venue of the hearing was introduced in 2013, by a regulation of the Supreme Court's Judicial Department. The Codes of Civil and Criminal Procedure were amended in 2016 to introduce the publication of judicial decisions within five days of their adoption, including their online publication. An alternative mediation procedure was introduced in 2010 to reduce the judges' workload. In the context of the Federal Programme for the Development of the Russian Judicial System 2007-2012, the number of judges in civil, criminal and commercial courts was increased by more than 2,000, and the number of justices of peace by more than 40%. Modern IT tools were developed/introduced to improve the efficiency and transparency of judicial proceedings: introducing automatic notification of parties as to the date, time and venue of court hearings as well as internet broadcasting of public court hearings.

▢ Incapacitation proceedings

In 2011, the Code of Civil Proceedings provided that legally incapacitated persons enjoy the same procedural rights as other persons, including the rights to appeal against an incapacitation decision and to request restoration of legal capacity. In 2015, the Civil Code also provided for a form of reduced legal capacity comparable to that of minors between the ages of 14 and 18.

Rakevich (58973/00)
 Final Resolution
 CM/ResDH(2020)333

▢ Freedom of expression

▢ Defamation

In 2005, the Supreme Court issued guidelines to lower courts regarding defamation, insisting on the necessity to distinguish between statements of fact susceptible of proof and value judgments, opinions or convictions, underlining that public officials must accept to being subject to public scrutiny and criticism, particularly through the media. Further guidelines regarding the Convention requirements in respect of freedom of expression were issued through Resolutions of the Supreme Court's Plenum in 2013 and 2014.

Grinberg and Zakharov (23472/03+)
 Final Resolution
 CM/ResDH(2008)18

▢ Freedom of association

Rules concerning registration of political parties were clarified by federal laws in 2001 and 2013 and by orders of the Ministry of Justice in 2011, 2013 and 2015. Under the 2012 Political Parties Act, prior to a refusal to register, the authorities must inform the party concerned about the reasons thereof and give it three months to address them. As to the possibility to dissolve a political party, this Act set the minimum number of party members at 500 (instead of 5,000), and cancelled the requirements concerning the number of members in the parties' regional branches.

Republican Party of Russia (12976/07)
 Final Resolution
 CM/ResDH(2017)354

▢ Protection of property rights

▢ Settling the "Urozhay-90 bonds"

In 2009, a federal law was adopted that settled the State debt originating in the "Urozhay-90 bonds" issued by the Government of the Russian Socialist Federative Soviet Republic (RSFSR). It encouraged agricultural workers to sell products to the State in exchange for priority purchasing of consumer goods in

Malysh and Others (30280/03+)
 Final Resolution
 CM/ResDH(2012)134

high demand. A detailed repayment procedure was established immediately thereafter.

▢ Confiscation of smuggled goods

A legal basis for the confiscation of smuggled goods was introduced in 2006.

As to the issue of property seizures in the context of criminal proceedings, the Criminal Procedure Code was amended in 2013 and 2015, allowing for judicial review of confiscation measures imposed on one's property in the framework of criminal proceedings instituted not against them but against a member of their family. In 2018, the Supreme Court further highlighted that third parties' property could only be confiscated if the party knew or should have known that it had been criminally acquired, used or would have been used for criminal purposes.

Baklanov (68443/01)
Final Resolution
CM/ResDH(2011)301

Denisova and Moiseyeva (16903/03)
Final Resolution
CM/ResDH(2019)66

▢ Electoral rights

In 2006, the Basic Guarantees of Electoral Rights Act was amended and provided for the election commissions' obligation to provide a candidate with an opportunity to correct or submit relevant information on their CV in the context of federal parliamentary elections. Similar provisions are contained in the Elections Act of 2014, which prescribed that the Central Election Commission verify the accuracy of the above information and, if inaccurate, to inform the mass media and the relevant District Election Commission.

Despite the automatic and indiscriminate ban on convicted prisoners' voting rights laid down in the Constitution, the federal legislator amended the Criminal Code in 2017 to introduce new forms of criminal punishment, which do not result in the loss of the right to vote: community work in correctional centres, which may be imposed for offences of low or medium gravity or in the case of grave first-time offences.

Russian Conservative Party of Entrepreneurs and Others (55066/00+)
Final Resolution
CM/ResDH(2018)17

Anchugov and Gladkov (11157/04),
Final Resolution
CM/ResDH(2019)240