

Slovak Republic

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 2006 Code of Criminal Procedure enabled the prosecutor to review actions of police officers following a complaint. Prosecutors shall examine the complaints and notify the complainants as to their findings. Decisions on suspension of criminal proceedings shall be communicated to the accused and the victim, who can file complaints. Investigations of particularly serious crimes must be completed within six months. Amendments of the Code of Criminal Procedure and the Criminal Code of 2017 enhanced the effectiveness of investigations into racially motivated crimes, transferring these cases to specialised investigators and to the Specialized Criminal Court. In case of alleged criminal acts committed by a police officer, investigation is conducted by a fully independent inspection service, not related to the Police Corps, carrying out operative-inquisitive actions and criminal investigations.

Koky and Others (13624/03)
Final Resolution
CM/ResDH(2017)86

► *Prevention of and effective investigations into racially motivated crime*

A prosecutor responsible for extremism exists in each judicial district while a special police department within the office of the head of police and in each police district deals with extremism. In addition, 231 police officers specialised in minorities/ Roma operate at the level of the regional police departments. The Strategy for Combating Extremism for 2011-2014 of the Ministry of Interior has resulted in the creation of a database of extremist symbols that is accessible to judges, prosecutors and the police, and new guidelines for police were established. The police undergo periodic training on measures to combat new forms of extremist criminal acts and to prevent the excessive use of police force against Roma. The authorities also planned to increase the number of police officers of Roma origin while a Committee for Prevention and Elimination of Racism, Xenophobia, Anti-Semitism and Other forms of Intolerance acts as an advisory body within the Ministry of Interior.

Mižigárová (74832/01)
Final Resolution
CM/ResDH(2016)17

► *Prevention of domestic violence*

Following the facts of the case, the Code of Civil Procedure was amended (in 2003) and provided that courts through an interim measure may proscribe a person's entry into a dwelling occupied by a close person/relation or person in the former's care if the former is suspected of committing violence.

As from 2006, the Civil Code provided for an effective remedy in the context of domestic violence resulting in death in the form of an action for the protection of personal integrity. Subsequently, lodging an appeal became possible before the Constitutional Court. Moreover, the 2006 Criminal Code provided a legal basis for claiming compensation for non-pecuniary damage against the perpetrator of a criminal offence. No court fees are payable when bringing such a claim and, as from 2004, under the State Liability Act, claims for non-pecuniary damage became possible also following a State official's wrongful conduct.

E.S. and Others (8227/04)
Final Resolution
CM/ResDH(2012)50

Kontrova (7510/04)
Final Resolution
CM/ResDH(2011)31

► *Risk of ill-treatment in case of expulsion*

Under the 2012 Act on the Residence of Foreigners, the competent department of the foreigner police shall decide in first instance on expulsion and their decisions may be appealed to the Directorate of the Border and Foreigner Police. According to the Administrative Code, a further appeal before courts is possible within 15 days and has automatic suspensive effect.

Labsi (33809/08)
Final Resolution
CM/ResDH(2017)87

As regards asylum seekers, under the 2015 amendments of the Asylum Act and the Act on Residence of Foreigners, a rejected asylum seeker shall not be expelled until a domestic court has made a full assessment of any risk of ill-treatment in the country to which he or she would be expelled.

➤ *Right to liberty and security*

▢ Lawfulness of detention

The Code of Criminal Procedure 2005 provided that public prosecutors and judges are obliged to give priority to detention cases and deal with them promptly. A detainee is entitled to apply for release at any time. Where the public prosecutor dismisses such an application, he or she shall immediately submit it to a competent judge, who shall rule on the application without delay. Detention in pre-trial proceedings can only last for “a necessary period of time”. Prolonged detention requires further significant reasons for detention and the authorities must proceed with special diligence.

If the application is dismissed by the prosecutor, it shall be immediately submitted to a competent judge, who shall rule without delay.

The implementation of the adversarial principle was improved, granting the right to be heard in person by the court deciding on detention and of access to the investigation file.

The right to appeal against detention orders and their prolongation in proceedings based on European Arrest Warrants was clarified in the European Arrest Warrant Act of 2010.

Kučera and Haris
(48666/99+)

Final Resolution
CM/ResDH(2011)158

Nestak (65559/01)

Final Resolution
CM/ResDH(2009)136

Lexa (34761/03)

Final Resolution
CM/ResDH(2012)53

Černák (36997/08)

Final Resolution
CM/ResDH(2017)170

➤ *Functioning of justice*

▢ Fairness of proceedings

The Act on Courts 2004 and the Ministry of Justice's Regulation of 2005 on Rules for district courts, regional courts, the Special Court and military courts, provided for random assignment of cases to judges, using an electronic registry.

▢ Access to court

In cases of a concurrent lodging of an appeal on points of law before the Constitutional Court and the Supreme Court, the former changed its case-law so that the constitutional complaint is admissible only following the Supreme Court's decision. However, the statutory time-limit for lodging the complaint before the Constitutional Court is preserved not only in respect of the Supreme Court's decision but also in respect of the lower courts' decision, against which the appeal on points of law has been lodged.

▢ Remedies in case of excessive length of proceedings

The Constitutional reform of 2002 introduced a compensatory remedy and the Constitutional Court started granting adequate pecuniary compensation in case of excessive length of judicial proceedings.

The Code of Civil Procedure was amended in 2002 to remove the inquisitorial principle and establish the adversarial nature of civil proceedings. The function of court senior clerks was introduced in 2003 with a view to delegating various administrative tasks which do not require judges' involvement.

DMD group, A.S.
(19334/03)

Final Resolution
CM/ResDH(2012)51

Kovárová (46564/10)

Final Resolution
CM/ResDH(2016)138

Jakub (2015/02+)

Final Resolution
CM/ResDH(2012)59

Masar (66882/09)

Final Resolution
CM/ResDH(2013)126

► Protection of family life

▢ Public care and abduction of children

The possibility for administrative authorities to order urgent placement of children in public care until the courts have considered the matter was repealed as unconstitutional in 2002.

The 2015 Code of Civil Non-Dispute Procedure ensured, in matters relating to international parental child abductions, more efficient compliance with European and international rules. Among others, strict time frames were introduced to ensure swift court rulings on such cases, and the right to submit extraordinary appeals was abrogated to prevent further delays.

▢ Challenging paternity decisions rendered by courts

The Code of Civil Procedure was amended in 2013 to provide for the right to request before courts the reopening of paternity recognition proceedings based on scientific evidence, notably DNA tests, which had not been available during the original court proceedings.

Berecova (74400/01)

Final Resolution
CM/ResDH(2009)11

Frisancho Perea (383/13)

Final Resolution
CM/ResDH(2018)95

Paulik (10699/05)

Final Resolution
CM/ResDH(2013)195

► Protection of property rights

▢ Rent control

With regard to disproportionate limitations on the use of property by landlords, in 2011, legislation ensured that flat owners are no longer subject to loss resulting from regulated rent as they were entitled to receive the market price as from 2017. Municipalities plan to construct new flats to provide tenants with social housing and start carrying out payments to flat owners if they had not been able to provide substitute housing.

Bitto and Others (30255/09)

Final Resolution
CM/ResDH(2020)39