

Slovenia

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 Criminal Code of 2008 defined ill-treatment, including by police, as a self-standing criminal offence. The Police Tasks and Powers Act of 2013 obliges police officers to respect the persons' human rights as well as to adhere to the principles of equal treatment, legality and proportionality, when performing their tasks. Regular education and training sessions as well as awareness-raising activities were organised for police staff. Instructions and manuals for all police units relating to the use of coercive measures were issued and are regularly updated.

As concerns effectiveness of investigations, in 2011, the "Department for the Investigation and Prosecution of Officials with Special Authorisation" was set up within the prosecution service, operating under the principle of professional and operational autonomy and with exclusive jurisdiction to deal with alleged criminal offences committed by officials of the police, military police and intelligence services.

Matko (43393/98)

[Final Resolution
CM/ResDH\(2020\)92](#)

► *Conditions of detention and effective remedies*

A preventive remedy enabling judicial protection against poor conditions of detention for convicted prisoners as well as a compensatory remedy for released prisoners was introduced in 2015.

In 2018, convicted and remand prisoners were also granted a possibility to claim before courts compensation in respect of non-pecuniary damage sustained; criteria for the settlement of such claims were adopted by government and settlement proposals made by the State Attorney's Office.

Arapović (37927/12+)

[Final Resolution
CM/ResDH\(2018\)101](#)

Mandić and Jović (5774/10)

[Final Resolution
CM/ResDH\(2020\)102](#)

► *Right to liberty and security*

▢ *Psychiatric confinement*

Compensation for unlawful detention is guaranteed in the Constitution and the Code of Criminal Procedure. The 2008 Mental Health Act established the decision-making procedure and time-limits with regard to involuntary confinement. Regular monitoring of the deadlines is performed by the National Preventive Mechanism (Human Rights Ombudsperson). The 2009 Patients' Rights Act regulated and introduced safeguards concerning the admission to and medical treatment in open wards.

Rehbock (29462/95)

[Final Resolution
CM/ResDH\(2009\)137](#)

L.M. (32863/05)

[Final Resolution
CM/ResDH\(2018\)99](#)

► *Functioning of justice*

▢ *Fairness of proceedings*

According to the Civil Procedure Act as amended in 2017, any request to impose a penalty for allegedly offensive remarks aimed at a judge is assigned to another judge to ensure impartiality. The Constitutional Court Act was amended in 2007, making mandatory the communication of the constitutional appeal also to the persons affected by the decision being challenged.

Alenka Pečnik (44901/05)

[Final Resolution
CM/ResDH\(2018\)148](#)

Gaspari (21055/03)

[Final Resolution
CM/ResDH\(2018\)401](#)

▢ *Remedies against excessive length of proceedings*

A structural and organisational reform of the judiciary took place between 2005 and 2012 with a view to eliminating backlogs in the domestic courts. The reform included legislative and capacity building measures. In addition, acceleratory and compensatory remedies were introduced in civil and criminal

Lukenda (23032/02+)

[Final Resolution
CM/ResDH\(2016\)354](#)

proceedings by the 2006 Act on the Protection of the Right to a Trial without undue Delay.

► Protection of private and family life

▭ Custody of and access to children

Administrative access orders by Social Welfare Centres were abolished in 2004, due to a Constitutional Court's decision finding several provisions of the Marriage and Family Relations Act applicable to custody and access arrangements to be unconstitutional. Also, the 2004 Act on Changes and Amendments to Marriage and Family Relations entered into force, granting to domestic courts competence to adjudicate on child custody and access matters. Cases concerning the relationships between parents and children are prioritised. In addition, the number of staff at the district court concerned was increased.

In 2018, a new Act provided for such cases to be decided in non-contentious proceedings. Strict deadlines were set for courts and experts. Court decisions concerning contact and access rights are enforced in accordance with the Claim Enforcement and Security Act providing for fines in case of parental obstruction.

According to amendments to the Social Security Act in 2018, social work centres now also provide care services, professional counselling and assistance to family members and children as well as practical training for families.

A Family Code, in force since 2019, introduced mediation for resolving family-related disputes. Training activities for judges on the right to family life were organised, including on aspects related to EU mechanisms (Brussels IIa Regulation) concerning cross border cooperation in custody matters.

Eberhard and M. (8673/05)
[Final Resolution](#)
[CM/ResDH\(2017\)396](#)

Furmman (16608/09)
[Final Resolution](#)
[CM/ResDH\(2019\)67](#)

A.V. (878/13)
[Final Resolution](#)
[CM/ResDH\(2020\)82](#)

S.I. (45082/05)
[Final Resolution](#)
[CM/ResDH\(2019\)68](#)

► Freedom of expression

In 2014, the Constitutional Court developed its case-law and expressly aligned it with the European Court's judgment according to which domestic courts should convincingly establish a pressing social need for placing the protection of one's reputation above a publisher company's right to freedom of expression and the general interest in promoting freedom of expression where issues of public interest are concerned.

Mladina d.d. Ljubljana (20891/10)
[Final Resolution](#)
[CMResDH\(2017\)111](#)

► Protection against discrimination on the ground of nationality

A compensation scheme for the "erased persons" was introduced in 2014 in order to redress citizens of the former Socialist Federal Republic of Yugoslavia who had permanent residence in Slovenia and citizenship of one of the other SFRY republics at the time of Slovenia's declaration of independence and were deprived of their status as permanent residents, without prior notification.

An old-age pension can no longer be refused on the grounds of citizenship in view of the Agreement on Succession Issues of 2004, signed by all former Yugoslav republics, and the Agreement between Slovenia and Serbia on Social Security and Administrative Arrangement of 2010, which determined which of the former republics has the obligation to grant an old-age pension.

Kurić and Others (26828/06)
[Final Resolution](#)
[CM/ResDH\(2016\)112](#)

Ribač (57101/10)
[Final Resolution](#)
[CM/ResDH\(2018\)420](#)

➤ *Protection of property rights*

▢ Repayment of “old foreign currency savings”

A 2015 law introduced a repayment scheme for the “old foreign currency savings” (estimated at 385 million euros) deposited in foreign branches of the Ljubljanska Banka at the time of the dissolution of the Socialist Federal Republic of Yugoslavia. Administrative arrangements were put in place to receive and handle relevant applications.

Ališić and Others
(60642/08)

[Final Resolution
CM/ResDH\(2018\)111](#)