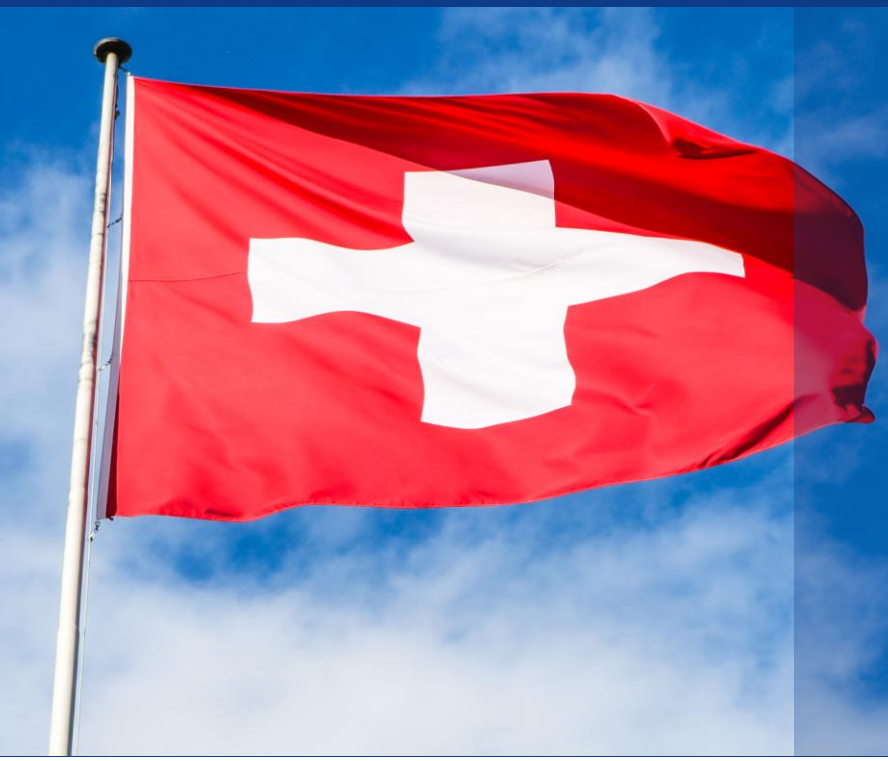
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I. Main achievements

This chapter presents short summaries 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, government regulations, the adoption of new policies or general guidance from superior courts. As a rule, the overview does not cover information on measures providing individual redress to applicants.

The reforms are in principle presented in the order corresponding to the thematic domains used in the specialised database HUDOC-EXEC of the Department for the Execution of Judgments of the European Court of Human Rights.

Many reforms address issues which appear to be on-going challenges in member states. The effects of reforms adopted at one point in time may thus need to be monitored and possibly revisited as conditions change.[1]

Definitions of the terms used in the context of the supervision of the execution of the European Court's judgments are available in the dedicated Glossary.

[1] 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 thea 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

According to the Federal Court's established case-law, notably that of 2014, persons who claim to be victims of ill-treatment within the meaning of Article 3 ECHR have the right to complain and a specific right to a prompt and impartial investigation which should lead, when necessary, to the criminal conviction of those responsible. As regards, in particular, the Canton of Geneva, the "General Inspectorate of Services" was established in 2008 to deal with complaints against police agents.

Dembele (74010/11)
Final Resolution CM/ResDH(2016)175

Protection against ill-treatment

The Federal Administrative Court changed its case-law in 2013, providing for additional safeguards and improved examination of asylum requests, notably as regards the risks faced including post-flight risks.

A.A. (58802/12)
Final Resolution CM/ResDH(2015)95

As from 2014, the Federal Migration Office suspended returns to Italy under the "Dublin II Regulation" for all asylum-seeking families with children and requested from Italy individual guarantees and detailed and reliable information about the reception facility and the physical conditions of their accommodation, as well as assurances that the family would be kept together.

Tarakhel (29217/12)
Final Resolution CM/ResDH(2015)96

Right to liberty and security

- *Lawfulness of detention*

The military penal code and the law on military penal procedure of 1980 replaced the Chief Military Prosecutor with a court having full power to reverse decisions by military commanders. Furthermore, all complaints and appeals in disciplinary cases have a suspensive effect.

Santschi and Others (7468/76)
Final Resolution CM/ResDH(83)5

In 1991, in the Zurich Penal Code, the competence to order detention on remand was transferred from the district attorney to criminal courts.

Huber (12794/87)
Final Resolution CM/ResDH(91)40

The 1993 revision of the Code of Criminal Procedure of the Canton of Basel-Stadt provided for the "judge of detention", thus prosecutors are no longer considered as "magistrates".

Plumey (23857/94)
Final Resolution CM/ResDH(2001)69

Cantonal procedural codes in criminal matters were replaced by the national Swiss Criminal Procedure Code in 2011, providing for a single comprehensive legal basis for pre-trial detention and detention during trial, including an appeal procedure.

Borer (22493/06)
Final Resolution CM/ResDH(2016)240

In 2013, the Civil Code provided for a direct right of access to a judge for persons placed in psychiatric institutions in order to challenge the measure themselves without having to wait for permission to do so from their guardian.

Mäder (6232/09)
Final Resolution CM/ResDH(2016)182

In a decision of 28 October 2019, the Federal Tribunal found, with reference to the European Court's judgment in the present case, which concerned the placement of the applicant, who was executing a prison sentence for violent crimes and undergoing a psychiatric treatment, in the security wing of the prison solely on the ground that he represented a danger for others, that article 426 of the Swiss Civil Code does not constitute a sufficient legal basis to order, after the execution of a

T.B. (1760/15)
Final Resolution CM/ResDH(2024)18

custodial sentence, deprivation of liberty "for assistance purposes" on the sole ground of endangering others.

➢ *Detention in view of expulsion*

In 1981, the Federal Act on International Mutual Assistance in Criminal Matters abolished the impugned previous legislation and was to be strictly applied by the Federal Police Department and the Federal Court, also granting detainees the right to adversarial proceedings in view to their extradition.

Sanchez-Reisse (9862/82)

Final Resolution CM/ResDH(87)12

➢ *Preventive detention*

In 2021, an amendment to the Code of Criminal Procedure established the necessary legal basis in the area of detention on public safety grounds in cases involving separate subsequent judicial decisions.

I.L. (72939/16)

Final Resolution CM/ResDH(2021)53

The Federal Court clarified the conditions for ordering institutional therapeutic measures and preventive detention, requiring a sufficient connection with the original conviction and recent psychiatric assessments. This addressed the unlawful psychiatric detention of convicted prisoners beyond their sentences in 2011–2018, based on outdated assessments and in unsuitable premises. In *Kadusic*, the measure was annulled. The issue of detention in inappropriate institutions remains under examination in the *I.L. (No. 2)* group.

Kadusic (43977/13)

Final Resolution CM/ResDH(2026)172

Functioning of justice

➢ *Fairness of proceedings*

The 1989 Act on municipal sentences of the Canton of Vaud provided for an appeal against decisions rendered by the Police Court (or the President of the Juvenile Court in the case of minors) concerning sentences pronounced by a municipality.

Belilos (10328/83)

Final Resolution CM/ResDH(89)24

In criminal proceedings, the testimony of an undercover police agent is declared inadmissible when the defendant has not had the possibility to confront that agent.

Lüdi (12433/86)

Final Resolution CM/ResDH(92)61

A 2002 federal law regulating the profession of lawyers provided them access to a court in all cases of disputes and thus to a public hearing, including in lawyers' disciplinary proceedings.

Hurter (53146/99)

Final Resolution CM/ResDH(2015)187

In 2018, the statutory limitations in cases related to compensation claims for death or bodily injuries (including for asbestos victims) was extended to 20 years. The Foundation "Asbestos Victims Compensation Fund", created in 2017, offered asbestos victims rapid access to several types of benefits, including financial compensation.

Howald Moor and Others (52067/10)

Final Resolution CM/ResDH(2019)232

➢ *Access to a court and public hearing*

Legislation adopted in 2019 established procedural rules allowing for public hearings in disciplinary and/or ethical matters before the Court of Arbitration for Sport in Lausanne, upon an athlete's request.

Mutu and Pechstein (40575/10+)

Final Resolution CM/ResDH(2020)91

➢ *Improved procedural safeguards with regard to sanctions adopted by the UN Security Council*

In 2021, the Federal Department of Economics, Education and Research concluded after in-depth reflection that the implementation of the Court's judgment does not require legislative changes. Persons (natural or legal) targeted by UNSC sanctions may submit a delisting request to the Federal Department of Economics, Education and Research, which has full power of examination and whose decision is subject to appeal before the Federal Administrative Court, then, if necessary, before the Federal Court. Access to a judge is thus fully guaranteed.

Al-Dulimi and Montana management Inc. (5809/08)

Final Resolution CM/ResDH(2022)249

➢ *Remedies against excessive length of proceedings*

A total revision of the 1943 Federal Judicature Act was carried out by the Federal Office of Justice and Police in 1983 and the Federal Court was reinforced to address its excessive workload.

Zimmermann and Steiner (8737/79+)

Final Resolution CM/ResDH(83)17

➢ *Presumption of innocence*

The case concerns defamation proceedings, in which the defendant was ordered to pay the costs of investigation, trial and compensation in respect of the private prosecutors' expenses despite the fact that the criminal action was dismissed due to prescription. The European Court's judgment was widely published and disseminated to the national authorities.

Minelli (8660/79)

Final Resolution CM/ResDH(83)10

The European Court found a violation of the Convention in this case, in which the applicants, as heirs, had been convicted of a tax-related offence allegedly committed by the deceased. The authorities in charge of implementing the 1990 Act on the direct federal tax aligned their practice with the Court's judgment. A further law in 2004 "on the removal of heirs' responsibility for tax fines" codified this change in administrative practice.

E.L., R.L. and J.O.-L. (20919/92)

Final Resolution CM/ResDH(2005)3

Protection of private and family life

➢ *Families of migrants under expulsion*

Legislation adopted in 2008 allowed spouses awaiting removal and placed in different cantons to join each other and live together, in particular, in cases of a prolonged impossibility to implement the forced removal decision.

Mengesha Kimfe (24404/05+)

Final Resolution CM/ResDH(2011)302

➢ *Access to one's children and international child abduction*

The measures to address international child abductions were improved in 2007, in line with the Hague Convention: the transfer of competence to a single cantonal court accelerated return procedures; preference was given to the conclusion of friendly settlements in conflicts between parents; decisions on return were combined with concrete enforceable measures related to visiting rights; cantons were required to designate a single authority in charge of enforcement.

Bianchi (7548/04)

Final Resolution CM/ResDH(2008)58

➢ *Protection of correspondence*

2012 legislative amendments safeguarded lawyers' correspondence, in cases in which parties had been subject to secret surveillance measure who were neither suspect nor accused of an offence. The new legislation set out in detail the conditions and procedures required for the interception of telephone calls and the monitoring of postal correspondence and telecommunication.

Kopp (23224/94)

Final Resolution CM/ResDH(2005)96

➢ *Gender identity*

In 2010, new case-law of the Federal Court extended the possibility to obtain reimbursement of medical expenses incurred for sex-change operations. In addition, reimbursement shall no longer be refused if a two-year observation period has not been respected and the urgency of the operation has been mandated by medical reasons.

Schlumpf (29002/06)

Final Resolution CM/ResDH(2011)161

➢ *Prohibition of begging*

The judgment concerned the disproportionate interference with the private life of a vulnerable Roma person, the applicant was fined for unintrusive begging and subsequently imprisoned for five days for non-payment of that fine. Following the judgment, the canton of Geneva ceased enforcing its absolute ban on begging, rendering more than 18,200 pending cases without legal effect. Legislative reforms then followed: in December 2021, Geneva amended its Criminal Code to remove the absolute ban while prohibiting only organised, exploitative or location-specific begging. In Vaud, a 2024 amendment limited sanctions to aggressive, intrusive or deceptive forms of begging, with prior warnings required before sanctioning passive begging in sensitive areas. In Basel-Stadt, a 2021 partial ban prohibited begging in several public spaces, including parks and near schools; in 2023, the Federal Tribunal found the prohibition of begging in public parks disproportionate. Other cantons have introduced or maintained similar targeted reforms. No comparable cases have since been brought before domestic courts.

Lacatus (14065/15)

Final Resolution CM/ResDH(2025)229

Freedom of expression

➢ *Broadcasting*

The case concerns the refusal by the "Commercial Television Company" to broadcast a publicity by the applicant, an animal protection association, in view of its "clear political character", without striking a fair balance between the general interest of the community and the interests of the individual. The Court's judgment was disseminated to all authorities and agencies directly concerned and was presented in the quarterly bulletin of the Federal Ministry of Justice.

Verein gegen Tierfabriken (32772/02)

Final Resolution CM/ResDH(2010)113

The Article 10 violation in this case concerned the applicant company's complaint that the Swiss Post and Telecommunications Authority had made reception of television programmes from a Soviet telecommunications satellite by means of an aerial dish subject to the consent of the broadcasting State. The 1922 Federal Act regulating telegraph and telephone communications strengthened one's right to receive and rebroadcast,

Autronic (12726/87)

Final Resolution CM/ResDH(91)26

through the local distribution network defined in a licence, radio and television programmes in compliance with the provisions of relevant international treaties.

The 2004 Law on the Police in the Canton of Graubünden introduced a precise definition of a "grave and urgent situation" (the security of the "World Economic Forum" of Davos in the present case) and defined the measures which the cantonal police are entitled to take in order to protect public order and safety. Such legislation is also enforced in other Swiss cantons.

Gsell (12675/05)

Final Resolution CM/ResDH(2012)61

Right to marry

Family law legislation, adopted in the 1990s, removed from courts the competence to prohibit a spouse who had been found to be at fault in divorce proceedings from remarrying for a given period.

F. (11329/85)

Final Resolution CM/ResDH(94)77

Protection against gender-based discrimination

A 1994 amendment to the Civil Status Ordinance granted the husband the right to put his family name in front of his wife's, which he had taken as his family name following marriage.

Burghartz (16213/90)

Final Resolution CM/ResDH(94)61

The gender-based discrimination against bi-national couples was abrogated by law in 2011, providing each spouse the right to retain their surname or to choose the other spouse's surname.

Losonci Rose and Rose (664/06)

Final Resolution CM/ResDH(2012)102

In 2016, the Swiss Federal Social Insurance Office issued a circular to all competent authorities indicating that a reduction in a person's (in this case the applicant was a woman) working time for purely family reasons related to childcare should no longer be a reason for revising decisions granting them disability benefits. The authorities planned to introduce legislation to further align current practice with the European Court's case-law.

Di Trizio (7186/09)

Final resolution CM/ResDH(2017)128

Following the Court's judgment, critisising the discriminatory treatment of a widower, taking care full-time of children, by terminating his survivor's pension when youngest child reached adulthood, while a widow in the same situation would not have lost her pension entitlement, the authorities adopted a transitional regime. It provides that current and future widower's pensions will no longer end when the last child reaches the age of 18 and it will continue to be paid. The transitional regime came into force on 11 October 2022, when the Grand Chamber delivered its judgment, and it will last until the entry into force of a forthcoming revision of the social benefits of survivors which is aimed at ending various aspects of inequality of treatment, including the issue in question.

Beeler (78630/12)

Final resolution CM/ResDH(2024)112



II. Main issues pending before the Committee of Ministers

This chapter presents the main issues pending in cases/groups of cases currently under the Committee of Ministers' supervision. The relevant supervision procedure is indicated for each case/group of cases.

Detailed information on the status of execution of these cases as well as on the Committee of Ministers' supervision process is available on the specialised database HUDOC-EXEC of the website of the Department for the Execution of Judgments of the European Court of Human Rights.

Definitions of the terms used in the context of the supervision of the execution of the European Court's judgments are available in the dedicated Glossary.

Right to liberty and security

Unlawful detention in inappropriate facilities, including in solitary confinement in prisons lacking adequate medical care for the applicant's mental illness, combined with disciplinary action and occasional use of handcuffs, and the lack of a speedy review of the application for release.

I.L. (No. 2) (36609/16)
Judgment final on 20/05/2024

Enhanced supervision
Status of execution

Access to justice

The Federal Tribunal's failure to conduct the **particularly rigorous examination** required when reviewing an **arbitral award by the Court of Arbitration for Sport** in 2020, owing in particular to its very restrictive interpretation of the notion of substantive public policy, and its rejection of a complaint by a professional athlete with differences of sex development concerning non-State regulations requiring her to lower her natural testosterone level in order to compete in the women's category in international competitions.

Semenya (10934/21)
Judgment final on 10/07/2025

Standard supervision
Status of execution

Climate change

Authorities' failure to **mitigate climate change** and in particular the effects of global warming; **lack of access to a court** by the applicant association with a complaint concerning the effective implementation of mitigation measures under existing domestic law.

Verein Klimaseniorinnen Schweiz and Others (53600/20)
Judgment final on 09/04/2024

Enhanced supervision
Status of execution

Discrimination

Racial profiling by the police during an identity check and the failure of the domestic authorities to properly investigate the applicant's allegations in this respect; **no effective remedy** before the domestic authorities to pursue the applicant's complaint of discriminatory treatment during the identity check.

Wa Baile (43868/18)
Judgment final on 20/05/2024

Enhanced supervision
Status of execution



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