



SUPERVISION OF THE EXECUTION OF JUDGMENTS AND DECISIONS OF THE EUROPEAN COURT OF HUMAN RIGHTS 2017



COUNCIL OF EUROPE
COMMITTEE OF MINISTERS

11th Annual Report
of the Committee of Ministers

COMMITTEE
OF MINISTERS
COMITÉ
DES MINISTRES

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

**SUPERVISION OF THE EXECUTION
OF JUDGMENTS AND DECISIONS**
OF THE EUROPEAN COURT
OF HUMAN RIGHTS

11th Annual Report
of the Committee of Ministers
2017

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I. Executive summary

The supervision of the execution of judgments from the European Court of Human Rights in 2017 has been marked by continued efforts to enhance dialogue and experience sharing with a view to speeding up the execution. Results are very encouraging.

The number of cases closed reached an all-time high thanks to a new policy of enhanced dialogue with States, resulting in more – and timelier – closure decisions in the face of positive developments. In 2017, the Committee of Ministers closed 3 691 cases compared to 2 066 in 2016, including many repetitive cases in which individual redress had been provided.

In particular, there has been an important increase, over 30%, in the closure of cases revealing structural problems which had been pending before the Committee for more than five years. As a result, the total number of cases pending at the end of the year has decreased by around 25%, and is now down to some 7 500 (as compared to some 11 000 in 2014). The number of structural problems under supervision also decreased by around 7 %.

Concrete progress was noted in the solution of important, and often long-standing, problems including inadequate control of police actions, poor detention conditions, inefficient judiciaries, ensuring compensation or restitution for properties nationalised under former communist regimes and excessive restrictions of freedom of assembly and association.

The report also highlights numerous specific advances such as improved criminalisation of torture and hate crime, improved protection against unlawful detention, improved risk assessment in asylum procedures and the extension of the right to family reunification to same-sex couples.

The report shows that there are good reasons to be optimistic about the Convention system's capacity to meet current and future challenges. However, means must be found to improve the system's capacity to overcome situations of resistance or raising difficulties of different kinds and to provide better support to States in addressing complex execution processes, including in situations relating to unresolved conflict zones.



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II. Introduction by the Chairs of the Human Rights meetings

The main challenge for the Council of Europe directly after the major changes in the early 1990's was to ensure basic European unity, based on respect for human rights, the rule of law and democracy-democratic security. This challenge was successfully met and today 47 European States have accepted the European Convention on Human Rights and the obligation to abide by the European Court's judgments.

Numerous efforts were made to guarantee the long term efficiency of the Convention system, including as regards implementation of the Court's judgments and the Committee of Ministers supervision thereof. These were, however, not sufficient notably because many long standing and persistent structural problems were too important and complex to be rapidly overcome. The high numbers of complaints and violations found became a challenge in itself, stressing the importance of ensuring more rapid progress in solving the underlying problems, and in particular the development of effective domestic remedies.

The Interlaken-Izmir-Brighton-Brussels process has provided a constructive dialogue on how to overcome these problems and ensure the future functioning of the Convention system, a dialogue which will shortly be further advanced through the new high-level conference organised by the Danish Chairmanship of the Committee of Ministers, in Copenhagen, on 12-13 April 2018.

Present results include a reinforcement of the domestic capacity to execute judgments in many States and an enhanced dialogue and sense of shared responsibility between all involved, both domestically and within the Council of Europe. The perspective of an imminent entry into force of Protocol 16, allowing a more direct dialogue between the European Court and the highest domestic courts, is a welcome further development. In parallel, the Interlaken process has also highlighted the importance of making efforts to enhance, notably through better and more stable funding, the Council of Europe's cooperation activities, both to provide timely support to execution and to assist more generally in devising good solutions, respectful of the Convention. The close links between standard setting, monitoring, and cooperation are very strongly felt when it comes to the implementation of the Convention and the Court's judgments.

During our Chairmanships, we have also noted with satisfaction increasing efforts to engage constructive dialogue between all concerned in the complex cases under the Committee's supervision and also a continuation of the important practice of responsible ministers coming before the Committee to explain their reforms and confirm commitments.

The final stocktaking of the results of the Interlaken process is due end 2019.

Pending those results, the 2017 Annual Report continues to confirm the positive impact of the reform process on the execution of judgments. Indeed, it demonstrates that the execution process functions, and functions well in most situations. As a result of new initiatives to improve the dialogue with States, the number of pending cases has been reduced to 7 500 at the end of 2017 as compared to almost 11 000 at the end of 2014. The 2017 report also provides insights into the very concrete progress achieved in solving important and sometimes longstanding problems. Reforms have notably aimed at ensuring that the actions of security forces are adequately circumscribed by law, including effective prohibitions of torture and ill-treatment; that the overcrowding of prisons is mastered and material detention conditions improved; that political freedoms are respected; that parliamentary legislation is duly implemented and the independence and efficiency of the judiciary guaranteed; that discriminations of different kinds cease; that the efficiency of asylum procedures is secured; and that important and longstanding legacy problems linked with the former communist regimes or the dissolution of the Former Socialist Republic of Yugoslavia and the ensuing wars receive a solution.

The Committee of Ministers remains nevertheless confronted with numerous important challenges: sometimes because reflections and reforms do not progress speedily and efficiently; sometimes because redress to applicants is not, for a variety of reasons, provided; sometimes because of the emergence of new complex problems, such as those related to the situation in post-conflict regions in Europe. The latter require the development of special strategies, possibly including reinforced interaction with other international organisations. It is thus timely that the CM decided in 2017 to codify the right of such organisations to intervene before it.

We cannot but stress once again the importance of the basic principle of shared responsibilities upon which respect of the Convention rests. Ensuring constructive dialogue, supported by expert advice, between all those capable of providing solutions to the identified problems and the development of further synergies between all Council of Europe bodies, be it monitoring bodies or those responsible for cooperation or confidence building activities, must be at the heart of our continuing efforts.

The recent thematic debate on prison conditions provided a very telling example of the positive interactions which may be set in motion when the principle of shared responsibility is given full effect by domestic authorities and relevant Council of Europe bodies.

The many examples of successful dialogue aimed at solving long-standing and complex problems provide good reasons to be optimistic as to the Convention system's capacity to meet current and future challenges. However, a viable system must also improve its capacity to find ways and means to overcome situations of resistance and must be able to provide better support to States in addressing more speedily and efficiently complex execution processes, including in situations relating to unresolved conflict zones.

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III. Remarks by the Director General of the Directorate General of Human Rights and Rule of Law

2017 new confirmation of positive trends

The 2017 statistics confirm anew the positive results of the reform process engaged in Interlaken in 2010, as followed up by the high level conferences in Izmir, Brighton and Brussels. I will revert to these results below. The most prominent is the reduction of pending cases from 10 000 to 7 500.

The Interlaken process will shortly be continued through a new high level conference organised by the Danish Chairmanship of the Committee of Ministers in Copenhagen on 12-13 April 2018 - "The European Human Rights system in the future Europe". The global assessment of the process' achievements and the definition of further actions will be made by the end of 2019.

From the perspective of the execution of the Court's judgments, the Interlaken process has been particularly important because of the efforts it has set in motion to reinforce subsidiarity and thus enhance the national capacity to implement the Convention. Important improvements were also noted in a recent assessment made by the Steering Committee for Human Rights' (CDDH). The CDDH also presented a guide of good national practices to assist in overcoming remaining shortcomings.

In parallel, the process has also implied efforts at the Council of Europe level. The Committee of Ministers' own contribution has considerably developed with the new working methods 2011. 2017 saw important efforts to better exploit their potential, leading to yet an increase of more detailed Committee of Ministers examination and guidance of cases under enhanced supervision. Considerable efforts to provide support and advice to States were also deployed by the Department for the Execution of Judgments. The coordination with the Council of Europe cooperation activities and programmes was a constant priority - even if the resources of the latter have, in parallel, continued to be a constant concern.

Also the coordination with other Council of Europe bodies was enhanced, notably with the Court. The debate held on the 2016 annual report was for example an appreciated opportunity to enhance synergies with all Council of Europe bodies dealing with the problems revealed by the Court's judgments. The recent thematic debate in March 2018 on prison conditions provided a similar opportunity. Indeed, the sharing of relevant and positive experiences between States in this highly complex area was an important source of inspiration. The high level participation included the Belgian Minister of Justice Mr Koen Geens and prominent national decision makers, as well as the president of the CPT, and the president of the working group on prison overcrowding. The interest demonstrated by participants boded well for the ministerial conference on the subject planned for 2019.

The positive results in 2017 are also good signs of the positive reception of the Convention system in the member States. This development is also largely supported by the Committee of Ministers' supervision process. Indeed, this process ensures that constant attention is given in the member States to issues related to the rule of law, respect for human rights and the functioning democracy, notably in areas such as freedom of expression and association.

In view of current discussions about subsidiarity, it may be worth noting that Article 46 leaves a very wide margin of appreciation to States in finding legislative and other solutions adapted to national circumstances. What counts is that the result is achieved: no more similar violations. Sometimes criticism directed against the system overlooks this margin of appreciation, so that the criticisms are in fact more directed against the national choices of implementation than against the system itself.

Perspectives

The situation before the Committee of Ministers demonstrates, however, that sustained efforts are needed to improve the national implementation machinery in order to more speedily and efficiently address certain violations, in particular those revealing major complex or structural problems.

The statistics for a number of years thus suggest that priority areas requiring attention relate to the legal framework surrounding actions of security forces and the effectiveness of investigations into alleged illegal or excessive use of force, the conditions of detention, and different issues related to the lawfulness of detention. In view of this situation, the proposal made at the debate on the Annual Report 2016 to set up a conference of chiefs of police may deserve further attention, in the same spirit of the similar structures already in place for judges, prosecutors and heads of prison administrations.

A major continuing problem closely linked with structural problems is that of repetitive cases. It goes to the heart of the effectiveness of the system and the principle of subsidiarity. The Court has marked in different ways, notably through the pilot judgment procedure, that it is not its role to provide redress in face of great numbers of repetitive cases. That responsibility lies on domestic authorities.

Another response to this problem is the WECL procedure (well-established case-law). The number of cases dealt with in this procedure is rapidly increasing. The cases highlight on the one hand slowness in developing domestic remedies and on the other insufficient attention to well-established case-law, including that developed vis à vis other States. It is recalled that already the Interlaken and Izmir conferences drew attention to these problems and asked for remedial action.

Recent progress in the execution of judgments is, however, encouraging. The recent introduction of an effective remedy in respect of poor prison conditions in Hungary following the implementation of the *Varga and Others* pilot judgment allowed, for example, the Court to send some 6 000 cases back to the national authorities. The Court's recent *Rezmiveş* pilot judgment against Romania on the same issue creates an additional perspective of some 8 000 cases being referred back to national authorities for remedial action.

The recent *Burmych and Others* judgment is another telling example of the expectations placed by the Court on the capacity of the Committee of Ministers to ensure that effective remedies are rapidly set up and long term solutions found. The Court here sent some 12 000 cases back to the domestic authorities in order to ensure that deserving applicants receive redress for the non-execution of domestic court judgments in the context of the execution of an earlier yet not implemented pilot judgment.

The Court continues, notwithstanding these efforts, to be overburdened by repetitive cases and more sustained action is needed to improve the situation. A frequent concern in this respect is the "area by area" approach to remedies in many countries, without any single central remedy capable of intervening in non-foreseen situations. The matter was discussed some years ago and it may well be opportune to resume consideration thereof.

Further problems relate to situations where execution encounters resistance or difficulties of different kinds. The Director General's remarks in the Annual Report 2016 contain a number of examples of such situations. 2017 has seen considerable efforts to engage dialogues to overcome problems and a number of difficult situations are evolving. One situation has not, that relating to the execution of the case *Ilgar Mammadov* where the Committee of Ministers has brought infringement proceedings against Azerbaijan under Article 46 § 4, as it considered that, in the circumstances of the case, by not having ensured the applicant's unconditional release, the Republic of Azerbaijan refuses to abide by the final judgment of the Court. The matter is presently before the Court. A judgment is expected in the course of 2018.

Positive statistics

Besides the positive character of the reduction of pending cases, the 2017 report shows a new record of cases closed, up from 2066 to 3691. This increase has been achieved thanks to an improved dialogue strategy with the national authorities. The policy of “partial closure” in order to provide more speedily positive feedback to the authorities was thus extended in 2017. It now covers also the possibility to close repetitive cases in which all individual measures have been taken (possibly with pertinent information or comments as regards outstanding general measures). This approach has allowed e.g. the Committee of Ministers to close some 1 700 Italian cases related to excessive length of proceedings, some 250 Hungarian and 100 Polish prison conditions cases.

The statistics also evidence that the special efforts deployed to deal with old cases have yielded results.

The number of closures of leading cases under standard supervision older than 5 years thus increased with over 50%. Statistics regarding the closure of cases revealing major structural or complex problems under enhanced supervision remained at a high level, even if inferior to that of 2016. This does not mean that progress is lacking, but execution in these cases depends more on the circumstances of each situation, some requiring considerable time. Taking into account also these cases, global progress in the closure of leading cases was some 30%.

As regards pending cases, there is a decrease of some 20% in leading cases pending for 2-5 years. As regards those pending for more than 5 years, the positive inversion of a long trend of increase is confirmed. For the first time for quite some years there is even a decrease, even if very small. The number of pending leading cases of less than 2 years remains stable, not so surprising as it closely reflects the number of new cases from the Court which also remains stable.

A source of concern is that the discipline in payments of just satisfaction is deteriorating. The percentage of payments made on time barely exceeds 70%. In addition, the time needed for submitting relevant information to the Department for the Execution of Judgments of the European Court continues to grow. Remedial action appears urgent.

Encouraging progress in many areas

The achievements presented in the present report (Part VI), as supplemented by the thematic overview (Appendix V), demonstrate the many positive reforms adopted over the last years, and especially in 2017. Many of these have implied finding complex solutions, including not infrequently budgetary aspects, to overcome big structural problems. Amongst these solutions can be cited the resumption of payments in Serbia of pensions earned in Kosovo*, the improved enforcement of domestic court judgments against the State - whether imposing monetary or in kind

* All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

obligations - in the Russian Federation and the Republic of Moldova, or the improved independence of the judiciary in Ukraine, just to mention a few.

Convention, cooperation and democratic security and stability

The capacity of the Convention system to ensure that developments in the member States are constantly reviewed so as to be in line with its requirements, in particular as these appear in the Court's judgments, is a fundamental element of democratic security and stability.

The trust thereby created is a major prerequisite for constructive cooperation between states in many matters, be they economic, legal or cultural. Especially in today's Europe with a resurgence of tensions, including in relations between States, maintaining and developing this trust is essential.

This necessity of trust was underlined with great insistence during the recent thematic debate on prison conditions. Poor prison conditions are an obstacle to good inter-State cooperation in matters such as international arrest warrants, extradition and international transfers of prisoners. The progress noted in this regard in many States should therefore allow enhanced cooperation.

Experience also suggests that the Committee of Ministers' supervision process can usefully contribute to respect for the Convention, or at least its most fundamental rights, in post-conflict situations. This process may also be essential to assist the search for more global political solutions. Indeed, ensuring respect of the Convention by all involved allows fighting discriminations and declarations inciting to hate and distrust and fosters a climate prone to dialogue.

Let me add, in this context, that 2017 has seen a lot of efforts in the Catan case in order to progress in the search for a common understanding of the Russian Federation's obligations as a result of the Court's conclusion that Russia exercises jurisdiction over the Transnistrian region of the Republic of Moldova.

Among recent steps figure an important seminar organised by the Russian authorities in Moscow in October 2017. This seminar brought together judges of the Court, academics and experts from the Russian Federation and the Council of Europe, and provided important insights into the roots of the present problems. Dialogue, between all capable of providing solutions to the problems revealed, appear to be one of the most promising avenues to ensure the implementation of relevant judgments by the Court. It has thus been most welcome that the Moldovan authorities organised a similar seminar in Chişinău early 2018. This dialogue is essential as the present case-law of the Court leaves a number of questions open, most importantly the execution obligations of a state with effective control over an area, but not because of territorial control, only because of decisive influence over the so-called local administration.

The present dialogue provides interesting perspectives, if supported by further development of cooperation or confidence building activities, possibly including reinforced interaction with other international organisations, notably the OSCE.

Conclusion

2017 has been an interesting year, opening up dialogues and synergies with considerable potential to overcome a number of important problems facing the Committee of Ministers. Each situation is, however, unique. The dialogues engaged must, thus, be reinforced and supported, as the case may be with diplomatic high level initiatives, confidence building measures, improved interaction with the Court, cooperation programs or possibly other initiatives. The necessity of developing a vision of what a solution could be, that could both care for the Convention's requirements and the national interests, is strongly felt. The future will tell us how well we will succeed in meeting these challenges. The importance of the Convention system in today's Europe and the ensuing political will to explore possible avenues towards a solution generate, nevertheless, expectations that a solution will also be found in all cases.

IV. Improving the execution process: a permanent reform work

A. Guaranteeing long-term effectiveness: main trends

1. The main developments concerning the implementation of the Convention for the Protection of Human Rights and Fundamental Freedoms (the Convention) which have led to the current system are summarised in the Annual Reports 2007-2009.¹
2. The pressure on the Convention system due to the success of the right to individual petition and the enlargement of the Council of Europe led rapidly to the necessity of further reforms, beyond those put in place by Protocol No. 11 in 1998, to ensure the long-term effectiveness of the system. The starting point for these new efforts was the Ministerial Conference in Rome in November 2000 which celebrated the 50th anniversary of the Convention. The main avenues followed since then consisted in improving:
 - ▶ the domestic implementation of the Convention in general;
 - ▶ the efficiency of the procedures before the European Court of Human Rights (the Court);
 - ▶ the execution of the Court's judgments and its supervision by the Committee of Ministers (the CM).
3. The importance of these three lines of action has been regularly emphasised at ministerial meetings and also at the Council of Europe's 3rd Summit in Warsaw in 2005 and in the ensuing Action Plan. A large part of the implementing work was entrusted to the Steering Committee for Human Rights (CDDH).

1. See notably Sections III and IV of the 2009 Annual Report.

4. Since 2000 the CDDH has presented a number of different proposals. These have in particular led the CM to:

- ▶ adopt seven recommendations to States on various measures to improve the national implementation of the Convention,² including in the context of the execution of judgments of the Court;
- ▶ adopt Protocol No. 14,³ both improving the procedures before the Court and providing the Committee of Ministers with certain new powers for the supervision of execution (in particular the possibility to lodge with the Court requests for the interpretation of judgments and to bring infringement proceedings in the event of refusal to abide by a judgment);
- ▶ adopt new Rules for the supervision of the execution of judgments and of the terms of friendly settlements (adopted in 2000, with further important amendments in 2006) in parallel with the development of the CM's working methods;⁴

2. [Recommendation No. R\(2000\)2](#) of the Committee of Ministers to member states on the re-examination or reopening of certain cases at domestic level following judgments of the European Court of Human Rights;

- [Recommendation Rec\(2002\)13](#) of the Committee of Ministers to member states on the publication and dissemination in the member states of the text of the European Convention on Human Rights and of the case-law of the European Court of Human Rights;

- [Recommendation Rec\(2004\)4](#) of the Committee of Ministers to member states on the European Convention on Human Rights in university education and professional training;

- [Recommendation Rec\(2004\)5](#) of the Committee of Ministers to member states on the verification of the compatibility of draft laws, existing laws and administrative practice with the standards laid down in the European Convention on Human Rights;

- [Recommendation Rec\(2004\)6](#) of the Committee of Ministers to member states on the improvement of domestic remedies.

The status of implementation of these five Recommendations has been evaluated by the CDDH. Civil society was invited to assist the governmental experts in this evaluation (see [CDDH\(2006\)008 Add.1](#)). Subsequently, the Committee of Ministers has adopted special recommendations on the improvement of the execution of judgments:

- [Recommendation CM/Rec\(2008\)2](#) of the Committee of Ministers to member states on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights;

- [Recommendation CM/Rec\(2010\)3](#) of the Committee of Ministers to member states on effective remedies for excessive length of proceedings.

In addition to these recommendations to member states, the Committee of Ministers adopted a number of Resolutions addressed to the Court:

- [Resolution Res\(2002\)58](#) on the publication and dissemination of the case-law of the European Court of Human Rights;

- [Resolution Res\(2002\)59](#) concerning the practice in respect of friendly settlements;

- [Resolution Res\(2004\)3](#) on judgments revealing an underlying systemic problem, as well as in 2013 the following non-binding instruments intended to assist national implementation of the Convention:

- [Guide](#) to good practice in respect of domestic remedies;

- [Toolkit](#) to inform public officials about the State's obligations under the European Convention on Human Rights.

3. This Protocol, now ratified by all contracting parties to the Convention, entered into force on 1st June 2010. A general overview of the major consequences of the entry into force of Protocol No. 14 is presented in the information document [DGHL-Exec/Inf\(2010\)1](#).

4. Relevant texts are published on the website of the Department for the Execution of Judgments of the European Court. Further details with respect to the developments of the Rules and working methods are found in Appendix 7 and also in previous annual reports.

- ▶ reinforce subsidiarity by inviting States in 2009 to submit action plans for the execution of the Court’s judgments and/or, as regards actions taken, action reports (at the latest six months).

5. In addition, in 2000 the Parliamentary Assembly started to follow the execution of judgments on a more regular basis, in particular by introducing a system of regular reports, partly following country visits in order to assess progress concerning open issues in important cases. The reports have notably led to recommendations and other texts for the attention of the CM, the Court and national authorities.

B. Interlaken – Izmir – Brighton

6. The new reform process engaged by the Interlaken Conference in 2010 has dealt with a wide range of issues, examined in the light of the experiences gained over the same period through the entry into force of Protocol No. 14 just before the Conference.

7. The Ministers notably adopted *new working methods* in 2011. These are based on the action plan system initiated in 2009 and introduce a twin track supervision procedure to better prioritise the CM’s support for execution and also reinforce transparency in a number of ways – see for further details Appendix 6.⁵

8. In parallel, the CDDH started reflections on possible further measures which would not require amendments to the Convention (final report of December 2010) as well as measures which would require such amendments (final report of February 2012). Related proposals concerned the supervision of compliance with unilateral declarations, the means of filtering applications, the Court’s handling of repetitive applications, the introduction of fees for applicants and other formalities regulating access to the Court, changes to the admissibility criteria, and the Court’s competence to deliver advisory opinions at the request of domestic courts. A separate report of June 2012 examined the possible introduction of a simplified procedure for amending certain provisions of the Convention.

9. The further reflections of the CDDH gave rise to a series of recommendations as regards, *inter alia*, awareness raising, effective remedies and the execution of the Court’s judgments, the drawing of conclusions from judgments against other States and the information provided to applicants on the Convention and the Court’s case-law. The Recommendations directly addressing the execution of the Court’s judgments were reproduced in the 2012 Annual Report.

10. Following the political *guidance* given at the Brighton Conference in April 2012, the reform work accelerated and two new protocols were adopted by the CM in 2013. Protocol No. 15 (ratified by 41 of the 47 member States by the end of January 2018) and Protocol No. 16 (ratified by 8 member States by the end of January 2018, of ten necessary for its entry into force. In view of the information on far advanced ratification procedures (notably in France), the entry into force of the Protocol could be imminent).

5. The documents at the basis of the reform are available on the Committee of Ministers web site and on the web site of the Department for the Execution of Judgments of the Court (see notably CM/Inf/DH(2010)37 and CM/Inf/DH(2010)45 final).

11. The CM also gave a mandate to the CDDH to *examine certain other questions* of relevance also for the execution of judgments and the CM's supervision thereof:⁶

12. One concerned the interest of introducing a *representative application procedure* before the Court in the event of numerous complaints alleging the same violation against the same State. The CDDH concluded, however, that, in the current circumstances, such a procedure would have no significant added value.

13. Another concerned possible new means to resolve *large numbers of applications resulting from systemic problems*. On this issue the CDDH underlined the importance of respondent states ensuring full, prompt and effective execution, in full co-operation with the CM. It stressed in this connection that, besides the new possibilities offered by Protocol No. 14, recent experience showed the powerful impact of carefully designed domestic remedies to handle such situations as these allowed the "repatriation" of repetitive applications to the national level.

14. The CM also decided to examine the question whether more efficient measures were required vis-à-vis States that failed to implement judgments in a timely manner.

15. The first results of the CM's examination were presented in December 2012, and those of its working group GT-REF.ECHR in April 2013 (see Annual Report 2013). These results were communicated to the CDDH. The ensuing CDDH report of November 2013 noted the excessively large and growing number of judgments pending before the CM (at the time over 11 000 judgments) and the necessity of remedial action.

16. The Court's opinion on the report highlighted in particular the continuing problem of repetitive cases and clarified that the pilot judgment procedure response it had devised proceeded from the concern – clearly expressed in the Brighton Declaration – to safeguard the effectiveness of the Convention system, while respecting the competences and prerogatives of its different actors. The opinion concluded by noting that very few of the CDDH proposals appeared to find much support and that it was hard to see how they could significantly improve the current system – yet such improvement was undoubtedly needed. Reflection thus had to continue.

17. The efficiency of the execution process was also among the themes discussed at the Oslo Conference "*Long-term future of the European Court of Human Rights*". Several avenues for future development, both at the Council of Europe and national levels, e.g. the creation of an independent national mechanism ensuring that governments draw full conclusion of the Court's judgments, were explored. The conclusion, as indicated notably by the Director General of the Directorate General Human Rights and Rule of Law, was, however, that further in-depth reflection was required.

6. Further mandates to the CDDH related to the development of a toolkit for public officials on the State's obligations under the Convention and the preparation of a guide to good practices as regards effective remedies. The work carried out under these mandates did not, however, cover the special obligations linked to execution or the question of remedies necessary to ensure execution in individual cases – cf. CM Recommendation (2000)2 cited above (the work carried out by working group GT-GDR-D).

C. The Brussels Conference

18. In the context of this process, the Belgian Chair of the Committee of Ministers organised on 26-27 March 2015 a high level conference entitled “*The implementation of the Convention, our shared responsibility*” in Brussels. The Declaration adopted at the conference and the accompanying action plans were endorsed by the CM at its ministerial session in May 2015.

19. Subsequently, in December 2015, the CDDH sent its final *Report on the longer-term future of the system of European Convention of Human Rights*. The relevant conclusions for the execution of judgments are presented in the Annual Report 2015. The Court’s opinion of 1 March 2016, the Court found “persuasive the CDDH’s conclusion that, with the exception of the procedure for selecting and electing judges, the challenges discernible at the present time for the Convention system in the longer term can be met within the current framework. That such a conclusion has been reached well within the timeframe originally set down in the Interlaken Declaration attests to the success – greater than anticipated – of the reforms implemented in the period 2010-2015.”

20. As to the continuing implementation of the Brussels Declaration, the CDDH notably:

- a. reviewed the *implementation of the Recommendation CM/Rec(2008)2 on efficient domestic capacity measures taken for rapid execution of judgments of the European Court of Human Rights and discussed the usefulness of updating the recommendation*. It found preferable to draw up a guide to good practice. The CM adopted this [Guide](#) on 13 September 2017.
- b. considered mechanisms for ensuring the *compatibility of legislation and draft legislation with the Convention* (arrangements, advantages, obstacles) and considered good practices in this respect. A specific webpage was created in this regard. The [summary of the exchange of views](#) was formally adopted in 2017. No further action was deemed required.
- c. organised a conference, follow by an intergovernmental reflection on the theme of the “*Place of the Convention in the European and International Legal Order*”. These activities are presently being pursued in the DH-SYSC and the first reports are expected in April 2018.

D. The forthcoming Copenhagen Conference

The Danish Chairmanship of the Committee of Ministers is presently planning a new High Level Conference to be held in Copenhagen on 13-14 April 2018 on the theme “Continued Reform of the European Human Rights Convention System – Better Balance, Improved Protection”.

E. Parliamentary Assembly

21. In parallel to the above-mentioned developments, the Parliamentary Assembly of the Council of Europe has continued its regular reporting on the implementation of the Court’s judgments, partly based on country visits, resulting in recommendations

to States, the CM and the Court. An eighth report was presented in September 2015⁷ leading to a number of recommendations to the CM and the States.⁸ The ninth report⁹ was presented in June 2017 and led to a series of further recommendations to the CM and the States¹⁰.

22. In 2017, the Assembly also continued its efforts to disseminate knowledge about the Convention requirements, notably in execution matters, among the legal advisers attached to competent parliamentary commissions and to encourage national parliaments to set up, as already done in a number of States, special parliamentary mechanisms to supervise the timely progress of the execution. In 2017 special meetings were organised with delegations from the parliaments of Georgia, Ukraine and Serbia. As regards special mechanisms, an overview of those put in place was published in 2015.¹¹ The development of such mechanisms in all states has been strongly recommended in the texts adopted by the Assembly in 2015 and 2017 following the 8th and 9th report. In response Georgia has successfully set up such a mechanism in 2016 and work is progressing in the Republic of Moldova in 2017.

Other instances

23. The Brussels Declaration emphasised the shared responsibility of all actors to ensure the execution of judgments and also contained an invitation to the CM to promote the development of reinforced synergies with other actors of the Council of Europe, in the framework of their competences – mainly the European Court, the Parliamentary Assembly and the Commissioner for Human Rights. The synergies developed were visible in different ways in 2017, notably in the decisions of the CM and the judgments and decisions of the Court, in the reports of the Commissioner and the activities of the Secretary General.

24. The Brussels Declaration also heavily insisted on the need for the Council of Europe to support the execution of judgments by its cooperation programmes. As a result, the cooperation policies in the member states are being adapted to deal with the relevant Convention issues, not least in the context of the Council of Europe pan-European Programme for Human Rights Education for Legal Professionals (HELP Programme).

7. [Doc. 13864](#) of 9 September 2015

8. [Recommendation 2079\(2015\)](#) and [Resolution 2075\(2015\)](#)

9. [Doc. 14340](#) of 12 June 2017

10. [Recommendation 2110\(2017\)](#) and [Resolution 2178\(2017\)](#)

11. [PPSD\(2014\)22](#) 19 October 2014.

V. Cooperation activities

A. The role of the Department for the Execution of Judgments of the European Court

In accordance with its mandate,¹² the Department for the Execution of Judgments of the European Court of Human Rights also provides support to the member States in their efforts to achieve full, effective and prompt execution of judgments. Since 2006, the CM provides special support to the Department for the development of such activities, which comprise legal expertise, round tables, exchanges of experience between interested States and training programmes and which may frequently be organised with very short notice.

The importance of these efforts was underlined in the Brussels Declaration 2015. Activities are often confidential but many are today public. The sharing of good practices is always an important component. Public events in 2017 include a meeting in Georgia to discuss questions linked with the reopening of proceedings to give effect to judgments of the European Court, several meetings with Ukrainian authorities to consider details of the on-going judicial reform (*Salov* and *Agrokompleks* groups) and to discuss the problem of non-enforcement of domestic judgments (*Zhovner* group and the *Burmych* judgment), and consultations with the authorities Bosnia and Herzegovina and Slovenia as regards the organisation of the scheme for repayment of foreign currency accounts (*Ališić* judgment). Consultations were also held in Moscow in November with the Russian authorities (Supreme Court, Public Prosecutor's Office, Investigative Committee and Ministry of Justice) on a wide range of issues raised by the Court's judgments in the field of criminal procedure.

These activities are supplemented by regular and *ad hoc* visits to Strasbourg of government agents, other officials and/or judges, with a view to participate in different events related to the CM's supervision of execution and/or specific execution issues. This practice continued in 2017, notably through meetings with public officials and national judges, including from supreme courts.

12. As delegated by the Director General pursuant to the mandate of the Directorate General Human Rights and Rule of Law, and under the Director's authority.

B. General cooperation programmes and national Action Plans and cooperation documents

The importance of technical assistance and cooperation programmes has been highlighted throughout the Interlaken process. This support for the execution was an important issue notably during the discussions within the CM's working group GT-REF. ECHR (see the "tools" discussion summarised in the 2013 Annual Report –Appendix 3) and the CDDH (see the conclusions in Appendix 6 of the 2015 Annual Report).

Cooperation programs are important vehicles for a continuing dialogue on general measures with decision-makers in the capitals, experience sharing, national capacity-building and for the dissemination of relevant knowledge of the Council of Europe's different expert bodies (CPT, CEPEJ, GRECO, ECRI, Venice Commission, etc.). The cooperation programmes thus constitute a welcome – and sometimes even indispensable – tool to promote measures required by the Court's judgments and to ensure the quality and sustainability of measures taken.

The Brussels Conference 2015 therefore encouraged Council of Europe bodies and stakeholders to increase and improve their activities of co-operation and bilateral dialogue with the States with regard to the implementation of the Convention and to take into account to a larger extent issues relating to the execution of judgments in their programmes and co-operation activities.

Concrete action in this respect has also been reinforced since 2014 to take better into account structural problems revealed by judgments of the Court. The Secretary General notably underlined in 2015 the need to ensure that co-operation and technical assistance reflect the findings of the monitoring bodies and the judgments of the Court (see the document [SG/Inf\(2015\)17-rev](#)).

In 2017, the Action Plans agreed upon between the Council of Europe and Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, the Republic of Moldova and Ukraine included certain actions that support the execution of judgments revealing structural problems and the need for long-term continuing efforts. This was also the case in the "Programmatic cooperation document" for Albania. Significant steps have been taken in cooperation with the Office of the Directorate General of Programmes to ensure that the Action Plans and general cooperation policies systematically include appropriate activities to meet specific needs arising from the Court's judgments and the Committee of Ministers' decisions under Article 46 § 2.

C. Targeted Convention-related cooperation projects

Recent years have seen special efforts within DGI to be able to speedily respond to national demands for cooperation activities related to the implementation of the Convention, and notably to assist in ensuring timely execution of Court judgments (in particular pilot judgments). In view of the scarce funding available over the Council of Europe's ordinary budget, the organisation of such targeted Convention-related projects heavily depends on extra-budgetary resources, including Joint programmes with the EU, member States' voluntary contributions, including within the Human Rights Trust Fund ("HRTF").

In 2017 projects of this type were notably engaged with Albania (to deal with the compensation of expropriated property in the context of the implementation of the *Manushaqe Puto* judgment), Turkey (notably a new project accepted by HRTF on the effectiveness of investigations which has been launched in February 2018) and Ukraine to support the execution of judgments concerned with the independence and efficiency of the judiciary (non-enforcement or delayed the fairness of disciplinary proceedings against judges (*Volkov*), the enforcement of judgments against the state, or state-owned or controlled entities and lack of remedies in this respect (*Ivanov/Burmych*) and the reopening of proceedings to give effect to Strasbourg judgments (*Bochan II*, *Yaramenko II*, *Shabelnik II*). Targeted projects were also organised in the Russian Federation including a high-level conference in Moscow in October 2017 aimed at enhancing dialogue on the implementation of the Convention (in particular as regards the definition of "jurisdiction") and a project for support and capacity-building of Public Monitoring Committees ("PMC") to help them to ensure effective supervision of detention conditions (the measure included in the action plan under the *Kalashnikov/Ananyev* group of cases – better known as "Russian PMC Project" formerly funded by the HRTF, and currently through a UK voluntary contribution).

The European Programme for Human Rights Education for Legal Professionals, better known as HELP Programme, provides invaluable support to the implementation of the Court's judgments in all 47 countries. Most of the HELP activities are tailored to the country specific Convention issues raised by Court judgments. HELP training activities are regularly reviewed to reflect the training needs as they emerge from the supervision of the execution of the Court's judgments. HELP is also unique pan-European network of national training institutions and bar associations which constantly exchange good training practices on the most acute Convention issues. HELP Programme is only partly being funded by the ordinary budget and regularly receives the reinforcement indispensable for its functioning through voluntary contributions for region or country-specific projects of particular importance (HELP in Russia, HELP in Western Balkans and Turkey, both funded by HRTF).

In support of these efforts, the CM, in its decisions in individual cases, frequently invites the States to take advantage of the different cooperation programmes and projects offered by the Council of Europe.

D. Thematic debates in the CM

A special form of co-operation and experience sharing, encouraged in the Brussels Declaration, is thematic debates. In line with the invitation made in this Declaration, the CM decided in November 2017 to hold a first thematic debate on the topic of detention conditions in the context of its March HR meeting 2018.

VI. Main recent achievements

Recent developments of interest are presented below on a country-by-country basis. It thus supplements the one presented in the 2015 report.

The chapter presents a selection of reforms adopted or other achievements reported in cases recently closed by the Committee of Ministers (together with a reference to the relevant final resolution in a footnote). As the execution process in pending cases may also evidence important progress, for example the introduction of an effective remedy, the presentation also includes also such progress (in these cases the footnote refers to the "status of execution" of the case available on the HUDOC-EXEC website).

A general list of major achievements since the entry into force of Protocol No. 11 in November 1998 can be found on the web site of the Department for the execution of the European Court's judgments.

ALBANIA

Conditions of detention – medical care: Prisoners' health care was improved, including for those with mental health problems, following the adoption of the Mental Health Law of 2012 and the Law "On the Rights and Treatment of Prisoners and Detainees" in 2014.¹³

Compensation/restitution of properties nationalised under former communist regimes: Adoption in 2015, after lengthy preparatory work, of a new compensation mechanism for properties nationalised during the Communist regime, which is now fully operational.¹⁴

ANDORRA

Reopening of judicial proceedings: Introduction of a possibility to reopen domestic judicial proceedings (whether civil, criminal or administrative) to give effect to judgments of the European Court of Human Rights – legislative amendment in 2014, supplemented in 2016.¹⁵

No punishment without law: In order to prevent ancillary penalties such as professional prohibitions being maintained beyond the duration of the original sanction, in case subsequent legislative amendments lead to more lenient sanctions, the law today clearly indicates that ancillary penalties cannot exceed the duration of the principal penalty. The same tribunal that issued the judgment automatically reviews the penalty according to the principle of retroactivity of the most favourable legislation.¹⁶

13. *Dybeku*, Application No. 41153/06, Final resolution [CM/ResDH\(2016\)273](#)

14. *Driza*, Application No. 33771/02, [status of execution](#)

15. *UTE Saur Vallnet*, Application No. 16047/10, Final resolution [CM/ResDH\(2017\)73](#)

16. *Gouarré Patte*, Application No. 33427/10, Final resolution [CM/ResDH\(2017\)226](#)

ARMENIA

Actions of security forces: Measures taken to prevent arbitrary detention without reasonable suspicion that the person concerned has committed a crime. Furthermore, compensation for non-pecuniary damages is available in case where abuses have been committed by security forces – amendments and additions to the Civil Code in 2014.¹⁷

Respect of the final character of judicial decisions: More circumscribed rules on appeals on points of law were introduced by amendments to the Code of Civil Procedure in 2014 in order to avoid several final judgments in the same case.¹⁸

Fair trial: Improved reasoning of decisions by the Court of Cassation and Constitutional Court.¹⁹ In addition, oral hearings in administrative cases were introduced by the new 2013 Code of Administrative Procedure.²⁰

Freedom of assembly: The sanction of administrative detention for participation in peaceful assemblies was abolished in 2005 and a more precise legal framework for peaceful assemblies was adopted in 2011, which provides for additional safeguards.²¹ Additional guarantees for freedom of assembly in general and for “spontaneous” assemblies, which do not require prior notification, were introduced by amendments of the Constitution in 2015.²²

AUSTRIA

Excessive length of proceedings: The remedies allowing for the acceleration of excessively lengthy criminal proceedings were further improved in 2015. Furthermore, the opportunity to obtain the discontinuation of such proceedings in less important criminal cases was introduced through amendments to the Code of Criminal Procedure. In addition, the duration of the investigation phase must not exceed three years, and the Public prosecutor is obliged to report to the competent court on the reasons for any delay if the investigation is not completed within this period.²³

Parental rights: Discrimination against unmarried fathers with respect to child custody has been addressed by amendments to the Child Custody Law and the Law on Names in force since 1 February 2013.²⁴

BELGIUM

Expulsion and related issues: Legal aid to foreigners is under reform. In 2016 the Judicial Code extended the benefit of such aid to all foreigners residing irregularly, provided that they had tried to regularise their stay, their request is of urgent nature and concerns the exercise of a fundamental right.²⁵

17. *Khachatryan*, Application No. 31761/04, Final resolution [CM/ResDH\(2015\)37](#)

18. *Amirkhanyan* and 1 other case, Application No. 22343/08+, Final resolution [CM/ResDH\(2017\)185](#)

19. *Sholokhov*, Application No. 40358/05, Final resolution [CM/ResDH\(2015\)116](#)

20. *Stepanyan*, Application No. 45081/04, Final resolution [CM/ResDH\(2015\)38](#)

21. *Galstyan* and 6 other cases, Application No. 26986/03+, Final resolution [CM/ResDH\(2016\)185](#)

22. *Helsinki Committee of Armenia*, Application No. 59109/08, Final resolution [CM/ResDH\(2017\)297](#)

23. *Donner* and 5 other cases, Application No. 32407/04+, Final resolution [CM/ResDH\(2016\)212](#)

24. *Sporer*, Application No. 35637/03, Final resolution [CM/ResDH\(2015\)19](#)

25. *Anakomba Yula*, Application No. 45413/07, Final resolution [CM/ResDH\(2016\)243](#)

Excessive length of proceedings: A series of reforms have been engaged to ensure trials within a reasonable time in all sectors of the judiciary: civil and criminal procedures,²⁶ including pre-trial investigations²⁷ and the special situation in Brussels.²⁸ The opportunity to seek compensation in case of excessively long proceedings has also been recognised for civil and criminal matters.²⁹ Further reforms have addressed the situation for proceedings before the Council of State.³⁰ The duration of criminal proceedings, in particular concerning economic, financial and fiscal affairs, is being reduced through the implementation of an Action plan from 2014.³¹

BOSNIA AND HERZEGOVINA

Expulsion and related issues: Detention of aliens on security grounds now requires that a deportation order has first been issued – 2012 amendment to the 2008 Aliens Act.^{32 33}

Honouring State debt for war damages: The payment schemes set up in 2011 and 2012 in the Federation and in the Republika Srpska (with subsequent amendments) to ensure the enforcement of domestic court judgments awarding war damages have proven effective. The overwhelming majority of claims have now been dealt with.³⁴

Repayment of other state debts: In 2012 a domestic Debt Act was adopted providing for the settlement of other internal debt of Republika Srpska under domestic court judgments, either in cash or through the acceptance of 5-year bonds. The settlement plans have since been implemented.³⁵

No punishment without law – war crimes: The Constitutional Court and the State Court changed their practice in 2014 to ensure that persons accused of war crimes and crimes against humanity are not sentenced to heavier sanctions than were foreseen by the law in force at the time when the crimes were committed (requiring a comparison between the 1976 and the 2003 Criminal Codes).³⁶

BULGARIA

Actions of security forces: More precise instructions on the use of firearms were disseminated, most recently in 2015 for police officers and for military police in 2016.³⁷ More efficient investigations into alleged abuses have been conducted after the adoption of the new Criminal Procedure Code in 2006, thus ensuring the effective

26. *Dumont* and 15 other cases, Application No. 49525/99+, Final resolution [CM/ResDH\(2015\)245](#)

27. *Strategies & Communications and Dumoulin and Garsoux and Massenet*, Application No. 37370/97+, Final resolution [CM/ResDH\(2011\)190](#)

28. *Oval* and 20 other cases, Application No. 49794/99+, Final resolution [CM/ResDH\(2011\)189](#)

29. *Ibid.*

30. *Entreprises Robert Delbrassine S.A.* and 4 other cases, Application No. 49204/99+, Final resolution [CM/ResDH\(2015\)132](#)

31. *De Clerck* and 3 other cases, Application No. 34316/02+, Final resolution [CM/ResDH\(2017\)149](#)

32. *Al Hamdani*, Application No. 31098/10, Final resolution [CM/ResDH\(2014\)186](#)

33. *Al Husin*, Application No. 3727/08, Final resolution [CM/ResDH\(2017\)28](#)

34. *Čolić and Others*, Application No. 1218/07, [status of execution](#)

35. *Momić and Others* and 1 other case, Application No. 1441/07+, Final resolution [CM/ResDH\(2017\)29](#)

36. *Maktouf and Damjanović*, Application No. 2312/08, Final resolution [CM/ResDH\(2017\)180](#)

37. *Tzekov*, Application No. 45500/99, Final resolution [CM/ResDH\(2016\)274](#); *Nachova and Others*, Application No. 43577/98+, Final resolution [CM/ResDH\(2017\)97](#)

participation of victims and their relatives.³⁸ Better criminalisation of racist crimes to allow more effective investigations into possible racial motives (notably related to Roma³⁹).⁴⁰

Effectiveness of investigations into acts committed by individuals: In 2006, strict deadlines were adopted for pre-trial investigations and their monitoring by a supervisory prosecutor. According to amendments adopted in 2016, the preliminary investigations must not exceed 2 months. In 2017, the introduction of an acceleratory remedy for the accused, the victims and for civil parties made allowance for the speeding up of proceedings. At the same time, the obligation to automatically terminate criminal proceedings after the expiry of a certain period of time was abolished.⁴¹

Expulsion and related issues: Judicial review of expulsion orders based on national security grounds has been developed in practice and was expressly provided for in the Aliens Act of April 2007. Further changes introduced in 2009 and 2011 require that before expelling an alien residing permanently in Bulgaria, the authorities should take into account his personal and family situation, his level of integration and the strength of his connections with the country of origin.⁴² Further reforms are under way.⁴³ Detention of aliens pending deportation was better circumscribed in 2009 through the introduction of an exhaustive and limited list of grounds for such detention, the definition of a maximum length of detention and periodic review of its justification.⁴⁴

Conditions of detention: Introduction of a specific prohibition on inhuman and degrading treatment of prisoners in 2009, which was extended to prisoners on remand in 2017.⁴⁵

Excessive length of proceedings: The possibility to obtain compensation for the excessive length of civil and criminal proceedings was introduced in 2012. The possibility to seek acceleration of pending proceedings was introduced in the Civil Procedure Code of 2007 and the Code of Administrative Procedure of 2006.⁴⁶ As regards the duration of preliminary investigations, the Judiciary Act was amended in 2016 so as to limit the duration of the pre-trial investigations to two months.⁴⁷

38. *Seidova and Others*, Application No. 310/04, Final resolution [CM/ResDH\(2013\)101](#)

39. The term "Roma and Travellers" is used at the Council of Europe to encompass the wide diversity of the groups covered by the work of the Council of Europe in this field: on the one hand a) Roma, Sinti/Manush, Cale, Kaale, Romanichals, Boyash/Rudari; b) Balkan Egyptians (Egyptians and Ashkali); c) Eastern groups (Dom, Lom and Abdal); and, on the other hand, groups such as Travellers, Yenish, and the populations designated under the administrative term "Gens du voyage", as well as persons who identify themselves as Gypsies.

40. *Nachova and Others*, Application No. 43577/98+, Final resolution [CM/ResDH\(2017\)97](#)

41. *Angelova and Iliev* and 7 other cases, Application No. 55523/00+, Final resolution [CM/ResDH\(2017\)383](#)

42. *Al-Nashif and Others* and 3 other cases, Application No. 50963/99+, Final resolution [CM/ResDH\(2015\)44](#)

43. *C.G. and Others*, Application No. 1365/07, [status of execution](#)

44. *Djalti*, Application No. 31206/05, Final resolution [CM/ResDH\(2017\)229](#)

45. *Petyo Petkov*, Application No. 32130/03, Final resolution [CM/ResDH\(2017\)257](#)

46. *Finger, Dimitrov and Hamanov* and 54 other cases in the *Djangozov* and *Kitov* groups, Applications Nos. 37346/05 and 48059/06+, Final resolution [CM/ResDH\(2015\)154](#)

47. *Zhbanov*, Application No. 45563/99+, Final resolution [CM/ResDH\(2017\)57](#)

Access to public information: The right of access to public information has been strengthened. Since 2015, this right can only be refused if an affected third party has explicitly prohibited access.⁴⁸

Freedom of association: To facilitate the registration of associations, competence for this task was transferred from the courts to the Registration Agency attached to the Ministry of Justice. The competence has been limited to ensuring respect for the formal requirements set by law. Possible refusals may be appealed against with the regional court within seven days.⁴⁹

CROATIA

Investigations into crimes committed during the Croatian Homeland War: New regulations were adopted to ensure that war crimes are investigated by independent police units. These regulations also guaranteed the access of family members to the investigations and public scrutiny thereof. In addition, major progress has been achieved in the search for missing persons.⁵⁰

Fair trial: Introduction of mandatory procedures for establishing reports on samples taken and packed for forensic analysis. Change of case law to ensure that domestic courts take into account objections concerning evidence which has allegedly been tampered with by the police.⁵¹

Organisation of the judiciary: To improve the quality of the administrative system of justice, this system underwent an overall reorganisation in 2012 introducing a two-instance system and a new High Court to deal with administrative disputes.⁵²

Paternity: Since 2015, persons divested of legal capacity are authorised to acknowledge their paternity before the competent social welfare centre. This acknowledgment becomes effective with the consent of the child's mother. In cases where the mother refuses, court proceedings can be engaged.⁵³

Schooling of Roma children: Adoption of a wide-range of measures, notably awareness raising measures, to facilitate the enrolment of Roma children in the national education system and monitor their regular attendance. The measures included special instructions and training for teachers.⁵⁴

CYPRUS

Discrimination – displaced persons: Since 2013, children of women recognised as “displaced persons” are also accepted as a “displaced person”. This equalises their situation as compared to the children of “displaced men”.⁵⁵

48. *Guseva*, Application No. 6987/07, Final resolution [CM/ResDH\(2017\)75](#)

49. *Zhechev*, Application No. 57045/00, Final resolution [CM/ResDH\(2017\)360](#)

50. *Skendžić and Krznarić*, Application No. 16212/08, [status of execution](#)

51. *Horvatić*, Application No. 36044/09, Final resolution [CM/ResDH\(2017\)134](#)

52. *Kardoš*, Application No. 25782/11, Final resolution [CM/ResDH\(2017\)186](#)

53. *Krušković*, Application No. 46185/08, Final resolution [CM/ResDH\(2017\)338](#)

54. *Oršuš and Others*, Application No. 15766/03+, Final resolution [CM/ResDH\(2017\)385](#)

55. *Vrontou*, Application No. 33631/06, Final resolution [CM/ResDH\(2017\)2](#)

CZECH REPUBLIC

Detention in view of expulsion: Since 2014, a court's revocation of an entry refusal ensures the immediate release of the alien concerned and his transfer to an asylum centre.⁵⁶ In addition, judicial review of decisions to refuse entry was introduced in 2011.⁵⁷

Detention: As regards detention in psychiatric hospital, a new Act on Special Judicial Proceedings from 2014 ensures that such involuntary placement is always reviewed by a court.⁵⁸

Private and family life: Mothers with low-risk pregnancies are allowed to leave hospital shortly after birth following the adoption of new guidelines by the Minister of Health on the procedure for discharging mothers and their new-borns.⁵⁹

ESTONIA

Actions of security forces: Reforms, notably through legislative measures in 2010, have ensured that the use of force during arrests and other interventions must be proportionate. Measures include more precise instructions, notably as regards the use of lethal force and dangerous immobilisation techniques.⁶⁰ These measures have been supplemented by extensive professional training. The independence of investigations is guaranteed, as pre-trial investigations are carried out by the investigative bodies of the Ministry of Interior under the supervision of the Director General of the Police and Border Guards Board unconnected with operational activities, while the prosecutor's office belongs to the Ministry of Justice and ensures the legality and efficiency of investigations.⁶¹ In addition a right to damages is available in case of abuses by security forces.⁶²

Detention: Improved control of the lawfulness of pre-trial detention. Since 2014, suspects have the right to request access to relevant parts of the case-file.⁶³

Acquisition, use disclosure or retention of private information: Guarantees have been introduced so that the Security Service will use the proportionality test in the application of the "Disclosure Act" before disclosing any information on a person.⁶⁴

FRANCE

Actions of security forces: Adoption of a Code of internal security in 2014, which improved the proportionate use of force during arrest and other interventions, notably as regards the handling of the use of lethal force and dangerous immobilisation techniques.⁶⁵

56. *Buishvili*, Application No. 30241/11, Final resolution [CM/ResDH\(2015\)98](#)

57. *Rashed*, Application No. 298/07, Final resolution [CM/ResDH\(2014\)99](#)

58. *Sýkora*, Application No. 23419/07, Final resolution [CM/ResDH\(2015\)75](#)

59. *Hanzelkovi*, Application No. 43643/10, Final resolution [CM/ResDH\(2017\)258](#)

60. *Korobov and Others*, Application No. 10195/08+, Final resolution [CM/ResDH\(2016\)105](#)

61. *Mihailov*, Application No. 64418/10, Final resolution [CM/ResDH\(2017\)365](#)

62. *Korobov and Others*, Application No. 10195/08+, Final resolution [CM/ResDH\(2016\)105](#)

63. *Ovsjannikov*, Application No. 1346/12, Final resolution [CM/ResDH\(2015\)136](#)

64. *Sóro*, Application No. 22588/08, Final resolution [CM/ResDH\(2017\)152](#)

65. *Guerdner and Others*, Application No. 68780/10+, Final resolution [CM/ResDH\(2016\)6](#)

Expulsion and related issues: A legislative change occurred of 2012, later reinforced by the adoption in 2016 of the Law on the rights of aliens, ensures the existence of an effective remedy with automatic suspensive effect (*référé-liberté*) against a deportation order (OQTF).⁶⁶ The above-mentioned Law of 2016 also ensured the transfer of the competence to review the lawfulness of an alien's arrest and detention in view of his deportation to judicial courts. These enjoy full competence in the matter, in contrast to the administrative courts which had previously been responsible for the control.⁶⁷ New procedural guarantees for asylum applications filed in detention prevent the automatic registration of such applications under a summary fast-track procedure and ensure the effectiveness of appeals of detained foreigners.⁶⁸

Deprivation of liberty: Reforms were adopted in order to regulate State policing powers on the high seas in order to counter piracy. A specific regime for the deprivation of liberty was set up in order to permit the arrest and detention of persons arrested on the high seas for piracy, whilst ensuring compliance with the procedural requirements of the Convention.^{69 70}

Detention conditions: Strip searches have been strictly regulated, being authorised only on an exceptional basis when patdowns or the use of electronic detection means were insufficient.⁷¹ Psychiatric care and of disciplinary measures were also improved under the strategic plan of 2010/2014.⁷²

Access to a court in respect of fines: Improvement were made in 2013 to the standard procedures for the handling of fines (notably traffic fines), to ensure access to court in all situations of dispute between the prosecution authorities and the accused.⁷³

Organisation of the judiciary: Since 2017, there have been speedier proceedings before the special Court dealing with terrorist offences. In addition, a compensatory remedy is available to persons who were detained on remand but who were not found guilty in criminal proceedings.⁷⁴

Private and family life: Possibility to obtain the transcription into domestic law of foreign birth certificates of children born as a result of surrogacy following new case law from the Court of Cassation. The biological paternity of the father is presumed when the father is designated on the foreign birth certificate.⁷⁵

Acquisition, use disclosure or retention of private information: Limitations on the keeping of fingerprints or DNA profiles in police records were introduced in 2015, notably where persons were eventually not prosecuted or were acquitted.⁷⁶

66. *De Souza Ribeiro*, Application No. 22689/07, Final resolution [CM/ResDH\(2017\)135](#)

67. *A.M.*, Application No. 56324/13, Final resolution [CM/ResDH\(2017\)153](#)

68. *I.M.*, Application No. 9152/09, Final resolution [CM/resDH\(2017\)340](#)

69. *Medvedyev and Others*, Application No. 3394/03, Final resolution [CM/ResDH\(2014\)78](#)

70. *Hassan and Others*, Application No. 46695/10+, Final resolution [CM/ResDH\(2017\)262](#)

71. *El Shennawy*, Application No. 51246/08, Final resolution [CM/ResDH\(2015\)77](#)

72. *Renolde* and 3 other cases, Application No. 5608/05+, Final resolution [CM/ResDH\(2016\)24](#)

73. *Cadène* and 2 other cases, Application No. 12039/08+, Final resolution [CM/ResDH\(2016\)283](#)

74. *Berasategi* and 6 other cases, Application No. 29095/09+, Final resolution [CM/ResDH\(2017\)232](#)

75. *Menesson* and 3 other cases, Application No. 65192/11+, Final resolution [CM/ResDH\(2017\)286](#)

76. *M.K.*, Application No. 19522/09, Final resolution [CM/ResDH\(2016\)310](#)

Freedom of assembly and association: Possibility since 2015 for military personnel to create, join and exercise responsibilities in a national professional association.⁷⁷

GEORGIA

Actions of security forces: Improved independence and effectiveness of investigations into allegations of excessive use of force, ill-treatment by the police (including in police custody). The measures include better provisions for greater involvement of victims or their relatives.⁷⁸

Detention: The power of bailiffs to arrest individuals is better circumscribed, and guarantees for the holding of a public hearing and respect for equality of arms have been adopted.⁷⁹ The possibility for detained persons to obtain compensation for their illegal or unjustified detention is ensured, independently of conviction or acquittal.⁸⁰

Compensation to victims of Soviet era repression: Legislative amendments were adopted in 2011 and 2014 in order to grant compensation to the victims of Soviet era repression.⁸¹

Electoral rights: Clear criteria were introduced to define when the Central Electoral Commission can use its power to invalidate elections. Furthermore, an effective remedy against its decisions was introduced.⁸²

GERMANY

Freedom of expression: Confirmation that the lodging of a criminal complaint against an employer (e.g. alleging shortcomings in the care provided to patients) cannot justify a dismissal without notice, unless the employee (a nurse) has knowingly or frivolously reported incorrect information.⁸³

Protection of property: Since 2013, property owners with ethical objections to hunting may withdraw from hunting associations (membership of such associations was compulsory before this time).⁸⁴

GREECE

Actions of security forces: In 2011, an improved framework for the use of firearms by the police during arrests and other interventions was introduced. Better tools were developed to investigate possible racial motives, notably related to Roma (special department within the police to deal with excessive use of force or criminal actions which have possible racial motives).⁸⁵

77. *Matelly* and 1 other case, Application No. 10609/10+, Final resolution [CM/ResDH\(2017\)117](#)

78. *Gharibashvili* and 1 other case, Application No. 11830/03+, Final resolution [CM/ResDH\(2017\)287](#)

79. *Kakabadze and Others*, Application No. 1484/07, Final resolution [CM/ResDH\(2017\)77](#)

80. *Jgarkava*, Application No. 7932/03, Final resolution [CM/ResDH\(2016\)25](#)

81. *Klaus and Yuri Kiladze*, Application No. 7975/06, Final resolution [CM/ResDH\(2015\)41](#)

82. *Georgian Labour Party*, Application No. 9103/04, Final resolution [CM/ResDH\(2016\)42](#)

83. *Heinisch*, Application No. 28274/08, Final resolution [CM/ResDH\(2017\)62](#)

84. *Herrmann*, Application No. 9300/07, Final resolution [CM/ResDH\(2016\)188](#)

85. *Makaratzis*, Application No. 50385/99, [status of execution](#)

Expulsion and related issues: The protection of asylum seekers against unlawful detention was improved by the adoption of a new law in 2016: third country national cannot be detained for the sole reason that they have applied for international protection.⁸⁶

Excessive length of proceedings: As regards civil and criminal proceedings, a number of legislative reforms have been adopted since 2001 in order to speed up proceedings, including notably different time-limits,⁸⁷ as well as measures to limit trial adjournments.⁸⁸ These measures were supplemented in 2014 by the adoption of organisational measures to simplify and accelerate proceedings⁸⁹ and the introduction of a compensatory remedy. As regards administrative proceedings, a constitutional reform was adopted in 2003 aiming at addressing procedural formalism and speeding up proceedings. These constitutional and then legislative reforms focused notably on the redistribution of competence between the Council of State and lower courts. Acceleratory and compensatory remedies were set up in 2012, which were considered effective and accessible by the European Court.⁹⁰

Access to a court: A less formalistic approach to the admissibility criteria for cassation appeals, following a series of Supreme Court initiatives between 2010 and 2014.⁹¹

Execution of final judicial decisions: Adoption of a legal framework in 2002, amended in 2010, creating “compliance committees” in each administrative court in charge of examining non-execution complaints. Very encouraging results have been reported.⁹²

Freedom of religion and conscience: Abolition of the requirement to divulge one’s faith when taking the oath of office as a lawyer following 2013 amendments to the Lawyer’s Code.⁹³

Freedom of association: In 2016, the Law on Agricultural Cooperatives ended the obligation for winemakers to adhere to Winemaking Cooperatives, allowing them to freely dispose and sell their wine production.⁹⁴

Discrimination: Civil unions available are now also to same sex couples under a new 2015 Law on “Civil Union exercise of rights, penal and other provisions”.⁹⁵

86. *S.D.*, Application No. 53541/07, [status of execution](#)

87. *Academy Trading Ltd and Others*, Application No. 30342/96+, Final resolution [CM/ResDH\(2005\)64](#)

88. *Tarighi Wageh Dashti and 7 other cases*, Application No. 24453/94+, Final resolution [CM/ResDH\(2005\)66](#)

89. *Michelioudakis and 82 other cases and Glykantzi and 57 other cases*, Applications Nos. 54447/10+ and 40150/09+, Final resolution [CM/ResDH\(2015\)231](#)

90. *Vassilios Athanasiou and Others and 205 other cases*, Application No. 50973/08+, Final resolution [CM/ResDH\(2015\)230](#)

91. *Alvanos and Others and 3 other cases*, Application No. 38731/05+, Final resolution [CM/ResDH\(2016\)178](#)

92. *Anagnostou-Dedouli and 10 other cases*, Application No. 24779/08+, Final resolution [CM/ResDH\(2017\)288](#)

93. *Alexandridis*, Application No. 19516/06, Final resolution [CM/ResDH\(2016\)312](#)

94. *Mytilinaios and Kostakis*, Application No. 29389/11, Final resolution [CM/ResDH\(2017\)155](#)

95. *Vallianatos and Others*, Application No. 29381/09, Final resolution [CM/ResDH\(2016\)275](#)

HUNGARY

Detention conditions: Effective remedies, both compensatory and preventive, have been put in place in 2016 to ensure that adequate redress is provided in case of poor detention conditions.⁹⁶

Schooling of Roma Children: Reforms to enhance the admission of Roma children to ordinary schools. These include a reform of the evaluation methods with respect to the learning abilities of children, in order to prevent discrimination; and the establishment of an inclusive education policy. Implementation of these reforms is under way, as well as assessment of the results.⁹⁷

ICELAND

Freedom of association: The statutory obligation imposed also on non-members of a private law organisation – the Federation of Icelandic Industries – to pay an “Industrial charge” was abolished in 2011.⁹⁸

ITALY

Conditions of detention: Preventive and compensatory remedies, monetary compensation or a reduction of sentence are available in cases of placement in unsatisfactory prison condition following 2013-2014 legislative amendments.⁹⁹

Expulsion: The protection of the European Convention has been extended to refugees taken on board naval or coast guard ships during operations on the high seas (pushback). This was confirmed by a legislative Decree of 2015.¹⁰⁰

Excessive length of civil proceedings: First Instance Courts (tribunali) with jurisdiction over civil proceedings have, over the past years, succeeded, through appropriate organisational measures, to reduce the average length of civil cases and the backlog of such cases pending for more than three years is now well below the relevant national average indicators.¹⁰¹ Furthermore, there have been promising results obtained by the First Instance Courts and the Courts of Appeal as regards the average length of divorce and legal separation proceedings between 2011 and 2013.¹⁰² There has also been a reduction of the backlog of administrative cases.¹⁰³ More generally, there has been an improvement of the compensatory remedy (Pinto Law) for unreasonably lengthy proceedings as necessary (budgetary funds are ensured and proceedings speeded up).¹⁰⁴

Execution of final judicial decisions: Guarantees have been adopted for the due enforcement of domestic judicial decisions, in particular against the State, ordering

96. *István Gábor Kovács*, Application No. 15707/10, [status of execution](#)

97. *Horváth and Kiss*, Application No. 11146, [status of execution](#)

98. *Vörður Ólafsson*, Application No. 20161/06, Final resolution [CM/ResDH\(2015\)200](#)

99. *Torreggiani and Others* and 1 other case, Application No. 43517/09+, Final resolution [CM/ResDH\(2016\)28](#)

100. *Hirsi Jamaa and Others*, Application No. 27765/09, Final resolution [CM/ResDH\(2016\)221](#)

101. *A.C. (V)* and 148 other cases, Application No. 27985/95+, Final resolution [CM/ResDH\(2015\)247](#)

102. *Andreoletti* and 27 other cases, Application No. 29155/95+, Final resolution [CM/ResDH\(2015\)246](#)

103. *Di Bonaventura* and 74 other cases, Application No. 14147/88+, Final resolution [CM/ResDH\(2016\)358](#)

104. *Mostacciolo* and 118 other cases, Application No. 7612/03+, Final resolution [CM/ResDH\(2017\)289](#)

the payment of debts contracted by public administrations. These included the setting up of a central state fund to honour such judgments (legislative reforms in 2012, 2013 and 2014).¹⁰⁵

Discrimination: In 2013, the law was amended so that the family allowance is paid to EU nationals as well as to other long-term resident foreigners.¹⁰⁶ Same-sex partnerships were given recognition and protection, in the form of a civil union (legislative reforms in 2012, 2013 and 2014).¹⁰⁷

Medically assisted procreation and adoption: Access to medically-assisted procreation was ensured for persons with genetic diseases following a decision by the Constitutional Court in 2015.¹⁰⁸ Improved safeguards were established in adoption proceedings, notably as regards parents' rights and the right of minors to be heard by the judge, following a series of legislative reforms in 2001, 2012 and 2013.¹⁰⁹

Broadcasting: Better respect for the requirement of informative pluralism and the right to competition through a new legislative and regulatory framework of 2014. This defined the conditions for the allocation of broadcasting licenses, as well as for the transfer and the cession of ownership of television broadcasting companies.¹¹⁰

Freedom of expression: Parliamentary immunity in defamation matters has been excluded for statements without a link to the exercise of a parliamentary function following developments of the case law of the Constitutional Court (2003-2015).¹¹¹

Expropriation: Improved safeguards for landowners against emergency expropriations (the procedure can be initiated only as a means of last resort when there are exceptional public interest reasons for it).¹¹²

LATVIA

Expulsion: A new Asylum Law of 2016 provides for an accelerated review of the lawfulness of detention. The State Border Guard Service can detain asylum seekers for a limited period of 6 days. Furthermore, there is a possibility to appeal before the local jurisdiction within 48 hours.¹¹³

Protection of rights in detention: Mandatory periodic control of the justification of detention by the investigative judge and right for the individual concerned to submit an application to the investigative judge for judicial review of the detention

105. *Ventorino*, Application No. 357/07, Final resolution [CM/ResDH\(2016\)316](#)

106. *Dhahbi*, Application No. 17120/09, Final resolution [CM/ResDH\(2015\)203](#)

107. *Oliari and Others*, Application No. 18766/11+, Final resolution [CM/ResDH\(2017\)182](#)

108. *Costa and Pavan*, Application No. 54270/10, Final resolution [CM/ResDH\(2016\)276](#)

109. *Roda and Bonfatti* and 2 other cases, Application No. 10427/02+, Final resolution [CM/ResDH\(2016\)27](#)

110. *Centro Europa 7 S.R.L and Di Stefano*, Application No. 38433/09, Final resolution [CM/ResDH\(2017\)104](#)

111. *Patrono, Cascini and Stefanelli* and 3 other cases, Application No. 10180/04+, Final resolution [CM/ResDH\(2016\)119](#)

112. *Belvedere Alberghiera S.R.L. and 106 other cases*, Application No. 31524/96+, Final resolution [CM/ResDH\(2017\)138](#)

113. *Nassr Allah*, Application No. 66166/13, Final resolution [CM/ResDH\(2016\)192](#)

order.¹¹⁴ Further amendments in 2012 and 2013 provide for a better review of detention after conviction at first instance.¹¹⁵

Detention – medical care: A judicial review procedure has been introduced in cases of involuntary hospitalisation by the law on Medical Treatment of 2007. Compulsory medical measures now also require a recent medical assessment of the person's mental health.¹¹⁶ In addition, persons deprived of their legal capacity are allowed to personally defend their rights before the domestic courts and State institutions.¹¹⁷ Defendants who are subjected to measures of a medical nature must henceforth participate in the court hearings, following amendments to the Criminal Procedure Law made in 2014. Decisions *in absentia* are possible only if, according to an expert opinion, the health condition of the person concerned does not permit their participation, in which case the person's representative should participate at the hearings.¹¹⁸

Right to home and privacy: In 2011, the Constitutional Court recognised a requirement for law enforcement authorities to obtain *ex post facto* approval from the judicial authorities in all cases where they are pursuing operational activities, even if the measure in question was terminated in less than 72 hours.¹¹⁹

Acquisition, use disclosure or retention of private information: Better safeguards were introduced against the collection and use of personal medical data by health-care institutions without the consent of the person concerned.¹²⁰

LITHUANIA

Detention: In 2009, a Multiannual program was adopted to improve the conditions of detention in police detention facilities, notably in regard to the problems of overcrowding and lack of access to hygienic facilities.¹²¹ The Law on Execution of Detention and the Code for the Execution of Sentences were both amended with effect from 2017, so as to provide equal treatment between remand detainees and convicted prisoners as regards family visits.¹²²

No punishment without law: In 2014, the Constitutional Court held that the broad definition of genocide contained in the 2003 Criminal Code, which included social and political groups in the range of protected groups, was not to be applied retroactively despite its compatibility with the Constitution. The prosecution authorities and domestic courts adapted their practice accordingly.¹²³

Protection of private life: In order to prevent flagrant abuses of press freedom interfering with private life, the ceiling on awards of compensation in respect of non-pecuniary damages (leading at the time to derisory awards) was removed in

114. *Shannon*, Application No. 32214/03, Final resolution [CM/ResDH\(2016\)64](#)

115. *Bannikov*, Application No. 19279/03, Final resolution [CM/ResDH\(2015\)137](#)

116. *L.M.*, Application No. 26000/02, Final resolution [CM/ResDH\(2017\)209](#)

117. *Raudevs*, Application No. 24086/03, Final resolution [CM/ResDH\(2017\)208](#)

118. *Jeronovičs* and 2 other cases, Application No. 547/02+, Final resolution [CM/ResDH\(2017\)312](#)

119. *Meimanis*, Application No. 70597/11, Final resolution [CM/ResDH\(2017\)211](#)

120. *L.H.*, Application No. 52019/07, Final resolution [CM/ResDH\(2017\)64](#)

121. *Kasperovičius*, Application No. 54872/08, Final resolution [CM/ResDH\(2017\)34](#)

122. *Varnas*, Application No. 42615/06, Final resolution [CM/ResDH\(2017\)140](#)

123. *Vasiliauskas*, Application No. 35343/05, Final resolution [CM/ResDH\(2017\)430](#)

the new Civil Code of 2001.¹²⁴ Since 2016, a court decision is necessary to declare a person legally incapacitated. In addition, the court must restore legal capacity if the person's health improves.¹²⁵

Secret surveillance: Better control of the legality of secret surveillance measures is ensured, and effective remedies have been introduced, following the 2013 Law on Criminal Intelligence.¹²⁶

LUXEMBOURG

Fair trial: Introduction of the right to be assisted by a lawyer from the very first police audience (including consultations in private), including those held in connection to a under European Arrest Warrants – new legislation in 2017.¹²⁷

MALTA

Expulsion: The right to obtain release from detention if it is not or no longer required, and in cases without prospect of return within reasonable time, has been recognised through amendments to the Immigration Act in 2015. Conditions of detention were also improved (detained persons are granted access to fresh air, information and sanitary facilities; there is less overcrowding and facilities are provided for families). Furthermore, an effective remedy was set up.¹²⁸

REPUBLIC OF MOLDOVA

Prevention of abuse of power in criminal proceedings: The abuse of power through the use of arrest and pre-trial detention has been addressed by a range of measures. These included 2016 legislation reinforcing prosecutors' independence vis-à-vis the executive and the legislator, an increase in disciplinary liability for prosecutors introduced in 2008; and a new ethical code for prosecutors introduced in 2015. In addition, new Constitutional Court practice as from 2013 introduced a clear prohibition on all State authorities to interfere in prosecutors' handling of individual cases.^{129,130}

Detention – lawfulness: The possibility of detention without specific detention orders once the investigating authorities have sent the case files to the trial court was abolished by 2016 amendments of the Code of Criminal Procedure. Repeated requests for detention on remand – for the same person in the same case, after rejection of a previous request – is prohibited, unless new circumstances arise which can serve as a basis for ordering detention.¹³¹

Enforcement of judicial decisions: Development of a series of responses, including budgetary reforms to ensure the availability of funds for automatic honouring by the State of monetary judgments rendered against it. Moreover, legislation was

124. *Armonienè and Biriuk*, Application No. 36919/02+, Final resolution [CM/ResDH\(2010\)174](#)

125. *A.N.*, Application No. 17280/08, Final resolution [CM/ResDH\(2017\)268](#)

126. *Drakšas*, Application No. 36662/04, Final resolution [CM/ResDH\(2016\)124](#)

127. *A.T.*, Application No. 30460/13, Final resolution [CM/ResDH\(2017\)234](#)

128. *Suso Musa* and 4 other cases, Application No. 42337/12+, Final resolution [CM/ResDH\(2016\)277](#)

129. *Cebotari* and 2 other cases, Application No. 35615/06+, Final resolution [CM/ResDH\(2016\)147](#)

130. *Colibaba and Boicenko*, Application No. 29089/06+, Final resolution [CM/ResDH\(2016\)146](#)

131. *Șarban*, Application No. 3456/05, [status of execution](#)

introduced allowing the transformation of in kind obligations to monetary ones. An effective remedy was set up in 2011.¹³²

Freedom of peaceful assembly: The implementation of the simplified notification procedures introduced in 2008 through training and awareness raising have yielded very good results as evidenced by statistics between 2008 and 2015. For public events involving more than 50 participants, the local authorities have to be notified five days in advance. No notification is required for spontaneous public gatherings. An assembly can only be prohibited (or its time, place or form changed) by a court decision, made within three days of a reasoned request submitted by a local administration.¹³³

MONTENEGRO

Lawfulness of detention on remand: Two binding legal opinions of the Supreme Court in 20017 introduced an obligation on domestic courts to clearly indicate in rulings ordering or extending detention on remand the existence of a reasonable suspicion that a defendant committed a crime and to respect the statutory time-limits for re-examination of the grounds for detention.¹³⁴

Conditions of detention: Conditions of detention in remand centres were improved in line with CPT standards: detention facilities have been renovated, outdoor exercise and other activities increased and overcrowding mastered, notably through introduction of alternatives to detention following amendments to the Code of Criminal Procedure in 2015.¹³⁵

Execution of final judicial decisions: Due enforcement of domestic judicial decisions is guaranteed, in particular against the State or State owned companies (including the setting up of a central state fund to honour such judgments).¹³⁶

Length of proceedings: Civil and labour proceedings have become more efficient, notably through the abolition of multiple remittal possibilities, tight procedural deadlines and alternative dispute resolution options – Civil Procedure Law amendments in 2015.¹³⁷

Freedom of expression: Decriminalisation of defamation and insult following amendments to the Criminal Code in 2011.¹³⁸

NETHERLANDS

Actions of security forces abroad: Increased independence and effectiveness of investigations of incidents during military operations abroad (allegations of illegal killings, ill-treatment or deprivations of liberty), notably through improved

132. *Olaru*, Application No. 476/07, [status of execution](#)

133. *Christian Democratic People's Party* and 8 other cases, Application No. 28793/02+, Final resolution [CM/ResDH\(2017\)410](#)

134. *Mugoša*, Application No. 76522/12, Final resolution [CM/ResDH\(2017\)141](#)

135. *Bulatović*, Application No. 67320/10, Final resolution [CM/ResDH\(2017\)35](#)

136. *Boucke*, Application No. 26945/06, Final resolution [CM/ResDH\(2016\)165](#)

137. *Stakić* and 2 other cases, Application No. 49320/07+, Final resolution [CM/ResDH\(2017\)38](#)

138. *Šabanović*, Application No. 5995/06, Final resolution [CM/ResDH\(2016\)44](#)

instructions and training (in line with recommendations developed in 2010 on the basis of work carried out by independent experts nominated by Parliament).¹³⁹

Conditions of detention: General improvement of the conditions of detention in remand centres and prisons in Aruba, including measures to address problems related to overcrowding (renovation of prison facilities, trainings, adjustment of the policy regarding disciplinary punishment, etc.).¹⁴⁰

Expulsion and related issues: New possibility, as from 2013, for aliens faced with economic difficulties to request an exemption from the charge payable for applying for a residence permit on family grounds.¹⁴¹

NORWAY

Protection of property: The system for rent control of long term leases of land (where tenants frequently construct houses) was revised to ensure a fair balance between the interests of landlords and tenants (rent is now based on the market value of an undeveloped plot) – new legislation in 2015.¹⁴²

POLAND

Actions of security forces: Police use of measures of direct coercion and firearms is better circumscribed in a new regulatory framework of 2013, together with new training activities in accordance with the 2013-2015 Police Strategy. Improved medical examinations of persons apprehended by the Police following a Minister of Internal Affairs ordinance of 2012. New Prosecutor General Guidelines in 2014 improved the conduct of proceedings into complaints linked with deprivation of liberty or ill-treatment by police or other public officers. Creation of a special body within the Ombudsman's office for the examination of complaints against the police and other services.¹⁴³

Conditions of detention: Improved conditions of detention on remand centres and prisons, notably through the decriminalisation of certain offences, the construction of new detention facilities and better alternatives to detention on remand. In parallel, guarantees were established for an increased minimum accommodation area per detainee and/or for improved outdoor or other activities.¹⁴⁴ In addition, several regulations were adopted in 2010/2016 improving the conditions of detention and health care of prisoners, notably concerning special problems such as HIV.¹⁴⁵ Placement in isolation or under a special prison regime for "dangerous detainees" is no longer automatic for certain categories of detainees. Furthermore, the possibility of judicial review of such decisions has been introduced (2015 amendments to the Code of Execution of Criminal Sentences). Organisational and awareness-raising measures ensure a meaningful application and review of the regime by the Penitentiary

139. *Jaloud*, Application No. 47708/08, [status of execution](#)

140. *Mathew*, Application No. 24919/03, Final resolution [CM/ResDH\(2016\)126](#)

141. *G.R.*, Application No. 22251/07, Final resolution [CM/ResDH\(2014\)293](#)

142. *Lindheim and Others*, Application No. 13221/08+, Final resolution [CM/ResDH\(2016\)46](#)

143. *Dzwonkowski* and 7 other cases, Application No. 46702/99+, Final resolution [CM/ResDH\(2016\)148](#)

144. *Orchowski* and 6 other cases, Application No. 17885/04+, Final resolution [CM/ResDH\(2016\)254](#)

145. *Kaprykowski* and 7 other cases, Application No. 23052/08+, Final resolution [CM/ResDH\(2016\)278](#)

Commissions and the courts. Also, the conditions of detention of these prisoners were improved with a better access to media, culture and physical exercise.¹⁴⁶

Length of judicial proceedings: Reduction of the duration of administrative proceedings following the amendment in 2015 to the Law on proceedings before administrative courts. This allowed for the termination of the practice of remittals of cases after annulment of administrative decisions.¹⁴⁷

Freedom of movement: Authorities are obliged to change or quash a preventive measure (including bans on leaving the country) immediately if the justification for them ceases to exist or new circumstances arise.¹⁴⁸

Protection of property – rent control: Introduction of a new system between 2005 and 2010 providing for possibilities for rent increases based on a system monitoring the levels of rent, lease contracts based on a freely determined rent (“occasional lease”) and funding for social accommodation. It also enabled landlords to recover losses incurred with regard to maintenance.¹⁴⁹

PORTUGAL

Excessive length of proceedings: Introduction of an effective compensatory remedy, and major legislative measures, demonstrating the authorities’ commitment to resolve the problem of excessively lengthy judicial proceedings. Encouraging results have been achieved with regard to criminal proceedings, as well as for first instance civil declaratory proceedings and civil proceedings in general before the higher courts.¹⁵⁰

Freedom of expression: Guarantees through the development of court practice that prison sentences are not imposed for defamation. Practice developments to better ensure the balance between the need for secrecy in criminal proceedings and the right of freedom of expression.¹⁵¹

ROMANIA

Actions of security forces: The independence and effectiveness of investigations have been improved, notably through the demilitarisation of the police in 2002 (police staff lost their status as armed forces officers, acquiring that of civil servants), implying that criminal investigations in cases involving police staff fall within the competence of the civil prosecutor’s offices and courts. The General Prosecutor’s Office also adopted a strategy to enhance the effectiveness of investigations. The gendarmerie remains within the armed forces. The independence of military prosecutors was recognised by the European Court. Fundamental safeguards against

146. *Horych* and 4 other cases, Application No. 13621/08+, Final resolution [CM/ResDH\(2016\)128](#)

147. *Fuchs* and 33 other cases, Application No. 33870/96+, Final resolution [CM/ResDH\(2016\)359](#)

148. *Miażdżyk and A.E.*, Application No. 23592/07+, Final resolution [CM/ResDH\(2016\)261](#)

149. *Hutten-Czapska*, Application No. 35014/97, Final resolution [CM/ResDH\(2016\)259](#)

150. *Oliveira Modesto and Others* and 48 other cases, Application No. 34422/97+, Final resolution [CM/ResDH\(2016\)149](#)

151. *Colaço Mestre and SIC* and 9 other cases, Application No. 11182/03+, Final resolution [CM/ResDH\(2015\)115](#)

ill-treatment were introduced in the relevant legislation (notably including the right to immediate access to a lawyer and a doctor).¹⁵²

Racial motives for crime: Ethnic/racial motives for a crime have become an aggravating factor creating an obligation for the prosecuting authorities to verify, on their own motion, its incidence in a given case.¹⁵³

Expulsion and related issues: Improved guarantees were introduced to secure the lawfulness of detention of aliens and as regards the right to judicial review of expulsion decisions based on national security grounds. In particular, these included a right to be informed of the reasons for a declaration that a person's presence on the territory is undesirable.¹⁵⁴

Detention – psychiatric placement: Adoption of a new Code of Criminal Procedure in 2014 providing for protection against arbitrary detention in psychiatric hospitals, notably by ensuring that such detention is always ordered by a court with appropriate safeguards and not by prosecutors.¹⁵⁵

Conditions of detention: Major reforms underway to limit overcrowding, improve material conditions of detention and ensure the existence of effective compensatory (system for deduction of time spent in prison in place) and preventive remedies.¹⁵⁶ The automatic classification of life-sentenced prisoners as “prisoners who pose a risk to the safety of the penitentiary facility” with ensuing restrictions (including isolation) ceased. Most of these prisoners are now held in collective cells, with other prisoners classified in the same category, and they have effective access to out-of-cell activities. The use of instruments of restraint, including handcuffing, is no longer systematic.¹⁵⁷ In addition, the effectiveness of investigations into allegations of ill-treatment by prison staff was increased.¹⁵⁸ Special protective measures were adopted for vulnerable prisoners, including their accommodation in a separate cell, the assignment of experienced staff to guard, escort, and monitor them, and the provision of adequate psychological and social assistance, etc.¹⁵⁹

Access to a court: Notification procedures were improved to ensure parties are always informed in due time of proceedings they are engaged in.¹⁶⁰

Fair trial: Consistency of case-law has been improved through the adoption of a new Code of Civil Proceedings in 2013, introducing the possibility for appeals in the interest of the law and for preliminary rulings by the High Court of Cassation

152. *Barbu Anghelescu (No. 1)* and 35 other cases, Application No. 46430/99+, Final resolution [CM/ResDH\(2016\)150](#)

153. *Ibid.*

154. *Lupsa* and 2 other cases, Application 10337/04+, Final resolution [CM/ResDH\(2015\)50](#); *Al-Agha* and 5 other cases, Application No. 40933/02+, Final resolution [CM/ResDH\(2016\)110](#)

155. *Filip* and 1 other case, Application No. 41124/02+, Final resolution [CM/ResDH\(2017\)165](#)

156. *Bragadireanu*, Application No. 22088/04, [status of execution](#) and in particular the [action plan of 25/01/2018](#)

157. *Enache*, Application No. 10662/06, [status of execution](#)

158. *Barbu Anghelescu (No. 1)* and 35 other cases, Application No. 46430/99+, Final resolution [CM/ResDH\(2016\)150](#); *Predică* and 3 other cases, Application No. 42344/07+, Final resolution [CM/ResDH\(2017\)291](#)

159. *Pantea* and 4 other cases, Application No. 33343/96+, Final resolution [CM/ResDH\(2017\)164](#)

160. *S.C. Raisa M. Shipping S.R.L.*, Application No. 37576/05, Final resolution [CM/ResDH\(2017\)248](#)

and Justice upon request of one of its sections, an appeal court or a tribunal.¹⁶¹ The adversarial nature of proceedings has been strengthened and included among the fundamental principles of civil procedure,¹⁶² including the mandatory communication of pleadings filed by the opposing party.¹⁶³

Length of proceedings: A wide-ranging judicial reform was completed in 2013. This reduced the length of civil and criminal proceedings by diversifying the serving of judicial acts, simplifying the contentious procedure and improving the system of evidence-taking. An effective acceleratory remedy was also introduced in this respect and, in parallel, a compensatory one has been developed by court practice.¹⁶⁴

Private and family life: Possibilities have been introduced to reopen paternity proceedings have been introduced in the light of new evidence linked to new scientific methods (DNA).¹⁶⁵

Electoral rights: A new electoral Law of 2015 introduced clearer rules for the participation in elections of organisations belonging to ethnic minorities, the sole criteria being the recognition of the public utility of the organisation and a minimum number of members.¹⁶⁶

Discrimination: Financing for the reconstructions/renovations of Roma houses destroyed during illegal upsurges of anti-Roma violence has been ensured in accordance with a new legal framework defined in 2015. Vast awareness raising-measures and trainings were organised to address discrimination based on ethnic origin.¹⁶⁷

RUSSIAN FEDERATION

Actions of security forces: The legislative and regulatory framework governing the fight against terrorism was improved, notably relating to the planning and implementation of anti-terror operations in order to better take into account the risk of collateral damages affecting innocent persons.¹⁶⁸ The regulatory framework for police action has been improved through the new Law on the Police 2011, and training and awareness raising measures were adopted. The National anti-terrorist Committee (NAK) has been established, allowing to join and coordinate the efforts of different State bodies in their work to countermeasure terrorism and to eliminate its consequences. The prosecutors' supervision of police action as well as of that of civil society has been improved, in particular by public monitoring commissions. Moreover, the effectiveness of investigations was improved: in particular by the setting-up of the Investigative Committee of the Russian Federation and the creation of specialised investigation units, and by improved judicial control over investigations under Article 125 of the CCP.¹⁶⁹

161. *Beian (No. 1)* and 4 other cases, Application No. 30658/05+, Final resolution [CM/ResDH\(2015\)4](#)

162. *Grozescu*, Application No. 17309/02, Final resolution [CM/ResDH\(2013\)55](#)

163. *Muncaciu*, Application No. 12433/11, Final resolution [CM/ResDH\(2017\)82](#)

164. *Vlad*, Application No. 40756/05, [status of execution](#); *Nicolau* and 79 other cases, Application No. 1295/02+, Final resolution [CM/ResDH\(2016\)151](#)

165. *Ostace*, Application No. 12547/06, Final resolution [CM/ResDH\(2017\)249](#)

166. *Ofensiva Tinerilor*, Application No. 16732/05, Final resolution [CM/ResDH\(2017\)9](#)

167. *Moldovan and Others (No. 1)* and 2 other cases, Application No. 41138/98+, Final resolution [CM/ResDH\(2016\)39](#)

168. *Finogenov and Others*, Application No. 18299/03, [status of execution](#)

169. *Mikheyev*, Application No. 77617/01, [status of execution](#)

Expulsion: The implementation of removal decisions is always subject to judicial control. The Constitutional Court of the Russian Federation ruled in 2013 that when taking expulsion decisions courts shall take into account all circumstances, including those related to private and family life of the applicants. The Supreme Court of the Russian Federation has also pointed this out in a number of its decisions. The relevant administrative court practice is well developed today.¹⁷⁰

Detention: Legislative reforms and rulings of the Constitutional Court and the Supreme Court have ensured that, in compliance with Article 5 § 1 and 4 of the Convention, detention on remand is always ordered by a court decision and that such decisions contain both reasons and a time-limit for the detention, and that the hearings are held in presence of the applicants and their representatives.¹⁷¹

Conditions of detention: Significant progress made in overcoming overcrowding and poor conditions of detention in establishments under the authority of the Federal Penitentiary Service. Recent advances include a Federal Target Programme for building, reconstruction and renovation of detention facilities, including medical wards and facilities, improving material conditions of detention, and a reinforcement of the inspection and review mechanisms. Further measures address remaining problems of overcrowding in detention on remand facilities by ensuring that criminal investigations are conducted expeditiously and that less recourse is made to pre-trial detention, notably through the increased use of alternatives. Since September 2015, the new Code of Administrative Procedure provides for a preventive remedy allowing courts to order specific remedial actions. Work on a new compensatory remedy is under way.¹⁷²

Length of proceedings: In order to solve the problem of lengthy proceedings, a complex of measures was planned and deployed, including: improvement of technical support for the court system; development of IT support, including by way of creation and maintenance of the State automatized system “GAS Justice”, creation of a system of electronic proceedings in the courts of general jurisdiction, the new Concept for computerisation of the courts’ work until 2020; improvement of procedures notably through legislative amendments optimising court work, including a new appellate review procedure introduced in 2012 for civil and criminal cases. This included strict deadlines, as well as the use of IT tools such as the notification of the parties via text messages; better disciplining of the parties; raising awareness and qualification of the courts’ staff; creation of the new effective legal remedy, etc.¹⁷³

Legal certainty: The exceptional possibilities of challenging final judgments in commercial matters through supervisory review (“nadzor”) were abolished in 2003. 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 severely restricted grounds and time limits.¹⁷⁴ A similar reform in civil matters was engaged as from 2002, with important contributions

170. *Alim*, Application No. 39417/07, [status of execution](#) and the [action report submitted](#)

171. *Bednov* and 12 other cases, Application No. 21153/02+, Final resolution [CM/ResDH\(2015\)249](#)

172. *Kalashnikov*, Application No. 47095/99, [status of execution](#)

173. *Kormacheva* and 105 other cases, Application No. 53084/99+, Final resolution [CM/ResDH\(2017\)168](#)

174. *Arshinchikova*, Application No. 73043/01, Final resolution [CM/ResDH\(2011\)151](#)

from the Constitutional Court and the Supreme Court, leading to a 2012 reform, essentially transforming “nadzor” into a normal cassation appeal, and allowing only the Presidium of the Supreme Court to engage the extraordinary supervisory review. This led to a drastic decrease in its application.¹⁷⁵

Enforcement of judicial decisions: The efficiency of the enforcement of judicial decisions concerning the State’s monetary obligations was guaranteed through important legislative, regulatory, budgetary and capacity-building measures, including the setting up of an effective remedy.¹⁷⁶ Important progress has also been achieved in the implementation of judgments against the State regarding obligations in kind, including notably the extension of the scope of the above effective remedy to the relevant judicial decisions, the introduction of punitive damages (including against State authorities), a set of organisational, financial and budgetary measures securing enforcement of the decisions in question, adoption of additional guidelines by the Supreme Court, enhancing the prosecutor supervision etc.¹⁷⁷

Freedom of expression: In 2005, the Supreme Court adopted 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. These guidelines also underlined the fact that political figures have decided to appeal to the confidence of the public, that they have thus accepted to subject themselves to public political debate, and that therefore public officials must accept subjection to public scrutiny and criticism, particularly through the media.¹⁷⁸ Further guidelines regarding the Convention requirements in respect of freedom of expression were issued as Resolutions of the Plenum in 2013 and 2014.

General reception of the Convention: Several Resolutions by the Plenum of the Supreme Court were adopted to promote reception of the Convention. In particular, the 2013 Resolution “On Application by the Courts of General Jurisdiction of the Convention” stressing that the Convention is subject to direct application by the courts, that the European Court’s legal positions in judgments against Russia are obligatory for the domestic courts and that also the legal positions of the Court as regards other States have to be taken into account. It was underlined that restrictions of rights must not only be based on the law and pursue a legitimate aim, but must also be proportionate to the legitimate aim pursued in the light of all the circumstances of the case and be necessary in a democratic society. Non-compliance with any of these principles, would, it was noted, be a violation of human rights subject to judicial defense.¹⁷⁹

SAN MARINO

Acquisition, use, disclosure or retention of private information: Improvement of the protections against the divulcation of documents containing personal data

175. *Ryabykh* and 112 other cases, Application No. 52854/99+, Final resolution [CM/ResDH\(2017\)83](#)

176. *Timofeyev / Burdov* No. 2 and 233 other cases, Application No. 58263/00+, Final resolution [CM/ResDH\(2016\)268](#)

177. *Gerasimov and Others*, Application No. 29920/05, [status of execution](#)

178. *Grinberg and Zakharov*, Application No. 23472/03+, Final resolution [CM/ResDH\(2008\)18](#)

179. Available notably on the [website of the Department for the Execution of Judgments](#), see also the Annual Report 2013

(banking secrecy) through a change of judicial practice and the adoption of awareness raising measures.¹⁸⁰

SERBIA

Actions of security forces: Improved efficiency of criminal investigations into allegations of torture and ill-treatment through a new Criminal Procedure Code in 2013 and increased supervision by prosecutors. In addition, a special commission was set up at the Ministry of the Interior in 2014 to deal with these cases.¹⁸¹

Fair trial: Tools to harmonise case-law have been developed, notably a 2014 action plan by the Supreme Court of Cassation granting the Presidents of Appellate courts the possibilities to hold joint sessions to discuss relevant civil-law topics in view of a general harmonization of case-law and the setting up of special harmonisation sections in higher courts.¹⁸²

Enforcement of final judicial decisions against state enterprises: The efficiency of enforcement proceedings concerning debts of socially-owned companies or municipal/local authorities has been increased. This included a change of practice by the relevant local authorities, as well as the introduction in 2011 of an effective remedy for the non-enforcement of final decisions. In addition, the 2006 Constitution abolished socially-owned companies.¹⁸³

Repayment of “old” currency savings: A new law was adopted in 2016 introducing a repayment scheme for the “old” currency-savings held by nationals of successor States to the SFRY in branches of Serbian banks inside or outside Serbia or held by the Serbian nationals in Serbian branches of the banks with head offices in other former Yugoslav Republics (an estimated total of some 310 million euros). Furthermore, administrative arrangements have been made to receive and handle applications.¹⁸⁴

Payment of pensions earned in Kosovo¹⁸⁵: Starting in 2013, the necessary procedures to ensure the payment of pensions earned in Kosovo as foreseen in the existing legislation have been put in place. Pensions have been paid.¹⁸⁶

Electoral rights: Abolishment of the possibility for parties to control the individual mandates of elected parliamentarians, notably through a practice of compelling them to sign blank resignation letters before elections, following amendments to the Act on Election of Members of Parliament in 2011.¹⁸⁷

180. *M.N. and Others*, Application No. 28005/12, Final resolution [CM/ResDH\(2017\)250](#)

181. *Stanimirović*, Application No. 26088/06, [status of execution](#)

182. *Vinčić and Others* and 2 other cases, Application No. 44698/06+, Final resolution [CM/ResDH\(2017\)107](#)

183. *EVT company* and 2 other cases, Application No. 3102/05+, Final resolution [CM/ResDH\(2017\)183](#)

184. *Alisić and Others*, Application No. 60642/08, [status of execution](#) and in particular the [action plan 2017](#)

185. All reference to Kosovo, whether the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

186. *Grudić*, Application No. 31925/08, Final resolution [CM/ResDH\(2017\)427](#)

187. *Paunović and Milivojević*, Application No. 41683/06, Final resolution [CM/ResDH\(2017\)193](#)

SLOVAK REPUBLIC

Actions of security forces: Racially motivated crimes are better criminalised following the introduction of the offence of extremism in 2014. The Code of Criminal Procedure and the Criminal Code were amended in 2017 to secure more efficient investigations of such crimes, the jurisdiction for such crimes being transferred from the District Courts to the Specialised Criminal Court.¹⁸⁸

Expulsion and related issues: Automatic suspensive effect of judicial appeals against expulsion decisions was introduced by legislation in 2015. This ensures a full examination of all risks of ill-treatment arising from an expulsion before it can take place.¹⁸⁹

Detention – lawfulness: Simplification of procedures, arising from the limitation of the application of the rule of specialty in the context of arrests based on a European Arrest Warrant States to cases where its application simplifies or facilitates the proceedings.¹⁹⁰

Access to a court: Improved appeals procedure following a change of the Constitutional Court case-law abrogating the former requirement that appeals on points of law should be lodged simultaneously with a constitutional complaint which led to confusion. Constitutional complaints are now only admissible after a decision of the Supreme Court on an appeal on points of law.¹⁹¹

Excessive length of proceedings: A series of practical and technical measures were adopted between 2013 and 2015 with a view to further accelerate proceedings, leading to the adoption of two new codes of civil procedures in 2016.¹⁹²

SLOVENIA

Length of proceedings: A structural and organisational reform of the judiciary took place between 2005 and 2012 with a view to eliminate backlogs in the domestic courts. The reform included legislative and capacity building measures. In addition, an acceleratory and a compensatory remedy were introduced in civil and criminal proceedings by the 2006 Act on the Protection of the Right to a Trial without undue Delay.¹⁹³

Private and family life: The domestic courts' sole competence to adjudicate custody and access arrangements was received legal recognition in 2004, preventing administrative access orders by Social Welfare Centres. The examination of cases concerning the relationships between parents and children is also a priority issue.¹⁹⁴

Repayment of "old" currency savings: A new law was adopted in 2015 introducing a repayment scheme for the "old" currency-savings deposited in foreign branches of the Ljubljanska Banka at the time of the dissolution of the Socialist Federal

188. *Mižigárová*, Application No. 74832/01, Final resolution [CM/ResDH\(2016\)17](#); *Koky and Others*, Application No. 13624/03, Final resolution [CM/ResDH\(2017\)86](#)

189. *Labsi*, Application No. 33809/08, Final resolution [CM/ResDH\(2017\)87](#)

190. *Černák*, Application No. 36997/08, Final resolution [CM/ResDH\(2017\)170](#)

191. *Kovárová*, Application No. 46564/10, Final resolution [CM/ResDH\(2016\)138](#)

192. *Maxian and Maxianova*, Application No. 44482/09, [status of execution](#)

193. *Lukenda* and 263 other cases, Application No. 23032/02+, Final resolution [CM/ResDH\(2016\)354](#)

194. *Eberhard and M.*, Application No. 8673/05, Final resolution [CM/ResDH\(2017\)396](#)

Republic of Yugoslavia (the “SFRY”) (an estimated total of some 385 million euros). Administrative arrangements to receive and handle applications have been put in place and the system is up and running.¹⁹⁵

Discrimination: Introduction of a compensation scheme for “erased” persons in 2014 developed to handle the situation of former citizens of the 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 but who were in that context deprived without prior notification of their status as permanent residents.¹⁹⁶

SPAIN

Functioning of justice: Courts of appeal are no longer competent to decide a case on the merits without a full hearing, if it involves overturning an acquittal at first instance – constitutional jurisprudence from 2002, implemented by the ordinary courts and codified in 2015.¹⁹⁷

Right to home and privacy: Since 2002, the legislation on protection against exposure to noise intrusion has been developed. Notable developments include quality objectives for both indoors and outdoors, as well as maximum noise levels.¹⁹⁸

SWITZERLAND

Expulsion and related issues: Change of case-law of the Federal Administrative Court in 2013 providing for additional safeguards and improved examination of asylum requests, notably as regards the risks faced, including post flight risks.¹⁹⁹

Detention: Replacement in 2011 of cantonal procedural codes in criminal matters with a national Swiss Criminal Procedure Code. This provides a single comprehensive legal basis for pre-trial detention and detention during trial, including an appeal procedure.²⁰⁰

Discrimination: Since 2016, a reduction in working time for purely family reasons related to childcare is no longer a reason for the revision of a grant of disability benefits.²⁰¹

“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA”

Excessive length of proceedings: The excessive length of civil and criminal proceedings was addressed, notably in a series of legislative reforms in 2008. As regards civil proceedings, procedural deadlines were tightened and mediation procedure was introduced in order to alleviate the workload of the civil courts. As regards criminal proceedings, the rule to restart hearings in case of a trial judge change within a single

195. *Ališić and Others*, Application No. 60642/08, [status of execution and in particular the action plan 2016](#)

196. *Kurić and Others*, Application No. 26828/06, Final resolution [CM/ResDH\(2016\)112](#)

197. *Igual Coll and 11 other cases*, Application No. 37496/04+, Final resolution [CM/ResDH\(2017\)69](#)

198. *Martínez Martínez*, Application No. 21532/08, Final resolution [CM/ResDH\(2017\)223](#)

199. *A.A.*, Application No. 58802/12, Final resolution [CM/ResDH\(2015\)95](#)

200. *Borer*, Application No. 22493/06, Final resolution [CM/ResDH\(2016\)240](#)

201. *Di Trizio*, Application No. 7186/09, Final resolution [CM/ResDH\(2017\)128](#)

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 investigation procedure.²⁰²

Execution of final judicial decisions: The Enforcement Act was amended in 2010 and 2012 with a view to streamline the enforcement proceedings and increase their efficiency. The responsibility for enforcement was transferred to private bailiffs.²⁰³

Fair trial: Consistency of judicial practice was enhanced through the creation of a special Department for Case-law within the Supreme Court.²⁰⁴

Freedom of assembly and association: Registration of associations was transferred, in 2010, from the courts to executive authorities, in order to ensure an efficient and effective registration in practice. The judicial practice is being developed in line with the relevant Convention standards to prevent the undue dissolution of associations.²⁰⁵

Protection of property: Better protection of the rights of owners of confiscated objects which had been acquired in good faith. Confiscation is possible only when the third person knew or should have known that they would be used for the transportation or distribution of smuggled goods.²⁰⁶

TURKEY

Protection against ill-treatment in school: Awareness raising measures adopted to ensure prevention and protection against school violence.²⁰⁷

Detention on remand: Concerning detention on remand, the maximum length has been successively diminished. It is now set to five years for the most serious crimes. At the same time, the range of measures alternative to detention has also been broadened. The adversarial principle for review was introduced for remand hearings in 2013. The right to compensation for unlawful detention on remand has been introduced and improved in 2013.²⁰⁸ The possibility to order detention *in absentia* and to extend detention on remand without hearing the accused or his lawyer was abolished in 2005 and the protection reinforced in 2015.²⁰⁹ Special rules for minors were introduced in 2005 together with the establishment of juvenile courts.²¹⁰

Judicial independence – military courts: The provision requiring the presence of active military officers on military court panels was abolished by the Law on the Establishment and Procedure of Military Courts 2010.²¹¹

202. *Atanasovic and Others* and 54 other cases, Application No. 13886/02+, Final resolution [CM/ResDH\(2016\)35](#)

203. *Atanasovic and Others* and 54 other cases, Application No. 13886/02+, Final resolution [CM/ResDH\(2016\)35](#)

204. *Atanasovski* and 1 other case, Application No. 36815/03+, Final resolution [CM/ResDH\(2015\)152](#)

205. *Association of citizens Radko and Paunkovski*, Application No. 74651/01, Final resolution [CM/ResDH\(2017\)293](#)

206. *Vasilevski*, Application No. 22653/08, Final resolution [CM/ResDH\(2017\)145](#)

207. *Kayak*, Application No. 60444/08, Final resolution [CM/ResDH\(2016\)302](#)

208. *Demirel* and 195 other cases, Application No. 39324/98+, Final resolution [CM/ResDH\(2016\)332](#)

209. *Parlak*, Application No. 22459/04, Final resolution [CM/ResDH\(2017\)90](#)

210. *Nart*, Application No. 20817/04, Final resolution [CM/ResDH\(2016\)304](#)

211. *Ibrahim Gürkan*, Application No. 10987/10, Final resolution [CM/ResDH\(2016\)303](#)

Freedom of religion and conscience: Lifting, in 2014, of the prohibition on wearing religious headwear and garments in public areas and spaces.²¹²

Prisoners voting: Abolition of blanket bans on prisoners' voting, following a change of the case-law of the Constitutional Court in 2015.²¹³

Discrimination: The difference between vocational and ordinary high schools in university entrance exams was abolished under the 2012 amendments to the Law on Higher Education.²¹⁴

UKRAINE

Actions of security forces: Improvement of the conduct of criminal investigations into deaths taking into account principles of independence, promptness, public scrutiny, and the involvement of victims and next-of-kin.²¹⁵

Lawfulness of detention: A new Code of Criminal Procedure was adopted in 2012 improving the fairness and efficiency of the controls on the lawfulness of pre-trial detention.²¹⁶

Fair trial: The rights of accused to be assisted by a lawyer at all interrogations, including the first one, and to hold discussions with their lawyer in private, were introduced in 2012 by the new Code of Criminal Procedure.²¹⁷

Judicial independence: The system of judicial discipline and careers underwent a reform with the adoption of constitutional and legislative amendments providing for a new legal framework for the judiciary and clarifying disciplinary responsibility and subjecting questions of nomination, promotion and disciplinary procedures to independent judicial review as required by Article 6 of the Convention.²¹⁸

Fair trial: New guarantees of effective legal assistance were established through a requirement in the 2012 Code of Criminal procedure that only duly licensed advocates, included in the Unified Register of Advocates, can participate in proceedings.²¹⁹

Freedom of association: The abrogation of excessively rigid and prohibitive requirements for the creation of non-profit organisations, and the adoption of a new Law on Civil Associations in 2013, provided increased opportunities for the creation, registration, and work of civil associations. Registration can now only be refused on very limited formal grounds. Disputes with the authorities are henceforth amenable to judicial review.²²⁰

212. *Ahmet Arslan and Others*, Application No. 41135/98, Final resolution [CM/ResDH\(2016\)330](#)

213. *Soyler*, Application No. 29411/07, [status of execution](#)

214. *Altınay*, Application No. 37222/04, Final resolution [CM/ResDH\(2017\)89](#)

215. *Khaylo*, Application No. 39964/02, [status of execution](#) and *Igor Shevchenko and 6 other cases*, Application No. 22737/04+, Final resolution (partial closure) [CM/ResDH\(2017\)294](#)

216. *Kharchenko and 35 other cases*, Application No. 40107/02+, Final resolution (partial closure) [CM/ResDH\(2017\)296](#)

217. *Borotyuk and 7 other cases*, Application No. 33579/04+, Final resolution [CM/ResDH\(2017\)295](#)

218. *Oleksandr Volkov*, Application No. 21722/11, [status of execution](#)

219. *Zagorodniy*, Application No. 27004/06, Final resolution [CM/ResDH\(2016\)92](#)

220. *Koretskyi and Others*, Application No. 40269/02, Final resolution [CM/ResDH\(2017\)377](#)

Taxation: The system of taxation was simplified and clear provisions on VAT exemptions were introduced in 2011, preventing earlier contradictory practices, together with a special mechanism for collecting taxes and fees.²²¹

UNITED KINGDOM

Actions of security forces abroad: Creation in 2010 of a special unit (Iraq Historic Allegations Team) together with special inquests in 2014 (Iraq Fatality Investigations) in order to ensure effective and independent investigations of allegations of unlawful killings and possible abuse of Iraqi civilians by UK armed forces in Iraq between 2003 and 2009. In addition, a judge of the High Court was designated to oversee the progress of the investigative process and to hear all public and private law claims arising from UK military operations in Iraq.²²²

Expulsion and related issues: Abrogation in 2005 of the Anti-Terrorism Crime and Security Act 2001 (following the withdrawal of the Article 15 declaration made in December 2001), which allowed detention pending deportation of foreign nationals even where removal was not possible if the Secretary of State reasonably believed that the person's presence in the UK was a risk to national security and reasonably suspected that the person was involved with international terrorism linked with Al Qaida. Detention was replaced by other control measures ("control orders" and since 2011 restrictions on the behaviour of a specified individual via means of a "TPIM" notice). The framework was in parallel completed with comprehensive instructions and guidance for immigration staff to avoid excessive length of detention pending deportation.²²³

Detention: The scope of the Secretary of State's powers to release whole life prisoners was clarified in 2014 by the Court of Appeal for England and Wales – refusals must explain the penological reasons for continued detention; refusals are subject to judicial review.²²⁴

Length of proceedings: The Scottish Civil Court system was modernised in 2009, including a new repartition of cases between the Scotland Sheriff Courts and the Court of Session, and a new electronic case management system was introduced in 2016 to prevent undue delays.²²⁵

221. *Serkov*, Application No. 39766/05, Final resolution [CM/ResDH\(2017\)21](#)

222. *Al-Skeini and Others*, Application No. 55721/07, Final resolution [CM/ResDH\(2016\)298](#) and *Al-Jedda*, Application No. 27021/08, Final resolution [CM/ResDH\(2014\)271](#)

223. *A. and Others*, Application No. 3455/05, Final resolution [CM/ResDH\(2013\)114](#) and *J.N and V.M.*, Application No. 37289/12+, Final resolution [CM/ResDH\(2017\)252](#)

224. *Vinter and Others*, Application No. 66069/09+, Final resolution [CM/ResDH\(2017\)178](#)

225. *McNamara*, Application No. 22510/13, Final resolution [CM/ResDH\(2017\)285](#)

VII. Glossary

Action plan – document setting out the measures taken and/or envisaged by the respondent State to implement a judgment of the European Court of Human Rights, together with an indicative timetable.

Action report – report transmitted to the Committee of Ministers by the respondent State setting out all the measures taken to implement a judgment of the European Court and / or the reasons for which no additional measure is required.

Judgment with indications of relevance for the execution “Article 46” – judgment by which the Court seeks to provide assistance to the respondent State in identifying the sources of the violations established and the type of individual and/or general measures that might be adopted in response. Indications related to individual measures can also be given under the section Article 41.

Case – generic term referring to a judgment (or a decision) of the European Court.

Case awaiting classification – case for which the classification – under standard or enhanced supervision – is still to be decided by the Committee of Ministers.

Classification of a case – Committee of Ministers’ decision determining the supervision procedure – standard or enhanced.

Closed case – case in which the Committee of Ministers adopted a final resolution stating that it has exercised its functions under Article 46 § 2 and 39 § 4 of the Convention, and thus closing its examination of the case.

Deadline for the payment of the just satisfaction – when the Court awards just satisfaction to the applicant, it indicates in general a deadline within which the respondent State must pay the amounts awarded; normally, the time-limit is three months from the date on which the judgment becomes final.

“DH” meeting – meetings of the Committee of Ministers specifically devoted to the supervision of the execution of judgments and decisions of the European Court. If necessary, the Committee may also proceed to a detailed examination of the status of execution of a case during a regular meeting.

Enhanced supervision – supervision procedure for cases requiring urgent individual measures, pilot judgments, judgments revealing important structural and / or complex problems as identified by the Court and / or by the Committee of Ministers, and interstate cases. This procedure is intended to allow the Committee of Ministers to closely follow progress of the execution of a case, and to facilitate exchanges with the national authorities supporting execution.

Final judgment – judgment which cannot be the subject of a request of referral referral to the Grand Chamber of the European Court. Final judgments have to be executed by the respondent State under the supervision of the Committee of Ministers. A Chamber judgment (panel of 7 judges) becomes final: immediately if the parties declare that they will not request the referral of the case to the Grand Chamber of the Court, or three months after its delivery to ensure that the applicant or the respondent State have the possibility to request the referral, or when the Grand Chamber rejects the referral's request. When a judgment is delivered by a committee of three judges or by the Grand Chamber, it is immediately final.

Final resolution – Committee of Ministers' decision whereby it decides to close the supervision of the execution of a judgment, considering that the respondent State has adopted all measures required in response to the violations found by the Court.

Friendly settlement – agreement between the applicant and the respondent State aiming at putting an end to the application before the Court. The Court approves the settlement if it finds that respect of human rights does not justify maintaining the application. The ensuing decision is transmitted to the Committee of Ministers which will supervise the execution of the friendly settlement's terms as set out in the decision.

General measures – measures needed to address more or less important structural problems revealed by the Court's judgments to prevent similar violations to those found or put an end to continuing violations. The adoption of general measures can notably imply a change of legislation, of judicial practice or practical measures such as the refurbishing of a prison or staff reinforcement, etc. The obligation to ensure effective domestic remedies is an integral part of general measures (see notably Committee of Ministers Recommendation (2004)6). Cases revealing structural problems of major importance will be classified under the enhanced supervision procedure.

Group of cases – when several cases under the Committee of Ministers' supervision concern the same violation or are linked to the same structural or systemic problem in the respondent State, the Committee may decide to group the cases and deal with them jointly. The group usually bears the name of the first leading case transmitted to the Committee for supervision of its execution. If deemed appropriate, the grouping of cases may be modified by the Committee, notably to allow the closure of certain cases of the group dealing with a specific structural problem which has been resolved (partial closure).

Individual measures – measures that the respondent States' authorities must take to erase, as far as possible, the consequences of the violations for the applicants – *restitutio in integrum*. Individual measures include for example the reopening of unfair criminal proceeding or the destruction of information gathered in breach of the right to private life, etc.

Interim resolution – form of decision adopted by the Committee of Ministers aimed at overcoming more complex situations requiring special attention.

Isolated case – case where the violations found appear closely linked to specific circumstances, and does not require any general measures (for example, bad

implementation of the domestic law by a tribunal thus violating the Convention). See also under *leading case*.

Just satisfaction – when the Court considers, under Article 41 of the Convention, that the domestic law of the respondent State does not allow complete reparation of the consequences of this violation of the Convention for the applicant, it can award just satisfaction. Just satisfaction frequently takes the form of a sum of money covering material and/or moral damages, as well as costs and expenses incurred.

Leading case – case which has been identified as revealing new structural and / or systemic problems, either by the Court directly in its judgment, or by the Committee of Ministers in the course of its supervision of execution. Such a case requires the adoption of new general measures to prevent similar violations in the future. Leading cases also include certain possibly isolated cases: the isolated nature of a new case is frequently not evident from the outset and, until this nature has been confirmed, the case is treated as a leading case.

New cases – expression referring to a judgment of the Court that became final during the calendar year and was transmitted to the Committee of Ministers for supervision of its execution.

Partial closure – closure of certain cases in a group revealing structural problems to improve the visibility of the progress made, whether as a result of the adoption of adequate individual measures or the solution of one of the structural problems included in the group.

Pending case – case currently under the Committee of Ministers' supervision of its execution.

Pilot judgment – when the Court identifies a violation which originates in a structural and / or systemic problem which has given rise or may give rise to similar applications against the respondent State, the Court may decide to use the pilot judgment procedure. In a pilot judgment, the Court will identify the nature of the structural or systemic problem established, and provide guidance as to the remedial measures which the respondent State should take. In contrast to a judgment with mere indications of relevance for the execution under Article 46, the operative provisions of a pilot judgment can fix a deadline for the adoption of the remedial measures needed and indicate specific measures to be taken (frequently the setting up of effective domestic remedies). Under the principle of subsidiarity, the respondent State remains free to determine the appropriate means and measures to put an end to the violation found and prevent similar violations.

Reminder letter – letter sent by the Department for the Execution of Judgments to the authorities of the respondent State when no action plan/report has been submitted in the initial six-month deadline foreseen after the judgment of the Court became final.

Repetitive case – case relating to a structural and/or general problem already raised before the Committee in the context of one or several leading cases; repetitive cases are usually grouped together with the leading case.

Standard supervision procedure – supervision procedure applied to all cases except if, because of its specific nature, a case warrants consideration under the enhanced procedure. The standard procedure relies on the fundamental principle that it is for respondent States to ensure the effective execution of the Court’s judgments and decisions. Thus, in the context of this procedure, the Committee of Ministers limits its intervention to ensuring that adequate action plans / reports have been presented and verifies the adequacy of the measures announced and / or taken at the appropriate time. Developments in the execution of cases under standard procedure are closely followed by the Department for the Execution of Judgments, which presents information received to the Committee of Ministers and submits proposals for action if developments in the execution process require specific intervention by the Committee of Ministers.

Transfer from one supervision procedure to another – a case can be transferred by the Committee of Ministers from the standard supervision procedure to the enhanced supervision procedure (and *vice versa*).

Unilateral declaration – declaration submitted by the respondent State to the Court acknowledging the violation of the Convention and undertaking to provide adequate redress, including to the applicant. The Committee of Ministers does not supervise the respect of undertakings formulated in a unilateral declaration. In case of a problem, the applicant may request that its application be restored to the Court’s list.

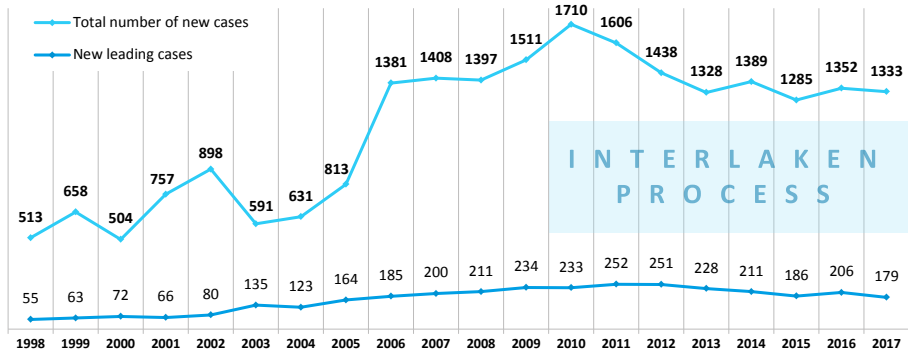
“WECL” case – judgment on the merits rendered by a Committee of three judges, if the issues raised by the case are already the subject of “well-established case-law of the Court” (Article 28 § 1b).

Appendix 1 – Statistics

The data presented also include cases where the Committee of Ministers decided itself whether or not there had been a violation under former Article 32 of the Convention (while this competence in principle disappeared in connection the entry into force of Protocol No. 11 in 1998, a number of such cases remain pending under former Article 32).

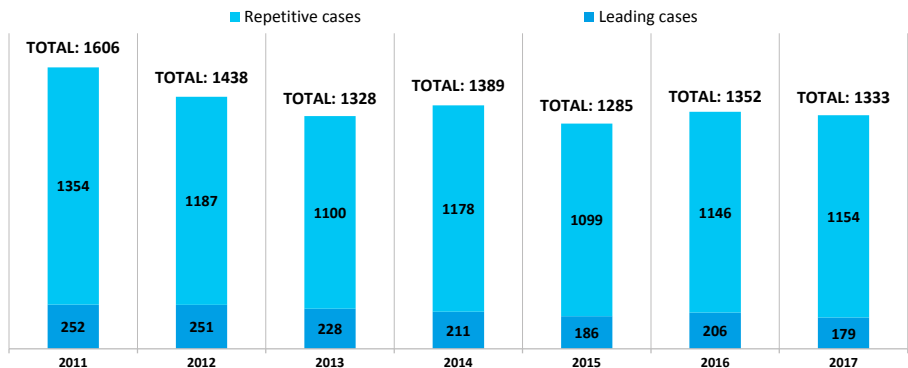
A. New cases

A.1. Overview



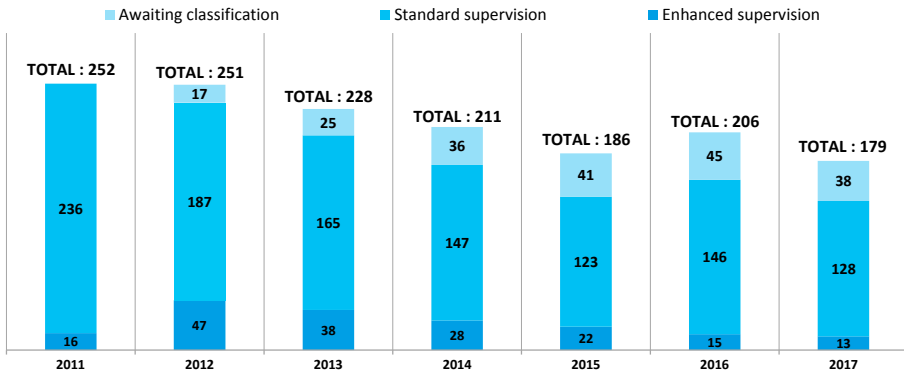
A.2. Leading or repetitive

For cases awaiting classification under enhanced or standard supervision (see A.3.), their qualification as leading or repetitive cases is not yet final.

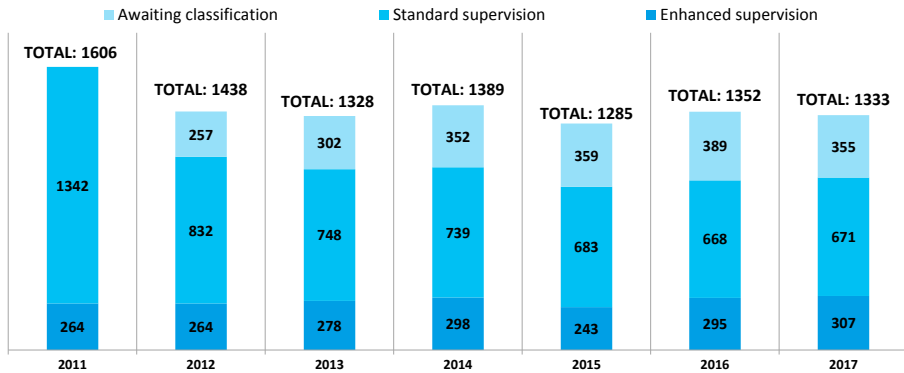


A.3. Enhanced or standard supervision

New leading cases



Total number of new cases (including repetitive)



A.4. New cases – State by State

| STATE | LEADING CASES | | | | | | | | REPETITIVE CASES | | | | | | | | TOTAL | |
|------------------------|----------------------|------|----------------------|------|-------------------------|------|------------------------|------|----------------------|------|----------------------|------|-------------------------|------|---------------------------|------|-------|------|
| | Enhanced supervision | | Standard supervision | | Awaiting classification | | Total of leading cases | | Enhanced supervision | | Standard supervision | | Awaiting classification | | Total of repetitive cases | | | |
| | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 |
| Albania | | | | 1 | | | | 1 | 7 | | 3 | 1 | 4 | | 14 | 1 | 14 | 2 |
| Andorra | | | 1 | | | | 1 | | | | | | | | | | 1 | |
| Armenia | | 1 | 6 | 1 | | | 6 | 2 | | | 4 | 11 | | 2 | 4 | 13 | 10 | 15 |
| Austria | | | | 1 | | 1 | | 2 | | | 11 | 15 | | 3 | 11 | 18 | 11 | 20 |
| Azerbaijan | 1 | | 1 | | | 1 | 2 | 1 | 13 | 22 | 2 | 1 | 4 | 5 | 19 | 28 | 21 | 29 |
| Belgium | | | 4 | 3 | 1 | 1 | 5 | 4 | | 1 | | 3 | 1 | 1 | 1 | 5 | 6 | 9 |
| Bosnia and Herzegovina | | | 1 | | | 4 | 1 | 4 | 2 | | 3 | 4 | 1 | 3 | 6 | 7 | 7 | 11 |
| Bulgaria | 1 | 1 | 8 | 6 | 9 | 1 | 18 | 8 | 10 | 5 | 12 | 15 | 9 | 5 | 31 | 25 | 49 | 33 |
| Croatia | | | 6 | 4 | 2 | 2 | 8 | 6 | 1 | 2 | 14 | 14 | 5 | 6 | 20 | 22 | 28 | 28 |
| Cyprus | | | 3 | 1 | | | 3 | 1 | 1 | | | | | | 1 | | 4 | 1 |
| Czech Republic | | | | 3 | | | | 3 | | | 2 | | | | 2 | | 2 | 3 |
| Denmark | | | 1 | | | | 1 | | | | | | | | | | 1 | |
| Estonia | | | 1 | 1 | 1 | | 2 | 1 | | | 1 | 1 | 1 | | 2 | 1 | 4 | 2 |
| Finland | | | | 1 | | | | 1 | | | | 1 | | | | 1 | | 2 |
| France | | | 1 | 4 | 1 | | 2 | 4 | | 1 | 6 | 6 | 9 | 1 | 15 | 8 | 17 | 12 |

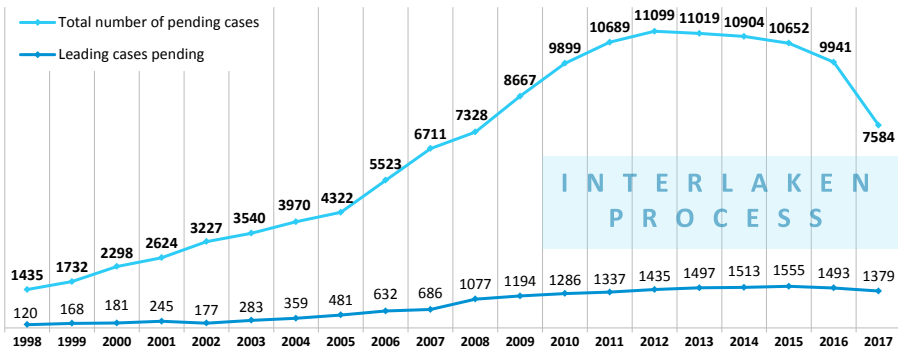
| STATE | LEADING CASES | | | | | | | | REPETITIVE CASES | | | | | | | | TOTAL | |
|---------------------|----------------------|------|----------------------|------|-------------------------|------|------------------------|------|----------------------|------|----------------------|------|-------------------------|------|---------------------------|------|-------|------|
| | Enhanced supervision | | Standard supervision | | Awaiting classification | | Total of leading cases | | Enhanced supervision | | Standard supervision | | Awaiting classification | | Total of repetitive cases | | | |
| | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 |
| Georgia | | | 2 | 2 | | 1 | 2 | 3 | | 2 | 3 | | 2 | 5 | 5 | 7 | 7 | 10 |
| Germany | | | 4 | 5 | 2 | 1 | 6 | 6 | | | 3 | 3 | 1 | | 4 | 3 | 10 | 9 |
| Greece | 1 | 1 | 5 | 4 | | 2 | 6 | 7 | 12 | 13 | 71 | 67 | 32 | 16 | 115 | 96 | 121 | 103 |
| Hungary | 2 | | 5 | 1 | 3 | | 10 | 1 | 12 | 3 | 54 | 49 | 17 | 8 | 83 | 60 | 93 | 61 |
| Iceland | | | | 1 | | | | 1 | | | | 2 | | | | 2 | | 3 |
| Ireland | | | | 1 | | | | 1 | | | | | | | | | | 1 |
| Italy | 2 | 2 | 2 | 2 | 3 | 2 | 7 | 6 | | 4 | 25 | 9 | 3 | 21 | 28 | 34 | 35 | 40 |
| Latvia | | | 6 | 5 | 1 | 1 | 7 | 6 | | | 2 | 3 | 1 | 2 | 3 | 5 | 10 | 11 |
| Liechtenstein | | | 1 | | | | 1 | | | | 1 | | | | 1 | | 2 | |
| Lithuania | | 1 | 6 | 8 | 1 | 1 | 7 | 10 | | | 7 | 7 | | 1 | 7 | 8 | 14 | 18 |
| Luxembourg | | | | | | | | | | | | | | | | | | |
| Malta | | | 1 | 2 | 1 | | 2 | 2 | 3 | | | 1 | 1 | | 4 | 1 | 6 | 3 |
| Republic of Moldova | | | 3 | 3 | 3 | 1 | 6 | 4 | 8 | 1 | 5 | 5 | 6 | | 19 | 6 | 25 | 10 |
| Monaco | | | | 1 | | | | 1 | | | | | | | | | | 1 |
| Montenegro | | | 2 | 1 | | 1 | 2 | 2 | | | 2 | 13 | 5 | 2 | 7 | 15 | 9 | 17 |
| Netherlands | | | 3 | 1 | | 1 | 3 | 2 | | | 6 | 1 | 2 | 1 | 8 | 2 | 11 | 4 |
| Norway | | | 1 | | | | 1 | | | | | | | | | | 1 | |
| Poland | | | 8 | 5 | 4 | | 12 | 5 | 3 | 1 | 30 | 24 | 5 | 4 | 38 | 29 | 50 | 34 |

| STATE | LEADING CASES | | | | | | | | REPETITIVE CASES | | | | | | | | TOTAL | |
|---|----------------------|-----------|----------------------|------------|-------------------------|-----------|------------------------|------------|----------------------|------------|----------------------|------------|-------------------------|------------|---------------------------|-------------|-------------|-------------|
| | Enhanced supervision | | Standard supervision | | Awaiting classification | | Total of leading cases | | Enhanced supervision | | Standard supervision | | Awaiting classification | | Total of repetitive cases | | | |
| | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 |
| Portugal | | | 7 | 1 | 2 | 2 | 9 | 3 | 6 | 5 | 16 | 8 | 1 | | 23 | 13 | 32 | 16 |
| Romania | 1 | 2 | 16 | 7 | 3 | 2 | 20 | 11 | 28 | 13 | 68 | 69 | 35 | 17 | 131 | 99 | 151 | 110 |
| Russian Federation | 1 | 2 | 4 | 12 | 3 | 5 | 8 | 19 | 101 | 132 | 69 | 109 | 105 | 110 | 275 | 351 | 283 | 370 |
| San Marino | | | | | | | | | | | | | | | | | | |
| Serbia | | | 3 | 1 | | | 3 | 1 | 8 | 9 | 5 | 11 | 8 | 17 | 21 | 37 | 24 | 38 |
| Slovak Republic | | | | 1 | | | | 1 | | 5 | 16 | 10 | 12 | 6 | 28 | 21 | 28 | 22 |
| Slovenia | | | 4 | 6 | | | 4 | 6 | | | 1 | 2 | | | 1 | 2 | 5 | 8 |
| Spain | | | 2 | 6 | 1 | 1 | 3 | 7 | | | 6 | | 2 | | 8 | | 11 | 7 |
| Sweden | | | 3 | 1 | | | 3 | 1 | | | | | | | | | 3 | 1 |
| Switzerland | 1 | | 3 | 4 | | | 4 | 4 | | | | 1 | | 1 | | 2 | 4 | 6 |
| “the former Yugoslav Republic of Macedonia” | 2 | | 3 | 3 | | | 5 | 3 | | | 8 | 5 | 9 | 3 | 17 | 8 | 22 | 11 |
| Turkey | 2 | | 10 | 9 | 3 | 5 | 15 | 14 | 26 | 20 | 45 | 51 | 28 | 53 | 99 | 124 | 114 | 138 |
| Ukraine | 1 | 3 | 4 | 8 | | 2 | 5 | 13 | 38 | 55 | 21 | 19 | 35 | 22 | 94 | 96 | 99 | 109 |
| United Kingdom | | | 5 | 1 | 1 | | 6 | 1 | 1 | | | 2 | | 2 | 1 | 4 | 7 | 5 |
| TOTAL | 15 | 13 | 146 | 128 | 45 | 38 | 206 | 179 | 280 | 294 | 522 | 543 | 344 | 317 | 1146 | 1154 | 1352 | 1333 |

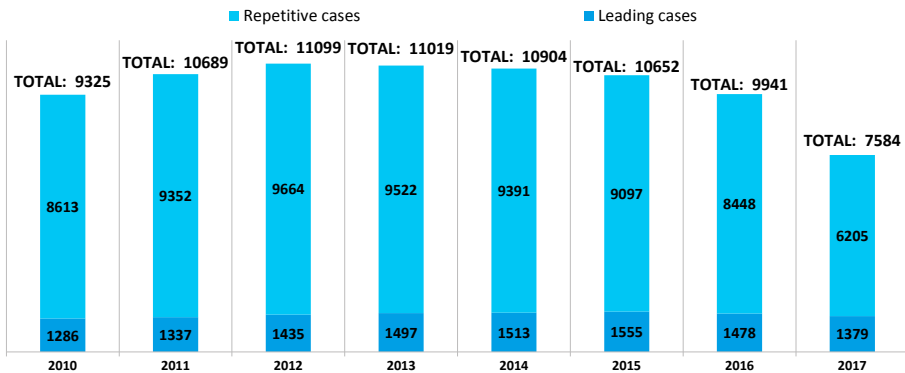
B. Pending cases

Pending cases are those in which the execution process is on-going. As a consequence, pending cases are at various stages of execution and must not be understood as unexecuted cases. In the overwhelming majority of these cases, individual redress has been provided, and cases remain pending mainly awaiting implementation of general measures, some of which are very complex, requiring considerable time. In many situations, cooperation programmes or country action plans provide, or have provided, support for the execution processes launched.

B.1. Overview

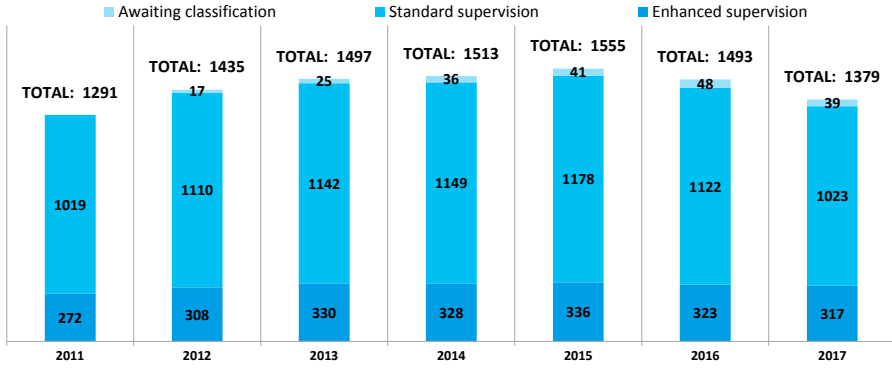


B.2. Leading or repetitive

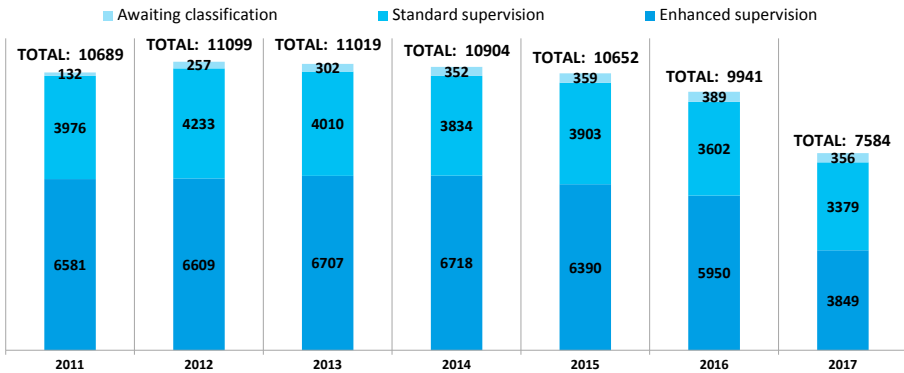


B.3. Enhanced or standard supervision

Leading cases pending



Total number of pending cases (including repetitive)



B.4. Pending cases - State by State

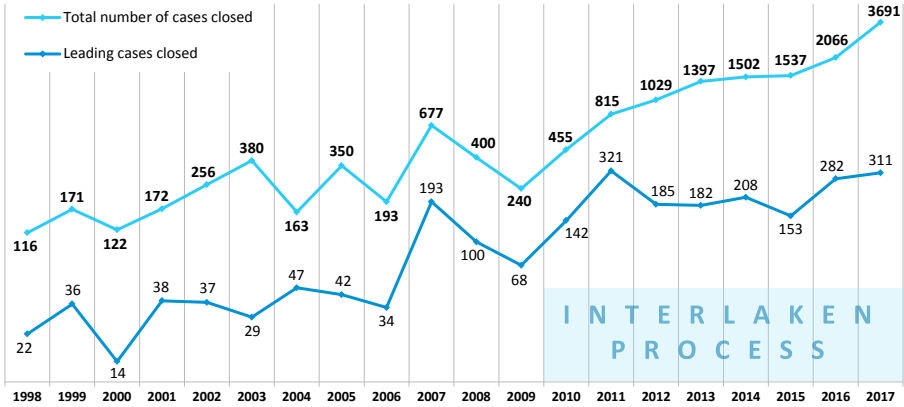
| STATE | LEADING CASES | | | | | | | | REPETITIVE CASES | | | | | | | | TOTAL | |
|------------------------|----------------------|------|----------------------|------|-------------------------|------|------------------------|------|----------------------|------|----------------------|------|-------------------------|------|---------------------------|------|-------|------|
| | Enhanced supervision | | Standard supervision | | Awaiting classification | | Total of leading cases | | Enhanced supervision | | Standard supervision | | Awaiting classification | | Total of repetitive cases | | | |
| | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 |
| Albania | 4 | 3 | 6 | 6 | | | 10 | 9 | 24 | 22 | 12 | 17 | 4 | | 40 | 39 | 50 | 48 |
| Andorra | | | 2 | | | | 2 | | | | | | | | | | 2 | |
| Armenia | 3 | 4 | 9 | 7 | | | 12 | 11 | 2 | 2 | 5 | 15 | | 2 | 7 | 19 | 19 | 30 |
| Austria | | | 14 | 14 | | 1 | 14 | 15 | | | 17 | 14 | | 3 | 17 | 17 | 31 | 32 |
| Azerbaijan | 14 | 14 | 39 | 39 | | 1 | 53 | 54 | 57 | 82 | 54 | 56 | 4 | 5 | 115 | 143 | 168 | 197 |
| Belgium | 4 | 4 | 9 | 8 | 1 | 1 | 14 | 13 | 19 | 21 | 17 | 4 | 1 | 1 | 37 | 26 | 51 | 39 |
| Bosnia and Herzegovina | 5 | 3 | 6 | 4 | | 4 | 11 | 11 | 11 | 3 | 8 | 13 | 1 | 3 | 20 | 19 | 31 | 30 |
| Bulgaria | 24 | 21 | 61 | 55 | 9 | 1 | 94 | 77 | 130 | 66 | 57 | 59 | 9 | 5 | 196 | 130 | 290 | 207 |
| Croatia | 3 | 3 | 69 | 58 | 2 | 2 | 74 | 63 | 4 | 7 | 97 | 109 | 5 | 6 | 106 | 122 | 180 | 185 |
| Cyprus | 2 | 1 | 3 | 3 | | | 5 | 4 | 4 | 4 | | | | | 4 | 4 | 9 | 8 |
| Czech Republic | 1 | 1 | 5 | 6 | | | 6 | 7 | | | 4 | | | | 4 | | 10 | 7 |
| Denmark | | | 1 | 1 | | | 1 | 1 | | | | | | | | | 1 | 1 |
| Estonia | | | 3 | 2 | 1 | | 4 | 2 | | | | | 1 | | 1 | | 5 | 2 |
| Finland | | | 12 | 13 | | | 12 | 13 | | | 29 | 29 | | | 29 | 29 | 41 | 42 |
| France | 3 | | 24 | 16 | 1 | | 28 | 16 | 1 | | 20 | 17 | 9 | 1 | 30 | 18 | 58 | 34 |
| Georgia | 6 | 4 | 9 | 8 | | 1 | 15 | 13 | 15 | 16 | 7 | 2 | 2 | 5 | 24 | 23 | 39 | 36 |

| STATE | LEADING CASES | | | | | | | | REPETITIVE CASES | | | | | | | | TOTAL | |
|---------------------|----------------------|------|----------------------|------|-------------------------|------|------------------------|------|----------------------|------|----------------------|------|-------------------------|------|---------------------------|------|-------|------|
| | Enhanced supervision | | Standard supervision | | Awaiting classification | | Total of leading cases | | Enhanced supervision | | Standard supervision | | Awaiting classification | | Total of repetitive cases | | | |
| | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 |
| Germany | | | 19 | 15 | 2 | 1 | 21 | 16 | | | 5 | 2 | 1 | | 6 | 2 | 27 | 18 |
| Greece | 12 | 12 | 37 | 41 | 1 | 2 | 50 | 55 | 84 | 86 | 146 | 148 | 31 | 16 | 261 | 250 | 311 | 305 |
| Hungary | 9 | 8 | 42 | 46 | 3 | | 54 | 54 | 275 | 34 | 94 | 109 | 17 | 8 | 386 | 151 | 440 | 205 |
| Iceland | | | 1 | 2 | | | 1 | 2 | | | | 2 | | | | 2 | 1 | 4 |
| Ireland | | 1 | 2 | 2 | | | 2 | 3 | | 4 | 4 | | | | 4 | 4 | 6 | 7 |
| Italy | 20 | 19 | 47 | 33 | 3 | 2 | 70 | 54 | 2092 | 231 | 185 | 83 | 3 | 21 | 2280 | 335 | 2350 | 389 |
| Latvia | | | 40 | 24 | 1 | 1 | 41 | 25 | | | 11 | 6 | 1 | 2 | 12 | 8 | 53 | 33 |
| Liechtenstein | | | 1 | 1 | | | 1 | 1 | | | 1 | 1 | | | 1 | 1 | 2 | 2 |
| Lithuania | 3 | 3 | 16 | 17 | 1 | 1 | 20 | 21 | | | 7 | 8 | | 1 | 7 | 9 | 27 | 30 |
| Luxembourg | | | 1 | | | | 1 | | | | | | | | | | 1 | |
| Malta | | 1 | 6 | 7 | 1 | | 7 | 8 | | 1 | 4 | 4 | 1 | | 5 | 5 | 12 | 13 |
| Republic of Moldova | 22 | 22 | 55 | 53 | 3 | 1 | 80 | 76 | 118 | 116 | 82 | 79 | 6 | | 206 | 195 | 286 | 271 |
| Monaco | | | | 1 | | | | 1 | | | | | | | | | | 1 |
| Montenegro | | | 6 | 2 | | 1 | 6 | 3 | | | 5 | 9 | 5 | 2 | 10 | 11 | 16 | 14 |
| Netherlands | 1 | 1 | 7 | 8 | | 1 | 8 | 10 | | | | 1 | 2 | 1 | 2 | 2 | 10 | 12 |
| Norway | | | 1 | | | | 1 | | | | | | | | | | 1 | |
| Poland | 8 | 8 | 22 | 23 | 4 | | 34 | 31 | 157 | 53 | 29 | 38 | 5 | 4 | 191 | 95 | 225 | 126 |
| Portugal | 1 | 1 | 10 | 11 | 2 | 2 | 13 | 14 | 7 | 13 | 20 | 11 | 1 | | 28 | 24 | 41 | 38 |
| Romania | 17 | 18 | 52 | 38 | 3 | 2 | 72 | 58 | 370 | 383 | 111 | 95 | 35 | 17 | 516 | 495 | 588 | 553 |

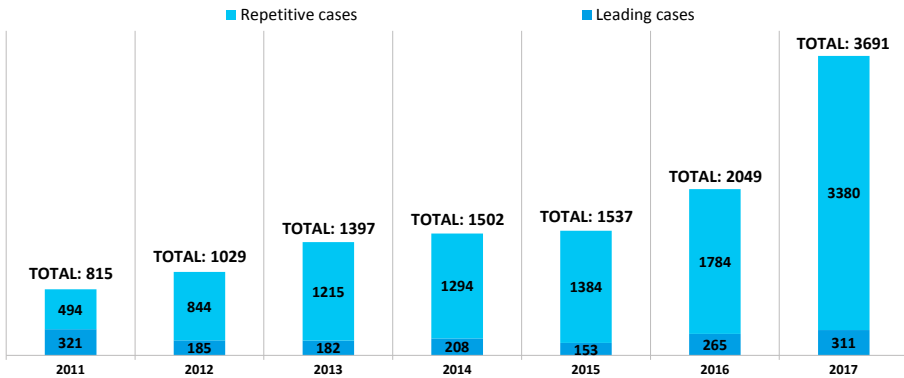
| STATE | LEADING CASES | | | | | | | | REPETITIVE CASES | | | | | | | | TOTAL | |
|---|----------------------|------------|----------------------|-------------|-------------------------|-----------|------------------------|-------------|----------------------|-------------|----------------------|-------------|-------------------------|------------|---------------------------|-------------|-------------|-------------|
| | Enhanced supervision | | Standard supervision | | Awaiting classification | | Total of leading cases | | Enhanced supervision | | Standard supervision | | Awaiting classification | | Total of repetitive cases | | | |
| | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 |
| Russian Federation | 54 | 59 | 147 | 151 | 3 | 6 | 204 | 216 | 901 | 977 | 363 | 386 | 105 | 110 | 1369 | 1473 | 1573 | 1689 |
| San Marino | | | 2 | 1 | | | 2 | 1 | | | | | | | | | 2 | 1 |
| Serbia | 8 | 6 | 17 | 13 | 1 | | 26 | 19 | 51 | 60 | 78 | 52 | 7 | 17 | 136 | 129 | 162 | 148 |
| Slovak Republic | 2 | 1 | 8 | 8 | | | 10 | 9 | 1 | 8 | 36 | 40 | 12 | 6 | 49 | 54 | 59 | 63 |
| Slovenia | 2 | 2 | 19 | 18 | | | 21 | 20 | 16 | 16 | 12 | 14 | | | 28 | 30 | 49 | 50 |
| Spain | 1 | 1 | 15 | 17 | 1 | 1 | 17 | 19 | | | 22 | 12 | 2 | | 24 | 12 | 41 | 31 |
| Sweden | | | 2 | 2 | | | 2 | 2 | | | | | | | | | 2 | 2 |
| Switzerland | 1 | 1 | 6 | 6 | | | 7 | 7 | | | | 1 | | 1 | | 2 | 7 | 9 |
| "the former Yugoslav Republic of Macedonia" | 4 | 2 | 24 | 23 | | | 28 | 25 | | | 29 | 24 | 9 | 3 | 38 | 27 | 66 | 52 |
| Turkey | 34 | 36 | 144 | 136 | 4 | 5 | 182 | 177 | 422 | 442 | 799 | 774 | 27 | 53 | 1248 | 1269 | 1430 | 1446 |
| Ukraine | 52 | 53 | 94 | 81 | | 2 | 146 | 136 | 856 | 876 | 110 | 122 | 35 | 22 | 1001 | 1020 | 1147 | 1156 |
| United Kingdom | 3 | 4 | 7 | 3 | 1 | | 11 | 7 | 10 | 9 | | | | 2 | 10 | 11 | 21 | 18 |
| TOTAL | 323 | 317 | 1122 | 1023 | 41 | 39 | 1493 | 1379 | 5627 | 3532 | 2480 | 2356 | 341 | 317 | 8448 | 6205 | 9941 | 7584 |

C. Closed cases

C.1. Overview

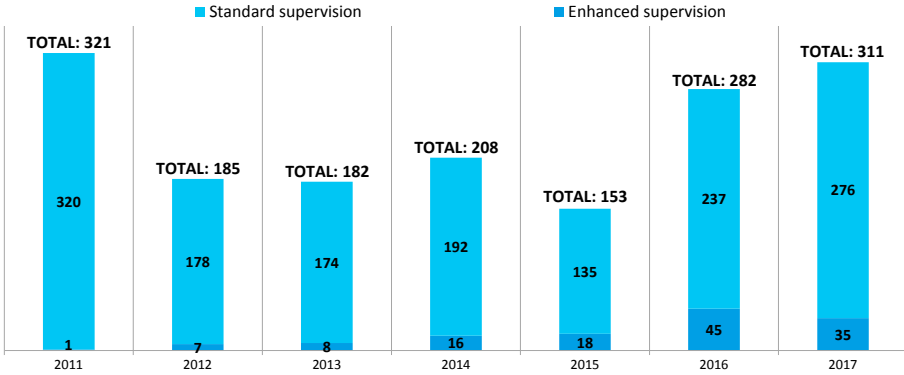


C.2. Leading or repetitive

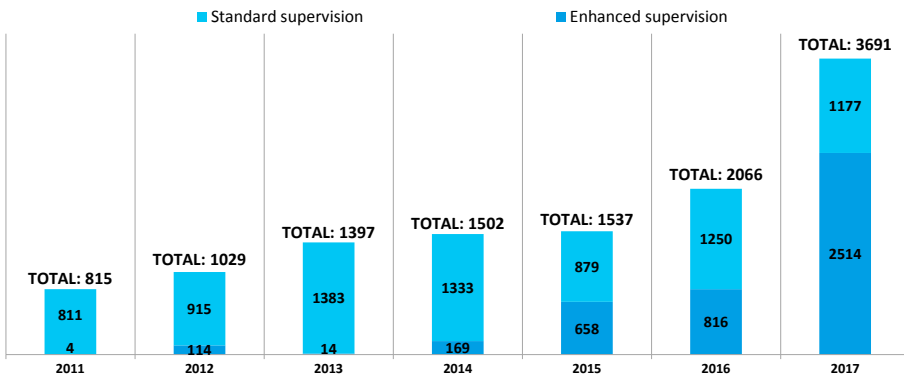


C.3. Enhanced or standard supervision

Leading cases closed



Total number of cases closed (including repetitive)



C.4. Closed cases – State by State

| STATE | LEADING CASES | | | | | | REPETITIVE CASES | | | | | | TOTAL | |
|--------------------|----------------------|------|----------------------|------|------------------------|------|----------------------|------|----------------------|------|---------------------------|------|-------|------|
| | Enhanced supervision | | Standard supervision | | Total of leading cases | | Enhanced supervision | | Standard supervision | | Total of repetitive cases | | | |
| | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 |
| Albania | 4 | 1 | 3 | 1 | 7 | 2 | 3 | 2 | 3 | | 6 | 2 | 13 | 4 |
| Andorra | | | | 2 | | 2 | | | | | | | | 2 |
| Armenia | | | 6 | 3 | 6 | 3 | 1 | | 9 | 1 | 10 | 1 | 16 | 4 |
| Austria | | | 8 | 1 | 8 | 1 | | | 14 | 18 | 14 | 18 | 22 | 19 |
| Azerbaijan | | | | | | | | | | | | | | |
| Belgium | 1 | | 2 | 5 | 3 | 5 | 1 | | | 16 | 1 | 16 | 4 | 21 |
| Bosnia-Herzegovina | | 1 | | 4 | | 5 | | | 1 | 7 | 1 | 7 | 1 | 12 |
| Bulgaria | 2 | 5 | 12 | 23 | 14 | 28 | 4 | 64 | 13 | 24 | 17 | 88 | 31 | 116 |
| Croatia | 1 | | 3 | 13 | 4 | 13 | | | 6 | 10 | 6 | 10 | 10 | 23 |
| Cyprus | | 1 | 2 | 1 | 2 | 2 | | | | | | | 2 | 2 |
| Czech Republic | | | 1 | 2 | 1 | 2 | | | | 4 | | 4 | 1 | 6 |
| Denmark | | | | | | | | | | | | | | |
| Estonia | | | 6 | 3 | 6 | 3 | | | 4 | 2 | 4 | 2 | 10 | 5 |
| Finland | | | 1 | | 1 | | | | | 1 | | 1 | 1 | 1 |
| France | 1 | 3 | 15 | 9 | 16 | 12 | | 3 | 12 | 21 | 12 | 24 | 28 | 36 |
| Georgia | | 3 | 3 | 3 | 3 | 6 | | | 3 | 7 | 3 | 7 | 6 | 13 |
| Germany | | | 2 | 11 | 2 | 11 | | | 1 | 7 | 1 | 7 | 3 | 18 |

| STATE | LEADING CASES | | | | | | REPETITIVE CASES | | | | | | TOTAL | |
|---------------------|----------------------|------|----------------------|------|------------------------|------|----------------------|------|----------------------|------|---------------------------|------|-------|------|
| | Enhanced supervision | | Standard supervision | | Total of leading cases | | Enhanced supervision | | Standard supervision | | Total of repetitive cases | | | |
| | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 |
| Greece | 1 | 1 | 10 | 5 | 11 | 6 | | 12 | 102 | 91 | 102 | 103 | 113 | 109 |
| Hungary | | 1 | 1 | | 1 | 1 | | 252 | 41 | 43 | 41 | 295 | 42 | 296 |
| Iceland | | | 1 | | 1 | | | | 3 | | 3 | | 4 | |
| Ireland | | | | | | | | | | | | | | |
| Italy | 5 | 7 | 8 | 19 | 13 | 26 | 75 | 1862 | 20 | 113 | 95 | 1975 | 108 | 2001 |
| Latvia | | | 16 | 22 | 16 | 22 | | | 4 | 9 | 4 | 9 | 20 | 31 |
| Liechtenstein | | | 1 | | 1 | | | | | | | | 1 | |
| Lithuania | | 1 | 11 | 8 | 11 | 9 | | | 7 | 6 | 7 | 6 | 18 | 15 |
| Luxembourg | | | | 1 | | 1 | | | | | | | 13 | 1 |
| Malta | 2 | | 4 | 1 | 6 | 1 | 3 | | 8 | 1 | 11 | 1 | 17 | 2 |
| Republic of Moldova | 3 | 1 | 2 | 8 | 5 | 9 | 4 | 3 | | 14 | 4 | 17 | 9 | 26 |
| Monaco | | | | | | | | | | | | | | |
| Montenegro | | | 9 | 6 | 9 | 6 | | | 1 | 13 | 1 | 13 | 10 | 19 |
| Netherlands | | | 4 | | 4 | | | | 6 | 2 | 6 | 2 | 10 | 2 |
| Norway | 1 | | 2 | 1 | 3 | 1 | | | | | | | 3 | 1 |
| Poland | 5 | | 10 | 4 | 15 | 4 | 52 | 103 | 103 | 26 | 155 | 129 | 170 | 133 |
| Portugal | 2 | | 7 | 2 | 9 | 2 | 83 | | 28 | 17 | 111 | 17 | 120 | 19 |
| Romania | 6 | 1 | 21 | 25 | 27 | 26 | 112 | 4 | 75 | 114 | 187 | 118 | 214 | 144 |

| STATE | LEADING CASES | | | | | | REPETITIVE CASES | | | | | | TOTAL | |
|---|----------------------|-----------|----------------------|------------|------------------------|------------|----------------------|-------------|----------------------|------------|---------------------------|-------------|-------------|-------------|
| | Enhanced supervision | | Standard supervision | | Total of leading cases | | Enhanced supervision | | Standard supervision | | Total of repetitive cases | | | |
| | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 |
| Russian Federation | 3 | 2 | 1 | 12 | 4 | 14 | 231 | 114 | 26 | 126 | 257 | 240 | 261 | 254 |
| San Marino | | | | 1 | | 1 | | | | | | | | 1 |
| Serbia | 4 | 2 | 4 | 7 | 8 | 9 | 7 | 2 | 96 | 41 | 103 | 43 | 111 | 52 |
| Slovak Republic | | 1 | 16 | 2 | 16 | 3 | | 1 | 25 | 14 | 25 | 15 | 41 | 18 |
| Slovenia | 1 | | 4 | 7 | 5 | 7 | | | 260 | | 260 | | 265 | 7 |
| Spain | | | 4 | 6 | 4 | 6 | | | | 11 | | 11 | 4 | 17 |
| Sweden | | | 4 | 1 | 4 | 1 | | | | | | | 4 | 1 |
| Switzerland | | | 11 | 4 | 11 | 4 | | | | | | | 11 | 4 |
| “the former Yugoslav Republic of Macedonia” | | 2 | 6 | 4 | 6 | 6 | | | 73 | 19 | 73 | 19 | 79 | 25 |
| Turkey | 1 | | 10 | 23 | 11 | 23 | 195 | 6 | 68 | 94 | 263 | 100 | 274 | 123 |
| Ukraine | | 2 | 4 | 20 | 4 | 22 | | 51 | | 27 | | 78 | 4 | 100 |
| United Kingdom | 2 | | 2 | 6 | 4 | 6 | | | 1 | 2 | 1 | 2 | 5 | 8 |
| TOTAL | 45 | 35 | 237 | 276 | 282 | 311 | 771 | 2479 | 1013 | 901 | 1784 | 3380 | 2079 | 3691 |

D. Supervision process

D.1. Action plans / Action reports

A general practice of gathering relevant execution information in **action plans** to be provided within six months of the judgment becoming final, and in **action reports**, as soon as execution was deemed completed by the respondent State, was introduced in 2011. Earlier, information was conveyed in many different forms, without specific deadlines.

From 1 January to 31 December 2017, the CM received 249 action plans and 570 action reports. For the same period in 2016, 252 action plans (236 in 2015) and 504 action reports (350 in 2015) had been submitted to the CM.

| Year | Action plans received | Action reports received | Reminder letters ²²⁵ (States concerned) |
|------|-----------------------|-------------------------|---|
| 2017 | 249 | 570 | 75 (36) |
| 2016 | 252 | 504 | 69 (27) |
| 2015 | 236 | 350 | 56 (20) |
| 2014 | 266 | 481 | 60 (24) |
| 2013 | 229 | 349 | 82 (29) |
| 2012 | 158 | 262 | 62 (27) |
| 2011 | 114 | 236 | 32 (17) |

D.2. Interventions of the Committee of Ministers²²⁷

In 2017, 26 States had cases included in the Order of Business of the CM for detailed examination (30 in 2016) – initial classification issues excluded; this, out of a total of 31 States with cases under enhanced supervision (31 in 2016).

226. According to the new working methods, when the six-month deadline for States to submit an action plan / report has expired and no such document has been transmitted to the Committee of Ministers, the Department for the Execution of Judgments sends a reminder letter to the delegation concerned. If a member State has not submitted an action plan/report within three months after the reminder, and no explanation of this situation is given to the Committee of Ministers, the Secretariat is responsible for proposing the case for detailed consideration by the Committee of Ministers under the enhanced procedure (see [CM/Inf/DH\(2010\)45final](#), item IV).

227. Examinations during ordinary meetings of the CM without any decision adopted are not included in these tables.

| Year | Number of interventions of the CM during the year | Total cases / groups of cases examined | States concerned | States with cases under enhanced supervision |
|------|---|--|------------------|--|
| 2017 | 157 | 116 | 26 | 31 |
| 2016 | 148 | 107 | 30 | 31 |
| 2015 | 108 | 64 | 25 | 31 |
| 2014 | 111 | 68 | 26 | 31 |
| 2013 | 123 | 76 | 27 | 31 |
| 2012 | 119 | 67 | 26 | 29 |
| 2011 | 97 | 52 | 24 | 26 |

The Committee of Ministers' interventions are divided as follows:

| Year | Examined four times or more | Examined three times | Examined twice | Examined once |
|------|-----------------------------|----------------------|----------------|---------------|
| 2017 | 6 | 2 | 17 | 89 |
| 2016 | 5 | 6 | 11 | 85 |
| 2015 | 4 | 10 | 9 | 41 |
| 2014 | 6 | 5 | 11 | 46 |
| 2013 | 6 | 5 | 14 | 51 |
| 2012 | 6 | 9 | 11 | 41 |
| 2011 | 1 | 12 | 12 | 27 |

D.3. Transfers

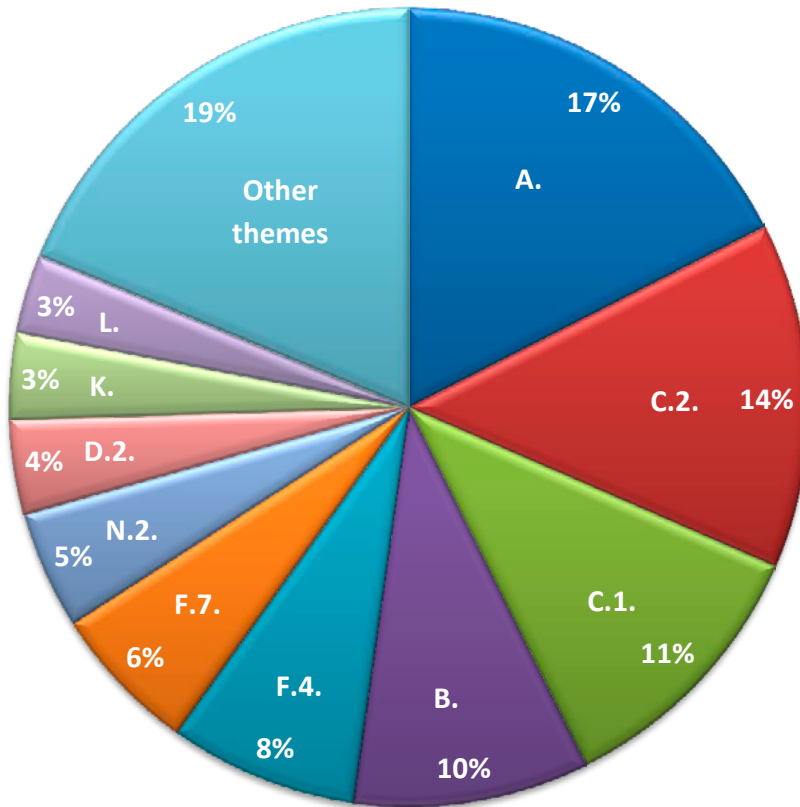
Transfers to enhanced supervision: In 2017, 4 leading cases/groups of cases concerning 2 States (Ireland and the Russian Federation), were transferred from standard to enhanced supervision. In 2016, 18 cases/groups of cases concerning 4 States (Bulgaria, Georgia, Romania and Turkey) were transferred from standard to enhanced supervision.

Transfers to standard supervision: In 2017, 6 cases/groups of cases, concerning 4 States (Bosnia and Herzegovina, "the former Yugoslav Republic of Macedonia", Bulgaria and the Russian Federation), were transferred from enhanced to standard supervision. In 2016, 24 leading cases, concerning 3 States (Greece, Ireland and Turkey), were transferred from enhanced to standard supervision.

D.4. Contributions of civil society

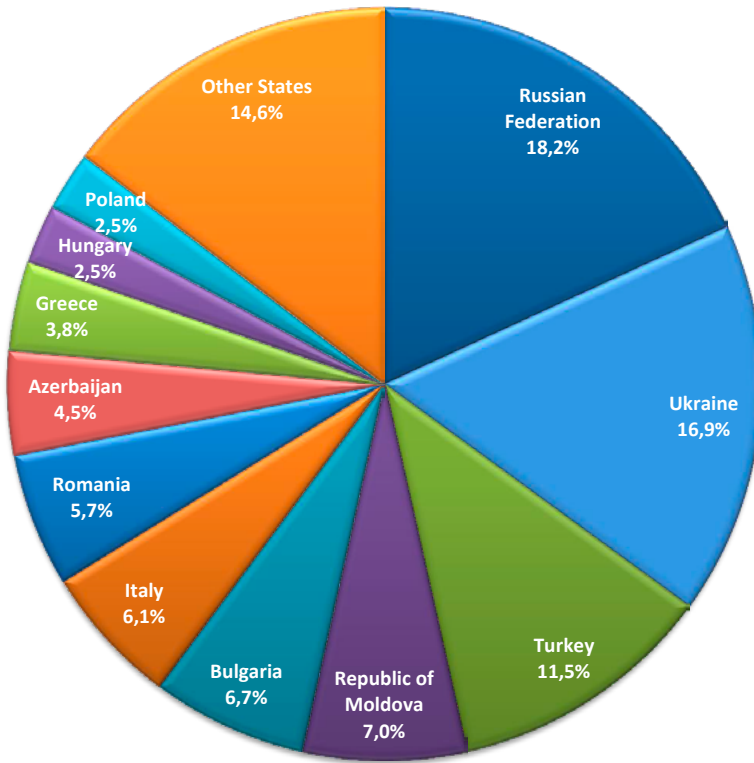
In 2017, 79 contributions from NGOs and NHRI (National Human Rights Institutions) were received and disseminated by the Committee of Ministers, concerning 19 States. In 2016, this number was 90 concerning 22 States. In 2015, this number was 81 concerning 21 States. In 2014, this number was 80 concerning 21 States. In 2013, this number was 81 concerning 18 States. In 2012 and 2011, this number was 47 concerning respectively 16 and 12 States.

D.5. Main themes under enhanced supervision



- A. Actions of security forces
- C.2. Conditions of detention and medical care
- C.1. Lawfulness of detention and related issues
- B. Right to life - Protection against ill-treatment: specific situations
- F.4. Length of judicial proceedings
- F.7. Enforcement of domestic judicial decisions
- N.2. Other interferences with property rights
- D.2. Lawfulness of expulsion or extradition
- K. Freedom of expression
- L. Freedom of assembly and association
- Other themes

D.6. Main States with cases under enhanced supervision

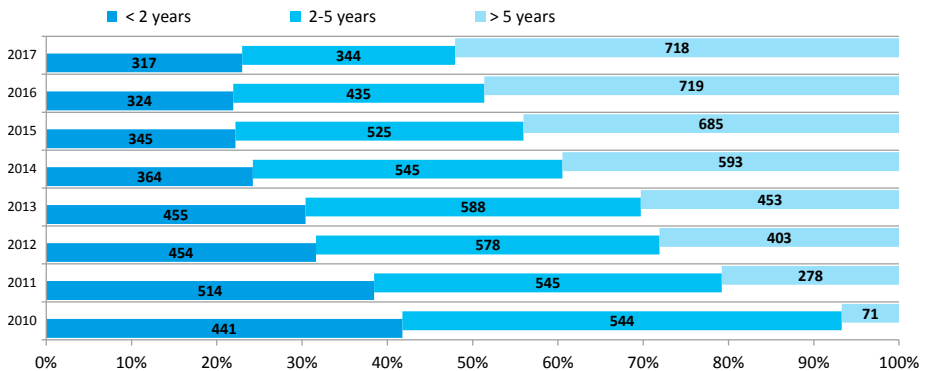


E. Length of the execution proces

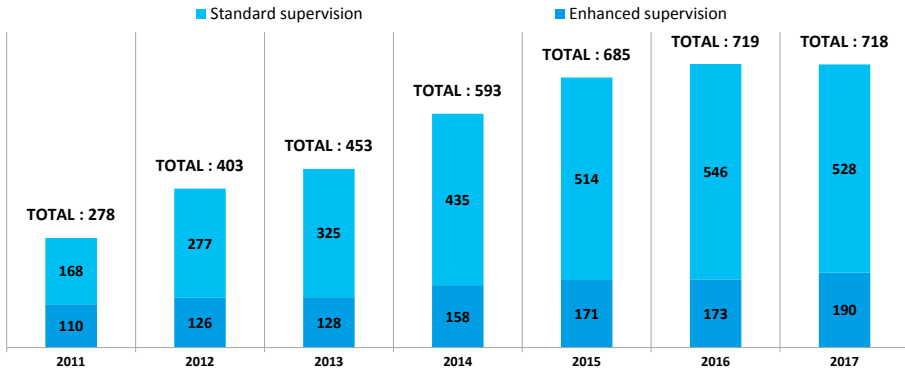
E.1. Leading cases pending

(at the end of the year)

Overview



Leading cases pending for more than five years



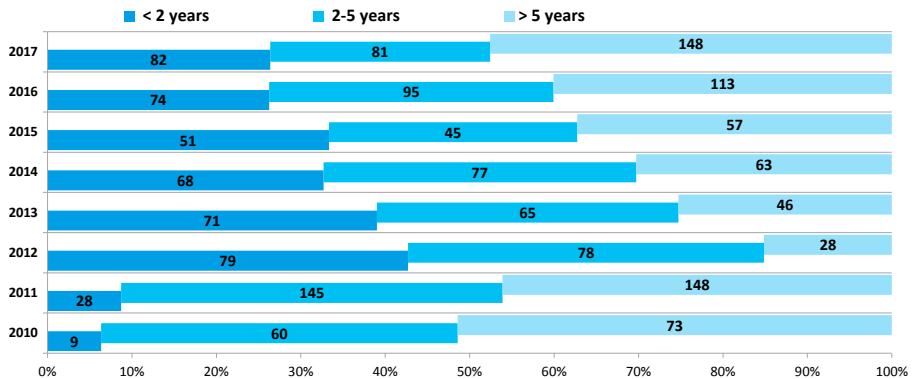
Leading cases pending – State by State

| STATE | ENHANCED SUPERVISION | | | | | | STANDARD SUPERVISION | | | | | |
|------------------------|----------------------|------|-----------|------|-----------|------|----------------------|------|-----------|------|-----------|------|
| | < 2 years | | 2-5 years | | > 5 years | | < 2 years | | 2-5 years | | > 5 years | |
| | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 |
| Albania | | | 2 | 1 | 2 | 2 | 1 | 1 | 1 | 1 | 4 | 4 |
| Andorra | | | | | | | 1 | | 1 | | | |
| Armenia | 1 | 1 | 1 | 2 | 1 | 1 | 6 | 4 | 3 | 1 | | 2 |
| Austria | | | | | | | 2 | 1 | 4 | 4 | 8 | 9 |
| Azerbaijan | 3 | 1 | 2 | 4 | 9 | 9 | 2 | 1 | 24 | 21 | 13 | 17 |
| Belgium | 2 | | 1 | 3 | 1 | 1 | 5 | 6 | 2 | | 2 | 2 |
| Bosnia and Herzegovina | | | 2 | | 3 | 3 | 2 | 1 | 3 | | 1 | 3 |
| Bulgaria | 3 | 4 | 7 | 4 | 14 | 13 | 13 | 18 | 18 | 15 | 30 | 22 |
| Croatia | | | 1 | 1 | 2 | 2 | 15 | 8 | 23 | 21 | 31 | 29 |
| Cyprus | | | 1 | 1 | 1 | | 2 | 2 | | | 1 | 1 |
| Czech Republic | | | | | 1 | 1 | 2 | 3 | 3 | 3 | | |
| Denmark | | | | | | | 1 | 1 | | | | |
| Estonia | | | | | | | 3 | 1 | | 1 | | |
| Finland | | | | | | | | 1 | 3 | 2 | 9 | 10 |
| France | | | 3 | | | | 9 | 5 | 13 | 8 | 2 | 3 |
| Georgia | 1 | | | 1 | 5 | 3 | 3 | 4 | 3 | 2 | 3 | 2 |
| Germany | | | | | | | 9 | 9 | 7 | 5 | 3 | 1 |
| Greece | 4 | 2 | 1 | 3 | 7 | 7 | 9 | 8 | 2 | 7 | 26 | 26 |
| Hungary | 4 | 2 | 4 | 5 | 1 | 1 | 12 | 9 | 14 | 15 | 16 | 22 |

| STATE | ENHANCED SUPERVISION | | | | | | STANDARD SUPERVISION | | | | | |
|---|----------------------|-----------|------------|-----------|------------|------------|----------------------|------------|------------|------------|------------|------------|
| | < 2 years | | 2-5 years | | > 5 years | | < 2 years | | 2-5 years | | > 5 years | |
| | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 |
| Iceland | | | | | | | | 1 | | | 1 | 1 |
| Ireland | | | | | | 1 | | 1 | 1 | 1 | 1 | |
| Italy | 5 | 5 | 4 | 4 | 11 | 10 | 7 | 5 | 19 | 18 | 21 | 10 |
| Latvia | | | | | | | 12 | 7 | 17 | 14 | 11 | 3 |
| Liechtenstein | | | | | | | 1 | 1 | | | | |
| Lithuania | 1 | 1 | | | 2 | 2 | 5 | 11 | 9 | 3 | 2 | 3 |
| Luxembourg | | | | | | | 1 | | | | | |
| Malta | | 1 | | | | | 2 | 2 | 2 | 2 | 2 | 3 |
| Republic of Moldova | | | 7 | 4 | 15 | 18 | 6 | 7 | 12 | 6 | 37 | 40 |
| Monaco | | | | | | | | 1 | | | | |
| Montenegro | | | | | | | 2 | 2 | 3 | | 1 | |
| Netherlands | | | 1 | 1 | | | 3 | 4 | 2 | 1 | 2 | 3 |
| Norway | | | | | | | 1 | | | | | |
| Poland | 3 | | 2 | 5 | 3 | 3 | 11 | 12 | 3 | 2 | 8 | 9 |
| Portugal | | | 1 | 1 | | | 7 | 7 | 2 | 3 | 1 | 1 |
| Romania | 1 | 3 | 8 | 6 | 8 | 9 | 22 | 19 | 18 | 12 | 12 | 7 |
| Russian Federation | 3 | 5 | 18 | 11 | 33 | 43 | 10 | 17 | 34 | 27 | 103 | 107 |
| San Marino | | | | | | | 1 | | | | 1 | 1 |
| Serbia | 1 | | 3 | 3 | 4 | 3 | 3 | 4 | 7 | 3 | 7 | 6 |
| Slovak Republic | | | 2 | 1 | | | 2 | 2 | 6 | 4 | | 2 |
| Slovenia | | | 2 | 1 | | 1 | 5 | 7 | 7 | 2 | 7 | 9 |
| Spain | | | 1 | 1 | | | 4 | 8 | 4 | 3 | 7 | 6 |
| Sweden | | | | | | | 2 | 2 | | | | |
| Switzerland | 1 | 1 | | | | | 3 | 3 | 2 | 1 | 1 | 2 |
| “the former Yugoslav Republic of Macedonia” | 2 | 1 | 1 | | 1 | 1 | 8 | 4 | 6 | 8 | 10 | 11 |
| Turkey | 3 | 3 | 9 | 9 | 22 | 24 | 22 | 21 | 26 | 23 | 96 | 92 |
| Ukraine | 8 | 4 | 22 | 20 | 22 | 29 | 7 | 12 | 20 | 12 | 67 | 57 |
| United Kingdom | | | | 1 | 3 | 3 | 4 | 1 | 1 | | 2 | 2 |
| TOTAL | 46 | 34 | 106 | 93 | 171 | 190 | 248 | 244 | 325 | 251 | 549 | 528 |

E.2. Leading cases closed

Overview



Leading cases closed – State by State

| STATE | ENHANCED SUPERVISION | | | | | | STANDARD SUPERVISION | | | | | |
|------------------------|----------------------|------|-----------|------|-----------|------|----------------------|------|-----------|------|-----------|------|
| | < 2 years | | 2-5 years | | > 5 years | | < 2 years | | 2-5 years | | > 5 years | |
| | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 |
| Albania | | | 1 | | 3 | 1 | | | 1 | 1 | 2 | |
| Andorra | | | | | | | | 1 | | 1 | | |
| Armenia | | | | | | | 2 | 2 | 3 | 1 | 1 | |
| Austria | | | | | | | | | 4 | | 4 | 1 |
| Azerbaijan | | | | | | | | | | | | |
| Belgium | | | | | 1 | | | 3 | 1 | | 1 | 2 |
| Bosnia and Herzegovina | | | | 1 | | | | 1 | | 3 | | |
| Bulgaria | | | | | 2 | 5 | 4 | 5 | 2 | 3 | 6 | 15 |
| Croatia | | | 1 | | | | 1 | 4 | 2 | 3 | | 6 |
| Cyprus | | | | | | 1 | 1 | 1 | | | 1 | |
| Czech Republic | | | | | | | 1 | | | 2 | | |
| Denmark | | | | | | | | | | | | |
| Estonia | | | | | | | 2 | 3 | 4 | | | |
| Finland | | | | | | | | | | | 1 | |
| France | | | 1 | 2 | | 1 | 4 | 2 | 9 | 6 | 2 | 1 |
| Georgia | | | | | | 3 | | | | 1 | 3 | 2 |
| Germany | | | | | | | | 3 | 2 | 3 | | 5 |
| Greece | | | 1 | 1 | | | | 3 | 2 | 1 | 8 | 1 |
| Hungary | | | | | | 1 | | | 1 | | | |
| Iceland | | | | | | | | | 1 | | | |

| STATE | ENHANCED SUPERVISION | | | | | | STANDARD SUPERVISION | | | | | |
|---|----------------------|----------|-----------|----------|-----------|-----------|----------------------|-----------|-----------|-----------|-----------|------------|
| | < 2 years | | 2-5 years | | > 5 years | | < 2 years | | 2-5 years | | > 5 years | |
| | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 |
| Ireland | | | | | | | | | | | | |
| Italy | | 1 | 4 | 1 | 1 | 5 | 1 | 1 | | 5 | 7 | 13 |
| Latvia | | | | | | | 5 | 6 | 5 | 6 | 6 | 10 |
| Liechtenstein | | | | | | | 1 | | | | | |
| Lithuania | | | | 1 | | | 2 | 2 | 4 | 5 | 5 | 1 |
| Luxembourg | | | | | | | | 1 | | | | |
| Malta | | | 2 | | | | 1 | 1 | 1 | | 2 | |
| Republic of Moldova | | | | 1 | 3 | | | 2 | 1 | 3 | 1 | 3 |
| Monaco | | | | | | | | | | | | |
| Montenegro | | | | | | | 1 | 2 | 6 | 3 | 2 | 1 |
| Netherlands | | | | | | | 1 | | 1 | | 2 | |
| Norway | | | 1 | | | | 2 | 1 | | | | |
| Poland | | | 1 | | 4 | | 4 | 4 | 2 | | 4 | |
| Portugal | | | | | 2 | | 5 | 1 | 1 | 1 | 1 | |
| Romania | | | 1 | | 5 | 1 | 13 | 8 | 1 | 7 | 7 | 10 |
| Russian Federation | | | | | 3 | 2 | 1 | 2 | | 1 | | 9 |
| San Marino | | | | | | | | 1 | | | | |
| Serbia | | | | | 4 | 2 | | 2 | 3 | 2 | 1 | 3 |
| Slovak Republic | | | | 1 | | | 9 | | 7 | 2 | | |
| Slovenia | | | 1 | | | | | 4 | | 1 | 4 | 2 |
| Spain | | | | | | | 1 | 1 | 3 | | | 5 |
| Sweden | | | | | | | 3 | 1 | 1 | | | |
| Switzerland | | | | | | | 4 | 3 | 6 | 1 | 1 | |
| "the former Yugoslav Republic of Macedonia" | | 1 | | | | 1 | | 2 | | | 6 | 2 |
| Turkey | | | | | 1 | | 2 | 2 | 3 | 8 | 5 | 13 |
| Ukraine | | | | | | 2 | | | 4 | 2 | | 18 |
| United Kingdom | 1 | | | | 1 | | 2 | 5 | | 1 | | |
| TOTAL | 1 | 2 | 14 | 8 | 30 | 25 | 73 | 80 | 81 | 73 | 83 | 123 |

F. Just satisfaction

F.1. Just satisfaction awarded

Global amount

| YEAR | TOTAL AWARDED (€) |
|------|-------------------|
| 2017 | 60 399 112 € |
| 2016 | 82 288 795 € |
| 2015 | 53 766 388 € |
| 2014 | 2 039 195 858 € |
| 2013 | 135 420 274 € |
| 2012 | 176 798 888 € |
| 2011 | 72 300 652 € |
| 2010 | 64 032 637 € |

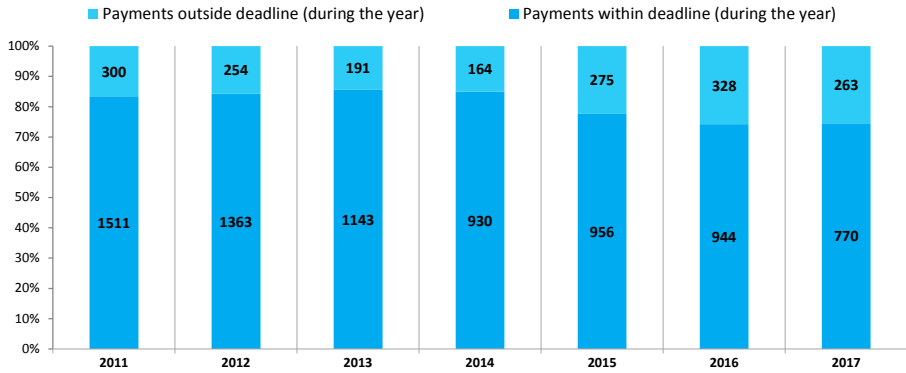
State by State

| STATE | TOTAL AWARDED (€) | |
|------------------------|-------------------|-------------|
| | 2016 | 2017 |
| Albania | 18 216 450 € | 123 600 € |
| Andorra | 26 250 € | 0 € |
| Armenia | 93 585 € | 106 665 € |
| Austria | 67 500 € | 145 312 € |
| Azerbaijan | 815 146 € | 817 451 € |
| Belgium | 71 400 € | 137 660 € |
| Bosnia and Herzegovina | 97 077 € | 33 300 € |
| Bulgaria | 969 492 € | 639 035 € |
| Croatia | 174 126 € | 669 733 € |
| Cyprus | 61 737 € | 0 € |
| Czech Republic | 13 800 € | 88 799 € |
| Denmark | 6 000 € | 0 € |
| Estonia | 24 500 € | 8 300 € |
| Finland | 0 € | 28 502 € |
| France | 550 713 € | 88 279 € |
| Georgia | 221 000 € | 120 151 € |
| Germany | 69 368 € | 54 748 € |
| Greece | 4 168 864 € | 3 660 288 € |
| Hungary | 3 329 990 € | 1 036 832 € |
| Iceland | 0 € | 25 000 € |
| Ireland | 0 € | 20 000 € |

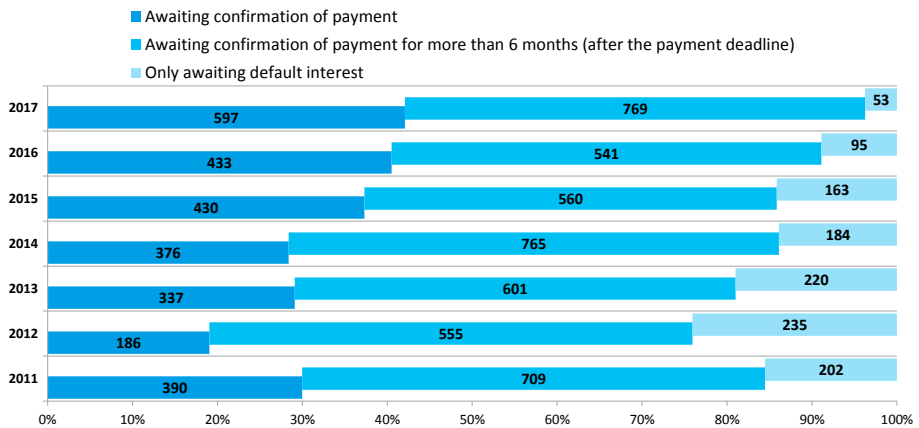
| STATE | TOTAL AWARDED (€) | |
|---|---------------------|---------------------|
| | 2016 | 2017 |
| Italy | 15 127 536 € | 12 545 831 € |
| Latvia | 34 245 € | 142 284 € |
| Liechtenstein | 14 770 € | 0 € |
| Lithuania | 281 770 € | 190 817 € |
| Luxembourg | 0 € | 0 € |
| Malta | 74 685 € | 52 500 € |
| Republic of Moldova | 218 337 € | 98 698 € |
| Monaco | 0 € | 3 000 € |
| Montenegro | 100 690 € | 118 741 € |
| Netherlands | 79 561 € | 33 356 € |
| Norway | 6 500 € | 0 € |
| Poland | 301 347 € | 1 755 819 € |
| Portugal | 2 400 619 € | 157 635 € |
| Romania | 4 104 685 € | 2 660 196 € |
| Russian Federation | 7 380 062 € | 14 557 886 € |
| San Marino | 0 € | 0 € |
| Serbia | 164 873 € | 147 386 € |
| Slovak Republic | 594 630 € | 5 940 023 € |
| Slovenia | 45 314 € | 170 790 € |
| Spain | 115 142 € | 822 031 € |
| Sweden | 75 742 € | 5 000 € |
| Switzerland | 61 000 € | 107 562 € |
| "the former Yugoslav Republic of Macedonia" | 102 870 € | 87 530 € |
| Turkey | 20 743 112 € | 11 580 458 € |
| Ukraine | 1 209 401 € | 1 195 237 € |
| United Kingdom | 74 900 € | 222 677 € |
| TOTAL | 82 288 795 € | 60 399 112 € |

F.2. Respect of payment deadlines

Overview



Information on payments made



State by State

| STATE | RESPECT OF PAYMENT DEADLINES | | | | | | | | | |
|------------------------|--|------|---|------|--------------------------------------|------|--|------|---|------|
| | Payments within deadline (during the year) | | Payments outside deadline (during the year) | | Cases only awaiting default interest | | Cases awaiting confirmation of payments at 31 December | | ... including cases awaiting this information for more than six months (outside payment deadline) | |
| | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 |
| Albania | 3 | | 14 | 4 | 1 | 1 | 21 | 20 | 11 | 19 |
| Andorra | | | | 1 | | | 1 | | | |
| Armenia | 10 | 12 | | | | | | 1 | | |
| Austria | 10 | 14 | 5 | | | | | 2 | | |
| Azerbaijan | | 1 | 3 | | | | 86 | 115 | 74 | 95 |
| Belgium | 5 | 12 | 3 | 7 | 4 | 3 | 13 | 4 | 12 | 1 |
| Bosnia and Herzegovina | 3 | 5 | 4 | | | | 3 | 7 | 2 | 2 |
| Bulgaria | 23 | 41 | 6 | 8 | | | 20 | 7 | 3 | 4 |
| Croatia | 26 | 27 | 2 | 3 | 1 | | 3 | 3 | 1 | |
| Cyprus | 4 | 1 | | | | | 1 | | | |
| Czech Republic | 1 | 8 | | | | | 5 | | 4 | |
| Denmark | | 1 | | | | | 1 | | | |
| Estonia | 3 | 3 | | | | | | | | |
| Finland | 1 | 2 | 1 | | | | 6 | 6 | 6 | 6 |
| France | 7 | 4 | 10 | 18 | | | 13 | 3 | 4 | |
| Georgia | 9 | 8 | | | | | 1 | 4 | 1 | 1 |
| Germany | 8 | 8 | | | | | 1 | 1 | | |
| Greece | 47 | 117 | 85 | 9 | | | 56 | 39 | 15 | 18 |
| Hungary | 49 | 42 | 8 | 2 | | | 65 | 89 | 32 | 45 |
| Iceland | | | | | | | | 1 | | |
| Ireland | | 1 | | | | | | | | |
| Italy | 32 | 17 | 22 | 31 | 14 | 13 | 69 | 65 | 49 | 35 |
| Latvia | 7 | 8 | | | | | 1 | 4 | | 1 |
| Liechtenstein | 3 | | | | | | | | | |
| Lithuania | 12 | 13 | | | | | 1 | 3 | | 1 |
| Luxembourg | | | | | | | | | | |
| Malta | 5 | 2 | | 1 | | | | 1 | | 1 |

| STATE | RESPECT OF PAYMENT DEADLINES | | | | | | | | | |
|---|--|------------|---|------------|--------------------------------------|-----------|--|-------------|---|------------|
| | Payments within deadline (during the year) | | Payments outside deadline (during the year) | | Cases only awaiting default interest | | Cases awaiting confirmation of payments at 31 December | | ... including cases awaiting this information for more than six months (outside payment deadline) | |
| | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 | 2016 | 2017 |
| Republic of Moldova | 17 | 17 | | 2 | | | 6 | 1 | 2 | |
| Monaco | | 1 | | | | | | | | |
| Montenegro | 5 | 16 | | 1 | 1 | | 1 | 2 | | |
| Netherlands | 9 | 4 | | | | | | 1 | | |
| Norway | 1 | | | | | | | | | |
| Poland | 102 | 34 | 1 | | 2 | 2 | 19 | 24 | 12 | 16 |
| Portugal | 51 | 7 | 6 | 7 | 4 | | 5 | 12 | 2 | 1 |
| Romania | 115 | 92 | 21 | 48 | | | 55 | 40 | 24 | 16 |
| Russian Federation | 90 | 60 | 63 | 50 | 6 | 6 | 198 | 493 | 55 | 230 |
| San Marino | 1 | | | | | | | | | |
| Serbia | 103 | 21 | 5 | 9 | | | 18 | 21 | 13 | 3 |
| Slovak Republic | 35 | 25 | 1 | 1 | | | 5 | 4 | | 1 |
| Slovenia | 9 | 8 | | | | | | | | |
| Spain | 5 | 4 | 2 | 2 | | | 5 | 6 | 2 | 4 |
| Sweden | 2 | 2 | | | | | 1 | | | |
| Switzerland | 2 | 5 | | | | | 1 | 2 | | |
| "the former Yugoslav Republic of Macedonia" | 20 | 23 | 1 | | | | 13 | 5 | 10 | 1 |
| Turkey | 85 | 54 | 49 | 36 | 42 | 20 | 66 | 105 | 41 | 56 |
| Ukraine | 20 | 45 | 16 | 22 | 20 | 8 | 213 | 273 | 166 | 212 |
| United Kingdom | 4 | 5 | | 1 | | | 1 | 2 | | |
| TOTAL | 944 | 770 | 328 | 263 | 95 | 53 | 974 | 1366 | 541 | 769 |

G. Additional statistics

G.1. Overview of friendly settlements and WELC cases

(WELC: cases whose merits are already covered by well-established case-law of the Court)

| STATE | Cases judged under Protocol No. 14 | | Friendly settlements (Art. 39 § 4) | | TOTAL | |
|------------------------|------------------------------------|------|------------------------------------|------|-------|------|
| | "WELC" cases Article 28§1b | | 2016 | 2017 | 2016 | 2017 |
| | 2016 | 2017 | | | | |
| Albania | 9 | | 3 | 2 | 12 | 2 |
| Andorra | | | | | | |
| Armenia | | 5 | | | | 5 |
| Austria | 4 | 14 | 7 | 2 | 11 | 16 |
| Azerbaijan | 9 | 18 | 1 | 4 | 10 | 22 |
| Belgium | 1 | | | 2 | 1 | 2 |
| Bosnia and Herzegovina | 1 | 5 | 4 | 5 | 5 | 10 |
| Bulgaria | 8 | 11 | 11 | 5 | 19 | 16 |
| Croatia | 4 | 3 | 8 | 5 | 12 | 8 |
| Cyprus | | | | | | |
| Czech Republic | | 1 | 2 | | 2 | 1 |
| Denmark | | | | | | |
| Estonia | | | 2 | 1 | 2 | 1 |
| Finland | | | | | | |
| France | | 2 | 2 | 6 | 2 | 8 |
| Georgia | 1 | 2 | 4 | 1 | 5 | 3 |
| Germany | | 1 | 4 | 1 | 4 | 2 |
| Greece | 18 | 16 | 80 | 66 | 98 | 82 |
| Hungary | 23 | 9 | 55 | 42 | 78 | 51 |
| Iceland | | | | | | |
| Ireland | | | | | | |
| Italy | | 7 | 22 | 19 | 22 | 26 |
| Latvia | 1 | 4 | 1 | 1 | 2 | 5 |
| Liechtenstein | | | | | | |
| Lithuania | 1 | 3 | | 1 | 1 | 4 |
| Luxembourg | | | | | | |
| Malta | | | | 1 | | 1 |

| STATE | Cases judged under Protocol No. 14 | | Friendly settlements (Art. 39 § 4) | | TOTAL | |
|---|------------------------------------|------------|------------------------------------|------------|------------|------------|
| | "WECL" cases Article 28§1b | | 2016 | 2017 | 2016 | 2017 |
| | 2016 | 2017 | | | | |
| Republic of Moldova | 4 | 2 | 5 | 1 | 9 | 3 |
| Monaco | | | | | | |
| Montenegro | | 8 | 7 | 6 | 7 | 14 |
| Netherlands | | | 8 | 2 | 8 | 2 |
| Norway | | | | | | |
| Poland | 3 | 4 | 27 | 19 | 30 | 23 |
| Portugal | 8 | 5 | 13 | 6 | 21 | 11 |
| Romania | 26 | 36 | 75 | 56 | 101 | 92 |
| Russian Federation | 122 | 206 | 71 | 61 | 193 | 267 |
| San Marino | | | | | | |
| Serbia | 13 | 21 | 5 | 14 | 18 | 35 |
| Slovak Republic | 3 | 6 | 18 | 12 | 21 | 18 |
| Slovenia | | 1 | | 1 | | 2 |
| Spain | 4 | | | 1 | 4 | 1 |
| Sweden | | | | | | |
| Switzerland | | 1 | | | | 1 |
| "the former Yugoslav Republic of Macedonia" | | 1 | 12 | 5 | 12 | 6 |
| Turkey | 3 | 56 | 33 | 41 | 36 | 97 |
| Ukraine | 36 | 58 | 30 | 15 | 66 | 73 |
| United Kingdom | 1 | 1 | | 2 | 1 | 3 |
| TOTAL | 303 | 507 | 510 | 406 | 813 | 913 |

G.2. Friendly settlements endorsed by the Court

A friendly settlement with undertaking implies a defendant State commitment to adopt general measures in order to address and prevent future similar violations.

| Year | New friendly settlements <u>without</u> undertaking | New friendly settlements <u>with</u> undertaking | TOTAL of new friendly settlements |
|------|---|--|-----------------------------------|
| 2017 | 383 | 23 | 406 |
| 2016 | 504 | 6 | 510 |
| 2015 | 534 | 59 | 593 |
| 2014 | 501 | 98 | 599 |
| 2013 | 452 | 45 | 497 |
| 2012 | 495 | 54 | 549 |
| 2011 | 544 | 21 | 564 |
| 2010 | 227 | 6 | 233 |

Appendix 2 – Main cases or groups of cases pending

(Classification by State at 31 December 2017)

Interstate cases are presented in the “Thematic overview” (Appendix 5).

The structural and/or complex problems presented in the table below have been identified either directly by the European Court in its judgments or by the Committee of Ministers in the course of the supervision process.²²⁸ The corresponding cases or groups of cases are, as a rule, dealt with under enhanced supervision. The table also comprises recent “pilot” judgments, as these are automatically classified under enhanced supervision. An overview of “pilot” judgments and cases with indications of relevance for execution (under Article 46) regarding structural problems is presented in Appendix 4.

The cases/groups presented may be at different stages of execution: some may be approaching closure, whilst others may be at the beginning of the execution process. In certain cases, the CM has adopted a decision during the year, some others have seen some development such as the presentation of an action plan/action report or bilateral contacts with a view to submitting an action plan/action report. In other cases, clarifications are expected through other judgments/decisions of the Court.

A detailed review of the decisions and interim resolutions adopted by the CM in the course of its supervision of execution and brief indications of the nature of other developments are presented in the “Thematic overview”.

²²⁸ The fact that some cases/groups have engendered relatively few repetitive cases does not lessen the importance of underlying structural problems, as the violations established may nevertheless have a great potential to generate repetitive cases (notably so “pilot” judgments), and/or because of the general importance of the problem at issue.

| STATE | MAIN CASES | APPLICATION No. (first case) | JUDGMENT FINAL ON | PROBLEMS REVEALED <i>For the most recent information on execution status, see Appendix 5.</i> |
|------------|---|------------------------------|------------------------------|---|
| Albania | <i>Driza</i> (group) <i>Manushaqe Puto and Others</i> (pilot judgment) | 33771/02 604/07 | 02/06/2008 17/12/2012 | Various problems linked to the restitution of property (see Appendix 5, page 226) |
| | <i>Luli and Others</i> (group) | 64480/09 | 01/07/2014 | Excessive length of civil proceedings and lack of effective remedy in this regard (see Appendix 5, page 184) |
| Armenia | <i>Ashot Harutyunyan</i> (group) | 34334/04 | 15/09/2010 | Inadequate medical care in detention ; practice of placing accused in a metal cage during trial (see Appendix 5, page 154) |
| | <i>Chiragov and Others</i> (group) | 13216/05 | 16/06/2015 | Impossibility for displaced persons to gain access, in the context of the Nagorno-Karabakh conflict, to their homes and properties in Nagorno-Karabakh and the surrounding territories – lack of effective remedies (see Appendix 5, page 228) |
| | <i>Muradyan</i> | 11275/07 | 24/02/2017 | Absence of an effective investigation into the death of an Armenian military conscript based in Nagorno-Karabakh (see Appendix 5, page 125) |
| | <i>Virabyan</i> (group) | 40094/05 | 02/01/2013 | Ill-treatment and torture in police custody and ineffective investigations (see Appendix 5, page 125) |
| Azerbaijan | <i>Gafgaz Mammadov</i> (group) | 60259/11 | 14/03/2016 | Dispersals and arrests of demonstrators (see Appendix 5, page 219) |
| | <i>Ilgar Mammadov</i> | 15172/13 | 13/10/2014 | Imprisonment for reasons other than those permitted by Article 5 , namely to punish the applicant for having criticised the government (see Appendix 5, page 242) |
| | <i>Insanov</i> (group) | 16133/08 | 14/06/2013 | Unfair criminal and civil proceedings ; inhuman and degrading detention conditions (see Appendix 5, page 154) |
| | <i>Mahmudov and Agazade</i> (group) <i>Fatullayev</i> | 35877/04 40984/07 | 18/03/2009 04/10/2010 | Unjustified convictions for defamation and/or unjustified use of imprisonment as a sanction for defamation ; arbitrary application of antiterrorism legislation (see Appendix 5, page 212) |

| STATE | MAIN CASES | APPLICATION No. (first case) | JUDGMENT FINAL ON | PROBLEMS REVEALED <i>For the most recent information on execution status, see Appendix 5.</i> |
|------------------------|-------------------------------------|------------------------------|-------------------|--|
| Azerbaijan | <i>Mammadov (Jalaloglu) (group)</i> | 34445/04 | 11/04/2007 | Excessive use of force by the police during demonstrations , and lack of an effective investigation (<i>see Appendix 5, page 126</i>) |
| | <i>Mikayil Mammadov (group)</i> | 4762/05 | 17/03/2010 | |
| | <i>Muradova (group)</i> | 22684/05 | 02/07/2009 | |
| | <i>Mirzayev (group)</i> | 50187/06 | 03/03/2010 | Non-enforcement of final judicial decisions ordering the eviction of internally displaced persons who were unlawfully occupying the applicant's apartment (<i>see Appendix 5, page 194</i>) |
| | <i>Namat Aliyev (group)</i> | 18705/06 | 08/07/2010 | Various breaches connected with the right to stand freely for elections , and the control of the legality of decisions by electoral commissions (<i>see Appendix 5, page 237</i>) |
| | <i>Sargsyan</i> | 40167/06 | 16/06/2015 | Impossibility for displaced persons to gain access, in the context of the Nagorno-Karabakh conflict, to their homes and properties and relatives' graves in the disputed area near Nagorno-Karabakh on the territory of Azerbaijan – lack of effective remedies (<i>see Appendix 5, page 228</i>) |
| Belgium | <i>L.B. (group)</i> | 22831/08 | 02/01/2013 | Persons suffering from mental health disorders detained for long periods in prison facilities unable to provide them with appropriate care (<i>see Appendix 5, page 145</i>) |
| | <i>Trabelsi</i> | 140/10 | 16/02/2015 | Extradition to the United States, despite the risk of being sentenced to irreducible life sentence; disrespect of Rule 39 indication (<i>see Appendix 5, page 243</i>) |
| | <i>Vasilescu (group)</i> | 64682/12 | 20/04/2015 | Structural problem concerning overcrowding and conditions of detention in prisons (<i>see Appendix 5, page 154</i>) |
| Bosnia and Herzegovina | <i>Čolić and Others (group)</i> | 1218/07 | 28/06/2010 | Non-enforcement of final judgments ordering the state to pay certain sums in respect of war damage (<i>see Appendix 5, page 194</i>) |

| STATE | MAIN CASES | APPLICATION No. (first case) | JUDGMENT FINAL ON | PROBLEMS REVEALED <i>For the most recent information on execution status, see Appendix 5.</i> |
|------------------------|---|------------------------------|--------------------------|--|
| Bosnia and Herzegovina | <i>Đokić Mago and Others</i> | 6518/04 12959/05 | 04/10/2010 24/09/2012 | Inability for members of the former Yugoslav People's Army ("YPA") to repossess their pre-war apartments in the aftermath of the war in Bosnia and Herzegovina (see Appendix 5, page 226) |
| | <i>Sejdić and Finci (group)</i> | 27996/06 | 22/12/2009 | Ethnic-based discrimination on account of the ineligibility of persons unaffiliated with one of the "constituent peoples" (Bosnians, Croats or Serbs) to stand for election to the House of Peoples (the upper chamber of Parliament) and the Presidency (see Appendix 5, page 235) |
| Bulgaria | <i>Association for European Integration and Human Rights and Ekimdzhiev (group)</i> | 62540/00 | 30/01/2008 | Secret surveillance: insufficient guarantees against the arbitrary use of the powers assigned by the law on special surveillance means (see Appendix 5, page 206) |
| | <i>C.G. and Others</i> | 1365/07 | 24/07/2008 | Shortcomings in the judicial review of expulsion and deportation of foreign nationals based on national security grounds (see Appendix 5, page 168) |
| | <i>Kehayov (group) Neshkov and Others (pilot judgment)</i> | 41035/98 36925/10+ | 18/04/2005 01/06/2015 | Poor detention conditions in prisons and remand centres; absence of an effective remedy (see Appendix 5, page 155) |
| | <i>Kulinski and Sabev</i> | 63849/09 | 21/10/2016 | Constitutional ban on voting imposed automatically on convicted prisoners serving their sentences (see Appendix 5, page 165) |
| | <i>Nencheva and Others</i> | 48609/06 | 18/09/2013 | Lack of prompt and sufficient measures to prevent deaths of children placed in public care , during a severe economic, financial and social crisis in 1996-1997; lack of prompt and effective investigation into these deaths (see Appendix 5, page 143) |
| | <i>S.Z. (group) Kolevi</i> | 29263/12 1108/02 | 03/06/2015 05/02/2010 | Systemic problem of ineffective criminal investigations into crimes committed by private individuals (see Appendix 5, page 127) |

| STATE | MAIN CASES | APPLICATION No. (first case) | JUDGMENT FINAL ON | PROBLEMS REVEALED <i>For the most recent information on execution status, see Appendix 5.</i> |
|----------|--|------------------------------|-------------------|---|
| Bulgaria | <i>Stanev</i> (group) | 36760/06 | 17/01/2012 | Placement in social care homes of persons with mental disorders: lawfulness, judicial review, conditions of placement; also impossibility for partially incapacitated persons to request the restoration of their legal capacity (<i>see Appendix 5, page 146</i>) |
| | <i>United Macedonian Organisation Ilinden and Others</i> (group) | 59491/00 | 19/04/2006 | Unjustified refusals to register an association aiming at achieving "the recognition of the Macedonian minority in Bulgaria" (<i>see Appendix 5, page 220</i>) |
| | <i>Velikova</i> (group) | 41488/98 | 04/10/2000 | Excessive use of force by members of law enforcement agencies; ill-treatment in custody; ineffective investigations (<i>see Appendix 5, page 128</i>) |
| | <i>Yordanova and Others</i> | 25446/06 | 24/09/2012 | Eviction of persons of Roma origin , on the basis of a legislation not requiring an adequate examination of the proportionality of the measure (<i>see Appendix 5, page Annexe 5, page 203</i>) |
| Croatia | <i>Šečić</i> (group) | 40116/02 | 31/08/2007 | Failure to carry out an effective police investigation into a racist attack on a Roma person (<i>see Appendix 5, page 238</i>) |
| | <i>Skendžić and Krznarić</i> (group) | 16212/08 | 20/04/2011 | Lack of effective and independent investigations into crimes committed during the Croatian Homeland War (1991-1995) (<i>see Appendix 5, page 128</i>) |
| | <i>Statileo</i> (group) | 12027/10 | 10/10/2014 | Restrictions for rented flats subject to a special tenancy scheme (<i>see Appendix 5, page 229</i>) |
| Cyprus | <i>M.A.</i> (group) | 41872/10 | 23/10/2013 | Lack of effective remedy with automatic suspensive effect in deportation proceedings and absence of speedy review of lawfulness of detention (<i>see Appendix 5, page 169</i>) |

| STATE | MAIN CASES | APPLICATION No. (first case) | JUDGMENT FINAL ON | PROBLEMS REVEALED <i>For the most recent information on execution status, see Appendix 5.</i> |
|----------------|--|------------------------------|--------------------------|---|
| Czech Republic | <i>D.H. and Others</i> | 57325/00 | 13/11/2007 | Discriminatory assignment of children of Roma origin to special schools for children with special needs or suffering a mental or social handicap (see Appendix 5, page 234) |
| Georgia | <i>Tsintsabadze (group)</i> | 35403/06 | 18/03/2011 | Lack of effective investigations into allegations of ill-treatment or violations of the right to life ; excessive use of force by the police in the course of arrests and/or while detaining suspects (see Appendix 5, page 129) |
| | <i>Identoba and Others</i> | 73235/12 | 12/08/2015 | Lack of protection against homophobic attacks during a demonstration (see Appendix 5, page 221) |
| Greece | <i>Beka-Koulocheri (group)</i> | 38878/03 | 06/10/2006 | Failure or considerable delay in the enforcement of final domestic judgments and absence of effective remedies (see Appendix 5, page 196) |
| | <i>Bekir-Ousta and Others (group)</i> | 35151/05 | 11/01/2008 | Refusal to register or dissolution of associations from the Muslim minority in Thrace (see Appendix 5, page 221) |
| | <i>Makaratzis (group)</i> | 50385/99 | 20/12/2004 | Degrading treatment by police/port authorities ; lack of effective investigations (see Appendix 5, page 130) |
| | <i>Martzaklis and Others</i> | 20378/13 | 09/10/2015 | Poor conditions of detention and segregation of 13 HIV-positive prisoners (see Appendix 5, page 156) |
| | <i>M.S.S (group)</i> <i>Rahimi (group)</i> | 30696/09 8687/08 | 21/01/2011 05/07/2011 | Shortcomings in the examination of asylum requests , including risks involved in case of direct or indirect return to the country of origin; poor detention conditions of asylum seekers and absence of adequate support when they are no longer detained; absence of an effective remedy (see Appendix 5, page 167) |
| | <i>Nisiotis (group)</i> <i>Siasios and Others (group)</i> | 34704/08 30303/07 | 20/06/2011 04/09/2009 | Inhuman and degrading treatment on account of poor detention conditions in prisons (see Appendix 5, page 157) |

| STATE | MAIN CASES | APPLICATION No. (first case) | JUDGMENT FINAL ON | PROBLEMS REVEALED <i>For the most recent information on execution status, see Appendix 5.</i> |
|---------|--|----------------------------------|--|---|
| Greece | <i>Sakir</i> | 48475/09 | 24/06/2016 | Inadequate investigation into the assault against a migrant by an anti-immigrant gang ; inhuman and degrading treatment on account of detention conditions in a police station (<i>see Appendix 5, page 131</i>) |
| Hungary | <i>Baka</i> (group) | 20261/12 | 23/06/2016 | Lack of access to a court as regards the premature termination of mandate of the President of the Supreme Court, which also led to a violation of his right to freedom of expression (<i>see Appendix 5, page 214</i>) |
| | <i>Gazsó</i> (pilot judgment) | 48322/12 | 16/10/2015 | Excessive length of judicial proceedings and absence of effective remedy in this regard (<i>see Appendix 5, page 185</i>) |
| | <i>Horváth and Kiss</i> | 11146/11 | 29/04/2013 | Discriminatory assignment of children of Roma origin to schools for children with mental disabilities (<i>see Appendix 5, page 240</i>) |
| | <i>László Magyar</i> (group) | 73593/10 | 13/10/2014 | Life sentence without parole in combination with the lack of an adequate review mechanism of this sentence (<i>see Appendix 5, page 147</i>) |
| | <i>Szabó and Vissy</i> | 37138/14 | 06/06/2016 | Absence of sufficient guarantees against abuse in legislation on secret surveillance (<i>see Appendix 5, page 207</i>) |
| | <i>Varga and Others</i> (pilot judgment) <i>István Gábor Kovács</i> (group) | 14097/12 15707/10 | 10/06/2015 17/04/2012 | Overcrowded detention facilities (<i>see Appendix 5, page 157</i>) |
| Ireland | <i>McFarlane</i> (group) | 31333/06 | 10/09/2010 | Lack of effective remedy for excessive length of judicial proceedings (<i>see Appendix 5, page 186</i>) |
| Italy | <i>Abenavoli</i> (group) <i>Trapani</i> (group) <i>Ledonne No. 1</i> (group) | 25587/94 45104/98 35742/97 | 02/09/1997 12/01/2001 12/08/1999 | Excessive length of proceedings before the administrative, civil and criminal courts (<i>see Appendix 5, page 187</i>) |

| STATE | MAIN CASES | APPLICATION No. (first case) | JUDGMENT FINAL ON | PROBLEMS REVEALED <i>For the most recent information on execution status, see Appendix 5.</i> |
|-------|--|------------------------------|---|---|
| Italy | <i>Agrati and Others</i> (group) | 43549/08 | 28/11/2011 (merits) 08/02/2013 (just satisfaction) | Retrospective application of legislation to on-going judicial proceedings to calculate the length of service of school staff (<i>see Appendix 5, page 177</i>) |
| | <i>Cestaro</i> (group) | 6884/11 | 07/07/2015 | Ill-treatment by police ; inadequate criminal legislation to punish acts of torture and inhuman and degrading treatment (<i>see Appendix 5, page 132</i>) |
| | <i>De Tommaso</i> | 43395/09 | 23/02/2017 | Lack of foreseeability of the Italian legislation regulating the imposition of “special preventive measures” on persons deemed to pose a danger to society and lack of public hearing in the relevant proceedings (<i>see Appendix 5, page 238</i>) |
| | <i>Khlaifia and Others</i> | 16483/12 | 15/12/2016 | Absence of clear and accessible legal basis for the detention in view of expulsion and of a remedy to complain about the unlawfulness of the deprivation of liberty and the reception conditions (<i>see Appendix 5, page 168</i>) |
| | <i>Nasr and Ghali</i> | 44883/09 | 23/05/2016 | Torture and inhuman and degrading treatment resulting from an extraordinary rendition under CIA programme (<i>see Appendix 5, page 132</i>) |
| | <i>Olivieri and Others</i> (group) <i>Gaglione and Others</i> | 17708/12 45867/07 | 04/07/2016 20/06/2011 | Delay in payment of awards made in the context of the “Pinto” remedy for excessively long judicial proceedings ; excessive length of the “Pinto” proceedings; issues raised by the 2012 reform of the “Pinto” Act; ineffectiveness of the “Pinto” remedy concerning the excessive length of administrative proceedings (<i>see Appendix 5, page 188</i>) |
| | <i>Sharifi and Others</i> | 16643/09 | 21/01/2015 | Collective expulsion of asylum seekers to Greece , lack of access to asylum procedure and risk of deportation to Afghanistan (<i>see Appendix 5, page 171</i>) |

| STATE | MAIN CASES | APPLICATION No. (first case) | JUDGMENT FINAL ON | PROBLEMS REVEALED <i>For the most recent information on execution status, see Appendix 5.</i> |
|------------------------|------------------------------------|------------------------------|---|--|
| Italy | <i>Talpis</i> | 41237/14 | 18/09/2017 | Failure of the authorities to comply with their positive obligation to properly assess risk to life in due time in a case of domestic-violence ; delays in mounting adequate response to acts of domestic violence and shortcomings in protection of women against domestic violence (see <i>Appendix 5, page 203</i>) |
| Lithuania | <i>L.</i> | 27527/03 | 31/03/2008 | Lack of legislation relating to gender reassignment medical treatment (see <i>Appendix 5, page 210</i>) |
| | <i>Matiošaitis and Others</i> | 22662/13 | 23/08/2017 | Statutory inability to obtain a reduction of life sentences (see <i>Appendix 5, page 147</i>) |
| | <i>Paksas</i> | 34932/04 | 06/01/2011 | Permanent and irreversible disqualification from standing for election to Parliament as a result of his removal from presidential office following impeachment proceedings (see <i>Appendix 5, page 236</i>) |
| Malta | <i>Apap Bologna</i> (group) | 46931/12 | 30/11/2016 | Disproportionate restrictions to property rights due to the requisition and imposition of a landlord-tenant relationship on the landlord ; lack of effective remedy (see <i>Appendix 5, page 230</i>) |
| Poland | <i>Al Nashiri</i> (group) | 28761/11 | 16/02/2015 | Various violations related to secret rendition operations (see <i>Appendix 5, page 135</i>) |
| | <i>Bąk</i> (group) | 7870/04 | 16/04/2007 | Excessive length of proceedings in criminal cases; lack of effective remedy (see <i>Appendix 5, page 190</i>) |
| | <i>Majewski and Others</i> (group) | 52690/99 | 11/01/2006 | |
| | <i>Rutowski and Others</i> | 72287/10 | 07/07/2015 | |
| | <i>Grabowski</i> | 57722/12 | 30/09/2015 | Deprivation of liberty of juvenile in the framework of correctional proceedings without a specific court order and lack of adequate judicial review thereof (see <i>Appendix 5, page 149</i>) |
| <i>Kędzior</i> (group) | 45026/07 | 16/01/2013 | Unlawful placement in social care homes and deprivation of legal capacity (see <i>Appendix 5, page 149</i>) | |

| STATE | MAIN CASES | APPLICATION No. (first case) | JUDGMENT FINAL ON | PROBLEMS REVEALED <i>For the most recent information on execution status, see Appendix 5.</i> |
|--------------------------|--|------------------------------|---|--|
| Poland | <i>P. and S.</i> | 57375/08 | 30/01/2013 | Problems of access to abortion for minor victims of rape, confidentiality of personal data and detention (<i>see Appendix 5, page 205</i>) |
| Republic of Moldova | <i>Ciorap</i> (group) | 39806/05 | 10/03/2009 | Poor conditions of detention in police stations, remand centres and prisons, including lack of access to adequate medical care; absence of an effective remedy (<i>see Appendix 5, page 158</i>) |
| | <i>Becciev</i> (group) | 9190/03 | 04/01/2006 | |
| | <i>Paladi</i> (group) | 12066/02 | 19/09/2007 | |
| | <i>Corsacov</i> (group) | 18944/02 | 04/07/2006 | Ill-treatment and torture during police detention ; ineffective investigations; absence of an effective remedy (<i>see Appendix 5, page 132</i>) |
| | <i>Levința</i> | 17332/03 | 16/03/2009 | |
| | <i>Genderdoc-M</i> | 9106/06 | 12/09/2012 | Unjustified bans on gay marches ; lack of an effective remedy; discrimination on grounds of sexual orientation (<i>see Appendix 5, page 223</i>) |
| | <i>Luntre and Others</i> (group) | 2916/02 | 15/09/2004 | Non-enforcement or delayed enforcement of domestic judgments (<i>see Appendix 5, page 196</i>) |
| | <i>Mușuc</i> (group) | 42440/06 | 06/02/2008 | Arbitrary arrest and detention in the context of criminal and administrative proceedings; unlawful entry by the police on private premises; absence of effective remedies (<i>see Appendix 5, page 148</i>) |
| <i>Guțu</i> | 20289/02 | 07/09/2007 | | |
| <i>Brega</i> (group) | 52100/08 | 20/07/2010 | | |
| <i>Șarban</i> (group) | 3456/05 | 04/01/2006 | Violations mainly related to unlawful detention on remand (lawfulness, duration, justification) (<i>see Appendix 5, page 148</i>) | |
| <i>Taraburca</i> (group) | 18919/10 | 06/03/2012 | Ill-treatment by the police in connection with violent post-election demonstrations and ineffective investigations (<i>see Appendix 5, page 133</i>) | |
| Romania | <i>Association "21 December 1989" and Others</i> (group) | 33810/07 | 28/11/2011 | Ineffectiveness of investigations into violent crackdowns in 1989 on anti-government demonstrations (<i>see Appendix 5, page 136</i>) |
| | <i>Bălsan</i> | 49645/09 | 23/08/2017 | Failure by the authorities adequately to protect from domestic violence and insufficient actions to tackle effectively the widespread phenomenon of domestic violence (<i>see Appendix 5, page 204</i>) |

| STATE | MAIN CASES | APPLICATION No. (first case) | JUDGMENT FINAL ON | PROBLEMS REVEALED <i>For the most recent information on execution status, see Appendix 5.</i> |
|----------------------------------|--|------------------------------|--|---|
| Romania | <i>Bragadireanu</i> (group) | 22088/04 | 06/03/2008 | Overcrowding and poor conditions in police detention facilities and prisons, including failure to secure adequate medical care and lack of an effective remedy (<i>see Appendix 5, page 160</i>) |
| | <i>Bucur and Toma</i> | 40238/02 | 08/04/2013 | Conviction of a whistle-blower for having disclosed information on the illegal secret surveillance of citizens by the intelligence service; lack of safeguards in the statutory framework governing secret surveillance (<i>see Appendix 5, page 215</i>) |
| | <i>Centre for legal resources on behalf of Valentin Câmpeanu</i> | 47848/08 | 17/07/2014 | Lack of appropriate judicial protection and medical and social care of vulnerable mentally disabled persons in psychiatric hospital (<i>see Appendix 5, page 144</i>) |
| | <i>Cristian Teodorescu</i> (group) | 22883/05 | 19/09/2012 | Legislative deficiencies as regards the procedure and safeguards for involuntary placement in psychiatric hospital facilities and general failure of the competent authorities to apply this procedure; overcrowding and poor conditions in psychiatric facilities (<i>see Appendix 5, page 150</i>) |
| | <i>Parascineti</i> | 32060/05 | 13/06/2012 | |
| | <i>Enache</i> | 10662/06 | 01/07/2014 | Detention regime of prisoners classified as “dangerous” (<i>see Appendix 5, page 163</i>) |
| | <i>Săcăleanu</i> (group) | 73970/01 | 06/12/2005 | Failure or significant delay in enforcing judgments against the State (<i>see Appendix 5, page 197</i>) |
| | <i>Soare and Others</i> (group) | 24329/02 | 22/05/2011 | Unjustified and disproportionate use of fire-arms by the police and ineffective investigations; lack of an adequate statutory and regulatory framework (<i>see Appendix 5, page 137</i>) |
| <i>Străin and Others</i> (group) | 57001/00 | 30/01/2005 | Ineffectiveness of the mechanism set up to afford restitution or compensation for properties nationalised during the communist period (<i>see Appendix 5, page 228</i>) | |
| | <i>Maria Atanasiu</i> (pilot judgment) | 30767/05 | 12/01/2011 | |

| STATE | MAIN CASES | APPLICATION No. (first case) | JUDGMENT FINAL ON | PROBLEMS REVEALED <i>For the most recent information on execution status, see Appendix 5.</i> |
|--------------------|---|------------------------------|-------------------|---|
| Romania | <i>Țicu</i> (group) | 24575/10 | 01/01/2014 | Inadequate management of psychiatric conditions of detainees in prison (see Appendix 5, page 160) |
| Russian Federation | <i>Alekseyev</i> | 4916/07 | 11/04/2011 | Repeated bans on gay marches ; lack of effective remedies; discrimination on grounds of sexual orientation (see Appendix 5, page 224) |
| | <i>Alim</i> | 39417/07 | 27/12/2011 | Removal of a non-national in violation of the right to family life (see Appendix 5, page 171) |
| | <i>Anchugov and Gladkov</i> | 11157/04 | 09/12/2013 | Automatic blanket ban on prisoners' voting rights (see Appendix 5, page 166) |
| | <i>Buntov</i> | 27026/10 | 05/09/2012 | Torture inflicted in a correctional colony and lack of an effective investigation (see Appendix 5, page 164) |
| | <i>Catan and Others</i> | 43370/04 | 19/10/2012 | Violation of the right to education of children and parents from Latin script schools in the Transdnistrian region of the Republic of Moldova (see Appendix 5, page 234) |
| | <i>Finogenov and Others</i> (group) | 18299/03 | 04/06/2012 | Inadequate preparation resulting in loss of life and injuries caused during a mass hostage-rescue operation and lack of effective investigation (see Appendix 5, page 137) |
| | <i>Garabayev</i> (group) | 38411/02 | 30/01/2008 | Various violations related to extradition and expulsion including abductions and illegal transfers of persons protected by judicial decisions; in some cases, disrespect of Rule 39 indications (see Appendix 5, page 172) |
| | <i>Georgia (I) v. Russian Federation</i> (inter-State case) | 13255/07 | 03/07/2014 | Collective expulsion of Georgian nationals by Russian authorities from October 2006 to January 2007 (see Appendix 5, page 244) |

| STATE | MAIN CASES | APPLICATION No. (first case) | JUDGMENT FINAL ON | PROBLEMS REVEALED <i>For the most recent information on execution status, see Appendix 5.</i> |
|--------------------|--|------------------------------|--------------------------|--|
| Russian Federation | <i>Kalashnikov (group) Ananyev and Others (pilot judgment)</i> | 47095/99 42525/07 | 15/10/2002 10/04/2012 | Poor conditions of detention , mainly in remand centres; absence of an effective remedy (see Appendix 5, page 160) |
| | <i>Khashiyev and Akayeva (group)</i> | 57942/00 | 06/07/2005 | Violations resulting from, or relating to, anti-terrorist operations in the Northern Caucasus , mainly in the Chechen Republic (particularly unjustified use of force, disappearances, unacknowledged detentions, torture and ill-treatment, unlawful search and seizure and destruction of property); ineffective investigations and absence of effective domestic remedies (see Appendix 5, page 137) |
| | <i>Kim</i> | 44260/13 | 17/10/2014 | Lack of judicial review of the lawfulness of detention of aliens pending administrative removal and poor detention conditions (see Appendix 5, page 173) |
| | <i>Klyakhin (group)</i> | 46082/99 | 06/06/2005 | Different violations of Article 5 mainly related to detention on remand (lawfulness, procedure, length) (see Appendix 5, page 150) |
| | <i>Kudeshkina</i> | 29492/05 | 14/09/2009 | Dismissal from judicial office for making media statements critical of the judiciary (see Appendix 5, page 215) |
| | <i>Navalnyy and Ofitserov</i> | 46632/13 | 04/07/2016 | Unfair trial : conviction based on arbitrary application of criminal law, without addressing a reasonable allegation of political persecution and use in evidence of a co-accused's guilty plea in separate proceedings (see Appendix 5, page 182) |
| | <i>Oao Neftyanaya Kompaniya Yukos</i> | 14902/04 | 08/03/2012 | Different violations concerning tax and enforcement proceedings brought against the applicant oil company, contributing to its liquidation in 2007 (see Appendix 5, page 230) |
| | <i>Roman Zakharov</i> | 47143/06 | 04/12/2015 | Deficiencies in the legal framework governing secret interception of mobile telephone communications (see Appendix 5, page 208) |

| STATE | MAIN CASES | APPLICATION No. (first case) | JUDGMENT FINAL ON | PROBLEMS REVEALED <i>For the most recent information on execution status, see Appendix 5.</i> |
|-----------------|---|------------------------------|---|---|
| Serbia | <i>Ališić and Others</i> (pilot judgment) | 60642/08 | 16/07/2014 | Failure by the governments of Slovenia and Serbia as successor States of the SFRY to repay “old” foreign-currency savings deposited outside Serbia and Slovenia (<i>see Appendix 5, page 231</i>) |
| | <i>R. Kačapor and Others</i> (group) | 2269/06+ | 07/07/2008 | Non-enforcement of final court and administrative decisions , including against “socially-owned” companies (<i>see Appendix 5, page 198</i>) |
| | <i>Milanović</i> | 44614/07 | 20/06/2011 | Lack of effective investigations into assaults motivated by religious hatred ; discrimination based on religion (<i>see Appendix 5, page 139</i>) |
| | <i>Zorica Jovanović</i> | 21794/08 | 09/09/2013 | Continuing failure on the part of the authorities to provide information as to the fate of missing new-born babies alleged to have died in maternity wards (<i>see Appendix 5, page 208</i>) |
| Slovak Republic | <i>Bittó and Others</i> (group) | 30255/09 | 28/04/2014 (merits) 07/10/2015 (just satisfaction) | Disproportionate limitations on the use of property through a rent control scheme (<i>see Appendix 5, page 232</i>) |
| Slovenia | <i>Ališić and Others</i> (pilot judgment) | 60642/08 | 16/07/2014 | Failure by the governments of Slovenia and Serbia as successor States of the SFRY to repay “old” foreign-currency savings deposited outside Serbia and Slovenia (<i>see Appendix 5, page 231</i>) |
| | <i>Mandić and Jović</i> (group) | 5774/10 | 20/01/2012 | Poor conditions of detention due to overcrowding and lack of effective remedy (<i>see Appendix 5, page 162</i>) |
| Spain | <i>A.C. and Others</i> | 6528/11 | 22/07/2014 | Risk of ill-treatment on account of lack of automatic suspensive effect of appeals against decisions to deny international protection taken in the framework of an accelerated procedure (<i>see Appendix 5, page 170</i>) |
| Switzerland | <i>Al-Dulimi and Montana Management</i> | 5809/08 | 21/06/2016 | Lack of appropriate judicial scrutiny of freezing of assets pursuant to UN Security Council Resolutions (<i>see Appendix 5, page 179</i>) |

| STATE | MAIN CASES | APPLICATION No. (first case) | JUDGMENT FINAL ON | PROBLEMS REVEALED <i>For the most recent information on execution status, see Appendix 5.</i> |
|---|--|------------------------------|---|--|
| "the former Yugoslav Republic of Macedonia" | <i>El-Masri</i> | 39630/09 | 13/12/2012 | Abduction, unlawful detention, torture and inhuman and degrading treatment during and following a "secret rendition" operation of the CIA (<i>see Appendix 5, page 133</i>) |
| | <i>Hajrulahu</i> | 37537/07 | 29/01/2016 | Failure to investigate allegations of ill-treatment and torture during <i>incommunicado</i> detention; violation of the right to a fair trial through the use of a confession statement made under duress (<i>see Appendix 5, page 134</i>) |
| Turkey | <i>Altuğ Taner Akçam</i> (group) | 27520/07 | 25/01/2012 | Criminal investigation for "denigrating Turkishness" (<i>see Appendix 5, page 216</i>) |
| | <i>Batı and Others</i> (group) | 33097/96 | 03/09/2004 | Ill-treatment by the police and the gendarmerie ; ineffective investigations (<i>see Appendix 5, page 139</i>) |
| | <i>Okkalı</i> (group) | 52067/99 | 12/02/2007 | |
| | <i>Cyprus v. Turkey</i> (inter-State case) | 25781/94 | 10/05/2001 (merits) 12/05/2014 (just satisfaction) | 14 violations in relation to the situation in the northern part of Cyprus (<i>see Appendix 5, page 244</i>) |
| | <i>Dink</i> | 2668/07 | 14/12/2010 | Failure of the authorities to protect the life and freedom of expression of a journalist ; lack of effective investigation; criminal investigation for "denigrating Turkishness» (<i>see Appendix 5, page 139</i>) |
| | <i>Erdoğan and Others</i> (group) | 19807/92 | 13/09/2006 | Actions of security forces during military operations and lack of effective investigation (<i>see Appendix 5, page 140</i>) |
| | <i>Kasa</i> (group) | 45902/99 | 20/08/2008 | |
| <i>Incal</i> (group) | 22678/93 | 09/06/1998 | Unjustified interferences with freedom of expression , owing notably to criminal convictions (<i>see Appendix 5, page 217</i>) | |
| <i>Gözel and Özer</i> (group) | 43453/04 | 06/10/2010 | | |

| STATE | MAIN CASES | APPLICATION No. (first case) | JUDGMENT FINAL ON | PROBLEMS REVEALED <i>For the most recent information on execution status, see Appendix 5.</i> |
|--------|----------------------------------|------------------------------|---|---|
| Turkey | <i>Izzettin Doğan and Others</i> | 62649/10 | 26/04/2016 | Refusal to provide public religious services to members of Alevi faith; difference in treatment between members of Alevi faith and citizens adhering to majority branch of Islam (<i>see Appendix 5, page 212</i>) |
| | <i>Mergen and Others</i> (group) | 44062/09 | 31/08/2016 | Arbitrary detention due to suspicions of belonging to a criminal organisation (<i>see Appendix 5, page 152</i>) |
| | <i>Nedim Şener</i> (group) | 38270/11 | 08/10/2014 | Unjustified detention of investigative journalists (<i>see Appendix 5, page 218</i>) |
| | <i>Opuz</i> (group) | 33401/02 | 09/09/2009 | Failure to provide protection against domestic violence (<i>see Appendix 5, page 204</i>) |
| | <i>Oya Ataman</i> (group) | 74552/01 | 05/03/2007 | Ill-treatment as a result of excessive force used during demonstrations , ineffective investigations (<i>see Appendix 5, page 140</i>) |
| | <i>Oyal</i> (group) | 4864/05 | 23/06/2010 | Medical negligence and lack of effective investigation (<i>see Appendix 5, page 145</i>) |
| | <i>Özmen</i> (group) | 28110/08 | 04/03/2013 | Inadequacy of measures taken in implementation of the Hague Convention on the Civil Aspects of International Child Abduction (<i>see Appendix 5, page 210</i>) |
| | <i>Varnava and Others</i> | 16064/90 | 18/09/2009 | Lack of effective investigations into the fate of Greek Cypriots who disappeared during Turkish military operations in Cyprus in 1974 (<i>see Appendix 5, page 244</i>) |
| | <i>Xenides-Arestis</i> (group) | 46347/99 | 22/03/2006 (merits) 23/05/2007 (just satisfaction) | Continuous denial of the applicants' access to their properties in the northern part of Cyprus (<i>see Appendix 5, page 245</i>) |
| | <i>Yıldırım Ahmet</i> (group) | 3111/10 | 18/03/2013 | Restriction of access to the Internet and wholesale blocking of Internet sites (<i>see Appendix 5, page 216</i>) |

| STATE | MAIN CASES | APPLICATION No. (first case) | JUDGMENT FINAL ON | PROBLEMS REVEALED <i>For the most recent information on execution status, see Appendix 5.</i> |
|------------------------|--|------------------------------|---|--|
| Ukraine | <i>Afanashev (group)</i> | 38722/02 | 05/07/2005 | Ill-treatment/torture by police and lack of effective investigation (<i>see Appendix 5, page 141</i>) |
| | <i>Kaverzin</i> | 23893/03 | 15/08/2012 | |
| | <i>Karabet and Others (group)</i> | 38906/07 | 17/04/2013 | |
| | <i>Belousov</i> | 4494/07 | 07/02/2014 | |
| | <i>Agrokompleks</i> | 23465/03 | 08/03/2012 (merits) 09/12/2013 (just satisfaction) | Disrespect of judicial independence by the executive and the legislature through interferences in pending proceedings; also disrespect of internal judicial independence through actions of the court president (<i>see Appendix 5, page 201</i>) |
| | <i>Balitskiy (group)</i> | 12793/03 | 03/02/2012 | Unfair convictions based on confessions given under duress ; abusive use of administrative detention (<i>see Appendix 5, page 183</i>) |
| | <i>East/West Alliance Limited</i> | 19336/04 | 02/06/2014 | Different malpractices on the part of the authorities in respect of property rights (<i>see Appendix 5, page 233</i>) |
| | <i>Fedorchenko and Lozenko (group)</i> | 387/03 | 20/12/2012 | Lack of effective investigation into the death of persons of Roma origin caused by an arson attack on their house (<i>see Appendix 5, page 141</i>) |
| | <i>Gongadze</i> | 34056/02 | 08/02/2006 | Killing of a journalist and lack of effective investigation (<i>see Appendix 5, page 218</i>) |
| <i>Ignatov (group)</i> | 40583/15 | 15/03/2017 | Unlawful arrests and unlawful and lengthy detention on remand (<i>see Appendix 5, page 152</i>) | |
| <i>Chanyev</i> | 46193/13 | 09/01/2015 | | |
| <i>Korneykova</i> | 39884/05 | 19/04/2012 | | |
| <i>Kebe and Others</i> | 12552/12 | 12/04/2017 | Lack of effective remedy with automatic suspensive effect available against the border guard decisions (<i>see Appendix 5, page 174</i>) | |
| <i>Khaylo (group)</i> | 39964/02 | 05/03/2014 | Violations of the right to life and lack of effective investigation (<i>see Appendix 5, page 142</i>) | |

| STATE | MAIN CASES | APPLICATION No. (first case) | JUDGMENT FINAL ON | PROBLEMS REVEALED <i>For the most recent information on execution status, see Appendix 5.</i> |
|---------|---|--|--|---|
| Ukraine | <i>Lutsenko</i> <i>Yulia Tymoshenko</i> | 6492/11 49872/11 | 19/11/2012 30/07/2013 | Circumvention of legislation by prosecutors and judges in the context of criminal investigations in order to restrict liberty for reasons other than those permissible under the Convention (<i>see Appendix 5, page 243</i>) |
| | <i>Naumenko Svetlana</i> (group) <i>Merit</i> (group) | 41984/98 66561/01 | 30/03/2005 30/06/2004 | Excessive length of civil and criminal proceedings ; absence of an effective remedy (<i>see Appendix 5, page 191</i>) |
| | <i>Naydyon</i> (group) | 16474/03 | 14/01/2011 | Lack of a clear procedure allowing prisoners access to documents necessary to substantiate their complaints to the Court (<i>see Appendix 5, page 244</i>) |
| | <i>Nevmerzhitsky</i> (group) <i>Yakovenko</i> (group) <i>Logvinenko</i> (group) <i>Isayev</i> (group) <i>Melnik</i> (group) | 54825/00 15825/06 13448/07 28827/02 72286/01 | 12/10/2005 25/01/2008 14/01/2011 28/08/2009 28/06/2006 | Inadequate conditions of detention and medical care (<i>see Appendix 5, page 162</i>) |
| | <i>Salov</i> (group) <i>Oleksandr Volkov</i> | 65518/01 21722/11 | 06/12/2005 27/05/2013 | Various violations related to the independence and impartiality of the judiciary ; interference of the executive power with the judiciary; unfair disciplinary proceedings brought against a judge (<i>see Appendix 5, page 201</i>) |
| | <i>Veniamin Tymoshenko and Others</i> | 48408/12 | 02/01/2015 | Unlawful ban of a strike (<i>see Appendix 5, page 225</i>) |
| | <i>Vyarentsov</i> (group) | 20372/11 | 11/07/2013 | Deficiencies in the legislation and administrative practices governing the right to freedom of assembly (<i>see Appendix 5, page 225</i>) |

| STATE | MAIN CASES | APPLICATION No. (first case) | JUDGMENT FINAL ON | PROBLEMS REVEALED <i>For the most recent information on execution status, see Appendix 5.</i> |
|----------------|---|------------------------------|--------------------------------|--|
| Ukraine | <i>Zhovner</i> (group) | 56848/00 | 29/09/2004 | Long-standing problem of non-enforcement of domestic judgments , mostly delivered against the State or State enterprises; absence of effective remedies (<i>see Appendix 5, page 199</i>) |
| | <i>Yuriy Nikolayevich Ivanov</i> (pilot judgment) | 40450/04 | 15/01/2010 | |
| | <i>Burmych and Others</i> | 46852/13+ | 12/10/2017 | |
| United Kingdom | <i>Hirst No. 2</i> (group) | 74025/01 | 30/06/2004 (merits) | Blanket ban on voting imposed automatically on convicted offenders serving their prison sentences (<i>see Appendix 5, page 166</i>) |
| | | | 06/10/2005 (just satisfaction) | |
| | <i>Greens and M.T.</i> (pilot judgment) | 60041/08 | 11/04/2011 | |
| | <i>McKerr</i> (group) | 28883/95 | 04/08/2001 | Deaths involving security forces in Northern Ireland in the 1980s and 1990s: shortcomings in subsequent investigations (<i>see Appendix 5, page 143</i>) |

Appendix 3 – Main cases closed

The table below comprises a selection of cases closed in 2017 by final resolution. The summaries of the measures adopted in the cases closed by final resolution are presented in Appendix 5 – Thematic overview.

| STATE | MAIN CASES | APPLICATION No. | JUDGMENT FINAL ON | PROBLEMS REVEALED |
|------------------------|--------------------------------------|-----------------|-------------------|---|
| Albania | <i>Caka</i> and 2 other cases | 44023/02+ | 08/03/2010 | Unfair criminal proceedings, lack of procedural guarantees in criminal proceedings <i>in absentia</i> and lack of access to the Constitutional Court (see Appendix 5, page 180) |
| Andorra | <i>UTE Saur Vallnet</i> | 16047/10 | 29/08/2012 | Lack of impartiality of a judge of the Supreme Court in civil proceedings (see Appendix 5, page 200) |
| Armenia | <i>Amirkhanyan</i> and 1 other case | 22343/08+ | 03/03/2016 | Unfair civil proceedings due to disrespect of the principle of <i>res judicata</i> (see Appendix 5, page 193) |
| | <i>Helsinki Committee of Armenia</i> | 59109/08 | 30/06/2015 | Unjustified ban of a notified and peaceful march of an NGO (see Appendix 5, page 219) |
| Belgium | <i>De Clerck</i> and 3 other cases | 34316/02+ | 25/12/2007 | Excessive length of criminal proceedings concerning economic and financial matters (see Appendix 5, page 185) |
| | <i>De Donder and De Clippel</i> | 8595/06 | 06/03/2012 | Suicide in detention (see Appendix 5, page 163) |
| Bosnia and Herzegovina | <i>Maktouf and Damjanović</i> | 2312/08+ | 18/07/2013 | Retrospective application of criminal law with heavier sentences for war crimes (see Appendix 5, page 201) |

| STATE | MAIN CASES | APPLICATION No. | JUDGMENT FINAL ON | PROBLEMS REVEALED |
|------------------------|---|-----------------|-------------------|---|
| Bosnia and Herzegovina | <i>Momić and Others</i> | 1441/07+ | 15/01/2013 | Unfair trial due to the non-enforcement and/or delayed enforcement of final domestic court decisions ordering payment of certain sums in respect of general obligations of the Republika Srpska (see Appendix 5, page 195) |
| | <i>Muslija</i> | 32042/11 | 14/04/2014 | Two convictions for the same offence (see Appendix 5, page 192) |
| Bulgaria | <i>Angelova and Iliev and 7 other cases</i> | 55523/00 | 26/10/2007 | Lack of effective investigations into deaths, rapes or alleged ill-treatment perpetrated by private individuals (see Appendix 5, page 126) |
| | <i>Capital Bank AD</i> | 49429/99 | 24/02/2006 | Compulsory liquidation of a bank as a result of unfair proceedings (see Appendix 5, page 176) |
| | <i>Gyuleva</i> | 38840/08 | 17/10/2016 | Impossibility to obtain reopening of the unfair judicial proceedings (see Appendix 5, page 176) |
| | <i>Guseva</i> | 6987/07 | 06/07/2015 | Unforeseeable domestic law and practice with regard to the right to receive information (see Appendix 5, page 213) |
| | <i>Nachova and Others</i> | 43577/98+ | 06/07/2005 | Unjustified use of firearms by military police (see Appendix 5, page 127) |
| | <i>Shahanov and Palfreeman</i> | 35365/12 | 21/10/2016 | Freedom of expression: disciplinary punishment of prisoners for complaints filed (see Appendix 5, page 213) |
| | <i>Tsonyo Tsonev (No. 2)</i> | 2376/03 | 14/04/2010 | Lack of free legal assistance in proceedings before the Supreme Court of Cassation and second punishment for the same offence (see Appendix 5, page 192) |
| | <i>Zhechev</i> | 57045/00 | 21/09/2007 | Unjustified refusal to register an association by domestic courts (see Appendix 5, page 220) |

| STATE | MAIN CASES | APPLICATION No. | JUDGMENT FINAL ON | PROBLEMS REVEALED |
|----------------|--|-----------------|-------------------|---|
| Croatia | <i>Horvatić</i> | 36044/09 | 17/01/2014 | Impossibility to challenge how forensic evidence was obtained in criminal proceedings (see Appendix 5, page 180) |
| | <i>Krušković</i> | 46185/08 | 21/09/2011 | Refusal to register an incapacitated person as father of his child (see Appendix 5, page 209) |
| | <i>Oršuš and Others</i> | 15766/03 | 16/03/2010 | Placement of Roma children in Roma-only classes owing to their allegedly poor command of the Croatian language (see Appendix 5, page 238) |
| | <i>Pajić</i> | 68453/13 | 23/05/2016 | Discrimination in obtaining family reunification between unmarried same-sex couples and unmarried different-sex couples (see Appendix 5, page 239) |
| Cyprus | <i>Rantsev</i> | 25965/04 | 10/05/2010 | Failure to establish suitable framework to combat trafficking in human beings or to take operational measures to protect victims (see Appendix 5, page 175) |
| Czech Republic | <i>Delta Pekárny</i> | 97/11 | 02/01/2015 | Right to respect of home and correspondence: inspection of a company's premises by the competition authorities in the absence of sufficient procedural safeguards against arbitrariness (see Appendix 5, page 206) |
| | <i>Hanzelkovi</i> | 43643/10 | 11/03/2015 | Court order requiring a new-born baby and mother to return to hospital (see Appendix 5, page 210) |
| Spain | <i>Igual Coll and 11 other cases</i> | 37496/04 | 10/06/2009 | Lack of public hearing before court of appeal (see Appendix 5, page 181) |
| | <i>San Argimiro Isasa and 1 other case</i> | 2507/07+ | 28/12/2010 | Ill-treatment during arrest and detention (see Appendix 5, page 129) |

| STATE | MAIN CASES | APPLICATION No. | JUDGMENT FINAL ON | PROBLEMS REVEALED |
|---------|---------------------------------------|-----------------|-------------------|---|
| France | <i>A.M.</i> | 56324/13 | 12/10/2016 | Inability to contest the lawfulness of an alien's arrest and administrative detention (see Appendix 5, page 166) |
| | <i>Berasategi</i> | 29095/09+ | 26/04/2012 | Excessive length of pre-trial detention (see Appendix 5, page 147) |
| | <i>De Souza Ribeiro</i> | 22689/07 | 13/12/2012 | Lack of an effective remedy against an alien's removal from an overseas territory (see Appendix 5, page 170) |
| | <i>I.M.</i> | 9152/09 | 02/05/2012 | Limited effectiveness of remedy available to asylum seeker to challenge deportation order (see Appendix 5, page 170) |
| | <i>Matelly</i> and 1 other case | 10609/10 | 02/01/2015 | Prohibition to take part in activities of professional associations for members of the armed forces (see Appendix 5, page 221) |
| | <i>Mennesson</i> and 3 other cases | 65192/11+ | 26/09/2014 | Refusal to grant legal recognition in France to parent-child relationships that had been legally established in the United States between children born as a result of surrogacy arrangement and the couples who had had recourse to such arrangements (see Appendix 5, page 204) |
| Georgia | <i>Gharibashvili</i> and 1 other case | 11830/03+ | 29/10/2008 | Lack of effective criminal investigations into complaints of ill-treatment (see Appendix 5, page 129) |
| Germany | <i>Anayo</i> and 1 other case | 20578/07+ | 21/03/2011 | Protection of family life: failure to give due consideration to the children's best interest in questions relating to the contact to their fathers (see Appendix 5, page 209) |
| | <i>Heinisch</i> | 28274/08 | 21/10/2011 | Whistle blowing: dismissal after initiation of criminal proceedings against employer (see Appendix 5, page 214) |

| STATE | MAIN CASES | APPLICATION No. | JUDGMENT FINAL ON | PROBLEMS REVEALED |
|--------|--|-----------------|-------------------|--|
| Greece | <i>Anagnostou-Dedouli</i> | 24779/08 | 16/12/2010 | Non-compliance or delayed compliance with domestic court judgments ordering the lifting of land expropriation orders (see Appendix 5, page 195) |
| | <i>Mytilinaios and Kostakis</i> | 29389/11 | 02/05/2016 | Freedom of association: refusal to grant winegrowers licence to freely dispose of and sell their wine production (see Appendix 5, page 222) |
| | <i>Sampani and Others</i> and 1 other case | 59608/09+ | 29/04/2013 | Discrimination on account of the placement of Roma children in public schools attended exclusively by Roma children (see Appendix 5, page 239) |
| Italy | <i>Belvedere Alberghiera S.R.L</i> and 106 other cases | 31524/96+ | 30/08/2000 | Resort to "indirect expropriation" by local administrative authorities without any formal expropriation procedure (see Appendix 5, page 227) |
| | <i>Centro Europa 7 S.R.L. and Di Stefano</i> | 38433/09 | 07/06/2012 | Freedom of expression: failure to allocate radiofrequencies to licensed television broadcaster (see Appendix 5, page 215) |
| | <i>Ganci</i> and 12 other cases | 41576/98+ | 30/01/2004 | Ineffectiveness of judicial reviews of the lawfulness of restrictions imposed under prison regime (see Appendix 5, page 187) |
| | <i>Mostacciolo Giuseppe No. 1</i> and 118 other cases | 64705/01+ | 29/03/2006 | Delay in the payments of sums awarded in the framework of a compensatory remedy ("Pinto") to victims of excessively lengthy proceedings (see Appendix 5, page 188) |
| | <i>Oliari and Others</i> | 18766/11+ | 21/10/2015 | Lack of legal recognition and protection for unions between same-sex partners (see Appendix 5, page 205) |

| STATE | MAIN CASES | APPLICATION No. | JUDGMENT FINAL ON | PROBLEMS REVEALED |
|------------|--------------------------------|-----------------|-------------------|--|
| Latvia | <i>Beiere</i> and 1 other case | 30954/05+ | 29/02/2012 | Arbitrary detention in a psychiatric hospital for failure to comply with a court order which had never been notified (see Appendix 5, page 147) |
| | <i>Čalovskis</i> | 22205/13 | 15/12/2014 | Placement in a metal cage during the court hearing (see Appendix 5, page 168) |
| | <i>L.H.</i> | 52019/07 | 29/07/2014 | Collection of personal medical data by a State agency (see Appendix 5, page 207) |
| Lithuania | <i>A.N.</i> | 17280/08 | 31/08/2016 | Absence of proper procedural safeguards in proceedings to deprive a person suffering from mental disorders of his legal capacity (see Appendix 5, page 177) |
| | <i>Kasperovičius</i> | 54872/08 | 20/02/2013 | Poor conditions of detention in Anykščiai police detention facility (see Appendix 5, page 158) |
| | <i>Valiulienė</i> | 33234/07 | 26/06/2013 | Failure of domestic authorities to provide adequate protection against acts of domestic violence (see Appendix 5, page 203) |
| | <i>Varnas</i> | 42615/06 | 09/12/2013 | Unjustified difference in treatment of remand prisoners compared to convicted prisoners as regards conjugal visits (see Appendix 5, page 240) |
| | <i>Vasiliauskas</i> | 35343/05 | 20/10/2015 | Retroactive application of criminal law (see Appendix 5, page 202) |
| Luxembourg | <i>A.T.</i> | 30460/13 | 14/09/2015 | Inability to communicate with lawyer prior to first hearing before investigating judge (see Appendix 5, page 181) |
| Montenegro | <i>Bulatović</i> | 67320/10 | 22/10/2014 | Poor conditions of detention due to overcrowding (see Appendix 5, page 159) |

| STATE | MAIN CASES | APPLICATION No. | JUDGMENT FINAL ON | PROBLEMS REVEALED |
|---------------------|---|-----------------|-------------------|---|
| Montenegro | <i>Mugoša</i> | 76522/12 | 21/09/2016 | Unlawful extension of detention on remand beyond the statutory time-limit (see Appendix 5, page 149) |
| | <i>Stakić</i> and 2 other cases | 49320/07+ | 02/01/2013 | Excessive length of civil and labour proceedings and lack of an effective remedy (see Appendix 5, page 189) |
| Republic of Moldova | <i>Bujnita</i> and 1 other case | 36492/02 | 16/04/2007 | Quashing of a final judicial decision in the favour of the accused on initiative of the prosecutor (see Appendix 5, page 181) |
| | <i>Christian Democratic People's Party (CDPP)</i> and 8 other cases | 28793/02 | 14/05/2006 | Temporary ban on a political party on account of unauthorised gatherings (see Appendix 5, page 222) |
| | <i>Radu</i> | 50073/07 | 15/07/2014 | Disclosure of medical information by a medical institution to an employer (see Appendix 5, page 208) |
| Romania | <i>Filip</i> and 1 other case | 41124/02+ | 14/03/2007 | Unlawful psychiatric confinement ordered by the prosecutor (see Appendix 5, page 150) |
| | <i>Ofensiva Tinerilor</i> | 16732/05 | 15/03/2016 | Unclear eligibility conditions for organisations of ethnic minorities (see Appendix 5, page 236) |
| | <i>Predică</i> and 3 other cases | 42344/07 | 07/09/2011 | Death and ill-treatment in detention (see Appendix 5, page 164) |
| | <i>Ruianu</i> and 17 other cases | 34647/97+ | 17/09/2003 | Failure to execute final and enforceable court decisions due to various deficiencies in the legal framework (see Appendix 5, page 197) |
| | <i>Pleshkov</i> | 1660/03 | 16/02/2015 | Conviction for illegal fishing in territorial waters based on unforeseeable application of legislation implementing United Nations Convention on the Law of the Sea (see Appendix 5, page 202) |

| STATE | MAIN CASES | APPLICATION No. | JUDGMENT FINAL ON | PROBLEMS REVEALED |
|--------------------|---------------------------------------|-----------------|-------------------|--|
| Russian Federation | <i>Fedotova</i> and 8 other cases | 73225/01+ | 13/09/2006 | Unlawful composition of the domestic courts due to the authorities' failure to observe the provisions of the Lay Judges Act (see Appendix 5, page 178) |
| | <i>Kormacheva</i> and 105 other cases | 53084/99 | 14/06/2004 | Excessive length of civil and criminal proceedings and lack of an effective domestic remedy in this respect (see Appendix 5, page 190) |
| | <i>Rantsev</i> | 25965/04 | 10/05/2010 | Right to life and trafficking in human beings: failure to conduct effective investigation into the, recruitment of a young woman by traffickers (see Appendix 5, page 175) |
| | <i>Romenskiy</i> | 22875/02 | 13/09/2013 | Lack of impartiality of a domestic court referring to an accused person as "guilty" (see Appendix 5, page 182) |
| | <i>Ryabykh</i> and 112 other cases | 52854/99+ | 03/12/2003 | Legal certainty: quashing of final judicial decisions by way of the supervisory-review procedure ("nadzor") (see Appendix 5, page 193) |
| Serbia | <i>Grudić</i> | 31925/08 | 24/09/2012 | Unlawful suspension of the payment of pensions by the Serbian Pensions and Disability Insurance Fund (see Appendix 5, page 232) |
| | <i>Paunović and Milivojević</i> | 41683/06 | 24/08/2016 | Unlawful termination of an MP's parliamentary mandate on the basis of an undated resignation letter requested by his party as condition for his candidacy (see Appendix 5, page 236) |
| | <i>Salontaji-Drobnjak</i> | 36500/05 | 13/01/2010 | Exclusion from a final hearing in proceedings resulting in partial deprivation of legal capacity and denial of access to a court in proceedings concerning its restoration (see Appendix 5, page 178) |

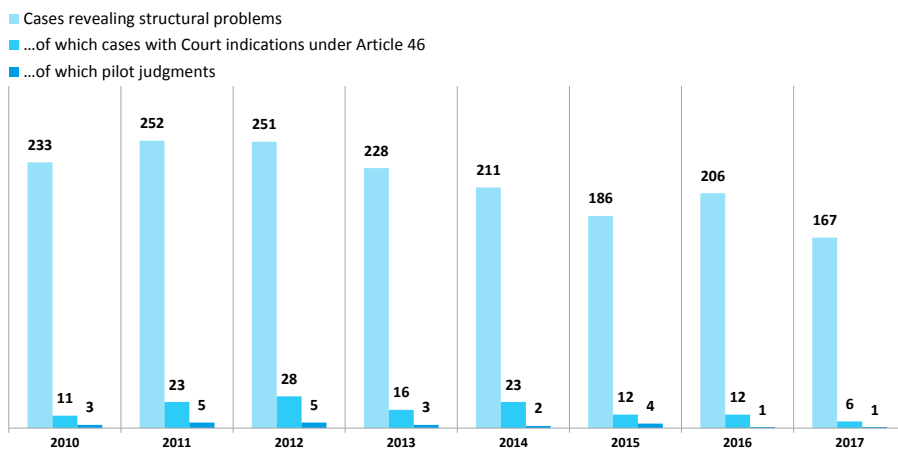
| STATE | MAIN CASES | APPLICATION No. | JUDGMENT FINAL ON | PROBLEMS REVEALED |
|---|---|-----------------|-------------------|---|
| Serbia | <i>Vinčić and Others</i> and 2 other cases | 44698/06+ | 02/03/2010 | Denial of a fair hearing: inconsistent adjudication of claims brought in identical situations (see Appendix 5, page 179) |
| Slovak Republic | Černák | 36997/08 | 14/04/2014 | Lack of adequate review of lawfulness of detention (see Appendix 5, page 151) |
| | <i>Labsi</i> | 33809/08 | 24/09/2012 | Expulsion despite risk of ill-treatment and interim measures indicated by the European Court (see Appendix 5, page 174) |
| Slovenia | <i>Aždajić</i> | 71872/12 | 01/02/2016 | Denial of a fair trial in civil proceedings on account of the rejection of a reinstatement request against a default judgment (see Appendix 5, page 179) |
| Switzerland | <i>Di Trizio</i> | 7186/09 | 04/07/2016 | Discrimination against women due to the method of calculation of invalidity benefits (see Appendix 5, page 241) |
| | X. | 16744/14 | 26/04/2017 | Insufficient assessment in asylum proceedings of the risk of ill-treatment after deportation (see Appendix 5, page 174) |
| "the former Yugoslav Republic of Macedonia" | <i>Association of Citizens "Radko" and Paunkovski</i> | 74651/01 | 15/04/2009 | Dissolution of an association shortly after its foundation (see Appendix 5, page 224) |
| | <i>Ivanovski</i> and 1 other case | 29908/11 | 21/04/2016 | Unfair lustration proceedings due to the Prime Minister's public denunciation of the applicant as a collaborator of the former regime's secret police (see Appendix 5, page 177) |
| Turkey | <i>Altınay</i> | 37222/04 | 09/10/2013 | Unforeseeable change in university access rules (see Appendix 5, page 241) |
| | <i>Avcı and Others</i> | 70417/01 | 27/09/2006 | Ill-treatment on account of disproportionate restraint measures (see Appendix 5, page 165) |

| STATE | MAIN CASES | APPLICATION No. | JUDGMENT FINAL ON | PROBLEMS REVEALED |
|---------|---|-----------------|-------------------|--|
| Turkey | <i>Emel Boyraz</i> | 61960/08 | 02/03/2015 | Discrimination on the ground of sex due to dismissal of a woman from her post as security officer (see Appendix 5, page 241) |
| | <i>Salih Salman Kılıç</i> | 22077/10 | 05/06/2013 | Delayed examination of the lawfulness of arrest and detention (see Appendix 5, page 152) |
| | <i>Selin Aslı Öztürk</i> | 39523/03 | 13/01/2010 | Deprivation of inheritance due to inability to apply for the recognition of a foreign judicial decision (see Appendix 5, page 233) |
| | <i>Tunc Talat</i> | 32432/96+ | 27/06/2007 | Lack of legal assistance during trial and absence of the accused at the hearing (see Appendix 5, page 183) |
| Ukraine | <i>Borotyuk and 7 other cases (part of the Balitskiy group)</i> | 33579/04+ | 16/03/2011 | Unfair proceedings resulting in convictions on the basis of self-incriminating statements made in the absence of a lawyer (see Appendix 5, page 184) |
| | <i>Igor Shevchenko and 6 other cases (part of the Khaylo group)</i> | 22737/04+ | 04/06/2012 | Lack of effective investigation into deaths caused, <i>inter alia</i> , by road traffic accidents or illegal acts of private individuals (see Appendix 5, page 142) |
| | <i>Kharchenko and 35 other cases</i> | 40107/02+ | 10/05/2011 | Unlawfulness and excessive length of pre-trial detention; lack of adequate judicial review of the lawfulness of detention (see Appendix 5, page 152) |
| | <i>Koretskyy and Others</i> | 40269/02 | 03/07/2008 | Refusal to register a non-governmental association for environmental protection (see Appendix 5, page 224) |
| | <i>Serkov</i> | 39766/05 | 07/10/2011 | Absence of foreseeable and clear domestic legal provisions on VAT exemption (see Appendix 5, page 233) |

| STATE | MAIN CASES | APPLICATION No. | JUDGMENT FINAL ON | PROBLEMS REVEALED |
|----------------|--------------------------|-----------------|-------------------|---|
| United Kingdom | <i>McNamara</i> | 22510/13 | 12/01/2017 | Excessive length of civil proceedings (see Appendix 5, page 191) |
| | <i>Vinter and Others</i> | 66069/09+ | 09/07/2013 | Unclear legal framework providing for release of prisoners sentenced to whole-life tariffs (see Appendix 5, page 153) |

Appendix 4 – New judgments with indications of relevance for the execution

Cases revealing structural problems: number of cases with special Court indications



A. Pilot judgments which became final in 2017

| STATE | CASE | APPLICATION No. | JUDGMENT FINAL ON | NATURE OF INDICATIONS GIVEN BY THE COURT IN THE OPERATIVE PART OF THE JUDGMENT |
|---------|----------------------------|-----------------|-------------------|---|
| Romania | <i>Rezmiveş and Others</i> | 61467/12+ | 25/07/2017 | <i>Support for the execution of the Bragadireanu group, in particular the indications given by the Court in the Iacov Stanciu case under Article 46: Structural dysfunction specific of the domestic detention system (overcrowding, lack of hygiene, insufficient ventilation and lighting, sanitary facilities not in working order, insufficient or inadequate food, restricted access to showers, presence of rats) – enhanced supervision (see Appendix 5, page 160)</i> |

B. Judgments with indications of relevance for the execution (under Article 46) which became final in 2017

Note: If the judgment has already been classified, the corresponding supervision procedure is indicated.

| STATE | CASE | APPLICATION No. | JUDGMENT FINAL ON | NATURE OF INDICATIONS GIVEN BY THE COURT |
|--------------------|----------------------------|-----------------|-------------------|---|
| Bulgaria | <i>Krasteva and Others</i> | 5334/11+ | 01/09/2017 | Support for the execution of the Tomov and Nikolova case (50506/09): Deprivation of property in breach of the principle of legal certainty and without any possibility of compensation on the basis of restitution legislation – standard supervision |
| Russian Federation | <i>Tagayeva and Others</i> | 26562/07+ | 18/09/2017 | Support for the execution of the Finogenov and Others group: Breach of the State's obligations to protect life during the terrorist attack on a school in Beslan in North Ossetia in 2004 resulting in 334 deaths, including 186 children, who had been taken hostage, and lack of effective investigation, in particular into the planning process and control of the armed forces' operation and the use of lethal force – enhanced supervision (see Appendix 5, page 137) |
| | S.K. | 52722/15 | 14/05/2017 | Support for the execution of the Kim group of cases: Risk of death or serious harm in case of deportation to Syria and lack of effective remedy in respect of both administrative and temporary asylum proceedings as well as unlawful detention – enhanced supervision (see Appendix 5, page 173) |
| Slovak Republic | <i>Riedel and Others</i> | 44218/07+ | 10/04/2017 | Support for the execution of the Bittó and Others group of cases – enhanced supervision (see Appendix 5, page 232) |
| | <i>Meciar</i> | 38082/07 | 05/10/2016 | Support for the execution of the Bittó and Others group of cases – enhanced supervision (see Appendix 5, page 232) |
| Ukraine | <i>Ignatov</i> | 40583/15 | 15/03/2017 | Support for the execution of the Kharchenko case – enhanced supervision – identifying recurrent shortcomings in the Ukrainian system of detention on remand, particularly as regards the period between the end of the investigation and the beginning of the trial. (Article 5 §§ 1 and 4) (see Appendix 5, page 152) |

Appendix 5 – Thematic overview of the most important developments in the supervision process in 2017

A. Actions of security forces

ARM / Lack of effective investigation into the death of a military conscript

Muradyan - Application No. 11275/07, judgment final on 24/02/2017, enhanced supervision

- ” Absence of an effective investigation into the death of an Armenian military conscript (Article 2)

Action plan: The authorities submitted an action plan in August 2017 which mentions various measures, notably the creation in 2014 of an independent Investigative Committee responsible for investigating crimes committed against or by military servicemen or on the territory of military units. In addition, the definition of torture was amended in the Criminal Code. The action plan is under assessment.

ARM / Ill-treatment in police custody and lack of effective investigations

Virabyan - Application No. 40094/05, judgment final on 02/01/2013, enhanced supervision

- ” Torture of the applicant in police custody and lack of effective investigation, including into allegations of politically motivated ill-treatment; violation of the presumption of innocence; hearings held in atmosphere of constant threats; refusal of cassation appeal on excessively formalistic grounds (Articles 3, 6 § 2, and 14 taken in conjunction with Article 3)

Developments: In December 2016, the CM welcomed the adoption of an amendment to the Criminal Code criminalising acts of torture inflicted by State agents. In addition, the draft Code of Criminal Procedure aiming at introducing safeguards against ill-treatment was finalised and submitted to the National Assembly. A timetable for its adoption is expected, as well as information on the measures taken or envisaged to ensure that future investigations into alleged police ill-treatment and torture take full account of any plausible suggestion that it was politically motivated.

■ AZE / Excessive use of force and lack of effective investigations

Muradova (group) - Application No. 22684/05, judgment final on 02/07/2009, enhanced supervision

Mammadov (Jalaloglu) (group) - Application No. 34445/04, judgment final on 11/04/2007, enhanced supervision

Mikayil Mammadov (group) - Application No. 4762/05, judgment final on 17/03/2010, enhanced supervision

” Excessive use of force by the security forces and lack of effective investigations (Articles 2 and 3 (procedural limb), Article 3 (substantive limb), Article 5 §§ 1 and 3, Article 6 § 1, Article 10, Article 11, Article 34)

CM Decision: No recent tangible information has been transmitted to the CM about progress in addressing the general problems revealed by the judgments in this group of cases. In September 2017, the CM thus urged the authorities to provide a comprehensive action plan, including a thorough analysis of the measures necessary to prevent similar violations. Information was transmitted on 20 February 2018, and is currently under assessment.

In view of the situation, the CM also urged the authorities to provide information on the reopening of the investigations and the compliance of new investigations with the requirements of the Convention; in particular notably as regards the ways in which the institutional independence of investigating bodies can be guaranteed.

■ BGR / Ineffective investigations - acts committed by private persons (also possible racist motives)

Angelova and Iliev and 7 other cases - Application No. 55523/00, judgment final on 26/10/2007, [CM/ResDH\(2017\)383](#)

” Failure to investigate promptly, expeditiously and with the required vigour deaths, rapes or alleged ill-treatment perpetrated by private individuals (Articles 2 and 3 procedural limb); in two cases, failure to investigate a possible racist motive (Article 14 in conjunction with Article 2)

Final resolution: Strict deadlines for pre-trial investigations and the monitoring of their observance by a supervisory prosecutor were introduced by a new Code of Criminal Procedure in 2005. Preliminary investigations, carried out upon instruction of a prosecutor before the official opening of criminal proceedings, can in principle not exceed two months according to amendments of the Judiciary Act in July 2016. An acceleratory remedy at the disposal of the accused and the victim of the offence or civil party / private prosecutor was introduced in the Code of Criminal Procedure in July 2017 for the pre-trial and trial phase. Simultaneously, the obligation to automatically terminate criminal proceedings after the expiry of a certain period of time was abolished. As these measures are closely linked to the question of effectiveness of criminal investigations in general, further information on the new acceleratory remedy and its functioning in practice will be submitted in the context of the examination of the *S.Z. / Kolevi* group and *Velikova* group of cases.

Aggravated qualifications for murder and bodily harm committed with racist or xenophobic motives were introduced in the Criminal Code in 2011.

In seven of these cases, renewed examinations of possible new evidence after the Court's judgment showed that the statutory limitation period for prosecution had lapsed. In one case, the accused were convicted.

■ BGR / Use of firearms - Ineffective investigations (also possible racial motives)

Nachova and Others - Application No. 43577/98+, judgment final on 06/07/2005 (Grand Chamber), CM/ResDH (2017)97

- ” Killing of two Roma conscripts due to the unjustified use of fire-arms by military police during their attempted arrest, ineffectiveness of investigations and failure to examine a possible racist motive (Article 2 substantive and procedural limb and 14 in conjunction with 2)

Final resolution: In order to ensure that police use of firearms is limited to cases of “absolutely necessity, new regulations have been developed, first in the 2012 Interior Ministry Act (adopted after extensive consultations) and confirmed in the 2014 Ministry of the Interior Act. The new regulations also stress that police officers are under the obligation to take all measures to protect the life of the persons against whom firearm is used and not to put at risk the life and health of other persons. The principle of “absolute necessity” was also introduced and circumscribed in detail in the Military Police Act 2016. Special training courses are organised for officers entitled to use firearms while performing their duties. The effectiveness of investigations into possible racist motives behind ill-treatment has been increased following a 2011 amendment to the Criminal Code introducing aggravated qualifications for murder and bodily harm committed with racist or xenophobic motives. Issues relating to the effectiveness of investigations are dealt with in the *Velikova* group.

The decision to close the investigations into the events was annulled and a new investigation concluded in 2007 that the officer concerned had acted in line with the regulations governing the use of firearms at the relevant time. The decision was examined *ex officio* by the appellate prosecutor and confirmed. No complaints were lodged.

■ BGR / Lack of effective investigations - Alleged crimes committed by private persons

S.Z. - Application No. 29263/12, judgment final on 03/06/2015, enhanced supervision

Kolevi - Application No. 1108/02, judgment final on 05/02/2010, enhanced supervision

- ” Ineffective and lengthy investigations into alleged criminal acts; lack of independence of criminal investigations against the Chief Prosecutor (Articles 2 and 3 - procedural limb)

Action plan: In response to the CM decision of December 2016, the authorities provided information in September 2017 indicating a series of measures in the process of being implemented, already presented under the *Velikova* group of cases. A revised action plan was submitted in December 2017, providing information on reforms of the Code of Criminal Procedure to ensure the effectiveness of investigations. This action plan is currently under assessment.

■ BGR / Excessive use of force, ill-treatment and ineffective investigations

Velikova (group) - Application No. 41488/98, judgment final on 04/10/2000, enhanced supervision, Interim Resolution [CM/ResDH\(2007\)107](#)

” Excessive use of force during arrests; death, torture or ill-treatment in police custody; lack of effective and independent investigation to identify and punish those responsible; shortcomings as regards the efficiency of domestic remedies; failure to provide timely medical care in police custody (Articles 2, 3 and 13)

CM Decision: In response to the violations established, the authorities carried out important reforms, including modification of the legal framework governing the use of force. However, the persistence of incidents of ill-treatment prompted the CPT to adopt a public declaration in March 2015. Following this declaration and a round table held in Sofia in July 2015, with the participation of representatives of the Justice and Interior Ministries, as well as the CPT and the Execution Department, the authorities prepared a revised action plan. The main questions which still require special attention were dealt with at the CM's September 2017 meeting.

As regards the effectiveness of remedies, the CM welcomed that one already exists for complaints about degrading treatment (only information on its implementation remained outstanding) and that the possibility to close criminal investigations on the sole basis of their length was repealed. The authorities were invited to provide information on the functioning of the acceleratory remedy foreseen in this regard.

Concerning the procedural safeguards during the 24 hours of police detention, up-to-date information was requested as to their implementation, the measures aimed at improving the effectiveness of the Prosecutor's Office supervision, the concrete reforms envisaged to secure the independence of preliminary investigations, the displaying by officers from special units of anonymous means of identification and the adequate criminalisation of acts of torture. As to safeguards in remand centres and prisons the CM encouraged the authorities to consolidate the measures adopted through an internal order of October 2015 into a public and binding instrument.

■ CRO / Lack of effective investigations into crimes committed during the Croatian Homeland War

Skendžić and Krznarić (group) - Application No. 16212/08, judgment final on 20/04/2011, enhanced supervision

” Lack of an adequate, effective and independent investigation into crimes committed during the Croatian Homeland War (1991-1995) (Article 2 (procedural limb))

CM Decision: In view of the new regulations adopted to ensure independent investigations into war crimes by police units, as well as the access of family members and public scrutiny of such investigations, the CM decided to close the supervision of these issues in March 2017. The CM also welcomed, at the same meeting, the change of the Constitutional Court's Rules of Procedure in December 2014 which extended its jurisdiction to allegations of lack of effective investigations into war crimes and requested information on the implementation of this new competence. As to the on-going investigations, the CM noted the steady progress revealed by the statistical data provided (including information that 5 059 remains had been exhumed, of

which 4. 24 had been identified, 1 571 remained missing and 422 persons known to have been killed had not yet been found; that new 2013 time limits for investigations had led to 40 out of 48 criminal complaints being decided in 2015; that eight out of nine priority cases had been concluded and 332 out of 490 non priority cases). The CM invited the authorities to sustain their efforts to bring investigations to an end.

Concerning individual measures, the CM noted with interest the significant efforts made in the investigations of the applicants' cases to comply with the Convention standards, and strongly encouraged the authorities to sustain their efforts.

■ ESP / Absence of effective investigations of alleged ill-treatment during incommunicado detention

San Argimiro Isasa and 1 other case - Application No. 2507/07+, judgment final on 28/12/2010, CM/ResDH(2017)281

- ” Failure to carry out an in-depth and effective investigation into arguable allegations of ill-treatment during incommunicado detention of persons suspected of terrorist crimes (Article 3 procedural limb)

Final resolution: As from 2008, the Supreme Court and the Constitutional Court have elaborated new leading jurisprudence on the requirements of judicial investigations into ill-treatment. The general courts' subsequent case-law developed in line with the Constitutional Court's guidance. In particular, the new jurisprudence provides guidance for investigation judges responsible for investigations into possible abuses during incommunicado detention. In addition, the State Secretariat for Security issued specific instructions to the law enforcement bodies on the rights of persons who are detained or in police custody. After ratification in 2006 of the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Ombudsman's Office started its activities in 2010 as the National Torture Prevention Mechanism. A right to compensation for victims of ill-treatment was recognised in 2015. All arrested persons also have the right to immediately seek judicial control – habeas corpus proceedings - of the lawfulness of their detention. Since 2007, the Public Prosecution Service has made particular efforts to prosecute crimes of torture and inhuman or degrading treatment, as stated in its annual reports.

No requests for the reopening of proceedings or of new judicial or medical investigations were filed by the applicants. The ex officio investigations carried out did not reveal any ill-treatment.

■ GEO / Lack of effective investigations

Gharibashvili and 1 other case - Application No. 11830/03+, judgment final on 29/10/2008, Final resolution CM/ResDH(2017)287

Tsintsabadze (group) - Application No. 35403/06, judgment final on 18/03/2011, enhanced supervision

- ” Appeals against the prosecutors' decisions to terminate investigations, examined by the courts in non-adversarial proceedings without oral hearing (Article 2, Article 3 procedural limb)

CM Decision / Final resolution (partial closure): The effectiveness of investigations has been improved through better involvement of the victims in the investigation, new rules for witness interrogation, and reinforced institutional independence for investigating bodies (these include reforms of the Prosecutor’s Office in 2015 and draft constitutional amendments foreseeing a reinforcement of its independence from the executive and accountability only to the Parliament).

In addition, the prevention of excessive use of force by the police in the course of arrest and ill-treatment in custody has been improved, notably through the creation of internal monitoring mechanisms in the Ministry of Internal affairs and the Ministry of Corrections.

Also the independence of the judicial system has been better guaranteed through amendments in the law “On Common Courts” foreseeing that all judicial acts, including the operative part of decisions adopted *in camera*, will be published on the website. Numerous training and awareness-raising measures have been undertaken.

The CM closed the issue of individual measures in the *Gharibashvili* case and a number of others as the renewed investigations conducted following the judgments of the European Court profited from the improvements and were brought to a conclusion in a way deemed as comprehensive as possible, and subject to the safeguard that the conclusions reached (whether that no crime could be established or that any possible crime was prescribed) were subject to judicial review to the extent a grave crime was at issue.

The continued examination of general measures and of outstanding questions regarding individual measures will be pursued within the framework of the new *Tsintsabadze* group of cases.

■ **GRC / Use of firearms, ill-treatment and ineffective investigations (also into possible racist motives)**

Makaratzis (group) - Application No. 50385/99, judgment final on 20/12/2004, enhanced supervision

” Ill-treatment by law enforcement officers, notably by police authorities and coast-guards, amounting to torture; absence of effective investigations, including into the possible racist motives at the origin of police acts (Article 3 - substantial and procedural limbs, Article 14 in conjunction with Article 3)

CM Decision: The framework for the use of firearms by the police during arrest and other interventions has been improved, most recently by legislative and regulatory changes in 2011, followed up by numerous training activities. Better tools have also been developed to enhance the effectiveness of investigations into allegations of ill-treatment, including possible underlying racial motives, notably related to Roma.

In the aftermath of the CM’s decision in September 2015 and the CPT report of April 2016 the new Mechanism for the Investigation of Arbitrary Behaviour, integrated to the Ombudsman’s Office, has become operational. This new mechanism is tasked with the handling of complaints about the acts of law enforcement agents and employees of detention establishments regarding: a) torture and other violations of human dignity; b) illegal intentional attacks against life, health, physical integrity,

personal or sexual freedom; c) behavior for which there is evidence of racist motivation or discriminatory treatment. In addition, the Ombudsman is also empowered to request the reopening of administrative investigations in cases where the European Court has found the initial investigation ineffective. In December 2017, the CM requested additional information about the results achieved by this Mechanism.

The CM also took note of additional measures adopted with a view to improving internal police investigations. The Law-Making Committee in charge of proposing amendments to the Criminal Code has in this context been requested to examine the compatibility of the definition of torture in Greek law with the definition under Article 1 of the United Nations Convention against Torture. Also the issue of the conversion conversion of custodial sentences imposed for torture or ill-treatment is under examination with a view to ensuring that perpetrators are proportionately and effectively punished. The authorities were invited by the CM to provide information about further relevant developments.

Investigations have been reviewed to ascertain new evidentiary possibilities. The Ombudsman has specifically requested the reopening of the impugned disciplinary proceedings in the *Zontul* case. The CM has also requested information about the outcome of the Ombudsman's examination of the possibility to reopen administrative proceedings in other cases of this group where this issue is still outstanding.

■ GRC / Ineffective investigations into racist attack on migrants

Sakir - Application No. 48475/09, judgment final on 24/06/2016, enhanced supervision

” Inadequate investigations into assaults on immigrants by anti-immigrant gangs and inadequate care provided to victims (Articles 3, 13 and Article 3 - procedural limb)

CM Decision: The relevant legislation was amended in 2015, providing for enhanced penalties for hate crimes and facilitating proof of crime as hate-motivated crime. Indeed, the selection of a victim on the basis of his/her characteristics (race, colour, religion, descent, national or ethnic origin, sexual orientation, gender or disability) now suffices to qualify the crime as hate-motivated. Compensation for victims was also available, including in the form of a residence permit. When examining the situation in December 2017, the CM welcomed these developments and requested more information about the implementation of the amended legislation.

In addition a National Council against Racism and Intolerance was established as an advisory body tasked with developing policies against hate-motivated crimes, and special public prosecutors were appointed and tasked with investigating such crimes. 2016 legislation also transposed the EU Directives concerning the implementation of equal treatment and the establishment of a framework for equal treatment in employment, entrusting the Ombudsman with monitoring and promoting the implementation of equal treatment in both public and private sectors.

According to the 2016 report by the Racist Violence Recording Network, in 2016, 95 incidents of racist violence were documented with more than 130 victims. The CM requested data about the number of reports of hate-motivated crimes as compared to the number of cases in which criminal charges were brought and those in which the perpetrators were punished.

As regards individual measures, information is awaited concerning the reopening of the investigation into the assault against the applicant and its outcome.

■ ITA / Inadequate criminal legislation to prevent and punish torture and ill-treatment

Cestaro - Application No. 6884/11, judgment final on 07/07/2015, enhanced supervision

” Inhuman and degrading treatment by the police and inadequate criminal legislation punishing such acts; lack of the necessary deterrent effect to prevent other similar violations (Article 3 -substantial and procedural limbs)

CM Decision: The Italian legal system is still not equipped with criminal law provisions capable of imposing appropriate penalties on those responsible for acts of torture or other forms of ill-treatment prohibited by Article 3 of the Convention. In this regard, the draft Bill aimed at creating a crime of torture under Italian law and envisaging for this crime a limitation period of twice the regular one, has been pending before the Senate for more than two years since its approval in April 2015 by the Chamber of Deputies. In March 2017, the CM urged the authorities to finalise without further delay this legislative process. In addition, the legislative reforms to be envisaged shall ensure that the national legal system punished all forms of treatment contrary to Article 3 so that perpetrators can no longer benefit from measures of clemency incompatible with the European Court’s case-law. In this regard, the authorities were invited to provide information on the provisions aimed at regulating the disciplinary responsibility of law enforcement agents, as well as on the arrangements for the subsequent identification of agents taking part in operations similar to that carried out in this case.

As regards individual measures, the CM regretted that fresh investigation into the acts of torture suffered by the applicant is no longer possible due to statutory limitations.

■ ITA / Ill-treatment in the context of “secret rendition”

Nasr and Ghali - Application No. 44883/09, judgment final on 23/05/2016, enhanced supervision

” Torture and inhuman and degrading treatment resulting from applicant’s extraordinary rendition under CIA programme (Articles 3 - substantive and procedural limbs, 5, 8 and 13)

Developments: Information was transmitted by the authorities in July 2017. They point out that the violations found by the Court stem from an inconsistent application of "State secrecy" and are therefore related to the particular circumstances of the case at stake. This information is under assessment.

■ MDA / Ill-treatment and lack of effective investigations

Corsacov - Application No. 18944/02, judgment final on 04/07/2006, enhanced supervision

Levința - Application No. 17332/03, judgment final on 16/03/2009, enhanced supervision

” Ill-treatment and torture in police custody, including with a view to extorting confessions; lack of effective investigations and remedy; violations of right to life in police

custody and ineffective investigations (Articles 2 and 3 - substantive and procedural limbs, Article 13)

Action report: In July 2017, the authorities submitted an updated action report providing information on the situation of the ongoing reforms, statistical data, as well as information on the organisation of training activities for judges, prosecutors, police and prison officers. The action report is currently under assessment.

■ MDA / Ill-treatment and ineffective investigations - Repression of major violent demonstrations

Taraburca - Application No. 18919/10, judgment final on 06/03/2012, enhanced supervision

” Ill-treatment by the police in connection with major violent demonstrations in April 2009 in Chişinău and ineffective investigation thereof (Article 3 - substantive and procedural); lack of effective civil remedies to claim compensation for the ill-treatment (Article 13)

Developments: In June 2016, the CM noted with interest the adoption of regulations on the intervention tactics to be used by the police in response to a public disturbance. The authorities were invited to provide information on the grounds and conditions under which force can be used by the police during public gatherings; whether there is an assessment of the proportionality of the use of force before a police intervention and whether any training for the police has been dedicated to these issues (see AR 2016). An updated action plan / report is awaited.

■ MKD / Ill-treatment in the context of “secret rendition”

El-Masri - Application No. 39630/09, judgment final on 13/12/2012, enhanced supervision

” German national, of Lebanese origin, victim of a secret “rendition” operation during which he was arrested, held incommunicado in isolation, questioned and ill-treated in a Skopje hotel for 23 days, then transferred to CIA agents who brought him to a secret detention facility in Afghanistan, where he was further ill-treated for over four months (Articles 3, 5 and 13, Article 13 in conjunction with Article 8)

CM Decisions: The maximum term of imprisonment has been increased from five to eight years for cases of ill-treatment and torture by law-enforcement officials. The Prosecutor General has issued instructions to all prosecutors obliging them to report any cases allegedly involving ill-treatment and torture at the hands of State agents. Law enforcement officials compliance with the Convention is enhanced by training and awareness-raising measures, notably taken in the framework of a ten-year Council of Europe project “Capacity building of law enforcement institutions for appropriate treatment of persons detained or deprived of their liberty”. In addition, the Criminal Procedure Act was amended in 2010, to introduce a right to appeal a prosecutor’s decision to a higher prosecutor.

A number of further measures are planned, including amendments to the Police Law so as to set up a new independent body with powers to investigate allegations of misconduct by law-enforcement officials, including those of the intelligence and security service. Earlier this supervision was carried out by the Ombudsman and Parliament. The authorities also envisaged amending the Constitution by the end

of 2015 to introduce the right to lodge a constitutional complaint in cases of human rights abuses. However, in February 2017, the authorities indicated that execution had been significantly delayed as a consequence of the political crisis the country had been facing over the past two years. A new Roadmap with a time table for the consideration of further reforms was submitted in time for the CM's March meeting. In the absence of further information on its implementation, the CM urged the authorities, in December 2017, to furnish relevant information before March 2018.

The applicant was no longer in detention at the time of the Court's judgment and resided in Germany. As to the investigations into the events, the authorities have indicated that they intend to set up an ad hoc commission to establish the relevant facts and responsibilities. In December 2017, the CM firmly urged them to accelerate the setting-up of this commission and to issue without further delay, at the highest level, the public apology to the applicant which had previously been announced.

■ MKD / Lack of effective investigations - incommunicado detention

Hajralahu - Application No. 37537/07, judgment final on 29/01/2016, enhanced supervision

” Failure to investigate allegations of ill-treatment and torture during incommunicado detention of a suspected terrorist in a secret place of detention outside any judicial framework; violation of the right to a fair trial through the use of confessions made under torture (Article 3 in substantive and procedural limbs, Article 6 § 1)

CM Decision: In their action plan of March 2017, the authorities referred to a series of measures being carried out in response to the violations established. Subsequently to the events of the case, Serbia ratified the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (OPCAT) and designating the Ombudsman institution as the National Preventive Mechanism (NPM). The latter began to work in 2011 and received a special budget in 2013 and more extensive investigatory competence in 2016, including notably increased powers to gather evidence and to bring misdemeanour and disciplinary proceedings. In order to bring police regulations and procedures in line with the Convention standards and the European Court's case-law, a new standard procedure for the treatment of persons in detention had been developed, as had also a standard procedure for the handling of cases of alleged ill-treatment or excessive use of force. In this context, a new external oversight mechanism of police action was being developed. In the meantime, victims or their relatives have obtained a clear right to complain to a high prosecutor and to obtain reasons for the decisions adopted. The new 2010 Criminal Code also clearly spells out the Section 215 of the amended 2010 Code of Criminal Procedure pursuant to which a judgment convictions cannot be based on a confession obtained by use of force, intimidation or other prohibited conduct. The efficiency of this provision had also been proven in the Supreme Court's practice. The authorities' efforts are supported by several Council of Europe projects, based also on funding by the EU, The Netherlands and the United Kingdom.

When examining progress made in June 2017, the CM invited the authorities to ensure the effectiveness of the new external oversight mechanism and to send a vigorous message of zero tolerance of torture of detained persons by the special police force and to inform the Committee about other measures aimed at preventing

torture at the hands of this force. The CM also requested information on the steps envisaged to ensure that the practice of detention in extraordinary places of detention is eliminated together with any impunity for individuals participating in such operations, including by abrogating the statute of limitation for the crime of torture. It also supported the ongoing prosecutor efforts to ensure appropriate action in face of indications of torture and noted with interest the Supreme Court's case-law and strongly invited the authorities to continue implementing the domestic legislation in line with Convention requirements.

The applicant was not in detention at the time of the Court's judgment, and resided in Germany. He has not sought a reopening of the impugned proceedings. The CM noted with deep regret that, due to the statute of limitation, the prosecution authorities had found, when revisiting the investigations after the Court's judgment, that it was no longer possible to reopen the investigations into the acts of torture suffered by the applicant because of the rules of prescription (10 years).

■ POL / "Secret rendition" to the USA - Risks of flagrant denial of justice and death penalty

Al Nashiri - Application No. 28761/11, judgment final on 16/02/2015, enhanced supervision

” Complicity of Polish authorities in the CIA High-Value Detainees Programme, that enabled the US authorities, in 2002, to secretly detain, torture and ill-treat the applicants in a CIA detention facility in Stare Kiejkuty in Poland, and to transfer them from its territory in 2003 despite the existence of a real risk that they would be subjected to treatment contrary to Article 3, or could face a flagrant denial of justice, or that the applicant (*Al Nashiri*) would be exposed to death penalty (Article 2, Article 3 (procedural and substantial limbs), Articles 38, 5 and 8, Article 13 in conjunction with Articles 5 and 8, Article 6 § 1 and Article 1 of Protocol No. 6)

CM Decisions: The CM examined this case at each HR meeting in 2017. As regards the necessity to strengthen the supervision over the intelligence services, the CM noted in December 2017 that reflection on the measures required has been completed and that the legislation for the reform of the present system was being drafted. Information on the content of the amendments and on the steps to be followed for their diligent introduction is awaited. The CM also reiterated its invitation to the authorities to send a clear message to the intelligence and security services as to the policy of zero tolerance towards arbitrary detention, torture and secret rendition operations. Concerning the special problem of ensuring domestic procedures guaranteeing unhindered communication with the European Court, a solution appeared to be developing and the CM encouraged the authorities to intensify their work and to provide information on the content of the proposed solutions, as well as on the time table for their adoption.

As regards individual measures, the CM repeatedly expressed deep concern that the applicants continue to be subject to the treatment criticised by the European Court, namely the risk of death penalty and continuing flagrant denial of justice. In spite of several meetings with the Polish authorities, the United States' authorities' persistently refused the Polish requests for diplomatic assurances that Mr *Al Nashiri* would not be subjected to the death penalty and that neither applicant would

continue to be exposed to a flagrant denial of justice. The CM deplored this situation. It recalled that the United States has observer Status with the Council of Europe and should as such share its ideals and values. The CM also recalled that the applicants' present situation was the result of an "extraordinary rendition" operation whereby the CIA had, with the Polish authorities' "acquiescence and connivance in the High-Value Detainees Programme", brought the applicants illegally under United States' jurisdiction. The CM thus invited the United States authorities to reconsider their response to the Polish authorities' request for assurances.

The criminal investigation into the allegations concerning the existence of a CIA secret detention facility in Poland has been repeatedly extended. The Polish authorities have argued that an expected date for the completion of the investigation could not be determined until the scheduled classified procedural steps have been completed. Since this investigation has been pending for more than nine years without any tangible progress, the CM urged the authorities to deploy all possible means to complete it and to inform the CM of the progress made. In this context, the CM repeatedly called upon the member States concerned to provide the Polish authorities with the assistance requested to complete the investigation.

ROM / Ineffective investigations into violent crackdown on anti-government demonstrations

Association "21 December 1989" and Others (group) - Application No. 33810/07, judgment final on 28/11/2011, enhanced supervision

” Significant delay in the conduct of investigations into the violent crackdown on anti-government demonstrations in December 1989 and in early 1990s, which resulted in a risk of statutory limitation; lack of independence of investigations and lack of cooperation between authorities (including unjustified secrecy) (Article 2 (procedural limb), Article 6 § 1, Article 8)

CM Decision: The statutory limitation period for intentional offences against life was abolished in 2012, allowing the continuation of the investigations at issue in this case. Investigations have been speeded up and their general effectiveness improved, as evidenced in the *Barbu Anghelescu* group, closed by final resolution [CM/ResDH\(2016\)150](#). In June 2017, the CM assessed also the general measures adopted to ensure the statutory independence of military prosecutors (transparency of nominations, stability of employment, and introduction of same guarantees against outside influence as enjoyed by civil prosecutors), and a number of special aspects of the effectiveness of investigations (notably access of judges and prosecutors to classified information and efficient co-operation between State authorities and other legal entities). In the light of the assessment, the CM decided to close its examination of general measures in this case. Other violations are dealt with in other groups of cases.

The authorities have deployed considerable efforts and resources to remedy the shortcomings of the investigations at issue and ensure their effectiveness. The investigations into the events of 1990 appear close to conclusion, but those into the events of 1989 remain a source of concern. The CM has encouraged the authorities to complete them and to keep it informed of progress achieved.

■ ROM / Use of fire-arms, planning of operations and ineffective investigations

Soare and Others (group) - Application No. 24329/02, judgment final on 22/05/2011, enhanced supervision

- ” Unjustified and disproportionate use of fire-arms by the police and ineffective investigations, including into possible racist motives; lack of an adequate statutory and regulatory framework; lack of preparation of operations by special intervention units (Articles 2 or 3 - substantive limb, Article 13, Article 3)

CM Decision: In September 2017, the CM noted with interest the strict regulation of the use of firearms by the police introduced by legislative amendment in 2016, supplementing the revised and improved regulation on the deployment and operations of special intervention units issued in 2009. Practical instructions to police officers on the application of the legislative framework still required an update. The CM encouraged the authorities to extend the application of the special measures adopted by the General Prosecutor’s Office to guarantee the effectiveness of criminal investigations to all investigations on the use of firearms by police and to explore additional measures to ensure effective judicial review of such investigations.

Issues relating to the effectiveness of investigations, including those into racially motivated incidents, and of criminal proceedings had been examined and supervision closed in the context of the *Anghelescu Barbu No. 1* group, see [CM/ResDH\(2016\)150](#).

The CM has called for the finalisation of the criminal investigations in the *Soare and Others* case and for information on the General Prosecutor’s Office’s assessment with regard to the reopening of investigations in the *Ciorcan and Others* case.

■ RUS / Planning of a mass hostage-rescue operation - Ineffective investigations

Finogenov and Others - Application No. 18299/03, judgment final on 04/06/2012, enhanced supervision

- ” Loss of life and injuries caused during a mass hostage-rescue operation at the “Nord-Ost” theatre in Moscow and lack of effective investigation (Article 2 - procedural and substantial limbs)

Developments: In September 2016, the CM welcomed the legislative, regulatory and operational measures taken by the authorities aimed at saving the lives of, and providing medical assistance to, persons in emergency situations in the context of rescue activities linked to counter-terrorist operations. Additional information is awaited on the practical implementation of the measures adopted, including on how all possible scenarios which could arise after a mass rescue operation are planned for, and effectively communicated to, and coordinated among, all the relevant services.

■ RUS / Anti-terrorist operations in the North Caucasus, mainly in the Chechen Republic

Khashiyev and Akayeva (group) - Application No. 57942/00, judgment final on 06/07/2005, enhanced supervision, Interim Resolution [CM/ResDH\(2015\)45](#)

- ” Unjustified use of force, disappearances, unacknowledged detentions, torture and ill-treatment, lack of effective investigations into the alleged abuses and absence of

effective domestic remedies, failure to co-operate with the European Court, unlawful search, seizure and destruction of property (Articles 2, 3, 5, 6, 8 and Article 14 of Protocol No. 1)

CM Decision: he CM's assessment of developments up to 2011 was given in an Interim Resolution of December that year. Notable developments included awareness-raising measures and training measures for the military and security forces, as well as certain regulatory changes. Additional assessments were provided by the Court in its *Aslakhanova and Others* judgment (final on 29 April 2013) in particular as regards measures to clarify the fate of missing persons and care for the relatives.

In response to the Court's judgment, the Russian authorities have provided an updated Action plan, summarising the measures adopted and laying down a strategy for further action. In line with this Action plan and in response to the CM's decisions, the Russian authorities have submitted further detailed information, positively noted by the CM, on the databases created to facilitate the search of the missing persons and unidentified corpses; the considerable resources deployed; the work conducted in the search for missing persons, involving their relatives who have been allowed an insight into the investigations and have had possibilities to contribute; as well as the criminal investigations and the enhancement of their means and supervision, etc.

Notwithstanding the efforts to improve the efficiency of investigations, notably through the setting up of a special unit within the Investigative Committee in Chechnya, results reported have been recognised by the CM as insufficient. In addition, as time is passing, many crimes may become time-barred. The CM has thus urged the authorities to qualify disappearances as suspected aggravated murder instead of as aggravated kidnapping in order to better prevent impunity. The absence of major results in the investigations and of any special dedicated body concentrating on the search for the missing has also led to the result that little progress has been made in this search. Both the Court and the CM have thus invited the Russian authorities to consider the setting up of a single body tasked with this search and with adequate resources, notably forensic.

In order to facilitate the examination of the complex questions raised the CM decided to adopt a thematic approach. In March 2017 the CM, in accordance with the established time table, concentrated on the situation after 2006. It noted in this respect that the authorities did not confirm that, as a result of the measures taken so far, enforced disappearances involving state agents had ceased to occur in the region. Furthermore, considering the important links between the effectiveness of criminal investigations and the prevention of kidnapping, the CM invited the authorities to provide detailed statistical data for the last three years with respect to the number of complaints received, their handling and prosecutions engaged.

The CM also urged the authorities to continue to pursue all avenues to establish the fate of the missing persons in these cases and to keep the Committee informed of any tangible progress made.

■ SER / Lack or ineffective investigations (assaults by private persons motivated by religious hatred)

Milanović - Application No. 44614/07, judgment final on 20/06/2011, enhanced supervision

- ” Lack of protection against religiously motivated violence (applicant was a hindu); absence of effective investigations into assaults motivated by religious hatred, a situation amounting also to a discrimination based on religion (substantive and procedural limbs of Article 3 and of Article 14 in conjunction with Article 3)

CM Decision: In 2011-2012, the Constitutional Court banned a number of far-right organisations, and notably the “Obraz” organization, whose members were allegedly involved in the attacks on the applicant. In March 2017, the CM examined in March 2017 the further progress made in order to address the violations established, notably through the provisions in the new Criminal Procedure Code, in force since 2013, aiming at improving the effectiveness of criminal investigations. The CM invited the authorities to also provide information also on specific measures taken or envisaged to ensure that effective and non-discriminatory investigations are conducted with a view to uncovering and sanctioning religiously motivated crimes and on the practical impact of the measures already taken.

The authorities were urged to expedite the domestic investigations which remained pending despite the fact that more than five years had elapsed since the Court’s judgment.

■ TUR / Ill-treatment and ineffective investigations

Batı (group) - Application No. 33097/96, judgment final on 03/09/2004, enhanced supervision

Okkali (group) - Application No. 52067/99, judgment final on 12/02/2007, enhanced supervision

- ” Ineffectiveness of investigations into deaths, torture or ill-treatment and serious shortcomings in subsequent criminal and/or disciplinary proceedings initiated against members of security forces (Articles 2, 3, and 13)

Action plan: In September 2016, authorities were invited to provide updated information on the outcome of the work carried out by two working groups (to examine the length of prosecution periods and the sentences imposed on members of the security forces and the initiation of the assessment on the 2015 Circular) to identify the measures necessary to ensure the effectiveness of the criminal justice system. An updated action plan was submitted in May 2017, currently under assessment.

■ TUR / Death of a journalist

Dink - Application No. 2668/07, judgment final on 14/12/2010, enhanced supervision

- ” Failure to conduct an effective investigation to identify and punish the authorities who failed to take actions to prevent the assassination of a journalist; impossibility to claim damages in that respect; criminal conviction of a journalist for “denigration of Turkishness” (substantial and procedural limbs of Article 2; Article 10 and Article 13 taken in conjunction with Article 2)

Developments: Additional information has been transmitted from the authorities on 13 March 2017. Bilateral discussions are underway and information is awaited on the outcome of domestic proceedings.

TUR / Excessive use of force, planning of operations and ineffective investigations

Kasa (group) - Application No. 45902/99, judgment final on 20/08/2008, enhanced supervision

Erdoğan and Others (group) - Application No. 19807/92, judgment final on 13/09/2006, enhanced supervision

” Death of the applicants’ next-of-kin as a result of unjustified and excessive force used by members of security forces; failure to adequately prepare and supervise operations and to take all measures required to limit risks to life; absence of effective remedies (Articles 2 and 13)

CM Decision: As regards general measures, in March 2016 the CM called for a review of certain legislative provisions. Following this, the authorities abrogated section 39 of the Regulation on the Powers and Duties of the Gendarmerie, which had previously made it lawful to shoot anyone who did not surrender immediately after initial warnings. However, no progress has been reported in the examination of Article 16 of the Powers and Duties of the Police Act which concerns the gradual use of force.

The CM also called upon the authorities to consider revising, in cooperation with the Council of Europe, the legislative framework for the organisation and control of operations carried out by all law enforcement officials, including by village guards.

The CM recalled the continuing obligation to conduct effective investigations into alleged abuses by members of security forces, and strongly urged the authorities to conduct *ex officio* evaluations as to the possibilities of reopening the investigations in relevant cases in this group and to intensify their efforts to ensure that all the pending investigations and proceedings are concluded without further delay, thus giving also full effect to Article 90 of the Turkish Constitution.

TUR / Repression of peaceful demonstrations and ineffective investigations

Oya Ataman (group) - Application No. 74552/01, judgment final on 05/03/2007, enhanced supervision

” Violations of the right to freedom of peaceful assembly and/or ill-treatment of the applicants on account of the excessive force used to disperse peaceful demonstrations; in some cases, failure to carry out an effective investigation into the allegations of ill-treatment and lack of an effective remedy in this respect (Articles 3, 11 and 13)

CM Decision: The systemic nature of the problem of excessive use of force revealed by this group of cases has been emphasized in numerous judgments by the Court. Excessive and disproportionate use of force during peaceful demonstrations has moreover been found liable to make members of the public fearful of participating and thus discourage them from exercising their rights under Article 11.

When examining the situation in June 2017, the CM therefore urged the authorities to consolidate the diverse legislations which regulate the conduct of law enforcement

officers and fixes the standards as regards the use of force during demonstrations and to ensure that the relevant legislation includes provisions for an adequate *ex post facto* review of the proportionality of any use of force, as it was highlighted by the Committee in its June 2016 decision. The authorities were encouraged to accelerate the work of the Inter-Ministerial Working Group set up at domestic level and to continue their cooperation with the informal Working Group of the Council of Europe and to provide the text of the Directive “on Tear Gas, Gas and Defence Rifles, the Use and Storage of Equipment and Ammunitions relating to them and Training of User Personnel”.

Noting that no progress had been achieved in carrying out fresh investigations into the applicants’ allegations of ill-treatment, the CM recalled that respondent States have a continuing obligation to conduct effective investigations into alleged abuses by members of security forces and strongly urged the authorities to conduct *ex officio* such investigations, thus giving full effect to Article 90 of the Turkish Constitution.

■ UKR / Ineffective investigation - acts committed by private persons

Fedorchenko and Lozenko (group) - Application No. 387/03, judgment final on 20/12/2012, enhanced supervision

” Ineffectiveness of investigations into the deaths of the applicants’ relatives caused by an arson attack and failure to investigate a possible causal link between alleged racist attitudes and the attack (Article 14 taken in conjunction with Article 2 in respect of its procedural limb)

Developments: According to the action plan submitted by the authorities in September 2013, the violations found by the Court were caused by the deficiencies in administrative practice and were of isolated nature. Bilateral consultations are underway with the view to the submission of a consolidated updated action plan / report also providing details in relation to the *Grigoryan and Sergeyeva* case.

■ UKR / Ill-treatment, mostly to obtain confessions - lack of effective investigations

Kaverzin - Application No. 23893/03, judgment final on 15/08/2012, enhanced supervision

Afanasyev (group) - Application No. 38722/02, judgment final on 05/07/2005, enhanced supervision

Karabet and Others (group) - Application No. 38906/07, judgment final on 17/04/2013, enhanced supervision

Belousov - Application No. 4494/07, judgment final on 07/02/2014, enhance supervision

” Use of physical force or psychological coercion, mostly in order to obtain confessions and lack of effective investigations into such complaints and of an effective remedy; systematic handcuffing; in some cases, inadequate medical assistance; irregularities in detention on remand; excessive length of proceedings and lack of effective remedies; non-enforcement of judicial decisions; unfair trial (Article 3, Article 5 §§ 1 - 3 - 5, Article 6 §§ 1 - 3, Article 13, and Article 1 of Protocol No. 1)

CM Decisions: Major reforms have been carried out in order to prevent and ensure effective investigations into allegations of torture and/or ill-treatment by the police, including the new 2012 Code of Criminal Procedure (“CPP”) and the decision in 2015

to set up a State Bureau of Investigation. Recently, in June 2017, a draft law was submitted to Parliament to increase prosecutors' disciplinary liability. In addition, a working group, including representatives of the Prosecutor General's Office as well as international organisations and national NGOs, has been tasked with analysing whether further amendments to the 2012 CPP are required. Wide-spread training and capacity-building measures for prosecutors are also ongoing.

In 2017, the CM regretted that the new 2012 CPP and the information provided so far are insufficient to discern the overall strategy envisaged by the authorities to ensure that ill-treatment in custody are eradicated. In its most recent report of June 2017, the CPT highlighted that the frequency of allegations of ill-treatment remained at a worrying level, and that the fundamental safeguards in the CPP in this regard are not always applied by the Police. The CM thus invited the authorities in December to pursue a policy of zero tolerance towards ill-treatment and to take all necessary measures, taking into consideration the CM's recommendations, to ensure the effective implementation of the CPP in practice.

As to the State Bureau of Investigations, the CM expressed deep concern that it is still not operational. This independent body is designed to be responsible for carrying out investigations into complaints against the police, other law enforcement officers and State officials. Considering that its establishment is a key to the successful execution of this group of cases, the CM called upon the authorities to take all necessary measures to rapidly ensure that it becomes fully operational.

As regards individual measures, information remains awaited about the investigations carried out to remedy the shortcomings found by the European Court in 20 cases.

■ UKR / Lack of effective investigations into alleged criminal acts committed by private persons

Khaylo (group) - Application No. 39964/02, judgment final on 13/02/2009, enhanced supervision, Final resolution [CM/ResDH\(2017\)294](#)

Igor Shevchenko and 6 other cases - Application No. 22737/04+, judgment final on 04/06/2012, Final resolution [CM/ResDH\(2017\)294](#)

” Lack of effective investigations into alleged criminal acts linked to deaths caused, inter alia, by road traffic accidents, illegal acts of private individuals and in unclear circumstances (Article 2 - procedural limb)

CM Decision / Final resolution (partial closure): To overcome the problems revealed, a number of measures have already been adopted aimed at improving the regulatory framework governing the conduct of criminal investigations. A new Code of Criminal Procedure was thus adopted in 2012 and improved the independence of prosecutors, the promptness of pre-trial investigations and criminal proceedings through the setting of shorter deadlines, the publicity of the pre-trial investigation phase, and the involvement of the victim or next-of-kin in the investigation. In addition, several laws are pending adoption, mainly concerning the status, rights, obligations and personal liability of investigators. The CM requested in September 2017 information as to the state of implementation of the reforms, as well as on the administrative steps taken to address certain practical shortcomings identified by the European Court.

As regards individual measures, the CM decided to close its supervision of seven cases in which just satisfaction was paid and criminal proceedings had terminated - *Igor Shevchenko* group. In the other cases, the prosecution authorities have either reopened the initial investigations or opened investigations into negligence in the conduct of the initial proceedings.

■ UK / Actions of security forces in Northern Ireland in the 1980s and 1990s

McKerr (group) - Application No. 28883/95, judgment final on 04/08/2001, enhanced supervision

” Shortcomings in investigations of deaths in Northern Ireland in the 1980’s and 90’s, during security forces operations or in circumstances giving rise to a suspicion of collusion with these forces; lack of independence of investigating police officers; lack of public scrutiny and information to victims’ families on reasons for decisions not to prosecute (Article 2 - procedural limb)

CM Decisions: Many general measures have already been adopted in the *McKerr* group of cases and the CM has closed its supervision of a number of them (see notably [CM/Inf/DH\(2014\)16-rev](#)). However, questions are still outstanding notably as regards the special investigatory mechanisms (in particular the Historical Enquiries Team) set up to remedy the shortcomings of the original police investigations and inquests. In 2015, the CM therefore welcomed the proposal in the Stormont House Agreement to create a single independent investigation mechanism (the Historical Investigations Unit – “HIU”). Resuming consideration of these cases in June and December 2016, the CM expressed concern that the HIU and other legacy institutions agreed upon had still not been established. Twice in 2017, the CM twice noted the continued absence of progress in the establishment of the “HIU” due to remaining disagreement as to the details of its operation and called upon the authorities to take all necessary measures to ensure that the HIU is established and made operational without any further delay.

In addition, as regards legacy inquests, the CM strongly urged the authorities to take, as a matter of urgency, all necessary measures to ensure both that the legacy inquest system is properly resourced and reformed in accordance with the Lord Chief Justice of Northern Ireland’s proposals (see the authorities Action plans of 2016 for more details) and that the Coroners’ Service receives the full co-operation of the relevant statutory agencies to enable effective investigations to be concluded.

The effectiveness of the continued investigations in the applicants’ cases has been followed closely by the CM, stressing, however at the same time that the completion of the outstanding investigations in the group is linked to the progress made under the general measures.

B. Right to life – Protection against ill-treatment: specific situations

■ BGR / Protection of children placed in public care

Nencheva and Others - Application No. 48609/06, judgment final on 18/09/2013, enhanced supervision

” Failure of the authorities to take practical and sufficient measures to protect lives of children with severe mental disorders placed in public care; lack of prompt and effective investigations into deaths (Article 2)

Developments: According to the information provided in May and October 2017, the material living conditions of children with mental health disorders has been improved after the closure of the previously existing homes and their transfer to new family-type residential centres. As regards the effectiveness of internal investigations, a legislative reform adopted in 2010 makes it mandatory to systematically carry out an autopsy in the event of the death of a child placed outside the family. Further information on the progress made in these areas is awaited.

■ ROM / Placement of a HIV positive orphan with severe mental disabilities in a psychiatric hospital

Centre for legal resources on behalf of Valentin Câmpeanu - Application No. 47848/08, judgment final on 17/07/2014, enhanced supervision

” Placement of a HIV positive orphan with severe mental disabilities in a psychiatric hospital, following his release from public care upon turning 18, under appalling conditions leading to his untimely death shortly afterwards; failure to carry out an effective investigation into the circumstances surrounding his death; lack of an appropriate legal framework that would ensure access of persons with mental disabilities to independent representation, thus allowing examination of their complaints by an independent authority (Articles 2 and 13)

CM Decisions: A two-stage strategy has been endorsed by the government in May 2017, in order to put in place a system of independent and effective legal protection for orphans. A working group has begun work on the establishment of a legal representation mechanism. In December 2017, the CM underlined the importance of providing for the participation of the persons concerned in the new procedures.

As regards the effectiveness of investigations into ill-treatment, the General Prosecutor's Office decided in 2017 that the ongoing review of procedures would also cover the manner in which victims' rights have been safeguarded during the investigation. In addition, all decisions to terminate such investigations are to be communicated to the National Monitoring Council so that it may exercise its power to challenge them in court. Information of the impact of these measures is presently awaited.

As the current legislation does not appear to contain specific provisions as to the placement of persons unable to give valid consent, the CM invited the authorities to ensure the existence of an effective judicial review of such placements. On the broader front, information was needed on the legal remedies allowing institutionalised persons to lodge complaints about their treatment before courts or independent bodies.

As several remedial measures, including support to the above mentioned working group, rested on the newly created National Council for the monitoring of the implementation of the UN Convention on the Rights of Persons with Disabilities, the CM called for measures to ensure its full operation.

In view of the improvements of living conditions of the patients in the Poiana Mare Hospital, the CM considered that no further measure were required. It noted, however, that the outstanding question of shortage of staff in psychiatric hospitals was examined in the context of the *Parascineti* case.

When considering the reopening the criminal investigation into the applicant's death, the investigative authorities found that this was no longer possible in view of the statute of limitations. No complaints about this finding have been reported.

■ TUR / Medical negligence and lack of effective investigation

Oyal (group) - Application No. 4864/05, judgment final on 23/06/2010, enhanced supervision

” Failure to protect the right to life on account of medical negligence or medical errors committed by healthcare providers employed mainly by state-run hospitals (substantial and/or procedural limbs of Article 2)

Developments: In June 2016, the CM invited the authorities to provide information on measures adopted and/or envisaged to ensure that the national Courts examine cases of medical negligence, and that the examination is conducted with reasonable diligence. Information is still awaited.

C. Detention

C.1. Lawfulness of detention and related issues

■ BEL / Placement in prison facility unsuited for psychiatric pathologies

L.B. (group) - Application No. 22831/08, judgment final on 02/01/2013, enhanced supervision

W.D. (pilot judgment) - Application No. 73548/13, judgment final on 06/12/2016, enhanced supervision

” Prolonged detention of persons suffering from mental disorders in prison psychiatric wings unable to provide them with appropriate care; lack of effective remedy (Article 5 § 1; Articles 3 and 5 § 4)

CM Decisions: In order to remedy the long-standing problem of prolonged detention of internees in prison psychiatric wings without appropriate therapeutic treatment, the authorities have in 2016 adopted both a new law on internment and a third masterplan. In the pursuit of these efforts, a new forensic psychiatric centre has been established in Antwerp at the end of 2016 and three others are planned by 2022. To support the ongoing efforts, the European Court in its pilot judgment in the W.D. case set a two year deadline for the authorities to finalise a system conforming with the principles guaranteed by Articles 3, 5 §§ 1 et 4, et 13 of Convention.

The execution process has yielded positive results, in particular a decrease of the number of internees in prisons: 1 139 internees in prisons in 2013, as compared to 696 in September 2017. In general, the number of places foreseen, in the new forensic psychiatric centres and other structures, is higher than the figure of 696 internees, which should provide sufficient capacity for the latter and future internees. In view of

this positive situation, in December 2017, the CM mainly requested more information about the new centres and their functioning, staffing and monitoring.

Considering that a certain number of internees remain in prison, the CM also invited the authorities to submit detailed information on the care provided in these institutions. Considering the deadline set by the Court, the CM decided to review the situation in September 2018.

Concerning individual measures, all applicants have been transferred into psychiatric units adapted to their situations, except one applicant who is still in the prison system. He will be transferred to an appropriate external structure by 1 April 2018.

■ BGR / Unlawful placement in a psychiatric institution and inhuman conditions of detention

Stanev (group) - Application No. 36760/06, judgment final on 17/01/2012, enhanced supervision

” Unlawful placement in a psychiatric institution, lack of judicial review and impossibility to obtain redress; inhuman and degrading conditions of detention (2002 and 2009) and lack of an effective remedy in this respect; impossibility to request before a court the restoration of legal capacity (Article 5 §§ 1-4-5, Articles 3, 13 and 6 § 1)

CM Decision: In June 2017, the CM noted the necessary safeguards introduced as regards the voluntary placement in an institution of persons under full guardianship, as well as the measures taken or identified to improve living conditions in social care homes.

As regards persons under partial guardianship, the CM requested information on the manner according to which the capacity of the person to consent to a placement will be assessed, the competent body in this respect and the information provided to the person about the placement. In addition, noting with concern that they still do not enjoy direct access to a court to request the restoration of their legal capacity, the CM invited the authorities to adopt, without further delay, the necessary measures, including by exploring temporary solutions pending the adoption of the ambitious reform that they have envisaged for the legal protection of adults.

The CM reiterated its invitation to set up additional safeguards in respect of a temporary placement by the administration and the termination of a placement, as well as to clarify what procedure will be followed for the placement of persons unable to express their will.

Concerning the living conditions in social care homes, information is needed as to the mechanisms required for an improvement in living conditions for a person placed in an institution. The CM also invited the authorities to adopt additional measures to ensure the effectiveness of the compensatory remedy provided by the State Responsibility Act.

Individual measures related to the direct access to court of Mr Stankov to request the restoration of his legal capacity are linked to the abovementioned general measures. A revised action plan was submitted on 2 November 2017 and is currently under assessment.

■ FRA / Excessive length of pre-trial detention

Berasategi and 6 other cases - Application No. 29095/09+, judgment final on 26/04/2012, CM/ResDH(2017)232

- ” Excessive length of the pre-trial detention, extended several times, of prisoners accused of belonging to the terrorist organisation ETA (Article 5 § 3)

Final resolution: The excessive length of pre-trial detention was the result of the outstanding workload of the Court of Assize in special composition. Therefore, the Law on public security was amended in 2017 to reduce the required number of professional assessors necessary to conduct hearings at first instance and on appeal. The Code of Criminal Procedure contains a compensatory remedy available to persons who were detained on remand but were not found guilty in criminal proceedings.

■ HUN / Life sentences with no prospect of release

László Magyar - Application No. 73593/10, judgment final on 13/10/2014, enhanced supervision

- ” Life sentences without eligibility for parole in combination with the lack of an adequate review mechanism of these sentences (Article 3)

Developments: According to the action report submitted in April 2015, a system for the review of life sentences was introduced in 2014. New measures are being developed and an updated action plan taking into account the Court's recent ruling in the case of *T.P.* (37871/14) and *A.T.* (73986/14) is awaited.

■ LIT / Life sentence with no prospect of release

Matiošaitis and Others - Application No. 22662/13, judgment final on 23/08/2017, enhanced supervision

- ” Statutory inability of the applicants to obtain a reduction of their life sentences (Article 3)

Developments: An action plan/report is awaited.

■ LVA / Psychiatric confinement during criminal proceedings - absence of safeguards

Beiere and 1 other case - Application No. 30954/05+, judgment final on 29/02/2012, CM/ResDH(2017)311

- ” Failure of domestic courts to offer, in the context of criminal proceedings, sufficient protection against an arbitrary detention in a psychiatric hospital for assessment of the defendants' mental state; the court order was adopted in absentia and without hearing or informing the person concerned (Article 5 § 1b)

Final resolution: Mandatory participation in hearings on compulsory measures was introduced by amendments to the Criminal Procedure Law in 2014. Decisions in absentia are possible only if, according to an expert opinion, the health condition of the person concerned does not permit his/her participation, in which case the person's representative should participate at the hearings. The court's order may be appealed against. Communication between the lawyers and the person concerned are subject to the same rules as those applied during detention on remand.

The applicants were discharged from hospital.

■ MDA / Unlawful arrest and detention on remand

Muşuc (group) - Application No. 42440/06, judgment final on 06/02/2008, enhanced supervision

Guţu - Application No. 20289/02, judgment final on 07/09/2007, enhanced supervision

Brega (group) - Application No. 52100/08, judgment final on 20/07/2010, enhanced supervision

” Arrest and detention without reasonable suspicion (Article 5 § 1); other violations (Articles 3, 8, 13+5, 13+8)

Developments: In June 2016, the CM decided to close the *Cebotari*, *Ganea* and *Cristina Boicenco* cases. The authorities were encouraged to rapidly adopt the remaining envisaged legislative measures relating to detention without reasonable suspicion and other violations. Updated information is awaited.

■ MDA / Unlawful pre-trial detention - absence of adequate and speedy review

Şarban (group) - Application No. 3456/05, judgment final on 04/01/2006, enhanced supervision

” Unlawful and continuing detention despite higher court’s decision quashing the detention order; lack of relevant and sufficient reasons for ordering or extending detention; impossibility to obtain release pending trial; failure to ensure a prompt examination of the lawfulness of the detention; non-confidentiality of lawyer-client communications; various breaches of the principle of equality of arms; (Articles 5 §§ 1, 3 and 4; Articles 3 and 34)

CM Decision: In May 2016, the Code of Criminal Procedure (“the CPP”) was amended with a view to aligning the domestic legislation concerning detention on remand with the Convention requirements. In September 2017, the CM noted with satisfaction that several issues had been addressed.

Concerning, in particular, the unlawful practice of circumventing a valid release order by applying for a new detention order to a different court, the CPP provides for the exclusive territorial jurisdiction of courts to examine requests for detention on remand or their extension. Therefore, a prosecutor can only lodge requests for detention on remand with the court with territorial jurisdiction over his district.

As to the unlawful practice of appeal courts ordering continued detention without reasons or time limit, after having quashed a lower court decision and send the case back for retrial, the Supreme Court has now received competence to examine complaints about such situations and can thus ensure that adequate reasons are given and time limits set.

Regarding the prohibition of release of certain categories of accused persons, this prohibition has been repealed so that there are no legislative provisions that automatically deny the possibility of release.

The CM requested additional information concerning the possibility to apply for compensation for any person detained in breach of Article 5. In the aftermath of the CPP amendments, the CPP invited the authorities to provide information on the developments of the judicial practice as regards the provision of relevant and sufficient reasons in court orders for detention on remand, the length of appeal proceedings concerning such orders and the prevention of violations of the principle of

equality of arms. Reflections are continuing as to how the confidentiality of lawyer client relations can be safeguarded in matters relating to communications with the European Court.

■ MON / Unlawful extension of detention on remand beyond the statutory time-limit

Mugoša - Application No. 76522/12, judgment final on 21/09/2016, [CM/ResDH\(2017\)141](#)

” Unlawful extension of detention on remand beyond the statutory time-limit on the basis of a decision not bearing a signature or stamp and with wording that pronounces the detainee guilty (Articles 5 § 1 and 6 § 2)

Final resolution: In 2017, the Supreme Court adopted two binding legal opinions: one on the obligation to strictly apply statutory time-limits for re-examination of detention grounds, an obligation also underlined by the Constitutional Court; a second one on the obligation to clearly indicate in rulings ordering or extending detention the existence of a reasonable suspicion that a defendant had committed a crime, but to avoid terms which imply a certainty that he is the perpetrator of the crime at this stage.

The applicant was no longer in detention on remand when the Court’s judgment was rendered.

■ POL / Unlawful deprivation of liberty of a juvenile

Grabowski - Application No. 57722/12, judgment final on 30/09/2015, enhanced supervision

” Unlawful deprivation of liberty of a juvenile in the framework of correctional proceedings without a specific court order and lack of adequate judicial review thereof (Article 5 §§ 1 and 4)

Action plan: The Polish authorities submitted a revised action plan in December 2017 with information on the foreseen legislative amendments to the Act on the Procedure in Juvenile Cases. Bilateral discussions are underway and the revised action plan is currently under assessment.

■ POL / Placements in social care home - Absence of judicial review

Kędzior (group) - Application No. 45026/07, judgment final on 16/01/2013, enhanced supervision

” Lack of judicial review of decisions to make and continue placements in a social care home; impossibility independently to challenge continuing institutionalisation in view of the lack of legal capacity (Article 5 §§ 1 and 4, Article 6 § 1)

CM Decision: In June 2017, the CM noted with satisfaction the draft amendments to the Psychiatric Protection Act to be introduced in Parliament, which include a right to appeal of the incapacitated person against compulsory placement decisions and a periodic automatic review of their grounds, and strongly encouraged the completion of the respective legislative process.

As regards individual measures, the authorities were invited by the CM to ensure periodic *ex officio* review of the applicants’ need to be placed in social care homes.

■ ROM / Psychiatric confinement during criminal proceedings - Lack of judicial review

Filip and 1 other case - Application No. 41124/02+, judgment final on 14/03/2007, CM/ResDH(2017)165

- ” Unlawful psychiatric confinement ordered by the prosecutor with a view to forced psychiatric examination or compulsory treatment and lack of judicial review; excessive length of the proceedings seeking judicial review as well as lack of effective investigation into allegations of ill-treatment suffered during psychiatric confinement (Article 5 §§ 1e - 4, Article 3 - procedural limb)

Final resolution: Significant changes were introduced to the Code of Criminal Procedure in 2014 as regards non-voluntary confinement for compulsory treatment, as well as regarding committal to a psychiatric institution for expert examination during criminal proceedings. The prosecutor is no longer competent to order psychiatric committals. Such competence lies exclusively with the courts in a procedure which is in compliance with the Convention requirements. The lack of effective investigations was a punctual deficiency remedied by the dissemination of the judgment to the Prosecutor's Offices and domestic courts.

The reopening of the investigations into allegations of ill-treatment was time-barred.

■ ROM / Lack of procedural safeguards regarding involuntary placement in psychiatric hospitals

Parascineti - Application No. 32060/05, judgment final on 13/06/2012, enhanced supervision

Cristian Teodorescu (group) - Application No. 22883/05, judgment final on 19/09/2012, enhanced supervision

- ” Ill-treatment caused by overcrowding and poor sanitary and hygiene conditions; provision of medical treatment without the person's consent and without validation by a medical commission (Articles 3, 5 § 1 and 8)

Developments: In September 2016, the CM urged the authorities to provide information on the concrete measures envisaged to ensure the rigorous application of the legal procedure and safeguards for involuntary placement in all the facilities concerned. A new action plan / report is awaited.

■ RUS / Different violations related to detention on remand and questions of redress for unfair judicial decisions

Klyakhin - Application No. 46082/99, judgment final on 06/06/2005, enhanced supervision

- ” Absence of a court decision or absence of a reasoned decision for detention on remand or its extension; failure to provide information on the reasons for arrest; excessive length of judicial proceedings to review the lawfulness of detention; failure to examine the applicants' complaints against detention orders; hearings conducted in the absence of the applicant and his counsel; absence of an enforceable right to receive compensation in case of violations of Article 5 (Articles 5 §§ 1, 2, 3, 4 and 5); also violations of the right to a fair trial (Article 6)

CM Decisions: Following the progress achieved in ensuring that the procedures governing detention on remand are conform with the Convention and the ensuing closure of part of the *Klyakhin* group, and of the *Bednov* group (see the Final resolution [CM/ResDH\(2015\)249](#)), the CM has concentrated in 2017 on different issues of individual measures. As regards cases related to Article 5, the Russian authorities indicated that they had taken or were in the process of taking the necessary individual measures in all the cases of the group (typically, if applicants were still in detention at the time of the Court’s judgment, either speeding up the investigations, ensuring a new review of the lawfulness of detention which conforms with the Convention, or possibly releasing the applicant if required by the Court’s findings).

The CM also addressed the complex and special problems raised by the *Khodorkovskiy and Lebedev* case and by the two *Pichugin* cases. Despite examination at two meetings, in June and September 2017, the authorities did not provide any response to the serious concerns raised by the partial enforcement of the impugned damage award made against Mr Khodorkovskiy to cover the Yukos company’s unpaid taxes. The Court had concluded that the award had been made arbitrarily and without legal basis and the CM thus called for a revocation of any obligation to pay the award or a formal undertaking not to enforce it.

Similarly, in the *Pichugin I* case, no information was submitted on other possible avenues of redress after the unconvincing rejection of his request for a reopening of the impugned unfair proceedings which had led to his conviction to life imprisonment, and the refusal of his request for a presidential pardon. However, a new request for such a pardon was lodged, and in September the CM requested information as to its outcome. Information was also requested about the actions planned or taken to remedy the shortcomings identified by the Court in relation to the applicants’ second unfair conviction in the *Pichugin II* case.

■ SVK / Deficient review of the lawfulness of detention

Černák - Application No. 36997/08, judgment final on 14/04/2014, [CM/ResDH\(2017\)170](#)

” Complex interaction between detention pursuant to an European Arrest Warrant and the “rule of specialty” leading to shortcomings in the judicial review of the lawfulness of detention (Article 5 § 4)

Final resolution: The European Arrest Warrant (EAW) Act of 2004 at issue in the case was replaced by a new EAW Act in 2010 excluding the application of the “rule of specialty” under the European Convention on Extradition in relation to other EU States “unless and to the extent that it simplifies or facilitates the proceedings under the Act”. The new law thus clearly covers also the question of consent for crimes not covered by the extradition request and sought after the commencement of proceedings. The procedural violations committed during the remand hearing, notably the absence of due information about the results of the requests made to the Czech authorities and of a hearing in person, were linked to practical malfunctioning and have been solved by awareness raising measures for the courts.

At the time of the Court’s judgment, detention on remand had ceased as the applicant had been convicted of the new crimes.

TUR / Arbitrary arrest and detention

Mergen and Others (group) - Application No. 44062/09, judgment final on 31/08/2016, enhanced supervision

- ” Arbitrary arrest, placement in police custody and pre-trial detention of members of the Association for Supporting Contemporary Life on suspicion of belonging to a criminal organisation (Article 5 § 1)

Action report: An action report was submitted by the authorities on 15 May 2017 and is currently under assessment.

TUR / Delayed examination of the lawfulness of arrest and detention

Salih Salman Kılıç - Application No. 22077/10, judgment final on 05/06/2013, [CM/ResDH\(2017\)16](#)

- ” Failure to bring the applicant promptly before the investigating judge, who had issued the arrest warrant at a distance of 1600 km (Article 5 §§ 1-3)

Final resolution: To strengthen safeguards against unlawful detention, the Code of Criminal Procedure was amended in 2014. Today, if it is not possible to bring an arrested person before a competent judge within 24 hours due to geographical distance, the competent judge shall hear the suspect through audio-visual communication system. Significant efforts and funds were invested to ensure that the domestic courts are equipped with state-of-art communication equipment.

The applicant was released at the time of the Court’s judgment. Article 141 of the Criminal Procedure Law could have provided a possibility for the applicant to lodge a compensatory claim.

UKR / Unlawful and lengthy pre-trial detention and inadequate review procedures

Kharchenko and 35 other cases - Application No. 40107/02+, judgment final on 10/05/2011, Final resolution [CM/ResDH\(2017\)296](#)

Ignatov (group) - Application No. 40583/15, judgment final on 15/03/2017, enhanced supervision

- ” Use of administrative arrest for criminal investigation purposes without safeguarding the accused’s procedural rights, in particular the right to a defence; general practice of unregistered detention by the police and of detention on remand without any reasoned judicial decision setting time-limits (Article 5 §§ 1-3-4)

CM Decisions / Final resolution (partial closure): Progress has been achieved through the recent reforms of the judiciary and of criminal procedure through the entry into force of the 2012 Code of Criminal Procedure (“CPP”). These reforms, if fully implemented, appear capable of remedying most revealed shortcomings as regards unregistered arrest, pre-trial detention and the use of administrative arrest. Awareness-raising and capacity-building measures have been adopted. In addition, the Higher Specialised Court in Civil and Criminal Cases sent recommendations to the lower courts to ensure the consistency of judicial practice in the observation of Article 5 of the Convention and underlined the requirement of a judicial decision for any placement in detention. A further draft amendment initiated in 2016 will address other outstanding issues and exclude pre-trial detention from the list of preventive measures that may be automatically extended.

Notwithstanding these positive developments, certain problems persist and the CM will continue the supervision of the situation in the remaining cases of this group in the new *Ignatov* group of cases. The *Ignatov* case illustrates notably that similar violations as the ones initially revealed continue under the new CPP. The most recent CPT report highlights also that the practice of unrecorded detention, although contrary to the new CPP, continues. In the light of these considerations, the CM in September 2017 regretted that the Ukrainian authorities have not yet provided a comprehensive evaluation of the effects of the new CPP. The CM also urged the authorities to take all necessary measures with due regard to the Court's indications under Article 46, including awareness-raising and capacity-building measures, to ensure that the provisions of the new CPP relating to detention on remand are effectively implemented by all relevant actors in the judicial system, including the prosecution.

As regards the remaining problem that detention can continue without a court order after the end of the investigation up to the trial, the two draft laws submitted do not appear capable of fully addressing this legislative lacuna identified in the *Chanyev* judgment. The authorities were thus invited to cooperate with the Secretariat to ensure the full compliance of these draft laws with the Court's case-law, and to complete the legislative process as soon as possible. In addition, the CM requested information as to the outcome of the constitutional motion concerning this problem lodged by the Parliament's Human Rights Commissioner to the Constitutional Court.

Individual measures have been taken, or are under way, to ensure that none of the applicants remain unjustly detained on remand.

■ UK / Life sentence with no prospect of release

Vinter and Others - Application No. 66069/09+, judgment final on 09/07/2013 (Grand Chamber), CM/ResDH(2017)178

” Whole life sentences: lack of clarity in the law as to whether Justice Secretary's could order, as required by Article 3, release in exceptional situations where no penological reasons existed justifying continued detention and absence of a dedicated review mechanism (Article 3)

Final resolution: Following the judgment, the scope of the Justice Secretary's power under section 30 of the Crime Sentences Act 1997 was clarified by the Court of Appeal for England and Wales which confirmed the Justice Secretary's duty to exercise his power to release a whole life prisoner if continued detention is no longer justified on legitimate penological grounds. Any decision by the Justice Secretary must be reasoned and is subject to judicial review, including on grounds of compatibility with the European Convention on Human Rights. Following these clarifications, the Grand Chamber of the European Court accepted the system in *Hutchinson v. the United Kingdom* of 17 January 2017.

Moreover, the applicants, who never argued before the European Court that there were no longer any justification for their continued detention, may henceforth apply at any point to the Justice Secretary to be considered for release on compassionate grounds under section 30 of the Crime Sentences Act 1997, and have a refusal subject to judicial review.

C.2. Conditions of detention and medical care

ARM / Poor medical care in prison

Ashot Harutyunyan (group) - Application No. 34334/04, judgment final on 15/09/2010, enhanced supervision, Final resolution [CM/ResDH\(2016\)37](#)

- ” Poor medical care in prison amounting to ill-treatment; practice of placing and keeping the applicants in cage during court hearings without any real security risk amounting to degrading treatment (Article 3)

CM Decision: Several measures have already been taken by the Armenian authorities to address the problem of poor medical care in prisons, notably through the adoption of the 2006 Decree establishing new regulations on medical care (see AR 2016). In their action plan of October 2017, the authorities highlighted the necessity of large scale and long-term reforms of the prison health care system to bring it into conformity with the relevant international standards.

While welcoming the efforts deployed so far in this respect, the CM encouraged the authorities to pursue their plans and to draw inspiration from the Committee of Ministers' and CPT's recommendations as well as from indications of domestic monitoring bodies, in particular the Human Rights Defender of Armenia. Indeed, these bodies recently found a series of shortcomings related to the violations found by the European Court in this group of cases.

As a consequence, the CM urged the authorities to adopt the draft Code of Criminal Procedure which contains, *inter alia*, several safeguards in respect of the right of access to medical care for accused persons. Concerning the complaints relating to the access to appropriate health care in prison, information is awaited as the remedy available to detainees to obtain redress in this respect.

AZE / Overcrowding and poor detention conditions - unfair criminal and civil proceedings

Insanov - Application No. 16133/08, judgment final on 14/06/2013, enhanced supervision

- ” Overcrowding and poor detention conditions in prison; unfair criminal trial; unfair civil proceedings concerning detention conditions and the alleged lack of adequate medical assistance and degrading conditions (Articles 3, 6 § 1 and Article 6 § 1 taken together with Article 6 § 3c and 3d)

Developments: The Committee of Ministers invited the authorities in March 2016 to provide information concerning the applicant's conditions of detention (absence of advancing in the reopening of civil proceedings) and the persistence of unclear situation as regards the overcrowding in detention facilities. An action plan / report is awaited.

BEL / Overcrowding and poor detention conditions in prison

Vasilescu (group) - Application No. 64682/12, judgment final on 20/04/2015, enhanced supervision

- ” Inhuman and degrading treatment due to detention conditions in prisons: overcrowding, problems of hygiene and dilapidation (Article 3)

CM Decision: In order to address the structural problems of overcrowding, lack of hygiene and dilapidation in prisons, a third masterplan based on four pillars was launched in November 2016. In addition, new avenues are being explored so as to better distribute the population between prisons and reduce prison overcrowding. As regards the hygiene and dilapidation problems, the authorities informed the CM that the new prisons respect the standards of the CPT and that a draft royal decree setting minimum standards is being finalised.

In December 2017, the CM requested a precise timetable for the implementation of the third masterplan, information on the concrete impact of alternatives to detention, the on-going initiatives, and on the conditional release, as well as updated and complete figures with explanatory information in order to fully assess the progress achieved. Furthermore, the CM took note of the improvement of the detention conditions in dilapidated prisons but, pending the full implementation of the masterplans, invited the authorities to provide as many out-of-cell activities as possible.

In the absence of any evolution in the case-law demonstrating the effectiveness of the preventive remedy, the CM invited the authorities to set up a specific remedy in accordance with the Convention requirements.

As to the situation of the applicant Nollomont, the CM decided to lift the urgent nature of the individual measure related to him in view of the latest information received.

■ BGR / Overcrowding and poor detention conditions in pre-trial detention facilities and prisons

Kehayov (group) - Application No. 41035/98, judgment final on 18/04/2005, enhanced supervision

Neshkov and Others (pilot judgment) - Application No. 36925/10+, judgment final on 01/06/2015, enhanced supervision

” Inhuman and degrading treatment due to overcrowding and poor sanitary and material conditions; lack of appropriate medical care; lack of effective remedies (Article 3, Article 13 in conjunction with Articles 3 and 5, Articles 6 §§ 1 - 3(e), 8 and 13)

CM Decision: An important legislative reform was adopted in January 2017, including domestic remedies, in compliance with the *Neshkov and Others* pilot judgment and the public statement of the CPT of March 2015.

In March 2017, the CM encouraged the authorities to pursue their efforts to implement all the promising measures indicated and to follow closely the practical functioning of the domestic remedies. Indeed, their proper functioning depends on further progress in the improvement of detention conditions and the reduction of prison overcrowding. The CM also invited the authorities to bring the Debelt penitentiary hostel into operation and to provide information on the impact of the measures adopted to facilitate access to out-of-cell activities.

As regards material conditions of detention, satisfactory renovation work has been accomplished in 2016. In this regard, the CM invited the authorities to achieve the urgent renovation still needed and to secure their adequate funding in 2017, and to

adopt and implement the national strategy and action plan for the improvement of medical care in prison elaborated with the assistance of the Council of Europe.

Concerning the reform of the special regime, the CM renewed its call upon the authorities to clarify whether this reform provides for the possibility for detainees to request, at their own initiative, a review of the regime as it applies to them. Additional information is also needed on the measures envisaged to avoid violations due to the automatic application of a very restrictive regime to persons held on remand and accused of offences punishable by a life sentence.

Further information is needed as to the individual measures concerning the applicants Halil Adem Hasan, Radev, Dimitrov and Ribov, and concerning the fairness of the reopened criminal proceedings against Iordan Petrov.

GRC / Overcrowding and poor detention conditions

Martzaklis and Others - Application No. 20378/13, judgment final on 09/10/2015, enhanced supervision

” Poor conditions of detention and segregation of HIV-positive prisoners (Article 3, taken alone and in conjunction with Article 14 and Article 13)

CM Decision: The CM noted in September 2017 with satisfaction the legislative measures adopted in order to better take into account the needs of HIV-positive detainees: an early release scheme is available for those sentenced to ten years or more imprisonment, and HIV positive detainees also become eligible to conditional release as soon as they have served two fifths of their sentence.

In addition, measures have been taken to improve the conditions of detention and administration of medical treatment to HIV-positive prisoners in the Korydallos prison. These prisoners are now detained in a recently redesigned HIV-positive-dedicated annex of the prison. Considering the CPT findings in its 2016 report ([CPT/Inf\(2016\)4](#)), according to which the prison hospital suffered from serious medical and nurse understaffing, the CM invited the authorities in September 2017 to increase their efforts to establish a health-care system ensuring that all HIV-positive prisoners are treated with the necessary care in decent conditions. Information as to the impact of such measures is awaited.

In the same report, the CPT stated that the segregation of HIV-positive prisoners in Greek prisons is an established practice. Accordingly, the CM invited the authorities to provide information on the measures taken and/or envisaged to address this practice.

As regards the legal remedies available, the authorities were invited to complete the reform of the Penitentiary Code so as to establish a legal remedy ensuring that allegations of substandard conditions of detention or inadequate administration of health care are examined on the merits and, if well founded, lead to an improvement of the applicant's situation.

Concerning the individual measures, the abovementioned legislative measures led to the early release of 10 of the 13 applicants, and to the improvement of the conditions of detention of the three others. Information remains awaited as regards the situation of the three latter in order to allow a full assessment of their current situation.

■ GRC / Degrading treatment in overcrowded prisons

Nisiotis (group) - Application No. 34704/08, judgment final on 20/06/2011, enhanced supervision

Siasios and Others (group) - Application No. 30303/07, judgment final on 04/09/2009, enhanced supervision

” Inhuman and degrading treatment by reason of poor detention conditions, between 2005 and 2013, in the overcrowded prisons of Ioannina, Korydallos, Larisa, Alikarnassos and Tripoli (Article 3)

CM Decision: Several measures have already been adopted in order to address the structural problem of prison overcrowding revealed through the Nisiotis judgment: increased use of alternatives to detention, early release of disabled or elderly persons, new regime for young offenders. However, in view of the most recent CPT report and the data published by the Ministry of Justice, overcrowding persists in almost all the prisons concerned by this group of cases. As to the specific situation of the Ioannina prison, which was operating in 2015 at more than 150% of its capacity, the CM urged anew in June 2017 the authorities vigorously to pursue their efforts to reduce the occupancy rate. The CM recalled in this respect the Samaras and Others judgment (final in May 2012) in which the Court had already called for a drastic and rapid intervention by the authorities to bring the conditions of detention in this prison into line with the requirements of Article 3.

Even if the measures already taken have yielded some positive results, notably decreasing the prison population by 18,32%, the distribution of prisoners among prisons remains uneven. The CM called upon the authorities to draw up and implement a comprehensive strategy capable of providing a lasting solution to prison overcrowding and inadequate conditions of detention. To this aim, the authorities are invited to draw inspiration from the CM's, the CPT's and domestic specialised bodies' recommendations.

Lastly, the authorities were invited to set up an effective remedy to complain about conditions of detention in prison.

As regards individual measures, all the applicants have been released or transferred to other detention facilities.

■ HUN / Overcrowding in detention facilities

István Gábor Kovács - Application No. 15707/10, judgment final on 17/04/2012, enhanced supervision

Varga and Others - Application No. 14097/12, judgment final on 10/06/2015, enhanced supervision

” Inhuman and degrading treatment on account of overcrowding in both pre-trial and post-conviction facilities; lack of effective preventive and compensatory remedies (Article 3, alone and in conjunction with Article 13)

CM Decision: Substantive measures have been adopted since 2015 in order to remedy the structural problem of overcrowding in Hungarian prisons. Among these measures are: the extension of the application of “reintegration custody” which can now be applied for the last 10 to 12 months of the sentence; the facilitation and increase of the use of house arrest, since persons convicted of petty offences or misdemeanours

can be allowed to serve part of their sentence at home using electronic tagging devices; the more frequent use of non-custodial punitive measures which permitted a slight decrease in the number of defendants placed in pre-trial detention.

Although these measures led to a decrease in the overpopulation rate, recent statistics highlighted that Hungary's prison population rate is still amongst the highest in Europe and is over 150% in certain prison facilities. As a consequence, in June 2017 the CM encouraged prosecutors and judges to use alternatives to detention as widely as possible and to further redirect their criminal policy towards reducing the use of imprisonment.

As to remedies, in 2014-2016 the authorities introduced a compensatory remedy linked with a general extension of the State's extra-contractual liability in 2014, with special implementing legislation in 2016 providing for monetary compensation (decided by the penitentiary judge) in case of placement in poor material detention conditions. The 2016 amendments also introduced a preventive remedy in the form of a strictly regulated complaint procedure to the prison governor, leading to legally binding decisions. Considering notably that the effectiveness of the preventive remedy closely depends on the reduction of the prison population, the CM invited in June 2017 the authorities to provide information including statistical data on the implementation and functioning of the new remedies.

The CM noted in June 2017 that certain applicants were still detained in conditions not meeting the CPT minimum standards, and recalled the authorities' obligation to rectify this situation.

An action plan was submitted on 15 September 2017 and is currently under assessment.

■ LIT / Overcrowding in police detention facility

Kasperovičius - Application No. 54872/08, judgment final on 20/02/2013, [CM/ResDH\(2017\)34](#)

” Conditions of detention in the Anykščiai Police Detention Facility amounting to degrading treatment, in particular due to overcrowding (Article 3)

Final resolution: The protection of fundamental rights and freedoms of persons held in police detention facilities, including the right to a safe and hygienic environment, was one of the aims of the Programme for Optimisation of the Activities of Police Detention Facilities for 2009-2015. 21 police detention facilities with poor conditions were closed. None of the 17 police detention facilities currently operating is overcrowded, including the Anykščiai Police Detention Facility. Access to hygienic sanitary facilities and to out-of-cell activities has been improved.

■ MDA / Overcrowding and poor detention conditions in pre-trial detention facilities and prisons

Ciorap (group) - Application No. 12066/02, judgment final on 19/09/2007, enhanced supervision

Becciev (group) - Application No. 9190/03, judgment final on 04/01/2006, enhanced supervision

Paladi (group) - Application No. 39806/05, judgment final on 10/03/2009, enhanced supervision

” Poor detention conditions in pre-trial establishments (Becciev group) and prisons (Ciorap group), lack of access to medical care in detention and lack of effective remedy; (Articles 3 and 13, Article 5 §§ 3 and 4); other violations (Articles 3, 8, 34, 6 § 1, 5 §§ 1, 3 and 4)

CM Decision: In order to combat prison overcrowding, different types of measures have been adopted such as the revision of criminal policy, including the handling of dealing with recidivism and a wider use of alternatives to detention. In addition, an assessment of prison capacity has taken place. In June 2017, the CM encouraged the authorities to continue to reduce the number of detainees, especially in Prison No. 13 to ensure that this prison offers acceptable conditions of detention in line with the CPT recommendations. In this regard, the CM took note of the progress in the construction of a new prison in Chişinău which will replace Prison No. 13. In addition, the CM welcomed the major renovation work carried out at the TDI of the Chişinău Police Department and invited the authorities to provide information on other renovation works in other similar establishments.

As regards the domestic remedies available, Parliament adopted in first reading draft legislation establishing a new set of remedies. As to the compensatory remedy (financial compensation and/or remission of sentence), it remains unclear whether this remedy will be available also for persons under administrative arrest or detained in police detention facilities. The proper functioning of the preventive remedy will be closely linked to the improvement of the detention conditions and reduction of overcrowding.

As regards the issue related to family visits and correspondence, remand detainees no longer need to obtain permission to send and receive correspondence. However, correspondence can still be censored by the prison administration in certain situations defined by law. The timeframe for such censorship remains unclear. In addition, even if the right to long-term family visits has been granted to detainees on remand, it remains subject to permissions from the investigative body of the court, and the conditions for refusal are not provided in the new legal framework. Therefore, the CM invited the authorities to take further measures to address the violation of Article 8.

In 26 cases, the applicants have been released or transferred to serve their sentences in another country so that no further individual measures appears necessary. However, the CM requested information as to the current situation of applicants who were transferred to serve their sentences in other prisons. The CM also requested updated information as to the outcome of investigations and criminal proceedings in cases of ill-treatment.

An action plan was transmitted on 11 January 2018 and is currently under assessment.

■ MON / Overcrowding in remand prison

Bulatović - Application No. 67320/10, judgment final on 22/10/2014, [CM/ResDH\(2017\)35](#)

” Overcrowding in the Remand Prison in Podgorica and excessive length of pre-trial detention (Articles 3 and 5 § 3)

Final resolution: The state of repair and the conditions of detention in the Remand Prison in Podgorica were made compliant with the usual CPT standards and reports. In 2015, a possibility to apply alternative measures in case of minor offences (bail bonds,

undertaking to report regularly to a state authority, removal of travel documents etc.) was introduced into the Code of Criminal Procedure. This resulted in the reduced use of detention on remand. Presently there are 261 prisoners in the Remand Prison in Podgorica, while its official accommodation stands at 350. Measures have also been taken to prevent water shortages and to ensure adequate activities for remand prisoners.

The applicant was released from prison at the time of the Court's judgment so no issue of individual measures arose.

■ ROM / Overcrowding and poor detention conditions in prisons and police detention facilities

Bragadireanu (group) - Application No. 22088/04, judgment final on 06/03/2008, enhanced supervision

” Overcrowding, poor material and hygiene conditions in prisons and police detention facilities and lack of effective remedy in this respect, inadequacy of medical care and several other dysfunctions regarding the protection of prisoners' rights (Articles 3 and 13)

Action plan: In April 2017, the European Court adopted the Rezmiveş and Others pilot judgment, calling for general measures aimed at tackling overcrowding, improving the material conditions of detention, and for effective compensatory and preventive remedies. In response to this pilot judgment, the authorities submitted an action plan in January 2018, notably providing a timetable for the implementation of measures 2018-2024. This action plan is currently under assessment.

■ ROM / Ill-treatment of detainees with psychiatric condition

Ticu (group) - Application No. 24575/10, judgment final on 01/01/2014, enhanced supervision

Gheorghe Predescu - Application No. 19696/10, judgment final on 25/05/2014, enhanced supervision

” Placement of the applicants in ordinary detention facilities severely overcrowded; lack of adequate psychiatric care in prison and penitentiary hospitals; failure to ensure constant psychiatric supervision or assistance and counseling to help accepting and dealing with the illness; lack of investigation in the alleged repeated acts of violence suffered by one of the applicants from other prisoners in the Iași prison (Article 3 - procedural and substantial limbs)

Developments: In the updated information submitted in August 2017, the authorities indicated that progress was made in the implementation of the general measures aimed at putting in place separate medical sections for prisoners with severe mental health problems and recruiting specialised medical staff in prisons. This information is being assessed.

■ RUS / Overcrowding and poor conditions of detention in remand centres and prisons (SIZO)

Kalashnikov (group) - Application No. 47095/99, judgment final on 15/07/2002, enhanced supervision

Ananyev and Others (pilot judgment) - Application No. 42525/07, judgment final 10/04/2012, enhanced supervision

” Poor conditions of detention (acute lack of personal space, shortage of sleeping places, unjustified restrictions on access to natural light and air etc.) in various remand centres pending trial and lack of effective remedies (Articles 3 and 13)

CM Decision: Major progress has been achieved over the years in solving the problem of overcrowding and in bringing detention conditions into conformity with Convention standards. Progress has been followed closely by the CM and has been reflected in many decisions and in interim resolutions.

The CM last examined progress made in June 2017: Measures had been taken to expedite criminal investigations and to increase recourse to alternatives to pre-trial detention so as to limit overcrowding in pre-trial detention facilities. Significant improvements had been achieved as regards material conditions of detention in establishments under the authority of the Federal Penitentiary Service, in particular in the context of the Federal Target Programme “Development of the Correctional System” (supporting reconstruction and renovation of detention facilities, including medical wards and facilities). Inspection and review mechanisms had been reinforced.

A new preventive remedy had in parallel been introduced through the new Code of Administrative Procedure (“CAP”) of 2015. Certain aspects of its application remained, however, to be clarified. Moreover, a compensatory remedy (financial compensation) had emerged from the domestic courts’ practice and the possibility of including specific remedial actions into the CAP was being explored. The authorities were invited to consider also possibilities of mitigation or reduction of sentences and early release on the basis of the Italian experience in the *Torreggiani and Others* case, closed by the Final resolution [CM/ResDH\(2016\)28](#). The authorities had also undertaken significant efforts to ensure the swift resolution of cases still pending before the Court as required by the *Ananyev* pilot judgment.

At the meeting, the CM also stressed the need of information on the further progress made and the publication of the recent CPT reports relating to the Russian Federation.

The CM finally noted that most of the applicants were no longer detained in unsatisfactory conditions, even if information was still needed in seven cases. However, in the case of *Amirov*, the applicant had filed a new complaint about inadequate medical care to the Court following his transfer to a correctional colony.

As regards the *Amirov* case, the authorities have informed that no measures to secure medical help to the applicant in the remand centre were necessary as he was convicted and serves his sentence in the correctional colony where necessary medical assistance is provided to him. On 17 October 2017, the Court delivered the *Amirov v. Russian Federation* judgment (56220/15), establishing no violations related to medical assistance to the applicant in the correctional colony. At that, violations were established in relation to unacceptable imposition on the applicants’ cellmates to provide him every day help and assistance, insufficient privacy in the lavatory, lack of access ramps or elevators.

The CM is awaiting information on the measures for execution of the new judgment in respect of application of Mr Amirov.

SVN / Overcrowding and poor detention conditions in prison

Mandić and Jović (group) - Application No. 5774/10, judgment final on 20/01/2012, enhanced supervision

” Degrading treatment on account of poor conditions of detention in overcrowded Ljubljana prison and lack of an effective remedy (Articles 3 and 13)

CM Decision: Over the last few years, the Slovenian authorities have developed a multi-faceted strategy to combat overcrowding in Ljubljana prison, including regular monitoring and transfers to other prisons when needed, the construction of a new prison in Ljubljana with greater capacity, increased use of suspended sentences and non-custodial sentences. Measures have also been developed to improve the living conditions of the prisoners. In compliance with the CPT recommendations in this area, several restructuring and refurbishment have been carried out, so that each prisoner is currently afforded at least 4,5 square meters of living space. Cell temperatures are monitored twice a day in the summer to allow extra ventilation when needed. If a preventive remedy for convicted prisoners and a compensatory remedy for released prisoners have been ensured, questions remain as to the availability of a preventive remedy for remand prisoners and the effectiveness of existing compensatory remedies (monetary compensation) for persons still in detention. In September 2017, the CM welcomed the preparation of draft legislative amendments with a view to enabling judges to review conditions of detention and remand prisoners to file complaints with the president of district court or prison administration about poor conditions of detention. The CM requested further details on the content of these draft amendments and the legislative calendar for their adoption. An action report was transmitted on 20 February 2018, currently under assessment.

UKR / Overcrowding and poor detention conditions in remand centres and prisons

Nevmerzhitsky (group) - Application No. 54825/00, judgment final on 12/10/2005, enhanced supervision

Yakovenko (group) - Application No. 15825/06, judgment final on 25/01/2008, enhanced supervision

Logvinenko (group) - Application No. 13448/07, judgment final on 14/01/2011, enhanced supervision

Isayev (group) - Application No. 28827/02, judgment final on 28/08/2009, enhanced supervision

Melnik (group) - Application No. 72286/01, judgment final on 28/06/2006, enhanced supervision

” Violations resulting mainly from poor detention conditions, inadequate medical care in various police establishments, pre-trial detention centres and prisons; lack of an effective remedy; other violations: unacceptable transportation conditions, unlawful detention on remand, abusive monitoring of correspondence by prison authorities, impediments in lodging a complaint with the Court, excessively lengthy proceedings (Articles 3, 5 §§ 1 - 4 - 5, 6 § 1, 8, 34, 38 § 1(a) and 13)

CM Decisions: Following the progress made in the execution of the present group of cases over the last years and the authorities' commitment to pursue diligently the reform work, the CM devoted two examinations to the follow up of recent reforms

engaged as presented in new action plans. At the last meeting in December 2017 the CM noted as regards conditions of detention in pre-trial detention centres that legislative and administrative measures were underway to reduce recourse to pre-trial detention, refurbish facilities, combined with efforts to reduce the overall prison population through better implementation of the probation system. The CM strongly encouraged the authorities to continue and to put in place a clear global strategy to address all the deficiencies as regards the material conditions in pre-trial detention centres, taking into due consideration the recommendations of the CPT.

The CM also stressed the urgency of decisive action to finally establish both preventive and compensatory remedies in line with the European Court's case law. The authorities were invited to submit full details on the content of the draft law currently pending before the Parliament on this point.

The majority of applicants have been placed in adequate detention conditions or have been released. Information on unclear situations has been requested and appropriate placement of persons still held in unsatisfactory condition demanded. Applicants requiring medical treatment are presently receiving such treatment.

C.3. Actions of detention authorities in remand centres and prisons

■ BEL / Suicide in prison

De Donder and De Clippel - Application No. 8595/06, judgment final on 06/03/2012, CM/ResDH(2017)331

” Suicide of the applicants' son, while unlawfully detained in the ordinary wings of a prison in spite of the bad state of his mental health (Articles 2 and 5 § 1)

Final resolution: Suicide prevention measures have been taken or are in the process of being adopted: e.g. the introduction of a suicide alert system in prisons, staff awareness-raising and relevant training, a telephone hotline in prisons, procedural guarantees in detainees' disciplinary matters, and improvements in treatment. A mental health reform was initiated in 2011. A new law on internment entered into force in 2016 with the main objective to gradually place mentally-ill prisoners in health care facilities, in particular in specialised institutions adapted to different types of profiles, providing them with the necessary care and preparing them for social integration. The measures taken or envisaged in this respect are examined in the context of the *L.B.* group.

■ ROM / Special detention regime for “dangerous” detainees

Enache - Application No. 10662/06, judgment final on 01/07/2014, enhanced supervision

” Classification of the applicant, sentenced to life imprisonment for murder, as “dangerous” prisoner, resulting in long periods of de facto solitary confinement and systematic handcuffing outside the cell, against the background of poor overall detention conditions; lack of information contesting the allegation that the authorities pressured him to withdraw his application before the European Court (Articles 3 and 34)

Action plan: A revised action plan was submitted in September 2017 with information on the applicant's current situation, the procedure followed when classifying a

prisoner as posing a risk for the prison's safety and when reviewing this classification, and on the out-of-cell activities proposed to these prisoners. The outstanding questions identified are being discussed bilaterally and the action plan is under assessment.

■ ROM / Death and ill-treatment in detention and lack of investigations

Predică and 3 other cases - Application No. 42344/07, judgment final on 02/06/2010, [CM/ResDH\(2017\)291](#)

” Death or ill-treatment of prisoners and lack of effective investigations and of an effective remedy in this respect; overcrowding and poor material and hygiene conditions in Jilava and Giurgiu prisons; also automatic ban on prisoners' voting rights (Articles 2 and 3 substantive and procedural limb and 13)

Final resolution: In October 2015, the Prosecutor's Office attached to the High Court of Cassation and Justice issued a strategy paper for increasing the effectiveness of investigations in cases of ill-treatment inflicted by State agents (police officers, penitentiary staff, gendarmes). Effective prevention and detection of ill-treatment in prison were also enhanced through professional training activities provided to staff of special intervention units and improved oversight of their interventions by the National Prison Administration. Regulations on the documentation and reporting of medical evidence of ill-treatment were adopted. Apparent signs of violence are recorded in a special register, together with the detainee's statements and medical recommendations. The physician has also the obligation to notify the prosecutor's office and the prison's manager. For details see [CM/ResDH\(2016\)150](#) in *Barbu Anghelescu*.

In cases of death in prison, detailed procedures are established in different manuals of the Minister of Justice or the general director of penitentiaries adopted in 2010-2013.

For measures relating to overcrowding and poor material and hygiene conditions in Jilava and Giurgiu prisons and prisoner's voting rights, see [CM/ResDH\(2014\)13](#) in the cases of *Bragadireanu* and *Calmanovici* groups.

Following the judgments, new evidentiary opportunities have been explored by the prosecutors. Victims or their families have been associated. In one case of death in prison, new evidence was heard but without conclusive results. A possible crime is not subject to prescription and investigations may be resumed as soon as new evidence emerges. In two cases, criminal liability is time-barred. In the fourth case, a negative conflict of competence is yet to be decided by the court of appeal.

■ RUS / Torture

Buntov - Application No. 27026/10, judgment final on 05/09/2012, enhanced supervision

” Torture inflicted by prison officials in a correctional colony and lack of an effective investigation (the European Court admitted the contradictory nature of the applicant's allegations, but relied on them as the authorities had not ensured any effective investigation, or otherwise established the circumstances of the incident- violation of Article 3)

Developments: The Russian authorities have indicated in their action plan of August 2013 that general measures have been taken to prevent similar violations.

As to individual measures, several communications from the applicant's representative were received between 2014 and 2016 complaining, *inter alia*, about the authorities' failure to conduct an effective investigation into the applicant's torture, about new alleged incidents of ill-treatment and the lack of medical care. In response, in September and December 2016, the authorities provided updated action plans on individual measures. In view of the allegations of ill-treatment of Mr Buntov, a criminal case was initiated and additional investigations were conducted. No objective evidence was found to support that the colony staff or inmates have subjected the applicant to physical violence. On the contrary, it was established that the applicant had inflicted damage to himself. Therefore, the criminal case was closed on 17 March 2016 due to the lack of *corpus delicti*. The relevant decision was recognised as lawful and well-grounded. The applicant has been transferred to another correctional colony to serve his sentence. The new action plan is currently under assessment.

The issues related to Mr Buntov's allegations of ill-treatment in the new colony where he serves his sentence were subject to examination of the Court under the new application No. 25327/11 *Buntov v. Russian Federation*. Following the information provided by the Russian authorities, this application was declared manifestly ill-founded.

■ TUR / Ill-treatment due to restraint measures

Avci and Others - Application No. 70417/01, judgment final on 27/09/2006, [CM/ResDH\(2017\)94](#)

” Disproportionate restraint measures to prevent detainees from absconding during their hospitalisation following a hunger strike in 2001 and lack of an effective remedy in this respect (Articles 3 and 13)

Final resolution: The general prohibition of ill-treatment, most recently integrated in the 2005 Law on the Execution of Penalties and Security Measures, has been developed in a 2006 regulation expressly forbidding chaining and regulating conditions for handcuffing and other restraint measures. Means of restraint, which may be used during transfer or referral of convicts and detainees, are specifically defined in a 2006 Directive. As to the effectiveness of remedies, an Enforcement Judgeship was established in 2001 with competence to examine complaints of ill-treatment. An appeal may be lodged before the Assize Court.

C.4. Detention and other rights

■ BGR / Prisoners' voting rights

Kulinski and Sabev - Application No. 63849/09, judgment final on 21/10/2016, enhanced supervision

” Constitutional ban on voting imposed automatically on convicted prisoners serving their sentences (Article 3 of Protocol No. 1)

Action plan: In their action plan of April 2017, the authorities recalled that the provision restricting the voting rights of persons serving a prison sentence is expressly established in Article 42 § 1 of the Bulgarian Constitution. Further information on the measures envisaged to prevent future similar violations and on the time-limit for their adoption is awaited.

RUS / Prisoners' voting rights

Anchugov and Gladkov - Application No. 11157/04, judgment final on 09/12/2013, enhanced supervision

” Blanket ban on voting imposed automatically on the applicants due to their status as convicted offenders detained in prison (Article 3 of Protocol No. 1)

Developments: In their communication of October 2014, the authorities specified that the Constitution and other federal laws provide for the restriction on electoral rights of convicted prisoners, which gives rise to a complex issue. As a result, consultations with the competent state authorities and the academic community have been initiated and additional information is awaited.

UK / Prisoners' voting rights

Hirst No. 2 (group) - Application No. 74025/01, judgment final on 06/10/2005, enhanced supervision,

Greens and M.T. (pilot judgment) - Application No. 60041/08+, judgment final on 11/04/2011, enhanced supervision, Interim resolution [CM/ResDH\(2015\)251](#)

” Blanket ban on voting imposed automatically on convicted offenders serving their sentences (Article 3 of Protocol No. 1)

CM Decision: Following a lengthy and complex execution process, the authorities indicated that they have adopted a range of administrative measures deemed to be the best approach credibly, effectively and swiftly to address the issues of blanket ban on prisoners' voting. According to these measures, the government will change its policy and guidance in order to make it clear that prisoners released on temporary licence and on home detention curfew will be able to register to vote and vote. In addition, all prisoners will be notified by the sentencing judge in the warrant of committal to prison of their disenfranchisement at the time of their sentence: the lack of notification of the disenfranchisement had been criticised by the Court in its *Hirst No. 2* judgment. Moreover, the United Kingdom judiciary is now fully aware when sentencing that loss of the right to vote is a consequence of a custodial sentence and thus decides accordingly.

Considering that these measures respond to the European Court's judgments in this group of cases, the CM strongly invited the authorities to implement them as soon as possible, and to provide information on the developments in this regard.

D. Reception / Expulsion / Extradition

D.1. Lawfulness of detention and reception conditions

FRA / Shortcomings in the review of the lawfulness of an alien's arrest and administrative detention with a view to removal from the country

A.M. - Application No. 56324/12, judgment final on 12/10/2016, [CM/ResDH \(2017\)153](#)

” Inability to contest the lawfulness of an alien's arrest and administrative detention pending enforcement of a deportation order as the administrative court could only verify issues of competence of the authority which issued the detention order (Article 5 § 4)

Final resolution: In March 2016, the competence to review the lawfulness of an alien's arrest and detention in view of his deportation, was transferred to the ordinary courts - new law on the rights of aliens amending the Code on entry and stay of aliens and on the right to asylum. The administrative judge remains competent to assess the legality of the removal measure, whose enforcement is sought through detention.

No issue of individual measures arose as the applicant was expelled to Tunisia before the Court's judgment.

■ GRC / Reception of asylum seekers from Belgium under the Dublin II Regulation

M.S.S. (group) - Application No. 30696/09, judgment final on 21/01/2011, enhanced supervision

Rahimi (group) - Application No. 8687/08, judgment final on 05/07/2011, enhanced supervision

” Degrading conditions of detention and subsistence of asylum seekers transferred from Belgium to Greece under the Dublin II regulations, special problems with regard to unaccompanied minors, deficiencies in the Greek asylum procedure and risk of expulsion without any serious examination of the merits of asylum applications or access to an effective remedy (Article 3 and Article 13 in conjunction with Articles 2 and 3)

CM Decision: The Greek asylum regime has been transformed in cooperation with relevant Council of Europe bodies, the European Commission and several EU agencies, the UNHCR and NGOs. As a result, the number of asylum offices, of autonomous asylum units, and of the asylum service staff has been increased. However, in 2017, the UNHCR highlighted the need for further measures in order to address the pace of registration and the lack of capacity fully to process asylum claims within a reasonable timeframe. In June 2017, the CM thus invited the Greek authorities to cooperate with all stakeholders to elaborate a plan for the timely registration and processing of asylum applications. Information is awaited in this regard.

As to the specific situation of unaccompanied minors, the necessity of measures aiming at their swift reunification with their families or their settlement in an environment suited for their age and situation has been underlined by the CM. The authorities have also been invited to develop a strategy securing the full protection of unaccompanied minors on the basis of an effective guardianship system.

Concerning the conditions of detention, the 2016 CPT report stated that serious shortcomings persist in detention centres, in particular regarding the provision of health-care services. The CM invited the authorities to improve the conditions of detention in all detention facilities where irregular migrants and asylum seekers are detained. In addition, the CM stressed the importance of providing alternatives to detention for minors, accompanied or not; if exceptionally minors are detained, this detention has to be for the shortest period of time, separately from adults and in conditions adapted to their vulnerable nature.

As regards individual measures, information is awaited as to the current situation of the applicants and on the outcome of the asylum proceedings in respect of those applicants who have filed asylum applications.

ITA / Absence of a clear and accessible legal basis

Khlaifia and Others - Application No. 16483/12, judgment final on 15/12/2016, enhanced supervision

- ” Lack of clear and accessible legal basis for the detention of irregular migrants in view of their expulsion to Tunisia; absence of remedy to complaint about the conditions of detention (Articles 5 § 1, 5 § 2, 5 § 4 and 13 in conjunction with Article 3)

Action plan: According to the action plan submitted in January 2018, an independent internal mechanism was set up in 2016 (the “National Ombudsman”) in charge of the non-judicial control of places where migrants are held pending the examination of their asylum or international protection request. In addition, legislative measures were adopted in 2017 to speed up the procedures for examining applications for international protection and to facilitate access to judicial review of decisions taken in this context. This information is under assessment.

LVA / Unlawful detention with a view to extradition

Čalovskis - Application No. 22205/13, judgment final on 15/12/2014, [CM/ResDH\(2017\)212](#)

- ” Unlawful placement of the applicant in detention in view of his extradition to the U.S.A. without a reasonable basis to believe that the applicant had committed the offences for which extradition was sought (violation of Article 5 § 1 (f)); and the lack of judicial review (Articles 3 and 5 §§ 1f - 4)

Final resolution: As April 2015, metal cages had been completely dismantled in the first-instance and appellate courts. Awareness-raising measures were implemented in order to improve knowledge of the European Court case-law by domestic courts. Mandatory periodic judicial review of the lawfulness of the detention in the context of extradition proceedings were introduced by amendments to the Criminal Procedural Law in 2016. The review shall be carried out by the investigative judge upon the request of the person concerned or his lawyer. In the absence of such a request, it shall be carried out by the investigative judge *proprio motu* once every two months. The amendments also grant prosecutors authority to immediately release the individual concerned from detention in case the detention request is refused.

The impugned proceedings were reopened and the applicant released from pre-extradition detention as his transfer had not been possible within the maximum term of detention prescribed by law.

D.2. Lawfulness of expulsion or extradition

BGR / Shortcomings in judicial review of expulsion or deportation based on national security grounds

C.G. and Others (group) - Application No. 1365/07, judgment final on 24/07/2008, enhanced supervision
Final resolutions [CM/ResDH\(2017\)418](#), [CM/ResDH\(2017\)419](#)

- ” Lack of adequate safeguards in expulsion or deportation proceedings on national security grounds (insufficient review of the relevant facts and lack of judicial oversight of the proportionality of the expulsion measure, non-compliance with the principle of adversarial proceedings, and lack of publicity of judicial decisions); absence of

suspensive remedy; different violations related to the applicants' detention pending expulsion (unlawful detention and unjustified extension) (Article 1 of Protocol No. 7 and Articles 8, 5 § 1(f), 5 § 4, 3 and 13).

CM Decisions / Final resolution (partial closure): Courts are now able to conduct a Convention-compliant review of appeals where it is claimed that a removal which was sought for national security reasons might put a person at risk of death or ill-treatment. Courts may also order the suspension of expulsion awaiting the outcome of appeals. Suspension is, however, not automatic and twice in 2017, the CM called for legislative reforms to ensure that appeals have automatic suspensive effect and that the destination country is mentioned in a legally binding act amenable to appeal. In addition, the CM invited the authorities to introduce measures to ensure that, unless required by the circumstances, expulsions of nationals based on public order considerations are not implemented before the persons concerned have been able to exercise their right of appeal under Article 1 of Protocol No. 7 of the Convention.

In response, in September 2017 the Bulgarian authorities informed the CM about a draft Bill on migration which was under preparation and foreseen to be finalised by 31 December 2017. Information remains awaited on the outcome of the legislative process and its incidence on outstanding questions.

Judicial review of detention pending expulsion has been improved and outstanding questions continue to be examined in the context of the *M. and Others and Auad* cases.

Cases have been closed where a Convention-compliant review was ensured or where, or where, in the absence of such a procedure, the applicant was able to return to Bulgaria,. Information is awaited in those cases where proceedings are still pending.

■ CYP / Arbitrary deportation - Lack of effective remedy

M.A. (group) - Application No. 41872/10, judgment final on 23/10/2013, enhanced supervision

” Deportation and detention ordered (2010) notwithstanding pending asylum applications; absence of an effective remedy with automatic suspensive effect to challenge deportation; also absence of effective and speedy review of the lawfulness of detention (Article 5 §§ 1 and 4, Article 13 in conjunction with Articles 2 and 3)

CM Decision: An administrative court with jurisdiction to hear challenges to the lawfulness of both deportation and detention orders has been set up and became operational 1 January 2016. Time-limits for the review of detention orders and *habeas corpus* applications were introduced in 2017 through new legislation. In June 2017, the CM considered the measures able to address the lack of speediness criticised by the European Court. In parallel, legislative amendments have been prepared providing for automatic suspensive effect of the new remedy before the administrative court in case of alleged violations of Articles 2 or 3 of the Convention. When the CM examined the situation in June 2017, the amendments were before Parliament and the CM encouraged the authorities to take all necessary measures to ensure their adoption and entry into force without further delay.

Concerning individual measures, deportation orders have not been enforced and all the applicants have been released from detention.

■ ESP / International protection requests - Lack of effective remedy

A.C. and Others - Application No. 6528/11, judgment final on 22/07/2014, enhanced supervision

” Lack of an effective remedy with automatic suspensive effect to challenge decisions, adopted via an accelerated procedure, denying international protection notwithstanding threats to life or risks of ill-treatment (Article 13 in conjunction with Articles 2 and 3)

Developments: The action report transmitted in November 2015 refers to developments in the Supreme Court’s case-law as from 2013 as regards the application of the 2009 Law on the Right of Asylum and Subsidiary Protection, as ensuring an effective remedy. Bilateral discussions are under way.

■ FRA / Lack of an effective remedy against the removal of an alien from an overseas territory

De Souza Ribeiro - Application No. 22689/07, judgment final on 13/12/2012 (Grand Chamber), [CM/ResDH\(2017\)135](#)

” Removal from French Guiana, an overseas territory/department, shortly after an application for the stay of execution was lodged (Article 13 in conjunction with Article 8)

Final resolution: The general guarantee of an in-depth examination of the person’s situation before taking any decision on his/her deportation was reinforced by a legislative change in December 2012 and supplemented by an administrative instruction as well as two implementing circulars. The system was completed in 2016 by the Law on the rights of aliens providing for a special procedure adapted to the specificities of the overseas territories. The law allows an alien to lodge an urgent appeal to stay the execution of his/her deportation with suspensive effect.

In June 2009 the applicant was issued a “visitor’s” residence permit, later a renewable residence permit for “private and family life”.

■ FRA / Ineffective remedy against deportation when in detention

I.M. - Application No. 9152/09, judgment final on 02/05/2012, [CM/ResDH\(2017\)340](#)

” Limited accessibility in practice of both remedies available in principle to an asylum-seeker in detention: the asylum fast-track procedure and an appeal to the administrative court to have the removal decision set aside (Article 13 taken together with Article 3)

Final resolution: Procedural guarantees for asylum-applications filed in detention were strengthened by the legal asylum reform of 2015, which brought the asylum regime in line with the European Court’s and the Court of Justice’s case-law and with the European Directives on “Procedures” and “Reception” of 26 June 2013. This new system provides for the automatic registration of an asylum application filed in detention under a simplified fast-track procedure, improves procedural guarantees to ensure the effectiveness of appeals of detained foreigners, and introduces the possibility of a judicial appeal against removal decisions to an administrative judge.

The applicant obtained political refugee status.

ITA / Indiscriminate collective expulsions

*Sharifi and Others*²²⁹ - Application No. 16643/09, judgment final on 21/01/2015, enhanced supervision

” Collective expulsion of aliens to Greece, risk of deportation to Afghanistan and lack of access to asylum procedure (Article 4 of Protocol No. 4, Article 3, Article 13 combined with Article 3 and with Article 4 of Protocol No. 4)

CM Decision: Numerous measures were adopted in 2017 so as to further improve the reception of irregular migrants and their effective access to international protection procedures in Italy. Specialised chambers have been created within the first instance courts for the examination of applications lodged by persons whose asylum requests have been rejected. In this regard, a memorandum of understanding was signed on 23 March 2017 between the Ministry of the Interior and the High Council of the Judiciary for the exchange of information about international protection. A bill on international protection of unaccompanied minors was also adopted, as well as a procedure to monitor and improve the reception centres.

In June 2017, the CM noted however that, in spite of all the measures reported to ensure the proper management of the massive migration flows, no information had been provided as to the specific situation of the ports of the Adriatic Sea. The CM thus renewed its call for information on the current organisation and functioning of the reception system in these ports and on the financial and human resources allocated. Clarifications are also awaited as to the procedure followed upon arrival of migrants in these ports, and whether the Italian authorities have stopped transferring to Greece persons who seek international protection in Italy.

One applicant was ensured international protection in Italy following his return to the country in 2010. Information has been requested as to steps taken to clarify the situation of three applicants who did not receive such protection.

Additional information was transmitted on 26 September 2017, currently under assessment.

RUS / Expulsion without examining the strength of family ties

Alim - Application No. 39417/07, judgment final on 27/12/2011, enhanced supervision

” Expulsion order of a Cameroonian national issued by the courts following his conviction, in January 2007, for breach of residence regulations, without taking into account the proportionality of such a measure in the light of his family ties in the Russian Federation (Article 8)

Action report: In the action plan submitted in April 2015, the authorities stated, in particular, that domestic courts must take into account matters relating to family life when deciding on administrative removal. Information was also submitted on the dissemination and examination of the Russian text of the judgment. An action report was submitted in August 2017. According to the Action Report, the applicant has received explanations as to the possible procedure for legalising his stay in Russia, with necessary guarantees of help given by the migration authorities. Despite this,

²²⁹. Case against Italy and Greece. The violations in respect of Greece are examined in the context of the *M.S.S.* group.

there were no steps from the part of the applicant to avail himself of this possibility. The action report is currently under assessment.

RUS / Extradition notwithstanding risks of ill-treatment - Deficient review of lawfulness of detention - Detention conditions

Garabayev (group) - Application No. 38411/02, judgment final on 30/01/2008, enhanced supervision

” Extradition or expulsion without assessment of the risk of ill-treatment; unclear legal provisions for ordering and extending detention with a view to extradition; defective judicial review of the lawfulness of detention; poor conditions of detention (Articles 3, 5 and 13); kidnapping and forcible transfers of applicants to Tajikistan or Uzbekistan, in some instances with involvement of Russian State agents and in violation of the Court’s indications under Rule 39 (Article 34)

CM Decision: The CM’s examination focused for a considerable time on a number of incidents involving forcible removals of applicants or other protected persons from the Russian Federation and on the effectiveness of the investigations into these incidents. No new such incidents have recently been reported. The examination in March 2017 centered instead around the authorities’ responses to CM questions regarding the implementation of some of the new guarantees developed, notably:

- ▶ the new monitoring mechanism developed by the Prosecutor General’s Office and the Ministry of Foreign Affairs to provide guarantees against ill-treatment in extradition cases by making extradition conditional on the acceptance of a right for Russian diplomatic personnel to visit the extradited person in the foreign prison;
- ▶ the possibility to obtain State protection in case of threats of abductions and other forms of illegal removal from Russian territory;
- ▶ the development of court practice to ensure thorough scrutiny by the authorities of the risk of ill-treatment in the requesting country by way of adoption of a special Resolution of the Plenum of the Supreme Court on extradition cases and the proposal to codify this increased obligation in the Code of Criminal Proceedings;
- ▶ the new legal provisions introduced to clarify the law governing detention with a view to extradition and the procedure to be followed by the prosecutor when extending such detention to avoid periods of illegal detention.

The CM’s examination led to a number of questions, notably as to the practical modalities of the new monitoring mechanism (frequency of visits, ability to interview the person concerned out of the sight and earshot of prison guards, follow-up mechanism) and certain recommendations.

As regards the violations of Article 5, the CM invited the authorities to provide further information on a number of issues relevant to ensure effective judicial review of detention pending extradition. The CM also requested information as to measures taken or planned to address the poor conditions of detention in the transport police premises at Domodedovo airport in Moscow.

As to individual measures, the authorities indicated that: applicants continue to be offered temporary asylum or refugee status; extradition orders implying risks of ill-treatment continue to be annulled; persons fearing abductions informed of their right to request state protection; applicants detained at the moment of the Court's judgment continue to be released; Russian diplomatic personnel had started to visit applicants in detention in Uzbekistan; investigations into alleged abductions and forced removals continue to be undertaken.

They also signaled that payments of just satisfaction to prisoners abroad had proven difficult due to the restrictions in the domestic procedures and request Secretariat assistance to overcome these difficulties.

■ **RUS / Arbitrary detention with a view to expulsion - Lack of judicial review**

Kim - Application No. 44260/13, judgment final on 17/10/2014, enhanced supervision

” Arbitrary detention because the grounds for detention did not remain valid for the whole period due to the lack of a realistic prospect of the applicant's removal; lack of judicial review of the lawfulness of detention; poor conditions of detention in the detention centre for aliens in St Petersburg, designed for short-term detention (notably because of overcrowding, inadequate hygienic facilities and insufficient outdoor exercise) (Articles 3 and 5 §§ 1 and 4)

CM Decision: CM noted in June 2017 that the legislative work earlier announced in order to bring the Code of Administrative Offences in line with the Convention requirements as regards the imposition, extension and suspension of detention with a view to expulsion and deportation, and as regards the appeal procedure. The reform was scheduled to be finalised by December 2017, The authorities were invited to provide further information on the content of the planned reform and on progress in its adoption.

The question of conditions in detention centres for aliens is dealt with in framework of the execution of the *Adeishvili (Mazmishvili) v. Russian Federation* judgment.

CM considered that no issue of individual measures arose in the *Chkhikvishvili* case as the applicant had regained his Georgian nationality and obtained a Georgian passport in February 2014, following which he had been deported. In the *Kim* case, the authorities informed that the judgment ordering expulsion of Mr. Kim was not subject to execution due to expiration of the limitation period. After his release, the applicant was not detained and no criminal, administrative, expulsion or deportation proceedings were pending against him. The applicant or his representatives did not apply to the courts with any requests related to the European Court's judgment. Presently, there is no threat of administrative expulsion of Mr. Kim. However, the CM decided that, as it appeared that he was still a stateless person without documents, residing in the Russian Federation in breach of residence regulations, information was requested as to the measures adopted to ensure that he would not anew be arrested and detained.

■ SUI / Unsatisfactory risk-assessment in asylum proceedings

X. - Application No. 16744/14, judgment final on 26/04/2017, [CM/ResDH\(2017\)414](#)

- ” Failure of the authorities to sufficiently assess during asylum-proceedings the risk of ill-treatment resulting in subsequent deportation and ill-treatment of the applicant while in prison (Article 3)

Final resolution: The judgment was widely disseminated, including to the Federal Administrative Court and the State Secretariat for Migration (the former Federal Migration Office). The authorities changed their risk-assessment practice on the basis of results of their field missions to this country, the jurisprudence of international courts and other States, and the reports of international organisations. An independent evaluation of the FMO’s decision-making processes was also undertaken. Now risk-assessment in asylum procedures is done based on the criteria developed by the European Court and these new rules are applied retroactively to all cases involving Sri Lankan nationals.

The Federal Migration Office allowed the applicant to return to Switzerland and his fresh asylum application was granted.

■ SVK / Expulsion to Algeria despite real risk of ill-treatment

Labsi - Application No. 33809/08, judgment final on 24/09/2012, [CM/ResDH\(2017\)87](#)

- ” Expulsion to Algeria of a foreigner convicted in France for preparing a terrorist act, despite a real risk of being subjected to ill-treatment and an interim measure indicated by the European Court under Rule 39 (Article 13)

Final resolution: Two remedies with automatic suspensive effect have been introduced in 2012 and 2015 permitting persons concerned to raise objections against expulsion decisions: the appeal against a decision on expulsion and the appeal against the rejection of an asylum request. Finally, there is also the possibility to lodge a constitutional complaint and request postponing of the enforcement of the challenged expulsion decision. The Ministry of the Interior made an official commitment to respect for the future interim measures indicated by the Court.

The applicant served his sentence in Algeria and was released in May 2012, before the Court’s judgment - no allegations of risks of ill-treatment have been made.

■ UKR / Lack of effective remedy against the border guards’ decisions

Kebe and Others - Application No. 12552/12, judgment final on 12/04/2017, enhanced supervision

- ” Lack of effective remedy with automatic suspensive effect available against the border guards’ decisions; deficiencies in the border-control procedure leading to the decision to refuse to allow the applicant, a stowaway asylum-seeker, to enter to national territory (Articles 3 and 13)

Action plan: According to the action plan submitted by the authorities in December 2017, the State Border Service Administration has adopted rules for operational procedures in cases of requests for protection for asylum seekers. Provided action plan is currently under assessment.

E. Slavery and forced labour

— CYP / Prohibition of slavery and forced labour applied to trafficking in human beings

Rantsev - Application No. 25965/04, judgment final on 10/05/2010, [CM/ResDH\(2017\)95](#)

” Death in ambiguous circumstances of a young woman, who had travelled from the Russian Federation to Cyprus on an “artiste” visa; arbitrary and unlawful detention by the Cypriot police and acquiescence in her subsequent confinement in a private apartment; failure to conduct an effective investigation into her death and into the broader context of her arrival and stay in Cyprus, including allegations of human trafficking; failure to seek legal assistance from the Russian authorities (Articles 2 procedural limb, 4 and 5 § 1)

Final resolution: Human trafficking was criminalised in Cyprus in 2007. Restrictions to the visa regime were introduced and the “artiste” visa abolished. Close cooperation with the monitoring bodies under the Council of Europe Convention on Action against Trafficking in Human Beings will continue.

In 2009, three independent investigators conducted a new investigation in Cyprus, including on allegations of human trafficking. A second investigation examined the circumstances of the applicant’s recruitment in Russian Federation. In November 2013, the Attorney General of Cyprus decided to prosecute two police officers abuse of power and Ms Rantsev’s employer for abduction and kidnapping. However, the evidence did not disclose any criminal act at the origin of her death. In the new investigations, legal assistance was also requested and obtained from the authorities of the Russian Federation (See also *RUS/Rantsev* below).

— RUS / Lack of effective investigation into allegations of trafficking in human beings

Rantsev - Application No. 25965/04, judgment final on 10/05/2010, [CM/ResDH\(2017\)95](#)

” Failure of the Russian authorities to conduct effective investigations into the alleged recruitment of Ms Olga Rantsev by human traffickers (Article 4)

Final resolution: Criminal investigations were opened in the Russian Federation into Ms Rantsev’s death and the circumstances of her alleged recruitment in the Federation in the light of the human trafficking allegations. The investigations did not disclose any support for the allegations that she had been recruited in the Russian Federation. In 2011, it was decided not to open a criminal case because of the absence of objective elements supporting the allegations. The applicant did not seek judicial review of the decision. Nevertheless, the Russian authorities informed that the investigation could be reopened should the Cypriot authorities’ investigation reveal any new information. The case also involved violations by Cyprus, see above.

The Russian authorities have taken a number of general measures for the prevention of human trafficking. For instance, trafficking in human beings was criminalised in the Russian Federation in 2003, covering also recruitment processes.

In the light of the measures taken the supervision of the CM has been closed.

F. Functioning of justice

F.1. Access to a court

F2. Fairness of judicial proceedings – civil rights

■ BGR / Unfair insolvency proceedings

Capital Bank AD - Application No. 49429/99, judgment final on 24/02/2006, [CM/ResDH\(2017\)334](#)

” Unfair proceedings resulting in the compulsory liquidation of a bank, due to the fact that the domestic courts were bound by the National Bank’s finding of the bank’s insolvency without examination of its merits; inability to defend its position as it was represented by administrators or liquidators answerable to the National Bank; impossibility to challenge the withdrawal of the applicant bank’s licence (Articles 6 § 1 and 1 of Protocol No. 1)

Final resolution: A Bulgarian National Bank’s decision to revoke a bank’s licence is today subject to full review by the Supreme Administrative Court as provided for in the Credit Institutions Act 2006. Persons entitled to request such a review are defined by the general rules of the Code of Administrative Procedure. Concerning the representation of a bank in insolvency proceedings, the Bank Insolvency Act 2002 provides that the bank is still to be represented by the special administrators appointed by the BNB (or later on by liquidators from a list approved by the BNB). An amendment from 2006 provides that shareholders who hold more than five per cent of its shares are entitled to take part in these proceedings. In 2016, the Constitutional Court refused the Supreme Court of Cassation’s request to declare the representation provisions unconstitutional on the sole basis of doubts as to the special administrators’ capacity to defend the interests of the bank concerned and considered the matter to be for the legislator to decide. Further information on these issues will be provided in the context of the case *International Bank for Commerce*.

The applicant bank ceased to exist in 2005 following its liquidation. Following the present judgment, three companies, which were shareholders in the Capital Bank, initiated several sets of proceedings in 2006 aimed at quashing the liquidation decisions. Their requests were rejected by domestic courts and authorities for different reasons, notably lack of standing. The Government stressed the unfavourable repercussions a reopening could have on bona fide third parties (such as the bank’s creditors) and considered that, in the specific circumstances of this case, no further individual measures were possible or necessary. The applicants have submitted no communications to the CM.

■ BGR / Impossibility to obtain the reopening of proceedings

Gyuleva - Application No. 38840/08, judgment final on 17/10/2016, [CM/ResDH\(2017\)332](#)

” Impossibility to obtain reopening of unfair civil proceeding (failure to notify the applicant of the proceedings engaged against her) (Article 6 § 1)

Final resolution: The violation was a result of the application of already repealed domestic law. Reopening of the domestic proceedings is today possible within 3 months after the date when the person concerned has learnt about the final

judgment. The problematic requirement that the request be introduced within one year after the date of the judgment was abolished.

The 2007 Code of Civil Procedure provides for a possibility of reopening of domestic proceedings if the European Court found a violation. However, no request for reopening was submitted.

ITA / Unjustified retrospective application of legislation

Agrati and Others (group) - Application No. 43549/08, judgment final on 28/11/2011 (merits) and 08/03/2012 (just satisfaction), enhanced supervision

” Retrospective application of legislation to on-going judicial proceedings to calculate the length of service of school staff, in breach of their right to a fair trial and in detriment of the right to respect of their possessions (Article 6 § 1 and Article 1 of Protocol No. 1)

Developments: In December 2016, the CM invited the authorities to provide a revised action plan with details of the measures adopted or envisaged so that retro-active laws be adopted in strict conformity with the requirements of the Convention. Information is awaited.

LIT / Absence of proper procedural safeguards in incapacitation proceedings

A.N. - Application No. 17280/08, judgment final on 31/08/2016, [CM/ResDH\(2017\)268](#)

” Total deprivation of legal capacity of a person suffering from mental disorders without taking into account the kind or degree of the mental disorder (Articles 6 § 1 and 8)

Final resolution: A person who cannot understand or control his actions in a particular area because of psychological illness may be declared legally incapacitated in the area concerned by court decision. The relevant amendments of the Civil Code, the Code of Civil Procedure and the Law on the State Guaranteed Legal Aid entered into force in 2016. The court must restore legal capacity if health improves. A request to declare a person legally incapacitated in a certain area may be submitted by his spouse, parents or adult children, a care institution or a prosecutor. Requests for restoration of legal capacity may be lodged, no more than once per year, also by the person concerned or by the Incapacitated Persons' Review Commission, a new independent body to be established in every municipality. The Supreme Court changed its case-law with regard to procedural rights of the person concerned in incapacitation proceedings taking into account the present judgment.

In reopened incapacitation proceedings, on the basis of new forensic examinations, the applicant's incapacitation was amended and limited to only one field of non-financial matters.

MKD / Unfair lustration proceedings

Ivanovski and 1 other case - Application No. 29908/11, judgment final on 21/04/2016, [CM/ResDH \(2017\)428](#)

” Unfair lustration proceedings due to affirmations by politicians during the proceedings, failure to hold an oral hearing and to provide sufficient reasons; disproportionate interference with private life due to 5-year ban of employment in the public sector

or academia and the publication, on the Lustration Commission's website, of the applicants' collaboration with former security services (Articles 6 § 1 and 8)

Final resolution: The Lustration Commission's competence to initiate new lustration proceedings ended in 2012, when a new Lustration Act aligned domestic legislation with Convention requirement. The Commission is allowed to complete, before September 2017 at the latest, any on-going proceedings.

The applicants could apply for the reopening of the proceedings to obtain a fair trial. One of the applicants did not request reopening; the second applicant obtained a new fair trial. The employment ban had expired.

RUS / Unfair civil and criminal proceedings

Fedotova and 8 other cases - Application No. 73225/01+, judgment final on 13/09/2006, [CM/ResDH\(2017\)167](#)

” Unlawful composition of domestic courts in civil and criminal proceedings due to the authorities' failure to observe the provisions of the Lay Judges Act, which resulted in procedural irregularities of the lay judges' appointments (Article 6 § 1)

Final resolution: Today, only professional judges can participate in the administration of justice in civil cases. The Introductory Act to the 2003 Code of Civil Procedure repealed the 2000 Lay Judges Act accordingly. For general measures concerning removal of lay judges in criminal proceedings see [CM/ResDH\(2004\)46](#) in *Posokhov*.

The general measures in response to the other violations found are examined in other groups: poor conditions of detention in police facilities in the *Fedotov* group; other issues concerning detention on remand in the *Klyakhin* group; pressure on applicants' representative in connection with their application to the European Court in the *Ryabov* case.

As regards the civil proceedings, they were reopened and discontinued in the *Fedotova* case; no other request for reopening was submitted. As regards the criminal proceedings, the first applicant did not apply for reopening and was released before the delivery of the judgment. Proceedings against all other applicants were reopened and reconsidered either by newly, lawfully, composed tribunals or by the Supreme Court.

SER / Unfair proceedings regarding legal capacity

Salontaji-Drobnjak - Application No. 36500/05, judgment final on 13/01/2010, [CM/ResDH\(2017\)393](#)

” Exclusion from a final hearing in proceedings resulting in partial deprivation of the applicant's legal capacity and denial of access to a court in proceedings concerning the restoration of legal capacity, as well as disproportionate interference with private life due to the partial deprivation of legal capacity (Articles 6 § 1 twice and 8)

Final resolution: The present violation was due to the misapplication of domestic law. Proceedings relating to deprivation and restoration of legal capacity were also covered by the scope of a new Non-Contentious Procedure Act of 2014. It provides, as a rule, for the presence of the persons concerned and for the courts' obligation to provide sufficient reasons for their decisions. The mental condition of persons concerned is to be examined by at least by two medical specialists in such proceedings.

A time-frame for periodic judicial reassessment has to be set by courts. Training and awareness-raising activities for judges were organised by the Academy for Judges. Measures ensuring efficient civil proceedings, including those concerning deprivation of legal capacity, are examined in context of the *Jevremović* group of cases. The impugned proceedings were reopened and the applicant's legal capacity restored.

■ SER / Denial of a fair trial due to inconsistent jurisprudence

Vinčić and Others and 2 other cases - Application No. 44698/06+, judgment final on 02/03/2010, [CM/ResDH\(2017\)107](#)

” Inconsistent judicial adjudication of civil cases against the state and state owned enterprises, decided between 2006 and 2008 (Article 6 § 1)

Final resolution: Domestic case-law is being harmonised following amendments of the Court Rules entrusting new departments within the different courts with the monitoring of jurisprudence and the preparation of proposals for harmonisation. In addition an Action Plan was developed in 2014 by the Supreme Court of Cassation, providing that Presidents of appellate courts may hold joint sessions in order to reach common legal positions on specific civil law topics. Furthermore, review of inconsistent civil judgments and reopening of related proceedings may be requested through the constitutional appeal available since 2007. Finally, awareness-raising and training activities have been organised. None of applicants requested reopening of the impugned civil proceedings.

■ SUI / Lack of appropriate judicial scrutiny of the freezing of assets

Al-Dulimi and Montana Management Inc. - Application No. 5809/08, judgment final on 21/06/2016, enhanced supervision

” Lack of appropriate judicial scrutiny of freezing and confiscation procedures initiated in Switzerland in 2006, pursuant to UN Security Council Resolutions 1483 (2003) and 1518 (2003), in relation to assets (Article 6 § 1)

Action report: According to the revised action report transmitted by the authorities in June 2017, reflections were initiated to improve the procedural safeguards in the context of the implementation of the sanctions adopted by the United Nations Security Council.

■ SVN / Unfair civil proceedings - Default judgment

Aždajić - Application No. 71872/12, judgment final on 01/02/2016, [CM/ResDH\(2017\)109](#)

” Reinstatement of proceedings refused in a civil case decided by default judgment in 2007 without the defendant being aware of the proceedings because of prolonged absence from the country, and refusal of her appeal against the default judgment on excessively formalistic grounds (Article 6 § 1)

Final resolution: The absolute time-limit for lodging an application to reinstate proceedings in case of default judgments was extended from 3 to 6 months in 2008. The necessity of avoiding excessively formalistic approaches to appeals was highlighted through the dissemination of the Court's judgment.

The civil dispute was solved out of court.

F.3. Fairness of judicial proceedings – criminal charges

■ ALB / Unfair criminal proceedings

Caka and 2 other cases - Application No. 44023/02+, judgment final on 08/12/2009, [CM/ResDH \(2017\)417](#)

” Failure to secure the appearance of witnesses and first instance court’s failure to have due regard to testimonies in the applicant’s favour; lack of procedural guarantees in criminal proceedings in absentia and lack of access to the Constitutional Court due to miscalculation of the time-limit; refusal to grant the right to defend oneself at a public hearing before the Court of Appeal and the Supreme Court (Articles 6 § 1, Article 6 § 1 combined with Article 6 § 3(d), 6 § 3c and 6 § 3)

Final resolution: As concerns the summoning of witnesses and the procedures for witness testimonies, new rules were elaborated in 2013 and completed in 2017 clearly regulating refusals to testify. The right to defend oneself in courts of first instance and appeal was unambiguously established through domestic case-law in 2013/2014 and enshrined in the Code of Criminal Procedure in 2017, together with legal aid provisions. As concerns the opportunity to obtain revision of the merits of charges in case of judgments in absentia, revision requests must be filed within 30 days after the convicted person’s is informed of the trial and its result. The Court’s judgment is used in training organised by the School of Magistrates. Concerning the reopening of proceedings to give effect to European Court judgments, the Supreme Court, in its case-law, recognised this possibility in 2011. Ensuing amendments of the Code of Criminal Procedure were introduced in 2017.

Reopening of the impugned proceedings was granted. After a new fair trial, Mr Caka was again convicted. The second applicant did not request reopening. With regard to the third applicant, who resides in Turkey and did not request reopening, the State Advocate Office was informed that an international arrest warrant had been issued.

■ CRO / Impossibility to challenge the way in which forensic evidence is obtained in criminal proceedings

Horvatić - Application No. 36044/09, judgment final on 17/01/2014, [CM/ResDH \(2017\)134](#)

” Inability of the accused to challenge the manner in which forensic evidence was obtained and packed during criminal investigations (without proper reporting), casting doubts on its authenticity (Article 6 § 1)

Final resolution: Mandatory procedures for the establishment of reports on samples taken and packed for forensic analysis were adopted in the Ministry of the Interior’s Guide for Forensic Technicians, which was disseminated in 2010 to all police departments. Subsequently, in 2013, the Constitutional and Supreme Court adapted their case-law to ensure that the domestic courts take into account objections concerning the use of evidence allegedly tampered by the police.

In reopened proceedings, the reliability of the evidence was examined afresh on the basis of the testimonies of the forensic experts and a hearing of the policemen and forensic technicians who had gathered the evidence. The evidence was found reliable and the applicant was convicted again.

ESP / Absence of a hearing on appeal in criminal cases

Iguar Coll and 11 other cases - Application No. 37496/04, judgment final on 10/06/2009, [CM/ResDH \(2017\)69](#)

” Lack of a public hearing before the appellate court when overturning acquittals at first instance and convicting the accused (Article 6 § 1)

Final resolution: To address the present systemic issue, originating in the appeal courts' discretion to decide on the necessity to hold an oral hearing or not, the Constitutional Court changed its case-law in 2012 and 2013 and, accordingly, the Supreme Tribunal's case-law followed with decisions rejecting the quashing of acquittal judgments when no public hearing had taken place in second instance. The Law on Criminal Procedure was amended in 2015 strengthening procedural safeguards. Thus, if the appellate court finds an error in the assessment of evidence, it will quash the first instance judgment and return the case for reconsideration of the evidence produced before it, or order for a public hearing to be held anew before it.

On the basis of the reopening possibilities opened by the Constitutional Court in 1991 in cases of violations of Article 6 of the Convention, four of the applicants requested and were granted revision of their impugned judgments. Later, in 2014, the Supreme Tribunal accepted that any European Court judgment constituted a valid ground to seek revision of a criminal final judgment. These principles were enshrined in the Organic Law 7/2015 on the Judiciary.

LUX / Lack of legal assistance

A.T. - Application No. 30460/13, judgment final on 14/09/2015, [CM/ResDH\(2017\)234](#)

” Lack of assistance by a lawyer, including of possibilities of private consultations, prior to the first investigative hearing (2009) (Article 6 § 3c)

Final resolution: Instructions were provided already in 2011 by the police authorities and the prosecution services in order to ensure access to a lawyer during the first police interrogation in all cases, including in the context of the execution of a European Arrest Warrant. This right was enshrined in legislation in 2017, which also clearly spelt out that the right to see a lawyer included the right of consultations in private - amendments of the Penal Code, the Code of Criminal Investigation and the Law concerning the European Arrest Warrant, implementing also four Directives of the European Union.

The impugned proceedings were reopened in order to remedy the violation found.

MDA / Unfair criminal proceedings - Quashing of final acquittal

Bujnita and 1 other case - Application No. 36492/02+, judgment final on 16/04/2007, [CM/ResDH\(2017\)368](#)

” Denial of a fair trial due to the quashing of a final judicial decision in the favour of the accused on initiative of the Prosecutor's General Office without sufficient grounds (Article 6 § 1)

Final resolution: The annulment procedure was significantly reformed in the new Code of Criminal Procedure of 2003. An annulment request may be filed for rectifying

errors of law committed in the course of proceedings only if a fundamental error affected the judicial decision complained of, including a major violation of the rights and freedoms guaranteed by the Convention, other international treaties and domestic legislation. Statistical data show that the number of requests for annulment admitted by the Supreme Court has dropped significantly. A later amendment of the Code of Criminal Procedure in 2014 provided that decisions of an investigative judge are irrevocable unless they concern the refusal to initiate, to terminate or to reopen criminal proceedings.

One of the applicants was acquitted in reopened proceedings. In the second case, proceedings were discontinued.

■ **RUS / Unfair criminal proceedings - Incidence of parallel proceedings**

Navalnyy and Ofitserov - Application No. 46632/13, judgment final on 04/07/2016, enhanced supervision

” Conviction entailing a 5-year ban to participate in elections, based on arbitrary application of criminal law, in an unfair procedure (notably because of use of admissions made in a parallel criminal procedure against a co-accused involving plea bargaining) and without addressing a reasonable allegation of political motivations (Article 6 § 1)

CM Decision: The criminal proceedings in respect of the applicants have been reopened by the Supreme Court of the Russian Federation, which quashed the judicial decisions rendered in respect of the applicants and remitted the case for a fresh examination. As the result of the new court examination a new sentence was delivered and on appeal and cassation, none of these decisions were subject to the Court examination. The authorities stated that the CM has no competence to examine and review the new proceedings. The applicant has lodged a new application with the European Court, now pending before it.

At the last examination of the case in December 2017, the CM expressed grave concern that the new trial held following the European Court’s judgment did not remedy or otherwise provide any tangible redress for the violations established. The extraordinary cassation appeal was also refused on 17 November 2017. However, the CM noted that further avenues to obtain redress exist and invited the authorities to keep the CM informed of results obtained.

The authorities submitted comprehensive information on 23 November 2017 clarifying the present state of Russian law, as developed since the events, notably through guidance from the Constitutional Court and the Supreme Court. The Secretariat was instructed to make a detailed assessment thereof.

■ **RUS / Unfair criminal proceedings - Lack of impartiality**

Romenskiy - Application No. 22875/02, judgment final on 13/098/2013, [CM/ResDH\(2017\)280](#)

” Lack of impartiality of a domestic court referring to an accused person as “guilty” in a ruling issued before his conviction and failure of the appellate court to address the applicant’s complaint about the alleged partiality of the trial court, summarily rejecting all his “procedural” complaints as unsubstantiated (Article 6 § 1)

Final resolution: In the context of a revision of the impartiality requirement for courts, in 2002, the principle of the presumption of innocence was introduced in the current Code of Criminal Procedure, to give effect to Article 49 of the Constitution. A Supreme Court Ruling of 2013 set detailed standards. The importance of the presumption of innocence was underlined in the Code of Judicial Ethics, in the context of disciplinary liability of judges.

In reopened proceedings, the applicant's conviction was quashed and the case was transferred for new examination.

■ TUR / Lack of legal assistance during trial and absence of the accused at the hearing

Tunç Talat and 1 other case - Application No. 32432/96+, judgment final on 27/06/2007, CM/ResDH (2017)398

” Absence of effective legal assistance by a lawyer during trial and failure to ensure the accused person's appearance in the court hearing (Article 6 §§ 1-3c)

Final resolution: The requirement of obligatory defence counsel was introduced into the Criminal Procedure Code in 2005. As to the right to a hearing, new rules provide that, in case of transfer of the accused out of the competent court's jurisdiction, the accused may only be exempt from appearing before the court providing that his/her statements have been taken. Recently, an Audio-Visual Information System was introduced enabling courts and the chief public prosecutors' offices to receive audio-visual statements of suspects, accused persons, witnesses, complainants, interveners etc. without presence at hearings.

Benefiting from an amnesty law, the first applicant was released in December 2000. The “Fourth Judicial Reform Package” introduced in 2013 granted an exceptional opportunity for the applicants to request a new fair trial through the reopening of the proceedings. The applicants did not avail themselves thereof.

■ UKR / Unfair convictions based on confessions obtained under duress

Balitskiy - Application No. 12793/03, judgment final on 03/02/2012, enhanced supervision

” Unfair convictions based on confessions given under duress and without legal representation; abusive use of administrative detention (Article 6 §§ 1 and 3 (c))

CM Decision / Final resolution (partial closure): Following the events, free legal representation has been granted to all detained, accused or suspected persons, whether under administrative or criminal arrest – see the 2012 Code of Criminal Procedure (“the CCP”) and the 2011 Law of Ukraine on Free Legal Aid. Moreover, practice recommendations were disseminated by the High Specialised Court of Ukraine to assist domestic courts in ensuring an effective right to defence in criminal proceedings. Notwithstanding, these encouraging measures, the CM urged the authorities in September 2017 to continue to take further measures to prevent similar violations.

As regards individual measures, just satisfaction has been paid and impugned proceedings have been reopened in most cases. The CM adopted a final resolution in the eight cases in which no request for reopening of proceedings had been lodged (CM/ResDH(2017)295).

Regretting the European Court's finding in two cases that the re-opened proceedings had not provided necessary redress, the CM invited the authorities to provide information about the outcome of all the re-opened proceedings and the reasoning used by the domestic courts in order to assess whether the self-incriminating statements or confessions obtained under duress were properly excluded from the record.

The Ukrainian authorities were invited to submit a consolidated action plan by 1 March 2018.

■ UKR / Convictions on the basis of self-incriminating statements made in the absence of a lawyer

Borotyuk and 7 other cases (part of *Balitskiy* group) - Application No. 33579/04+, judgment final on 16/03/2011, [CM/ResDH\(2017\)295](#)

” Unfair criminal proceedings due to the lack of access to a lawyer and use of self-incriminating statements made in circumstances giving rise to a suspicion that they had been given against the suspects' will; alleged ill-treatment by the police and lack of effective investigation (Articles 6 §§ 1 and 3 (c), Article 5 § 3 and Article 3)

Final resolution (partial closure): Improved rights for suspects, accused or defendants, in particular regarding their access to a legal counsel, were introduced in the Code of Criminal Procedure 2012. A new fee legal aid system was established in 2011. Rules on the inadmissibility of evidence obtained through human rights violations were also introduced, supplemented by a Constitutional Court judgment on the matter. Comprehensive sets of training were held for prosecutors, law-enforcement, judges, the State security service and the tax police by the National School of Judges. Council of Europe support was granted in the framework of the Project “Further support to Criminal Justice Reform in Ukraine”. Outstanding questions related to the impact of general measures will remain under the supervision of the Committee in the context of the *Balitskiy* group of cases.

None of the applicants in these cases applied for reopening of the impugned proceedings.

F.4. Length of judicial proceedings

■ ALB / Excessive length of civil proceedings

Luli and Others (group) - Application No. 64480/09, judgment final on 01/07/2014, enhanced supervision, Final resolution [CM/ResDH\(2016\)357](#)

” Lengthy civil proceedings: failure of the judicial system to manage properly a multiplication of proceedings on the same issue; lack of remedy (Article 6 § 1)

Action plan: In 2016, the CM had closed its supervision of the *Marini* case, following the repealing of legal provisions allowing the Constitutional Court to decline to take decisions in case of a tied vote. Information was requested as to the impact of the legislative and practical measures aimed at addressing the problem of excessive length of proceedings, as well as on the measures taken or envisaged to address multiplication of proceedings on the same issue. In addition, the CM had called upon the authorities to finalise rapidly the adoption of an effective remedy for excessive length of proceedings.

An action plan was submitted by the authorities on 20 September 2017, currently under assessment.

BEL / Excessive length of criminal investigations in economic and financial matters

De Clerck and 3 other cases - Application No. 34316/02+, judgment final on 25/12/2007, [CM/ResDH\(2017\)149](#)

” Excessive length of criminal proceedings concerning economic and financial matters at the pre-trial investigation stage and lack of an efficient remedy (Articles 6 § 1 and 13)

Final resolution: The fight against the backlog of pending criminal cases was declared priority in the Public Prosecution’s Modernisation Plan (2007-2014) and the related Strategic Plan 2008. Detailed statistical analysis of the back-log provided the basis for new working-methods and a permanent monitoring of files and workloads of prosecutors. The function of special supervisory magistrates monitoring case-management and progress of files was introduced and a manual with directives to enhance diligence and efficient treatment of files was distributed. Furthermore, human resources were increased for fiscal matters. Several special initiatives were also taken for the Courts of Appeal of Brussels, Gand, Anvers, Liège and Mons. These extensive measures resulted in better control and reduction of the duration of criminal instructions - in particular concerning the ECOFIN (economic, financial and fiscal affairs) files. Concerning the efficiency of existing remedies, including at the investigation stage, (a preventive remedy provided by the Criminal Investigation Code and a compensatory remedy provided by Articles 1382 and following of the Civil Code), the European Court, in two decisions of January 2017, held that their efficiency had to be examined on a case-to-case basis.

Following the judgments of the European Court, still pending criminal proceedings were accelerated and closed. In one case the competent court found that a mere declaration of guilt was a sufficient sanction in light of the excessive length of the proceedings. Monetary compensation has been granted under domestic law in one of the cases, whilst in two other cases proceedings are pending.

HUN / Excessive length of civil and criminal proceedings

Tímár (group) - Application No. 36186/97, judgment final on 09/07/2003, Final resolution [CM/ResDH\(2017\)422](#)

Gazsó (pilot judgment) - Application No. 48322/12, judgment final on 16/10/2015, enhanced supervision

” Excessive length of civil and criminal proceedings and lack of an effective remedy (Articles 6 § 1 and 13)

CM Decisions / Final resolution (partial closure): This long-standing structural problem has been pending before the CM since 2003. In view of the absence of progress the case was transferred under enhanced supervision in 2012. In 2015, the Court adopted a pilot judgment to support the execution process – the *Gazsó* judgment. The judgment found that the authorities had failed so far to put into effect any measures actually improving the situation and that the situation amounted to a

practice incompatible with the Convention. It specifically held that a remedy should be introduced without delay and at the latest on 16 October 2016.

As regards the remedy question, the CM expressed in 2017 grave concern that no tangible progress had been achieved despite the pilot judgment. It noted, however, with satisfaction the Government's undertaking to find ad hoc solutions as regards cases already pending with the Court and called on the competent authorities to reduce to the greatest extent possible any unnecessary burden on the Convention system and to take all measures necessary to ensure that existing domestic remedies become effective (notably taking into account the direct effect of the Convention in Hungarian law).

The CM could also note the adoption of new codes of procedure for the civil, criminal and administrative jurisdictions, which will enter into force on 1 January 2018 and notably aimed at shortening the length of judicial proceedings.

In its last decision in December 2017 the CM reiterated its urgent call on the authorities to double their efforts, to speed up the legislative processes.

Measures to accelerate pending proceedings in the cases brought before the CM have been taken and the CM could in 2017 close its examination of 253 cases where proceedings had been brought to an end.

An action plan was submitted on 13 February 2018, currently under assessment.

■ IRL / Lack of effective remedy for excessive length of judicial proceedings

McFarlane (group) - Application No. 31333/06, judgment final on 10/09/2010, enhanced supervision

” Excessive length of both criminal and civil proceedings and lack of an effective remedy (Articles 6 § 1 and 13)

CM Decision / Transfer: Even if the issue of excessive length of proceedings was addressed and closed in the *Doran* group of cases (see Final resolution [CM/ResDH\(2011\)224](#)), the CM noted with interest that additional general measures had been taken to improve further the efficiency of criminal and civil proceedings.

In order to remedy the remaining issue of lack of effective remedies, the Irish authorities had established an expert group which finalised its report in May 2013. However, no concrete proposals for or time schedule had been submitted in response to the report. Recalling in June 2017 that the oldest judgment in this group of cases has been under its supervision for more than six years, the CM thus strongly encouraged the authorities to finalise rapidly the work necessary for the adoption of an effective remedy in case of excessive length of proceedings. In order to avoid any further delay and to follow the issue more closely, the CM decided to follow this group of cases under the enhanced supervision procedure.

As regards individual measures, domestic proceedings in all cases except *Rooney* were to the extent possible accelerated and have come to an end. Clarifications as to the status of proceedings the *Rooney* case was requested.

ITA / Excessive length of administrative proceedings

Abenavoli (group) - Application No. 25587/94, judgment final on 02/09/1994, enhanced supervision

” Excessive length of proceedings before the administrative courts since 1990s (Article 6 § 1)

Developments: In December 2016, the authorities were invited to pursue their close monitoring of the impact of the measures adopted and to provide their analysis of the situation based on complete statistics to permit a full assessment of the situation. Bilateral consultations are on-going to obtain this information, especially considering the digitisation of proceedings which was scheduled for January 2017.

ITA / Systematic delay of judicial review of restrictions under the prison regime

Ganci and 12 other cases - Application No. 41576/98+, judgment final on 30/01/2004, [CM/ResDH\(2017\)6](#)

” Systematic delays in the examination of complaints against ministerial decrees imposing restrictions under the Prison Act (i.e. limits on visits by family members or third parties; prohibition on the use of telephones or the organisation of cultural, recreational or sports events; prohibition on receiving or sending sums of money etc.); lack of access to court to challenge the placement in a high-level surveillance prison; unlawful control of the prisoners' correspondence and lack of a respective effective remedy (Articles 6 § 1 and 13 and Article 13 in conjunction with Article 8)

Final resolution: Following Interim Resolution [CM/ResDH\(2005\)56](#), the system was streamlined and more realistic time frames set, see notably the 2009 Prison Act. A maximum period of validity of up to four years was thus introduced for decrees of the Ministry of Justice imposing a special detention regime on a prisoner - with a possibility of a two-year prolongation - instead of renewable 6-months-periods. A period of twenty days to appeal against the decrees was also set instead of the earlier ten days. A single supervisory court competent to decide appeals was defined - the Court of Rome, replacing the different courts earlier having jurisdiction on detention matters.

Concerning placement under high-level surveillance, the Court of Cassation, in a decision of 2004, confirmed that it was not possible to complain to the supervisory magistrate about such placement. It was confirmed, however, that a judicial appeal is possible in case of specific violations of fundamental rights. This system was accepted by the European Court.

The Law on the administration of prisons was amended in 2004, thus reinforcing the safeguards with regard to the right to respect of correspondence (see [CM/ResDH\(2005\)55](#) in *Calogero Diana* group).

The new procedures also provided necessary individual measures for applicants' concerned.

ITA / Excessive length of criminal proceedings

Ledonne No. 1 - Application No. 35742/97, judgment final on 12/08/1999, enhanced supervision

” Excessive length of criminal proceedings since the 1990s (Article 6 § 1)

Developments: In a communication of November 2016, the authorities indicated that a criminal justice reform bill, aimed *inter alia* at ensuring a reasonable length of proceedings, was pending before the Senate. At the request of the CM in December 2016, additional information was transmitted in June 2017 and is being assessed.

ITA / Remedies for excessive length of judicial proceedings - Insufficient amounts and delays in the payment of compensation awarded

Mostacciuolo Giuseppe No. 1 and 118 other cases - Application No. 64705/01+, judgment final on 29/03/2006 (Grand Chamber), Final resolution [CM/ResDH\(2017\)289](#)

Gaglione No. 1 - Application No. 45867/07, judgment final on 22/06/11

Olivieri and Others (group) - Application No. 17708/12, judgment final on 04/07/2016, enhanced supervision

” Insufficient amount and delays in the payment of compensation awarded in the context of a compensatory remedy available since 2001 (Pinto Law) to victims of excessively lengthy proceedings; excessive length of the “Pinto” proceedings brought in the context of “Pinto” compensatory remedy (Article 6 § 1 and/or Article 1 of Protocol No. 1)

CM Decision / Final resolution (partial closure): The payment delays encountered in the functioning of the “Pinto” remedy have been solved through the possibility, introduced on 1 January 2016, to have recourse to additional funds once the budgetary resources earmarked for payments of “Pinto” compensation are exhausted. The settlement of the arrears of the “Pinto” debt was achieved by the allocation of additional funds to the Ministry of Justice in 2015-2017 and the assistance provided by the Bank of Italy in handling the payments. As a result, there has been a significant reduction in the number and average length of “Pinto” proceedings pending before courts of appeal.

The outstanding questions as to the functioning of the remedy will be pursued in the context of the new *Olivieri and Others* group of cases. In September 2017, the CM thus requested information on the questions related to the 2012 reform which restricted access to the “Pinto” remedy and excluded compensation in proceedings lasting less than six years. In addition, information is awaited as to the measures taken and/or envisaged to address the ineffectiveness of the remedy in cases of excessive length of administrative proceedings.

The general problem of the excessive length of judicial proceedings continues to be dealt with in a number of other groups depending on the nature of the proceedings at issue.

Proceedings in cases brought before the CM with respect to the functioning of the Pinto remedy and which were still on-going at the time of the Court’s judgments have been brought to the attention of the relevant domestic courts with a view to their acceleration. Payments of adequate compensation have been ensured.

ITA / Excessive length of civil proceedings

Trapani - Application No. 45104/98, judgment final on 12/01/2001, enhanced supervision

Ceteroni (group) - Application No. 22461/93, judgment final on 15/11/1996, final resolution [CM/ResDH\(2017\)423](#)

” Excessive length of proceedings before the civil courts (Article 6 § 1)

CM Decision / Final resolution (partial closure): In December 2017, the CM noted the constant reduction in the average length of civil proceedings before first instance courts and specialised company courts, as well as a positive trend in backlog clearance since 2011. The CM invited the authorities to continue their efforts to achieve the complete elimination of the multi-year backlog, and to provide updated information as to the progress of the “Strasbourg 2” plan implemented.

Such a positive trend cannot be noted as regards the Court of Cassation, with an increase in pending cases and the average length of civil proceedings. The CM invited the authorities to transmit their analysis of the situation, in particular as regards courts of appeal and the Court of Cassation, so that it can fully assess the impact of the measures adopted.

As regards individual measures, the CM noted that necessary measures had been adopted in 1723 cases (acceleration of pending proceedings to the extent possible and payment of just satisfaction) in the *Ceteroni* group and thus decided to close the supervision of the execution of these 1723 cases. General measures and outstanding individual ones continue to be followed in the *Trapani* group of cases.

MON / Excessive length of proceedings and lack of an effective remedy

Stakić and 2 other cases - Application No. 49320/07+, judgment final on 02/01/2013, [CM/ResDH\(2017\)38](#)

” Excessive length of civil and labour proceedings and lack of an effective remedy (Article 6 § 1)

Final resolution: The efficiency of civil and labour proceedings was improved by amendments of the Civil Procedure Law in 2015. The novelties include notably the abolition of multiple remittal possibilities, tight procedural deadlines and alternative dispute resolution options. As regards the labour proceedings, in particular those concerning the termination of an employment contract, domestic courts have to schedule a hearing within 30 days of the preliminary hearing. First instance proceedings must be completed within 6 months. The Labour Law 2008 established the Agency for Peaceful Settlement of Labour Disputes offering the possibility of out-of-court settlements. In 2015, 3 679 labour disputes were referred to it and 53.3 % thereof solved, thus relieving the domestic courts in labour proceedings.

To reduce the number of backlog cases, the Judicial Council adopted specific measures: transfer of judges from efficient courts to the courts with significant case inflow; delegating cases to less burdened courts; introducing overtime; rewarding judges with higher output; monitoring the work of all courts and judges. Figures underline the progress made. A Strategy for the Reform of the Judiciary 2014-2018 further enhanced the efficiency of the judiciary.

Acceleratory and compensatory remedies were introduced in 2007 through the “Right to a Trial within a Reasonable Time” Act, which applies to judicial proceedings initiated after 3 March 2004.

The impugned domestic proceedings were accelerated and closed.

■ POL / Excessive length of criminal and civil proceedings and lack of an effective remedy

Bqk (group) - Application No. 7870/04, judgment final on 16/04/2007, enhanced supervision

Majewski (group) - Application No. 52690/99, judgment final on 11/01/2006, enhanced supervision

Rutkowski and Others (group) - Application No. 72287/10, judgment final on 07/10/2015, enhanced supervision

” Excessive length of criminal and civil proceedings and lack of an effective remedy (Article 6 § 1, Article 13)

CM Decision: Legislative reforms and organisational measures increased the efficiency of the judicial system in general; nevertheless the situation remained difficult in respect of some categories of cases. Authorities were therefore invited in December 2017 to provide further assessments of the impact of measures taken or planned, in particular concerning the recruitment of judges and the transfer of competences to other legal professionals.

As concerns the remedy against excessive length of civil and criminal proceedings introduced in 2004, certain dysfunctions in its application were addressed in binding interpretative directives for courts adopted by Parliament. The authorities were invited to provide information on the application of the new legal framework, in particular on the level of compensation awarded.

As regards individual measures, the CM noted the closure of all domestic proceedings and the ending of the applicants’ pre-trial detention impugned by the Court.

■ RUS / Excessive length of civil and criminal proceedings and lack of effective remedy

Kormacheva and 105 other cases - Application No. 53084/99, judgment final on 14/06/2004, [CM/ResDH\(2017\)168](#)

” Excessive length of civil and criminal proceedings and the lack of an effective remedy (Articles 6 § 1 and 13)

” Other violations: delayed enforcement of domestic judicial decisions concerning monetary awards against the State; repeated detention on remand on the basis of insufficiently reasoned decisions and failure to return the passport upon release from custody (Articles 6 § 1 and 1 of Protocol No. 1, Article 5 §§ 1-3, Article 8)

Final resolution: Legislative measures were taken to reduce the length of civil proceeding and to introduce a remedy in this respect: A new appellate review procedure was introduced in 2012 for both civil and criminal cases, allowing the appeal instance to examine new evidence and decide on the merits directly without sending the case back to the lower court for re-trial. Tight deadlines were set for the examination of appeals: three months for civil cases and 45 days for scheduling a

hearing in criminal cases. Summoning of parties in both civil and criminal cases via text messages was introduced in 2013. The Codes of Civil and Criminal Procedure were amended in 2016 to introduce the availability of judicial decisions within five days of their adoption, including by publication online. 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 2000, and the number of justices of peace by more than 40%. 41 new courts and 32 representations of permanent judicial bodies were opened. Modern IT tools allow the electronic administration of proceedings, automatic notification of parties about the date, time and venue of court hearings as well as internet broadcasting of public court hearings. The Supreme Court organised special training sessions and annual meetings with judges to raise their awareness of the right to a fair trial within a reasonable time.

A compensatory remedy covering also enforcement proceedings and the pre-trial phase of criminal proceedings was introduced by the Compensation Act 2010. In parallel, a new provision was introduced to the Codes of Civil and Criminal Procedure according to which the parties can now request acceleration of proceedings. The vast majority of civil and criminal cases are now dealt with in the time-limits fixed by domestic legislation.

General measures concerning the other issues: delayed enforcement of domestic judicial decisions concerning monetary awards against the State has been solved see [CM/ResDH\(2016\)268](#) in *Timofeyev* group of cases; repeated detention during criminal investigation on the basis of insufficiently reasoned decisions is partly closed and outstanding issues are being examined in the *Klyakhin* group of cases; the failure to return the passport upon release was an isolated incident.

Domestic proceedings in all cases were accelerated to the extent possible and are now all closed. The domestic judicial decisions were enforced. The passport was returned to the applicant concerned.

■ UK / Excessive length of civil proceedings

McNamara - Application No. 22510/13, judgment final on 12/01/2017, [CM/ResDH\(2017\)285](#)

” Excessive length of civil proceedings in Scotland (Article 6 §1)

Final resolution: The Scottish Civil Court system was modernised following a review published in 2009, which resulted in the Court Reform (Scotland) Act 2014. The Court of Session became therefore more efficient, charged only with appropriate cases under its jurisdiction. Additionally, a new electronic case management system was introduced in 2016 helping to prevent undue delays.

■ UKR / Excessive length of civil and criminal proceedings - Lack of effective remedy

Naumenko Svetlana (group) - Application No. 41984/98, judgments final on 30/03/2005, enhanced supervision

Merit (group) - Application No. 66561/01, judgment final on 30/06/2004, enhanced supervision

” Excessive length of civil (Svetlana Naumenko) and criminal (Merit) proceedings; lack of effective remedies in this respect (Articles 6 § 1 and 13)

Action plan: The CM resumed consideration of these cases in September 2013. Since then, information on measures taken and envisaged to solve the problem of lengthy judicial proceedings has been provided by the authorities in an updated action plan in January 2015 and further information submitted in September 2017. A consolidated updated action plan / report is awaited.

F.5. Prohibition of double conviction

■ BGR / Two convictions for the same offence and lack of free legal assistance

Tsonyo Tsonnev (No.2) - Application No. 2376/03, judgment final on 14/04/2010, [CM/ResDH\(2017\)408](#)

” Second punishment for the same offence as it was sanctioned by a fine in prior administrative-penal proceedings and failure to provide free legal assistance in proceedings before the Supreme Court of Cassation (Articles 4 of Protocol No. 7 and 6 §§ 1-3)

Final resolution: An avenue was created for courts considering criminal charges to directly rule also on the existence of an administrative offence if it comes out that the facts reveal the existence of an administrative offence rather than the existence of criminal offense. Thus, the issues to be considered by the court when pronouncing its judgment or decision include the assessment whether the act constitutes an administrative offence. If so, the court should find the person not guilty and impose on the person an administrative sanction.

In July 2017, the Code of Criminal Procedure was amended to reflect the Supreme Court of Cassation’s ruling of 2015 in the present case, that the administrative proceedings concerned had to be reopened, annulled and/or terminated and subsequently the criminal proceedings reopened. As concerns the issues under Article 6 §§ 1 and 3, see [CM/ResDH\(2015\)40](#) in *Raykov*.

In reopened criminal proceedings, in which the applicant was represented by a counsel, the administrative-penal sanction imposed on the applicant by mistake 19 years ago was taken into account, but the subsequent criminal conviction nevertheless upheld as the case had concerned serious bodily harm, triggering a strong public interest and the State’s procedural obligations under Article 3. The prosecutor was nevertheless requested to ensure the reopening of the administrative penal case which had led to a fine of approximately 25 euros. This eventually turned out to be legally impossible in view of the 19 years elapsed. The applicant (who received 3 000 euros in just satisfaction for non-pecuniary damage from the Court) did not submit any complaints.

■ BIH / Two convictions for the same offence

Muslija - Application No.32042/11, judgment final on 14/04/2014, [CM/ResDH \(2017\)30](#)

” Conviction for “causing grievous bodily harm” in proceedings engaged by the prosecutors on the basis of facts for which the applicant had already been convicted in prior minor offences proceedings – “offence against public order” - initiated by the police (Article 4 Protocol No. 7)

Final resolution: The Constitutional Court aligned its case-law to the European Court's one. Guidance was adopted for procedural action in criminal and minor offence cases by the Indirect Taxation Authority, the Tax Administration, and the Prosecutor's Office. Other authorities will follow. Awareness-raising measures were adapted for judges and prosecutors.

The impugned proceedings were reopened and the second conviction quashed.

F.6. Respect of the final character of judicial decisions

ARM / Disrespect of the principle of *res judicata* in property disputes

Amirkhanyan and 1 other case - Application No. 22343/08+, judgment final on 03/03/2016, CM/ResDH (2017)185

” Quashing of a final and binding judgment in the applicant's favour in property disputes by the Court of Cassation after admitting second appeals on points of law by the same parties (Article 6 § 1)

Final resolution: More precise rules for the admissibility of appeals on points of law, introduced in the Code of Civil Procedure in 2014, ensure that the principle of finality of judgments will be respected. The judgment is used in training activities of the Justice Academy and the Law Institute of the Ministry of Justice.

The civil proceedings were reopened and the final character of the unjustly quashed judgments restored.

RUS / Excessive possibilities to quash final judicial decisions in civil matters

Ryabykh (group) and 112 cases - Application No. 52854/99+, judgment final on 03/12/2003, CM/ResDH(2017)83

” Infringement of the principle of legal certainty due to the quashing of final judicial decisions through supervisory-review procedure (“nadzor”) on application by State officials, not subject to any time-limit, or under the Code of Civil Procedure on the basis of court presidents' unfettered powers to reopen the case even after expiration of the time-limit (Articles 6 § 1 and 1 Protocol No. 1)

Final resolution: Supervisory-review was first reformed in 2003 to allow only the parties to the proceedings to initiate such a review, within a certain time-limit and after exhaustion of available regular avenues of appeal. However, the time-limit could still be waived by the court's presidents in exceptional circumstances within one year after the contested judgment became binding. Therefore, the need to respect the principle of legal certainty was emphasised in the Supreme Court's guidelines to lower courts issued in 2008. Finally, in 2012, the first two levels of supervisory-review (i.e. before the president of the regional courts and the Civil Chamber of the Supreme Court) were converted into cassation procedures, while limiting the third level of the supervisory-review procedure to the Supreme Court's Presidium. The supervisory-review procedure is now very seldom used.

Just satisfaction was awarded to cover the sums which the applicants had legitimately expected under the final judgments unduly quashed. As regards future pecuniary

loss with regard to regular payments by the State, the European Court held that it could not restore the legal force of quashed judicial decisions nor assume the role of the national authorities in awarding social benefits for the future: the applicants had however the possibility to request the reopening of impugned proceedings. In cases concerning the recalculation of pension rights, the European Court granted the applicants' pecuniary claims. In cases concerning lengthy non-enforcement of domestic judicial decisions with regard to monetary claims against the State, the European Court either ordered the enforcement or awarded the applicants the relevant amounts by way of just satisfaction.

F.7. Enforcement of domestic judicial decisions

■ AZE / Non enforcement of judicial eviction decisions

Mirzayev - Application No. 50187/06, judgment final on 03/03/2010, enhanced supervision

” Non enforcement of a final domestic court judgments ordering the eviction of internally displaced persons (IDP) unlawfully occupying the applicants' apartments (Article 6 § 1 and Article 1 of Protocol No. 1)

Developments: Following the action plans submitted in 2011, the CM resumed consideration of this case in June 2012. It noted with satisfaction the efforts of the authorities to find solutions to the housing problems of the internally displaced persons (the Presidential Order on additional measures to improve the housing conditions of the internal displaced persons), encouraged them to introduce effective remedies for the enforcement of the final judicial decisions and to provide adequate compensation in this respect. Updated information remains awaited.

■ BIH / Non-enforcement of judgments ordering the State to pay war damages

Čolić and Others - Application No. 1218/07, judgment final on 28/06/2010, enhanced supervision

” Non-enforcement of final judgments ordering the state to pay sums in respect of war damages (Article 6 § 1 and Article 1 of Protocol No. 1)

CM Decision / Transfer: The statutory suspension on enforcement of judgments awarding war damages was lifted in 2012. A first settlement plan was prepared in 2012. It foresaw payment either in cash in chronological order within 13 years, or directly in government bonds (tradable on the stock exchange), if the creditors so accepted. The bonds could be used to pay direct taxes, to finance part of the purchase price of State-owned flats, commercial buildings, garages and business premises, and for paying certain administrative decisions. In view of the economic difficulties, the time limit was changed to 20 years in 2013. In September 2016, the scheme was revised in response to the European Court's criticism in the *Đurić* judgment (final in April 2016) and the payment period brought back to 13 years. Payment of non-pecuniary damages and of interest was also included. The total debt identified at the time amounted to 196 million euros, relating to some 13 257 decisions. In view of the revised plan, the CM decided in March 2017 to transfer this group cases for continued supervision under the standard procedure. The authorities were, however, invited to ensure the efficient implementation of the plan in line with the Court's case-law and to provide information on the results obtained.

All domestic court decisions have been enforced so that no further individual measures are required.

■ BIH / Non-enforcement of court judgments ordering the State to pay sums of money

Momić and Others - Application No. 1441/07+, judgment final on 15/01/2013, [CM/ResDH\(2017\)29](#)

” Non-enforcement and/or delayed enforcement of final domestic court decisions ordering payment of sums to honour general legal obligations of the Republika Srpska (Article 6 § 1 and 1 of Protocol No. 1)

Final resolution: The Republika Srpska’s internal debt is to be settled during a period of 5 years, as stipulated in the 2012 Domestic Debt Act, in cash or through the issuance of bonds, covering also default interest. Those domestic judgments registered with the Ministry of Finance will be enforced in the order of their registration. In the present case, the underlying domestic judgments did not concern claims in respect of war damage or old foreign currency, as in earlier cases.

All domestic judgments at issue were enforced and interest for delay paid.

■ GRC / Non-enforcement of judicial decisions regarding status of property

Anagnostou-Dedouli and 10 other cases (part of the *Beka-Koulocheri* group) - Application No. 24779/08, judgment final on 16/12/2010, [CM/ResDH\(2017\)288](#)

” Non-compliance or delayed compliance with domestic court judgments concerning mainly the settlement of the status of property, and lack of an effective remedy; inertia, negligence or procrastination in the part of the administration (Articles 6 § 1, 13 and 1 of Protocol No. 1)

Final resolution (partial closure): The special execution mechanism, established by Law 3068/2002 and modified in 2010, shows positive results. It set up “compliance committees” comprising three members at each administrative tribunal, at the State Council, the Court of Cassation as well as the Court of Audit to examine non-execution complaints. Their annual report, highlighting the main reasons for execution delays, is submitted to the Prime Minister, the President of Parliament and to the competent Ministers. Concerning the execution of domestic courts’ judgments concerning the lifting of expropriation orders, difficulties persist. These are mainly due to the cumbersome and time-consuming procedure for the modification of development town plans, which is a prerequisite to the lifting of expropriation orders. The authorities established a working group tasked with the elaboration of legislative amendments regulating the execution of these judgments. The recently established “mechanism supervising the execution of European Court’s judgments” was requested to intervene to speed up procedures. The remaining issues, notably as regards the effectiveness of remedies, continue to be monitored in the context of the remaining *Beka-Koulocheri* group.

All judgments of domestic courts, except those concerning the lifting of expropriation orders and modification of district boundary plans, had been executed.

■ GRC / Non-enforcement of judicial decisions annulling expropriation orders

Beka-Koulocheri (group) - Application No. 38878/03, judgment final on 06/10/2006, enhanced supervision, [CM/ResDH\(2017\)288](#)

” Non-enforcement or delayed enforcement of domestic judicial decisions (mostly judgments ordering the annulment of expropriation orders and modifications of relevant urban plans); lack of an effective remedy (Articles 6 § 1, 13 and Article 1 of Protocol No. 1)

CM Decision / Final resolution (partial closure): The “execution mechanism” set up in 2002 has presented positive results, the number of non-executed domestic court judgments from 2004 to 2014 has been reported to be small, and the Council of compliance set up within the Administrative Court in Athens are functioning well. Difficulties persist, however, in the execution of domestic judgments concerning lifting of expropriation orders, notably due to the time-consuming procedure for the modification of development town plans, which is a prerequisite for the lifting of such orders. A working group has been tasked with proposing legislative amendments regulating the execution of this kind of judgments, and the “mechanism supervising the execution of the European Court’s judgments” has been requested to intervene to speed up the procedure. In September 2017, the CM requested information on the content of the envisaged reform, data concerning the number of non-executed judgments, and invited the authorities to ensure their execution promptly.

As regards individual measures, in 11 cases the delayed execution was not related to recurrent causes and all necessary measures have been implemented. The CM thus decided to close its supervision of these 11 cases.

■ MDA / Non-enforcement of judgments - mainly against the State or State companies

Luntre and Others (group) - Application No. 2916/02, judgment final on 15/09/2004, enhanced supervision

” Failure or substantial delay in the enforcement of final domestic judicial decisions most of which were delivered against the State or State companies and lack of an effective remedy; violations of the right to respect for property (Articles 6 § 1 and 13, Article 1 of Protocol No. 1)

CM Decision: The findings of the Court in the *Luntre* judgment led to the development of a series of responses, including budgetary reforms to ensure the availability of funds to honour outstanding judgment debt and legislation allowing the transformation of in kind obligations to monetary ones. The whole process was also supported by the Court through the *Olaru* pilot judgment which highlighted the need to set up effective remedies (this question is dealt with separately by the CM – remedies are today in place). The Court stressed that repetitive cases should be dealt with at national, not European level. All these processes have today led to important results.

In March 2017, the CM invited the authorities to provide their analysis of the effectiveness of the current system of enforcement, together with relevant statistical data, in order to fully assess the status of execution of this group of cases.

As regards individual measures, the CM invited the authorities to complete pending enforcement proceedings.

■ ROM / Deficient legal framework for the execution of court decisions

Ruianu and 17 other cases - Application No. 34647/97+, judgment final on 17/09/2003, CM/ResDH(2017)392

” Various deficiencies in the legal framework for the execution of final and enforceable court decisions or its application; also excessive length of proceedings (Article 6 § 1 and, in certain cases Article 1 of Protocol No. 1)

Final resolution: Two avenues to challenge inactivity of bailiffs were introduced in 2000 and modified in 2005: a preventive action challenging inaction or delay under the Civil Procedure Code and an action in tort liability as the failure to enforce a court injunction constitutes a criminal offence, both under Law No. 188/2000 and under the new penal Code. Further improvements, in particular concerning sanctions for debtors obstructing the execution of final court decisions were brought by a new Civil Procedure Code in 2014. The penalties applied to the debtor benefit to the creditor and to the State. Training activities for bailiffs and magistrates were organised by the National Centre for bailiff training and the National Institute for Magistrates. The issue of excessive length of proceedings is examined in the context of the *Vlad* group.

In certain cases, just satisfaction for pecuniary damage was awarded, in particular when the execution of the relevant domestic judgment had become time-barred.

■ ROM / Non-enforcement of court decisions by the administration and State companies

Săcăleanu (group) - Application No. 73970/01, judgment final on 06/12/2005, enhanced supervision

” Failure or significant delay of the Administration or legal persons under the responsibility of the State in abiding by final domestic court decisions (Articles 6 § 1 and Article 1 of Protocol No. 1)

CM Decision: In order to address the complex structural problems revealed, the government has developed a number of responses, summarised in the last action plan of December 2016, examined in March 2017. These measures include the revision of existing payments mechanisms to make them effective; the revision of the legislative framework to allow a judicial or administrative examination of objective obstacles to execution, including prescription; the adoption of possible new legislation to find solutions to the State's responsibility for debts linked with unenforced judgments against State-controlled enterprises in liquidation; the introduction of a general monitoring mechanism of the respect of judgments awarded against the State; and the large dissemination of the European Court's case-law. Following its examination, the CM encouraged the authorities to complete and implement the announced reforms rapidly and to put in place without delay adequate and effective legal remedies allowing for the situation contrary to the Convention to be brought to an end.

The authorities were requested to speed up the implementation of outstanding domestic court decisions rendered in favour of applicants.

RUS / Failure or serious delay by the State and municipal authorities in abiding by judicial decisions

Gerasimov and Others (group) - Application No. 29920/05, judgment final on 01/10/2014, enhanced supervision

” Failure or serious delay by the State and municipal authorities in abiding by final domestic judicial decisions concerning different obligations in-kind, such as housing or the issuance of documents; lack of an effective domestic remedy (Article 6 § 1, Article 1 of Protocol No. 1 and Article 13)

CM Decisions: The federal law amending the 2010 Compensation Act came into force on 1 January 2017. It extended the scope of the remedy provided for delayed enforcement of judicial decisions to cover both pecuniary and non-pecuniary obligations and was found *prima facie* to be effective. CM therefore decided to close the examination of the remedy question. It invited, however, the authorities to provide updated information on progress achieved concerning the resolution of applications pending before the Court.

In view of the important progress achieved in addressing and removing the origin of the problem of non-enforcement, in particular as regards judicial decisions awarding housing to military servicemen. On the basis of the significant decrease in the number of judgments awaiting enforcement, CM decided to close this aspect. However, concerning other categories of social housing, including housing allocated to the orphans and children left without parental care, CM requested information on the practical impact of the measures taken.

Considering the substantial progress achieved, CM decided to pursue its supervision of the settlement of the remaining applications under the standard procedure.

Enforcement of domestic judgments concerned has been ensured or is under way.

SER / Non-enforcement of judicial decisions against socially-owned companies

R. Kačapor (group) - Application No. 2269/06, judgment final on 07/07/2008, enhanced supervision

EVT Company (group) - Application No. 3102/05, judgment final on 21/09/2007, Final resolution [CM/ResDH\(2017\)183](#)

” Non-enforcement of final court or administrative decisions, mainly concerning socially-owned companies, implying also interferences with the right to peaceful enjoyment of property and the right to respect for family life; lack of an effective remedy (Articles 6 § 1 and 13, Article 1 Protocol No. 1)

CM Decision / Final resolution (partial closure): In June 2016, the CM closed its supervision of the issues relating to the enforcement of *decisions in civil, commercial and family-related matters, as well as eviction orders* within the context of the special “protected tenancy regime” – see the Final resolution [CM/ResDH\(2016\)152](#) in the *Blelajac* group of cases.

The authorities’ efforts to enforce *decisions against socially-owned companies*, followed in the remaining group headed by the case *R. Kačapor*, resulted in a significant reduction of similar cases submitted to the Court.

New such companies may not be created and the legislative moratorium on enforcement against them was lifted by the 2015 Enforcement Law (as regards salary arrears and other employment related benefits). Remedies have been introduced: an acceleratory and compensatory remedy in the 2015 Law on the Protection of the Right to Trial within a Reasonable Time (effectiveness not yet confirmed by the Court) as well a constitutional complaint mechanism including the possibility to obtain compensation from the State through the Constitutional Court's decision (both non-pecuniary and compensation for unpaid sums under the non-enforced judgment at issue – accepted as effective by the Court). Nevertheless, further substantive measures remain necessary to address the roots of the problem of non-enforcement of final decisions rendered against socially-owned companies and municipal authorities. The authorities were invited to duly inform the CM about achievements made.

In June 2017, the CM decided to make a new partial closure of those cases in which the issue of individual measures could be considered solved as enforcement proceedings could be resumed upon initiative of the applicants - see the Final resolution [CM/ResDH\(2017\)183](#) in the *EVT Company* case. In two other cases, the authorities were again urged to enforce the domestic decisions at issue.

■ UKR / Non-enforcement of domestic judicial decisions against the State and State companies

Yuriy Nikolayevich Ivanov (pilot judgment) - Application No. 40450/04, judgment final on 15/01/2010, enhanced supervision

Zhovner (group) - Application No. 56848/00, judgment final on 29/09/2004, enhanced supervision

Burmych and Others - Application No. 46852/13+, judgment final on 12/10/2017, enhanced supervision

” Failure or serious delay by the administration in abiding by final domestic judgments and lack of effective remedies; special “moratorium” laws providing excessive legal protection against creditors to certain companies (Articles 6 § 1, 13 and Article 1 of Protocol No. 1)

CM Decisions: The persistent problem revealed in this group of cases has deep. Despite the CM's repeated calls for effective remedial measures and indications related to the necessary execution measures, supplemented by a pilot judgment from the Court setting the requirements to be respected for the introduction of an effective remedy, progress has remained absent as evidenced by numerous decisions and interim resolutions.

In the light of the authorities commitment at the highest level to adopt necessary reforms the CM adopted on 7 June 2017 an Interim Resolution stressing the threat the situation posed for the Rule of Law and providing continued guidance for the reform work necessary to solve the problem. Shortly thereafter, in view of the failure of the pilot judgment procedure and the weight of repetitive cases, the Court decided in the *Burmych and Others* judgment of 12 October 2017 that some 12,146 pending applications fell to be dealt with in compliance with the obligation deriving from the earlier pilot judgment. It, accordingly, struck the applications out of its list and transmitted them to the CM in order for them to be dealt with in the framework of the general measures of execution of the pilot judgment, including as

regards the provision of redress for the non-enforcement or delayed enforcement of domestic decisions.

When examining the situation in December 2017, the CM noted with interest the rapid holding of a high level meeting on 17 November 2017 in Strasbourg, with the participation of the Ministry of Justice, the Presidential Administration and the Parliament, to discuss the creation of an *ad hoc* redress mechanism for all applicants concerned by the *Burmych and Others* judgment, to go hand in hand with the efforts to secure a long-lasting solution addressing the root cause of the problems. The CM stressed that such a mechanism should provide adequate and sufficient redress to all applicants with valid complaints, including the enforcement of domestic court decisions still enforceable, payment of default interest and compensation for non-pecuniary damage and costs and expenses. The CM also underlined the need to allocate sufficient human and administrative resources to the mechanism and to ensure that necessary budgetary allocations are provided to pay speedily the sums awarded.

The CM highlighted the urgency to find in parallel a long-lasting solution to the root cause of the problems, drawing inspiration from the guidance given by the Committee and the Court over the years, and called on the authorities to reinforce their contacts with the Secretariat in this respect.

Following the CM's decision a number of further meetings have been held between the Secretariat and the national authorities to devise viable solutions. A HRTF funded special assistance program has also rapidly been set up.

F.8. Organisation of the judiciary

■ AND / Lack of impartiality of a judge of the Supreme Court in civil proceedings

UTE Saur Vallnet - Application No. 16047/10, judgment final on 29/08/2012, [CM/ResDH\(2017\)73](#)

” Lack of impartiality of a judge of a Supreme Court judge as he was also partner and board member of a law firm providing legal assistance to the government in proceedings concerning the imposition of an administrative fine on the applicant company (Article 6 § 1)

Final resolution: The rules on incompatibility of the function of judge or magistrate with any public or private function covered in principle the situation at issue and the case was thus of an isolated nature, requiring only dissemination and awareness raising measures.

The absence of redress caused by the absence of any possibility to reopen the administrative proceedings at issue was solved by new legislation in 2014, modified in 2016 to cover also cases still pending before the CM for supervision of execution.

The reopening of the case was granted under the new law and the reimbursement of the administrative fine ordered as a result of new administrative proceedings.

UKR / Interference by the executive and the legislature in pending procedures

Agrokompleks - Application No. 23465/03, judgments final on 08/03/2012 and 09/12/2013 (just satisfaction), enhanced supervision

- ” Lack of independence and impartiality of the domestic courts hearing an insolvency case brought against a big, largely state-owned, oil company; excessive length of the proceedings and breach of the principle of legal certainty due to the quashing of the final judicial decision, the mere size of the sum awarded being disguised as a newly discovered circumstance (Article 6 § 1, Article 1 of Protocol No. 1)

Developments: An updated action plan / report is awaited (see AR 2016).

UKR / Judicial independence and dismissal of judges

Oleksandr Volkov - Application No. 21722/11, judgment final on 27/05/2013, enhanced supervision

Salov (group) - Application No. 65518/01, judgment final on 06/12/2005, enhanced supervision

- ” Unlawful dismissal of a judge of the Ukrainian Supreme Court in 2010, serious systemic problems concerning the functioning of the Ukrainian judiciary, notably as regards the system of judicial discipline and undue executive and legislative interferences (Articles 6 § 1 and 8)

CM Decision: The questions linked with judicial independence and protection from executive and parliamentary interferences has been followed for a long time (starting with the *Sovtransavto* case in 2002). When examining the situation in March 2017, the CM noted with satisfaction that substantial progress has been achieved in the reform of the system of judicial discipline and careers, in particular through constitutional amendments and new legislation. Under the new system Parliament has, for example, no longer the competence to dismiss judges. A new Law on the Higher Council of Justice (“HCJ”) has also remedied the deficiencies in the earlier HCJ to ensure its independence and impartiality and to enable it structurally to resist better internal and external pressure. The HCJ is thus now operating on a full-time basis, with a majority of judges in its plenary composition as well as in its Disciplinary Chambers. It is fully operational. This progress was noted with satisfaction by the CM on the basis of the Secretariat’s detailed assessment and with the assistance of the Council of Europe’s cooperation activities and technical advice, outstanding issues should be addressed rapidly and further reforms to strengthen the independence of the judiciary pursued.

Other remaining issues, including the dismissal of a number of judges by Parliament under the old, non-Convention conform procedure in place until October 2016, are to be addressed in updated action plans/reports.

The applicant in the *Volkov* case was reintegrated in his post as judge of the Supreme Court.

G. No punishment without law

BIH / Retrospective application of a more severe criminal law for war crimes

Maktouf and Damjanović - Application No. 2312/08+, judgment final on 18/07/2013 (Grand Chamber), [CM/ResDH \(2017\)180](#)

” Retrospective application of a new criminal law laying down heavier sentences for war crimes than the law in force when the crimes were committed (application of the 2003 Criminal Code instead of the 1976 Criminal Code of the Socialist Federative Republic of Yugoslavia) (Article 7)

Final resolution: Following the European Court’s judgment, the Constitutional Court changed its case-law and quashed 21 convictions by the State Court based on the more recent law providing for heavier penalties and remitted them for fresh examination. The State Court’s subsequently modified its own case-law. Furthermore, in order to address the risk of absconding, the Constitutional Court, after March 2014, quashed impugned State Court convictions only partially with regard to the sentence, so that those convicted in impugned war crimes proceedings awaiting renewed examination could be maintained in detention.

In reopened proceedings, both applicants were sentenced under the more lenient law.

■ LIT / Retroactive application of new criminal-law provisions regarding genocide

Vasiliauskas - Application No. 35343/05, judgment final on 20/10/2015, [CM/ResDH\(2017\)430](#)

” Conviction for genocide for having participated, as an operational agent of the Ministry of State Security of the Lithuanian Soviet Socialist Republic, in an operation which resulted in the killing of two partisans, by retroactive application of criminal law provisions which were not in force at the time of the impugned events in 1953 (Article 7)

Final resolution: The case law on genocide has significantly developed since the applicant’s conviction. In 2014, the Constitutional Court held, *inter alia*, that the broad definition of genocide of the 2003 Criminal Code (which included social and political groups in the range of protected groups) could not be applied retroactively despite its compatibility with the Constitution. The prosecution authorities and domestic courts adapted their practice and now refrain from retroactive prosecution and conviction for genocide of political groups. Accordingly, in February 2016, the Supreme Court upheld the acquittal of a person on genocide charges.

The applicant died in 2015. In 2016, the Supreme Court seized by his next of kin decided, taking into account the European Court’s findings, to annul the conviction and to terminate the criminal proceedings.

■ ROM / Punishment without sufficient legal basis and forfeiture of property

Pleshkov - Application No. 1660/03, judgment final on 16/02/2015, [CM/ResDH\(2017\)247](#)

” Criminal conviction as well as forfeiture of property (fishing boat) used for the commission of an alleged offense under a legal provision insufficiently foreseeable relating to the delimitation of authorized fishing zones (Articles 7 and 1 of Protocol No. 1)

Final resolution: A consistent and foreseeable interpretation of the relevant legislation at issue was provided by national case-law and practice, consolidated between 2009 and 2016.

The applicant received compensation for the confiscated property and moral damages from the Court and did not request the reopening of proceedings.

H. Home / Private and family life

H.1. Right to home

■ BGR / Eviction of persons of Roma origin - Deficient legislation

Yordanova and Others - Application No. 25446/06, judgment final on 24/07/2012, enhanced supervision

- ” Eviction of occupants of Roma origin from an unlawful settlement where many had lived for decades with the authorities’ acquiescence without any examination of proportionality as this was not required under the legislation in force (potential violation of Article 8 in the event of enforcement of the removal order)

CM Decision: No tangible progress has been reported in the adoption of the legislative reforms necessary to ensure a proportionality assessment of removal orders, even in cases motivated by the unlawful occupation of public property or orders for the demolition of unlawful buildings. In September 2017, the CM called upon the authorities to adopt without further delay the necessary reforms, in particular to the State Property, the Municipality Property and the Territorial Planning Acts.

The applicants are presently under no threat of eviction as the statutory limitation for eviction under the impugned orders has expired. The possibility of new eviction order is closely linked to the general measures. In addition, the local administrative courts have annulled the measures for the enforcement of the demolition order concerning the house of the applicants *Ivanova* and *Cherkezov* and enjoined the authorities to carry out a proportionality analysis. Further information on this analysis has been requested. Information was received on 20 February 2018 and is currently under assessment.

H.2. Domestic violence

■ ITA / Failure to assess risk to life and to protect against domestic violence

Talpis - Application No. 41237/14, judgment final on 18/09/2017, enhanced supervision

- ” Failure of the authorities to comply with their positive obligation to properly assess risk to life in due time in a case of domestic-violence; delays in mounting adequate response to acts of domestic violence; shortcomings in protection of women against domestic violence (Articles 2 and 3, Article 14 combined with Articles 2 and 3)

Developments: An action plan/report is awaited.

■ LIT / Ineffective investigations into allegations of domestic violence

Valiulienė - Application No. 33234/07, judgment final on 26/06/2013, [CM/ResDH\(2017\)313](#)

- ” Investigative and procedural flaws resulting in prosecution of domestic-violence case becoming time-barred (Article 3)

Final resolution: Measures of protection for the victims of domestic violence were provided for in the new law on Protection against Domestic Violence of 2011. In 2015, the Prosecutor General’s Office underlined in a summary that protection measures available

during pre-trial investigations are underused. Recent recommendations were issued by the General Prosecutor's Office aimed at ensuring speediness and efficiency of criminal investigations in such cases. Relevant training activities to improve prosecutors' investigative skills were organised. The Police General Commissioner adopted guidelines to improve police diligence and the gathering of evidence in domestic violence cases.

■ ROM / Failure to implement legislative framework for protection from domestic violence

Bălşan - Application No. 49645/09, judgment final on 23/08/2017, enhanced supervision

- ” Failure to adequately protect from domestic violence and insufficient actions to effectively tackle this phenomenon and to secure the implementation of the legal framework put in place to this effect (Article 3 and Article 14 in conjunction with Article 3)

Developments: New case - an action plan / report is awaited.

■ TUR / Inadequate measures to protect against domestic violence

Opuz - Application No. 33401/02, judgment final on 09/09/2009, enhanced supervision

- ” Failure of the police to react to warnings of violence by the husband against his wife and her mother, with the result that the mother was killed; inadequate investigations into the killing and ill-treatment, inadequate legal framework to establish and apply a system punishing all forms of domestic violence effectively and providing sufficient safeguards for the victims; general and discriminatory judicial passivity in face of domestic violence against women creating a climate conducive to such violence (Articles 2, 3 taken alone and in conjunction with Article 14)

CM Decision: The CM noted the positive trend in the fight against domestic violence, in particular through legal amendments, changes in case-law and the establishment of Violence Protection and Monitoring Centres; it regretted however the apparently large number of women still subjected to such violence and the incomplete implementation of preventive/protective measures. Thus, the CM urged the authorities to submit information on the concrete implementation of preventive/protective measures, and of sanctions in case of non-compliance with them. Inspiration in the fight against domestic violence could be drawn from recommendations/suggestions made by various national and international bodies, including the Parliamentary Inquiry Commission, the Ministry of Family and Social Policies, and the UN Committee on the Elimination of Discrimination against Women.

In March 2017, the CM underlined the need to conclude the criminal proceedings against the victims' husbands swiftly and to maintain preventive and protective actions in relation to the applicants.

H.3. Abortion / Procreation / Filiation / Marriage

■ FRA / Refusal of legal recognition to parent-child relationships legally established abroad

Menesson and 3 other cases - Application No. 65192/11+, judgment final on 26/06/2014, [CM/ResDH\(2017\)286](#)

” Refusal to grant legal recognition in France to parent-child relationships that had been legally established in the United States with regard to children born as a result of surrogacy arrangement and the couples who had had recourse to such arrangements (Article 8)

Final resolution: The parental ties which unite the French father with a child born from a surrogacy arrangement is now recognised in French law following two decisions by the Plenary Assembly of the Court of Cassation in 2015. These confirmed and developed a prior 2013 circular of the Ministry of Justice which had indicated that French nationality certificates had to be issued when filiation could be established on the basis of a foreign civil status certificate and the authenticity/veracity of the foreign certificate could be established, as required by Article 47 of the Civil Code. In addition a review procedure in matters relating to civil status following the finding of a violation of the Convention was established by the law of modernisation of justice in the 21st century (2017), applicable to requests for transcription, into French civil status registers, of birth certificates established abroad.

The applicants could all avail themselves of the new legal situation and French birth and nationality certificates were issued to the children concerned.

■ ITA / Lack of legal status for unions between same-sex partners

Oliari and Others - Application No. 18766/11+, judgment final on 21/10/2015, [CM/ResDH\(2017\)182](#)

” Lack of legal recognition and protection for unions between same-sex partners (Article 8)

Final resolution: The recognition and protection, in the form of a civil union, of committed and stable same-sex relationships was guaranteed through a specific legal framework in May 2016.

■ POL / Failure to provide information on lawful abortion

P. and S. - Application No. 57375/08, judgment final on 30/01/2013, enhanced supervision

” Failure to provide effective access to reliable information for a mother and her minor daughter on the conditions and procedures to be followed to access lawful abortion following rape, disclosure of the applicants’ personal data and unlawful detention of the minor applicant (Articles 3, 5 and 8)

CM Decision: In accordance with the Law on Family Planning, abortion is lawful in a number of situations, including where “there are strong grounds for believing that the pregnancy is the result of a criminal act” such as rape. However, at the same time section 39 of the Medical Profession Act 1996 gives a physician the right to refuse, on conscientious grounds, to carry out a medical service, including a lawful abortion. As the information submitted did not explain how possible conflicts could be resolved, the CM invited, in September 2017, the authorities to provide such information. It also requested information on the action taken against medical service providers in respect of failure to comply with their contracts with the National Health Fund in respect of lawful abortion, and on the general availability of lawful abortion in the Polish healthcare system. Additional clarification was also needed on why the

existing mechanism was not effective in this particular case and on measures to ensure the respectful treatment of minors seeking lawful abortion.

The CM closed the supervision of individual measures on the basis of the abortion performed in Gdansk after the intervention of the Ministry of Health.

H.4. Acquisition, use, disclosure or retention of private information

■ BGR / Insufficient guarantees against abuse of secret surveillance measures

Association for European Integration and Human Rights and Ekimdzhiev (group) -

Application No. 62540/00, judgment final on 30/04/2008, enhanced supervision

” Deficiencies of the legal framework on functioning of secret surveillance system; lack of effective remedy (Articles 8 and 13)

CM Decision: Legislative reforms have been adopted to enhance the judicial control and regulation of the use of secret surveillance on national security grounds, notably through the setting-up of the National Bureau as an independent monitoring body which also carries out verifications upon request from individuals.

These reforms have been welcomed by the CM. However, the fact that the initial authorisation of a surveillance measure for anti-terrorist or national security purposes has a validity of two years without any judicial review was found to raise questions as it could weaken the safeguard of judicial control. In June 2017, the CM thus invited the authorities to submit their assessment of possible measures to address these questions, as well as regarding the feasibility of a common database for requests for secret surveillance. Information was also requested concerning the courts competence to examine claims for compensation for unlawful use of surveillance (all remaining questions requiring clarifications are identified in document [CM/Inf/DH\(2013\)7](#)).

Information gathered on the applicants and still in the authorities' possession at the time of the Court's judgment has been destroyed.

■ CZE / Inspection by the competition authorities in the absence of safeguards against arbitrariness

Delta Pekárny A.S. - Application No. 97/11, judgment final on 02/01/2015, [CM/ResDH\(2017\)299](#)

” Search of a company's offices by the competition authorities, in the absence of judicial guarantees, in particular absence of prior judicial authorisation and of any possibility to effectively have the lawfulness reviewed after the search (Article 8)

Final resolution: Questions regarding the lawfulness of an administrative body's decisions, even if already taken, may be brought before administrative courts following legislative amendments in 2012. In February 2016, the Supreme Administrative Court's confirmed that this protection covers also on-site inspections. That position was also codified in the Act on the Protection of Competition of 2001 by an amendment in 2016.

In new proceedings engaged after the Court's judgment, the judgment imposing on the company a fine for violation of competition rules (also challenged in the case before the European Court, but left undecided on the merits for non-exhaustion of domestic remedies) was quashed by the Constitutional Court in 2012. Subsequently,

in a fresh action brought under Article 82 of the Code of Administrative Justice, the competent court declared the on-site inspection of 2003 lawful and proportionate. An appeal on points of law against this judgment is still pending before the Supreme Administrative Court. In a second set of proceedings, the Constitutional Court rejected the company's request for reopening, referring to its decision from 2012 concerning the substance of the issue.

■ HUN / Insufficient guarantees against abuse of secret surveillance measures

Szabó and Vissy - Application No. 37138/14, judgment final on 06/06/2016, enhanced supervision

” Excessively vague wording of the 2011 Police Act and insufficient guarantees against abuse (only supervision by a politically responsible member of the executive) as regards secret surveillance measures authorised in the fight against terrorism or in order to rescue citizens abroad (Article 8)

CM Decision: The Hungarian authorities acknowledged the need to amend the current legislation on secret surveillance measures, and informed the CM about the ongoing preparatory work to this aim. In December 2017, the CM invited the authorities to address the entirety of the shortcomings identified in the course of this work, and to provide comprehensive information on the intended reforms by 30 June 2018.

■ LVA / Collection of personal medical data by a State agency without consent

L.H. - Application No. 52019/07, judgment final on 29/07/2014, [CM/ResDH\(2017\)64](#)

” Ex officio collection of personal medical data from different medical institutions by a State agency (MADEKKI) in the process of an administrative inquiry concerning the applicant's health care on the basis of legal provisions lacking sufficient precision and adequate legal protection against arbitrary collection and use of the data (Article 8)

Final resolution: Changes to the legal framework for the protection of the medical data were introduced, including changes in the context of review of the quality of health care. The competence of public institutions has been clarified by the Cabinet of Ministers' Order from 2007, and the State agency MADEKKI was integrated into the Health Inspectorate.

Patient data may be used only with the patient's written consent or in specific enumerated cases, as provided for by the 2009 Law on the Rights of Patients. The law lists the public healthcare institutions entitled to receive, collect and use patient data. The Health Inspectorate is authorised to collect patient data to ensure supervision of the healthcare sector. The Law on the Rights of Patients also provides that the right to initiate proceedings before the Health Inspectorate to obtain an evaluation of the health care quality provided belongs only to the patient or his representative. It is thus no longer possible for a medical institution to initiate such proceedings without the patient's knowledge, as it happened in the present case.

The data collected by the State agency in connection with the domestic dispute between the applicant and the hospital were destroyed.

MDA / Disclosure of medical information to an employer

Radu - Application No. 50073/07, judgment final on 15/07/20147, [CM/ResDH\(2017\)347](#)

” Disclosure of information of a medical nature by a medical institution to a person’s employer, including sensitive details about her pregnancy, her state of health and treatment received despite an explicit prohibition in domestic legislation to disclose such information (Article 8)

Final resolution: Rules and proceedings for the protection and management of personal data under the supervision of the Centre for Protection of Personal Data were set up by a new Law on the protection of personal data in 2012, which was adopted in the framework of the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data 1981 and its additional protocol as well as Directive 95/46/EC of the European Parliament and of the Council of 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data. Instructions were issued by the Ministry of Health to all medical institutions. The judgment was published and disseminated. It is used in training activities by the National Institute of Justice.

The medical documents at issue were destroyed by the employer.

RUS / Interception of mobile telephone communications

Roman Zakharov - Application No. 47143/06, judgment final on 04/12/2015, enhanced supervision

” Shortcomings in the legal framework governing interception of mobile telephone communications (Article 8)

CM Decision: An internal consultation process between all competent national bodies has been initiated, with a view to exploring the issue of introducing amendments and additions to the relevant legislation governing the interception of mobile telephone communication. However, no agreement has been reached yet between the authorities involved, and the CM thus invited them in December 2017 to rapidly bring this process to an end with a view to presenting the necessary legislative amendments.

As regards individual measures, the just satisfaction awarded for cost and expenses has been paid. No other individual measures are necessary.

SER / Failure to provide information on the fate of new-born “missing babies”

Zorica Jovanović - Application No. 21794/08, judgment final on 09/09/2013, enhanced supervision
Interim resolution [CM/ResDH\(2017\)292](#)

” Continuing failure by the authorities to provide credible information to the applicant as to the fate of her son, allegedly deceased in a maternity ward in 1983: his body was never transferred to her and she was never informed of where he had allegedly been buried; in addition, his death was never properly investigated and officially recorded (Article 8)

CM Decisions: The European Court’s judgment called upon the authorities to “take all appropriate measures, preferably by means of a *lex specialis* to secure the establishment of a mechanism aimed at providing individual redress to all parents

in a situation such as, or sufficiently similar to, the applicant's". Measures should be in place within one year, i.e. by 9 September 2014.

In view of the absence of progress within this time limit, the CM has frequently put the case for detailed examination of the execution situation. In the course of these examinations, it notably emerged in 2016 that the adoption of the draft law was delayed as a consequence of concerns voiced by parents of "missing babies" as to the content of the draft law. Four times in 2017, the CM dedicated a detailed examination of the progress in the execution process in this case. In spite of repeated calls from the CM and the assurances given by the authorities about progress in the adoption process, the necessary legislation had still not been adopted at the end of 2017.

H.5. Placement of children in public care, custody and access rights

■ CRO / Refusal to register an incapacitated person as the father of his child

Krušković - Application No. 46185/08, judgment final on 21/09/2011, [CM/ResDH \(2017\)338](#)

” Failure by the authorities to register a person divested of his legal capacity as the father of his biological child (Article 8)

Final resolution: Persons divested of legal capacity may acknowledge their paternity before the competent social welfare centre, this acknowledgment shall be effective if the child's mother consents in accordance with the new Family Act 2015. If the mother refuses, the guardian of the person divested of legal capacity claiming to be the child's father is obliged to institute court proceedings, within 30 days, to establish paternity. Training activities for members of the judiciary were organised on the issue.

Following the Court's judgment the applicant was registered as the child's father in the relevant records.

■ GER / Lack of consideration of the child's best interest in paternity cases

Anayo and 1 other case - Application No. 20578/07+, judgment final on 21/08/2011, [CM/ResDH \(2017\)63](#)

” Domestic courts' failure to give consideration to the question of whether contact between the applicants and their biological children, in both cases living with the biological mother and her husband, would be in the children's best interests (Article 8)

Final resolution: The biological father was granted a right of access to his child in new legislation in 2013, on condition that he had shown a sustained interest in the child and that access was in the child's best interests. This right is independent of a biological father's social-family relationship with the child. A biological father also has the right to information about the child's personal circumstances. The biological paternity of the claimant is therefore to be examined during proceedings on access or information, and is to be ascertained, if necessary, by the taking of evidence. Complementary procedural rules define how to ascertain biological paternity in disputed cases.

The access rights of the applicants to their children are re-examined according to new legislation in place.

■ TUR / Child abduction

Özmen (group) - Application No. 28110/08, judgment final on 04/03/2013, enhanced supervision

” Inadequate measures taken in order to implement orders of return of abducted children under the Hague Convention on the Civil Aspects of International Child Abduction (Article 8)

Developments: The Turkish authorities submitted additional information in August 2016 on individual measures taken. As regards the general measures, a consolidated action plan indicating specific measures envisaged to ensure that the domestic courts take into account their international obligations under the Hague Convention to prevent further violations in cases concerning child abduction is awaited. Submitted information is currently under assessment.

H.6. Gender identity

■ LIT / Gender reassignment - Lack of implementing legislation

L. - Application No. 27527/03, judgment final on 31/03/2008, enhanced supervision

” Lack of implementing legislation regulating the conditions and the procedure for gender reassignment and the change of entries in official documents (Article 8)

CM Decision: Notwithstanding the important developments of judicial practice to care for the needs of persons undergoing partial or full gender reassignment, the CM could not but regret that more than nine years since the European Court’s judgment became final, the legislative process aimed at codifying and improving the regulation gender reassignment procedures had not been completed. In September 2017, the CM noted with interest that the government had now set itself a deadline for the preparation of the legislation required. The CM welcomed the authorities’ constructive engagement with civil society and encouraged the authorities to ensure the completion of the draft legislation without delay and its submission to Parliament.

In view of the recent working groups’ decision that the most urgent matter was partial gender reassignment, the CM recalled that the legislation to be adopted ultimately will have to regulate also the conditions and procedure for full gender reassignment.

H.7. Specific situations

■ CRO / Court ordering a new-born baby and its mother to return to hospital

Hanzelkovi - Application No. 43643/10, judgment final on 11/03/2015, [CM/ResDH \(2017\)258](#)

” Disproportionate court order requiring the forcible return to hospital of a new-born baby and his mother, who had gone home from the hospital immediately after birth as everything had gone well; and lack of any remedy to complain about the measure (Articles 8 and 13)

Final resolution: New guidelines for maternity hospitals on the discharge of new-borns and their mothers to their private homes after delivery were issued by the Ministry of Health in 2013, and their practical effectiveness evaluated.

As concerns remedies against court orders, an amended Instruction of the Ministries of Justice, Interior, Health, Education and Labour and Social Affairs concerning enforcement procedures in custody matters, provides that social welfare authorities may propose discontinuation of enforcement to the bailiff, if the relevant decision could negatively influence the child's mental or emotional development. According to the Code of Civil Procedure, the lawfulness of interim measures may be examined by appellate courts. The Ministry of Labour and Social Affairs organised training seminars on these issues for all social welfare authorities in 2015.

I. Environmental protection and hazards

J. Freedom of thought, conscience and religion

RUS / Interference with religious activities

Jehovah's witnesses of Moscow and Others - Application No. 302/02, judgment final on 22/11/2010, enhanced supervision

” Blanket ban imposed in 2004 on the activities of the association of Jehovah's witnesses of Moscow for violations of domestic law, a sanction which the Court found disproportionate to whatever legitimate aim was pursued (Article 9 read in the light of Article 11)

Krupko and Others - Application No. 26587/07, judgment final on 17/11/2014, enhanced supervision

” Interruption in 2006 of one religious ceremony held outside a religious building, allegedly unlawfully because without prior notification by members of the religious group (Article 11 read in the light of Article 9)

CM Decision: As regards the *Jehovah's witnesses of Moscow and Others* judgment, the authorities have indicated that the religious association of Jehovah's witnesses in Moscow had been successfully re-registered in 2015. The legislation on registration and ban of religious associations was amended in 2014 providing that the possibility to ban a religious organization could only be applied as a result of a serious violation of the law; Supreme Court decisions also reflected similar legal positions.

As regards the *Krupko and Others* judgment, the authorities have indicated that the violation established was the result of an incorrect interpretation by the law enforcement officials of the legislative provisions in force at the material time. Since then, the 2012 Constitutional Court judgment has provided guidance and instructions for legislative amendments regarding the holding of religious ceremonies. These amendments were successfully introduced. The Supreme Court gave certain additional clarifications in a 2013 Plenum Resolution.

In both cases the authorities stated that they have fully discharged their obligations under Article 46 of the Convention.

In December 2017, the CM noted the progress achieved in the execution of these cases, in particular the introduction of the 2014 amendments to the Religions Act, taking into account the indications given by the Constitutional Court in 2012 and the case-law of the European Court, expanding the right to hold public religious

ceremonies without notification, as well as the successful registration, in 2015, of a new community of Jehovah's Witnesses of Moscow.

However, in the light of the applicants' complaints about a new blanket ban imposed in 2017 on the "Jehovah's Witnesses Administrative Centre in Russia" and all its constituent local branches, thus including also the applicant Moscow branch, for activities violating the law against extremism, and the applicants' ensuing loss of the right to manifest their religion individually or in community with others, the CM decided to continue the examination of these cases under enhanced supervision.

TUR / Refusal to provide public religious services to members of Alevi faith

Izzetin Doğan - Application No. 62649/10, judgment final on 26/04/2016, enhanced supervision

” Discriminatory treatment between members of Alevi faith and citizens adhering to majority branch of Islam benefiting from a religious public service (Articles 9 and 14)

Action plan: Action plan has been received on 8 February 2017 and is currently under assessment. Further information on both individual and general measures is awaited.

K. Freedom of expression

AZE / Excessive and arbitrary sanctions limiting freedom of expression

Mahmudov and Agazade (group) - Application No. 35877/04, judgment final on 18/03/2009, enhanced supervision

Fatullayev - Application No. 40984/07, judgment final on 04/10/2010, enhanced supervision, Interim Resolutions [CM/ResDH\(2013\)199](#), [CM/ResDH\(2014\)183](#) and [CM/ResDH\(2015\)250](#)

” Defamation - use of prison sentences and insufficient motivation of convictions; also arbitrary application of criminal legislation to limit freedom of expression (Articles 10, 6 § 1 and 6 § 2)

CM Decisions: The CM has been following this group of cases closely, notably through the adoption of three interim resolutions, with assessments and indications of relevance for the solution of the general problems revealed. As regards defamation the authorities initially referred to a de facto "moratorium" on convictions, guiding principles issued by the Supreme Court and several legislative initiatives, which have not, however, been reported to have led to any change of legislation. Similarly, a number of measures were initially reported to prevent the arbitrary application of criminal law, notably measures aiming at enhancing the independence of the judiciary and at improving the training of judges and prosecutors. The development of the situation in Azerbaijan as from 2014 has led the CM to call on repeated occasions for more important measures - see notably the AR 2016.

In response to these calls, the authorities recently referred to the adoption of the Presidential Executive Order on 10 February 2017, a development noted with interest by the CM in March 2017 and appraised as a promising development as the text notably contained directives for measures to ensure lawful action in law enforcement and to combat arbitrariness. The question was asked whether this initiative would also include changes to the law on defamation. In September 2017, the CM invited

the authorities to provide detailed information on the content of the legislative amendments developed in response to the Executive Order. At the same meeting, the CM stressed the crucial role of the judiciary in ensuring the implementation of the legislative framework being developed in full independence and in line with the Convention requirements. In this vein, the authorities were also invited to further develop training activities and other relevance measures to this effect.

The applicants in the first case had already served their sentences when the Court's judgment was rendered and obtained just satisfaction from the Court. The applicant in the second case was ordered to be set free in the Court's judgment and the impugned convictions were also rapidly quashed by the Supreme Court. The problem caused by the lengthy period unjustly spent in prison was solved as the applicant obtained a presidential pardon from another conviction sparing him from an equivalent period of detention.

■ BGR / Freedom of receive information - unclear legal framework

Guseva - Application No. 6987/07, judgment final on 06/07/2015, [CM/ResDH \(2017\)75](#)

” Failure of an administrative authority to comply with final domestic judgments rendered in 2004 recognising the applicant's right to receive information on the treatment of stray dogs due to unforeseeable law and judicial practice and lack of effective remedy (Articles 10 and 13)

Final resolution: The legal framework surrounding access to information was improved after the European Court's judgment. Access to public information can henceforth only be refused if an affected third party explicitly prohibits it, as provided for by 2015 amendment to the Law on access to public information (in force since 12 January 2016). If such a refusal is quashed on appeal, the competent authority should provide the required information within 14 days. This obligation has been confirmed by the practice of the Supreme Administrative Court. Also the binding force of judgments in administrative matters has been improved since 1 January 2007 and if administrative officials concerned today fail to act, the bailiffs can impose weekly pecuniary sanctions under the new 2006 Code of Administrative Procedure. The bailiff's decisions, actions or failures to act can be challenged before the administrative courts.

■ BGR / Disciplinary punishment of prisoners for complaints

Shahanov and Palfreeman - Application No. 35365/12, judgment final on 21/10/2016, [CM/ResDH \(2017\)256](#)

” Disciplinary punishment of prisoners - ten days of solitary confinement or three months' deprivation of food parcels - imposed by prison authorities in response to complaints made against prison officers (Article 10)

Final resolution: The principle that prisoners should not bear disciplinary liability for making requests or complaints was already included at the time of the events in the Execution of Sentences and Pre-Trial Detention Act 2009, subsequently amended in 2013. However, another piece of legislation allowed sanctions for defamatory statements or false allegations against prison officers and inmates. This legislation

was amended in 2013 so that only threats of violence against prison officers or other inmates are henceforth open to sanctions.

■ GER / Dismissal after initiation of criminal proceedings against employer

Heinisch - Application No. 28274/08, judgment final on 21/10/2011, [CM/ResDH \(2017\)62](#)

” Dismissal of a geriatric nurse without notice after having brought a criminal complaint against her employer, a state-owned company, alleging serious deficiencies in the care provided (so-called “whistle blowing”) (Article 10)

Final resolution: The violation results from an inappropriate adjudication by the labour courts. The Federal Constitutional Court had held in 2001 that in accordance with the rule of law the discharge of a citizen’s duty to give evidence in criminal investigations could not in itself entail disadvantages under civil law, pointing out that even in the event that an employee reported the employer to the public prosecution authorities on his or her own initiative, the rule of law required that such exercise of a citizen’s right could, as a rule, not justify a dismissal without notice from an employment relationship, unless the employee had knowingly or frivolously reported incorrect information. The judgment was translated, published and disseminated to avoid similar occurrences.

As the applicant received sickness benefits and a transitional allowance for the period covered by the unjust dismissal and could not prove other damage, only non-pecuniary damages were awarded.

■ HUN / Freedom of expression of judges - Undue dismissal

Baka - Application No. 20261/12, judgment final on 23/06/2016, enhanced supervision

” Premature termination of the mandate of the President of the Supreme Court in the context of a major reform of the judiciary in 2011, comprising individualised transitional provisions, doubtful from a rule of law perspective and prompted by the President’s criticism of the reform (absence of legitimate aim); lack of judicial review to challenge the new provisions, notwithstanding in particular the doubts their individualised form raised from a rule of law perspective (Articles 6 § 1 and 10)

CM Decision: In March 2017, the CM invited the authorities to provide information as to the measures taken or envisaged to ensure that any measures leading to the removal or dismissal of judges will be open to effective review in their entirety by an independent body exercising judicial powers. Information is also expected on measures aimed at better protecting the freedom of expression of judges in matter of important public interest, in particular in view of the “chilling effect” of the violations in the present case.

The case of *Ermenyi* concerning the parallel dismissal of the Vice President of the Supreme Court, final on 22 February 2017, was joined to the *Baka* case at the June meeting 2017. In view of the applicant’s submissions, the case was only examined under Article 8, which Article was also found to have been violated because the individualised transitional provisions did not to pursue any legitimate aim.

The authorities submitted a revised action report on 14 November 2017.

Judge *Baka* had reached the age of retirement at the time of the Court's judgment, so no issue of reinstatement or similar individual measures arose. He was fully compensated for pecuniary and non-pecuniary damage through the Court's just satisfaction award. Judge *Ermenyi* died in 2015, before the Court's judgment, so no similar issues of individual measures arose in his case either. His heirs were fully compensated for pecuniary and non-pecuniary damages through the Court's just satisfaction award.

ITA / Absence of guaranteed media pluralism

Centro Europa 7 S.R.L. and Di Stefano - Application No. 38433/09, judgment final on 07/06/2012 (Grand Chamber), [CM/ResDH\(2017\)104](#)

- ” Failure to put in place an appropriate legislative and administrative framework to guarantee effective media pluralism due to lacking precision and clarity of scope and duration of transitional provisions introduced to reallocate frequencies in the television broadcasting sector, thereby depriving of effect a ministerial decree granting a licence for nationwide television broadcasting to the applicant company (Article 10 and 1 of Protocol No. 1)

Final resolution: A new 2014 regulation from the Authority on the regulation of broadcasting (AGCOM), an independent administrative body responsible for the licensing and control of audio-visual media, clarified the modalities for the granting of a license, the transfer of ownership of radio and television companies and for operations of media concentration.

The applicant company was allocated frequencies in 2009 allowing it to broadcast in correspondence with the licence obtained.

ROM / Conviction of a whistle-blower - Unlawful secret surveillance

Bucur and Toma - Application No. 40238/02, judgment final on 08/04/2013, enhanced supervision

- ” Public disclosure, in 1996, by an employee of Romanian Intelligence Service (the “SRI”) of information on illegal telephone tapping by the SRI department where he worked, entailing his being convicted, in last instance by the Supreme Court of Justice on 13 May 2002, to a suspended sentence of two years' imprisonment for having unlawfully collected and disclosed classified information (Articles 6 and 10); lack of statutory safeguards applicable to secret surveillance measures in the event of any alleged threat to national security (Articles 8 and 13)

Developments: Following the CM's decision of December 2016, the authorities submitted information on the general measures implemented. Provided information concern clarifications relating to existing safeguards for the enforcement of laws governing secret surveillance measures based on national security considerations. This information is being evaluated.

RUS / Dismissal from judicial office for making critical media statements about the judiciary

Kudeshkina - Application No. 29492/05, judgment final on 14/09/2009, enhanced supervision

- ” Dismissal from judicial office for making critical media statements about certain matters relating to the functioning of the judiciary of important public interest (Article 10)

CM Decision / Transfer: As regards the freedom of expression of judges, the authorities have submitted information on the practice recommendations issued by the Supreme Court in February 2005 and June 2013, providing directions to local courts on the exercise of freedom of expression and on the application of the European Convention on Human Rights, highlighting notably the importance of the case-law of the Court, the important distinction to be made between value judgments and statements of fact and the fact that government officials can justifiably be criticised in the media. The CM noted this information with interest, and requested in September 2017 further information on the practical impact of these recommendations, particularly as regards the “chilling effect” on the freedom of expression of judges referred to by the Court in the present case. Further information was also sought on the measures adopted to improve the impartiality of judicial review of disciplinary procedures.

In the absence of any specific remedial action to erase the consequences of the violation for the applicant, the CM requested the authorities to urgently explore all appropriate individual measures, such as the applicant’s rapid reinstatement as a judge with retroactive effect at least for the purposes of retirement or sickness benefits. In order to avoid further delay the CM also decided to transfer the case under enhanced supervision.

TUR / Restriction of access to Internet

Yıldırım Ahmet - Application No. 3111/10, judgment final on 18/03/2013, enhanced supervision

” Domestic court order blocking access to Google Sites and “hosted websites” in the context of criminal proceedings brought against a third person; as a result of this blocking order, access to the applicant’s website, also hosted by Google Sites, was also blocked (Article 10)

CM Decision: The Law No. 5651 on regulating Internet publications and combating Internet offences was amended in 2014, but the CM considered in December 2017 that it does not provide effective safeguards to prevent abuse by the administration and imposition of blanket blocking orders on entire Internet sites. The CM thus invited the authorities to draw inspiration from relevant Council of Europe materials to that end.

As regards individual measures, the CM noted that the respective decisions to block access to Google Sites and YouTube had been lifted in March 2011 and October 2010 respectively.

TUR / Criminal investigation for “denigrating Turkishness”

Altuğ Taner Akçam (group) - Application No. 27520/07, judgment final on 25/01/2012, enhanced supervision

” Repeated criminal investigations for “denigrating Turkishness” in response to complaints amounting to harassment with chilling effect on freedom of expression – vagueness of amended Article 301 of the Criminal Code (Article 10)

CM Decision: In the light of the Court’s findings that the amendment of Article 301 of the Criminal Code, replacing the term ‘Turkishness’ with ‘the Turkish Nation’, has

not changed the interpretation of this Article, the CM recalled its different decisions adopted since 2014 (see the case of *Inçal v. Turkey*) calling for a revision of this Article and reiterated its call on the authorities to ensure this revision, without further delay, to bring the excessively vague provision in line with the European Convention's "quality of law" and "foreseeability" requirements.

As to the possibility of criminal investigations being engaged without good reasons and thus amounting to harassment with chilling effects, the CM noted in September 2017 the amendment to Article 158 of the Code of Criminal Procedure on 25 August 2017. According to this amendment public prosecutors will no longer be under a legal obligation to take statements from persons against whom criminal complaints have been lodged. If convinced that the complaint lodged has no basis, public prosecutors can issue a decision of non-prosecution without commencing a criminal investigation. CM noted this satisfactory progress and encouraged the authorities to implement the new amendment effectively, with a view to ensuring that a climate of self-censorship is not created affecting journalists and others who wish to express opinions that do not incite hatred or violence; invited the authorities to provide information on the implementation of this new legislation.

CM urged, in this context, the authorities to ensure that no investigations or prosecutions are initiated against individuals for having expressed ideas or opinions unless such investigations or prosecutions are necessary in accordance with Article 10, paragraph 2, of the Convention.

TUR / Freedom of expression

Inçal (group) - Application No. 22678/93, judgment final on 09/06/1998, enhanced supervision

Gözel and Özer (group) - Application No. 43453/04, judgment final on 06/10/2010, enhanced supervision

” *Different violations of the freedom of expression on account of criminal convictions under different legislative provisions for statements, articles, books, publications etc., which did not incite hatred or violence (Article 10)*

CM Decision: Despite legislative measures taken in response to the violations found by the European Court and the emerging case law of the Turkish Constitutional Court (which aligns its practice with that of the European Court), no progress has been reported in the implementation of the existing legislation so as to comply with the standards of the Convention; in particular, there is no indication that public prosecutors and first instance courts incorporate fully the emerging case law of the Turkish Constitutional Court and that of the European Court in their practice, assessment and reasoning.

When examining the situation in September 2017, the CM urged the authorities to take a series of actions to address the problems in the form of: a) complementary legislative or other measures to ensure that criminal investigations are not initiated solely on the basis of views expressed unless compelling reasons exist, such as incitement to violence or hatred; b) measures to ensure that individuals are not taken into police custody or detained on remand when the evidence in the investigation or case-file concerns solely expressions of opinion, unless compelling reasons exist such

as incitement to violence or hatred; c) measures to align the practice of prosecutors and first instance courts to ensure that they apply the case-law of the Constitutional Court and the European Court under Article 10 of the Convention.

The questions linked with the present Article 301 of the Criminal Code are considered in the context of the *Altug Taner* case.

As none of the applicants were in prison at the time of the Court's judgment and all had received compensation from the Court, the CM requested the authorities to ensure the full erasure of the applicants' criminal records in 27 cases.

TUR / Unjustified detention of investigative journalists

Nedim Şener - Application No. 38270/11, judgment final on 08/10/2014, enhanced supervision

” Unjustified detention of investigative journalists on account of accusations by the domestic authorities of aiding and abetting a criminal organisation due to the involvement in publication of certain books; impossibility to consult the case-file to challenge effectively the detention on remand; chilling effect of the unjustified lengthy pre-trial detention on the right to freedom of expression (Article 5 §§ 3 and 4, Article 10)

Developments: In March 2016, the CM invited the authorities to provide information on measures adopted and envisaged to prevent the imposition of disproportionate measures within the context of the exercise of freedom of expression as well as statistics on the number of convicted or detained journalists. Information was submitted in August 2016 and in August 2017, currently under assessment.

UKR / Abduction and death of a journalist

Gongadze - Application No. 34056/02, judgment final on 08/02/2006, enhanced supervision

” Failure to protect the life of a journalist and effectively investigate his abduction and death; degrading treatment of the journalist's widow and her family on account of the investigating authorities' attitude; lack of effective remedy (Articles 2, 3 and 13)

CM Decision: The Prosecutor General's Office's investigation into the instigation and organisation of the disappearance and murder of G. Gongadze has been ongoing for more than seventeen years. In September 2017, the CM urged the authorities to further enhance their efforts to complete this investigation speedily, and to provide information as to the outcome of the Cassation proceedings dealing with O. Pukach's life sentence.

The legislative and institutional framework aiming at enhancing the journalists' safety and protecting their professional activities has been strengthened, notably through the creation of special bodies, the issuing of guidelines and training of the police and prosecutors. The CM requested information as to the practical impact of these measures. In addition, the Criminal Code was amended in 2015 and 2016, providing notably for the possibility to balance different rights in the context of criminal proceedings, such as the right to an effective investigation with the right not to have illegally obtained evidence used at trial.

The CM also invited the authorities to provide information on measures taken or envisaged to create, or support the creation of rapid-response mechanisms to ensure

that journalists have immediate access to protective measures (see Recommendation CM/Rec(2016)4).

L. Freedom of assembly and association

ARM / Unjustified ban of an NGO-organised march

Helsinki Committee of Armenia - Application No. 59109/08, judgment final on 30/06/2015, CM/ResDH (2017)297

” Unjustified ban by the Mayor of Yerevan of a duly notified peaceful march in commemoration of a person found dead in police custody and notification of the ban only after the event - absence of an effective domestic remedy (Articles 11 and 13)

Final resolution: The protection of freedom of assembly has been reinforced through a new Law on Assemblies of 2011 (prepared in consultation with the OSCE and the Venice Commission) and Constitutional amendments in 2015 (Article 44). Grounds for restrictions have been more precisely delimited in line with the Convention requirements, notably as to proportionality. Procedures have been improved and notifications shall now in principle be lodged 7 days before events, and objections (including possible bans) communicated within 48 hours. In case of delay, the notification is presumed to be accepted. In case of bans or changes of location, time or manner of holding the event hearings shall be held with the organisers. Judicial appeals should be decided in due time before events, and within 24 hours if the challenged decision was taken less than 7 days before the event. In practice, after 2011, the large majority of notifications were accepted. In addition, compensation for moral damages in case of undue refusals or conditions is henceforth provided for not only in case impugned decisions are taken by State authorities, but also by self-governing bodies following a 2015 change of the Civil Code.

No claims for just satisfaction or individual measures were submitted.

AZE / Dispersals and arrests of demonstrators

Gafgaz Mammadov (group) - Application No. 60259/11, judgment final on 14/03/2016, enhanced supervision

” Unjustified dispersals of peaceful demonstrations, organised / planned by the opposition in 2010-2014; administrative convictions and detentions of participants (Article 11, Article 6 §§ 1 and 3, Article 5 § 1, Article 34)

CM Decisions: The judgment of the European Court expressed serious concern about the lack of foreseeability and precision of the legislation governing public assemblies, and about the possibility of public assemblies being abusively banned or dispersed. In particular, whereas the Constitution of Azerbaijan required only prior notification of a planned public assembly, the Law on Freedom of Assembly provides local executive authority with broad powers to prohibit or stop public assemblies. In practice the system of notification of public assemblies appeared to be a system of authorisation.

Examining this group of cases twice in 2017, the CM noted the constant influx of new cases, and expressed deep concern regarding the continued absence of information from the authorities. The CM invited them to provide, without further delay, a comprehensive action plan / report.

All applicants were set free well before the Court's judgment.

■ BGR / Refusals to register an association

United Macedonian Organisation Ilinden and Others (group) - Application No. 59491/00, judgment final on 19/04/2006, enhanced supervision

” Unjustified refusals of the courts to register an association aiming at achieving “the recognition of the Macedonian minority in Bulgaria”, based on considerations of national security, protection of public order and the rights of others (alleged separatist ideas) and on the constitutional prohibition for associations to pursue political goals (Article 11)

CM Decision: A new administrative registration procedure for associations entered into force on 1 January 2018. In June 2017, the CM invited the authorities to adopt further necessary measures specifying the scope of judicial review of registration decisions, in particular as regards the assessment of the goals of the association. In addition, the authorities were encouraged to pursue awareness-raising measures for the officers in charge of the new registration procedure and for the competent courts.

While expressing deep concern that since 2006 the applicant association in the *UMO Ilinden* case has been denied registration on three occasions, partially on grounds criticised by the European Court, the CM stressed the importance of ensuring that any future registration request by UMO Ilinden under the new system will be examined in full compliance with the requirements of Article 11 of the Convention.

■ BGR / Refusal to register an association

Zhechev - Application No. 57045/00, judgment final on 21/06/2007, [CM/ResDH\(2017\)360](#)

” Refusal by domestic courts to register an association on the basis that the Bulgarian law only allowed political parties to promote “political” aims (Article 11)

Final resolution: A reform transferring the competence to register associations from the courts to the Registration Agency attached to the Ministry of Justice will enter into force in 2018. A refusal to register an association can be appealed against with the regional court within seven days. Domestic courts changed their case-law to allow non-profit associations to pursue “political” programs as long as this did not imply any aim of direct participation in elections: associations were entitled to seek solutions to important social, economic and political problems and aim at influencing governmental decisions. Outstanding questions concern the scope of review of the lawfulness of registration requests of associations under this new mechanism, in particular as concerns the assessment of the association goals are examined in the *Umo Ilinden and Others* group.

A new application for registration was refused in 2009 due to formal shortcomings and inconsistencies. No further applications or complaints have been lodged.

■ FRA / Prohibition to form or join trade unions for gendarmerie members and military personnel

Matelly and 1 other case - Application No. 10609/10, judgment final on 02/10/2014, [CM/ResDH\(2017\)117](#)

- ” Blanket ban on the right to form or join trade unions for members of the gendarmerie and military personnel, prohibiting them to set up professional associations whose primary purpose were to defend the pecuniary and other interests of service personnel (Article 11)

Final resolution: Military and gendarmerie personnel can now freely create and join a national professional association and exercise responsibilities, in accordance with new legislation of 2015. Detailed rules of functioning were established by decrees in 2016. The creation of such associations is based on a declarative system and can therefore not be subjected to a refusal of registration unless for specific reasons by judicial decision. Ten such national professional associations have been registered so far.

■ GEO / Violent attacks on LGBT marches and Jehovah's Witnesses

Identoba and Others - Application No. 73235/12, judgment final on 12/08/2015, enhanced supervision

- ” Failure to adequately protect against inhuman and degrading treatment inflicted by private individuals to LGBT activists (in May 2012) and Jehovah's witnesses (in 1999-2001) during marches or meetings; absence of any effective investigation (procedural limb of Article 3, taken separately and in conjunction with Article 14); discriminatory absence of police protection of freedom of assembly (Article 11 in conjunction with Article 14)

Developments: In December 2016, the CM noted the adoption of legislative measures to prohibit discrimination and the implementation of training programs for law enforcement officials. In addition, it invited the authorities to provide information on any additional measures envisaged. Several communications from NGOs were received in 2017. Bilateral consultations are under way in view of submission of an updated action plan / report.

■ GRC / Refusal to register or dissolution of associations

Bekir-Ousta (group) - Application No. 35151/05, judgment final on 11/01/2008, enhanced supervision, Interim Resolution [CM/ResDH\(2014\)84](#)

- ” Refusal to register and/or dissolution of associations on the ground that they were considered by the courts to be a danger to public order as they promoted the idea of the existence of an ethnic minority in Greece as opposed to the religious minority provided by the Lausanne Treaty (Article 11)

CM Decisions: In September 2017, the CM had noted the positive change in the domestic courts' case-law in proceedings concerning registration of associations, thus inviting the authorities to keep it informed of further development on the relevant case-law. However, in December 2017, the CM noted with regret that the registration of an association, the “Cultural Association of Turkish Women in the Prefecture of Xanthi”, had been rejected on similar grounds as in the present group of cases. The appeal against this decision is currently pending before the Supreme

Court. The CM invited the authorities to provide information as to the outcome of these proceedings.

Following repeated rejections of the applicants' attempts to obtain the reopening of the impugned court proceedings whereby their registration had been refused, a new law was adopted on 10 October 2017 allowing the reopening of proceedings in civil matters to give effect to judgments of the European Court. Transitional provisions allow reopening also in cases where the European Court had found violations before the law came into force, if lodged within one year after the law's entry into force. The authorities have been invited to provide information on the outcome of possible reopening requests.

■ GRC / Mandatory membership in a union of vinicultural cooperatives

Mytilinaios and Kostakis - Application No. 29389/11, judgment final on 02/05/2016, [CM/ResDH\(2017\)155](#)

” Refusal to grant winegrowers licence to freely dispose of and sell their wine production owing to exclusive rights of a union of vinicultural cooperatives with compulsory membership, based on the provisions of “Compulsory Law” No. 6085/1934 (Article 11)

Final resolution: The Winemaking Cooperatives of Samos and their Union were transformed into agricultural cooperatives without mandatory membership following the relevant provisions of the Law on Agricultural Cooperatives of 2016. The former Mandatory Law 6085/1934 providing for the winemaking of Samos was automatically repealed. The Country Court of Samos approved the Statute of the new Uniform Winemaking Agricultural Cooperative of Samos in November 2016.

■ MDA / Imposition of sanctions for holding demonstrations

Christian Democratic People's Party (“CDPP”) and 8 other cases - Application No. 28793/02+, judgment final on 14/05/2006, [CM/ResDH\(2017\)410](#)

” Unjustified bans on demonstrations; detention of participants on false accusations, forcible disruption of peaceful events and unwarranted arrest of participants; undue fines for the holding of demonstrations and temporary ban on the activities of a political party in the case of the Christian Democratic People's Party (Article 5 § 1, Article 11)

Final resolution: Public events involving more than 50 participants require only a 5-days-advance notification to the local public authorities, according to the law on the Organisation and Conduct of Assemblies of 2008 adopted after the events. Notification procedures do not apply to spontaneous public gatherings and events with less than 50 participants. An assembly can only be prohibited (or its time, place or form changed) by court decision within three days upon a reasoned request made by a local administration. Reasons for a court prohibition are instigation of aggression, war, national, racial, ethnic or religious hatred, public discrimination or violence, or national security or territorial integrity of the State, perpetration of crimes, violation of public order or organisation of mass riots, violation of public morality, the rights and freedoms of other persons or endangering their lives and health. The court decision can be appealed against within three days. In 2011 the Supreme Court adopted an explanatory decision concerning the application by the

domestic courts of the Law on Assemblies and other related legislation. Awareness-raising events were conducted for police officers, judges and prosecutors.

General measures concerning unlawful arrest and detention are examined in the *Muşuc / Guţu / Brega* groups of cases.

The temporary ban on the Christian Democratic People's Party's activities was lifted. Arrested applicants were released.

■ MDA / Ban on gay marches

Genderdoc-M - Application No. 9106/06, judgment final on 12/09/2012, enhanced supervision

” Unjustified ban of a demonstration organised in 2005 by an NGO to encourage the adoption of laws for the protection of sexual minorities from discrimination; no effective remedy in the absence of any guarantee that appeal decisions intervene before the planned event; discrimination as the sole justification given related to the homosexual orientation of the demonstration (Article 11 and Articles 13 and 14 in conjunction with Article 11)

CM Decision: Notification procedures have been simplified as from 2008 for public events involving more than 50 participants: 5-days-advance notification to the local public authorities. No notification required for spontaneous public gatherings. An assembly can only be prohibited (or its time, place or form changed) by court decision within three days upon a reasoned request made by a local administration. Training and other implementation measures have yielded very good results as evidenced by 2008-2015 statistics. Certain questions remain as to the effectiveness of remedies. If the first instance court decides to ban a public event or change its time/place, there is presently no formal requirement that subsequent appeal proceedings be concluded within any specific deadline. In March 2017, the CM requested information as to how it is ensured that such appeal proceedings can be concluded before the planned date of the event.

In March 2017, the CM expressed serious concern as to the legislative initiative to introduce liability for “propaganda of homosexual relations”. The Venice Commission in its Opinion “on the issue of the prohibition of so called ‘propaganda of homosexuality’” recommended that the States concerned repeal such provisions, as they were incompatible with the Convention and international standards. In the same vein, the European Court repeatedly rejected the presumption that such “propaganda” may harm minors or society as a whole. Considering that the adoption of such legislation would raise questions as to the compliance by the Republic of Moldova with its obligations under Article 46, the CM urged the authorities to give full consideration to the abovementioned elements. The Government has, since then, rejected the proposal for such a legislation and no other legislative initiative in the same direction has been prepared.

As regards individual measures, the applicant organisation has been able to hold events without undue restrictions by the authorities. The CM thus invited the authorities to continue taking all measures to ensure the applicant's right to peaceful assembly without undue restriction and with adequate security protection where necessary.

■ MKD / Unwarranted dissolution of an association

Association of Citizens "Radko" and Paunkovski - Application No. 74651/01, judgment final on 15/04/2009, [CM/ResDH\(2017\)293](#)

- ” Unjustified dissolution of an association, shortly after its foundation, by the Constitutional Court as its statutes and programme were considered as inciting to hatred, religious and national intolerance, without any concrete elements proving the existence of risks of this kind or of otherwise of recourse to illegal means (Article 11)

Final resolution: Under the new Law on Associations and Foundations in 2010, the registration authority is competent only to examine procedural requirements. The dissolution of an association requires, under the law, a well-reasoned court decision. Judicial practice has aligned with the Convention requirements. 200 associations representing national minorities have been registered since the events. Training and awareness raising activities were organised by the Judicial Training Academy and the Office of the Government Agent.

The applicant association's renewed registration application was finally accepted on 5 October 2016. It now enjoys legal personality and is vested with capacity to operate in the framework of national legislation.

■ RUS / Ban on gay marches

Alekseyev - Application No. 4916/07, judgment final on 11/04/2011, enhanced supervision

- ” Bans on the holding of gay-rights marches and pickets, and enforcement of the ban by dispersing events held without authorisation and by finding the participants guilty of an administrative offence; absence of effective remedies (Articles 14 and 13 in conjunction with Article 11)

Developments: In the action plan transmitted in October 2016, the authorities submitted information about the implementation of awareness-raising measures for the bodies and officials responsible for examining requests to hold public events submitted by sexual minorities. The Supreme Court and other courts also undertook measures to harmonise judicial practice and increase the Russian courts' awareness. Statistical data on developments is awaited.

■ UKR / Refusal to register an association

Koretsky and Others - Application No. 40269/02, judgment final on 03/07/2008, [CM/ResDH\(2017\)377](#)

- ” Unjustified interference due to the refusal to register a non-governmental association for environmental protection based on a broad interpretation of a vague legal provision (Article 11)

Final resolution: New opportunities for the creation, registration, work and termination of civil associations as well as new standards and approaches to civil associations were introduced by a new Law on Civil Associations in 2013. It eliminated the former territorial limitation of their activity and granted the right to conduct entrepreneurial activity and to protect their interests. It also contains an exhaustive list of reasons

to limit the establishment and functioning of a civil association. Any disagreements with negative decisions of authorities are decided by domestic courts.

The applicants did not submit any requests for review of the impugned proceedings. It would also be open to the applicants to apply to register their association under the new legislation.

■ UKR / Unlawful ban of a strike

Veniamin Tymoshenko and Others - Application No. 48408/12, judgment final on 02/01/2015, enhanced supervision

” Violation of the right to freedom of association of the applicants, employees and members of a trade union of a Ukrainian privately owned airline company, when they were prohibited from striking in September 2011 (Article 11)

CM Decision: A draft law to resolve the inconsistencies in the legislation criticized by the Court had been submitted to Parliament, thus harmonizing the regulations on strikes in the transportation industry with the legislation on collective labour disputes in other sectors. In June 2017, the CM invited the authorities to implement this legislative reform. In addition, information is awaited on the domestic courts’ practice with regard to requests to prohibit strikes in transport companies in the light of the Court’s judgment as well as on training activities in this respect.

■ UKR / Absence of clear and foreseeable legislation regarding the right to peaceful assembly

Vyrentsov - Application No. 20372/11, judgment final on 11/07/2013, enhanced supervision

” Absence of clear and foreseeable legislation laying down the rules for the organising and holding of a peaceful assembly (applicant sentenced to 3 days of administrative detention in 2010 for organising and holding a peaceful demonstration); different violations of the right to a fair trial (Articles 11 and 7, Article 6 §§ 1, 3(b), 3(c) and 3(d))

CM Decision: Two draft laws “on Guarantees for Freedom of Peaceful Assembly” (primary and alternative) (Nos. 3587 and 3587-1) were scheduled to be put before the competent parliamentary committee in May 2017. When examining the situation in June 2017, the CM urged the authorities to ensure that the legislative process is concluded without further delay and invited them to inform the Committee of any developments. It also encouraged the authorities to use the relevant cooperation activities of the Council of Europe to ensure that, after the adoption of the legislation, domestic practice complies with the Convention requirements and the Court’s case law.

Considering the information provided by the authorities on the judicial, administrative and police practice, CM encouraged the authorities to continue their efforts to ensure that these practices are in line with the Convention principles.

M. Right to marry

N. Protection of property

N.1. Expropriations, nationalisations

ALB / Restitution of properties nationalised under the Communist regime

Manushaqe Puto and Others - Application No. 604/07, judgment final on 17/12/2012, enhanced supervision

Driza (group) - Application No. 33771/02, judgments final on 02/06/2008, enhanced supervision- Interim Resolution [CM/ResDH\(2013\)115](#)

” Restitution of, or compensation for properties nationalised under the communist regime as provided under the law - failure to enforce final administrative and judicial decisions and lack of effective remedies (Articles 6 § 1, 13 and Article 1 of Protocol No. 1)

CM Decision: A new compensation mechanism for property nationalised during the communist regime has been established after a complex and lengthy legislative and administrative process involving intense cooperation with Council of Europe bodies and HRTF support. In January 2017, the Constitutional Court confirmed the compatibility of the new mechanism with the Constitution, but repealed two provisions of the law relating to the new evaluation method. In this regard, the CM took note in September 2017 of the authorities' commitment to assess the situation and to take appropriate action to prevent any adverse impact on the functioning of the mechanism.

The CM underlined the vital importance of bringing a definitive solution to this longstanding problem and invited the authorities to ensure the effective and expeditious functioning of the mechanism, in particular by providing the necessary financial resources, so that the compensation process could be completed within the established time-frames - 3 years for the examination of claims (expiring in February 2019). Information submitted for the CM's September 2017 examination indicated that some 15,800 claims had been submitted and were being examined in respect of situations not previously decided by national courts, and that some 26,000 claims had been submitted in relation to situations that had already been decided by domestic courts and that the examination of 41% of the latter had already been completed. Some 100 billion ALL had at the time been allocated in the state budget to cover payment of compensation claims.

Information is awaited on the steps taken in response to the Constitutional Court's decision, as well as on the progress achieved in the compensation process.

Applicants received compensation through awards by the European Court.

BIH / Deprivation of occupancy rights over military apartments

Dokić - Application No. 6518/04, judgment final on 04/10/2010, enhanced supervision

Mago and Others - Application No. 12959/05, judgment final on 24/09/2012, enhanced supervision

” Inability of members of the army of the former Yugoslavia (mainly Serbs of the former Yugoslav People's Army) to obtain the restitution of their military apartments (some formally bought by their owners, others originally possessed by virtue of special occupancy rights), taken from them in the aftermath of the war in Bosnia and Herzegovina,

or to receive alternative accommodation or reasonable compensation, in line with the apartments' current market value (Article 1 of Protocol No. 1)

CM Decision: Legislative amendments to the Privatisation of Flats Act of 1997 were prepared and presented in 2016. They introduce a compensation scheme for persons unable to regain their pre-war military flats. Holders of occupancy rights on military flats who have already been granted equivalent occupancy rights elsewhere will, however, not be eligible. The CM noted in September 2017 with satisfaction that the scope of beneficiaries eligible appeared to be in line with the European Court's findings

The amount of compensation proposed did not, however, appear to be in line with the current market value and the CM called upon the authorities to develop a proper solution to remedy this problem.

The CM recalled that, in view of the time elapsed and the high number of potential applicants, it is crucial that the legislative process be brought to an end.

The applicants received compensation through the Court's just satisfaction awards.

■ ITA / Emergency occupations of lands without any effective control of lawfulness

Belvedere Alberghiera S.R.L and 106 other cases - Application No. 31524/96+, judgment final on 30/08/2000, [CM/ResDH\(2017\)138](#)

” Emergency occupations of lands by local authorities pursuant to Law No. 85 of 1971, without any formal expropriation procedure or effective control of lawfulness, subsequently becoming an irrevocable expropriation on account of the transformation of the property by the realisation of public works – so called “indirect expropriation”; lack of clear and predictable rules covering the transfer of property, absence of effective judicial control and inadequate compensation (Article 1 of Protocol No. 1 and Article 6 § 1)

Final resolution: today the practice of “indirect expropriation” no longer exists. The occupation of land for public interest reasons was reformed by the Consolidated Text on Expropriation in 2011, which introduced significant changes to the practice of emergency expropriations and improved safeguards for the landowners. An emergency procedure is initiated only as a means of last resort when there are exceptional public interest reasons. The decree of acquisition to be issued by the Municipal Council of the municipality concerned must be based on exhaustive and compelling reasons. Judicial review of the lawfulness of such decisions has been effectively speeded up. In 2015, the Constitutional Court found the new legislative system compliant with the Convention. The jurisprudence which had allowed loss of title due to the irreversible transformation of property through public works was, in parallel, abandoned by the Court of Cassation in 2015 and by the Supreme Administrative Court in 2016. The owner thus today retains property rights and can claim restitution or compensation. The level of compensation is also now in line with the Convention requirements. The regulations which ensured that local authorities responsible for “indirect expropriations” bear the financial responsibility for violations established by the European Court were confirmed anew in 2012.

■ ROM / Property nationalised during the communist regime - restitution or compensation

Străin and Others (group) - Application No. 57001/00, judgment final on 30/11/2005, enhanced supervision

Maria Atanasiu and Others - Application No. 30767/05, judgment final on 12/01/2011, enhanced supervision

- ” Failure to enforce, judicial or administrative decisions ordering restitution of property nationalised during the communist regime or payment of compensation in lieu; sale of nationalised property, without securing compensation for legitimate owners (Article 1 of Protocol No. 1 and Article 6 § 1)

CM Decision: In view of the importance of this structural and longstanding problem, in June 2017, the CM acknowledged the authorities' sustained efforts to ensure the effective functioning of the reparation mechanism securing compensation: More than 90% of the reparation claims for agricultural land and woodland had been resolved and the payment of compensation made in accordance with the timetable set by Law No. 165/2013. However, all means at the authorities' disposal are still to be employed to complete the administrative stages of the application of this law and to ensure the efficient handling of related litigations by the domestic courts.

N.2. Other interferences with property rights

■ ARM / Impossibility for displaced persons to gain access to their homes and properties

Chiragov and Others - Application No. 13216/05, judgment final on 16/06/2015, enhanced supervision

- ” Impossibility for displaced persons to gain access, in the context of the Nagorno-Karabakh conflict, to their homes and properties in Nagorno-Karabakh and surrounding territories; lack of effective remedies (continuing violations of Article 1 Protocol No. 1, Article 8 and Article 13)

CM Decision: In March 2017, the CM took note of information given by the Armenian authorities during its Human Rights meeting, and invited them to provide an action plan detailing the ways and means to execute the present judgment. To that aim, the authorities were invited to pursue their cooperation with the Secretariat.

■ AZE / Impossibility for displaced persons to gain access to their homes and properties and relatives' graves

Sargsyan - Application No. 40167/06, judgment final on 16/06/2015, enhanced supervision

- ” Impossibility for displaced persons to gain access, in the context of the Nagorno-Karabakh conflict, to their homes and properties and relatives' graves in the disputed area near Nagorno-Karabakh on the territory of Azerbaijan; lack of effective remedies (Article 1 Protocol No. 1, Article 8 and Article 13)

CM Decision: In their action plan of March 2017, the authorities informed the CM of the work undertaken with a view to establishing a property claims mechanism,

notably through the setting-up of a working group in charge of assessing the damages suffered by refugees and internally displaced persons. In March 2017, the CM requested more information on the functioning of this working group, its mandate and accessibility for persons in similar situations to the applicant's.

Pending such clarifications, the CM invited the authorities to cooperate fully with the Secretariat.

■ **BGR / Impossibility to challenge the withdrawal of a bank licence**

International Bank for Commerce and Development AD and Others - Application No. 7031/05, judgment final on 17/10/2016, enhanced supervision

” Impossibility for a bank to challenge the withdrawal of its licence; unfairness of liquidation proceedings; lack of safeguards against arbitrariness surrounding decisions of the prosecuting authorities affecting the bank's management; impossibility to challenge the freezing of the assets of two individual applicants (Article 1 of Protocol No. 1, Article 6 § 1)

Action plan: According to the action plan submitted in June 2017, the domestic legislation was amended and provides for the possibility to appeal against the withdrawal of a bank license by the Bulgarian National Bank. This action plan is currently under assessment.

■ **CRO / Disproportionate landlord obligations under certain protected leases**

Statileo - Application No. 12027/10, judgment final on 10/10/2014, enhanced supervision

” Obligation under protected tenancy legislation for landlords to let property for an indefinite period without adequate rent (Article 1 of Protocol No. 1)

CM Decisions: The Croatian authorities have prepared draft legislative amendments to address the shortcomings revealed in the current legislation, namely the inadequate amount of protected rent, the restrictive conditions for the termination of protected leases and the absence of any temporal limitation to the protected lease scheme. The draft amendments provide for the protected lease scheme to end within a 5 year period, by 1 June 2022.

Awaiting this reform, the amendments provide for the doubling of the protected rent. Landlords will also be able to bring civil proceedings against the State claiming the difference between the protected rent and the market rate. The CM noted, however, that this avenue did not appear fruitful in the Bregó case, and thus encouraged the authorities to reconsider in view of making it effective. In addition, a landlord who intends to move into his/her property or install eligible relatives is entitled to terminate the protected lease if the landlord provides the protected lessee with another suitable flat. Considering this condition as an excessive financial burden for the landlord, the CM invited the authorities to alleviate it.

The CM deemed the draft legislative amendments presented capable of securing a global solution to the issue of protected leases, provided that the abovementioned concerns were adequately addressed. The CM strongly urged the authorities to adopt the amendments as a matter of utmost priority. According to the most recent information in December 2017, revised amendments are in the final stage of preparation.

As regards individual measures relating to the termination of protected leases, the CM recalled that they are closely linked with the general measures. In cases where the applicants had brought civil proceedings against the State to obtain payment of the difference between the protected rent and the market rate, reopening of proceedings was granted and the CM invited the authorities to inform it of ongoing developments.

■ **MLT / Requisition orders imposing disproportionate obligations on landlords**

Apap Bologna - Application No. 46931/12, judgment final on 30/11/2016, enhanced supervision

” Disproportionate restrictions on property rights due to the requisition of a property under the Maltese Housing Act imposing a landlord-tenant relationship implying an excessive burden on the tenants and lack of effective remedy thereof (Article 1 of Protocol No. 1, also in conjunction with Article 13)

Action plan: According to the action plan of September 2017, the Housing Act was amended so that no further properties will be requisitioned in the future. The authorities also make reference to other steps taken, including the publication of Guidelines for the Housing Authority to follow when examining requisition orders. This information is currently being assessed.

■ **RUS / Unfair imposition of tax penalties and uncompromising enforcement of tax debts**

OAO Neftyanaya Kompanya Yukos - Application No. 14902/04, judgments final on 08/03/12 (merits) and 15/12/2014 (just satisfaction, enhanced supervision)

” **Tax penalties:** Failure to ensure sufficient time for preparation of the criminal case for tax evasion brought before the commercial courts and retroactive application of the tax rules on the applicable time-limits for bringing such proceedings.

Enforcement proceedings: uncompromising execution of the company's tax debts, including the tax penalties, and disproportionate bailiffs' fees resulting in the demise of the applicant company, a major oil and gas company, and its liquidation in 2007 (Article 6 §§ 1 and 3 (b) and Article 1 of the Protocol No.1).

Just satisfaction judgment the respondent State should produce, in co-operation with the Committee of Ministers, within six months from the date on which the judgment became final (i.e. by 15 June 2015), a comprehensive plan, including a binding time frame, for distribution of the Court's award of just satisfaction to the shareholders of the demised company.

CM Decisions: Following the judgment on the merits, in May 2013, the authorities submitted an action plan indicating, notably, that the time-limits for preparation of cases had had been extended through amendments to the Commercial Procedure Code and that the Supreme Court had provided a practice direction on the handling of complex cases involving several persons. The relevant rule of the Tax Code, Article 113, regarding the time limits for lodging proceedings had been amended by Federal Law in 2005, taking into account the positions taken by the Constitutional Court, so that the retrospective application thereof would henceforth be excluded. Also the Law on Enforcement Proceedings had been changed, notably to ensure

the inviolability of the minimal property required for debtors subsequent effective functioning, as well as the proportionality of the recoverer's claims and of compulsory enforcement measures.

Following the Court's judgment on just satisfaction of 31 July 2014, the Duma adopted in December 2015, a Federal Law, allowing the Constitutional Court to rule on the enforceability of international decisions. The Ministry of Justice submitted shortly thereafter a request for such a ruling in respect of the European Court's just satisfaction judgment. According to the information provided by the Russian delegation, the Constitutional Court's judgment of 19 January 2017 in particular: found it impossible to execute the relevant judgment of the European Court as regards payment by the Russian Federation of compensation to shareholders of the "Yukos" company, whilst refraining from consideration of the issue of payment of compensation in respect of costs and expenses; deemed it necessary to look for a lawful and legitimate compromise given the fundamental importance of the European system of human rights and fundamental freedoms protection, part of which are the judgments of the European Court, and deemed it possible for the government to initiate the consideration of the question of payment to Yukos shareholders under the conditions defined in paragraph 7 of the judgment.

When examining the situation in March 2017, the CM expressed serious concern at the non-implementation of the just satisfaction judgment so far; noted the information provided by the Russian Federation on the present situation in the light of the judgment of the Constitutional Court of 19 January 2017; firmly reiterated the unconditional obligation assumed by the Russian Federation under article 46 of the Convention to abide by the judgments of the European Court; urged the authorities to inform the CM about all relevant steps towards an appropriate solution; and further reiterated the call upon the Russian Federation to cooperate fully and to continue its dialogue with the CM and the Secretariat and invited the Secretary General to provide all necessary assistance in that process. When resuming its examination of the situation in December 2017, the CM recalled the various submissions made so far by the authorities as regards general measures an individual redress, and its previous decisions, notably stressing the Russian Federation's unconditional obligation under Article 46. It noted with satisfaction information submitted about the forthcoming payment of the just satisfaction awarded for costs and expenses and encouraged the authorities and the Secretariat to reinforce their contacts with a view to finding solutions to remaining aspects of the Article 41 judgment and invited the authorities to submit for 1 October 2018 information in the form of an action plan with an indicative time table as regards possible steps for the further execution of this judgment.

■ SER + SVN / Repayment of "old" foreign currency savings

Ališić and Others - Application No. 60642/08, judgment final on 16/07/2014, enhanced supervision

” Violations of the applicants' right to peaceful enjoyment of their property on account of their inability to recover their "old" foreign-currency savings deposited before the dissolution in 1991-1992 of the Socialist Federative Republic of Yugoslavia in branches of banks located in what is today Bosnia and Herzegovina with head offices in what are today Serbia and Slovenia (Article 1 of Protocol No. 1)

CM Decisions:

Slovenia: A new law was adopted in 2015 introducing a repayment scheme for the “old” currency-savings deposited in foreign branches of the Ljubljanska Banka at the time of the dissolution of the Socialist Federal Republic of Yugoslavia (the “SFRY”) (an estimated total of some 385 million euros). Administrative arrangements to receive and handle applications have been put in place. The payment process began rapidly as regards the Zagreb branch of Ljubljanska Banka and somewhat later, following additional discussions with the authorities of Bosnia and Herzegovina with assistance from the Secretariat regarding the access required to the original account information still held in Sarajevo, in respect of the branch office there. The system is presently up and running.

Serbia: A new law was adopted in 2016 introducing a repayment scheme for the “old” currency-savings held by nationals of successor States to the SFRY in branches of Serbian banks inside or outside Serbia or held by the Serbian nationals in Serbian branches of the banks with head offices in other former Yugoslav Republics (an estimated total of some 310 million euros). The ensuing administrative arrangements to receive and handle applications were put in place in 2017 and the repayment mechanism is now in force.

The development of both repayment schemes and their implementation are closely followed by the CM.

■ SER / Government suspension of pensions earned in Kosovo

Grudić - Application No. 31925/08, judgment final on 24/09/2012, [CM/ResDH \(2017\)427](#)

” Unlawful suspension (based on government decisions) for more than a decade by the Serbian Pensions and Disability Insurance Fund (SPDIF, of the payment due under existing legislation of pensions earned in the Autonomous Province of Kosovo and Metohija (Article 1 of Protocol No. 1)

Final resolution: The suspension has ceased. In 2013, an invitation was published in a number of newspapers in Serbia and in Kosovo as well as on the website of the Serbian Pensions and Disability Insurance Fund (SPDIF) to all eligible persons to apply for the resumption of payment of pensions earned in Kosovo. The authorities received 9 790 applications out of which 3 920 contained the required documents. So far payments have been resumed in 533 cases (in many others, payment was refused as the applicants already received a pension in the Autonomous Province of Kosovo and Metohija and since, under the legislation, only one pension can be received). UNMIK provided assistance in delivering letters to applicants without address in Serbia. As regards judicial review, it was open to claimants to bring proceedings before the Administrative Court in case of refusals. The Constitutional Court in parallel developed a body of Convention-compliant case-law in similar pension matters.

The applicants got full compensation through the European Court’s just satisfaction award. Since 1 December 2012, the ordinary pension payments have been resumed.

■ SVK / Disproportionate rent control scheme

Bittó and Others - Application No. 30255/09, judgment final on 28/04/2014, enhanced supervision

” Unjust limitations on the use of property by landlords, notably through the rent control scheme (Article 1 of Protocol No. 1)

Action plan: The information provided by the Slovak authorities in their action plans of January and June 2016 and February 2017 concerning the measures aimed at introducing an effective compensatory remedy is being assessed.

■ **TUR / Non-recognition of a foreign judgment - Deprivation of inheritance**

Selin Aslı Öztürk - Application No. 39523/03, judgment final on 13/01/2010 (merits) – 17/11/2014 (just satisfaction), [CM/ResDH\(2017\)148](#)

” Non-recognition by the Court of Cassation of the applicant’s deceased father’s divorce decree issued by a foreign court, resulting in her deprivation of part of her inheritance (Articles 6 § 1 and 1 of Protocol No. 1)

Final resolution: The recognition of a foreign judgment may be requested by any interested person according to provisions of the new Code on International Private and Procedure Law of 2007. The Court of Cassation amended its case-law accordingly.

The impugned proceedings were reopened and the deceased father’s divorce decree recognised by the Family Court.

■ **UKR / Disrespect of property rights in the context of tax evasion investigations**

East/West Alliance Limited - Application No. 19336/04, judgment final on 02/06/2014, enhanced supervision

” Arbitrary and unlawful actions leading to violations of property rights: seizure of several aircraft and abusive criminal investigations on allegations of tax evasion and lack of effective remedy in this respect (Article 1 of Protocol No. 1, Article 13)

Developments: In December 2016, the authorities were invited to provide additional information on general measures concerning the liability of officials for failing to comply with final judicial decisions and the reform of the enforcement procedure, especially in light of the constitutional amendments on the judiciary. They were also invited to submit information on the existence of effective remedies to prevent similar violations in the future. An updated action plan / report is awaited.

■ **UKR / Unforeseeable legislation on VAT exemptions**

Serkov - Application No. 39766/05, judgment final on 07/10/2011, [CM/ResDH\(2017\)21](#)

” Absence of foreseeable and clear domestic legal provisions on VAT exemption, producing contradictory judicial interpretations by the Supreme Court, which resulted in the application of a less favourable approach to the applicant, who was thus unduly charged VAT (Article 1 of Protocol No. 1)

Final resolution: The system of taxation, accounting and reporting was simplified and a special collection mechanism introduced by a new Tax Code together with the Law on Value-Added Tax in 2011, thus preventing divergent interpretations by courts or any other State authorities. The Presidential Decree “On a Simplified System of Taxation, Accounting and Reporting for Small Business” of 1998 and the Law “On State Support for Small Business” were abolished in 2012.

The applicant received compensation for the taxes unduly paid through the Court's award of just satisfaction and did not request reopening of the impugned proceedings.

O. Right to education

CZE / Right to education – Discrimination against Roma children

D.H. and Others (group) - Application No. 57325/00, judgment final on 13/11/2007, enhanced supervision

” Assignment of Roma children to special schools (designed for children with special needs, including those suffering from a mental or social handicap) on account of their Roma origin (Article 14 in conjunction with Article 2 of Protocol No. 1)

CM Decision: A deep reform of the Education Act was undertaken in 2015-2016, in order to prevent placement of “socially disadvantaged” pupils, and in particular Roma children, in groups/classes for children with a “mild mental disability” through the establishment of an inclusive education system. However, the statistical data provided so far do not show any significant improvement in the education of Roma children. While recognising that the impact of the reform may not already be apparent, since it entered into force only in September 2016 and is being implemented gradually over a period of two years, the CM expressed its expectation that, in the meantime, an increasing number of children with special educational needs will receive support measures allowing them to integrate into mainstream schools or classes. In this regard, the CM underlined that concrete results must be achieved rapidly, especially considering the long-standing nature of the problems at stake.

Information and comprehensive statistical data showing the practical impact of the reform, in particular reflecting the situation of Roma pupils, remain awaited.

All applicant children had already reached the age where schooling was no longer compulsory (15 years) at the time of the Court's judgment.

RUS / Closure of schools and harassment of pupils in the Transnistrian region of the Republic of Moldova

Catan and Others - Application No. 43370/04, judgment final on 19/10/2012, enhanced supervision

” Forced closure, between August 2002 and July 2004, of latin script schools located in the Transnistrian region of the Republic of Moldova, as well as continuing measures of harassment of children or parents of children; responsibility of the Russian Federation under the Convention because of Russia's “decisive influence” over the authorities of the region (the “Moldovan Republic of Transnistria - MRT”) during the period in question – responsibility notwithstanding the absence of any evidence of direct participation by Russian agents in the measures taken, nor of Russian involvement in, or approbation of, the “MRT”'s language policy in general (Article 2 of Protocol No. 1 with respect to the Russian Federation)

CM Decisions: The necessity of making progress in the execution of the present case has been a major concern for the CM over the last years in view of the fundamental

importance of primary and secondary education for each child's personal development and future success. The CM has thus insisted upon the applicant's right to continue to receive education in the language of their country, without hindrance or harassment. The Russian authorities on their side have referred to on-going reflections on issues of concern for the execution of the judgment. In particular, they have provided information on large-scale consultations with the competent State agencies; the round-table on the problems of interaction with the Court held in Moscow in January 2015; the high-level conference in October 2015 in St Petersburg. They have also recalled that issues related to "effective control" doctrine application by the Court are presently subject to examination by the Drafting Group DH-SYSC-II. The need to make progress towards a common understanding as to the scope of the execution measures flowing from the judgment and their modalities has been at the centre of the execution process. In September 2017, the CM urged the authorities to complete rapidly their reflection to seek an acceptable response in relation to the Court's judgment, notably through a high level Conference in Moscow to be held in October 2017 (with the participation of representatives of relevant Council of Europe bodies, including judges of the Court, as well as Russian and foreign experts). In this context, the CM strongly encouraged the Russian authorities to actively pursue the constructive dialogue undertaken and to deepen their cooperation with the Committee of Ministers and the Secretariat to this end. The high-level conference - "Russia and the European Court of Human Rights: Enhancing the Dialogue" - was held in October 2017 in Moscow and covered important issues. The results of the new reflections engaged as a result of the conference, and followed by further initiatives, will be examined by the CM in March 2018.

P. Electoral rights

P.1. Right to vote and stand for elections

BIH / Ineligibility to stand for elections due to non-affiliation with a constituent people

Sejdić and Finci (group) - Application No. 27996/06, judgment final on 22/12/2009, enhanced supervision

” Impossibility for citizens of Bosnia and Herzegovina, notably those of Roma and Jewish origin, to stand for election to the House of Peoples and to the Presidency of Bosnia and Herzegovina, if not affiliated with one of the constituent peoples (Article 14 in conjunction with Article 3 of Protocol No. 1, Article 1 of Protocol No. 12)

CM Decision: Despite three interim resolutions and multiple decisions, the CM had, in June 2017 to exhort once again the political leaders in Bosnia and Herzegovina to intensify their dialogue to enable the adoption of the necessary changes to the Constitution and electoral legislation. In this context, it also recalled its invitation to the Member States and the European Union to raise, in their contacts with Bosnia and Herzegovina, the issue of the implementation of the present judgment. In face of the situation, the CM firmly emphasized anew the commitment freely undertaken by Bosnia and Herzegovina to abide by the judgments of the European Court and

exhorted the authorities to make the necessary arrangements without further delay, so as to ensure that every citizen is granted the right to stand for election to the Presidency and the House of Peoples without discrimination based on ethnic affiliation.

■ LIT / Right to free elections

Paksas - Application No. 34932/04, judgment final on 06/01/2011, enhanced supervision

” Permanent disqualification from the possibility to stand for parliamentary election as a result of the impeachment of Lithuania’s former president in 2004 (Article 3 of Protocol No. 1)

CM Decision: Several unfruitful legislative initiatives have been engaged since the Constitutional Court found in 2012 (a position reiterated in 2016) that only a constitutional change could lift the permanent and irreversible nature of the applicant’s disqualification from standing for parliamentary elections. The CM was informed, in March 2017, that a new draft law (XIIP-2850) had been included in the working programme of the Seimas’ spring 2017 session. In June 2017, the CM requested further information on, and a translation of, the constitutional amendments provided for in the draft law.

In view of the persistence of the situation, the CM recalled the authorities’ unconditional obligation to find without further delay the necessary ways and means to remedy this situation, and to take all remedial measures to enable the applicant to stand in future elections and to prevent similar violations.

An action plan was transmitted on 5 January 2018 and is currently under assessment.

■ ROM / Unclear rules for organisations of ethnic minorities to participate in elections

Ofensiva Tinerilor - Application No. 16732/05, judgment final on 15/03/2016, [CM/ResDH\(2017\)9](#)

” Lack of clarity of Electoral Law no. 373/2004 establishing unclear eligibility conditions for organisations of ethnic minorities to lodge their candidature and lack of sufficient safeguards for the impartiality of the supervisory body, the Central Electoral Bureau (Article 3 of Protocol No. 1)

Final resolution: Detailed conditions for electoral eligibility of organisations belonging to ethnic minorities, i.e. as regards the recognition of their public utility and minimum number of members, were established in 2015 by the law on the election of the Senate and the Deputy Chamber and concerning the functioning of the Permanent Electoral Authority. The role of the Central Electoral Bureau is limited to verifying these conditions. Its decisions can, under the new law, be contested in court.

In compliance with the Convention, the general measures will also allow the applicants to participate in new elections.

■ SER / Unlawful early termination of a parliamentary mandate

Paunović and Milivojević - Application No. 41683/06, judgment final on 24/08/2016, [CM/ResDH\(2017\)193](#)

” Unlawful termination of an MP’s mandate by Parliament on the basis of an undated resignation letter requested by his party as a condition for his candidacy and failure

of the Supreme Court and the Constitutional Court to consider the merits of the MP's complaint. (Article 3 of Protocol No. 1 and Article 13 taken in conjunction with Article 3 of Protocol No. 1)

Final resolution: "Party-administered mandates" and blank resignations were abolished by new legislation in 2011, taking into account a Joint Opinion of the Venice Commission and OSCE/ODIHR. The Constitutional Court acquired exclusive competence to examine electoral disputes and to quash non-ECHR-compliant decisions through a new Constitutional Court Law adopted in 2007, thus also providing a legal basis for compensation. Since 2008, no constitutional complaint concerning early termination of parliamentary mandates has been filed.

No special individual measures were required. The applicant was awarded pecuniary damage by the Court in the amount of the salary and allowances to which he would have been entitled before new parliamentary elections.

P.2. Control of elections

■ AZE / Shortcomings in the control of parliamentary elections

Namat Aliev - Application No. 18705/06, judgment final on 08/07/2010, enhanced supervision

” Various irregularities in the context of the control of the parliamentary elections in 2005 and 2010, arbitrary decisions and lack of safeguards against arbitrariness, both as regards the handling of election complaints by electoral commissions and by the courts (Article 3 of Protocol No. 1)

CM Decision: As regards the functioning of the judiciary, a Code of Administrative Procedure for electoral disputes was introduced in 2011, deemed by the CM to respond to a series of important problems raised by the Court's judgments as regards the excessive formalism of the courts when examining appeals. In addition, amendments were adopted to the Law on judges and courts in June 2014 reinforcing, notably, the budgetary independence of the Judicial and Legal Council. Measures were adopted to improve the procedures before the electoral boards, including notably the creation of expert groups. When examining the situation in September 2014, the CM found, however, that the new procedures did not provide sufficient safeguards against arbitrariness nor did they resolve the problems revealed concerning the independence, transparency and legal quality of the procedure. It also urged the authorities to explore further measures aimed at limiting the influence of the executive within the Judicial and Legal Council and at reinforcing the Council's competencies in these areas. Despite the calls for further measures, the CM had to note in December 2015 that the parliamentary elections that year had been held without necessary further reforms having been adopted. A number of execution related questions had, however, been included in the 2014-2016 Council of Europe Action Plan for Azerbaijan.

In March 2017 the CM noted with interest the prolongation of the cooperation foreseen in the Action Plan also during 2017, and encouraged the authorities to explore all the possibilities offered to adopt the reforms necessary for the execution of these judgments.

In view of the nature of the violations found, no issue of individual measures was raised.

Q. Freedom of movement

ITA / Lack of clarity of the Italian legislation – Persons considered as being a danger to society

De Tommaso - Application No. 43395/09, judgment final on 23/02/2017, enhanced supervision

- ” Lack of clarity of the Italian legislation regarding imposition of “special police supervision” orders on persons considered as being a danger to society and lack of public hearings before the domestic courts (Article 2 of Protocol No. 4, Article 6 § 1)

Developments: According to the information provided by the authorities in October 2017, the issue related to the foreseeability of the law is linked to the misinterpretation by the trial judge of the principles used to assess whether or not a person is a danger to society. Moreover, since 2011, at the request of the involved parties, the hearing has been held publicly.

R. Discrimination

CRO / Ineffective investigation into a racist attack on a Roma person

Šečić (group) - Application No. 40116/02, judgment final on 31/08/2007, enhanced supervision

- ” Ineffective investigation into a racist attack on a Roma person (Article 3, Article 14 in conjunction with Article 3)

CM Decision: Legislative measures aiming at enhancing the efficiency of investigations into ill-treatment motivated by ethnic hatred were adopted, including the introduction of a special “hate crime” in 2007, revised in 2011 coupled with a new anti-discrimination law in 2008, revised in 2012. However, additional efforts should be made to ensure their implementation in compliance with Convention requirements. In this regard, in June 2017, the CM encouraged the authorities to take measures to ensure that effective investigations are carried out into hate crimes in compliance with these requirements. It further invited the authorities to explore possible avenues to prevent crimes motivated by ethnic hatred, in particular against the Roma community, such as setting up a specialised police unit to deal specifically with racist crimes. Information on the practical impact of the measures adopted so far is awaited.

As regards individual measures, the CM requested clarifications concerning the statute of limitation applicable to the attack against the applicant, as well as information on any further investigatory steps that can still be taken in line with Convention standards.

CRO / Discrimination of Roma children with regard to the right to education

Oršuš and Others - Application No. 15766/03, judgment final on 16/03/2010, [CM/ResDH\(2017\)385](#)

- ” Discriminatory treatment of Roma children in two primary schools in the Medimurje area due to the lack of objective and reasonable justification for their placement in Roma-only classes allegedly based on their inadequate command of the Croatian language; excessive length of related proceedings (Article 14 taken together with Article 2 of Protocol No. 1 and Article 6 § 1)

Final resolution: A National Strategy for Roma Inclusion 2013-2020 was developed, aimed at raising the quality and efficiency of education of Roma children, at increasing the number of Roma children at all levels of education and at abolishing Roma-only classes in accordance with CM Recommendation (2009)4 on the education of Roma and Travellers in Europe. Prior amendments to the law governing primary and secondary education had entered into force in July 2010 providing a clear legal basis for access to mainstream education for Roma children, who are now taught the regular full-scale curriculum as all pupils. Testing of the command of the Croatian language among children prior to their enrolment in primary schools on the basis of objective criteria was introduced. Roma-only classes were abolished and targeted assistance for Roma children was provided. Additional measures were taken to ensure pre-school attendance of Roma children with a view to attaining adequate level of command in Croatian. Teaching assistance was reinforced in primary education in order to address the high drop-out rate. The issue of excessive length of proceedings before the Constitutional Court is examined in the context of the *Beceheli* case, which is part of the Jeans group.

Evening classes were made available to those of the applicants who wished to complete their primary education. Domestic proceedings were closed.

■ CRO / Discrimination with regard to family reunification

Pajić - Application No. 68453/13, judgment final on 23/05/2016, [CM/ResDH\(2017\)387](#)

” Discrimination between unmarried same-sex couples and unmarried different-sex couples in obtaining a residence permit on the ground of family reunification (Article 14 in conjunction with Article 8)

Final resolution: Persons in registered partnerships with same-sex partners (or informal ones having lasted for over three years) or living in same-sex marriages are entitled to request a residency permit for family reunification in administrative proceedings before the Ministry of the Interior, following the replacement of the Same-Sex Partnership Act of 2003 by a new Act in 2014.

The applicant did not avail herself of the right to seek reopening of the case, nor did she file a new request for family reunification.

■ GRC / Discrimination of Roma children with regard to the right to education

Sampani and Others and 1 other case - Application No. 59608/09+, judgment final on 29/04/2013, [CM/ResDH\(2017\)96](#)

” Failure to provide schooling for 98 Roma children and their subsequent placement in special classes; in the second case, the education of Roma children was restricted to attending a primary school in which the only pupils were other Roma children as well as refusal by the State to take anti-segregation measures (Article 14 in conjunction with Article 2 of Protocol No. 1)

Final resolution: The importance of Roma children's full integration into national education was reaffirmed by the Minister for National Education in 2016, as was the authorities' commitment to continue to fully implement the circular of November 2013, giving Roma pupils the right to be enrolled in a school or transferred to another

school without providing proof of residence. School principals were instructed to admit Roma children on the basis of the “school card” issued for them and to ensure stable enrolment by taking positive action against school absenteeism. Furthermore, the Ministry for National Education and its regional offices carried out field visits, informal negotiations, information exchanges with local and regional officials as well as with Roma Mediators, representatives of the “Education for Roma Children” programme, school principals, and parents’ associations. The Ombudsman for Roma was also involved in the integration programmes. A “National Plan for the integration of Roma” was implemented under the “EU Framework for National Roma Integration Strategies”. In 2013, Parliament established the standing committee on “Equality, Youth and Human Rights” to draft appropriate legislation for Roma social integration. A new Special Secretariat for the social integration of Roma was established in 2016 and introduced to the Regions in January 2017 underlining the State’s commitment to the eradication of Roma poverty and social exclusion.

■ HUN / Discrimination of Roma children with regard to the right to education

Horváth and Kiss - Application No. 11146/11, judgment final on 29/04/2013, enhanced supervision

” Unjustified assignment of Roma children during their primary education to special schools for children with mental disabilities; lack of adequate legislative safeguards against systemic misdiagnosis of mental disability among Roma children, leading to their misplacement in special schools (Article 2 of Protocol No. 1 read in conjunction with Article 14)

CM Decision: Before the judgment became final, the authorities had already undertaken reforms through the establishment of a new method for evaluating the learning abilities of children, aimed at eradicating discrimination in the placement of Roma pupils. In December 2017, the CM noted with interest information indicating that the measures adopted appeared to allow an objective assessment of Roma children’s learning abilities, provided safeguards against misdiagnosis, as well as administrative remedies in respect of the conduct and outcome of examinations. However, it was still not clear whether these new tests and standards were applied effectively across the country and whether they had entirely replaced the former methods. The CM requested information in this regard, supported by updated statistical data on the number of children examined under the new and under the old tests, and detailing whether the examination process could effectively be challenged before the courts.

As regards measures aimed at addressing the overrepresentation of Roma children in special schools due to their misdiagnosis as mentally or intellectually disabled pupils, the CM noted with interest the efforts undertaken under a new inclusive education policy, notably the reduction of the compulsory kindergarten age and the introduction of compulsory “whole day schooling” in lower grades. The authorities were thus encouraged in December 2017 to pursue their efforts, and to provide statistical data on the evolution of the number of Roma children in special education in order to allow a full assessment of the impact and effectiveness of the measures taken.

■ LIT / Discriminatory treatment of prisoners on remand

Varnas - Application No. 42615/06, judgment final on 09/12/2013, [CM/ResDH\(2017\)140](#)

” Unjustified difference in treatment of remand prisoners compared to convicted prisoners as regards conjugal visits (Article 14 in conjunction with Article 8)

Final resolution: Equal treatment between remand detainees and convicted prisoners as regards family visits was ensured by amendments in 2017 of the Law on Execution of Detention and the Code for the Execution of Sentences.

■ SUI / Discrimination with regard to payment of disability allowance

Di Trizio - Application No. 7186/09, judgment final on 04/07/2016, [CM/ResDH\(2017\)128](#)

” Discriminatory refusal in 2004 to continue to grant a disability allowance to a mother when she decided to combine care of her children and part time work (Article 14 in conjunction with Article 8)

Final resolution: The “combined method of calculation” of disability benefits at the origin of the violation no longer applies and a reduction in working-time for childcare purposes is no longer a reason for reviewing such benefits following a circular letter of October 2016 from the Swiss Federal Social Insurance Office. The Government plans to introduce a suitable method of calculation in legislation.

In 2016, the applicant was granted, in reopened judicial proceedings, a 50% disability allowance to be paid retroactively.

■ TUR / Discrimination in the enjoyment of the right to education

Altınay - Application No. 37222/04, judgment final on 09/10/2013, [CM/ResDH\(2017\)89](#)

” Unforeseeable change in the rules governing access to university, excluding vocational high school students and admitting only graduates from ordinary high schools without any transitional period (Article 14 taken together with Article 2 of Protocol No.1)

Final resolution: The difference of treatment between vocational and ordinary high schools in university entrance exams was revoked in the Law on Higher Education in 2012. Since then the grades have been calculated without any discrimination against the graduates from vocational high schools. However, already as of September 2000, the transfer from a vocational to an ordinary high school had been facilitated by the Higher Education Council.

The applicant passed the university entrance exam in 2000 and could enroll in a higher education programme.

■ TUR / Gender discrimination in job requirements in a State-owned company

Emel Boyraz - Application No. 61960/08, judgment final on 02/03/2015, [CM/ResDH\(2017\)147](#)

” Dismissal of a female security officer of a State-run electricity company on the ground that she did not fulfill the requirements of “being a man” and “having completed military service”; excessive length of dismissal proceedings and lack of adequate reasoning in the Supreme Administrative Court’s ensuing decisions (Article 14 in conjunction with 8, Article 6 § 1)

Final resolution: The employment procedure with regard to civil servants, in particular the requirement of completion of compulsory military service, had been

clarified in a new regulation in 2002, adopted after the commencement of the different proceedings at issue in the present case. The present case was also an isolated incident. The new rules exempting female candidates from this requirement were recalled by the State Personnel Department in a letter in 2016. The absence of judicial reasoning was dealt with by awareness-raising measures. Major reforms have addressed the problem of excessive length of proceedings before administrative courts, see the Final resolution in the *Ormanci* group of cases [CM/ResDH\(2014\)298](#).

Following the reopening of the proceedings, the impugned administrative decision of the Ministry of Energy and Natural Resources was annulled and pecuniary compensation for salary losses awarded.

S. Use of restrictions on rights for illegitimate purposes

AZE / Detention of a political opponent

Ilgar Mammadov (group) - Application No. 15172/13, judgment final on 13/10/2014, enhanced supervision, Interim resolutions [CM/ResDH\(2016\)144](#), [CM/ResDH\(2015\)156](#), [CM/ResDH\(2015\)43](#)

” Engagement of criminal proceedings and arrest and pretrial detention of a political opponent without any reasonable suspicion that he had committed an offence, and instead for reasons other than those permitted by Article 5, namely to silence or punish him for criticising the Government and attempting to disseminate what he believed was the true information that the Government was trying to hide (Article 18 combined with Article 5, Article 5 § 1(c) and 4, Article 6 § 2)

CM Decisions: In view of the Court’s findings in this case, the CM has asked for the applicants release, initially in December 2014 without delay, and since June 2015, following the absence of progress in the immediate adoption of necessary individual measures (case notably postponed by the Supreme Court sine die). In December 2016, the CM deeply deplored that the criminal proceedings against the applicant concluded on 18 November 2016 before the Supreme Court, did not reflect the violations found by the European Court having been drawn, in particular, that of Article 18 taken in conjunction with Article 5. In March 2017, the CM noted a recent Presidential Executive Order which foresaw promising measures for the execution of this judgment. The CM subsequently urged the authorities to submit the draft laws prepared pursuant to this Executive Order in time for adoption in June 2017. In September 2017, the CM noted the information provided about the progress of the implementation of the Presidential Order and expressed its gravest concern, that almost 3 years after the Court’s judgment became final, the applicant remained imprisoned. Should no tangible progress be made in ensuring the applicant’s release, it asked the Secretariat to prepare a draft interim resolution giving formal notice to the Republic of Azerbaijan, as provided for under Article 46 § 4 of the Convention, of the CM’s intention to bring before the Court (for consideration on 25 October 2017) the question as to whether the Republic of Azerbaijan had failed to fulfil its obligation under Article 46 § 1. As the applicant remained imprisoned, at the said meeting, the CM adopted an Interim resolution [CM/ResDH\(2017\)379](#) serving formal notice on the Republic of Azerbaijan of its intention, at its HR meeting on 5 December 2017, to refer to the Court, in accordance with Article 46 § 4 of the Convention, the question

as to whether the Republic of Azerbaijan had failed to fulfil its obligation under Article 46 § 1, and invited the Republic of Azerbaijan to submit in a concise form its view on this question by 29 November 2017 at the latest. The Interim Resolution deciding to bring the question before the Court, [CM/ResDH\(2017\)429](#) was adopted at the above-mentioned meeting of 5 December. It contains, in the appendix, the views of the Republic of Azerbaijan. At the time of drafting the present report the proceedings are pending before the Court.

UKR / Detention of opposition politicians

Lutsenko - Application No. 6492/11, judgment final on 19/11/2012, enhanced supervision

Tymoshenko - Application No. 49872/11, judgment final on 30/07/2013, enhanced supervision

” Use of pre-trial detention for reasons other than those permissible under the Article 5, namely for having claimed one’s innocence and for having shown disrespect for the court, in the context of criminal proceedings engaged against the applicants in a political context (2011); inadequate scope and nature of judicial review of the lawfulness of detention; lack of effective opportunity to receive compensation (Articles 5 §§ 1, 4 and 5, and Article 18 in conjunction with Article 5)

Action plan: The applicants have been released. In September 2017, the authorities submitted an action plan regarding the general measures adopted and envisaged, notably the measures relating to detention on remand (examined in the context of the *Ignatov* group of cases) and measures on the on-going reforms of the judiciary and the Prosecutors’ Office. A consolidated action plan / report with updated information on the on-going reforms including a roadmap and estimated timetable is awaited.

T. Cooperation with the European Court and right to individual petition

BEL / Expulsion in violation of an interim measure indicated by the European Court

Trabelsi - Application No. 140/10, judgment final on 16/02/2015, enhanced supervision

” Expulsion of a Tunisian national to the United States where he faces risk of irreducible life sentence, implemented in spite of an interim measure indicated by the European Court (Article 3 and 34)

CM Decisions: The present case concerns problems linked with the interpretation and application of the relevant legislation. Dissemination of the European Court’s judgment and awareness-raising measures have been taken to prevent similar violations. In 2017, the CM dedicated its supervision to the follow-up of the individual measures taken to avoid that the applicant is sentenced to an irreducible life sentence in violation of Article 3 of the Convention.

The appeal lodged by the applicant in the United States, aimed at challenging the charges against him, is still pending. He was notably expected to appear at a preliminary hearing in the District Court of Columbia on 15 November 2017 to discuss the state of the case and the schedule of subsequent stages. As a result of the

dialogue held between the Belgian and the United States authorities on the legal mechanisms that could be used to avoid or reduce the risk of being sentenced to an irreducible life sentence, negotiations had been initiated prior to this hearing between the parties with a view to a plea agreement. In December, the CM invited the authorities to keep it informed of the results of the above-mentioned negotiations. Updated information is awaited.

■ **UKR / Lack of a clear procedure allowing prisoners access to documents**

Vasiliy Ivashchenko - Application No. 760/03, judgment final on 26/10/2012, enhanced supervision

Naydyon (group) - Application No. 16474/03, judgment final on 14/01/2011, enhanced supervision

” Authorities’ failure to comply with their obligation under Article 34 to furnish all necessary facilities to the applicants in order to make possible a proper and effective examination of their application to the Court by refusing to provide them with copies of documents from case-files (Article 34)

Action plan: According to the action plans submitted in June 2016 and December 2017, a draft law aimed at eliminating the legislative lacuna identified by the Court, is at the last stage of development and will be submitted to the Cabinet of Ministers of Ukraine for approval shortly. A consolidated updated action plan / report is awaited.

U. Inter-State and related case(s)

■ **RUS / Arrest, detention and expulsion of Georgian nationals**

Georgia v. Russian Federation - Application No. 13255/07, judgment final on 03/07/2014, enhanced supervision

” Implementation of a coordinated policy of arresting, detaining and expelling Georgian nationals, from October 2006, amounting to administrative practice (Article 4 of Protocol No. 4, Article 5 § 1 and 13, Article 5 § 4, Articles 3 and 13)

Developments: The action plan of December 2015 states that deportation procedures have been improved, in particular with regard to developments concerning the Federal Migration Service, the supervision of lawfulness carried out by prosecutors and the practice of domestic courts. In its decision of March 2016, the CM took note of these developments and invited the authorities to submit additional information on the implementation of the action plan.

■ **TUR / Violations in relation to the situation in the northern part of Cyprus**

Cyprus v. Turkey - Application No. 25781/94, judgment final on 10/05/2001, enhanced supervision

” Fourteen violations linked to the situation in the northern part of Cyprus concerning the Greek Cypriots missing persons and their families, the homes and properties of displaced persons, the living conditions of Greek Cypriots in the Karpas region of the northern part of Cyprus, and the rights of Turkish Cypriots living in the northern part of Cyprus (Articles 8 and 13, Article 1 of Protocol No. 1, Articles 3, 8, 9, 10 and 13, Articles 1 and 2 of Protocol No. 1, Articles 2, 3, 5 and 6)

Varnava - Application No. 16064/90, judgment final on 18/09/2009, enhanced supervision

” Lack of effective investigations into the fate of nine Greek Cypriots who disappeared during the Turkish military operations in Cyprus in 1974

Xenides-Arestis (group) - Application No. 46347/99, judgment final on 22/03/2006, enhanced supervision

” Continuous denial of access to property in the northern part of Cyprus and consequent loss of control thereof and, in some cases, also violation of the applicants’ right to respect for their homes (Article 1 of Protocol No. 1 and Article 8)

CM Decisions: In the light of the measures adopted by the respondent State with a view to abiding by the inter-state judgment, the CM was able to close the examination of a number of questions relating to the living conditions of Greek Cypriots in northern Cyprus, as regards secondary schools, censorship of textbooks and freedom of religion, and to the rights of Turkish Cypriots living there (jurisdiction of military courts).

At its March 2017 meeting the Committee decided to resume its consideration of the issue of the property rights of displaced persons at its December 2017 meeting.

In June 2017, the Committee decided to resume consideration of the issue of property rights of enclaved Greek Cypriots at its March 2018 meeting.

In September 2017, the Committee examined the issue of missing persons. Based on its previous decisions (March and December 2016) the Committee, due to the passage of time, underlined the urgency for the Turkish authorities to advance their proactive approach to providing the Committee on Missing Persons in Cyprus (CMP) with all necessary assistance to continue to achieve tangible results as quickly as possible. It called upon the Turkish authorities to give unhindered access to all possible military zones located in the northern part of Cyprus and to provide it *proprio motu* with any information from the relevant archives, including military archives, in their possession on burial sites, and on any other places where remains might be found.

In this context, the Committee in particular noted with interest the authorisation given to the CMP in 2017 to proceed with excavations in an eleventh military zone in addition to the ten zones to which the CMP has already had access this year. The Committee also noted with interest the continuation of the activities of the archives committee established by the Turkish side to examine the relevant archives for the information requested by the CMP on the location of remains. It also reiterated its call on the Turkish authorities to ensure the effectiveness of these investigations conducted by the Missing Persons Unit and their rapid finalisation. The Committee asked the Turkish authorities to continue to keep it informed of the progress in these investigations, in particular that concerning Andreas Varnava. The Committee also reiterated its invitation to the Turkish authorities to transmit to it information on the content of the conclusions reached in the final reports in the investigations finalised so far.

Finally, it agreed to resume consideration of the issue of missing persons at its June 2018 meeting.

In December 2017, the Committee examined the issue of the property rights of displaced persons. Within the framework of its examination, the Committee recalled

the inadmissibility decision in *Demopoulos and Others* adopted in 2010 in which the European Court concluded that the law which set up the restitution, exchange and compensation mechanism provided for an accessible and effective framework of redress in respect of complaints about interference with the property owned by Greek Cypriots. The Committee recalled, however, that in the judgment on the just satisfaction of 12 May 2014 in the *Cyprus v. Turkey* case the European Court expressed the opinion that the compliance with the conclusions of the main judgment “could not be [...] consistent with any possible permission, participation, acquiescence or otherwise complicity in any unlawful sale and exploitation of Greek Cypriot homes and property in the northern part of Cyprus”. In this respect, it noted the information conveyed by the Turkish authorities on the existing avenues within the framework of the above mechanism to address the issue of possible unlawful sale and exploitation of the properties in question. It invited therefore the Turkish authorities to present additional information on the practical implementation of these avenues to allow it to assess their effectiveness, and if necessary the need for further measures.

The Committee decided to resume consideration of the issue of the property rights of displaced persons at its September 2018 DH meeting.

The CM constantly insisted on the unconditional obligation to pay just satisfaction awarded by the European Court and repeatedly called upon the Turkish authorities to pay without further delay the sums awarded in the judgment of 12 May 2014.

During its examinations of the issue of payment of the just satisfaction in the case of the *Xenides-Arestis* group (46347/99) and in the *Varnava* case (in which the general measures are examined in the context of the interstate case), the Committee constantly reiterated its call to Turkey to abide without further delay with its unconditional obligation to pay the just satisfaction awarded by the European Court.

Appendix 6 – The Committee of Ministers’ supervision under the new working methods

Introduction

1. The efficiency of the execution of judgments and of the Committee of Ministers’ supervision thereof (generally, carried out at the level of the Minister’s Deputies) have been at the heart of the efforts over the last decade to guarantee the long term efficiency of the Convention system (see also Chapter III). The Committee of Ministers thus reaffirmed at its 120th session in May 2010, in the pursuit of the Interlaken process started at the Interlaken High Level Conference in February 2010 *“that prompt and effective execution of the judgments and decisions delivered by the Court is essential for the credibility and effectiveness of the Convention system and a determining factor in reducing the pressure on the Court.”* The Committee added that *“this requires the joint efforts of member States and the Committee of Ministers”*.
2. As a consequence, the Committee of Ministers instructed its Deputies to step up their efforts to make execution supervision more effective and transparent. In line herewith the Deputies adopted new modalities for the supervision process as of 1 January 2011 (see section B below). As noted in the Annual Report 2011, these new modalities proved their value and the Deputies confirmed them in December 2011. The necessity of further developments of the Committee of Ministers’ supervision procedure was discussed at the High Level Conferences in Brighton in April 2012, and in Brussels in March 2015 called *“Implementation of the European Convention on Human Rights, our shared responsibility”* – see also Chapter III above).
3. The above efforts and developments have not changed the main elements of the obligation to abide by the Court’s judgments. These have thus largely remained the same: redress must be provided to the individual applicant and further similar violations prevented. Certain developments have, nevertheless taken place. For instance, the continuing problem of repetitive cases has drawn the attention on the importance of prevention of new violations, including by rapidly setting up effective remedies.
4. The statistics for 2017 (see appendix 1) continue to confirm the Committee of Ministers positive assessments of the results of the new working methods, and notably that the priority system for the examination of cases, inherent to the new twin-track supervision procedure, enables the Committee of Ministers to focus its supervision efforts efficiently on the most important cases.

A. Scope of the supervision

5. The main features of the Contracting States' undertaking "to abide by the final judgment of the Court in any case to which they are parties" are defined in the Committee of Ministers' Rules of Procedure¹ (Rule 6.2). The measures to be taken are of two types.

6. The first type of measures – **individual measures** – concern the applicants. They relate to the obligation to erase the consequences suffered by them because of the violations established so as to achieve, as far as possible, *restitutio in integrum*.

7. The second type of measures – **general measures** – relate to the obligation to prevent violations similar to that or those found or putting an end to continuing violations. In certain circumstances they may also concern the setting up of remedies to deal with violations already committed (see also §36).

Individual measures

8. The obligation to take individual measures and provide redress to the applicant has two aspects. The first is, for the State, to provide any just satisfaction - normally a sum of money - which the Court may have awarded the applicant under Article 41 of the Convention.

9. The second aspect relates to the fact that the consequences of a violation for the applicants are not always adequately remedied by the mere award of a just satisfaction by the Court or the finding of a violation. Depending on the circumstances, the basic obligation of achieving, as far as possible, *restitutio in integrum* may thus require further actions, involving for example the reopening of unfair criminal proceedings, the destruction of information gathered in breach of the right to privacy, the enforcement of an unenforced domestic judgment or the revocation of a deportation order issued against an alien despite a real risk of torture or other forms of illtreatment in the country of destination. The Committee of Ministers issued a specific Recommendation to member States in 2000 inviting them "to ensure that there exist at national level adequate possibilities to achieve, as far as possible, "restitutio in integrum" and, in particular, "adequate possibilities of re-examination of the case, including reopening of proceedings, in instances where the Court has found a violation of the Convention" (Recommendation No. R(2000)2)².

General measures

10. The obligation to take general measures aims at preventing violations similar to the one(s) found and may, depending on the circumstances, imply a review of legislation, regulations and/or judicial practice. Some cases may even involve constitutional changes. In addition, other kinds of measures may be required such as

1. Called, since 2006, "Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements".
2. Cf. Recommendation No. R(2000)2 on the re-examination or reopening of certain cases at domestic level following judgments of the European Court of Human Rights and Explanatory memorandum.

the refurbishing of a prison, increase in the number of judges or prison personnel or improvements of administrative procedures.

11. When examining general measures today, the Committee of Ministers pays particular attention to the efficiency of domestic remedies, in particular where the judgment reveals³ important structural problems (see also as regards the Court Section C below). The Committee also expects competent authorities to take different provisional measures, notably to find solutions to possible other cases pending before the Court⁴ and, more generally, to prevent as far as possible new similar violations, pending the adoption of more comprehensive or definitive reforms.

12. These developments are intimately linked with the efforts to ensure that execution supervision contributes to limit the important problem of repetitive cases in line with Recommendations CM/Rec(2004)6 and CM/Rec(2010)3 on domestic remedies and the recent developments of the Court's case-law as regards the requirements of Article 46, notably in different "pilot judgments" adopted to support on-going execution processes (see Section C below). In CM/Rec(2004)6 the Committee thus invited member States to "*review, following Court judgments which point to structural or general deficiencies in national law or practice, the effectiveness of the existing domestic remedies and, where necessary, set up effective remedies, in order to avoid repetitive cases being brought before the Court*".

Identification of execution measures required

13. The scope of execution measures required is defined in each case on the basis of the action plans/reports submitted by the respondent Government considered in the light of the conclusions of the European Court in its judgment, its case-law and the Committee of Ministers practice⁵, as well as of relevant information about the developments of the applicant's situation and the relevant domestic law and practices. In certain situations, it may be necessary to await further decisions by the Court clarifying outstanding issues.

14. As regards the *payment of just satisfaction*, the execution conditions are usually laid down with considerable detail in the Court's judgments (deadline, recipient, currency, default interest, etc.). Payment may nevertheless raise complex issues, e.g. as regards the validity of powers of attorney, the acceptability of the exchange rate used, the incidence of important devaluations of the currency of payment, the acceptability of seizure and taxation of the sums awarded etc. Existing Committee of Ministers practice on these and other frequent issues is detailed in a memorandum

3. Whether as a result of the Court's findings in the judgment itself or of other information brought forward during the Committee of Ministers' examination of the case, *inter alia* by the respondent state itself.

4. Measures accepted by the Court include, besides the adoption of effective domestic remedies, also practices aiming at the conclusion of friendly settlements and/or adoption of unilateral declarations (see also the Committee of Ministers' Resolution Res(2002)59 concerning the practice in respect of friendly settlements).

5. See e.g. the judgments of the Court in the case of *Broniowski v. Poland*, judgment of 22/06/2004, § 194, in *Ramadhi v. Albania*, judgment of 13/11/2007, § 94, in *Scordino v. Italy*, judgment of 29/03/2006, § 237.

prepared by the Department for the Execution of Judgments of the Court (document CM/Inf/DH(2008)7final).

15. As regards the *nature and the scope of other execution measures*, whether individual or general, the judgments are generally silent. As stressed by the Court on numerous occasions, it belongs in principle to the respondent State to identify these measures under the Committee of Ministers' supervision. In this respect, national authorities may, in particular, find inspiration in the important practice developed over the years by other States, in relevant Committee of Ministers Recommendations and also in the opinions, recommendations and conclusions of different expert bodies (such as the CPT, CEPEJ, Venice Commission etc.). In certain cases, the Court's judgments will also seek to provide assistance – "pilot judgments" and so called "judgments with indication of interest for execution (under Article 46)". In certain situations, the Court will even indicate specific execution measures (see below section C.). In the course of the supervision process, the Committee will itself provide assistance in deserving cases, most frequently in the form of assessments and recommendations in decisions and interim resolutions (see also below § 31).

16. This situation reflects the principle of subsidiarity, according to which respondent States are, in principle, free to choose the means to be put in place in order to meet their obligations under the Convention. However this freedom goes hand-in-hand with the Committee of Ministers' control. As a consequence, in the course of its execution supervision, the Committee of Ministers, may adopt, if necessary, decisions or interim resolutions in view of taking stock of the execution progress, and, where appropriate, encourage or express its concerns, make Recommendations or give directions with respect to execution measures required.

17. The direct effect more and more frequently granted to the European Court's judgments by the domestic courts and national authorities, greatly facilitates the adoption of the necessary execution measures, both as regards adequate individual redress and rapid development of domestic law and practices to prevent similar violations, including by improving the efficiency of domestic remedies. Where execution through such direct effect is not possible, other avenues will have to be pursued, most frequently legislative or regulatory.

18. The Directorate General of Human Rights and Rule of Law, represented by the Department for the Execution of Judgments of the European Court, assists the Committee of Ministers with the supervision of the measures taken by the States for the execution of the Court's judgments⁶. The Department also provides assistance to the States which may request, in the context of their reflection on the needed execution measures, different forms of support from the Department (advice, legal expertise, round tables and other targeted cooperation activities).

6. In so doing the Directorate General continues a tradition which has existed ever since the creation of the Convention system. By providing advice based on its knowledge of the practice in the field of execution over the years and of the Convention requirements in general, the Directorate General contributes, in particular, to the consistency and coherence of state practice in execution matters and of the Committee of Ministers' supervision of execution.

B. New supervision modalities: a twin-track approach to improve prioritization and transparency

Generalities

19. The new modalities for the Committee of Ministers' supervision, developed in response to the Interlaken process, remain within the more general framework set by the Rules adopted by the Committee of Ministers in 2006⁷. As from their entry into force in 2011, they have brought important changes to the working methods applied since 2004 in order to improve efficiency and transparency of the supervision process⁸.

20. The new 2011 modalities stress the subsidiary nature of the supervision and thus the leadership role that national authorities, i.e. governments, courts and parliaments must play in defining and securing rapid implementation of required execution measures.

Identification of priorities: twin track supervision

21. In order to meet the call for increased efficiency the new modalities provide for a new twin track supervision system allowing the Committee to concentrate on deserving cases under what is called "enhanced supervision". Other cases will be dealt with under "standard supervision". The new modalities thus also give more concrete effect to the existing priority requirement in the Rules (Rule 4).

22. The cases which from the outset are liable to come under "enhanced supervision" are identified on the basis of the following criteria:

- ▶ Cases requiring urgent individual measures;
- ▶ Pilot judgments;
- ▶ Judgments otherwise disclosing major structural and/or complex problems as identified by the Court and/or by the Committee of Ministers;
- ▶ Interstate cases;

The classification decision is taken at the first presentation of the case to the Committee of Ministers.

23. The Committee of Ministers may also decide at any phase of the supervision procedure to examine any case under the enhanced procedure upon request of a member State or the Secretariat (see also paragraph 32 below). Similarly, a case

7. The currently applicable Rules were adopted on 10/05/2006 (964th meeting of the Ministers' Deputies). On this occasion the Deputies also decided "bearing in mind their wish that these rules be applicable with immediate effect to the extent that they do not depend on the entry into force of Protocol No. 14 to the European Convention on Human Rights, that these rules shall take effect as from the date of their adoption, as necessary by applying them *mutatis mutandis* to the existing provisions of the Convention, with the exception of Rules 10 and 11". As a result of the Russian ratification of Protocol No. 14, the rules in their entirety entered into force on 1 June 2010.

8. The documents which explain the reform more in depth are presented on the Committee of Ministers web site and on the web site of the Department for the Execution of Judgments and decisions of the European Court (see notably CM/Inf/DH(2010)37 and CM/Inf/DH(2010)45 final).

under enhanced supervision may subsequently be transferred to standard supervision when the developments of the national execution process no longer justify an enhanced supervision.

Continuous supervision based on action plans/reports

24. The new working methods of 2011 have introduced a *new, continuous supervision* of the execution process. Indeed, all cases are under the permanent supervision of the Committee of Ministers which should receive, in real time, relevant information concerning the execution progress. Insofar as, in addition, all cases are now considered as being inscribed on the agenda of all Human Rights meetings and may also be inscribed on the agenda of ordinary meetings, the Committee can respond rapidly to developments where necessary.

25. The new modalities also confirm the development that the Committee of Minister's supervision is to be based on action plans or action reports prepared by competent State authorities⁹. The action plans/reports present and explain the measures planned or taken in response to the violation(s) established by the European Court and should be submitted as soon as possible and, in any event, no later than 6 months after a judgment or decision has become final. A vademecum intended for drafters is available on the web site of the Department for the Execution of Judgments of the Court.

Other relevant information

26. Under the Committee's Rules of procedure – Rule 9 – applicants (with respect to the question of payment of just satisfaction and individual measures), NGO's and National Human Rights Institutions (with respect to all execution issues) may submit communications to the Committee of Ministers to assist the execution process. An amendment to Rule 9 of January 2017 also codifies the right of international organisations and other international instances to submit communications.

Transparency

27. In response to the call for increased transparency, the Committee of Ministers has decided that such plans and reports, together with other relevant information provided *will be promptly, made public (...), except where a motivated request for confidentiality is made at the time of submitting the information*, in which case it may be necessary to await the next Human Rights meeting to allow the Committee to decide the matter (see Rule 8 and decision taken at the 1100th Human Rights meeting, item "e").

28. Action plans and reports and other information received are in principle published on the web (Rule 8). As regards communications from NGOs, NHRIs and international organisation, governments have a maximum of 10 working days to submit their replies if they wish these to be published together with the communication.

9. This system was partially put in place already in June 2009 as the Committee of Ministers formally invited States to henceforth provide, within six months of a judgment becoming final, an Action Plan or an Action Report as defined in document CM/Inf/DH(2009)29rev.

Replies received after this period will be published separately. This rule allows national parliaments, different State authorities, lawyers, representatives of civil society, national institutions for the promotion and protection of human rights, applicants and other interested persons to follow closely the development of the execution process in the different cases pending before the Committee. The applicants' submissions should in principle be limited to matters relating to the payment of just satisfaction and to possible individual measures (Rule 9).

29. As from 2013, the Committee of Ministers publishes also the indicative list of cases proposed to be inscribed for detailed examination at the next HR meeting. Since 2016 a provisional list is adopted at the end of each HR meeting and published shortly afterwards. Subsequent changes are also rapidly published.

Practical modalities

30. Under the framework of the "*standard supervision*" procedure, the Committee of Ministers' intervention is limited. Such intervention is provided for solely to confirm, when the case is first put on the agenda, that it is to be dealt with under this procedure, and, subsequently, to take formal note of action plans / reports. Developments are, however, closely followed by the Department for execution of judgments. Information received and evaluations made by the Department are circulated as rapidly as possible. The Secretariat or a member State may, in the light of evaluations made, propose the transfer of a case to the "*enhanced supervision*" procedure in order to allow the Committee of Ministers to intervene to define appropriate responses to new developments.

31. The classification under the "*enhanced supervision*" procedure, ensures that the progress of execution is closely followed by the Committee of Ministers and facilitates the support of domestic execution processes, e.g. in the form of adoption of specific decisions or interim Resolutions expressing satisfaction, encouragement or concern, and/or providing suggestions and Recommendations as to appropriate execution measures (Rule 17). The Committee of Ministers' interventions may, depending on the circumstances, take other forms, such as declarations by the Chair or high-level contacts or meetings. The necessity of translating relevant texts into the language(s) of the State concerned and ensuring their adequate dissemination is frequently underlined (see also Recommendation CM/Rec(2008)2). An overview of tools available was prepared in 2013 and presented in the annual report 2013.

32. At the request of the authorities or of the Committee, the Department may also be led to contribute through various targeted cooperation and assistance activities (legislative expertise, consultancy visits, bilateral meetings, working sessions with competent national authorities, round-tables, etc.). Such activities are of particular importance for the cases under enhanced supervision.

Simplified procedure for the supervision of payment of just satisfaction

33. As regards *the payment of just satisfaction*, supervision has been simplified under the new working methods of 2011 and greater importance has been laid on

applicants' responsibility to inform the Committee of Ministers in case of problems. This way, the Department for the execution of the Court's judgments limits itself in principle to register the payments of the capital sums awarded by the Court, and, in case of late payment, of the default interest due.

A two months period for applicants to submit complaints about payment

34. Once the payment information has been received from the Government and registered the cases concerned are presented under a special heading on the Department's website (www.coe.int/execution) indicating that the applicants now have two months to bring any complaints to the attention of the Department. Applicants have before had been informed through the letters accompanying the European Court's judgments that *it is henceforth their responsibility to rapidly react to any apparent shortcoming* in the payment, as registered and published. If such complaints are received, the payment will be subject to a special examination by the Department, and if necessary, the Committee of Ministers itself.

35. If no complaint has been received within the two months deadline, the issue of payment of just satisfaction is considered closed. It is recalled that the site devoted to payment questions is now available in different languages (Albanian, French, Greek, Romanian, Russian and English- further language versions are under way).

36. No similar time-limit exists for applicants' complaints or other observations with respect to individual measures.

Necessary measures adopted: end of supervision

37. When the respondent State considers that *all necessary execution measures have been taken*, it submits to the Committee a *final action report* proposing the closure of the supervision. To assist the Committee, the Secretariat makes, in principle within a maximum period of 6 months, a detailed evaluation of the action report. If its evaluation is consistent with the one submitted by the authorities of the respondent State, a draft final resolution will thereafter be presented to the Committee for examination and adoption. If a divergence remains, the case is submitted to the Committee for consideration of the issue(s) raised.

38. When the Committee considers that all the necessary execution measures have been taken, the supervision concludes with the adoption of a final resolution (Rule 17).

C. Increased interaction between the Court and the Committee of Ministers

39. The European Court's interaction with the Committee of Ministers, in implementing Article 46, is constantly evolving. For several years now, the Court contributes to the execution process regularly in various ways, e.g. by providing itself, in its judgments, recommendations as to relevant execution measures ("pilot" judgments and "judgments with indication of interest for execution (under Article 46)" in that the Court considers different questions linked with execution without resorting to

a full-fledged pilot judgment procedure) or by providing relevant information, for example as regards the situation in respect of repetitive applications, in letters to the Committee of Ministers.

40. Today, the European Court thus assists the execution process by providing such recommendations both in respect of individual and general measures. Many of these interventions support ongoing execution processes and thus add to those already made under Article 46 by the Committee of Ministers. In some cases, the Court's interventions may also decide the effect that should be given to the violation finding, e.g. by ordering directly the adoption of relevant measures and/or fixing the time-limit within which action should be undertaken. For example, in case of arbitrary detention, *restitutio in integrum* will necessarily require, among other things, release from detention. Thus, in several cases, the Court has ordered immediate release of the applicant¹⁰. In many others it has provided recommendations as to appropriate individual measures.

41. Moreover nowadays, as regards general measures, the Court makes a detailed examination, notably in the context of the "pilot" judgment procedure, of the causes behind the structural problems¹¹, with a view to making, where appropriate, recommendations or more detailed indications, and even require the adoption of certain measures within specific deadlines (see Rule 61 of the Rules of Court). In this context, to support more complex execution processes, the Court has used the "pilot" judgment procedure across a range of contexts¹², generating, or risking to generate, an important number of repetitive cases, notably in order to insist on the rapid setting up of effective domestic remedies and to find solutions for already pending cases¹³. (*For further information on "pilot" judgments and other judgments with indications of interest for execution, under Article 46, brought before the Committee of Ministers in 2016, see the E. table below.*)

42. The Committee of Ministers improved prioritisation in the framework of the new working methods of 2011, its insistence on the effectiveness of domestic remedies and the development of the Court's practices, in particular as regards "pilot" judgment procedures, appear to make it possible to limit significantly the number of repetitive cases linked to important structural problems (especially where "pilot" judgment procedures are combined with the "freezing" of the examination of all similar pending applications).

10. See *Assanidze v. Georgia*, No. 71503/01, judgment of 08/04/2004, *Ilascu v. Republic of Moldova and Russian Federation*, No. 48787/99, judgment of 08/07/2004 and *Fatullayev v. Azerbaijan*, No. 40984/07, judgment of 22/04/2010.

11. A response to the invitation formulated by the Committee of Ministers in Resolution (2004)3 on judgments revealing an underlying systemic problem.

12. See for instance *Broniowski v. Poland* (application No. 31443/96; Grand Chamber judgment of 22/06/2004 – pilot judgment procedure brought to an end on 06/10/2008); *Hutten-Czapska v. Poland* (application No. 35014/97, Grand Chamber judgment of 19/06/2006 and Grand Chamber friendly settlement of 28/04/2008). Since 2013, pilot judgments and judgments with indications of relevance for execution are presented in the Committee of Ministers Annual Reports.

13. See e.g. *Bourdov No. 2 v. Russian Federation*, No. 33509/04, judgment of 15/01/2009; *Olaru v. Republic of Moldova*, No. 476/07, judgment of 28/07/2009 and *Yuriy Nikolayevich Ivanov v. Ukraine*, No. 40450/04, judgment of 15/10/2009.

D. Friendly settlements

43. The Committee of Ministers' supervision, under Article 39 of the Convention, of the respect of undertakings made by States in friendly settlements accepted by the European Court follows in principle the same procedure as the one outlined above.

E. Unilateral declarations

44. The Committee of Ministers does not supervise the respect of undertakings made by governments in unilateral declarations (Article 37, § 1b. The Court itself may, however, "decide to restore an application to its list of cases if it considers that the circumstances justify such a course" (Article 37, § 2, of the Convention).

Appendix 7 – Where to find further information on the execution of judgments?

HUDOC Exec

<http://hudoc.exec.coe.int>

A new search engine to follow the execution of judgments of the European Court of Human Rights

In close cooperation with the European Court of Human Rights, the Department for the Execution of Judgments launched, in 2017, its HUDOC-EXEC database, a search engine which aims at improving the visibility and transparency of the process of the execution of judgments of the European Court.

HUDOC-EXEC provides easy access through a single interface to documents relating to the execution process (for example description of pending cases and problems revealed, the status of execution, memoranda, action plans, action reports, other communications, Committee of Ministers' decisions, final resolutions). It allows searching by a number of criteria (State, supervision track, violations, themes etc.).



| Country Factsheet | |
|--|--------------------|
| State | |
| Membership to the Council of Europe | 01 01 2002 |
| Entry into force of the European Convention on Human Rights | 01 01 2002 |
| First case under supervision of execution | Case 00000/02 |
| Total number of cases transmitted for supervision since the entry into force of the Convention | 01 |
| Total number of cases closed by final resolution | 01 |
| MAIN ISSUES BEFORE THE COMMITTEE OF MINISTERS - ONGOING SUPERVISION | |
| Violation theme | |
| Description of the violation | Date identified |
| | State of execution |
| MAIN REFORMS ADOPTED - SUPERVISION CLOSED | |
| Violation theme | |
| Description of the measures and reforms adopted | Date identified |
| | Reform completed |
| | Old monitoring |

Country factsheets

A State-by-State overview of the execution of judgments of the Court

The Department for the Execution of judgments published early 2017 Country factsheets which present an overview of the main issues raised by judgments and decisions of the Court in cases transmitted for supervision of their execution by the Committee of Ministers.

These factsheets outline the main issues under supervision, the main reforms adopted and basic statistics. These sheets are updated after each HR meeting of the Committee of Ministers (four times a year).

<https://go.coe.int/QQN1N>

Website of the Department for the Execution of Judgments

<http://www.coe.int/en/web/execution>

The website of the Department is mainly case-oriented and presents, in addition to HUDOC-EXEC and fact sheets, also important reference documents and information on support activities. It presents notably compilations of decisions and interim and final resolutions, the annual reports, news on seminars, roundtables, workshops, meetings and other support activities. It is also the place where applicants can follow the payment of just satisfaction and make contact in the event of problems.

Website of the Committee of Ministers

<http://www.coe.int/en/web/cm>

The Committee of Ministers' website provides a search engine for documents and decisions linked to the supervision by the Committee of Ministers of the execution of the Court's judgments.

Appendix 8 – References

A. CMDH meetings in 2016 and 2017

| Meeting No. | Meeting dates |
|-------------|----------------------|
| 1302 | 5-7 December 2017 |
| 1294 | 19-21 September 2017 |
| 1288 | 6-7 June 2017 |
| 1280 | 7-10 March 2017 |
| 1273 | 6-8 December 2016 |
| 1265 | 20-21 September 2016 |
| 1259 | 7-8 June 2016 |
| 1250 | 8-10 March 2016 |

B. General abbreviations

| | |
|-----------------------|---|
| AR 2007-17 | Annual Report 2007-2017 |
| Art. | Article |
| CDDH | Steering Committee on Human Rights |
| CEPEJ | European Commission for the Efficiency of Justice |
| CM | Committee of Ministers |
| CMDH | Human Rights meeting of the Committee of Ministers (quarterly) |
| CMP | Committee on Missing Persons in Cyprus |
| CPT | European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment |
| ECHR | European Convention for the Protection of Human Rights and Fundamental Freedoms |
| European Court | European Court of Human Rights |
| HRTF | Human Rights Trust Fund |
| GM | General Measures |
| HR | “Human Rights” meeting of the Ministers’ Deputies |
| IM | Individual Measures |
| IR | Interim resolution |
| NGO | Non-governmental organisation |
| NHRI | National Human Rights Institutions |
| ODIHR | Office for Democratic Institutions and Human Rights |
| OSCE | Organisation for Security and Co-operation in Europe |
| Prot. | Protocol |
| UN | United Nations |
| UNHCR | United Nations High Commissioner for Refugees |

C. Country codes

| | | | |
|-----|------------------------|-----|---|
| ALB | Albania | LIT | Lithuania |
| AND | Andorra | LUX | Luxembourg |
| ARM | Armenia | MLT | Malta |
| AUT | Austria | MDA | Republic of Moldova |
| AZE | Azerbaijan | MCO | Monaco |
| BEL | Belgium | MON | Montenegro |
| BIH | Bosnia and Herzegovina | NLD | Netherlands |
| BGR | Bulgaria | NOR | Norway |
| CRO | Croatia | POL | Poland |
| CYP | Cyprus | PRT | Portugal |
| CZE | Czech Republic | ROM | Romania |
| DNK | Denmark | RUS | Russian Federation |
| EST | Estonia | SMR | San Marino |
| FIN | Finland | SER | Serbia |
| FRA | France | SVK | Slovak Republic |
| GEO | Georgia | SVN | Slovenia |
| GER | Germany | ESP | Spain |
| GRC | Greece | SWE | Sweden |
| HUN | Hungary | SUI | Switzerland |
| ISL | Iceland | MKD | “the former Yugoslav Republic of Macedonia” |
| IRL | Ireland | TUR | Turkey |
| ITA | Italy | UKR | Ukraine |
| LVA | Latvia | UK | United Kingdom |
| LIE | Liechtenstein | | |

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The Committee of Ministers' annual report presents the status of execution of the main judgments of the European Court of Human Rights by the member States of the Council of Europe. It also provides statistics and other information relating to new cases, pending cases and cases closed during the year. 2017 saw a confirmation of the positive results observed over the last years in pursuing the reforms undertaken in the context of the "Interlaken process". The progress achieved demonstrates an enhanced dialogue between all stakeholders and the commitment of member States to abide by the Court's judgments. The current efforts still have to be supplemented by further measures to improve the system's capacity to overcome situations of resistance and to provide speedier and more effective support to States in complex execution processes. The stocktaking of the results of the "Interlaken process" is due end 2019.

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