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Committee on Legal Affairs and Human Rights

Implementation of judgments of the European Court of Human Rights, 10th report: Italy and Hungary

Information note

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1. Introduction

1. The Parliamentary Assembly has taken a keen interest in the issue of implementation of judgments of the European Court of Human Rights (“the Court”) since 2000.¹ Following its last resolution on this topic – [Resolution 2178 \(2017\)](#), it decided to “remain seized of this matter and to continue to give it priority”.² Accordingly, on 10 October 2017, the Committee on Legal Affairs and Human Rights appointed me as the fifth successive rapporteur on this subject. At its meeting in Strasbourg on 23 January 2018, the Committee held an initial discussion on my proposals for my work as rapporteur on this issue and on 24 April 2018 and 9 October 2018, it held two hearings with experts. At its meeting on 9 October 2018, the Committee authorised me to organise exchanges of views with the heads of the national delegations to the Assembly of the ten countries having the highest number of judgments under examination by the Committee of Ministers (at various stages of execution), namely the Russian Federation, Turkey, Ukraine, Romania, Italy, Greece, the Republic of Moldova, Bulgaria, Hungary and Azerbaijan. This classification was drawn up on the basis of the [2017 Committee of Ministers annual report](#) on supervision of the execution of judgments and decisions of the European Court of Human Rights (published in March 2018) relating to the situation as at 31 December 2017. As the delegation of the Russian Federation is not currently represented in the Assembly, an earlier meeting of the committee held on 22 January 2019 looked at the implementation of judgments against Turkey (with the participation of Mr Mustafa Yeneroğlu, member of the Turkish delegation, and experts from the Turkish Ministry of Justice) and judgments against Ukraine (in the absence of the head of the Ukrainian delegation). This document will thus focus on the implementation of judgments against two other member States having the highest number of cases pending before the Committee of Ministers: Italy and Hungary.

* Document declassified by the Committee on 9 April 2019.

¹ The first report was approved by our committee on 27 June 2000; [Doc. 8808](#), rapporteur Mr Erik Jurgens. On the basis of this report, the Assembly adopted [Resolution 1226 \(2000\)](#). Since 2000, the Assembly has adopted nine reports and resolutions and eight recommendations on the implementation of judgments of the European Court of Human Rights.

² [Resolution 2178 \(2017\)](#) adopted by the Assembly on 29 June 2017, paragraph 12. Reference No. 4313 of 30 May 2017.

2. Italy

2.1. Introductory remarks

2. According to the [Annual report of the Committee of Ministers on supervision of the execution of judgments and decisions of the European Court of Human Rights 2017](#) (“11th Annual report”) published in March 2018 there were, as at 31 December 2017, 389 judgments against Italy pending before the Committee of Ministers (at various stages of execution), placing Italy in fifth position among the States having the highest number of non-executed judgments. The latest figures from the Department for the Execution of Judgments of the European Court of Human Rights indicate that as of December 2018, the Committee of Ministers was examining 235 cases relating to Italy.³

3. In his report on the implementation of judgments of the European Court of Human Rights, our former colleague, Mr Pierre Yves Le Borgn’ (France, Socialist Group) identified four main cases/groups of cases whose implementation was problematic and which were still under the enhanced supervision procedure of the Committee of Ministers.⁴ These cases concerned:

- the excessive length of judicial proceedings (*Ceteroni, Ledonne (No. 1), Abenavoli and Luordo* groups of cases) and the inadequacies of the “Pinto” remedy (*Mostacciuolo Giuseppe (No. 1)* group);
- the inadequacy of medical care in detention centres, chiefly due to overcrowding (*Cirillo*);
- the collective expulsion of foreign nationals (case of *Sharifi and Others*);
- legislative intervention which cancelled retrospectively and in a discriminatory manner the annual adjustment of a compensation allowance for accidental viral contamination (*M.C. and Others* pilot judgment).

4. In his report, Mr Pierre-Yves Le Borgn’ noted that since the 2015 report by his predecessor, Mr Klaas de Vries (Netherlands, Socialist Group),⁵ the Committee of Ministers had noted real progress on the following three issues: the excessive length of judicial proceedings and lack of any effective remedy in that regard; the poor conditions in detention centres and lack of any effective remedy in that regard; and the expulsion of foreign nationals, in violation of Article 3 of the European Convention on Human Rights (“the Convention”). The Committee of Ministers had closed its examination of some cases concerning the first issue,⁶ the *Torreggiani and Others* and *Sulejmanovic* cases concerning the second issue⁷ and a number of judgments concerning the third issue (*Hirsi Jamaa and Others*,⁸ *Ben Khemais* and three similar cases).⁹ This document will thus look at those cases pending before the Committee of Ministers (under the enhanced supervision procedure) which were previously mentioned in Mr Le Borgn’s report and/or are described in the 11th Annual Report as posing structural and/or complex difficulties.

5. In February 2018 I wrote a letter to the heads of the national delegations to the Assembly asking how the recommendations set out in [Resolution 2178 \(2017\)](#) had been/were being implemented. In particular, I wished to know how the national parliaments of the Council of Europe member States had responded to these recommendations. The Italian delegation did not reply.

³ Department for the Execution of Judgments of the European Court of Human Rights, Country factsheet: [Italy](#).

⁴ Mr Le Borgn’s report also mentioned the *Belvedere Alberghiera S.r.l.* group of cases concerning the unlawful deprivation of land by local authorities because of a judge-made rule, the “constructive-expropriation rule”; these cases were closed by the Committee of Ministers in Resolution CM/DH(2017)138 of 10 May 2017.

⁵ [Doc. 13864](#) of 9 September 2015.

⁶ 149 cases concerning civil proceedings under the jurisdiction of courts of first instance and 28 cases concerning divorce proceedings were closed by Final Resolutions CM/ResDH(2015)247 and CM/ResDH(2015)246, adopted on 9 December 2015; 75 cases concerning administrative proceedings were closed by Final Resolution CM/ResDH(2016)358 of 8 December 2016; 34 cases concerning the inadequacy of compensatory sums granted under the Pinto law were closed by Final Resolution CM/ResDH(2015)155 of 24 September 2015.

⁷ CM/ResDH(2016)28, 8 March 2016.

⁸ CM/ResDH(2016)221, 14 September 2016.

⁹ CM/ResDH(2015)204, 17 November 2015.

2.2. Excessive length of judicial proceedings and inadequacies of the “Pinto” remedy

6. As previously noted by one of my predecessors, Mr Klaas de Vries,¹⁰ the Italian legal system has been plagued for decades by the problem of excessively lengthy judicial proceedings, despite the fact that Italy’s judges are some of the most productive in Europe¹¹ and that work continues on a number of reforms. Following numerous violations of Article 6, paragraph 1, of the Convention (right to a fair and public hearing within a reasonable period of time) and Article 13 (right to an effective remedy), a compensatory remedy was introduced by Law No. 89 of 24 March 2001 (the “Pinto law”).

7. On the matter of general measures to remedy the problem of **excessively lengthy civil proceedings**, the Committee of Ministers is examining this issue in the context of the *Trapani*¹² and *Muso (No. 1)* groups of cases.¹³ At their 1302nd (DH) meeting of December 2017,¹⁴ the Ministers’ Deputies decided to end its examination of 1 723 cases in the old *Ceteroni v. Italy*¹⁵ group of cases, where the matter of individual measures had been resolved (that is to say, just satisfaction had been paid and the Government had drawn the attention of the authorities concerned to the need to accelerate the relevant domestic proceedings).¹⁶ This decision¹⁷ was taken on the basis of information provided by the Italian authorities in October 2017 which detailed the reforms undertaken in 2016 and 2017.¹⁸ In 2015 the Italian Government named civil justice as one of its priorities and, in March 2016, the Chamber of Deputies approved a bill delegating to the Government the legislative power to conduct a full reform of the justice system. In October 2016, the provisions of the Code of Civil Procedure were amended to allow simplified processing (*in camera*, without a public hearing) of cassation cases that do not raise complex issues.¹⁹ In addition, 380 posts of auxiliary judges in the courts of appeal were filled.

8. Since 2014 there has been a steady decline in the *average length of civil proceedings* before the courts of first instance. In 2016 the average length of contentious proceedings in civil cases, those concerning employment law, commercial law and divorce and legal separation, was 981 days (as against 1 044 in 2014). The average length of all civil proceedings together (including non-contentious proceedings) was 375 days, and those concerning employment law cases was 561 days. In 2013 and 2014, moreover, that is to say, in the first two years of their operation, the specialist commercial courts settled 80% of cases referred to them within approximately one year. The Committee of Ministers welcomed these figures and encouraged the authorities to “continue closely monitoring the impact of the measures adopted in order to consolidate these results and further reduce the average length of contentious civil proceedings”.²⁰

9. On the matter of the *backlog of cases*, the authorities informed the Committee of Ministers that the “Strasbourg 2 Programme” aimed at civil proceedings pending before the courts and appeal courts for more than three years had started to show results for cases brought prior to 2005; this type of backlog had been cut from 213 429 cases to 118 567 in 2015. More generally, the stock of civil cases pending before the civil courts (which had been 5.7 million on 30 June 2011), was down by 3.6% in 2016 on the number for 2015 and in the first half of 2017 it was 3 719 284 cases, down by 1.1% on the number for 2016. The Committee of Ministers noted this overall positive trend with satisfaction, encouraged the authorities to continue their efforts and invited them to provide the Committee with updated information on the progress of the specific plan implemented.²¹

10. The Committee of Ministers expressed concern, however, over the trend at the Court of Cassation:²² according to information provided by the authorities, the average length of civil proceedings before this Court in 2016 was three years and four months and the number of civil cases pending had continued to grow since

¹⁰ [Doc. 13864](#) and Addendum.

¹¹ CEPEJ report: “European judicial systems – Efficiency and quality of justice”: 2018 Edition (2016 data).

¹² Application No. 45104/98, judgment of 12 October 2000.

¹³ Application No. 40969/98, judgment of 14 December 1999.

¹⁴ 1302nd (DH) meeting, 5-7 December 2017.

¹⁵ Application No. 22461/93, judgment of 15 November 1996.

¹⁶ CM/ResDH(2017)423, 7 December 2017.

¹⁷ CM/Del/Dec(2017)102/H46-16.

¹⁸ DH-DD(2017)1131-rev, 20 October 2017.

¹⁹ Law-Decree No. 168/2016, converted into Law No. 197/2016. See CM/Notes/1302/H46-16.

²⁰ CM/Del/Dec(2017)1302/H46-16, para. 2.

²¹ *Ibid.*, para. 3.

²² *Ibid.*, para. 4.

2013.²³ And it was impossible to assess the position regarding civil proceedings before the appeal courts due to a lack of data. Consequently, the Committee of Ministers invited the authorities to provide the Committee, “as soon as possible, with their analysis of the situation, based on complete and up-to-date statistics, in particular as regards courts of appeal and the Court of Cassation, so that the Committee can fully assess the impact of the measures adopted and the status of execution of this group of cases”.²⁴

11. Regarding the **excessive length of criminal proceedings**, notably in the old *Ledonne v. Italy (No. 1)* group²⁵ comprising 163 cases, in June 2017 and July 2018 the authorities provided information on measures that had been taken.²⁶ On 23 June 2017 Law No. 103/2017, amending the Criminal Code and Code of Criminal Procedure, was adopted by Parliament and came into force on 3 August 2017. This reform targeted special procedures aimed at speeding up the criminal process (such as the summary procedure or *giudizio abbreviato* and plea bargaining), and likewise appeal and cassation proceedings, as the Law-Decree of 6 February also does. In the period 2011 to 2016 the average length of criminal proceedings was steadily shortened: in 2016 it was well under two years before courts of first instance, around 900 days for courts of appeal and well under one year before the Court of Cassation (240 days). Between 2011 and 2015, the backlog “clearance rate”²⁷ remained close to 100%, so that the number of cases pending before the criminal courts declined steadily (from 1 655 983 cases at the end of 2013 to 1 510 600 at the end of 2017). At the time of its latest examination in September 2018 at the 1324th (DH) meeting, the Committee of Ministers noted “overall promising trends” over recent years “in terms of the average length of criminal proceedings and clearance of the backlog of criminal cases pending before the courts of first instance, juvenile courts and the Court of Cassation”.²⁸ It welcomed the criminal justice reform and noted “in particular the measures adopted to streamline proceedings before the courts of appeal, where the situation remains problematic”,²⁹ encouraged the authorities to continue with the reform and invited them to provide the Committee, in due course, with “precise and comprehensive data and a detailed assessment of the impact of the reform on the length of criminal proceedings and the clearance of the backlog of criminal cases, in particular those pending before the courts of appeal”.³⁰ The Committee of Ministers also decided to end examination of 162 cases in this group where the question of individual measures had been settled.³¹ Examination of the general measures required continues in the context of the *Ledonne (No. 1)* case.

12. Regarding the **excessive length of proceedings before the administrative courts** (*Abenavoli v. Italy* group),³² the Committee of Ministers examined this issue for the last time at its 1273rd (DH) meeting in December 2016, assessing information which the authorities had provided in October 2016.³³ A new Code of Administrative Procedure had been adopted in 2010. Law-Decree No. 90 of 2014 added to the Code of Administrative Procedure measures designed to accelerate judicial proceedings related to public procurement, and European Union directives on the matter were transposed into Italian law in 2016. A major reform of public administration was also embarked on in 2015. Competitive examinations to recruit new administrative judges had been announced and/or were planned. As of 1 January 2017, digitisation of administrative proceedings was scheduled to begin, on an experimental basis in the administrative courts and the Council of State. There had been a marked fall in the number of cases pending before the Council of State and regional administrative courts; the backlog of applications pending fell from 467 419 in 2011 to 268 246 in 2015 (a drop of 42%). The average length of proceedings before the Council of State was less than one year for public procurement cases, less than a year and a half for cases involving decisions by independent administrative authorities and about 30 days for cases where an interim/urgent measure was sought. The authorities also launched a research project jointly with a number of universities and other partners, to remedy the lack of empirical data on the position regarding administrative proceedings. The Committee of Ministers noted these “significant measures” and noted “with satisfaction that the positive trend observed with respect to reducing the backlog of cases has been strengthened since 2011 and that encouraging results were obtained regarding the average length of certain proceedings before the Council of State”.³⁴ It thus decided to end the monitoring of the

²³ CM/Notes/1302/H46-16.

²⁴ CM/Del/Dec(2017)1302/H46-16, para. 5.

²⁵ Application No. 35742/97, judgment of 12 May 1999.

²⁶ DH-DD(2017)690 and DH-DD(2018)700. See also CM/Notes/1324/H46-11.

²⁷ Percentage difference between new cases and cases closed.

²⁸ CM/Del/Dec(2018)1324/11, para 2.

²⁹ *Ibid.*, para. 3.

³⁰ *Ibid.*, para. 4.

³¹ Resolution CM/ResDH(2018)353, adopted on 20 September 2018.

³² Application No. 25587/94, judgment of 2 September 1997.

³³ DH-DD(2016)1204 of 21 October 2016.

³⁴ CM/Del/Dec(2016)1273/H46-13, paras 1 and 2.

execution of 75 cases in which the question of individual measures had been settled³⁵ and to continue to examine the issues still pending in the context of the *Abenavoli* group of cases. The Committee of Ministers also asked the Italian authorities to provide the Committee with their analysis of the situation based on complete statistics as soon as possible and encouraged them to continue closely monitoring the impact of the measures adopted, especially with regard to the average length of administrative proceedings at first instance.³⁶

13. Regarding the **excessive length of bankruptcy proceedings**, the examination of 24 cases concerning the old *Luordo v. Italy*³⁷ group of cases was ended by the Committee of Ministers at its 1302nd (DH) meeting in December 2017, since the individual measures required had been adopted.³⁸ Following the provision of information by the Italian authorities in November 2017,³⁹ the Committee of Ministers noted “with interest” the adoption of Law No. 155 of 11 October 2017,⁴⁰ which delegated legislative power to the Government to carry out a radical reform of bankruptcy proceedings, and encouraged the authorities “rapidly to take the necessary steps to implement the measures recommended by this reform”, asking them to keep the Committee informed of progress made in this regard.⁴¹ The question of general measures is currently therefore being examined in the context of the case of *Collarile and Others v. Italy*.⁴²

14. Regarding **inadequacies of the “Pinto” remedy** (available since 2001 to victims of excessively lengthy proceedings), examination of the question of how much compensation should be paid under the “Pinto” law was ended at the 1236th (DH) meeting of the Committee of Ministers in September 2015⁴³ (34 cases in the *Gaglione and Others* group).⁴⁴ The Committee of Ministers noted “with satisfaction” that the Italian courts were now “consistently” awarding compensation that was “compliant with the case-law of the European Court”.⁴⁵ Examination of issues still outstanding was continuing in the context of the *Mostacciuolo Giuseppe v. Italy (No. 1)* group of cases⁴⁶ and the quasi-pilot judgment in *Gaglione and Others*. The issues were: 1) late payment of compensation; 2) the excessive length of “Pinto” proceedings; 3) certain questions relating to the 2012 reform of this remedy (notably the fact that access to the “Pinto” remedy required the main proceedings to be fully completed first and could not be invoked in respect of proceedings lasting six years or less) and 4) the ineffectiveness of this remedy in cases of excessive length of administrative proceedings. Regarding the first two questions, examination of 119 cases was ended at the 1294th (DH) meeting in September 2017,⁴⁷ given that the individual measures required had been taken and in view of “important developments which have taken place as a result of the measures adopted”.⁴⁸ The Committee of Ministers noted that the granting of additional funds to the Ministry of Justice and the conclusion of an agreement with the Bank of Italy to manage the payments had enabled the amount of Pinto late payments to be reduced. Since 2012, moreover, the number of “Pinto” proceedings pending before the appeal courts and their average length had significantly and steadily declined.⁴⁹ Issues still outstanding are being examined in the context of the judgment in *Olivieri and Others v. Italy*.⁵⁰ These are the aforementioned aspects of the 2012 reform (in light of a prolonged lack of information on the subject and a new wave of applications to the Court) and the ineffectiveness of the “Pinto” remedy for administrative proceedings (in light of the Court’s findings on the admissibility of this remedy).⁵¹ The Italian authorities were asked to act quickly to provide all necessary information on the matters raised by the Committee and on measures taken and/or proposed.⁵²

³⁵ Resolution CM/ResDH(2016)358, adopted on 8 December 2016.

³⁶ CM/Del/Dec(2016)1273/H46-13, paras 5 and 4.

³⁷ Application No. 32190/96, judgment of 17 July 2003.

³⁸ Resolution CM/ResDH(2017)424, adopted on 7 December 2017.

³⁹ DD-DH(2017)1253 of 7 November 2017.

⁴⁰ See information provided by the Italian Government: DH-DD(2017)1253, 7 November 2017.

⁴¹ CM/Del/Dec(2017)1302/H46-17, paras 2 and 3.

⁴² Application No. 10652/02, judgment of 8 January 2008.

⁴³ By Final Resolution CM/ResDH(2015)155 of 24 September 2015.

⁴⁴ Application No. 45867/07, judgment of 21 December 2010.

⁴⁵ CM/Del/Dec(2015)1236/10, para. 1.

⁴⁶ Application No. 64705/01, judgment of 29 March 2006.

⁴⁷ CM/ResDH(2017)289, adopted on 21 September 2017.

⁴⁸ CM/Del/Dec(2017)1294/H46-15, para. 1.

⁴⁹ For more details, see information provided by the Italian authorities in document DH-DD(2017)750, 28 June 2017.

⁵⁰ Application No. 17708/12, judgment of 25 February 2016.

⁵¹ In the *Olivieri and Others* judgment, paragraphs 64 and 68, the Court raised two issues concerning the admissibility of the “Pinto remedy” which, under a new condition introduced in June 2008, is admissible only if the interested party has first completed a new stage in administrative proceedings.

⁵² CM/Del/Dec(2017)1294/H46-15, paras 2 and 3.

2.3. Inadequacy of medical care in detention centres

15. The two cases in the *Cirillo v. Italy* group⁵³ deal with inhuman and/or degrading treatment suffered by applicants in prison facilities due to the irregularity or prolonged lack of health care appropriate to their medical conditions (violations of Article 3 of the Convention). In the *Cirillo* case, the Court found a clear link between the lack of regular medical care and the structural problem of prison overcrowding in Italy.⁵⁴ When it last examined these matters at its 1179th (DH) meeting in September 2013,⁵⁵ the Committee of Ministers decided to continue its consideration of issues raised by the *Cirillo* case jointly with those raised by the *Scoppola v. Italy* group,⁵⁶ under the enhanced supervision track. On 19 September 2018 the Italian authorities submitted an action report on these groups of cases⁵⁷ and this is currently being assessed. It emerges from the report that, as far as individual measures are concerned, the applicants have received and continue to receive adequate and efficacious treatment and their medical problems have been resolved or improved. Regarding general measures, following a reform of prison medicine, all health responsibilities of the Ministry of Justice have been transferred to the National Health Service and, as a result, to the regional health authorities (ASL – *Azienda Sociosanitaria Locale*) so that levels of service for prisoners are similar to those available to the non-incarcerated general public. In its latest report on its visit to Italy in April 2016, the European Committee for the Prevention of Torture (CPT) noted that the level of primary care provided to inmates was satisfactory and health-care facilities were generally of a good standard and staffing levels adequate.⁵⁸ On the matter of prison overcrowding, satisfactory measures had been taken further to the *Torreggiani and Others v. Italy* pilot judgment,⁵⁹ examination of which was closed by the Committee of Ministers in March 2016.⁶⁰

2.4. Cases concerning the expulsion or detention of migrants

16. The case of *Sharifi and Others v. Italy and Greece*⁶¹ concerns the unregistered return by Italy to Greece, under a bilateral readmission agreement, of four irregular migrants intercepted as stowaways on ferries arriving in the Italian port of Ancona between January 2008 and February 2009. The applicants were immediately handed over by the border authorities to the ferry captains and had no access to an interpreter, lawyer or officials capable of providing them with the minimum information concerning the right to seek asylum and the relevant procedure. They were given no “official, written and translated” document concerning their return. The Court found that Italy had breached: Article 4 of Protocol No. 4 (collective nature of the expulsion), Article 3 of the Convention (since by sending the applicants back to Greece, the Italian authorities had exposed them to the risks arising from the shortcomings in that country’s asylum procedure), and Article 13 in conjunction with Article 3 of the Convention and Protocol No. 4, Article 4 (because no access to the asylum procedure or any other form of redress was provided at the port of Ancona).⁶² The Committee of Ministers examined this case at its 1265th and 1288th (DH) meetings in September 2016 and June 2017 respectively.⁶³ The authorities then provided new information on 16 September 2017, 25 January 2019 and 13 March 2019.⁶⁴ The Committee of Ministers subsequently looked at this case at its 1340th (DH) meeting from 12 to 14 March 2019.

⁵³ *Cirillo v. Italy*, Application No. 36276/10, judgment of 29 January 2013, and *G.C. v. Italy*, Application No. 73869/10, judgment of 22 April 2014.

⁵⁴ See para. 45 of the judgment.

⁵⁵ CM/Del/Dec(2013)1179/10.

⁵⁶ Application No. 50550/06, judgment of 10 June 2008.

⁵⁷ DH-DD(2018)919.

⁵⁸ [CPT/Inf\(2017\)23](#), published on 7 September 2017.

⁵⁹ Application No. 43517/09, judgment of 8 January 2013.

⁶⁰ CM/ResDH(2016)28, 8 March 2016.

⁶¹ Application No. 16643/09, judgment of 21 October 2014.

⁶² The Court found Greece to be in breach of Article 13 in conjunction with Article 3 of the Convention because no access had been given to the asylum procedure and because the applicants were in danger of being sent back to Afghanistan, a country where they were likely to suffer inhuman and degrading treatment.

⁶³ On the basis of information provided by the Italian authorities in the action report of 23 July 2015 (DH-DD(2015)808), the revised action report of 13 July 2016 (DH-DD(2016)831) and information on general measures provided on 16 March 2017 (DH-DD(2017)399).

⁶⁴ DH-DD(2017)1099 of 2 October 2017, DH-DD(2019)77 of 25 January 2019 (action report) and DH-DD(2019)275 of 13 March 2019.

17. On the matter of individual measures, the Committee of Ministers, at its 1288th (DH) meeting on 6 and 7 June 2017, invited the Italian authorities “to provide additional information on the steps taken to clarify the current situation of the three applicants who were not granted international protection in Italy”,⁶⁵ given that only one of the applicants, Mr Haidari, had been given international protection by the Italian authorities when he reached Italy again on 16 February 2010.⁶⁶ The authorities replied that Messrs Karimi, Zaidi and Azimi, who had not been granted international protection, “have made no further contact, either directly or through their defence lawyers”, stating at the same time that “if they should do so, however”, “every effort” would be made “and as swiftly as possible” to “ensure that they did not suffer inhuman and degrading treatment in their country of origin”.⁶⁷ In January 2019 the Government stated that it was not known where the three applicants were currently living.⁶⁸ The Committee of Ministers, at its 1340th (DH) meeting in March 2019, noted this information, but also pointed out that no information indicating the “concrete steps taken to locate these applicants and clarify their situation” had been provided so far. The Committee called on the authorities to provide information on this issue.⁶⁹

18. On the matter of general measures, the Committee of Ministers concluded, in June 2017, that the information provided on the measures taken to ensure proper management of the massive migration flows with which Italy is confronted did not show whether the shortcomings highlighted by the judgment concerning the treatment of migrants in the ports of the Adriatic Sea had been rectified. Information was once again requested on the organisation and functioning of the migrant reception system in these ports, the procedure followed when migrants arrived, and whether the authorities had stopped transferring to Greece persons who seek international protection in Italy.⁷⁰ The authorities insisted in reply that “reception procedures in place at the Adriatic ports are exactly the same as those in the rest of the country”, there had been a “marked fall-off” since 2009 in the numbers sent back to Greece by the frontier police at Ancona, Bari, Brindisi and Venice, decisions were always taken “on the basis of careful consideration of the individual circumstances of each migrant and a ‘case-by-case’ assessment”, and that a National Plan to relocate migrants in a way that spread them out more evenly had been drawn up.⁷¹ At its 1340th (DH) meeting in March 2019 the Committee of Ministers stressed the crucial importance “of ensuring that migrants intercepted in the ports of the Adriatic Sea are protected from expedited unregistered returns to Greece, in view of the persistent deficiencies in the reception system for migrants and the asylum procedure, and have unhindered access in Italy to an individualised examination of their international protection needs in conformity with the requirements of the Convention”.⁷² The Committee noted the information provided on the current organisation and functioning of the reception of migrants, and also on the growing trend in recent years towards fewer irregular migrants arriving at the Adriatic ports and fewer being returned to Greece, and it noted with interest that no asylum seekers or unaccompanied minors had been sent back to Greece since the Court’s judgment.⁷³ Like the Office of the United Nations High Commissioner for Refugees (UNHCR),⁷⁴ however, the Committee remained concerned by the fact that the available information did not make it possible to ascertain the adequacy of the reception system established in the Adriatic ports to ensure that the individual situation of irregular migrants was thoroughly assessed.⁷⁵ The Committee thus again urged the authorities to provide the information requested by the Committee in its previous decisions by 31 May 2019 at the latest and to provide their response to the issues raised by the UNHCR in its communication.

⁶⁵ CM/Del/Dec(2017)1288/H46-17.

⁶⁶ For more details, see CM/Notes/1288/H46-17.

⁶⁷ DH-DD(2017)1099, 2 October 2017.

⁶⁸ DH-DD(2019)77, 25 January 2019. See also communication from an NGO (*Association for Juridical Studies on Immigration*), DH-DD(2019)176 of 20 February 2019.

⁶⁹ CM/Del/Dec(2019)1340/H46-10.

⁷⁰ CM/Del/Dec(2017)1288/H46-17. For more details on the deficiencies in question, see CM/Notes/1288/H46-17.

⁷¹ DH-DD(2017)1099, 2 October 2017.

⁷² CM/Del/Dec(2019)1340/H46-10, para. 4.

⁷³ *Ibid.*, paras 5 and 7.

⁷⁴ DH-DD(2019)90 of 29 January 2019. UNHCR expressed appreciation of the Italian authorities’ efforts to implement the *Sharifi and Others* judgment and so ensure access to the territory and asylum procedures for persons arriving in the ports of the Adriatic Sea. However, as a consequence of the insufficient monitoring and intervention capacity of NGOs, UNHCR was not able to say definitely whether all persons wishing to claim asylum in Italy had the opportunity to do so.

⁷⁵ CM/Del/Dec(2019)1340/H46-10, para. 6.

19. The case of *Khlaifia and Others v. Italy*⁷⁶ concerns the detention of the applicants (irregular migrants who had landed on the Italian coast in 2011 during the “Arab spring”), pending their removal to Tunisia. Whilst their repatriation as such was not a breach of the Convention, the fact that they were held in Sicily in an early reception and accommodation centre⁷⁷ and on board two ships was deemed contrary to Article 5, paragraphs 1, 2 and 4, of the Convention, because there was no legal basis for such action, they were not told the legal reasons for depriving them of their liberty, and there was no judicial review of their case. The Court also found that there were no legal remedies by which the applicants could have complained about the conditions of their accommodation to a national body (violation of Article 13 in conjunction with Article 3).

20. The Committee of Ministers first looked at this case at its 1310th (DH) meeting from 13 to 15 March 2018, commenting that no individual measures were required. On the matter of general measures, it expressed regret that the information provided by the Italian authorities thus far⁷⁸ “does not address [the] key issues” of the case.⁷⁹ However, it noted with interest the National Ombudsman’s monitoring of places of deprivation of liberty and the fact that persons deprived of their liberty could complain about the conditions in which they were held; it invited the authorities to clarify the powers of that authority.⁸⁰ In September 2018 the authorities provided details of the rules governing the operation of first reception facilities, of the average length of time migrants spent there before and after they had been identified, and of the practice regarding freedom of movement for migrants once they had been identified.⁸¹ In February 2019 the authorities submitted an action report⁸² containing information on the newly applicable legislation,⁸³ judicial review (i.e. the ability to use Article 700 of the Code of Civil Procedure) and details of the work of the National Ombudsman. The *In Limine* project⁸⁴ also submitted observations in July 2018. At its 1340th (DH) meeting from 12 to 14 March 2019 the Committee of Ministers asked the authorities for information about proposed measures to remedy violations of Article 5 of the Convention, notably about the Law-Decree no. 113 of 2018, current legislation regarding the detention of asylum seekers in hotspots and the scope of judicial review of decisions to detain asylum seekers.⁸⁵ Regarding the lack of effective remedies for complaining about the conditions in hotspots, the Committee found that the domestic legal system still lacked effective remedies in this regard, and it asked for additional information on the use of Article 700 of the Code of Civil Procedure.⁸⁶ All this information has been requested for 31 May 2019 and the Committee of Ministers has instructed its Secretariat to prepare for a detailed assessment of it ahead of the next examination of this case.

2.5. *Retrospective and discriminatory cancellation of legislation on the annual adjustment of a compensation allowance for accidental viral contamination*

21. The pilot judgment in *M.C. and Others*⁸⁷ concerns a legislative intervention which cancelled retrospectively and in a discriminatory manner the benefit of an annual adjustment based on the inflation rate of the supplementary component (the “IIS”) of a compensation allowance paid to the applicants as victims or as heirs in respect of their deceased relatives for having suffered accidental viral contamination (violations of Article 6, paragraph 1, and of Article 1 of Protocol No. 1 taken alone or in conjunction with Article 14). Under Article 46 of the Convention, the Court found that these violations were the result of a systemic problem stemming from a practice which was incompatible with the Convention and which affected or might in future affect many persons. The Court invited Italy to set, by 3 June 2014 and in co-operation with the Committee of Ministers, a binding time-limit by which it undertook to guarantee, by appropriate legal and administrative measures, the effective and rapid realisation of the adjustment of the IIS.

⁷⁶ Application No. 16483/12, judgment of 15 December 2016.

⁷⁷ Early reception and accommodation centres of the kind existing at the time of the facts in question (2011) were replaced by first aid and assistance centres (“hotspots”) under the terms of Legislative Decree No. 142 of 18 August 2015.

⁷⁸ Action plan DH-DD(2017)980 of 11 September 2017 and revised version DH-DD(2018)34 of 12 January 2018.

⁷⁹ CM/Del/Dec(2018)1310/H46-9, paras 1 and 3.

⁸⁰ *Ibid*, para. 5.

⁸¹ DH-DD(2018)918, 25 September 2018.

⁸² DH-DD(2019)130, 6 February 2019.

⁸³ Legislative Decree of 17 February 2017, converted into Law No. 46 on 13 April 2017; Law-Decree No. 113 of 4 October 2018, converted into Law No. 32 on 1 December 2018.

⁸⁴ DH-DD(2018)754, 2 August 2018.

⁸⁵ CM/Del/Dec(2019)1340/H46-9, paras 2-5.

⁸⁶ *Ibid*, paras 6 and 7.

⁸⁷ Application No. 5376/11, judgment of 3 September 2013.

22. When the Committee of Ministers last examined this case at its 1243rd (DH) meeting in December 2015,⁸⁸ it reminded the Italian authorities that, to comply with the judgment, the Italian authorities had to pay the victims (or their heirs) arrears corresponding to the adjustment of IIS from the date the compensation allowance at issue was granted to them, and guarantee that the IIS would be adjusted annually in future. The Committee of Ministers welcomed the fact that the problem appeared to have been resolved in respect of allowances payable by the central authorities; arrears on allowances payable by the regions were to be cleared by the end of 2018.⁸⁹ In February 2018 the authorities submitted a consolidated action report from which it appears that “almost all” arrears adjustment payments had been made, that the supplementary part of the allowance in question “is now paid in the correct manner and adjusted”, and that “appropriate funds have been and will continue to be earmarked to ensure that these results are sustainable”.⁹⁰ In March 2018, two NGOs – *Thalassa Azione Centrale* and *Associazione Talassemici Sardi* – criticised the arrears calculation method used by the Italian Government as “approximate and not technical” because it “only used assumptions rather than a case-by-case basis”.⁹¹ The Italian Government’s response was that these remarks were “wholly generic in nature” and should not “inappropriately influence an evaluation of the efficacy of the measures taken (...) to implement the pilot judgment”.⁹² This information is currently being assessed.

2.6. Other judgments under enhanced supervision by the Committee of Ministers

23. Other cases revealing structural and/or complex difficulties were cited in the 11th Annual Report of the Committee of Ministers.⁹³

24. The *Agrati and Others v. Italy*⁹⁴ group of cases deals with the unjustified retroactive application of a law⁹⁵ to ongoing judicial proceedings concerning calculation of the length of service of school personnel and the resulting financial entitlements, where there are no compelling grounds for this to be in the general interest; the provision on interpretation adopted by Parliament (Law No. 266/2005) was actually designed solely to safeguard the financial interest of the State (violations of Article 6 in all cases and of Article 1 of Protocol No. 1 in the cases of *Agrati and Others*, *Marino and Colagione*⁹⁶ and *Caligiuri and Others*).⁹⁷ The authorities submitted an action report in October 2016.⁹⁸ When the Committee of Ministers last examined this group of cases at its 1273rd (DH) meeting in December 2016, it noted that the practice of the national courts concerning the application of Law No. 266/2005 “does not appear to be fully aligned with the requirements of Article 6” and invited the Italian authorities to provide information on the measures adopted or envisaged to ensure that laws with retroactive effect are adopted “in strict conformity with the requirements of the Convention”, along with a revised action plan.⁹⁹ The Committee of Ministers is also continuing its examination of individual measures, notably the question of national compensation for the applicants.

25. The case of *Cestaro v. Italy* is concerned with acts of violence against the applicant during an operation by law enforcement officers on the fringe of the G8 summit in Genoa in July 2001; the Court described this violence as “torture”, finding also that the inquiry and the criminal proceedings relating to the events in question had been ineffective, because the police officers who had attacked the applicant had never been identified, investigated or punished (substantive and procedural violations of Article 3). The Court considered that the Italian criminal law applicable here had proved both “inadequate in terms of the requirement to punish acts of torture” and “devoid of any deterrent effect capable of preventing similar future violations of Article 3”.¹⁰⁰ In the context of Article 46 of the Convention, the Court therefore considered it “necessary to introduce into the Italian legal system legal mechanisms capable of imposing appropriate penalties on those responsible for acts of

⁸⁸ CM/Del/Dec(2015)1243/H46-10, para. 2.

⁸⁹ Ibid, paras 4 and 5.

⁹⁰ DH-DD(2018)164, 15 February 2018.

⁹¹ DH-DD(2018)282, 21 March 2018.

⁹² DH-DD(2018)634, 18 June 2018.

⁹³ See Report, Appendix 2.

⁹⁴ Application No. 43549/08, judgment of 7 June 2011, and 8 similar cases.

⁹⁵ “Authentic interpretation” of Article 8 of Law No. 124 of 3 May 1999 was introduced by Law No. 266/2005 of 23 December 2005 (2006 Finance Act) and meant that administrative, technical and auxiliary (ATA) school personnel, whose status had changed from that of local to national civil servants, would transfer to the Ministry of National Education not on the basis of their length of service, as provided for in the law on “authentic interpretation”, but on the basis of their total salary at the time of transfer.

⁹⁶ Application No. 45869/08, judgment of 13 May 2014.

⁹⁷ Application No. 657/10, judgment of 9 September 2014.

⁹⁸ DH-DD(2016)1153 of 18 October 2016.

⁹⁹ CM/Del/Dec(2016)1273/H46-14, paras 3-5.

¹⁰⁰ Application No. 6884/11, judgment of 7 April 2015, para. 225.

torture and other types of ill-treatment under Article 3 and of preventing the latter from benefiting from measures incompatible with the case-law of the Court”.¹⁰¹ The Committee of Ministers looked at this case at its 1280th (DH) meeting in March 2017. It noted “with deep regret” that “due to the statute of limitation, it is no longer possible to open a fresh investigation into the acts of torture suffered by the applicant during the police operation”, so that “no individual measure is any longer possible in the case”.¹⁰² On the matter of general measures, it noted that a bill aimed at creating a crime of torture under domestic law was pending before Parliament.¹⁰³ In July 2017 the Italian authorities informed the Committee of Ministers that Law No. 110 of 14 July 2017 introducing the crime of torture into domestic law had been adopted (see Article 613 *bis* of the Criminal Code).¹⁰⁴ According to the Italian Government, this legislation allowed application of the law that was consistent with the Convention and the principles upheld by the Court, given that the judiciary was keenly aware of the Convention and the case-law of the Court. The Committee of Ministers had also asked for information on the provisions regulating the disciplinary responsibility of law enforcement agents and the subsequent identification of agents taking part in operations similar to that carried out in this case.¹⁰⁵

26. Whilst under Italian law “preventive measures” entailing the curtailment of various freedoms can be applied to “persons posing a threat to security and public morality” (Law No. 1423 of 27 December 1956), the Court ruled in its judgment in *De Tommaso v. Italy*¹⁰⁶ that the law was not sufficiently clear with regard to placing the applicant under “special police supervision” on the alleged ground that he posed a threat to society (breach of freedom of movement guaranteed by Article 2 of Protocol No. 4). The Court also deplored the lack of any public hearings before the domestic courts (violation of Article 6, paragraph 1, of the Convention). In October 2017 the Italian authorities provided the Committee of Ministers with information on the implementation of this judgment.¹⁰⁷ On the matter of general measures, they argued that the violation of Article 2 of Protocol No. 4 was the result of misinterpretation by the court of first instance of the principles whereby the danger posed by an individual was assessed and provided information on national courts’ case-law. As for the lack of public hearings, they maintained that the issue had been resolved by Article 7, paragraph 1, of Legislative Decree No. 159 of 6 September 2011 (which stipulated that hearings would henceforth be held in public on a simple request from the interested party).

27. The judgment in *Nasr and Ghali v. Italy*¹⁰⁸ deals with the torture and inhuman and degrading treatment suffered by the applicant, an Egyptian national suspected of terrorist offences, who was handed over to agents of the CIA in an “extraordinary rendition” operation and moved to Egypt (violation of Article 3 – substantive aspect). The Court found a violation of Article 3 (procedural aspect) by reason of State secrecy which was applied in the inquiry and caused the conviction of five Italian agents to be quashed, and of other articles of the Convention (5, 8, and 13 in conjunction with Articles 3, 5 and 8, in the case of the applicant and a violation of Articles 3 (procedural aspect), 8, and 13 in conjunction with Articles 3 and 8, in the case of Mrs Ghali (the applicant’s wife). The authorities submitted an action report¹⁰⁹ in December 2016 and additional information¹¹⁰ in July 2017. On the matter of individual measures, the authorities said that the applicant was now living in Egypt, where he had been given a six-year prison sentence for terrorist activities. They also provided information on the status of the agents involved in his abduction. The just satisfaction awarded by the Court had been paid within the time limit. On the matter of general measures, the Government considered that the violations identified arose from the specific circumstances of the case and inconsistency in the application of State secrecy. The Court judgment had been translated, published and widely distributed.

28. The judgment in *Talpis v. Italy*¹¹¹ deals with the lax response of the authorities in dealing with the applicant’s complaint of the domestic violence inflicted on her by her husband in 2012, which allowed the violence to escalate and culminate in 2013 in the attempted murder of the applicant and the murder of her son (violations of Articles 2 and 3 of the Convention). This case also concerns a violation of Article 14 in conjunction with Articles 2 and 3 by virtue of the discriminatory nature of the shortcomings identified by the Court in terms of protecting women against domestic violence. The Italian authorities submitted an action plan on 28 March

¹⁰¹ Ibid, para. 246.

¹⁰² CM/Del/Dec(2017)1280/H46-16, para. 1.

¹⁰³ Ibid, para. 3.

¹⁰⁴ DH-DD(2017)844, 10 August 2017.

¹⁰⁵ CM/Del/Dec(2017)1280/H46-16, para. 4. See also *Cestaro v. Italy* judgment, para. 217.

¹⁰⁶ Application No. 43395/09, judgment of 23 February 2017.

¹⁰⁷ DH-DD(2017)1269, 10 November 2017.

¹⁰⁸ Application No. 44883/09, judgment of 23 February 2016.

¹⁰⁹ DH-DD(2016)1400, 15 December 2016.

¹¹⁰ DH-DD(2017)849, 10 August 2017.

¹¹¹ Application No. 41237/14, judgment of 2 March 2017.

2018.¹¹² On 29 May 2018 the NGO, *D.i.Re Donne in Rete contro la violenza* (Women Against Violence), submitted a communication¹¹³ on general measures. The Committee of Ministers looked at this case at its 1318th (DH) meeting from 5 to 7 June 2018. On the matter of individual measures, it asked the Italian authorities to bring the criminal proceedings against the applicant's aggressor to a prompt conclusion and to provide information on their outcome.¹¹⁴ On the matter of general measures, it welcomed the "wide range" of measures taken by the Italian authorities following ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (the "Istanbul Convention"), and noted that the application of these measures had yielded positive first results.¹¹⁵ The authorities were encouraged to continue their efforts to resolve the problem of domestic violence, amongst other things through the monitoring mechanism for implementation of the Istanbul Convention.¹¹⁶ Lastly, the Committee of Ministers invited the authorities to provide detailed information, preferably for the period 2013-2018, on: 1) the criteria used by the competent authorities to respond to requests for preventive and protective measures, the average time it took to respond and to implement these measures and the number of measures adopted; 2) the average length of investigations and criminal proceedings in relation to incidents of domestic violence and harassment; and 3) the number of such cases discontinued and the number of convictions and acquittals compared with the number of complaints lodged.

3. Hungary

3.1. Introductory remarks

29. According to the Annual report of the Committee of Ministers on supervision of the execution of judgments and decisions of the European Court of Human Rights 2017, as at 31 December 2017, 205 judgments against Hungary were pending before the Committee of Ministers (at various stages of execution), placing Hungary in ninth position among the states having the highest number of non-executed judgments. The latest figures from the Department for the Execution of Judgments of the European Court of Human Rights indicate that as of December 2018, the Committee of Ministers was examining 231 cases relating to Hungary.¹¹⁷

30. In his report on the implementation of judgments of the European Court of Human Rights, Mr Le Borgn' identified three main cases/groups of cases whose implementation was problematic and which were still under the enhanced supervision procedure of the Committee of Ministers. These cases concerned:

- the excessive length of civil and criminal proceedings and the lack of any effective remedy in this regard (*Timár v. Hungary* group of cases¹¹⁸ and likewise the pilot judgment of *Gazsó v. Hungary*);¹¹⁹
- overcrowded detention facilities, a situation tantamount to inhuman treatment (*István Gábor Kovács v. Hungary* group of cases¹²⁰ and likewise the pilot judgment in *Varga and Others v. Hungary*);¹²¹
- discriminatory assignment of children of Roma origin to primary schools for children with mental disabilities (*Horváth and Kiss v. Hungary*)¹²².

¹¹² DH-DD(2018)347, 4 April 2018.

¹¹³ DH-DD(2018)572, 6 June 2018.

¹¹⁴ CM/Del/Dec(2018)1318/H46-12, para. 1. The case was referred to the Venice Court of Appeal to have the aggressor's sentence recalculated; see CM/Notes/1318/H46-12.

¹¹⁵ CM/Del/Dec(2018)1318/H46-12, para. 2.

¹¹⁶ *Ibid*, para. 3.

¹¹⁷ Department for the Execution of Judgments of the European Court of Human Rights, Country factsheet: [Hungary](#).

¹¹⁸ Application No. 36186/97, judgment of 25 February 2003.

¹¹⁹ Application No. 48322/12, judgment of 16 October 2015.

¹²⁰ Application No. 15707/10, judgment of 17 January 2012.

¹²¹ Application No. 14097/12, judgment of 10 June 2015.

¹²² Application No. 11146/11, judgment of 29 January 2013.

31. The 11th Annual report¹²³ restates the main issues raised by Mr Le Borgn', but a closer look at the report reveals some new issues that have made their appearance and are being examined under enhanced supervision by the Committee of Ministers. These are:

- lack of access to a court in relation to premature termination of the mandates of the President and Vice-President of the Supreme Court (*Baka v. Hungary*¹²⁴ and *Erményi v. Hungary*),¹²⁵
- life sentences without eligibility for parole in combination with the lack of an adequate mechanism for review of these sentences (*László Magyar v. Hungary*¹²⁶ and *T.P. and A.T. v. Hungary*),¹²⁷ and
- insufficient safeguards offered by the law against abuse of secret surveillance measures (case of *Szabó and Vissy v. Hungary*).¹²⁸

32. In February 2018 I wrote a letter to the heads of the national delegations to the Assembly asking how the recommendations set out in [Resolution 2178 \(2017\)](#) had been/were being implemented. In particular, I wished to know how the national parliaments of the Council of Europe member States had responded to these recommendations. On 10 April 2018 the Hungarian delegation replied that since 2007, following a decision of the Hungarian parliament (No. 23/2007), the Minister of Justice has reported annually to the competent parliamentary committee (currently the Justice Committee) on the position with regard to the implementation of Court judgments and the work of the Government Agent before the Court (the Minister of Justice). The committee debates and subsequently adopts the report.

3.2. Excessive length of judicial proceedings and lack of any effective remedy in this regard

33. The Committee of Ministers has been monitoring cases of excessively lengthy judicial proceedings (civil and criminal) and the lack of any effective remedy in this regard (violations of Article 6, paragraph 1, and Article 13 of the Convention) in Hungary since 2003, when the Court first gave judgment on this (*Tímár*) group of cases.¹²⁹ In December 2017, it decided to end examination of this and 252 similar cases, where just satisfaction had been paid and the domestic proceedings had been completed.¹³⁰ The matter of general measures continues to be examined in the context of the *Gazsó* group cases. In this pilot judgment (concerning civil proceedings) the Court asked the respondent State to introduce, immediately and within one year of the date when the judgment became final (16 October 2016), an effective domestic remedy or combination of such remedies making it possible to adequately resolve the question of excessive length of judicial proceedings. Previously, in the judgment in *Barta and Drajkó*¹³¹ (concerning criminal proceedings), the Court had already reached similar findings, with regard to Article 46 of the Convention, in view of the systemic nature of the situation it had identified.

34. The *Gazsó* group of (21) cases was examined recently by the Committee of Ministers at its 1340th (DH) meeting from 12 to 14 March 2019. The Committee of Ministers noted that the structural problem in question had persisted for over 15 years.¹³²

35. On the matter of *individual measures*, the authorities had been invited to provide information about the issues pending, notably the payment of just satisfaction and progress on proceedings in those cases that were still pending at domestic level.¹³³

¹²³ See pp. 100-101.

¹²⁴ Application No. 20261/12, judgment of 23 June 2016.

¹²⁵ Application No. 2254/14, judgment of 22 November 2016.

¹²⁶ Application No. 73593/10, judgment of 20 May 2014.

¹²⁷ Application No. 37871/14, judgment of 4 October 2016.

¹²⁸ Application No. 37138/14, judgment of 12 January 2016.

¹²⁹ A summary of the measures taken and/or envisaged prior to December 2015 is included in the Notes on the 1302nd meeting (December 2017) (DH) ([CM/Notes/1302/H46-15](#)).

¹³⁰ See Resolution CM/ResDH(2017)422 of 7 December 2017, Execution of judgments of the European Court of Human Rights, 253 cases against Hungary.

¹³¹ Application No. 35729/12, judgment of 17 December 2013.

¹³² CM/Del/Dec(2019)1340/H46-7, para. 1.

¹³³ *Ibid.*, para. 2.

36. On the matter of *general measures*, the Committee of Ministers continues to examine the question of a compensatory remedy for excessively lengthy judicial proceedings. New codes of civil and criminal procedure, with provisions designed to accelerate proceedings, came into effect on 1 January 2018 and 1 July 2018 respectively. But a separate law, announced as long ago as December 2015¹³⁴ and designed to introduce a compensatory remedy, has still not been adopted. The Committee of Ministers has deplored this on several occasions, notably in decisions it adopted at its 1273rd (DH) meeting (December 2016) and its 1294th meeting (September 2017).¹³⁵ At its 1310th (DH) meeting in March 2018, it adopted Interim Resolution CM/ResDH(2018)106,¹³⁶ in which it called on the Hungarian authorities to redouble their efforts “to ensure that the legislative process envisaged for the introduction of a compensatory remedy for excessively lengthy court proceedings is completed in line with the new timetable presented, i.e. by 31 October 2018.” In this Interim Resolution the Committee of Ministers also noted that “excessive delays in the administration of justice constitute a serious danger for the respect of the rule of law, resulting in a denial of rights enshrined in the Convention” and pointed to “the additional undue burden” on the Court due to the high number of similar cases pending (approximately 1 000) and the new similar applications that were being lodged with the Court. The authorities subsequently submitted new information to the Committee of Ministers.¹³⁷ In October 2018 they reported that the Government had adopted the bill on 10 October 2018 and laid it before Parliament on 19 October 2018.¹³⁸ The remedy would apply to all types of judicial proceedings (civil, administrative and criminal), would create an objective responsibility for the State and would enable applications to be settled quickly and suitable compensation to be paid promptly (simplified two-stage procedure). In a letter of 14 November 2018, the Secretariat (of the Committee of Ministers) notified the authorities of a number of deficiencies in the bill with regard to the effectiveness of the remedy (notably concerning the compensatory sums payable). On 22 November 2018 the authorities reported that Parliament had deferred adoption of the bill to allow the Government “to thoroughly examine the observations of the Secretariat on the issues that appear to raise questions of conformity with the Convention and the European Court’s case law”.¹³⁹ At its 1331st (DH) meeting in December 2018, the Committee of Ministers noted with interest that the bill was now pending before Parliament and urged the authorities to do their utmost to bring the legislative process to completion as soon as possible.¹⁴⁰ In February 2019, the authorities informed the Committee of Ministers that a full revision of the bill’s text was necessary, that consultations were under way to that end and the bill would not be adopted before the middle of March 2019.¹⁴¹

37. At its 1340th (DH) meeting in March 2019 the Committee of Ministers welcomed “the authorities’ active co-operation with the Secretariat and their constructive approach” on the matter and encouraged the authorities to continue their close co-operation with the Secretariat and to complete the revision of the draft bill swiftly. The Committee also noted that “the deadline set by the Court in its pilot judgment expired almost two and a half years ago and that the Committee has repeatedly expressed its grave concern in this respect.” It urged the authorities to provide, by the end of March 2019, a timetable for adoption of the bill, to submit a translation of the revised draft bill as soon as possible, and to keep the Committee informed, on a monthly basis, about all relevant developments. This group of cases will be examined at the 1348th (DH) meeting in June 2019. Moreover, “in view of the gravity and complexity of the issue”, the Committee of Ministers instructed the Secretariat to prepare a new draft interim resolution for consideration at that meeting, should no tangible progress be achieved by then.¹⁴²

3.3 *Poor detention conditions due to overcrowding in detention facilities*

38. Since 2012 the Committee of Ministers has been examining the *István Gábor Kovács* group of cases.¹⁴³ This group is concerned with inhuman and/or degrading treatment due to poor detention conditions (pre-trial and after conviction) that are chiefly the result of a structural problem of prison overcrowding (violations of Article 3 of the Convention), and the lack of any effective preventive and compensatory remedies in this regard (violations of Article 13 in conjunction with Article 3 of the Convention). The Court has pointed to the

¹³⁴ DH-DD(2015) 1377, 17 December 2015.

¹³⁵ CM/Del/Dec(2016)1273/H46-12 and CM/Del/Dec(2017)1294/H46-14.

¹³⁶ Adopted on 15 March 2018.

¹³⁷ [DH-DD\(2018\)689](#) of 5 July 2018, [DH-DD\(2018\)892](#) of 17 September 2018 and [DH-DD\(2018\)958](#) of 5 October 2018.

¹³⁸ [DH-DD\(2018\)1048](#) of 24 October 2018. A translation of the bill was submitted to the Committee of Ministers on 26 October 2018, see [DH-DD\(2018\)1090](#) of 7 November 2018.

¹³⁹ DH-DD(2018)1168 of 23 November 2018.

¹⁴⁰ CM/Del/Dec(2018)1331/H46-14.

¹⁴¹ DH-DD(2019) 119 of 4 February 2019.

¹⁴² CM/Del/Dec(2019)1340/H46-7, paras 3-5.

¹⁴³ As of 15 March 2019 there were 17 cases in this group.

seriousness of the problem and the need for the authorities to react rapidly in order to secure appropriate conditions of detention for detainees (*Szél, István Gábor Kovács and Fehér cases*).

39. Given the scale of the problem, the Court delivered a pilot judgment in March 2015 in the case of *Varga and Others*. In that judgment it asked Hungary to produce, under the supervision of the Committee of Ministers and within six months from the date on which the judgment became final (10 December 2015), a time frame in which to make appropriate arrangements and to put in practice preventive and compensatory remedies in respect of alleged violations of Article 3 of the Convention on account of inhuman and degrading conditions of detention.

40. On the matter of *individual measures*, by an action plan¹⁴⁴ submitted on 8 March 2019, the Hungarian government informed the Committee of Ministers that all applicants in cases in this group had been either placed in conditions in line with the Convention or freed, with the exception of one applicant,¹⁴⁵ who is detained in a drug prevention unit. However, the said action plan does not contain information on the *Bandur case*¹⁴⁶, which is expected by the Committee of Ministers.

41. On the matter of *general measures*, the authorities have taken a number of steps to resolve the *structural problem of prison overcrowding*. These are chiefly the promotion of alternative sanctions and the construction of new prison facilities.¹⁴⁷ In 2015 the Hungarian Government also introduced “reintegration custody” (allowing prisoners to serve part of their sentence at home, using electronic tagging devices); this measure has already been applied in over 1 130 cases. The use of house arrest has also steadily increased.¹⁴⁸ Prison occupancy has fallen further to 113 % of capacity in 2018¹⁴⁹ (down from 143% in 2014, 131% in 2016 and 129% in 2017). Looking at these cases in June 2017 at its 1288th (DH) meeting, the Committee of Ministers stressed the importance of alternatives to imprisonment which reduced the use of pre-trial detention.¹⁵⁰ In March 2018, at its 1310th (DH) meeting, the Committee welcomed “the authorities’ continued commitment” to resolving this structural problem and noted with interest the continuation of the positive trend identified at the last examination of this group of cases.¹⁵¹ It also called on the authorities to continue their efforts to promote alternative sanctions and minimise the use of pre-trial detention, and it asked them for statistical information in this regard.¹⁵²

42. On the matter of *effective remedies*, a preventive and compensatory remedy was introduced in 2016 by Act No. CX, which was passed on 25 October 2017 and came into force on 1 January 2017. This mechanism for complaining about detention conditions enables detainees to seek redress on the ground that the conditions in which they are held constitute a violation of their fundamental rights.¹⁵³ Whilst the Committee of Ministers noted that these remedies appeared, in theory, to satisfy the requirements of the Convention and to be accessible remedies that allowed the swift ending of detention conditions that breached the Convention and/or adequate compensation to complainants for periods of detention spent in such conditions, it nevertheless invited the authorities “to provide further detailed information (...) on the implementation and functioning of these newly introduced remedies, notably in the light of the monitoring they will undertake in this context, and more concretely on the impact of the preventive remedy on the general problem of prison overcrowding”.¹⁵⁴

¹⁴⁴ [DH-DD\(2019\)311](#) of 21 March 2019.

¹⁴⁵ See the case *Asbolt*, application No. 44661/13, examined in the judgment *Polgár and Others v. Hungary* of 10 December 2015.

¹⁴⁶ Application No 50130/12, judgment of 5 July 2016.

¹⁴⁷ See Notes on the 1288th (DH) meeting – CM/Notes/1288/H46-16.

¹⁴⁸ In 2016 house arrest was ordered in 489 cases, as against 116 in 2014.

¹⁴⁹ See [DH-DD\(2019\)311](#) of 8 March 2019, p.12.

¹⁵⁰ CM/Del/Dec(2017)1288/H46-16, para. 3.

¹⁵¹ CM/Del/Dec(2018)1310/H46-8, para. 1.

¹⁵² *Ibid*, para. 3.

¹⁵³ For details and the operation of this remedy, see Notes on the 1288th meeting. See also *Domján v. Hungary*, Application No. 5433/17, decision of 14 November 2017, paras 9-15, 21-23 and 24-29.

¹⁵⁴ At the 1288th (DH) meeting, CM/Del/Dec(2017)1288/H46-16, para. 4.

43. In response, the authorities provided information¹⁵⁵ that showed a degree of progress even though the problem of prison overcrowding persisted. On 14 November 2017 the Court made a ruling of inadmissibility in the *Domján* case, referring to the Committee of Ministers' decision of June 2017. In the Court's view, nothing proved that the new complaint about conditions of detention violating fundamental rights would not offer realistic perspectives of improving unsuitable conditions of detention, and would not be capable of providing inmates with an effective possibility of bringing those conditions into line with the requirements of Article 3 of the Convention.¹⁵⁶ The Court also looked at the compensatory remedy and was satisfied that the authorities had provided a combination of remedies, both preventive and compensatory in nature, guaranteeing in principle genuine redress for Convention violations.¹⁵⁷ The Court pointed out that it was ready to change its approach, should the practice of the domestic authorities show, in the long run, that detainees were being refused relocation and/or compensation on formalistic grounds, that the domestic proceedings were excessively long or that domestic case-law was not in compliance with the requirements of the Convention.¹⁵⁸ Apparently, following the decision in the *Domján* case, nearly 9,000 applications have been rejected by the Court so far.¹⁵⁹

44. At its 1310th (DH) meeting in March 2018, the Committee of Ministers urged the authorities to guarantee the effectiveness of the new remedies by ensuring that detainees were not refused relocation and/or compensation on formalistic grounds, that the domestic proceedings were not excessively long and that domestic case law was in compliance with the requirements of the Convention. It asked for updated information on the implementation and functioning of the new remedies and a consolidated action plan/report.¹⁶⁰ Updated action plans were received in June 2018 and March 2019¹⁶¹ and these are currently being evaluated.

3.4. Systematic assignment of Roma children to special schools for children with mental disabilities

45. The *Horváth and Kiss* case is concerned with discrimination suffered by the applicants, who are of Roma origin, as a result of being assigned for their primary education to a special school for children with mental disabilities. The applicants were assigned on the basis of tests designed to assess pupils' scholastic and mental abilities. According to the Court, these tests did not have the necessary safeguards for avoiding misdiagnosis and incorrect assignment. The educational measures taken for Roma pupils deemed to have a mild mental disability or learning difficulties failed to take account of their special needs as members of a disadvantaged community. The law applicable here, as applied in practice, lacked proper safeguards and had caused Roma children to be over-represented and segregated in special schools as a result of the systematic misdiagnosis of mental disorders (violation of Article 2 of Protocol No. 1 in conjunction with Article 14).

46. No *individual measures* are required, as the applicants are now adults and are no longer part of the school system.

47. On the matter of *general measures*, the Hungarian authorities, in their initial action plans, provided information on a number of measures taken and/or envisaged in respect essentially of the assessment tests used to judge pupils' learning abilities, a number of changes in the law to ensure that the examination process was based on strict criteria and had special safeguards built in, an inclusive policy for pupils with special educational needs and training activities in this regard.¹⁶² This information was assessed by the Committee of Ministers at its 1243rd (DH) meeting from 8 to 9 December 2015. The Committee of Ministers found that "without statistical data on the evolution of the number of Roma children in special education, it is difficult to assess whether the measures taken have had an impact and contributed to solving the problem of over-representation and segregation of Roma children in special schools due to the systematic misdiagnosis of mental disability".¹⁶³ The Committee thus called on the authorities to take the necessary steps to collect and

¹⁵⁵ DH-DD(2017)1012 of 15 September 2017.

¹⁵⁶ *Domján v. Hungary*, para. 22.

¹⁵⁷ *Ibid*, para. 30.

¹⁵⁸ *Ibid*, para. 38.

¹⁵⁹ According to the information coming from the Department for the Execution of Court's Judgments. See also the speech by the former President of the Court, Mr Guido Raimondi, who mentioned 6,000 applications as of 26 January 2018: https://www.echr.coe.int/Documents/Speech_20180126_Raimondi_JY_ENG.pdf

¹⁶⁰ CM/Del/Dec(2018)1310/H46-8, paras 4-6.

¹⁶¹ DH-DD(2018)690 of 5 July 2018 and DH-DD(2019)311 of 21 March 2019.

¹⁶² See communication from the Hungarian authorities (DH-DD(2015)551) of 27 May 2015, March 2014 and measures summarised in the Notes on the 1243rd (DH) meeting (December 2015), CM/Notes/1243/H46-9.

¹⁶³ CM/Del/Dec(2015)1243/H46-9, para. 2.

submit disaggregated statistical data (on the number of Roma children who have to sit intelligence tests or undergo other expert examination), along with certain additional information.¹⁶⁴

48. In reply, the authorities provided a new action plan with information on the new standardised WISC-IV Child Intelligence Test and existing remedies.¹⁶⁵ Regarding statistics, they pointed out that any kind of official data collection which was not dependent upon a voluntary declaration of ethnic identity would be contrary to the principle of self-identification and would be impossible to implement in practice. There had so far been no willingness on the part of Roma parents to make such a declaration, and no government action had been able to persuade them. The authorities acknowledge, however, that Roma children are over-represented in special education, not necessarily because of any misdiagnosis of their learning abilities, but rather because these children are socio-culturally disadvantaged. Any measures in education aimed at the improvement of the situation of socio-culturally disadvantaged children could thus be regarded as measures aimed at improving the situation of Roma children with special educational needs.

49. At its 1302nd (DH) meeting from 5 to 7 December 2017, the Committee of Ministers noted with interest the information provided on new tools allowing an objective assessment of the learning abilities of Roma children, safeguards and administrative remedies, and efforts towards an inclusive education policy.¹⁶⁶ They reiterated, however, their invitation to the authorities to submit statistics on the number of children examined using the new and old testing tools, and the number of Roma children in special education. Without statistical data of this kind, it was difficult to assess whether the measures taken had had an impact and contributed to solving the problem of over-representation of Roma children in special schools.¹⁶⁷

3.5. *Lack of access to a court in relation to premature termination of the mandates of the President and Vice-President of the Supreme Court*

50. Two cases – *Baka* and *Erményi* – are concerned with premature termination of the mandates of the applicants, who were the President and Vice-President of the Hungarian Supreme Court. In the *Baka* case, the Court found a violation of the applicant's right of access to a court, given that there was no possibility of judicial review to challenge the premature termination of his mandate as president of the Supreme Court of Hungary (violation of Article 6, paragraph 1). In 2009 the applicant, a former judge at the European Court of Human Rights, had been elected president of the Supreme Court for a six-year term expiring on 22 June 2015. After changes to the constitution and the law came into force, his mandate ended on 1 January 2012 (or three and a half years before the expected date), when the new *Kúria* became the legal successor to the Supreme Court. On 13 December 2011 Parliament elected the new president of the *Kúria* (for 9 years) and shortly before that, on 9 November 2011, a new criterion of eligibility for the presidency of the *Kúria* was introduced, requiring candidates for the post to have served as judges for at least five years in Hungary. Because time spent as a judge in an international court did not count, the applicant became ineligible for the post of president of the new *Kúria*, but he remained in office as president of a civil-law division of the *Kúria*.¹⁶⁸ The Court also held that there had been a violation of Article 10 of the Convention, in that his mandate had been terminated prematurely as a result of the views and criticisms he had expressed publicly in his professional capacity, concerning legislative reforms affecting the judiciary.

51. The *Erményi* case¹⁶⁹ concerns the violation of the applicant's right to respect for his private and family life as a result of the premature termination of his mandate as Vice-President of the Supreme Court in January 2012, that is to say, three years and six months before the expected date (violation of Article 8). Echoing its findings in the *Baka* case, the Court stated that it was not apparent "that the changes made to the functions of the supreme judicial authority or the tasks of its President were of such a fundamental nature that they could or should have prompted the premature termination of the applicant's mandate".¹⁷⁰

¹⁶⁴ Ibid, paras 3 and 4.

¹⁶⁵ DH-DD(2017)1075 of 28 September 2017, Detailed explanation to the roadmap, section II.4.

¹⁶⁶ CM/Del/Dec(2017)1302/H46-13, paras 1 and 3.

¹⁶⁷ Ibid, para. 4.

¹⁶⁸ See judgment in *Baka v. Hungary*, paras 146-147 and 34.

¹⁶⁹ Application No. 22254/14, judgment of 22 November 2016.

¹⁷⁰ See judgment in *Baka v. Hungary*, para. 150, and judgment in *Erményi v. Hungary*, para. 36.

52. The authorities submitted an action plan for the *Baka* case on 14 December 2016.¹⁷¹ On the matter of *individual measures*, just satisfaction had been paid in a timely manner. The authorities held that no further individual measures were necessary, because the applicant's original term of office as President of the Supreme Court had already expired before the judgment was delivered, and the Court had not indicated any such measure. On the matter of general measures, the judgment had been translated and published on the Government's website. In the view of the authorities, no further general measures were necessary because the violation found by the Court resulted from a one-time constitutional reform of the Hungarian judicial system.

53. The Committee of Ministers examined this case at its 1280th (DH) meeting from 7 to 10 March. On the matter of *individual measures*, it said that the principle of *restitutio in integrum* was fully applicable even if the Court had not required any individual measures, and it invited the authorities "to set out the measures taken or envisaged fully to erase the consequences of the violations suffered by the applicant".¹⁷² On the matter of general measures, the authorities were invited to provide information on: the provision of a complete and effective right to review, by an ordinary tribunal or other body exercising judicial powers, of any measure leading to the removal or dismissal of a judge; measures taken or envisaged to guarantee that there would be no further premature removals of judges on similar grounds and measures taken or envisaged to lift and counteract the "chilling effect" of the violations in this case.

54. On 14 November 2017 the authorities submitted a revised action plan for the *Baka* case¹⁷³ and an initial action report for the *Erményi* case.¹⁷⁴ Bilateral consultations are underway in order to clarify several aspects of individual and general measures.

3.6. *Life sentences without eligibility for parole in combination with the lack of an adequate mechanism for review of these sentences*

55. The *László Magyar* and *T.P. and A.T.* cases are concerned with violations of the prohibition on torture and inhuman or degrading treatment or punishment due to life sentences passed on the applicants with no possibility of parole ("whole-life sentences") in combination with a lack of any mechanism for proper review of the sentences (violation of Article 3). In the former case, from the perspective of Article 46 of the Convention, the Court found that there was a systemic problem likely to trigger other, similar applications, and it indicated that in order to secure the proper execution of the judgment the respondent State would need to introduce a reform of the system for reviewing whole-life sentences – preferably through legislation.

56. In January 2015, following changes to the law, a mechanism for automatic review of whole-life sentences for prisoners who had served 40 years of their sentence was introduced. The Court looked at the new legislation in the *T.P. and A.T.* case. It concluded that, in view of the lengthy period the applicants had to wait before commencement of the "mandatory clemency procedure", coupled with the lack of sufficient procedural safeguards, the applicants' life sentences could not *de facto* be regarded as reducible for the purposes of Article 3 of the Convention.¹⁷⁵

57. The Committee of Ministers looked at these cases at its 1318th (DH) meeting from 5 to 7 June 2018. On the matter of *individual measures*, it noted with concern that the applicants in *T.P. and A.T.* were still serving their whole-life sentences and that those sentences could only be reviewed under the "mandatory clemency procedure" which had been found by the Court to be incompatible with the Convention standards. It noted that the individual measures required were linked to the general measures and invited the authorities to submit information on possible further measures regarding the situation of the applicant in *László Magyar*¹⁷⁶ (his whole-life sentence had been commuted to life with the possibility of parole after 40 years).

¹⁷¹ [DH-DD\(2017\)15](#), 9 January 2017.

¹⁷² [CM/Del/Dec\(2017\)1280/H46-15](#), para. 2.

¹⁷³ [DH-DD\(2017\)1290](#), 17 November 2017.

¹⁷⁴ [DH-DD\(2017\)1291](#), 17 November 2017.

¹⁷⁵ Paragraphs 49-50 of the judgment.

¹⁷⁶ [CM/Del/Dec\(2018\)1318/H46-11](#), para. 2.

58. On the matter of *general measures*, the Committee of Ministers noted the authorities' swift reaction to the Court's judgment in *László Magyar* and the adoption of legislative measures aimed at introducing the "mandatory pardon procedure", but, in view of the shortcomings of this new legislation identified by the Court in the *T.P. and A.T.* case, called on the authorities to align their legislation with the Court's case-law without further delay and to provide the requisite information by 31 December 2018 at the latest.¹⁷⁷ The authorities submitted an updated action plan on 26 February 2019.¹⁷⁸

3.7. *Insufficient safeguards offered by the law against abuse of secret surveillance measures*

59. The *Szabó and Vissy* case is concerned with a violation of the applicants' right to respect for their private and family life and their correspondence, by reason of Hungarian legislation on secret surveillance measures in the context of intelligence gathering for national security purposes.¹⁷⁹ The legislation did not, in this regard, provide sufficiently precise, effective and comprehensive safeguards in connection with the taking of such measures, their implementation and any redress in respect of them (violation of Article 8). The Court pointed out that these measures might potentially affect anyone, that they were ordered by the executive alone and without assessment of whether they were strictly necessary, that new technologies made it easy for the government to intercept huge amounts of personal data, even on persons outside the category initially targeted by the operation, and that no effective remedy was available, judicial or otherwise.

60. The authorities submitted an initial action plan¹⁸⁰ in February 2017 and a further updated action plan in September.¹⁸¹ The Committee of Ministers examined this case at its 1302nd (DH) meeting from 5 to 7 December 2017. On the matter of *individual measures*, it found that no individual measure was required in this case.¹⁸² On the matter of *general measures*, it noted with interest that the government had recognised the need for legislative amendments in order to execute the judgment and it noted the information provided regarding preparatory work currently under way to that end in the competent ministries. It invited the authorities to "address the entirety of the shortcomings of the legislation on secret surveillance measures" identified by the Court, to provide comprehensive information on the intended legislative measures by 30 June 2018 at the latest, and to keep the Committee of Ministers informed regularly on developments in the legislative process.¹⁸³ The authorities provided new information in July 2018.¹⁸⁴

3.8. *Ill-treatment by police and lack of adequate investigation in this regard*

61. For a number of years now, the Committee of Ministers has been examining the **case of *Gubacsi v. Hungary***¹⁸⁵ and seven other cases concerned with ill-treatment by law enforcement officers, the lack of adequate investigation in this regard, violations of the right to life or the lack of any investigation into possible racist motives for such ill-treatment (substantive and/or procedural violations of Articles 2, 3 and 14 in conjunction with Article 3). Given the complex and long-standing nature of the problems raised in these cases, the Committee of Ministers decided at its 1324th (DH) meeting from 18 to 20 September 2018 to transfer them to the enhanced procedure.¹⁸⁶

3.9. *Tonello v. Hungary case*

62. At its 1340th (DH) meeting from 12 to 14 March 2019, the Committee of Ministers looked at the execution of a recent judgment against Hungary – ***Tonello v. Hungary***,¹⁸⁷ with reference to the urgent individual measures required in this case, which concerns a violation of the applicant's right to respect for his family life on account of the authorities' failure to enforce final decisions of the Hungarian and Italian courts ordering the return of his daughter, born in 2011 and wrongfully removed by her mother from Italy to Hungary in 2012 (violation of Article 8 of the Convention). The Committee of Ministers expressed grave concern that, more than nine months after the European Court's judgment became final and more than seven years after

¹⁷⁷ Ibid, paras 3-6.

¹⁷⁸ [DH-DD\(2019\)245](#), 5 March 2019.

¹⁷⁹ Measures under Article 7/E (3) of the Police Act as amended by Act No. CCVII of 2011.

¹⁸⁰ DH-DD(2017)219, 27 February 2017.

¹⁸¹ DH-DD(2017)1076, 28 September 2017.

¹⁸² CM/Del/Dec(2017)1302/H46-14, para. 1.

¹⁸³ Ibid, paras 2 and 3.

¹⁸⁴ DH-DD(2018)712, 10 July 2018.

¹⁸⁵ Application No. 44686/07, judgment of 28 June 2011.

¹⁸⁶ CM/Del/Dec(2018)1324/9, para. 7. For more details see, Notes on this group of cases, CM/Notes/1324/H46-9.

¹⁸⁷ Application No. 46524/14, judgment of 24 April 2018.

the child's wrongful removal and last contact with the applicant, the child's whereabouts remained unknown. It urged the authorities to intensify their search.¹⁸⁸

¹⁸⁸ CM/Del/Dec(2019)1340/H46-8, paras 2 and 5.