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The role of civil society in the execution of judgments of the European Court of Human Rights

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***E.H.R.L.R. 528** *This article examines the question of civil society participation in the process of the execution of judgments of the European Court of Human Rights. It considers, in the first instance, states' responsibilities for unlawful activity in international law and then goes on to examine the key principles underlying the execution procedure, namely* restitutio in integrum *and the adoption of general measures. It considers the practical aspects of execution, including the Twin Track procedure of supervision, and sets out the criteria for including cases under either enhanced or standard supervision. The final section of the article is focused on how civil society has participated in the execution process to date, giving specific examples of where civil society has been more actively engaged and the benefits that their participation brings to the process.*

Introduction

Judgments of the European Court of Human Rights attract a great deal of attention when Member States are found to violate human rights. The judgments often alert the public to serious problems facing European societies and can have a very significant effect in Member States. Once the initial excitement fades, however, little is said about what happens after the adoption of the judgment. How is it implemented and what change can it bring in the respondent state? Without doubt, it is the implementation process that is key to ensuring that the European Convention system of human rights protection works successfully and contributes to the improvement of human rights standards in Europe.

States' responsibility for unlawful acts

When the European Court of Human rights was established in 1959 with the mandate to deliver binding judgments against states, the Committee of Ministers of the Council of Europe[2] (the Committee) was ***E.H.R.L.R. 529** entrusted with the task of supervising the execution of those judgments by the respondent governments.[3] The European Convention on Human Rights (ECHR) puts it very briefly:

"The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties. The final judgment of the Court shall be transmitted to the Committee of Ministers, which shall supervise its execution."

Basic principles and the scope of implementation of the European Court of Human Rights' judgments are embedded in general principles of international law. According to these principles, the wrongdoer is obliged to redress the damage caused and to prevent its repetition: "[e]very internationally wrongful act of a State entails the international responsibility of that State." [4]

In its judgment in Papamichalopoulos v Greece [5] the Strasbourg Court expanded upon art.46 of the ECHR on the implementation of judgments:

"[The State has] a legal obligation to *put an end to the breach* and make reparation for its consequences in such a way as to *restore as far as possible the situation existing before the breach*. The Contracting States that are parties to a case are in principle *free to choose the means* whereby

they will comply with a judgment in which the Court has found a breach. This discretion as to the manner of execution of a judgment reflects the freedom of choice attaching to the primary obligation of the Contracting States under the Convention to secure the rights and freedoms guaranteed (Article 1). If the nature of the breach allows of *restitutio in integrum*, it is for the respondent State to effect it, the Court having neither the power nor the practical possibility of doing so itself. If, on the other hand, national law does not allow—or allows only partial—reparation to be made for the consequences of the breach, Article 50 empowers the Court to afford the injured party such *satisfaction* as appears to it to be appropriate"[6] [emphasis added].

The Committee of Ministers has set out a detailed procedure for implementation, which can be found in the Rules of the Committee of Ministers.[7] Until recently, not much was known about the implementation process. The work took place behind closed doors of the Committee's *in camera* meetings where there would be an exchange of information, negotiations and discussions between the representatives of capitals in Strasbourg. The most visible evidence of its work was a final resolution issued when a judgment was considered to have been fully implemented and the Committee's supervision was about to be closed. Although final resolutions listed all measures adopted by the respondent state to implement the judgment, the system itself lacked transparency and was considered to be inaccessible.

The implementation of the European Court of Human Rights' judgments

In order to ensure, as much as possible, the *restitutio in integrum*, to the victim of a violation, the respondent state must adopt so-called individual measures. The principle of *restituto in integrum* requires the individual to be put back in the position he or she was prior to the violation. Individual measures usually consist of a payment of just satisfaction awarded to the applicant by the European Court, but can also include restitution of property, reopening of proceedings or releasing someone from detention, for example.

A less well-known, though even more important process, is the adoption of so-called general measures. This requires that all possible steps are taken to prevent similar violations in the future. The general measures are considered on a case-by-case basis and can be very far reaching and may include amending ***E.H.R.L.R. 530** domestic laws, introducing domestic remedies, providing training and awareness-raising and encouraging changes in practice of administrative or judicial authorities. The measures are proposed by the respondent state and assessed by the Committee of Ministers (the Department for Execution of the European Court of Human Rights' judgments)[8] as to their effectiveness and sufficiency.

As recalled above, states are bound by the Convention and international law in general to implement the European Court of Human Rights' judgments. Non-implementation would mean an additional violation of the Convention. Protocol No.14, amending the Convention in 2010,[9] introduced the institution of infringement proceedings which allows the Court to adjudicate upon such a violation. The proceedings can be initiated upon a two-thirds majority vote of the Committee of Ministers[10] deciding that the state has failed to meet its obligations deriving from a judgment.

The procedure for non-compliance will always be an exceptional measure and might be viewed as a "cry for help" by the Committee of Ministers in dealing with a state. The Committee will always try in the first instance to use diplomatic and political pressure before reverting to the Court for help and intervention. It is when pressure is being brought to bear that civil society can have an important role to play, as this article aims to show.

Subsidiarity principle

It is often emphasised that it is not the European Court of Human Rights that ensures the respect of human rights in Europe but the states themselves. The Member States are first and foremost responsible for organising their legal system in such a way that any violations of basic rights are prevented or remedied.[11] The Court can and should intervene only where the domestic authorities fail in that task. With the increasing involvement of the Court in identifying and treating shortcomings in legal systems,[12] the subsidiarity principle also enables the Court to assist Member States in solving domestic systemic problems leading to violations of the Convention.

In order to give full meaning to the subsidiarity principle at the execution stage of the European Court of Human Rights' judgments, the respondent state must act with expedition. Non-implementation or slow implementation affects both the states (who have been "named and blamed" and required to pay

just satisfaction in all individual similar cases) and the Court, which has to deal with an enormous number of so-called “clone cases”. Accordingly, the Court has been seen to focus more on structural problems, introducing pilot judgments and the so-called art.36 judgment procedure.[13] At the same time more demands and more responsibility have been placed on the Committee of Ministers to supervise effectively the successful implementation of the judgments and to ensure that respondent states make the necessary reforms of domestic legislation and practice.[14]

The principle of subsidiarity will always play a fundamental part in the safeguarding of human rights. It is, however, of key importance that this principle is not misused by exerting inappropriate pressure upon the Court with regard to its independent application of the Convention. The Court’s independence and ***E.H.R.L.R. 531*** impartiality are its basic values and must be guiding principles for any reform or interpretation of its role. The Court must thus be independent in the interpretation of the subsidiarity principle as well.[15]

Transparency of the execution process

Following the reforms introduced with the adoption of Protocol No.14 to the Convention,[16] the process of execution of judgments of the European Court of Human Rights has become significantly more transparent.

Once the Court’s final judgment has been transmitted to the Committee of Ministers, the Secretariat of the Committee (the Department of Execution of Judgments) initiates consultations with the respondent state on measures needed to be taken and agrees upon a timetable setting out key dates for implementation. This initial phase should last no more than six months and is aimed at clarifying any possible differences of understanding in measures to be adopted by the state.

At the end of the six-month period the state is obliged to present an action plan or action report,[17] indicating measures already taken, proposed measures and their time-frame. The state is then committed, if necessary, to report to the Committee (through the Execution Department) on all developments in the implementation of the action plan.

The information provided by the respondent states enables the Committee of Ministers to assess whether it can cease its supervision of the implementation of the judgment. If all necessary implementation measures have been taken, the case can be closed by a final resolution. If not, and it is likely to take some time to implement the judgment, the Committee should take measures to ensure a more robust implementation by the Member State. On the basis of the information provided, the Department of Execution can suggest the case be debated at one of the quarterly meetings of the Committee dedicated to supervision of implementation of judgments.

The Secretariat of the Committee of Ministers (Execution Department) will analyse the action plan and reports submitted. It also conducts relevant research and can organise missions to the respondent state if deemed necessary. When adopting a measure, a state must show how it will impact upon the relevant problem. If appropriate, the state will need to present statistics demonstrating tangible improvements. In all cases a monitoring system must be introduced, which will show how states can prevent similar future violations from occurring as well as detailing relevant action to be taken if the problem recurs.

In case of slowness or disagreement between the Committee and the state on measures to be adopted, the Committee has at its disposal the following tools:

• increased frequency of examination, up to taking a case at every ordinary weekly meeting of the Committee, with relevant decisions and requests being made to the respondent government;

• communication from the Chair to the Minister of Foreign Affairs; and

• public interim resolution, memorandum or informative interim resolution, describing in detail the state of execution and problems encountered in the execution. ***E.H.R.L.R. 532***

In theory, in cases of a persistent failure to comply the measures can go as far as exclusion from the Council of Europe (or possibly exclusion from taking particular leading positions or suspending voting rights).[18]

Twin-track procedure

Cases are supervised under standard or enhanced procedure. It is envisaged that most cases will fall under the standard procedure, in other words those cases where measures can be identified quickly and where there is no disagreement between the Member State and the Committee of Ministers as to the modalities of implementation. In those cases respondent states present an Action Plan and/or Action Report which is assessed by the Committee of Ministers who will close the case when the violation is properly remedied and general measures have been adopted.

The second track—enhanced—allows the Committee to concentrate its efforts and time on the most important and/or difficult cases. These cases are regularly included on the Committee of Ministers meetings' agenda and in such instances states work in closer cooperation with the Department of Execution. At their meeting in December 2010, when drafting the new working methods,[19] the deputies of the states to the Committee of Ministers agreed the following criteria for cases to be examined under the enhanced supervision:

• judgments requiring urgent individual measures;

• pilot judgments;

• judgments disclosing major structural and/or complex problems as indentified by the Court and/or the Committee of Ministers; and

• inter-state cases.[20]

A case can be downgraded to standard when the most difficult steps have been taken, or it can be upgraded to an enhanced procedure in cases of persistent failure by a state to co-operate with the Committee in implementation of the judgment. This tool enables the Committee to put pressure on a recalcitrant state.[21]

Participation of civil society in the execution process

Exerting pressure

There has been much criticism of the pressure exerted by the Committee of Ministers upon Council of Europe Member States to implement judgments of the Court.[22] What is often overlooked, however, is that the pressure may never be sufficient in a democratic system without civil society involvement. Civil ***E.H.R.L.R. 533*** society can highlight sensitive issues, raise its concerns, suggest measures and raise awareness amongst the public of steps taken by governments as well as explaining their impact more generally. NGOs can alert states to a particular problem, requesting them to adopt their position during debates of the Committee of Ministers. In addition to broadening of the scope of the pressure, such involvement can be extremely valuable in promoting a culture of human rights dialogue in democratic societies. It is not only within the Committee of Ministers that pressure can and should be exerted on the respondent government. It is even more effective when, simultaneously with Strasbourg, pressure is brought to bear at the domestic level by national human rights institutions, NGOs and national parliaments,[23] increasing the political transparency of the implementation process.

With this in mind, it can be argued that the most important measure introduced by the new working methods of the Department of Execution was that all documents presented to the Committee of Ministers by the state concerning implementation of judgments should be made public.[24] This has added a new dimension to the execution process, namely the participation of civil society. This goes further than mere theory: the documents should be accessible to a broad audience through the new website of the Department of Execution of the European Court of Human Rights' Judgments.[25] The assessment of cases by the Department and the decisions given by the Committee in their supervision can be found in the "Pending Cases" section of the website and is available for every case.[26] This information provides a complete picture as to the status of execution in each case in "real time" and can be viewed by states, NGOs, national human rights institutions (NHRIs), applicants, other international organisations and any other interested party.

Former rules of the Committee of Ministers were rather ambiguous in this respect and permitted merely the applicant to send communications on individual measures. There was no reference in the Rules to the role of civil society organisations. The situation changed with the adoption of the new Rules in May 2006, which granted NGOs and institutions for the promotion and protection of human rights the right to send submissions to the Committee of Ministers on execution measures.

The amended Rules provide:

“Rule 9

Communications to the Committee of Ministers

[…]

2. The Committee of Ministers shall be entitled to consider any communication from non-governmental organisations, as well as national institutions for the promotion and protection of human rights, with regard to the execution of judgments under Article 46, paragraph 2, of the Convention.

3. The Secretariat shall bring, in an appropriate way, any communication received in reference to paragraph 1 of this Rule, to the attention of the Committee of Ministers. It shall do so in respect of any communication received in reference to paragraph 2 of this Rule, together with any observations of the delegation(s) concerned provided that the latter are transmitted to the Secretariat within five working days of having been notified of such communication. ***E.H.R.L.R. 534*** ” [27]

Rule 9 together with the ease with which relevant information can be accessed has enhanced the participation of civil society in the implementation of judgments.[28] The Department of Execution website went live in 2011. NGOs and human rights institutions can now monitor closely respondent states’ actions and read relevant reports and assessments and comment on them as necessary, by virtue of the so-called r.9 submissions. States can reply to any submission and the reply is likewise made public. These improvements gave effect to a recommendation made in 2005 at the Third Summit of Heads of State and Government of the Council of Europe[29] to enhance the civil society participation in human rights protection.

It is worth noting that there has been a steady increase in r.9 submissions received from NGOs, National Ombudsmen and other NHRIs. Civil society submissions have helped to shed light on particularities of domestic practice or interpretation of legal provisions in many important cases.[30]

Added value

Civil society, be it NGOs, NHRIs or pressure groups are invaluable interlocutors in the execution process. They play a critical role in providing the Department of Execution and Committee of Ministers with important information as to what is happening at national level. Civil society organisations are the eyes and ears on the ground and can provide useful “shadow reports” to the Department of Execution on high profile or sensitive cases. Such shadow reports can and do shine a light on the problems at national level and provide a valuable analysis of whether the execution measures proposed or indeed being implemented are likely to be effective. They can offer useful critiques of the respondent states’ Action Plans and Reports. Civil society will often highlight issues of concern which the Department of Execution, due to its own constraints, is either unable to focus on or lacks the national expertise to do so. The Department of Execution has received such reports in cases relating to abortion, terrorism and Roma rights to name but a few.

A number of the cases from the United Kingdom provide an interesting example of how civil society has engaged in the execution process. In the case of Hirst v United Kingdom [2005] ECHR 681 [31] which concerned the controversial issue of voting rights for prisoners, civil society has taken an extremely active role in the execution process. A number of NGOs including the Prison Reform Trust, Liberty and the AIRE Centre have filed submissions to the Committee of Ministers and continue to do so whilst the case remains under supervision. These submissions have been helpful in clarifying general measures to be taken by the authorities to meet the terms of the ECHR judgment and in many cases urging the authorities to act expeditiously. In one submission the Prison Reform Trust[32] even urged the Committee of Ministers to use its powers under Protocol No.14 of the ECHR to refer to the European Court of Human Rights the question of whether the UK Government had failed to fulfil its obligations. It would seem that civil society can be bold in its requests, asking hard questions and seeking meaningful action from the Committee of Ministers. In a similar vein in McKerr v United Kingdom,[33] a group of cases concerning investigative ***E.H.R.L.R. 535*** mechanisms in Northern Ireland, a number of NGOs have filed submissions to the Committee of Ministers. In February 2012 a joint submission from the Committee on the Administration of Justice (CAJ) and the Pat Finucane Centre urged the Committee of Ministers to continue its supervision of the General Measures in the case.[34] In this submission both organisations detailed further developments on the ground which militated against closure of the case by the Committee of Ministers.

However, in a number of high profile cases there has been little civil society engagement where one would expect there might be. For example, in the case of A v Ireland [35] concerning abortion in Ireland, there have been just two r.9 submissions to date, namely the Irish Family Planning Association and the Irish Council for Civil Liberties. The case remains under supervision at the time of writing but one would have expected many more submissions from civil society on a topic so controversial and important as abortion. Similarly, in the case of Rantsev v Cyprus,[36] a case concerning trafficking in Cyprus and Russia, there have been no submissions from civil society.

It is difficult to identify the reasons why civil society has been mute on such important cases. It may simply be that there is a lack of knowledge as to how practically it can be involved in the execution process. NGOs also seem to attach less importance to repetitive cases, whereas in fact they can play an important role in helping to solve structural problems which national legal systems have the power to change.

Rule 9 submissions

What is the format of a Rule 9 submission? The rules do not stipulate a prescribed format for these submissions. However, they should address as fully as possible the NGO/NHRI's concerns about the execution of the judgment and provide any useful proposals for resolution of the case. The submissions should make clear why the NGO/NHRI is interested in this issue and what its relevant expertise is in the area. It is also helpful if the submission provides information which is not readily available to the Department of Execution through public sources such as providing statistics or other "inside" information which may only be available to the NGO. If NGOs wish to provide their own assessment of the measures, this is of great value too. It is important to be aware, however, that the submissions are not campaigning documents or to be used as a political tool seeking to effect general change in a state's practice or conduct. They should be confined to the terms of the judgment and address the particular violations found therein. It should be noted that submissions which go beyond the limits of the judgment and the violation found or are too advocacy-focused have much less of an impact on the Committee of Ministers and the respondent state than those crafted in a more objective manner that seeks to shed more light on the problem by providing statistics and factual analysis.

Usually, r.9 submissions follow a particular format:

1. introduction of the NGO, its role and expertise;

2. background of the relevant case, focusing in particular on the main aspects of the source of violation or the aspect chosen by the NGO;

3. description of the practical situation on the ground (description of jurisprudence, courts' practice, statistics, etc.);

4. reference to measures adopted by the authorities and their assessment with detailed information backing up all relevant arguments;

5. suggested measures to be implemented by the state, their improvement or amendment or particular questions to be put by the Committee of Ministers to the respondent Government. ***E.H.R.L.R. 536**

Rule 9 Submissions should be filed with the Department of Execution by email[37] or post[38] and addressed to the execution department.

Once the Department of Execution receives the submission it will send it to the relevant Permanent Representation in Strasbourg and to the respondent state. The respondent state then has five days in which to file a response. Once the five-day deadline has expired the submission, together with the response from the authorities, will be sent to the Committee of Ministers and will be published on the Department of Execution website.[39]

The r.9 submissions may technically be filed at any time whilst a case is pending before the Committee of Ministers. The key time, however, may be when any changes in the implementation of the judgments occur and new information is provided to the Committee of Ministers by the respondent state. Civil society organisations should keep a keen eye on the website for new action plans and reports on cases of interest to them.

The Department of Execution has six months from the date of submission of the Action Plan/Report

by the respondent state to make an assessment of the proposed measures. A well-written and fully researched r.9 submission can go a long way in influencing the assessment. The NGO voice will also be carefully considered if they comment upon the assessment of the measures made by the Committee of Ministers itself. Serious r.9 submissions can also provoke a debate of the case by the Committee of Ministers.

In addition, r.9 submissions may be very useful when consideration is being given to downgrading or upgrading a case. Whilst it falls to the Department of Execution and ultimately the Committee of Ministers to carry out its assessment of the measures, r.9 submissions can be informative and influential in the process.

Civil society helping to make the proper use of the whole system of the Convention

The system in need

The supervision of implementation of judgments is part of the system of human rights protection granted by the ECHR. It is an important element, recognised as having the potential of solving the Court's problems relating to the huge backlog of cases stemming from systemic shortcomings in domestic legal systems.

Strengthening the execution of the Strasbourg Court's judgments has been stressed at a number of recent conferences and high level meetings on the reform of the Court.[40] It is an important step that strong commitments have been made by the Member States. It is, however, still necessary for these commitments to be translated into practical and political change. In those states that have followed the recommendations to introduce effective domestic mechanisms for the implementation of the Strasbourg Court judgments,[41] the improvement of their co-operation with the Execution Department and the increase in the number of the implemented judgments is already visible.[42] Civil society can play an important role in encouraging states to follow the recommendations. ***E.H.R.L.R. 537***

The political commitment made to the importance of the implementing the European Court of Human Rights' judgments cannot be seen in a vacuum. It needs to be accompanied by a practical strengthening of the Execution Department. All too often possible reforms are discussed without recognition of the fact that any reform also involves financial issues. The Committee of Ministers and the Execution Department have already made strenuous efforts to improve the working methods and existing procedures without incurring additional costs. However, following the statements on the importance of the Department of Execution, one-third of the Department had to leave upon the expiry of their temporary contracts. This important Department supervising the implementation of 10,689 judgments[43] consists at present of approximately 30 people, more than half of whom are employed on temporary basis (not exceeding six months) or seconded by governments. The significance of the independence and capacity of the Department is something that civil society actors should stress in their statements and assessments of actions taken by the respondent governments.

Conclusion

Real progress has been made in making civil society a partner in the execution process. The relationship continues to grow and flourish as civil society becomes more engaged and active. It may take time to get "buy in" from certain quarters but there is interest and a will on the part of many civil society organisations to be involved in the process.

Civil society engagement is tangible proof of subsidiarity at work and has helped embed the principle at the national level. Subsidiarity has been welcomed by civil society and many of the key players see it as vital for the effective implementation of domestic judgments.[44] It is important to harness this goodwill and build upon it in the years ahead.

There have been a number of conferences on "rescue and reform" of the European Court of Human Rights, most recently the Wilton Park Conference "2020 Vision for the European Court of Human Rights", held in November 2011. The participants at the conference recognised the challenges of ensuring effective implementation of the Convention at national level. The contribution made by civil society and in particular NHRIs was highlighted and their monitoring role specifically commended. Further, at the High Level Conference on the Future of the European Court of Human Rights in Interlaken (February 2010) the parties stressed the "fundamental role" that national authorities play in guaranteeing and protecting human rights at the national level.[45]

If the proposed measures to rescue the Court are successful (including the adoption of Protocol No.14 and the strengthening of the execution process) then human rights standards will invariably improve across Europe. Moreover, the system will function as it should rather than being overburdened and overwhelmed as it is now. It will take time, financial resources and a strong political will to bring about change but the democratic dividend is well worth the effort.

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1. The opinions expressed in the article are those of the authors and not the official position of the Department of Execution of Judgments.

2. The Council of Europe's decision-making body. It comprises the Foreign Affairs Ministers of all the Member States, or their permanent diplomatic representatives in Strasbourg.

3. Article 46 of the Convention (formerly art.32 and then art.53).

4. International Law Commission, UN Doc.A/CN.4/L.602/Rev.1, July 26, 2001 (ILC draft Articles on State Responsibility).

5. Papamichalopoulos v Greece (App. No.14556/89), judgment of October 31, 1995 at [34].

6. Papamichalopoulos (App. No.14556/89), judgment of October 31, 1995 at [47].

7. Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements, amended several times, available at: *httpwww.coe.int/t/dghl/monitoring/execution/Source/Documents/Docs_a_propos/CMrules2006_en.pdf* [Accessed August 28, 2012].

8. The Department for Execution of Judgments of the European Court of Human Rights, in the Directorate General of Human Rights of the Council of Europe assists the Committee of Ministers in exercising this responsibility under the Convention.

9. Article 46; see Protocol 14 to the ECHR.

10. The decision to be made in a form of an interim resolution, i.e. a resolution that is not a Final Resolution. Interim resolutions can serve a number of functions including showing an awareness of progress in implementation or as a tool to apply pressure on a state.

11. See for reference note by the Jurisconsult of the Court: *"Interlaken Follow-up. Principle of Subsidiarity" of July 8, 2010*, available at *http://www.echr.coe.int* [Accessed August 28, 2012].

12. Through, inter alia, pilot judgment procedures. For more details see the information note issued by the Registrar of the Court, Pilot Judgment Procedure, available at: *http://www.echr.coe.int/NR/rdonlyres/DF4E8456-77B3-4E67-8944-B908143A7E2C/0/Information_Note_on_the_PJP_for_Website.pdf* [Accessed August 28, 2012]

13. For more details see *E. Fribergh, Pilot judgments from the Court's perspective, Stockholm colloquy, June 9–10, 2008*, available at: *http://www.echr.coe.int/NR/rdonlyres/43C75D00-0F57-4176-8A7C-0AE28DBD4EE8/0/StockholmdiscoursFribergh0910062008.pdf* [Accessed August 28, 2012].

14. *R. Hamsen, "The European Court of Human Rights as a 'Constitutional Court': Definitional Debates and the Dynamics of Reform", Judges, Transition and Human Rights Culture—Conference in Memory of Stephen Livingstone, Queen's University, Belfast, October 7–8, 2005*.

15. See *E. Bonino and James A. Goldston, "Overworked But Vitally Important", European Voice, December 8, 2011*, *http://www.europeanvoice.com* [Accessed August 28, 2012].

16. Protocol No.14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the control system of the Convention, available at: *http://conventions.coe.int/Treaty/EN/Treaties/Html/194.htm* [Accessed August 28, 2012].

17. An Action Plan sets out the measures the respondent state intends to take to implement a judgment, including an indicative timetable. An Action Report is information provided by the respondent state setting out the measures taken to implement the judgment, and/or its explanation as to why no further measures are necessary. The Committee of Ministers can proceed to close a case on the basis of an Action Report. For more information, see Information Document CM/Inf/DH (2009) 29 rev, June 3, 2009 Action Plans-Action Reports, *https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Inf/DH(2009)29&Language=lanEnglish&Ver=rev* [Accessed August 28, 2012]. There may be several Action Plans and Action Reports needed/submitted before the supervision of the case is closed.

18. See *"Applying and Supervising the ECHR—Reform of the European Human Rights System: Proceedings of the High Level Seminar", Oslo, October 18, 2004, Council of Europe, 2004, p.12* and *L. Miara, "Monitoring of Obligations by Member States of the Council of Europe—Overview of Monitoring Mechanisms", Bulletin of the Council of Europe's Information and Documentation Centre, Warsaw 2004*.

19. Decisions of the 1100th DH meeting, December 2, 2010, item e, Measures to improve the execution of the judgments of the European Court of Human Rights. Proposals for the implementation of the Interlaken Declaration and Action Plan, GT-SUIVI.Interlaken(2010)CBS.

20. CM/INF/DH(2010)45 final, December 7, 2010, Supervision of the execution of the judgments and decision of the European Court of Human Rights: implementation of the Interlaken Action plan—Outstanding issues concerning the practical modalities of implementation of the new twin track supervision system. Document prepared by the Department for the Execution of Judgments of the European Court of Human Rights (DG-HL) and finalised after the 1100th meeting (December 2010) (DH) of the Ministers' Deputies.

21. For the details on this measure and explanation on relevant decisions/steps taken by the Committee of Ministers with respect to non-complying states, see pp.6 and 7 of the CM/Inf/DH(2010)37 Supervision of the execution of judgments and decisions of the European Court of Human Rights: implementation of the Interlaken Action Plan—Modalities for a twin-track supervision system. Document prepared by the Department for the Execution of Judgments of the European Court of Human Rights (DG-HL).

22. See PACE Resolution 1226 (2000), September 28, 2000; CDDH, Suggestions on solutions in the event of slowness in the execution of judgment, DH-PR(2005)001, April 26, 2005, p.18; *L. Zwaak, "The Role of the Council of Europe and its Committee of Ministers; Analysing the Efficiency of Measures Taken Under Article 46(2) of the ECHR", p.15*, available at *http://igitur-archive.library.uu.nl* [Accessed August 28, 2012].

23. The Parliamentary Assembly of the Council of Europe urged national parliaments to introduce specific mechanisms and procedures for effective parliamentary oversight of the implementation of the Court's judgments. See Resolution of the PACE of November 17, 2010 on Implementation of judgments of the European Court of Human Rights' judgments and the accompanying report of December 20, 2010, Doc.12455.

24. Unless a justified interest of the applicant or the protection of the public order would require confidentiality. See for details r.8 of the Rules of the Committee of Ministers.

25. See *http://www.coe.int/t/dghl/monitoring/execution/* [Accessed August 28, 2012], "Additional information".

26. See *http://www.coe.int/t/dghl/monitoring/execution/Reports/pendingCases_en.asp* [Accessed August 28, 2012].

27. Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements (Adopted by the Committee of Ministers on May 10, 2006 at the 964th meeting of the Ministers' Deputies), *http;//www.coe.int/t/dghl/monitoring/execution/Source/Documents/Docs_a_propos/CMrules2006_en.pdf* [Accessed August 28, 2012].

28. Published documents can be viewed at "Additional information" on the website of the Execution Department, see *http://www.coe.int/t/dghl/monitoring/execution/Themes/Add_info/Info_cases_en.asp* [Accessed August 28, 2012].

29. "[…] to enhance the participation of NGOs in Council of Europe activities as an essential element of civil society's contribution to the transparency and accountability of democratic government", Action Plan adopted at the Third Summit of Heads of State and Government of the Council of Europe, Warsaw, May 16–17, 2005, CM(2005)80 final, May 17, 2005, para.3.

30. See e.g. submissions in cases Hirst (No.2) v United Kingdom (App. No.74025/01), judgment of October 6, 2005; Tysiac v Poland (2007) 45 E.H.R.R. 4 ; D.H. v Czech Republic (2008) 47 E.H.R.R 3, Xenides-Arestis v Turkey (2007) 44 E.H.R.R. SE1 ; Burdov v Russian Federation (2009) 49 E.H.R.R. 2 (Pilot judgment), A., B. and C. v Ireland (2011) 53 E.H.R.R. 13. It can be noted that NGOs from non-Member States, if they possess adequate knowledge, authority and experience in a particular matter addressed by the judgment, can also submit their opinions to the Committee of Ministers (see e.g. submissions from the Center for Reproductive Rights in the Tysiac v Poland case: *https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=1869415&SecMode=1&DocId=1745* [Accessed August 28, 2012]).

31. Hirst v United Kingdom (No.2) (App. No.74025/01), judgment of October 6, 2005.

32. See document DD (2010)410E—letter from Prison Reform Trust dated September 3, 2010 to the Committee of Ministers, *https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=1644910&SecMode=1&DocId=1620* [Accessed August 28, 2012]

33. McKerr v United Kingdom (2002) 34 E.H.R.R. 20.

34. *http://www.coe.int/t/dghl/monitoring/execution/Source/Documents/Info_cases/UK/McKerr16022012.pdf* [Accessed August 28, 2012]

35. A v Ireland (2011) 53 E.H.R.R. 13.

36. Rantsev v Cyprus (2010) 51 E.H.R.R. 1.

37. dgI.execution@coe.int.

38. Department for the Execution of Judgments of the European Court of Human Rights, Directorate General I Human Rights and Rule of Law, Council of Europe F-67075 Strasbourg Cedex, France.

39. See *http://www.coe.int/t/dghl/monitoring/execution/* [Accessed August 28, 2012].

40. Brighton Conference on the future of the Court, April 18–20, 2012; Izmir Conference on the future of the Court, April 26–27, 2011; High Level Interlaken Conference on the future of the Court, February 19–20, 2010. See: *http://conventions.coe.int/Treaty/en/Treaties/html/194.htm* [Accessed August 28, 2012].

41. See 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, adopted by the Committee of Ministers on February 6, 2008 at the 1017th meeting of the Ministers' Deputies; Resolution 1516 (2006), Implementation of judgments of the European Court of Human Rights, adopted by the Assembly on October 2, 2006, para.22.2, Ministers' Deputies, Implementation of judgments of the European Court of Human Rights, Parliamentary Assembly Recommendation 1764 (2006); CM/AS(2007)Rec1764 final March 30, 2007, Reply adopted by the Committee of Ministers on March 28, 2007 at the 991st meeting of the Ministers' Deputies, para.1.

42. 5th Annual Report of the Committee of Ministers 2011, "Supervision of the execution of judgments and decisions", Directorate General of Human Rights and Rule of Law.

43. See 5th Annual Report of the Committee of Ministers 2011, p.34—figure given for pending cases as at December 31, 2011.

44. See letter from the AIRE Centre, Amnesty International, European Human Rights Advocacy Centre, Interights, International Commission of Jurists, Human Rights Watch, Justice and the Open Society Initiative to Sir Leigh Lewis KCB, Commission on a Bill of Rights dated October 26, 2011: "We agree that it is essential to ensure that Member States and their national institutions assume their primary responsibility for securing the Convention rights. The responsibility of States to make Convention rights a reality at the national level is therefore central to the idea of subsidiarity and it is clear that better implementation of the Convention at national level would mean greater respect for human rights throughout Europe."

45. Interlaken Declaration, February 19, 2010.

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