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Committee on Legal Affairs and Human Rights

Stockholm Colloquy: "Towards stronger implementation of the European Convention on Human Rights at national level", 9-10 June 2008

Selected texts

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I. Programme

"Towards stronger implementation of the ECHR at national level Colloquy"
Colloquy organised under the Swedish Chairmanship of the Committee of Ministers of the Council of Europe

Monday 9 June 2008

9.00	Welcome address: Ms Beatrice Ask, Swedish Minister of Justice
9.20	Chair: Ambassador Carl Henrik Ehrenkrona, Director General for Legal Affairs, Swedish Ministry for Foreign Affairs
9.25	*Member states of the Council of Europe and their responsibilities under the European Convention on Human Rights:* Right Honourable Terry Davis, Secretary General of the Council of Europe
9.45	*The national aspects of the Reform of the human rights protection system: the expectations of the European Court of Human Rights:* Mr Jean-Paul Costa, President of the European Court of Human Rights
10.00	*A reminder of the main elements of the reforms decided by the Committee of Ministers:* Ms Deniz Akçay, Chairperson of the Steering Committee for Human Rights
10.15	*State of implementation of the national aspects of the Reform:* Mr Vit A. Schorm, Chairperson of the Committee of Experts for the Improvement of Procedures for the Protection of Human Rights

THEME 1: Improving domestic remedies and execution of national judgments

11.00	Keynote speaker: Mr Giorgio Malinverni, Judge elected in respect of Switzerland to the European Court of Human Rights
11.20	*The effectiveness of the European Convention on Human Rights at national level*: *the parliamentary dimension:* Ms Marie-Louise Bemelmans-Videc, Member of the Parliamentary Assembly of the Council of Europe
11.40	*Domestic remedies: the Austrian experience:* Ms Ingrid Siess-Scherz, Head of the Legal, Legislative and Research Service of the Austrian Parliament, former Vice-Chair of the Steering Committee for Human Rights
12.00	*Domestic remedies: the Swedish experience*: Ms Anna Skarhed, Justice of the Swedish Supreme Court
12.20	*Execution of national judgments: the Russian experience:* Ms Veronika Milinchuk, Representative of the Russian Federation at the European Court of Human Rights, Russian Vice-Minister of Justice
12.40	Questions and discussion

THEME 2: Amplifying the effect of the Court's case-law

15.00	Keynote speaker: Ms Elisabet Fura-Sandström, Judge elected in respect of Sweden to the European Court of Human Rights
15.20	*Screening domestic legislation:* The Earl of Onslow, member of the Joint Committee for Human Rights of the UK Parliament

15.40 *Pilot judgments from the Court's perspective:* Mr Erik Fribergh, Registrar of the European Court of Human Rights

16.00 *Pilot judgments: the experience of a Government Agent:* Mr Jakub Wolasiewicz, Government Agent of Poland

16.50 *The Registry's information activities:* Mr Roderick Liddell, Director of Common Services in the Registry of the European Court of Human Rights

17.10 Questions and discussion

18.00 End of the session

Tuesday 10 June 2008

THEME 3: Assisting Member States in implementing the Convention

9.00 Keynote speaker: Mr Roeland Böcker, Government Agent of the Netherlands, Chairperson of the Reflection Group on the follow-up to the Wise Persons' Report

9.20 *The Commissioner's role:* Mr Thomas Hammarberg, Council of Europe Commissioner for Human Rights

9.40 *The Council of Europe's support for national capacity-building on the European Convention on Human Rights:* Ms Hanne Juncher, Head of Division, Legal and Human Rights Capacity Building, Directorate General of Human Rights and Legal Affairs, Council of Europe

10.00 *Professional training in European Convention on Human Rights standards*: Ms Nuala Mole, Director of the AIRE Centre

10.20 Questions and discussion

11.30 General discussion

12.40 Summary conclusions: Mr Philippe Boillat, Director General of Human Rights and Legal Affairs, Council of Europe

12.55 Closing address: Mr Per Sjögren, Ambassador Extraordinary and Plenipotentiary, Chairman of the Ministers' Deputies of the Council of Europe, Permanent Representative of Sweden to the Council of Europe

13.00 End of the Colloquy

II. Speech by Mrs Marie-Louise Bemelmans-Videc: "The effectiveness of the European Convention on Human Rights at national level: the parliamentary dimension"

I would like to thank the organisers for inviting me to speak before you today. I am honoured to be able to participate in this Colloquy on a topic that is very dear to me: the stronger implementation of the European Convention on Human Rights at national level and in particular, the role of national parliaments in verifying state obligations to comply with the ECHR, including Strasbourg Court judgments.

We all agree - as is clear from the title of this Colloquy - on the need to reinforce national implementation of the ECHR, thereby putting back into focus the "subsidiary nature" of the Strasbourg control mechanism, It is also evident that national parliaments should, where possible, play a significant role in ensuring a substantial reduction of individual applications to the Strasbourg Court.[1]

So let me first state the obvious. States are responsible for the effective implementation of human rights and it is incumbent on all state organs, be they the executive, the courts or the legislature, to prevent or remedy alleged human rights violations at the national level. This is principally, but not exclusively, the responsibility of the judiciary. In so far as the legislature is concerned, this may entail, for instance, rigorous "Strasbourg vetting" of draft legislation. Only when the domestic system fails, should the Strasbourg Court step in. Subsequently, if and when there is an adverse finding by the Strasbourg Court, emphasis shifts back to the domestic arena when the state is required to execute the judgment under the supervision of the Committee of Ministers (Article 46 of the ECHR). At this stage too, parliamentary involvement may be necessary, as the rapid adoption of legislative measures may be required to ensure compliance with the Court's judgments.

As a result of the foregoing, it is also obvious that the double mandate of national parliamentarians – as members of PACE and of their respective national parliaments – can be of fundamental importance in ensuring that human rights guaranteed by the ECHR and the Strasbourg Court are effectively protected and implemented domestically without, in the vast majority of cases, the need to seek justice in Strasbourg. There is a heavy burden on us, parliamentarians, especially those with such a double mandate, to ensure stronger implementation of the Convention at national level.

It follows that member states, including their legislative bodies, must be more rigorous in ensuring regular verification of the compatibility of draft and existing legislation with ECHR standards, as well as the existence of effective domestic remedies.[2] Indeed, as concerns draft legislation, such verification has in the last few years been systematically undertaken by parliamentary committees in several member states. The extent to which this is also carried out – specifically in the context of the ECHR – by the legal services of legislative bodies, I am simply not able to answer. Probably (hopefully?) quite often, but I lack empirical evidence to back up this statement. That said, the compatibility of existing laws with ECHR standards often crops up within the framework of parliamentary debates. Likewise, oral or written questions are put to the executive when, for instance, the execution of a Strasbourg Court judgment is at issue. [For an overview of different parliamentary practices on this subject, I refer you to the background document prepared for this colloquy, and in particular its Appendix II.]

As explained in the background document prepared for the presentation I am making today, a questionnaire entitled "Parliament's role in verifying State obligations to comply with the ECHR, including Strasbourg Court judgments", was sent to the parliaments of all 47 Council of Europe's member states in February of this year. To date, 39 have replied.[3] This questionnaire was preceded, in November 2007, by a separate initiative taken by the former Assembly President, Mr René van der Linden, who invited the Speakers/Presidents of all parliaments of Council of Europe member states to submit information on the follow-up to PACE Resolution 1516 (2006) on the establishment of internal parliamentary systems to monitor the implementation of the Court's judgments.

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[1] This point has been very aptly underscored in the title of an article just published on this subject by C.Paraskeva "*Returning the protection of human rights to where they belong, at home",* in the June 2008 issue of The International Journal of Human Rights, vol. 12, pp. 415-448.

[2] For a recent overview see Committee of Ministers doc CM (2008) 52, of 4 April 2008: CDDH Activity Report "Sustained action to ensure the effectiveness of the implementation of the ECHR at national and European levels", especially Appendix IV (which refers to improvement of domestic remedies; including mechanisms within the legislature, at §§ 11–19), and Appendix VI (which concerns the need to verify draft and existing laws, including parliamentary verification at §§ 13- 18). See also my AS/Jur working document "The effectiveness of the ECHR at national level", doc. AS/Jur (2007) 35 rev 2 (declassified by the Committee on 26.06.2007).

[3] No replies have as yet received from the parliaments of Azerbaijan, Luxembourg, Malta, Moldova, Monaco, Montenegro, San Marino and Slovenia.

The result product of this, admittedly incomplete survey is – on the one hand - not too encouraging as concerns the lack of a pre-established and systematic parliamentary procedures of "Strasbourg ECHR vetting", & - on the other hand - the readiness of an increasing number of parliaments to take a more pro-active approach to help ensure that appropriate and rapid following-up is given after an adverse finding by the Strasbourg Court.

Very few parliamentary mechanisms exist with a specific mandate to verify compliance with ECHR requirements; one could probably include the work of the UK Joint Committee on Human Rights in this rubric. Most replies indicated that "Strasbourg vetting" is carried out within existing "normal" parliamentary procedures (see, e.g., replies from Albania, Andorra, France, Poland, Portugal, Serbia and Slovakia). In other countries, the reply often given was that, as the ECHR is part of domestic law, this in itself necessitates the need to regularly check compatibility of national laws with Convention standards. In Austria, where the ECHR has "constitutional status", special attention is indeed given to this. But in the vast majority of states this is not a function with respect to which national legislators appear to take a 'lead role'.

In so far as the need to comply with the judgments of the Strasbourg Court is concerned, a different "scenario" can be detected. This is due to the growing "interaction" between national parliamentary bodies and the Parliamentary Assembly. I am fully aware that, in so far as implementation of Strasbourg Court judgments is concerned, the principal task of supervising the execution of such judgments - by virtue of Article 46 of the ECHR - is the responsibility of the Committee of Ministers.[4] Nevertheless, the Parliamentary Assembly has, since 1993, played an increasingly important role in the process of implementation of the Court's judgments.[5] Six reports and resolutions and five recommendations have been adopted by the Assembly since 2000 to help member states overcome structural deficiencies and to accelerate the process of fully complying with the Court's judgments. In addition, various implementation problems have been regularly raised by other means, notably through oral and written parliamentary questions. A number of complex implementation issues have been solved with the assistance of the Assembly and of the national parliaments and their delegations to the Parliamentary Assembly, Indeed, in the context of his sixth report on the implementation of ECHR judgments, Mr Erik Jurgens, Rapporteur, visited five states where the most difficult and/or longstanding implementation issues arose (namely Italy, the Russian Federation, Turkey, Ukraine and the United Kingdom).[6] He used these visits to examine, with fellow parliamentarians and national decision-makers, the reasons for non-compliance with Court judgments and to stress the urgent need for solutions to problems raised. Subsequently, in its Resolution 1516 (2006) - based on Mr Jurgens' sixth report - the Parliamentary Assembly emphasized that "*member states methods and procedures should be changed to ensure immediate transmission of information and involvement of all domestic decision makers concerned in the implementation process, if necessary with the assistance of the Council of Europe.*"[7] The Resolution further "***invites all national parliaments to introduce specific mechanisms and procedures for effective parliamentary oversight of the implementation of the Court's judgments on the basis of regular reports by the responsible ministries***."[8]

What is probably again worth emphasizing is the privileged status which we parliamentarians have in our dual capacity as members of the Assembly and national legislators, and that we can be in a position to help facilitate the implementation of Strasbourg Court judgments.[9]

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Please permit me, at this juncture, to inform you of my "disappointment" with respect to two matters, before I provide you with a more optimistic picture for the future...

I am disappointed by the fact that the Committee of Ministers (in effect, the Steering Committee for Human Rights, the CDDH) has not taken sufficient account of the importance of the "parliamentary dimension" in its recent Recommendation on the efficient domestic capacity for rapid execution of

[4] See, e.g., Committee of Ministers 1st annual report on the supervision of the execution of judgments of the European Court of Human Rights 2007 (Council of Europe, March 2008), *passim.*

[5] See PACE Resolution 1516 (2006), § 3. See also, E Lambert Abdelgawad *The execution of judgments of the European Court of Human Rights.* Human Rights File No. 19 (Council of Europe Publishing, 2008), at p. 59.

[6] See § 5 of PACE Resolution 1516 (2006). In addition, problems of non-execution were also analyzed with respect to eight other states, namely Bulgaria, France, Germany, Greece, Latvia, Moldova, Poland and Romania.

[7] PACE Res. 1516 (2006), § 19.

[8] *Idem*, § 22.1. Emphasis added.

[9] See, in this connection, § 116 of report of Mr Christos Pourgourides (the successor of Mr Jurgens, as rapporteur) on "Implementation of judgments of the European Court of Human Rights", doc. AS/Jur (2008) 24 (declassified by the Committee on 2 June 2008).

judgments of the Strasbourg Court. Here, I have in mind the outcome of discussions Mr Jurgens (one of the most active members of the Assembly's Legal Affairs & Human Rights Committee & recently retired colleague of mine in the Dutch Senate) had with the CDDH in November 2007 when the CDDH proposed – despite Mr Jurgens' strong objections - that national parliaments be informed – "*as appropriate"* - of measures taken to execute Strasbourg Court judgments. In other words, national parliaments are to be informed if and when the state's (administrative? executive?) authorities feel like doing so. There is something fundamentally wrong in this approach, as I will illustrate to you later on in the specific context of the Dutch experience. [For further information about this rather unfortunate development, I refer you to a text prepared by Mr Jurgens on this subject at the end of last year.[10]]

My second "disappointment" concerns lack of regular parliamentary "Strasbourg vetting" in most Parties to the Convention. This observation is based on a "*constat*", a "finding" based on information gathered by the PACE Legal Affairs & Human Rights Committee. In a recent overview of "parliamentary verification of state compliance with ECHR standards" – prepared for this colloquy – it has been noted that [and I cite from paragraph 11 of the said text]:

> "*Despite [a few examples] it would appear that parliaments in very few states exercise regular control over the effective implementation of Strasbourg Court judgments".*[11]
>
> As my French colleagues say: *nous avons du pain sur la planche!*

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Now, with your permission, I would now like to evoke my own national parliament's system as a positive mode and then cite a few more positive examples from other countries. In the Netherlands, the Government Agent before the Court makes a yearly report on cases and judgments brought against the Netherlands, which is sent by the government to both houses of parliament. The parliamentary justice committees examine this report, ask questions, and make suggestions if they are not satisfied by the government's actions. In 2006, the Senate requested that an overview of implementation of Strasbourg Court judgments be added to the report. As a result, this broadened report contains not only judgments against the Netherlands, but any judgment which could have a direct or indirect effect on the Dutch legal system. I understand that a similar procedure has been instituted in Switzerland, as of the beginning of this year, where regular reports to parliament now cover all Strasbourg Court judgements which may have a bearing on the Swiss legal system.

From a very cursory overview of the replies to the questionnaire sent out in February, as well as to the letter of the former PACE President, Mr van der Linden, a few examples stand out:

- the conference of the presidents of the **Belgian** *Chambre des Représentants* has proposed that the *Commission de la Justice* be charged with the control of the implementation of Strasbourg Court judgments, with the report to be delivered on an annual basis.
- The **Finnish** government submitted a first report on the Finnish human rights policy to the Parliament in 2004, affirming that such reports, which shall include an assessment of the implementation of Strasbourg Court's judgments, shall be regularly produced, with the next one being scheduled for early 2009.
- A particularly comprehensive model is the one recently established in **Luxembourg:** the Legal Committee of the Chamber of Deputies adopted a new mechanism to the control the implementation of Strasbourg Court judgments. At the beginning of each year the Ministry of Justice will report on the Court's judgments with respect to Luxembourg. When so doing, the Ministry will inform the Luxembourg Parliament what action, if any, has been taken following any adverse findings by the Strasbourg Court.

As regards national parliamentary procedures foreseeing not only the monitoring of the implementation of Strasbourg Court judgments but also the prior screening of domestic legislation, the **United Kingdom** model appears particularly noteworthy (this work will be presented to you this

[10] This concerns § 9 of Committee of Ministers Recommendation CM/Rec (2008) 2, to member states on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights, adopted on 6 February 2008. See, in particular, §§ 12 – 18 of the Assembly's Legal Affairs & Human Rights Committee (AS/Jur) working document "Implementation of judgments of the ECtHR – issues currently under consideration" presented by E. Jurgens, doc. AS/Jur (2007) 49 rev, & Appendix III thereof (declassified by the Committee on 11.09.2007).

[11] This document, entitled "Role of national parliaments in verifying State obligations to comply with the ECHR, including Strasbourg Court judgments: an overview" was issued on 23 May 2008 (see p. 8 below).

afternoon by a member of the UK Joint Committee for Human Rights, the Earl of Onslow). The "UK model' is a rare example of the existence of a special parliamentary body with a specific mandate to verify and monitor the compatibility of national law and practice with the ECHR. I should also mention, in this connection, a recent development in the **Romanian** Parliament. As a direct result of 'prodding' by the Parliamentary Assembly (PACE Resolution 1516 of 2006), the Romanian Chamber of Deputies has set up a Sub Committee of their Committee of Legal Affairs which is specifically mandated to ensure a better and faster implementation of Strasbourg Court judgements. Other interesting procedures include the one put into place by **Italy** (based on "the Azzolini law", Law no 12, of 2006), and the **Ukraine**, law of 2006 which focuses on domestic procedures to enforce and apply the case-law of the Strasbourg Court.

I could go on, but I will stop here, and refer you to the detailed replies available in the Appendix II of the PACE Secretariat background document (at page 15 below). However, what is certainly worth noting is the fact that **the vast majority of parliamentary initiatives undertaken on this subject are relatively recent initiatives**. And I take pride in emphasising that more often than not, they stem from initiatives taken by the Assembly, and in particular its Legal Affairs and Human Rights Committee.[12]

I thank you for your attention.

[12] See also, in this connection, the concluding remarks made by PACE President de Puig at the recent European Conference of Presidents of Parliament, held in Strasbourg on 22-23 May 2008, cited in § 8 of the PACE AS/Jur's Secretariat's background document prepared for this Colloquy. The complete text of the PACE President's concluding remarks can be accessed at http://assembly.coe.int/ASP/APFeaturesManager/defaultArtSiteView.asp?ID=779
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III. Background document: The role of national parliaments in verifying state obligations to comply with the European Convention on Human Rights, including Strasbourg Court judgments: an overview[13]

Summary

A. Introductory remarks
B. Parliamentary role in verifying state obligations *vis-à-vis* the European Convention on Human Rights

Appendix I: Text of the questionnaire sent to parliaments on 14 February 2008

Appendix II: Overview of replies received to the questionnaire sent to parliaments on 14 February 2008

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A. Introductory remarks

1. All 47 Council of Europe (CoE) member states must give full effect to the European Convention on Human Rights (ECHR) at national level by continuously adapting national standards in accordance with the Convention, as interpreted by the European Court of Human Rights (Strasbourg Court): see Articles 1, 13, 19 and 46 of the ECHR. This entails the need, in particular, for states to ensure prompt and adequate implementation of the Strasbourg Court's judgments.[14]

2. On a more general level, and especially in order to substantially reduce the need for individuals to apply to the Court in Strasbourg, in recent years the onus has been placed on member states to systematically verify the compatibility of draft and existing legislation with ECHR standards, as well as to ensure the existence of effective domestic remedies.[15] National parliaments can play a key role in this respect. As concerns draft legislation, the verification of its compatibility with the ECHR can be undertaken (systematically) by the legal services of parliament and/or parliamentary committees. The compatibility of existing laws with the ECHR can also be verified within the framework of parliamentary debates. Likewise, oral or written questions can be put to the executive when, for instance, the execution of a Strasbourg Court judgment is at issue.

3. The present document attempts to provide a compilation (overview) of available information in order to determine the extent to which parliaments provide for mechanisms and procedures that permit them to verify whether states comply with the ECHR and, where relevant, the Strasbourg Court's judgments.[16] This overview is principally, but not exclusively, based on member states' replies to a questionnaire sent to national parliaments by the Parliamentary Assembly, through the European Centre for Parliamentary Research and Documentation (ECPRD)[17] (individual replies are contained in the Appendix II to this document), as well as work carried out by the Parliamentary Assembly, and in

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[13] This document, issued on 23.05.2008, was prepared by the Secretariat of the Committee on Legal Affairs and Human Rights (AS/Jur) and served as a background document for the presentation made by Mrs Marie-Louise Bemelmans-Videc on 09.06.2008 entitled "***The effectiveness of the European Convention on Human Rights at national level: the parliamentary dimension***".

[14] See, for example, PACE Resolution 1516 (2006), Implementation of judgements of the European Court of Human Rights, 02.10.2006, § 1, and Recommendation CM/Rec (2008) 2 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 06.02.2008.

[15] See AS/Jur working document "The effectiveness of the ECHR at national level" by Mrs Bemelmans-Videc, document AS/Jur (2007) 35 rev 2 (document declassified by the Committee on 26.06.2007) and recent Committee of Ministers document CM (2008) 52, of 04.04.2008: Steering Committee for Human Rights (CDDH) Activity Report "Sustained action to ensure the effectiveness of the implementation of the ECHR at national and European levels", especially Appendix IV (which refers to improvement of domestic remedies; mechanisms within the legislature), at §§ 11–19, and Appendix VI (which concerns the need to verify draft and existing laws, including verification by parliaments), at §§ 13- 18.

[16] For a previous, *ad hoc,* attempt at discussing "Mechanisms for treatment of human rights issues in national parliaments" see *Constitutional and Parliamentary Information of the Association of Secretaries General of Parliaments* 53 (2003) 186, pp.5-30.

[17] ECPRD. https://ecprd.secure.europarl.europa.eu/ecprd/navigation.do;jsessionid=E40751BA04D49DFFF1D12672A2672D39FirefoxHTML\Shell\Open\Command . The ECPRD was established at the request of the Speakers/Presidents of European parliamentary assemblies in 1977 as a "channel for requests for information whenever one parliament would like to know more about practice and policy in other countries".

particular its Committee on Legal Affairs and Human Rights, in assisting the Committee of Ministers to implement Strasbourg Court judgments.

4. A questionnaire, entitled "Parliament's role in verifying State obligations to comply with the ECHR, including Strasbourg Court judgments", was sent to the parliaments of all 47 Council of Europe member states on 14 February 2008. It consisted of the following three questions:

1. *Is there, in your parliament, a special body empowered to:*
   - *verify compatibility of draft legislation with the Convention*
   - *monitor and/or control the compatibility of legislation with the Convention (ex officio or upon request)?*

2. *If no such parliamentary body exists, what possibilities do parliamentarians have to verify the State's compliance with the Convention (and the Strasbourg Court's judgments)?*

3. *What parliamentary procedure(s) exist to inform members when the Strasbourg Court finds your State in violation of the Convention or renders an important judgment? If non-existent, have there been/are there initiatives to introduce such possibilities?*

To date, replies from 39 states have been received.[18] The full text of the questionnaire, sent in both English and in French, and which consisted not only of the three questions, but also of elements for a reply and relevant 'background information', can be found in the Appendix I to the present text. An overview of replies received is reproduced in Appendix II.

5. Of interest to note in this connection is the 'background information', which was appended to the questionnaire.[19] This background information was obtained in the context of a separate initiative taken by the former PACE President, Mr René van der Linden, who, in a letter of 16 November 2006, invited the Speakers/Presidents of all parliaments of Council of Europe member states to submit information on the follow-up to PACE Resolution 1516 (2006) on the establishment of internal parliamentary systems to monitor the implementation of the Court's judgments (see below).[20]

B. Parliamentary role in verifying state obligations *vis-à-vis* the European Convention on Human Rights

6. A cursory, and as yet incomplete, assessment of the information obtained from the replies received to the questionnaire (see Appendix II), together with the replies to Mr van der Linden's request of 16 November 2007 (see Appendix I), suggests that very few parliamentary mechanisms exist with a specific mandate to verify compliance with ECHR requirements. Most replies indicated that "Strasbourg vetting" is carried out within existing "normal" parliamentary procedures (see, e.g., replies from Albania, Andorra, France, Poland, Portugal, Serbia and Slovakia). In other countries, the reply often given was that, as the ECHR is part of domestic law, this in itself necessitates the need to regularly check compatibility of national laws with Convention standards. In Austria, where the ECHR has "constitutional status", special attention is indeed given to this. But in the vast majority of states this is not a function with respect to which national legislators appear to take a 'lead role'.

7. As regards the specific issue of implementation of Court judgments, it should be borne in mind that it is the Committee of Ministers (the Council of Europe's executive organ) which has the principal task – by virtue of Article 46 of the ECHR – to supervise the execution of the Strasbourg Court's judgments.[21] Here, however, it is important to underline the role played by the Parliamentary Assembly, especially by its Legal Affairs and Human Rights and Monitoring Committees (and in effect, national parliamentarians). Since 1993, the Assembly has played an increasingly prominent role in the process of implementation of the Court's judgments.[22] Since 2000, the Assembly has adopted six

[18] No replies have been received from Azerbaijan, Luxembourg, Malta, Moldova, Monaco (not a member of the ECPRD network), Montenegro, San Marino and Slovenia.
[19] And which only one state, Finland, updated.
[20] For additional information on this initiative see AS/Jur working document "Implementation of judgments of the ECtHR – issues currently under consideration" presented by Mr Erik Jurgens, document AS/Jur (2007) 49 rev (declassified by the Committee on 11.09.2007).
[21] See, e.g., Committee of Ministers 1st annual report on the supervision of the execution of judgments of the European Court of Human Rights 2007 (Council of Europe, March 2008), *passim.*
[22] See PACE Resolution 1516 (2006), § 3. See also, E Lambert Abdelgawad *The execution of judgments of the European Court of Human Rights.* Human Rights File No. 19 (Council of Europe Publishing, 2008), at p. 59.

reports[23] and resolutions[24] and five recommendations[25] to help states overcome structural deficiencies and to accelerate the process of fully complying with the Court's judgments. In addition, various implementation issues have been regularly raised by other means, notably through oral and written parliamentary questions. The dual role of parliamentarians, as members of the national legislative and European parliamentary (PACE) bodies is of significance. Suffice to note, in this connection, that a number of complex implementation issues – at the domestic level – have been resolved with the assistance of the Assembly and of national parliaments and their delegations to the Assembly. Indeed, subsequent to its most recent Resolution 1516 (2006) on the implementation of judgments of the European Court of Human Rights[26] – based on the AS/Jur Rapporteur's (Mr Erik Jurgens) sixth report on this subject – the Parliamentary Assembly emphasised that *"member states' methods and procedures should be changed to ensure immediate transmission of information and involvement of all domestic decision-makers concerned in the implementation process, if necessary with the assistance of the Council of Europe."*[27] The Resolution further ***"invites all national parliaments to introduce specific mechanisms and procedures for effective parliamentary oversight of the implementation of the Court's judgments on the basis of regular reports by the responsible ministries."***[28]

8. The 'double mandate' of parliamentarians – as members of PACE and of their respective national parliaments – can be of considerable importance when, in particular, legislative action is required to ensure rapid compliance with Strasbourg Court judgments. This makes the PACE a *"natural partner of the Committee of Ministers for any follow-up action on Council of Europe decisions in national parliaments."*[29] Indeed, the need for national parliaments to take a more pro-active role in this respect was clearly illustrated by the PACE President, Mr Lluís Maria de Puig, in his concluding remarks at the 19th European Conference of Presidents of Parliaments held in Strasbourg on 22 and 23 May 2008. He stressed that *"[n]ational parliaments have a special obligation to oversee the execution of judgments of the European Court of Human Rights and introduce legislative changes to bring legislation into line with these standards where necessary* [and that] *steps should be taken to ensure that legislation and draft legislation is made 'Strasbourg proof'. This means that legislation should be screened to make sure it is compatible with the European Convention on Human Rights ... The Council of Europe could be encouraged, for example, through its Venice Commission, to provide guidelines to States on how to carry out such 'Strasbourg proofing' and assist in training those involved in such exercises."*[30]

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[23] Reports on the subject: Execution/Implementation of judgments of the European Court of Human Rights**:** PACE Doc 8808, *Execution of judgments of the European Court of Human Rights,* Committee on Legal Affairs and Human Rights, Rapporteur: Mr Erik Jurgens, 12.07.2000; PACE Doc 9307, *Implementation of decisions of the European Court of Human* Rights, Committee on Legal Affairs and Human Rights, Rapporteur: Mr Erik Jurgens, 21.12.2001; PACE Doc 9537, *Implementation of decisions of the European Court of Human Rights by Turkey*, Committee on Legal Affairs and Human Rights, Rapporteur: Mr Erik Jurgens, 5.09.2002; PACE Doc 10192, *Implementation of decisions of the European Court of Human Rights by Turkey*, Committee on Legal Affairs and Human Rights, Rapporteur: Mr Erik Jurgens, 01.06.2004; PACE Doc 10351, *Implementation of decisions of the European Court of Human Rights*, Committee on Legal Affairs and Human Rights, Rapporteur: Mr Erik Jurgens, 21.10.2004; PACE Doc 11020, *Implementation of judgments of the European Court of Human Rights*, Committee on Legal Affairs and Human Rights, Rapporteur: Mr. Erik Jurgens,18.09.2006.

[24] Resolutions on the subject:
Execution/Implementation of judgments of the European Court of Human Rights: PACE Resolution Res 1226 (2000); PACE Resolution Res 1268 (2002); PACE Resolution 1297(2002); PACE Resolution Res 1381(2004); PACE Resolution Res 1411(2004); PACE Resolution Res 1516(2006).

[25] Recommendations on the subject:
PACE Recommendation 1477 (2000); PACE Recommendation 1546 (2002); PACE Recommendation 1576 (2002); PACE Recommendation 1684 (2004); PACE Recommendation 1764 (2006)

[26] The AS/Jur closely monitors (lack of) progress made in the execution of old or otherwise specially deserving cases. In the preparation of his 6th report, Mr Erik Jurgens, Rapporteur, found problems to exist in 13 states. He visited five of them (Italy, the Russian Federation, Turkey, Ukraine and the United Kingdom), where he met fellow parliamentarians, and also made use of written contacts with parliamentary delegations of the 8 other countries he did not visit (Bulgaria, France, Germany, Greece, Latvia, Moldova, Poland and Romania). For details see §§ 5 and 6 of PACE Resolution 1516 (2006) and Mr Jurgens' report, PACE Doc 11020.

[27] PACE Res. 1516 (2006), *supra note 24*, § 19.

[28] *Idem*, § 22.1. Emphasis added.

[29] PACE Rec 1763 (2006), *The institutional balance at the Council of Europe*, § 17. See also e.g., PACE Resolutions 1226 (2000) and 1411(2004), *passim*.

[30] The complete text of the PACE President's concluding remarks can be accessed at http://assembly.coe.int/ASP/APFeaturesManager/defaultArtSiteView.asp?ID=779

In addition, and as already mentioned, all national parliaments were invited by the Assembly, in 2006, to introduce specific mechanisms and procedures for effective parliamentary oversight of the Strasbourg Court's case-law.[31]

9. The United Kingdom's Joint Committee on Human Rights, which is appointed by the House of Lords and the House of Commons, and mandated to consider matters relating to human rights, appears to be a rare example of a special parliamentary body with a specific mandate to verify and monitor the compatibility of United Kingdom law and practice with the ECHR. In fact, of the replies received, only six parliaments indicated that they possess such a special body: Croatia, Finland, Hungary, Romania[32], Ukraine and the United Kingdom. Most other replies made reference to recourse to so-called "traditional means", such as work undertaken by parliamentary (standing) committees whose mandate encompasses – if and when need arises – verification of national law with international obligations, including the ECHR, or by means of written or oral questions (see Appendix II for details).

10. As regards the existence of parliamentary procedures to ensure that parliamentarians are at least informed of adverse findings of the Strasbourg Court, twelve states indicated that they possess such information procedures, namely Austria, Bosnia and Herzegovina, Croatia, Cyprus, Germany, Hungary, Italy, the Netherlands, Norway, Sweden, Switzerland and the United Kingdom.[33] Be that as it may, it would appear that the Finnish, Dutch, Swedish and the United Kingdom parliaments possess the most effective procedures to monitor implementation of Strasbourg Court judgments[34]. And last but not least, the Italian authorities (Executive and Parliament) have recently instituted a "permanent committee" for the examination of judgments of the Court with two main tasks: collecting data about the specific requirements of the ECHR and putting them at the disposal of Parliament during the legislative process, and providing specific suggestions to Parliament on the need to amend or adopt specific laws in order to comply with the requirements of the Convention, as interpreted by the Court.[35]

11. Despite the foregoing examples, however, it would appear that parliaments in very few states exercise regular control over the effective implementation of Strasbourg Court judgments.

[31] *Supra,* PACE Resolution 1516 (2006).

[32] In the case of Romania, the Chamber of Deputies has a Committee on Human Rights, Religious Issues and National Minorities' Issues, which verifies compatibility of draft legislation with the Convention, but there is no parliamentary control of the implementation of Strasbourg Court judgments (Romanian Chamber of Deputies reply to questionnaire, on file with AS/Jur Secretariat).

[33] It is not clear from the Russian Federation's reply whether such a mechanism exists in the Russian Parliament. In addition, two member states have indicated that the introduction of such a procedure is under consideration: Liechtenstein and "the former Yugoslav Republic of Macedonia".

[34] So does Ukraine, as it would appear from the information in the Appendix to this document (although it is not certain to what extent the law of February 2006 has been put into effect).

[35] See document CM (2008) 52, Appendix VI, § 14 (footnote 15, *supra*), and information available in the Addendum and the report of Mr Jurgens (PACE Doc II020 – implementation of the Azzolini law).

APPENDIX I

Text of the questionnaire sent to parliaments on 14 February 2008[36]

Parliament's role in verifying State obligations to comply with the ECHR, including Strasbourg Court judgments

1. Questions

1. Is there, in your parliament, a special body empowered to:
   - Verify compatibility of draft legislation with the Convention
   - Monitor and/or control the compatibility of legislation with the Convention (*ex officio* or upon request)?

2. If no such parliamentary body exists, what possibilities do parliamentarians have to verify the State's compliance with the Convention (and the Strasbourg Court's judgments)?

3. What parliamentary procedure(s) exist to inform members when the Strasbourg Court finds your State in violation of the Convention or renders an important judgment? If non-existent, have there been/are there initiatives to introduce such possibilities?

2. Elements for a reply

Referring to question 1: Whilst European Union member states generally have special procedures to verify compliance of draft legislation with Community/Union Law, only a few countries have a similar formal mechanism to evaluate the compliance of draft legislation with Council of Europe human rights standards. One example is Ukraine, where such a body (National Bureau on compliance with the ECHR) was founded in 2006. In certain countries, parliamentary committees regularly evaluate the overall impact of adopted laws relating to human rights.

Referring to question 2: If there are no special parliamentary bodies to deal with the above-mentioned matters, parliamentarians may always pose written or oral questions or send letters/mail to ministers.

Referring to question 3: In some parliaments, research services regularly inform committees (legal or human rights) about major decisions of the Strasbourg Court. Again, Ukraine has a specific law on this subject: "On Executing the Judgments and Applying the Practice of the European Court of Human Rights" of 2006.[37]

3. Background information

On 16 November 2006, the President of the Parliamentary Assembly (PACE) requested the Presidents/Speakers of national parliaments to submit information on the follow up given to PACE Resolution 1516 (2006) on the issue of establishment of internal systems to monitor the implementation of the Strasbourg Court's judgments.[38] He expressly referred to the example of the United Kingdom Joint Committee on Human Rights. This Committee is appointed by the House of Lords and the House of Commons to consider matters relating to human rights. It has a maximum of six members appointed by each house.

To date, **no** replies have been received from **Albania, Andorra, Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Georgia, Germany, Iceland, Ireland, Latvia, Liechtenstein, Lithuania, Malta, Moldova, Poland, Portugal, Romania, Russian Federation, San Marino, Serbia, Slovakia, Slovenia, Spain, Switzerland and "the former Yugoslav Republic of Macedonia".** The **United Kingdom** was not asked to respond, nor was **Montenegro**, which only became a Council of Europe member state on 11 May 2007.

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Summary of replies received to the said request

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[36] **ECPRD** (European Centre for Parliamentary Research and Documentation) **Request No 929** – Parliament's role in verifying State obligations to comply with the ECHR, including Strasbourg Court judgments.

[37] Law No. 3477-IV of 23.02.2006. The text of this Law can be found in PACE Doc 11020 of 18.09.2006, *Implementation of judgments of the European Court of Human Rights,* Appendix III, Part IV; http://assembly.coe.int/main.asp?Link=/documents/workingdocs/doc06/edoc11020.htm.

[38] http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta06/ERES1516.htm.

Please see whether this list needs updating:

1. In Ukraine the Chairperson of the Sub-Committee on International Legal Issues of the *Verkhovna Rada* Committee on Human Rights, National Minorities and Inter-Ethnic Relations has been authorised to monitor the implementation of Strasbourg judgments.

2. In Norway the *Storting* has approved the introduction of a new administrative practice aimed at improving supervision by the *Storting*. The Parliamentary Ombudsman will report his findings concerning the implementation of Strasbourg judgments to the *Storting* in his annual report. There will eventually be a formalisation of this new practice.

3. The Luxembourg *Commission Juridique* of the *Chambre des Députés* has adopted a new mechanism which is dedicated to the control of the implementation of judgments of the Strasbourg Court. At the beginning of each year, the Ministry of Justice will report on violations found by the Court during the previous year. It shall explain on this occasion what has been or will be done in order to implement the Court's judgments.

4. The conference of the presidents of the Belgian *Chambre des Représentants* has proposed that the *Commission de la Justice* should be declared responsible for the control of the implementation of Strasbourg Court judgments. The commission shall deliver a report every year.

5. In Hungary, the Committee on Human Rights, Minorities, Civil and Religion Affairs decided to call upon the Minister of Justice to inform the committee about the implementation of judgments of the Court on an annual basis. In addition, the Committee proposed that this obligation should be regulated by governmental resolution.

6. As far as Greece is concerned, a joint meeting of the Standing Committee on Public Administration, Public Order and Justice, the Ad hoc Standing Committee on European Affairs, the Special Standing Committee on Equality and Human Rights and the members of the Greek Parliamentary Delegation to the Council of Europe was held on 27 February 2007. The need for an effective mechanism for monitoring the implementation of Strasbourg Court judgments was stressed both by the Minister of Justice and parliamentarians. The idea of setting up of an ad hoc parliamentary monitoring committee is under consideration.

7. In Italy, Resolution 1516 (2006) has been referred to the second standing committee. The president of the *Camera dei Deputati* has communicated to the presidents of the permanent committees that the Strasbourg Court judgments are automatically forwarded to the Chamber by the Government and that they are laid before the competent committee and, as a general rule, to the committee of foreign affairs. All committees have the possibility to propose that initiatives or compliance measures with regard to judgments of the Court be taken, as they already have in respect of findings of the Constitutional Court or judgments of the European Court of Justice.

Replies from some countries indicated that no changes were necessary or possible.
Please examine if the information needs updating.

8. In Sweden, both the Committee on the Constitution and the Committee of Foreign Affairs do not consider it necessary to depart from the present procedure. Under this procedure, there is an annual debate in the *Riksdag* on the Government's report on the activities of the Committee of Ministers. This report includes an overview of the Strasbourg Court's functions and implementation of a number of cases.

9. Both presidents of the French *Assemblée Nationale* and the *Sénat* declared in their replies that the setting up of a system similar to the British one is impossible under the French constitution. The constitution of France does not allow the creation of other permanent committees than those mentioned in the constitution itself. In this respect, the president of the *Assemblée Nationale* expressed his concerns with regard to the principle of the separation of powers. As a result, parliamentary control can only be exercised by the existing means of oral and written questions.

10. The Finnish Government submitted a report on the human rights policy of Finland to the Parliament for the first time in 2004. This report was sent to the parliamentary Law Committee for opinion. In the first report, the Government affirmed that such reports should be produced at regular intervals in the future. These reports shall include an assessment of the implementation of the Court's judgments.

11. The Speaker of the Grand National Assembly of Turkey expressed his conviction that the mechanisms in relation to the dissemination of judgments established by the Government already deal efficiently with the large number of Strasbourg Court judgments concerning Turkey. Although there does not seem to exist a systematic control of implementation by the Parliament, it will remain attentive to the execution of Strasbourg Court judgments and will follow the progress of the issues pointed out in Resolution 1516 (2006). In addition, the Human Rights Commission of the Turkish Grand National Assembly is entitled to receive individual applications concerning human rights issues and is therefore in a position to examine any claims to the effect that judgments of the Court have not been executed.

12. In Denmark, the attitude of the Government and the work of Danish media are considered as a guarantee for a successful implementation of judgments of the Strasbourg Court. Nevertheless, the parliamentary Legal Affairs Committee has been asked to pay special attention to Resolution 1516 (2006).

13. In Austria, public authorities attach special importance to the implementation of Strasbourg Court judgments. However, the response by the president of the Austrian Parliament did not indicate any instrument of parliamentary control in this respect.

14. In Estonia, no parliamentary control of the implementation of Strasbourg Court judgments exists. The chairperson of the Constitutional Committee of the Estonian *Riigikogu* affirmed that the exchange of information and the execution of judgments have been successful, without indicating exactly how.

15. Until now, there has been no judgment of the Strasbourg Court to implement in Monaco. However, as there are a number of cases pending before the Court which may be of direct relevance to the Monaco legal system, the President of the *Conseil National* asked the Committee of Foreign Affairs of the *Conseil National* – through its Chairman – to study, with the Government, the utility of envisaging such a parliamentary control mechanism.

16. As concerns the Netherlands, the Government Agent before the Court makes a yearly report on cases and decisions against the Netherlands, which is sent by the government to both houses of parliament. The parliamentary justice committees examine this report, ask questions, and make suggestions if they are not satisfied by the government's actions. In 2006, the Senate requested that an overview of implementation of Strasbourg Court judgments be added to the report.

APPENDIX II

Overview of replies received to questionnaire sent to parliaments on 14 February 2008[39]

The questionnaire consisted of the following questions:

Parliament's role in verifying State obligations to comply with the ECHR, including Strasbourg Court judgments

1. **Is there, in your parliament, a special body** empowered to:
   - Verify compatibility of draft legislation with the Convention
   - Monitor and/or control the compatibility of legislation with the Convention (*ex officio* or upon request)?

2. **If no such parliamentary body exists**, what possibilities do parliamentarians have to verify the State's compliance with the Convention (and the Strasbourg Court's judgments)?

3. **What parliamentary procedure(s) exist to inform members** when the Strasbourg Court finds your State in violation of the Convention or renders an important judgment? If non-existent, have there been/are there initiatives to introduce such possibilities?

Key:
First column on left indicates member states (MS) and date of reply
N/A Not applicable (either no reply or reply does not appear to answer question satisfactorily)

Acronyms:

CoE	Council of Europe
ECHR/Convention	European Convention on Human Rights
ECtHR	European Court of Human Rights
MP	Member of Parliament
MS	Member State (of the Council of Europe)
NGO	Non Governmental Organisation
PACE	Parliamentary Assembly of the Council of Europe
SC	Secretariat comment

[39] ECPRD Request 929 – Parliament's role in verifying State obligations to comply with the ECHR (including Strasbourg Court judgments).

	STATE	QUESTION 1 SPECIAL PARLIAMENTARY BODY	QUESTION 2 IF NOT, OTHER MEANS AVAILABLE?	QUESTION 3 PROCEDURES TO INFORM PARLIAMENT
1.	**ALBANIA** 18.04.2008	The Albanian Parliament does not have a special structure only dealing with the ECHR. But the Parliamentary Committee on Legal Issues, Public Administration and Human Rights, in particular, has responsibility for the protection of the human rights. The Committee, during the scrutiny of draft laws, focuses in particular on their compatibility with the Constitution, which includes the basic principles of the ECHR and its protocols. A concrete example is the approval of the law No.9722/30.04.2007, changing the Military Penal Code on the basis of the obligations in ratifying the 13th Protocol, which abolished the death penalty in all circumstances.	N/A	No procedure exists to inform MPs on Strasbourg Court decisions and no initiative to introduce such possibility is foreseen at the moment.
2.	**ANDORRA** 17.04.2008	The Andorran Parliament has no body with special responsibility for verifying compatibility between draft legislation and the provisions of the ECHR.	Parliamentary control is based on traditional means (written and oral questions, reports of information, etc).	No procedure has been instituted for informing Parliament whenever the ECtHR decides on violations of the provisions of the ECHR, nor have any steps been taken to provide for such a possibility.
3.	**ARMENIA** 22.04.2008	In the National Assembly there is no special unit, which would have either a specific task to verify the compatibility of draft legislation with the ECHR or to monitor and/or control the compatibility of legislation with the Convention (*ex officio* or upon request). However, when examining draft legislation, the Legislation Analysis Department of the National Assembly and the Standing Committees study its compatibility with the ECHR.	MPs may pose written or oral questions or send letters to ministers.	There are no parliamentary procedures in regard of this.

	STATE	QUESTION 1 SPECIAL PARLIAMENTARY BODY	QUESTION 2 IF NOT, OTHER MEANS AVAILABLE?	QUESTION 3 PROCEDURES TO INFORM PARLIAMENT
4.	**AUSTRIA** 19.03.2008	There is no special body within Parliament empowered to verify the compatibility of draft legislation or of existing legislation with the Convention.	As no special bodies within Parliament exist, great importance is to be attached to the "general examination procedure", which normally each draft bill undergoes: The competent ministry sends out the draft bill to all other ministries, to civil society, universities, trade unions etc and invites for comments within a given time. During this procedure, especially the so-called "Constitutional Service", a department within the Federal Chancellery, examines each draft bill in respect of its compatibility with the Constitution. Since the Convention has the rank of constitutional law, this examination includes the compatibility with the ECHR. All statements are published on the website of the Austrian Parliament and therefore give an overview on the aspects or problems raised by the respective draft bill. These statements are a valuable source of information for each MP. Aspects raised in these statements often become important subjects of parliamentarian debate. Also, MPs pose written questions to the competent ministers asking for information on a given case.	A special "human rights committee" was set up in 1999. This committee regularly invites the competent minister to discuss human rights issues. This includes a discussion on pending applications before the ECtHR as well as on cases in which the Court has found Austria in violation of the Convention. As yet, the government has not delivered a yearly report on cases and decisions against Austria (as in the Netherlands). The Constitutional Service of the Federal Chancellery, however, regularly transmits information on the most recent judgments and decisions of the Strasbourg Court to all ministries, *Länder* as well as to Parliament; this document is also available on the website of the Federal Chancellery.
5.	**AZERBAIJAN** *NO REPLY*			
6.	**BELGIUM** 26.03.2008	There is no special body either in the Chamber of Deputies or the Senate which is empowered to verify the compatibility of texts or legislation in	As concerns draft legislation, bills and	As regards the Chamber of Deputies,

	STATE	QUESTION 1 SPECIAL PARLIAMENTARY BODY	QUESTION 2 IF NOT, OTHER MEANS AVAILABLE?	QUESTION 3 PROCEDURES TO INFORM PARLIAMENT
		general with the ECHR.	amendments thereof, the consultation of the legal department of the "Conseil d'Etat" (which is an obligatory procedure as regards draft legislation and optional as regards bills) permits, when applicable, to evaluate issues of compatibility with the provisions of the ECHR.	the "Conference des présidents" has entrusted the "Commission de la Justice" with the control of implementation of judgements of the ECtHR by the national authorities, in which the Court has found a violation of the ECHR (in meeting of the "Conference des présidents", 29 November 2006).
7.	**BOSNIA AND HERZEGOVINA** 21.03.2008	There is no special parliamentary body with specific competence to verify and control compatibility of draft legislation with the ECHR, but there are two committees: Constitutional and Legal Committee, and Committee for Human Rights, with specific competences, see Articles 41 and 59 of the Rules of Procedure[40]. The Constitutional and Legal Committee checks the constitutionality of each draft law, and Article II.2. of the Constitution states: "The rights and freedoms set forth in the ECHR and its Protocols shall apply directly in Bosnia and Herzegovina. These shall have priority over all other law."[41] In addition, prior to the parliamentary procedure, the Government provides its opinion on each draft law. Also, within the Government there is the Ministry for Human Rights with its specific competences.	The parliamentary Committee for Human Rights receives reports on ECtHR judgments from the Agent/Representative of Bosnia and Herzegovina to the ECtHR. After considering those reports, the Committee annually reports to Parliament. If the Agent/Representative of Bosnia and Herzegovina at the ECtHR finds, concerning Cases before the ECHR, that a national law is not compatible with the ECHR, it is the duty of the Agent/Representative to propose to the Council of Ministers or other competent authority harmonization with the ECHR. During the Committee phase, parliamentarians can request information and explanations from the Government. They also have possibility to propose amendments to draft laws. They can make interpellations and ask parliamentary questions.	Judgments of the ECtHR are published in the Official Gazette and parliamentarians regularly receive copies of the Official Gazette. Agent/ Representative of Bosnia and Herzegovina at the ECtHR reports to the parliamentary Committee for Human Rights on the ECHR judgments, and the Committee then annually reports to Parliament. There are also topical reports from the Government and ministries. If the Agent/ Representative of Bosnia and Herzegovina at the ECtHR finds, concerning cases before the ECHR, that a national law is not compatible with the ECHR, it is the duty of the Agent/ Representative to propose to the Council of Ministers or other competent authority harmonization with the ECHR.

[40] http://www.parlament.ba/index2.php?opcija=sadrzaji&id=2&jezik=e).
[41] http://www.parlament.ba/index2.php?opcija=sadrzaji&id=2&jezik=e).

	STATE	QUESTION 1 SPECIAL PARLIAMENTARY BODY	QUESTION 2 IF NOT, OTHER MEANS AVAILABLE?	QUESTION 3 PROCEDURES TO INFORM PARLIAMENT
8.	**BULGARIA** 17.03.2008	There is not a specialized body in Parliament empowered to verify the compatibility of draft legislation with the Convention. This task is assigned mainly to the Human Rights and Religious Affairs Committee. Moreover, every parliamentary committee monitors the compatibility of the draft legislation with the Convention depending on the subject of the bill discussed.	Members of the committees obtain information from the chairman of the relevant committee as regards the observation of the Convention and the Strasbourg Court judgments.	The activities of the relevant parliamentary committees are supported by the following administrative structures: - Legislation and parliamentary control Directorate; - European Union Directorate. The ministries that control the compatibility with the ECHR are: Ministry of Justice; Ministry of Foreign affairs; Ministry of Interior.
9.	**CROATIA** 19.03.2008	According to the Article 71 of the Standing Orders of the Parliament, the Committee on Human and National Minority Rights shall establish and monitor the implementation of policy, and in procedures to enact legislation and other regulation. It shall have the rights and duties of the competent working body in matters pertaining to the implementation of ratified international treaties that regulate the protection of human rights. (among other issues).	N/A	The Committee on Human and National Minority Rights regularly receives the Reviews of the practice of the ECtHR which are prepared by the Representative of the Republic of Croatia to the ECtHR. Our Representative also prepares periodical Reports (annual) on the status of the cases before the ECtHR which are submitted to the Committee and represent a basis for further discussion on this subject at Committee sessions. In fact, the Committee has had several sessions about the issues relating to the cases from Croatia before the ECtHR. Members of the Committee are especially interested in analysis of the Court's judgments and measures that need to be taken to improve implementation of the ECHR. The conclusions adopted by the

	STATE	QUESTION 1 SPECIAL PARLIAMENTARY BODY	QUESTION 2 IF NOT, OTHER MEANS AVAILABLE?	QUESTION 3 PROCEDURES TO INFORM PARLIAMENT
				Committee concern, e.g., the possibility to open a discussion about this subject at a plenary session when necessary. Committee conclusions, recommendations and initiatives are forwarded to the governmental and judicial institutions in order to implement them when preparing new draft laws or reforms of judiciary.
10.	**CYPRUS** 22.04.2008	N/A	The House Standing Committees on Legal Affairs and on Human Rights cooperate closely with the Human Rights Sector of the Legal Service of the Republic of Cyprus[42] in verifying the state's compliance with the Convention and the Strasbourg Court's judgments. Officers of the Human Rights Sector of the Legal Service are invited to attend meetings of the abovementioned Committees as well as any other meetings of Parliamentary Committees where the issue of verification of Cyprus's compliance with the Convention may be raised. The meetings are convened with the aim of scrutinizing and monitoring the compatibility of the Bills introduced by the Executive[43] with the ECHR as well as the Strasbourg Court's judgments.	As regards the ECtHR, the Attorney-General of the Republic acts as agent of the Republic in all cases in which the Republic is a party to proceedings. Furthermore, the Attorney-General exercises control on the execution of the judgments of the ECtHR. When Cyprus in found in violation of the Convention by the ECtHR, the Attorney-General's Office, through its Human Rights sector (before preparing legislation for abolishing/substituting the relevant legislative provision), provides all relevant information to the House of Representatives with an accompanying memo which states the reasons of infringement. Moreover, all relevant information is disseminated to all

[42] According to Article 112 of the Constitution of Cyprus "the Attorney-General of the Republic shall be the Head of the Legal Service of the Republic which shall be an independent office and shall not be under any Ministry".

[43] The Republic of Cyprus is a multiparty system with a presidential system of government The strict separation of the three powers is a clearly visible characteristic of the Cyprus Constitution. The powers, jurisdictions and duties of the Executive, Legislature and Judiciary are specifically defined in separate parts and provisions of the Constitution, leaving no room for overlap.

	STATE	QUESTION 1 SPECIAL PARLIAMENTARY BODY	QUESTION 2 IF NOT, OTHER MEANS AVAILABLE?	QUESTION 3 PROCEDURES TO INFORM PARLIAMENT
				members of the House Standing Committees on Human Rights and Legislative Affairs.
11.	**CZECH REPUBLIC (Senate)** 15.02.2008	**Senate** There is no body directly and exclusively empowered to observe the compatibility of draft legislation with the ECHR and jurisdiction of the Strasbourg Court. Generally, such authority lies in the hands the Constitutional Committee and the Committee on Education, Science, Culture, Human Rights and Petitions of the Senate.	**Senate** N/A	**Senate** N/A
	CZECH REPUBLIC (Chamber of Deputies) 04.03.2008 *"Poslanecká sněmovna Parlamentu České republiky"*	**Chamber of Deputies** Such a special body does not exist.	**Chamber of Deputies** Among formal possibilities that can be mentioned: a) Right to information. Deputies are entitled to demand from members of government and the heads of administrative agencies information and explanations in order to be able to carry out their duties. Members of government and the heads of administrative agencies have a duty to provide information and explanations to Deputies within 30 days, unless they are prevented from doing so by legislation which governs secrecy or prohibits the publicizing of information. b) Members of the Government and members of other central administrative agencies have a duty to attend in person a meeting of a committee in the event that the committee	**Chamber of Deputies** No such a procedure has been introduced and there have been no initiatives to introduce it.

	STATE	QUESTION 1 SPECIAL PARLIAMENTARY BODY	QUESTION 2 IF NOT, OTHER MEANS AVAILABLE?	QUESTION 3 PROCEDURES TO INFORM PARLIAMENT
			requests it, and to provide the information and explanations demanded unless they are prevented from doing so by legislation on keeping information in secrecy or by legislation prohibiting making information public. A member of Government may be represented at a meeting of a committee by another member of Government or by his/her deputy, unless the committee insists on the member's personal attendance. Members of government, persons representing them, and heads of central administrative agencies may bring along experts to meetings of committees. Acting chairpersons may also allow, with the agreement of the committee, other persons to speak at meetings. c) parliamentary questions	
12.	**DENMARK** 11.03.2008	No	As part of the normal parliamentary supervision of the executive power parliamentarians can pose written or oral questions to ministers. NGOs are as well very aware of the compliance with the Convention.	None. No.
13.	**ESTONIA** 17.03.2008	There is no special body delegated to verifying draft legislation with the Convention or monitoring the compatibility of existing legislation with the Convention. Although, deriving from the rules of legislative drafting for draft legislation established by the Board of the Riigikogu, a law draft must be in accordance with the Constitution of Estonia, general principles of international law and not in	Parliamentarians have the right to make inquiries from ministers of action taken within their competence. Committees of the Riigikogu have the capacity to bring before them state officials, who must account for specialties of government measures or proposed policies. The former includes the compliance with the Convention and the Strasbourg Court's	There is no direct procedure established to inform the parliamentarians of the Strasbourg Court findings. With some draft Acts; the judgments of the ECtHR have come up – e.g. the case of outdoor political advertisements (during active election periods). Thus, the relevant information of important judgment in the

	STATE	QUESTION 1 SPECIAL PARLIAMENTARY BODY	QUESTION 2 IF NOT, OTHER MEANS AVAILABLE?	QUESTION 3 PROCEDURES TO INFORM PARLIAMENT
		contradiction with international agreements ratified by the Riigikogu. Hence, it is the requirement of the legal personnel of the Riigikogu to keep themselves aware of developments of international agreements along with the Strasbourg Court's judgments. In principle, the rules of legislative drafting require that in the process of constructing the concepts of law drafts, initial analysis of all relevant international agreements must take place. In reality, the latter is very rare and en masse it is only concluded that a law draft is compatible with the Constitution. The Constitution has a very modern block of regulations regarding basic rights of human beings and it should cover all human rights found in the ECHR.[44] The Constitutional Committee of the Riigikogu discusses the possible incompatibility of draft Acts (as well as problems raised by the Chancellor of Justice in his proposals to the Riigikogu regarding the constitutionality of draft Acts) with the Constitution of Estonia during its sittings, but the competence of the Constitutional Committee is only opinion-based and not binding	judgments. Additionally, the Chancellor of Justice in Estonia combines the function of the general body of petition and the guardian of constitutionality and human rights in general. The Chancellor of Justice is the independent supervisor of the basic principles of the Constitution and the protector of individual's main rights. The activities of the Chancellor of Justice ensure everyone that the state fulfils obligations deriving from the principles of legal and social state, human dignity, freedom, equality and democracy.[45] Depending on a situation, the main partners for the Chancellor of Justice in Riigikogu are the constitutional committee and the legal committee. The Chancellor of Justice cooperates with the Riigikogu introducing problematic cases and makes proposals in the Riigikogu in circumstances, where the violation of the Constitution of Estonia may not be very apparent. Annually, the Chancellor of Justice presents a report of his/her activity to the Riigikogu. If the Chancellor of Justice makes a formal proposal to the Riigikogu, the Constitutional Committee of the Riigikogu must	Strasbourg Court has reached MPs through the committees of the Riigikogu and their advisory staff, through the Chancellor of Justice and the Ministry of Justice etc. For example, the Chancellor of Justice has directed attention to the voting rights of prisoners and to the fact that overall withdrawal of them (disenfranchising) is not in accordance with the ECHR deriving from the practice of the ECtHR. Whilst to this day there has not been a vacuum of principal information about the Strasbourg Court decisions, there has been no significant initiative to change the informal notification system.

[44] There is also a clause in the Constitution (§ 10) – concerning the development of human rights and legislation where a lacuna may exist:
§ 10. The rights, freedoms and duties set out in this Chapter shall not preclude other rights, freedoms and duties which arise from the spirit of the Constitution or are in accordance therewith, and conform to the principles of human dignity and of a state based on social justice, democracy, and the rule of law."

[45] The main function of the Chancellor of Justice is to exercise supervision over the constitutionality and legality of legislation passed by the legislative and executive powers and by local governments. The second main function of the Chancellor of Justice is to serve as an ombudsman (i.e. like a commissioner or legal referee; a term from Swedish) and to verify whether agencies and officials who perform public functions comply with the constitutional rights and freedoms of persons and the principles of good governance.

	STATE	QUESTION 1 SPECIAL PARLIAMENTARY BODY	QUESTION 2 IF NOT, OTHER MEANS AVAILABLE?	QUESTION 3 PROCEDURES TO INFORM PARLIAMENT
		to other committees in the Riigikogu or to the Riigikogu as a whole. Upon request, the Constitutional Committee analyses possible contradictions of legislation in regard to the Constitution of Estonia and internationally acknowledged human rights e.g. established in the ECHR. If the need arises, the Constitutional Committee can discuss the Strasbourg Court's judgments and the latter's influence on Estonian legislation. As the Chancellor of Justice and the Ministry of Justice have upon occasion notified the Riigikogu of relevant judgments of the Strasbourg Court. The Constitutional Committee of the Riigikogu is a regular standing committee with the main task of working with drafts of legal acts – it does not possess a separate human rights mandate nor does it have any special procedure to accept petitions.	always discuss the aforementioned recommendations, propounded questions etc.	
14.	**FINLAND** 07.03.2008	Yes (draft legislation). The Constitutional Law Committee of the Finnish Parliament ("Eduskunta") issues, according to Section 74 of the Constitution, statements on the constitutionality of legislative proposals and other matters brought for its consideration, as well as on their relation to international human rights treaties. The Constitutional Law Committee does not consider all legislative proposals but only those that include issues that raise questions about their compatibility with the Constitution and/or human rights treaties. In practice, the Plenum or the reporting sectoral committee are supposed to	See above.	There is no formal parliamentary procedure to that effect. However, the Legal Department of the Ministry for Foreign Affairs regularly sends judgments against Finland to the Constitutional Law Committee for information. *The Finnish Government submitted a report on the human rights policy of Finland to the Parliament for the first time in 2004. This report was sent to the parliamentary Law Committee for opinion. In the first report, the Government affirmed that such reports should be produced at regular intervals in the future. These reports shall include an*

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		send any proposal to the Constitutional Law Committee if that is the case. A statement by the Constitutional Law Committee declaring a legislative act unconstitutional or incompatible with human rights treaties is considered to be binding on the reporting committee and the Parliament as a whole. The Constitutional Law Committee makes regularly reference to human rights treaties in its practice. The ECHR is the most central international document against which legislative acts are judged. It is commonplace for the Committee to refer also to the case law of the Strasbourg Court.		*assessment of the implementation of the Court's judgments.* Update information: The Government is going to submit a new report at the beginning of 2009.
15.	**FRANCE** 31.03.2008	There is no special parliamentary body which is empowered either to verify the compatibility of draft legislation with the ECHR, and/or to control the compatibility of the legislation with this Convention.	The parliamentarian control is therefore exercised by traditional means (written and oral questions, information reports, etc.)	N/A
16.	**GEORGIA** 18.03.2008	The process of harmonization of Georgian legislation with European standards, including the human rights sphere, is still underway. However, verification of compliance of draft legislation with international acts and the ECHR among them is carried out. In this regard Georgia has no special body similar to Ukraine. The Committee on Human Rights of the Parliament of Georgia exercises improvement of legislative base of human rights affairs and conducts parliamentary control on the execution of this	The Committee on Human Rights of the Parliament of Georgia exercises improvement of legislative base of human rights affairs and conducts parliamentary control on the execution of this legislation.	The research service of the Georgian parliament does not inform regularly legal and human rights committees about decisions of the Strasbourg Court, it happens only in case of demand from MPs Georgia has not a specific law on this subject.

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		legislation.		
17.	**GERMANY (Bundestag)** 25.03.2008 *Lower House of the German Parliament*	**Bundestag** There is no special body of the German Federal Parliament verifying the compatibility of draft legislation or of enacted law already in force with the ECHR. However, since as far back as 1987, the German Federal Parliament has availed itself of the Sub-Committee on Human Rights and Humanitarian Aid for preparing resolutions on specific issues regarding the protection of human rights. This sub-committee came under the Foreign Affairs Committee until 1998. From 1998 onwards, the Sub-Committee on Human Rights and Humanitarian Aid has existed as a specialised committee in its own right. The present Committee on Human Rights and Humanitarian Aid no longer deals with matters of foreign policy alone, but now also concerns itself with human rights issues in the domestic policy sphere (with asylum and refugee policy, for instance). Like all other German Federal Parliament committees, the Committee on Human Rights and Humanitarian Aid also considers bills and motions. As the protection of human rights is a cross-cutting exercise, the committee contributes to parliamentary motions whose subject-matter varies greatly and advises the main committee responsible. Its main concern is the further development of national, European and international instruments for the	**Bundestag** The German Federal Parliament has a right to challenge the Federal Government. This is exercised by means of the inquiry, whether "major" or "minor", and questions for oral or written reply (cf. sections 100-105 of the Rules of Procedure of the German Federal Parliament). In this framework, the Federal Government may also need to address questions relating to the compatibility of German law with the provisions of the ECHR as interpreted by the practice of the Strasbourg Court. If so, the Federal Government must adopt a position as the case requires. Information on the compatibility of specific legislative provisions with the ECHR may also be sought by members of the German Federal Parliament by requesting an appropriate expert opinion from the scientific service of the German Federal Parliament's administration.	**Bundestag** As long ago as 1986, the German Federal Parliament passed a resolution asking the Federal Government to submit a report on its human rights policy at least once while in office (in a later request of 1991, every two years). From 1990 to the beginning of 2008, seven such reports have been issued under Foreign Office auspices. The latest report contains a section giving information on "individual decisions of the ECtHR affecting Germany" (unofficial translation). In addition, since 2004 a report of the Federal Ministry of Justice has been issued annually, providing information about all proceedings against the Federal Republic of Germany decided before the Strasbourg Court during the particular reference period.

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		protection of fundamental rights and human rights, and the legal and political appraisal of human rights violations. The committee, like all German Federal Parliament committees, may call for the presence of a member of the Federal Government at its deliberations (cf. Article 43(1) of the Basic Law).		
	GERMANY (Bundesrat) 20.02.2008 *Upper House of German Parliament*	**Bundesrat** In the Bundesrat there is no special body to check the compatibility of draft legislation with the ECHR. However, the Committee on Legal Affairs checks the constitutionality of each draft law. In doing so, it always examines whether the draft law infringes upon basic rights. In this context the committee sometimes specifically checks whether draft law is compatible with the ECHR. But these cases are an exception. In case the Bundesrat finds that a draft law breaches the ECHR, the regular legislative procedure provides that the Bundesrat may submit a respective comment in accordance with Article 76, § 2 of the Basic Law.	**Bundesrat** In addition to the possibility mentioned under question 1, members of the Bundesrat may adopt resolutions in order to draw the attention of the Federal Government or of the Bundestag to infringements of the ECHR. However, the Bundesrat has never used this possibility.	**Bundesrat** Every year the Federal Government submits a report on the activity of the Council of Europe. In this report it also comments on the jurisdiction of the ECtHR and in particular on judgements pronounced against Germany. The Bundesrat has the possibility to provide an opinion on the report.
18.	**GREECE** 09.05.2008	There is no special body as such within the Hellenic Parliament empowered to verify compatibility of draft legislation with the ECHR or monitor the compatibility of enacted legislation with the ECHR. However, compatibility of draft legislation with the ECHR is examined within the House. In specific, the Scientific Service of the House is responsible inter alia for drafting an *arte legis* report on any	Parliamentarians are free to verify the State's compliance with the ECHR through the various means of parliamentary control. Most often the control exercised by the Parliament on the Government on such issues is by means of relevant questions and interpellations. In practice, parliamentarians often exercise parliamentary control on ECHR issues and the State's compliance with the ECtHR case-law.	There is no specific parliamentary procedure to inform members when the Strasbourg Court finds the State in violation of the Convention or renders an important judgment. Such information may be provided by the parliamentary delegation to the PACE. In addition to this, similar information may be obtained within the work of the

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		Bill or law proposal submitted to the House for debate. This report is on purely scientific grounds, in other words it consists of a report which examines the draft legislation as concerns its compatibility to the Constitution, other legislation, case law, international law, EU legislation, the ECHR etc. This detailed report elaborated by the Scientific Service is non-binding but is always distributed to MPs and to any one concerned prior to the discussion of draft legislation by the plenum or the standing committee. Furthermore, there is a specific department within the Directorate of European Affairs which supports the parliamentary delegation to the Assembly of the CoE. MPs may thus be informed on cases of non compatibility with the ECHR by this service of the Hellenic Parliament. Moreover, other national agencies or organisations (non – parliamentary though) such as the National Committee for Human Rights and the Central Committee on Draft Legislation may also submit to the Parliament, remarks, reports and observations as regards the compatibility of Bills and law proposals to the provisions of the ECHR and the relevant case-law of the ECtHR.		parliamentary Committee on Human Rights and Equality. Finally, it is worth mentioning that the office of the Agent of the Legal Counsellor of the (Greek) State in Strasbourg regularly updates the website with all ECHR case law thus rendering it easy for all parliamentarians and others to keep abreast of developments.
19.	**HUNGARY** 17.03.2008	Yes, the Committee on Human Rights, Minorities, Civil and Religion affairs is the relevant committee empowered to monitor and/or control the compatibility of legislation with the ECHR.	N/A	According to Parliamentary Resolution 23/2007 (III. 20.), it is important for the Hungarian Parliament to be informed in this question. The Minister of Justice is asked to inform parliamentary standing committees dealing with constitutional and human rights about Strasbourg

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				Court decisions. The first time a common sitting of the two relevant committees (based on the minister's report) was held in 20 November 2007 and this will be repeated every year.
20.	**ICELAND** 18.04.2008	No	The Icelandic PACE delegation annually provides a written report of the CoE's activities to Parliament. MPs can make remarks on the compliance, or lack of compliance, with ECHR or ECtHR in a debate on the report that takes place in plenum. The same applies to the annual report of the Minister for Foreign Affairs that is discussed in plenum.	None.
21.	**IRELAND** 22.05.2008	There is no special body in the Irish Parliament that is empowered to verify compatibility of draft legislation with the ECHR. Legislation is drafted in the Office of the Parliamentary Counsel, a constituent part of the Office of the Attorney General. The A-G must ensure that draft legislation conforms to the Irish Constitution and the European Convention. This obligation however appears to fall short of verifying compliance with the Convention.[46]	The Irish Human Rights Commission (IHRC) is charged with reviewing the adequacy and effectiveness of law and practice in the State relating to the protection of human rights. A Minister of Government may refer draft legislation to the IHRC and request a report on any implications of such proposal for human rights. The IHRC has requested the establishment of a formal human rights proofing procedure.[47]	[Information still to be provided]
22.	**ITALY** **(Chamber of**	**Chamber of Deputies**	**Chamber of Deputies**	**Chamber of Deputies**

[46] Information on the functions of the Office of the Attorney General is available at http://www.attorneygeneral.ie/

[47] Further information on the Irish Human Rights Commission is available at http://www.ihrc.ie/powers_&_functions/default.asp . The IHRC is not a parliamentary body. The relevant legislation in respect of the above is the Human Rights Commission Act, 2000; the Human Rights Commission (Amendment) Act, 2001 & the European Convention on Human Rights Act 2003

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	Deputies) 14.03.2008 *"Camera dei Deputati"*	In the Italian Parliament there is no special individual body in charge of verifying the compatibility of draft legislation with the Convention because this activity is carried out by each Standing Committee. During the XIV legislature (30/05/2001 - 27/04/2006) the Presidents of the Senate and the Chamber of Deputies addressed the Presidents of the Standing Committees formal acts inviting each Standing Committee to introduce verification of compatibility of legislative proceedings with the ECHR. This procedure was confirmed during the XV legislature (28/04/2006 - 28/04/2008) by the President of the Chamber of Deputies. Therefore compatibility with the Convention is also an element of the legislative procedure in draft legislation.	The Office of the Legal Counsel of the Chamber of Deputies, that represents the Chamber in legal matters, is also in charge of monitoring the ECtHR judgements as far as Italy is concerned. The results are communicated to the Bureau of the Chamber of Deputies in the form of documents to be published and made available to the public on the Chamber of Deputies internet website. In the Chamber of Deputies the office for legal affairs has set up a special 'observatory' for the Court's case-law, that annually releases a report about the Court's judgments concerning Italy, and a full list of the other judgments.[48]	Following the introduction of law no. 12 /2006 in Italy, the Government is obliged to inform Parliament on ECtHR judgements regarding violations of the Convention. The President of the Chamber announces them to the Plenary and assigns them to the Standing Committees for examination. Thus, under law No. 12/2006 parliamentary procedure following an adverse Strasbourg Court judgement is very similar to the procedures following judgements by the Italian Constitutional Court and Court of Justice of the European Communities.
	ITALY **(Senate)** 14.03.2008	**Senate** In the Senate there is no special body empowered to verify the compatibility of draft legislation with the Convention, or controlling the compatibility of legislation with the Convention. The provisions of the Convention are taken into account as far as they are international rules, ratified by law, and therefore included in the Italian legal system. Law No. 12 of 2006 'Provisions concerning the implementation of the European Court of Human	**Senate** Resolutions of the PACE relating to human rights are referred to the competent Committee and a debate is open only if it is considered opportune.	**Senate** In the Senate there is no special body, except, perhaps, the Service for European and International Affairs appointed to inform the members of the Parliament about major decisions of the Strasbourg Court that could have consequences on the Italian judiciary system, in order to allow a modification of the bills under examination (or of the existing legislation).

[48] http://www.camera.it/europ_rap_int/14489/documentotesto.asp

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		Rights' requires the President of the Council of the Ministers with the task of rapidly informing Parliament about the judgments of the ECtHR, in order to allow the competent committees to consider them. According to that law the President of the Council of the Ministers has also the task of promoting governmental initiatives aimed at fulfilling the said judgments in the Italian juridical system.		
23.	**LATVIA** 18.04.2008	There is no special body delegated to verify draft legislation with the Convention or monitoring the compatibility of legislation with the ECHR. The Legal Affairs Committee of the Saeima usually discusses possible incompatibility of draft law with the Constitution. The Human Rights and Public Affairs Committee supervises the eligibility of draft law with the human rights issues.	Each draft law undergoes general examination procedures – in the competent ministry, Cabinet, then in the responsible committee of the Saeima. All draft laws and proposals are published in the website of the Saeima and anybody interested can express his opinion on the committee stage. The Human Rights and Public Affairs Committee regularly invites the competent minister, NGOs to committee meetings. Parliamentarians have the right to make enquiries with ministries of action taken under their competence. There is very good contact with the Government Agent before the ECtHR who supplies committees, parliamentary groups and political blocks with the necessary information. Also, the post of Ombudsman is very important. One of his functions according the Ombudsman Law (adopted by the Saeima on 6 April 2006) is to discover deficiencies in the legislation and the application thereof regarding issues related to the observance of human rights and the principle of good administration,	There is no formal parliamentary procedure to that effect. The information of important judgement in the Strasbourg Court reaches the members of the Saeima through committees of the Saeima.

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			as well as to promote the rectification of such deficiencies. The Ombudsman, in resolving disputes in respect of human rights issues, shall provide opinions and recommendations to private individuals regarding the prevention of human rights violations, provide the Saeima, the Cabinet, local governments or other institutions with recommendations in respect of issue or amendments to legislation, provide persons with consultations regarding human rights issues, and conduct research and analyse the situation in the field of human rights. There is a proposal that the Ombudsman provides an annual report to the Saeima.	
24.	**LIECHTENSTEIN** 25.04.2008	No, there is no such special body in the Parliament of Liechtenstein.	According to the legislation (Statute of Parliament), the individual members of Parliament have the possibility to submit enquiries to the government regarding any topic. They can do so by means of parliamentary proposals (legally defined tools such as e.g. interpellations, postulates or short oral questions).	At present, there are no any special procedures but the issue is under consideration.
25.	**LITHUANIA** 26.02.2008	There is no specific body in the Lithuanian Seimas empowered to verify compatibility of draft legislation with the ECHR.	However, the Legal Department of the Office of Seimas (the functions of the Department are determined by the Statute[49] of the Seimas) is obliged to draft conclusions concerning every draft law registered at the Seimas and to specify any incompatibility of the draft law or amendments thereof with the Constitution of	So far, the Seimas has no formal procedure for informing the MPs concerning the findings of the ECtHR in Strasbourg. However, pursuant to the Statute of the Seimas (Part III Chapter IX), one of the 15 permanent Committees of the Seimas is the

[49] http://www3.lrs.lt/pls/inter/dokpaieska.showdoc_e?p_id=259310

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			Lithuania and other legal acts, the judgements of the Constitutional Court, EU legislation, and international conventions. Therefore, the Legal Department conclusions specify if any article of the draft legislation contradicts the provisions of the ECHR.	Committee on Human Rights. As a rule, the head of the Committee's staff provides the Committee members with information on ECtHR judgements received from the representative of the Government of Lithuania to the ECHR, as it is published on the homepage of the Ministry of Justice. The Committee sometimes invites the Lithuanian representative to the ECtHR to Committee meetings to provide additional information and the necessary elucidations to the parliamentary Committee on Human Rights. In addition, the permanent parliamentary Committee on Human Rights has organised a number of specialised meetings to examine the reactions of the Government to the judgments of the ECtHR.
26.	**LUXEMBOURG** *NO REPLY*			
27.	**MALTA** *NO REPLY*			
28.	**MOLDOVA** *NO REPLY*			
29.	**MONACO** *NO REPLY* *not in ECPRD network*			

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30.	**MONTENEGRO** *NO REPLY*			
31.	**NETHERLANDS (Senate)** 24.04.2008 *"Eerste Kamer"*	**Senate** The Senate does not have a special committee to very the compatibility of legislation with the ECHR. To verify the compatibility of draft legislation with the Convention is the responsibility of all individual Senators and of the Senate as a whole.	**Senate** In the Dutch parliamentary system, it is an (unwritten) rule that draft legislation should be verified against the Netherlands' Constitution as well as against the Netherlands' international obligations. This includes European Union law, as well as international human rights treaties like the ECHR. Every so often, Senators tend to ask questions regarding the Convention whilst discussing draft legislation. Recently for example, the Senate's Justice Committee requested the government to explain the compatibility of several new rules on legal aid with the Convention. The Finance Committee referred to the Convention in the debate on the 2008 tax legislation. Regarding the verification of the State's compliance with the Strasbourg Court's judgments, the Senate receives, on a yearly basis, a report from the Government Agent before the Court on cases and judgments against the Netherlands. Last year's report for the first time also contained an overview of the implementation of the judgments, a question specifically raised in the Senate.	**Senate** So far, no such procedures exist for specific judgments. However, the Senate (as well as the House of Representatives) receives a yearly report of all cases and judgments against the Netherlands which may lead to written or oral questions. In the Senate, no (recent) initiatives have been taken to receive specific information immediately after a judgment has been made by the Court.
	NETHERLANDS (Second	**Second Chamber**	**Second Chamber**	**Second Chamber**

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	Chamber) 28.04.2008 *"Tweede Kamer"*	In our Parliament we do not have a special body empowered to verify compatibility of draft legislation with the Convention or monitor or control legislation.	If necessary, action will be taken by either the parliamentary commission on foreign affairs or the parliamentary commission on Justice.	**N/A**
32.	**NORWAY** 07.03.2008	In Norway, the main responsibility for implementing the judgments of the ECtHR rests with the Government. [SC: There appears to be no special body within the parliament empowered to verify the compatibility of draft legislation or of existing legislation with the Convention.]	The Storting has in recent years approved the introduction of an administrative practice aimed at improving the Storting's supervision of how the Government implements the judgments from the ECtHR. The supervision is carried out by the Parliamentary Ombudsman[50] who reports his findings to the Storting. On the basis of this report the parliamentarians may follow up on any delays or lack of compliance that may be revealed.	According to Section 12 of the Act the Ombudsman shall submit an annual report on his activities to the Storting. An unofficial English translation of the Act can be found here[51]. According to Section 12 second paragraph of the Directive to the Ombudsman the annual report shall contain a survey of the proceedings in the individual cases which the Ombudsman feels are of general interest and shall mention those cases where he has drawn attention to shortcomings in statutory law, administrative regulations or administrative practice or has made a special report pursuant to § 12 second paragraph of the Ombudsman Act. In July 2007 Section 12 second paragraph of the Directive was given the

[50]The Parliamentary Ombudsman was established in 1962 to supervise the public services on behalf of the Storting. The duty of the Ombudsman is to ensure that individuals do not suffer injustice at the hands of the public administration. The Ombudsman investigates citizens' complaints concerning injustice or maladministration on the part of public administration. The Ombudsman may also raise issues on his own initiative.
In 2004, Section 3 in the Parliamentary Ombudsman's Act was amended to explicitly state the Ombudsman's responsibility to secure human rights. Section 3 reads: "The task of the Ombudsman is, as the Storting's representative and in the manner prescribed in this Act and in the Directive to him, to endeavour to ensure that injustice is not committed against the individual citizen by the public administration and to contribute towards that the public administration respect and ensure human rights."
[51]http://www.sivilombudsmannen.no/eng/article.php?32/30

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				following amendment: "The report shall also contain information on his supervision and control of public agencies to safeguard that the public administration respect and ensure human rights." This amendment was adopted to comply with the Resolution 1516 (2006) of the Council of Europe Parliamentary Assembly. An unofficial English translation of the Directive can be found here[52].
33.	**POLAND (Sejm)** 06.03.2008	In the Sejm there exists no specialized body whose task is to control bills or monitor already adopted statutes with regard to their compatibility with the ECHR. Also, the Standing Orders of the Sejm do not include any particular regulations (regarding the legislative process) on that matter (e.g. a duty to include a special declaration in an explanatory statement to a bill that the given bill is compatible to the ECHR). However, according to Article 34, § 8 of the Standing Orders of the Sejm, the Marshal of the Sejm, after seeking the opinion of the Presidium of the Sejm, may refer any bills or draft resolutions which raise doubts as to their consistency with the law, including European Union law, to the Legislative Committee for its opinion, and which may, by a 3/5 majority vote,	At first, the question of Poland's compliance to the ECHR stays within the scope of activity of the Justice and Human Rights Committee (JHRC) of the Sejm. According to § 23 of the Appendix to the Standing Orders of the Sejm, concerning activities of Sejm's committees, the subject matter of activity of the JHRC includes the observance of law and rule of law, the courts, public prosecutors and notary offices, the Bar and legal services, the functioning of attorneys' and legal counsels' self-government, and observance of human rights. Furthermore the usual means of parliamentary control may be used, e.g. debates on Poland's compliance to Conventions, interpellations and MPs' questions addressed to members of the Council of Ministers (including the Minister of	Such a procedure does not exist and there were no attempts to introduce it in the past. Nevertheless there is an idea presently discussed to broaden activities of the JHRC, also with regard to monitoring the judgments of the ECtHR. However those are only preliminary plans, so it is difficult to foresee, if they will be realized, and if so, in which form this will take.

[52] http://www.sivilombudsmannen.no/eng/article.php?32/31

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		find the draft inadmissible. The control carried out by the Legislative Committee may include an enquiry whether the bill is compatible with the Convention, because the ECHR, as a ratified international agreement, is a source of universally binding law (within the meaning of Article 87, § 1 of the Constitution).	Justice), etc. However, in practice this matter has seldom become a subject of interest of our House.	
34.	**PORTUGAL** 20.03.2008	The Portuguese Parliament has no body with special responsibility for verifying compatibility of draft legislation with the provisions of the ECHR.	The Constitution of the Portuguese Republic[53] (CPR) lays down in Article 7 that "In its international relations Portugal shall be governed by the principles of national independence, respect for human rights». Article 8 of the CPR establishes that rules contained in international conventions ratified or approved by the Assembly of the Republic apply within the Portuguese legal system. Accordingly, all draft legislation submitted to Parliament should comply with the principles defined in the Constitution, as well as with other legal texts, community legislation and rules contained in international conventions to which Portugal is party. In the case of legislation issued by the Government, the Assembly may instigate the procedure for assessment of Decree-Laws with a view to cessation of effect or amendment, requesting that they be brought into line with the provisions in force, as established in Article	No procedure has been instituted for informing Parliament whenever the ECtHR finds a violation of the provisions of the ECHR by the Portuguese State, nor have any steps been taken to provide for such a possibility.

[53] http://www.parlamento.pt/ingles/cons_leg/Constitution_VII_revisao_definitive.pdf

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			169 of the CPR and Article 189 of the Rules of Procedure of the Assembly of the Republic[54] (RPAR). Article 35 of the RPAR assigns powers in the first instance to parliamentary committees to assess draft legislation and assure constitutionality and the safeguard of fundamental rights. Special attention should be drawn to the role of the Committee for Constitutional Affairs, Rights, Freedoms and Guarantees, which is responsible for issuing opinions on the constitutionality of any draft legislation or bills, or other parliamentary initiatives, when so requested by the President of the Assembly or by other permanent parliamentary committees. Equally important are the powers of the Committee for Foreign Affairs and the Portuguese Communities, which is required to pronounce on all draft legislation, bills or proposed resolutions dealing with the foreign relations of the Portuguese State and with international treaties or agreements submitted for the approval of the Assembly. Portuguese MPs also have the possibility of directly informing the Assembly, as members of the PACE, through their participation in meetings of the Committee on the Honouring of Obligations and Commitments by the member states of the CoE, on which progress reports are drawn up.	

[54] http://www.parlamento.pt/ingles/cons_leg/regimento/Rules_of_Procedure.pdf

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35.	**ROMANIA (Chamber of Deputies)** 05.03.2008 *"Camera Deputaților"*	**Chamber of Deputies** The Human Rights, Religious Issues and National Minorities' Issues Committee of the Chamber of Deputies verifies compatibility of draft legislation with the Convention, but there is no parliamentary control of the implementation of Strasbourg Court judgments.	**Chamber of Deputies** Parliamentarians may pose written or oral questions or send letters to Justice Ministry which has to deal with ECtHR judgments.	**Chamber of Deputies** There is no such parliamentary procedure.
	ROMANIA (Senate) 21.03.2008	**Senate** There is no special body empowered with verifying the compatibility of draft legislation with ECHR.	**Senate** However, the Legislative Council which is a specialised consultative body with the Romanian Parliament verifies ex officio each and every draft law and legislative initiative to comply with any European Union legislation.	**Senate** The Government informs Parliament on any such violation of the Convention.
36.	**RUSSIAN FEDERATION** 07.05.2008		There is Commission on matters of civil society institutions development in the Federation Council. Issues connected with execution of obligations of membership in the CoE are discussed in Parliament with the Ombudsman in the Russian Federation (he presents annual report to the Federation Council), the Chairman of the Supreme Court, members of the Public Chamber.	Since 1998 there exists an Interdepartmental Commission of the Russian Federation on relation with the CoE. It is a standing body which coordinates the activities of Russian federal structures on participation in the CoE. The Commission includes Members of the Federation Council and Deputies of the State Duma.
37.	**SAN MARINO** *NO REPLY*			
38.	**SERBIA** 17.04.2008	No such special body exists in the National Assembly.	The Constitution guarantees, and as such, directly implements human and minority rights	The Human and Minority Rights Office, an independent governmental

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			guaranteed by the generally accepted rules of international law, ratified international treaties and laws.	institution, is responsible for the implementation of the Strasbourg Court's judgments and represents the Republic of Serbia at the Court. At this moment, there are about 1000 complaints submitted by Serbian citizens to the Strasbourg Court.
39.	**SLOVAKIA** 20.03.2008	No, there is no special body, which is composed of MPs and in general, there is no verification mechanism of compliance of Slovak laws with the ECHR in the National Council. Only generally, the Constitutional and Legal Affairs Committee, pursuant to sec. 59 of the Rules of Procedure, has the function to debate bills also in light of the compatibility with international treaties (including, of course, the Convention). Also, the Human Rights Committee has its role in monitoring the human rights situation. However, the Legislative Department of the Chancellery of the National Council has to consider, when giving its opinion to a bill, also the compatibility of draft legislation with the Convention. It is obliged to follow the draft law during the whole legislative procedure and monitor whether it is in compliance with the Constitution and also with international obligations (i.e. also the Convention). This power is determined by the Organizational Rules which lays down competencies of each department of the Chancellery.	MPs have their assistants, who shall be able to search for this information and help MPs in this issue. Also, on request of MPs, the Department of Analyses may help with information on this issue.	Such a procedure does not exist. MPs are usually aware of the ECHR judgements from the media or from Slovak law journals.
40.	**SLOVENIA** *NO REPLY*			

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41.	**SPAIN** 25.03.2008	No special body in the Spanish Congreso de los Diputados is empowered to verify compatibility of draft legislation with the ECHR. However, the Research Department would include in the dossiers it prepares on bills any relevant ECtHR judgments, which would also be mentioned in the report submitted to the Committee by the legal adviser.	N/A	N/A
42.	**SWEDEN** 20.02.2008	No.	The members of the Riksdag have several tools at their disposal in order to verify or question compliance with the ECHR judgements of the ECtHR. Firstly, a committee of the Riksdag shall obtain the opinion of the Council on Legislation if this is requested during the consideration of a matter by at least five members of the committee.[55] The Council on Legislation consists of Justices of the Supreme Court and the Supreme Administrative Court and inter alia studies how draft laws relate to the fundamental laws and the legal system in general.[56] According to the head of secretariat of the Riksdag's Committee on Foreign Affairs, a committee request could, first and foremost, concern compatibility between committee draft legislation and the	The Government presents before the Riksdag an annual written communication on the activities in the CoE's Committee of Ministers. The 2006/07 communication includes sections on the ECtHR and the Committee of Minister's supervision. Sub-sections include judgments of general interest, implementation of certain judgments and cases against Sweden, the latter including cases where the ECtHR has ascertained violations of the ECHR. The latest report (SC: no data given) also includes a section on inadequate implementation of decisions of the ECtHR.

[55] Chap. 4, Art. 11 of the Riksdag Act (Rules of Procedure). Cf. Holmberg *et al.*, 2006, p. 390 and Chap. 8, Art. 18 of the Instrument of Government (the Constitution).
[56] Chap. 8, Art. 18 of the Instrument of Government.
[57] Holmberg *et al.*, 2006, p. 653.
[58] Holmberg *et al.*, 2006, p. 661.
[59] Chap. 12, Art. 5 of the Instrument of Government.
[60] Chap. 3, Art. 11 of the Riksdag Act. Cf. Holmberg *et al.*, 2006, p. 667.

	STATE	QUESTION 1 SPECIAL PARLIAMENTARY BODY	QUESTION 2 IF NOT, OTHER MEANS AVAILABLE?	QUESTION 3 PROCEDURES TO INFORM PARLIAMENT
			ECHR, this less likely with respect to specific judgments of the ECtHR. Secondly, the Riksdag's Committee on Foreign Affairs prepares in an annual report the Government's written communication on the activities in the CoE's Committee of Ministers, and the Swedish delegation's account of the activities in the PACE. In connection with this, the members of the Committee on Foreign Affairs have the possibility to speak their minds about Sweden's compliance, or lack of compliance, with the ECHR and judgements of the ECtHR. Thirdly, the Riksdag holds an annual debate in connection with the above-mentioned report of the Committee on Foreign Affairs. The number of speakers varies. Fourthly, it should be noted that the Riksdag files written communications from the Government, i.e. the Riksdag considers the matter closed without taking any further decisions. However, the Riksdag has the right, in connection with a motion or a committee initiative, to make an announcement to the Government.[57] Moreover, nothing prevents a body of the Riksdag from presenting in its account a proposal to the Riksdag, provided that the proposal remains within the body's area of competence.[58] Fifthly, the members of the Riksdag have the	In its 2006/07 account, the Swedish PACE delegation asked for the opinion of the Committee on Foreign Affairs and the Committee on the Constitution as to whether the Riksdag had adequate insight into the way in which Sweden executes judgements of the ECtHR.[61] In their response, the two committees stated that the Riksdag's present procedures for handling such issues were sufficient.[62] The delegation's initiative related to a letter from the then PACE President addressed to the national Parliaments. The PACE President proposed national mechanisms for monitoring observance of judgements of the ECtHR. Referring to doc. 11020, Rec. 1764 and Res. 1516 and the pertaining debate held at the PACE's autumn 2006 session, the Swedish delegation emphasized in its account that lengthy court proceedings in certain countries undermine the protection of fundamental rights guaranteed by the ECHR.[63]

[61] Redogörelse 2006/07:ER1.
[62] Hörberg 2008-02-18.
[63] Redogörelse 2006/07:ER1.

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			possibility to submit interpellations and put questions to the ministers of the Government on any matter concerning the minister's performance of his official duties.[59] Sixthly, the members may have the right to submit private member's motions in connection with the Government's written communication on the activities in the CoE's Committee of Ministers and the Swedish delegation's annual account of the activities in the PACE. This right is decided upon by the Riksdag on a case-by-case basis following a proposal from the Speaker.[60] During the 2006/07 Riksdag session, the members had no possibility to submit private member's motions in regard to the afore-mentioned two documents.	
43.	**SWITZERLAND (Federal Assembly)** 14.03.2008	There is no special body whose tasks include verifying the compatibility of Swiss legislation with the ECHR or with the decisions handed down by the ECtHR.	In the case of a popular initiative, the Federal Parliament must check whether the initiative represents a breach of the principal stipulations of international law. If this is the case, the parliament declares the initiative partially or totally invalid. (Art. 75 § 1 of the Federal Political Rights Act) (Art. 138 and Art. 139 of the federal constitution). The Federal Council (government) submits its draft decrees to Parliament together with a message in which it comments in particular on the basic legal position, the consequences in relation to basic rights, compatibility with	Each year the Federal Council (government) keeps Parliament informed about verdicts handed down in Strasbourg against Switzerland through its Annual Report on Switzerland's Activities in the CoE.

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			primary law and a comparison with European law (Art. 141 pt. A of the Parliament Act)[64]. Regarding point 2, the stipulation that a comparison must be made with primary law and with European law also includes the ECHR, since it constitutes primary law.	
44.	**"the former Yugoslav Republic of Macedonia"** 21.03.2008	The Assembly of the Republic of Macedonia does not have a special working body with exclusive right to verify, monitor and control the compatibility of legislation with the ECHR (including the Strasbourg Court Judgments).	The Legislative Committee reviews issues referring to the compatibility of laws and other acts with the Constitution and with the legal system, while the Standing Inquiry Committee for Protection of the Freedoms and Rights of the Citizens, inter alia, is responsible for monitoring, reviewing and analyzing the implementation of the ratified international acts regulating the protection of the freedoms and rights of the citizens, including the ECHR. The Standing Inquiry Committee for Protection of the Freedoms and Rights of the Citizens, ex officio discusses compliance of the legislation with the Convention using the procedure stipulated with the Rules of Procedure for the adoption of laws. Also, the Committee can request information and data from the state bodies on the direct implementation of the laws and in this way monitor or control the	The Assembly has not specific parliamentary procedures to inform MPs about the judgments of the ECtHR. The initiative on regulating this issue has been raised by the Standing Inquiry Committee for Protection of the Freedoms and Rights of the Citizens, during the discussion on the PACE Report on the Implementation of the Judgments of the ECtHR of the Committee on Legal Affairs and Human Rights of the CoE. According to this initiative, the Committee should have the obligation to request information from the Government, on an annual basis, about the cases against the Republic of Macedonia before the ECtHR, as well as about the execution of the judgments of the ECtHR when if

[64] Art. 141 Messages on draft decrees.
1. The Federal Council submits its draft decrees to parliament together with a message.
2. This message includes the reason for the draft decree and comments on individual points where necessary. Furthermore, it explains the following points where it is possible to provide worthwhile information: a. the basic legal position, the consequences in relation to basic rights, compatibility with primary law and a comparison with European law.

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			compatibility of the laws with the Convention.	finds that the Republic of Macedonia has violated certain rights guaranteed by the ECHR. The emphasis is on strengthening the control function of the legislative authority in all fields, and the goal is to reduce the number of cases against the Republic of Macedonia. Suggestions were made to the Government to introduce special mechanisms and procedures for efficient and speedy implementation of the judgments of the Court in the cases against the Republic of Macedonia. Also, the establishment of a government coordinating body that would decide and be responsible for all the aspects of the implementation of the judgments of the ECtHR is considered as opportune.
45.	**TURKEY** 18.04.2008	There is no way of verifying such regulations as to human rights on parliamentary basis. Yet, the Commission on Monitoring Human Rights (see below) shall determine which amendments must be made to the law and suggest legal arrangements to ensure compliance with international treaties that have been ratified by Turkey with the Constitution and the other national legislation and practice. Under the Article 4 of the law on the Commission on Monitoring Human Rights, the functions of the Commission are: - monitoring improvements concerning human rights which are generally accepted on an	Parliamentarians have no right to force the State to comply with the ECHR. But they can ask questions about human rights violations to relevant Ministries in plenary sessions.	The Commission on Monitoring Human Rights is one of the standing committees in the Grand National Assembly. According to Article 4 of code No. 3686 stating the duties of this Commission, monitoring the latest advances in human rights is one of the Commission's basic functions. In its annual report, the Commission refers to the judgements of the Strasbourg Court about Turkey and findings of violation of the ECHR. But this is neither compulsory nor an established procedure for the Committee.

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		international level, - monitoring the compatibility of human rights practices of Turkey in terms of international treaties, the Constitution and laws and in this respect undertake research and suggest solutions on these subjects.		
46.	**UKRAINE** 21.05.2008	According to Article 86 of the Constitution of Ukraine, the Parliament controls the activity of the executive bodies. The Subcommittee on International Legal Issues of the Verkhovna Rada Committee on Human Rights, National Minorities and Inter-Ethnic Relations has been authorized to monitor the implementation of Strasbourg judgments. The Committee on Human Rights, National Minorities and Inter-Ethnic Relations carries on its activity in compliance with the Rules of Procedure and the Law “On the Committees of the Verkhovna Rada of Ukraine”. According to Article 14 of the abovementioned law the Committee is entitled to analyze the practice of the Strasbourg Court and introduce the generalized information for consideration by the Parliament, initiate parliamentary hearings, initiate the decision on submitting this issue for consideration within the framework of the Government Day in Ukraine.		

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47.	**UNITED KINGDOM** 18.03.2008	In the UK Parliament, the Joint Committee on Human Rights fulfils a number of these functions. It is a Committee made up of members from the House of Commons and the House of Lords. In addition to the Joint Committee, other committees (such as the Constitution Committee in the House of Lords and the Justice Committee in the House of Commons) may also consider the impact of legislation on Convention rights on an *ad-hoc* basis. The Joint Committee has a website where it sets out details of its legislative scrutiny[65]. The Committee also corresponds with the Government in respect of declaration of incompatibility made by the UK courts[66] and adverse findings made by the Strasbourg Court.[67] <u>Section 19 Statements</u> Section 19 of the Human Rights Act 1998, obliges the Minister in charge of a Bill, before second reading, to make one of two statements – either that the provisions of the Bill in question	N/A	As mentioned above, questions about human rights compatibility of legislation may be raised on an ad-hoc basis by two other Committees, the Justice Committee in the House of Commons (previously referred to as the Constitutional Affairs Committee and prior to 2003 as the Committee on the Lord Chancellor's Department) and the Constitution Committee in the House of Lords. Neither Committee will undertake systematic reporting like the Joint Committee; however Government Ministers have appeared before both Committees to discuss concerns over human rights issues. Information about these Committees can be found on Internet.[70] Additionally, the Ministry of Justice has a minister responsible for human rights policy, and it would be open to any MP or Peer to pose written or oral questions or send observations to that minister.

[65] http://www.parliament.uk/parliamentary_committees/joint_committee_on_human_rights/jchrls0708.cfm

[66] Under the *Human Rights Act 1998*, the UK Courts do not have the right to "strike down" primary legislation where it conflicts with a Convention right. Instead, under s 4 of the 1998 Act, the Court can make a declaration of incompatibility. This declaration does not affect the validity of the Act of Parliament: in that way, the Human Rights Act seeks to maintain the principle of Parliamentary sovereignty. Such a declaration would be likely to produce public pressure to amend the legislation and would strengthen the case of a claimant who wished to go to Strasbourg. Section 10 of the 1998 Act also contains provision for Ministers to take remedial action to amend offending legislation.

[67] The Joint Committee has published a number of relevant reports on these issues including: *Monitoring the Government's Response to Court Judgments Finding Breaches of Human Rights*, June 2007, available at http://www.publications.parliament.uk/pa/jt200607/jtselect/jtrights/128/128.pdf and *Implementation of Strasbourg Judgments: First Progress Report*, March 2006, available at: http://www.publications.parliament.uk/pa/jt200506/jtselect/jtrights/133/133.pdf

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		are compatible with Convention rights or, in the event that such a statement cannot be made, a statement that the Government wishes to proceed.[68] When the 1998 Act was passed, the Government produced guidance to Departments on ensuring that Bills were Convention compliant. This required a two stage process – at policy approval stage a general assessment would be made to alert Ministers to possible Convention issues. Once a Bill was drafted, a more formal document would be drafted in consultation with the Law Officers Department (Attorney and Solicitor General). The guidance is still available on the Committee's website.[69] <u>Changing working patterns</u> In a report published in August 2006, the Joint Committee considered its future working patterns		

[68] The section provides:
Parliamentary procedure
19 Statements of compatibility (1) A Minister of the Crown in charge of a Bill in either House of Parliament must, before Second Reading of the Bill
(a) make a statement to the effect that in his view the provisions of the Bill are compatible with the Convention rights ("a statement of compatibility"); or
(b) make a statement to the effect that although he is unable to make a statement of compatibility the government nevertheless wishes the House to proceed with the Bill.
(2) The statement must be in writing and be published in such manner as the Minister making it considers appropriate.
[69] http://www.nationalarchives.gov.uk/ERORecords/HO/415/1/hract/guidance.htm; See in this context, Lester and Pannick, *Human Rights Law and Practice*, 2nd Edition, 2004, Chapter 8, Parliamentary Scrutiny of Human Rights, p. 599-619, who observed that: "It is the work of the Joint Committee [on Human Rights] that has givens its potency. The Joint Committee is supported in its work by two Parliamentary clerks and an expert legal adviser […].Between February 2001 and July 2003, the Joint Committee completed 38 reports, took evidence from ministers, legal experts and NGOs, and established itself as a key component of the legislative process. […] The scrutiny of legislation for compatibility with human rights is a central part of the Joint Committee's work. At its second meeting, it interpreted its terms of reference as including 'a power to examine the impact of legislation and draft legislation on human rights in the UK'. In its report on Scrutiny of Bills, it emphasised that the Joint Committee considers itself to be responsible to Parliament for assessing whether these section 19 statements have been properly made, and believes this to be a key duty."
[70] http://www.parliament.uk/parliamentary_committees/justice.cfm and http://www.parliament.uk/parliamentary_committees/lords_constitution_committee.cfm

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		and indicated that: <u>Legislative scrutiny</u> We will continue to scrutinise all Government bills and private bills for their human rights implications in accordance with a new sifting and scrutiny process. We will scrutinise private Members' bills only on an ad hoc basis, but normally only if they both raise issues of major human rights significance and appear likely to become law. We will delegate to our Chairman and through him to our Legal Adviser the task of sifting all Government and private bills on publication, and relevant private Members' bills at the appropriate stage, to determine whether their provisions meet a raised threshold of human rights significance […] with the aim of the Committee considering the result of the sift in relation to each bill within 2 weeks of a bill's publication. In relation to those bills which we decide merit further scrutiny, as soon as possible, on the basis of advice from our Legal Adviser, we will consider whether there is a need to seek written or oral evidence on a bill before arriving at conclusions on it. We will seek to report to both Houses our conclusions on each bill which we scrutinise further before the bill has left the first House and at as early a stage as possible in order to be of value in the first House. Ideally, and subject to the allocation of resources, this would mean a timetable of reporting within 8 to 10 weeks after publication of the bill.		

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		The timetables associated with the proposed new sifting process which we have set out are informal and provisional. We will revisit them after an experimental period and consider at that time whether to publish formal targets. We also re-emphasise the importance of a substantial improvement in the quality and consistency of the information which the Government provides to Parliament on the human rights implications of bills at the time of their introduction. We intend our eventual Reports on bills to focus on the most significant human rights issues raised by a bill, rather than exhaustively on all the human rights issues raised by a bill. We will give further consideration to the question of whether we should more explicitly express our conclusions on compatibility questions in our own voice, rather than "second-guessing" the view which courts might take in future cases. The number of bills on which we ultimately report is likely to be substantially fewer than in the past, so we intend to make greater use of freestanding reports on individual bills, enhancing the accessibility of our legislative scrutiny work to parliamentarians and others. <u>Pre- and post-legislative scrutiny</u> We intend to undertake more work on pre-legislative scrutiny, examining the human rights implications of consultation papers, Green Papers, White Papers and draft bills in particular. We also intend to undertake more work on post-legislative scrutiny, for example on implementation of primary legislation through		

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		regulations or guidance, or on whether the implementation of legislation has produced unwelcome human rights implications. In both cases it is probable that we would subject relevant documents to our proposed sifting process for primary legislation. Declarations of incompatibility, monitoring of Strasbourg judgments and remedial orders We intend to integrate our scrutiny and monitoring of adverse Strasbourg judgments, whether or not they may potentially give rise to remedial orders, with enhanced scrutiny of declarations of incompatibility. This will result in progress reports drawing attention to unremedied declarations of incompatibility as well as unimplemented Strasbourg judgments and, where appropriate, recommending measures which should be taken to prevent repetition of the violation and commenting on the adequacy of avenues for remedy.		

IV. Colloquy conclusions by Mr Philippe Boillat, Director General of Human Rights and Legal Affairs, Council of Europe

Chairperson,
Excellencies,
Ladies and gentlemen,

Now we are approaching the end of our work. Allow me first of all to **congratulate the Swedish Presidency** for having chosen the theme of this Colloquy and, more generally, for having given first place amongst the priorities of its presidency to the realisation of the fundamental objective of the Council of Europe: making human rights an effective reality. Strengthening implementation of the European Convention on Human Rights at national level contributes fully to the realisation of this objective.

This **priority of the Swedish Presidency** fits perfectly into the decisions of the Ministers of Foreign Affairs adopted in Rome in 2000, on the occasion of the 50th Anniversary of the Convention, then in the package of measures adopted by the same ministers in 2004 and confirmed by them in 2006. Furthermore, one can only welcome the continuity of this action, after than undertaken by the San Marinese and Slovak presidencies, and express the wish that the following presidencies of the Committee of Ministers pursue the same course.

After two days of presentations and intense discussions, it would be somewhat ambitious, even pretentious of me to want to give a brusque summary of the particularly rich exchanges of views we have had. It will therefore be not so much conclusions, strictly speaking, but rather **non-exhaustive observations** raising the salient points that can nurture reflections during our future work.

If I had to sum up the substance of our work in a single word, I would hold on to "**subsidiarity**." All our reflections have centred on this fundamental notion – a fundamental notion that underpins the whole control system of the Convention and that finds its formal expression, above all, in articles 1, 13 and 35 of the Convention.

The **collective responsibility** of States party to the Convention, as set out in the Preamble thereto, was recalled, in particular in connection with supervision of the execution of judgments. Collective responsibility and solidarity were also quite rightly evoked, however, in connection with the implementation at national level of the package of measures adopted in 2004. It seems to me equally that the last State yet to ratify Protocol No. 14 should find itself called upon to show collective responsibility and solidarity. Indeed, all the States party must show their solidarity and accept their responsibilities in the face of a risk of implosion of the control system of the Convention.

It was recalled most judiciously that collective responsibility is a notion that finds itself applied equally on the **domestic level**: all state authorities – executive, legislative and judicial, including local and regional bodies – are collectively responsible and must show solidarity in the face of the obligations accepted by the State in the name of the Convention. Confronted with a given problem, every authority should ask itself, "What would Strasbourg say?"

In this context, one can note with satisfaction that, for several years, the **Convention has been a part of domestic law** in all the States party to the Convention. This amounts to a very important factor in permitting full and complete implementation of the principle of subsidiarity.

Similarly, **direct application** of the Convention seems now to be generally accepted in all member States, which allows the Convention to be invoked directly before national authorities, in particular before the courts.

It was pointed out that national judges must find themselves recognised as having the capacity to guarantee the **primacy of the Convention**. Integration of the Convention into domestic law, direct application of the Convention and primacy of the Convention over conflicting national law are decisive elements for ensuring full implementation of the Convention at the national level. But are these principles a reality in all our member States? Can national judges really apply the Convention and the case-law of the Court directly, where necessary, at the expense of conflicting national law? We have heard that even in the oldest States party, misunderstandings or, at least, uncertainties sometimes occur over the status of the Convention and, perhaps more often, the case-law of the Court. It should be possible to overcome these misunderstandings and uncertainties, notably through dialogue between national courts – especially constitutional and supreme courts – and the Strasbourg Court.

From there, I come to the question of execution of judgments. **Full and prompt execution** of the Court's judgments is of the utmost importance for the effective judicial protection of the victims of violations, for the prevention of future violations and for guaranteeing the authority of the Court. In this context, the *erga omnes* effect of judgments was raised repeatedly. One must recognise that the full effectiveness of the principle of subsidiarity is to a large extent dependent on the *erga omnes* effect of the Court's judgments, in other words going beyond their authority as to the facts to a full recognition of their **interpretative authority**. In fact, so far as possible, it is necessary to anticipate possible future violations of the Convention by attacking the very sources that may be found in national legislation and practice. As was underlined during the government Agents' seminar in Bratislava last April, States' best defence is above all the prevention of violations at national level.

It was suggested that the *erga omnes* effect – *de facto* or *de jure* – could be enhanced through more systematic use of **third-party intervention** by States. It is indeed likely that States would thus feel more concerned by judgments and that this would promote the effect.

It was in this context that discussion took place on the introduction into the Convention system of **advisory opinions** – which could also be requested by States and no longer be limited to the Committee of Ministers alone – and **preliminary rulings**. In once again turning to these issues, we must ask ourselves, what would be the consequences on individual applications once the Court's opinion was known? In addition, would these new approaches produce a real gain in effectiveness or, on the contrary, would they further increase the burden on the Court?

Beyond these reflections, the question of introducing preliminary rulings was also linked to the far more fundamental question of the very nature of the Court: should it eventually become a **European Constitutional Court of Human Rights**, limiting itself to addressing issues of principle? Should it be endowed with a discretionary power to choose from amongst the applications, following the model of the *certiorari* procedure as understood by the United States' Supreme Court? We are all aware of the potential consequences of the response to these questions for the very nature of the right of individual petition. These issues were the subject of intense discussions during negotiation of Protocol No. 14. The solution that emerged was clearly rejected, being found not to be politically acceptable. Without doubt, however, it will be necessary to take up these questions anew.

What about the **role of national parliaments**? This role has also been advanced as a key element of subsidiarity. Indeed, parliaments should apply themselves yet more to a close examination of the compatibility of laws and practices with the Convention, an exercise that, undertaken with a view to the *erga omnes* effect, could by all accounts have a particularly beneficial preventive effect. It was also underlined that the contribution of parliaments can prove decisive during the implementation of judgments, insofar as it is sometimes necessary to adopt legislative measures rapidly in order to achieve conformity. Several examples of good practice were put forward to promote this active parliamentary role, which presupposes also an active role for the executive (often the government Agent). This in fact involves not only informing parliament of the judgments handed down against the State concerned, but also of informing it of judgments that could be of interest to the State. It is clearly strongly desirable that this practice be extended to all States.

Whatever its status in domestic law, the Convention itself obliges States to put in place **effective remedies** that are capable not only of finding a violation but, where necessary, of correcting it, notably by offering adequate just satisfaction to the victim of the violation. Putting in place effective remedies is a complex, ongoing process involving at once the executive, legislative and judicial authorities. It has quite rightly been pointed out that the introduction of new domestic remedies requires negotiation and cooperation between the different actors, and that all possible means should be explored for resolving complaints at the national level, notably by non-binding measures such as mediation.

We have heard with interest that, in certain countries, Supreme Courts have adopted a **creative approach to interpret domestic law in such a way as to avoid violations**, going so far as to establish new remedies, founded directly on the Convention. Could this approach, much more rapid than legislative reform, be generalised in the legal orders of all the member States? More specifically, is this approach being used in those States where it is possible? Should the Council of Europe do more to examine and encourage this possibility? These questions need to be examined.

A possible **new binding legal instrument on domestic remedies** has also been suggested on several occasions. The Reflection Group of the Steering Committee for Human Rights (the CDDH) has set aside the idea of a new convention: on the other hand, it has expressed its interest in a possible "soft law" instrument. We await the discussions to come within the CDDH and its subordinate

bodies on this issue with great interest, all the more so given that the Court has established criteria for determining the effectiveness of such remedies, at least in the context of excessive length of proceedings in the sense of article 6 § 1 of the Convention. For myself, I would say that the legal instruments are already in place. Article 13 of the Convention is of direct application. What therefore would be the real value added of a new binding legal instrument? What is perhaps missing is a real political will to give full implementation to this article 13. A new political declaration of the Committee of Ministers to this end could be welcome.

It has been underlined that the **so-called pilot judgment procedure** has allowed the Court, basing itself on a resolution of the Committee of Ministers, to prove its creativity in identifying structural or systemic problems and guiding the respondent States in the execution of the judgment. This procedure has been welcomed by the majority of judges of the Court and also strongly encouraged by the Group of Wise Persons, as well as by Lord Woolf. But as with any novel procedure, it is open to further development and remains subject to discussion.

For example:
- Is it necessary to introduce this procedure formally into the Convention?
- Is it necessary to introduce it into the Rules of Court?
- Is it necessary to regulate better the respective competences of the Committee of Ministers and the Court concerning the execution of these judgments?
- Is there a need to instigate a simplified procedure, before the Court has even pronounced judgment?

All these questions will be the subject of in-depth discussions within the Reflection Group. In any case, to my mind, the **nowadays entirely judicial character of the control system** should in no way be put into question, it being one of the essential achievements of Protocol No. 11, the 10th anniversary of whose entry into force we are celebrating this year.

Beyond the question of procedure before the Court, is it true that the stage of **supervision of execution of judgments by the Committee of Ministers** has become increasingly judicial? And if this is indeed the case, have we reached the point where we must ask whether the Committee of Ministers is fully equipped to address the range of issues that arise at the stage of execution of judgments? Must we confer this task on a body with more judicial character, separate from the Committee of Ministers or under its delegated authority? Would such a reform make the supervision of the execution of judgments more effective, or would it reduce its effectiveness? So many questions which, for the time being, remain without clear answers.

It has been unanimously pointed out that **rapid and easy access to the Court's case-law in the national language** is essential for obtaining an *erga omnes* effect *de facto*. And indeed, anything that enhances the authority of the case-law contributes significantly to guaranteeing the effectiveness of the Convention. It has been rightly emphasised that translation is above all part of the obligations of national authorities, where appropriate – as was suggested notably by the government Agents in Bratislava – in partnership with others and in particular with States that share the same language. That said, the Registry's initiative to compile existing translations and make them available via the HUDOC database would certainly be very useful and much appreciated. It has also been underlined that it would be highly desirable to translate certain judgments that do not involve the respondent States but which would be likely to have a direct or indirect effect on legislation and national practices.

Alongside cooperation between States sharing the same language, **numerous examples of good practice** have been mentioned during both the present colloquy and the seminar in Bratislava. In this connection, I would mention the publication of collections, of manuals or of vademecums concerning the Court's case-law; accompanying judgments, often complex, with explanatory notes; cooperation with the private sector or with NGOs; and finally, making the best use of the internet and of information technology in general. Furthermore, as was emphasised in Bratislava, how can we develop the potential role of government Agents in selecting judgments that merit being translated and/ or disseminated and in encouraging the translation and dissemination of Committee of Ministers' resolutions concerning execution?

Whilst welcoming the efforts already made to train judges, prosecutors and prison staff in human rights standards, it has quite rightly been pointed out that the **need for training** extends also to other categories, such as the armed forces, civil servants and parliamentarians. Training must extend to all those involved in the defence of human rights, which implies a willingness to receive training. In this area, the member States have a primary responsibility. In order for this training to be effective, the language used must be perfectly exact, which implies high-quality translation and interpretation during

the organisation of training courses in the member States. Finally, the need to follow-up and evaluate training, as well as the usefulness of identifying good practices in this field, were underlined.

Of course, the member States are not alone in this task. The Council of Europe's **HELP** programme of human rights training for legal professionals has shown itself to be innovative and extremely useful. I recall that financing for this programme will allow it to continue only until the end of this year. It would therefore be most appreciated if our member States undertook to continue it by allowing its financing through voluntary contributions. And since I am making this call for financial contributions, I would also like to mention the "**Human Rights Trust Fund**," a Norwegian initiative that displays considerable potential for supporting specific efforts undertaken in countries, in cooperation with the Council of Europe, to reinforce the implementation of the Convention at national level. I welcome, with great satisfaction, the fact that a second State has made a contribution to this Fund and invite all the member States to do likewise.

We have heard how both the Court and the Commissioner have established extremely useful and fruitful relations with **civil society, human rights defenders, national human rights institutions and Ombudsmen**. I would especially point out the usefulness, even necessity of putting in place genuine **national human rights action plans**, creating a strategy and timetable for ensuring, in a coherent and effective way, the implementation of human rights at national level.

But is the public really aware of its rights and how to protect them? What more can national authorities do in order to **increase public awareness**, to improve public knowledge of these issues and to encourage public debate? If it is true that human rights are too important to be left to one profession, how do we bring them out of this sort-of "ghetto?" What can bodies such as professional associations, NGOs and the media do to stimulate and feed public debate? What potential might the internet represent in this connection? There we have so many questions to which we will need to give further attention.

From there, I come to the last point, of utmost importance: the **implementation of the Recommendations**. The follow-up exercise on implementation of the 2004 recommendations was, without doubt, unprecedented within the Council of Europe and reflected the particular status that the Committee of Ministers had wished to afford to these crucial instruments. Whilst clearly affirming that overall, the member States had "played the game" and responded in good faith to the recommendations, it was also underlined that this response had not always reached the level of proactivity required. We are all aware of the fact that the member States cannot provide replies to questionnaires indefinitely. We know that the Committee of Ministers wished to take a break from collecting information on an inter-governmental basis. Nevertheless, it is indispensable to maintain political will in this area. The sixty years of the Council of Europe in 2009 and of the Convention in 2010 were evoked as important occasions for a political reaffirmation of this will.

In the meantime, it is important that the Council of Europe ask itself a number of questions:

- Do we need to review and further develop the competence and the role of the Committee of Ministers in supervising and promoting the implementation of these instruments?
- Do we need a specific body to discharge this task, or can one assume that the Committee of Ministers, together with, for example, the **Commissioner for Human Rights**, the **Venice Commission**, the **European Commission for the Efficiency of Justice** (CEPEJ), the **execution department** and the **capacity building division** are already doing what is necessary? Would enhanced cooperation be enough?

We cannot avoid giving answers to these questions.

The Secretary General opened this colloquy by setting out a series of questions. I hope that I have not disappointed his expectations, or yours. In fact, not only have I not replied to each of the questions asked, on the contrary, I have added to them. That said, the goal of this Colloquy was not simply to respond to the questions that were already known to us, but to identify those to which it will fall to us to respond in the future. To this end, I believe I can say that our Colloquy has fulfilled expectations.

Those who will continue our reflections and attempt to put them into effect must not lose spirit. They must know that they can count on the full support of the Directorate General for Human Rights and Legal Affairs to complete their task successfully.

I could not allow myself to finish without thanking you all for your active participation in the debates and expressing once again, on everyone's behalf, our gratitude to our Swedish hosts, who have marvellously honoured their country's tradition for hospitality and generosity.