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## Implementation of judgments of the European Court of Human Rights

Recommendation 1764 (2006)

Reply from the Committee of Ministers  
adopted at the 991<sup>st</sup> meeting of the Ministers' Deputies (28 March 2007)

### Introduction

1. The Committee of Ministers acknowledges that the implementation of the judgments of the European Court of Human Rights has greatly benefited in the past and continues to benefit from the Parliamentary Assembly's and national parliaments' greater involvement. Parliaments bear a two-fold responsibility in this respect: they should establish appropriate procedures to ensure rapid adoption of legislative changes required by judgments and exercise parliamentary oversight of the implementation process conducted by other national authorities. In this context, the Committee welcomes the Assembly's call to national parliaments to introduce, where necessary, specific mechanisms and procedures for effective parliamentary oversight of the implementation of the Court's judgments and encourages it to take further measures to that effect. That said, the Committee recalls that the supervision of the execution of the Court's judgments is the Committee's responsibility under Article 46 of the European Convention on Human Rights. This constitutes an integral part of the Convention's unique mechanism and guarantees its effectiveness.

2. The Committee shares the Assembly's satisfaction about the decisive progress achieved in the implementation of certain judgments, not least resulting from appropriate action by national parliaments (e.g. *Doğan v. Turkey* and *Broniowski v. Poland*). It also fully supports the recent laws adopted by parliaments in order to improve the national capacity to implement the Court's judgments (e.g. Italy and Ukraine). It recalls at the same time that some major issues remain unresolved due to the lack of appropriate legislation (e.g. the impossibility of reopening of domestic criminal proceedings in certain countries). The Committee trusts that the Assembly will further exploit its privileged contacts with national parliaments concerned to overcome this kind of problems.

### Point 1.1 – Priority to important implementation problems

3. As regards its own responsibilities under Article 46 of the Convention, the Committee assures the Assembly that it gives the necessary priority to the implementation of the judgments revealing the most important structural problems, including those identified in the Assembly's resolution. The Committee's action is not limited to conveying political messages to the national authorities concerned. It also includes comprehensive legal and technical assistance in the process of reforms required by the judgments. In so doing, the Committee puts the 50 years of experience accumulated by the Convention mechanism at the service of member states facing specific implementation problems.

4. There is a growing understanding among the members of the Committee of Ministers that complex structural problems revealed by judgments may be more effectively resolved on the basis of this experience and through more intensive and direct contacts between the competent bodies of the Council of Europe and national decision-makers. The Committee strongly promotes various initiatives to that effect. Thus, two round tables were organised in 2005 and 2006 involving high officials of the Russian Federation and of the competent bodies of the Council of Europe to address two major shortcomings in judicial organisation and administration (supervisory review procedure and non-enforcement of domestic judicial decisions against the state). The Committee has also strongly advocated new national strategies for resolving certain long-lasting

problems raised by the Court's judgments. Thus, in a recent interim resolution, the Committee encouraged the efforts of the Italian authorities to draw up a new, effective strategy to combat the structural problem of excessive length of judicial proceedings (Interim Resolution ResDH(2007)2). The Committee will further encourage such initiatives in respect of states which are required under the Court's judgments to resolve structural problems. The progress achieved will be regularly reported as appropriate in the Committee's decisions, resolutions and other documents. The Committee plans to issue, in addition, a yearly report on the execution of judgments, the first of which will cover the year 2007.

### **Point 1.2 – Co-operation between the Council of Europe bodies and with the EU**

5. The Committee also fully shares the Assembly's view that better synergies should be developed between various Council of Europe bodies and institutions with a view to more effective implementation of judgments. From this perspective, the Assembly's enhanced involvement in this area is most welcome. The Committee encourages other bodies of the Council of Europe to mainstream in their respective activities the Convention's requirements, as set out in the Court's judgments. An important role should in particular be played in this area by the Council of Europe Commissioner for Human Rights, the Venice Commission and the European Commission for the Efficiency of Justice (CEPEJ). The tripartite meetings between the Committee of Ministers, the Assembly, and the Commissioner for Human Rights may be an appropriate format to address the most important issues arising in the implementation of judgments.

6. The existing assistance and co-operation programmes of the Council of Europe have also to be oriented so as to support the implementation of these requirements. The Committee will strongly encourage these developments. A new Special Execution Assistance Programme has already been established for 2007 and may be extended subsequently if it proves successful. The idea of using the Council of Europe Development Bank (CEB) in order to facilitate, through its own means of action, the implementation of the Court's judgments revealing important systemic problems also deserves careful consideration.

7. Better co-ordination with the European Union as well as with international organisations is another important task. The European Union's organs have so far considered the proper implementation of the Court's judgments as a part of the political criteria to be fulfilled prior to accession. However, the European Union's potential in promoting and supporting the implementation of the Court's judgments remains to be further exploited. Important implementation issues may in particular be raised in the context of the regular meetings between the Assembly and European Parliament. The latter may also wish to pay closer attention to such issues in the context of its annual reports concerning the respect for fundamental rights in the EU member states. The role of the new EU Fundamental Rights Agency could also be usefully explored in this context.

### **Point 1.3 – Better communication policy and transparency**

8. The Committee's communication policy and transparency as regards the implementation of the Court's judgments is a matter of current concern. Unlike a few years ago, virtually all information about the implementation of judgments today is public. However, special efforts are now being taken in order to make this information more easily accessible to all concerned. In addition, means to ensure better dissemination of this information to national authorities and the public are being sought.

### **Point 1.4 – Setting up domestic mechanisms to secure timely and effective implementation of the Court's judgments**

9. By a declaration adopted at its 116th Session, the Committee of Ministers launched the preparation of a special recommendation to member states to improve their domestic capacity to implement the Court's judgments. This work is presently in progress within the Steering Committee on Human Rights (CDDH) and the results are expected to be presented to the Committee in the first half of 2008. In accordance with the CDDH's existing terms of reference, the Assembly is being associated with this work. This recommendation will usefully complement the existing package of five recommendations adopted in order to guarantee the long-term effectiveness of the Convention system. It should be emphasised that this package is subject to regular follow-up by the Committee with the assistance of the CDDH and also in the context of its supervision of the execution of judgments in individual cases.

### **Point 1.5 – Firmer measures in case of continuous non-compliance**

10. The Committee trusts that these efforts will already contribute to preventing undue delays in compliance with the Court's judgments. The Committee continues however to consider other possible responses to cases of continuous failure to comply with the Court's judgments both in individual cases and

as a general issue. It has also asked the CDDH to provide additional input on this point. In particular, the Committee has instructed the CDDH to develop further practical proposals for the supervision of the execution of judgments in situations of slow or negligent execution. The Committee reiterates its firm commitment to using all means available to the Organisation to overcome situations of reluctance, negligence or incapacity to execute the Court's judgments. In this respect, the Committee has decided to place the general item entitled 'Measures to improve the execution of the judgments of the European Court of Human Rights on the agenda of each of its future Human Rights meetings (DH).