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**Sub-Committee on the execution of judgments of the European Court
of Human Rights and Alternative Dispute Resolution
of the Committee on Legal Policy
OF THE VERKHOVNA RADA OF UKRAINE**

MONITORING AND EVALUATION REPORT

**Research conducted within the Council of Europe
Action Plan for Ukraine 2018-2021
In the framework of the Parliamentary Assembly of the Council of Europe (PACE)'s
Co-operation Project with the Verkhovna Rada of Ukraine**

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ABBREVIATIONS

CM	Committee of Ministers
DEJ	Department for the Execution of Judgments, Directorate General of Human Rights and Rule of Law
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
MP	Member of Parliament (People's Deputy of Ukraine)
MoJ	Ministry of Justice of Ukraine
NGO	Non-governmental organisation
PACE	Parliamentary Assembly of the Council of Europe
PPSD	Parliamentary Project Support Division (within the Secretariat of the Parliamentary Assembly)
SC	Supreme Court
UN	United Nations
VRU	Verkhovna Rada (Parliament) of Ukraine.

EXECUTIVE SUMMARY

1. Following the presidential elections in Ukraine in April 2019 and the parliamentary elections in July 2019, the Assembly had to realign and adjust the activities originally planned to the political realities and needs of Ukraine.¹
2. The current monitoring and evaluation report will help to assess the functionality of the mechanism and assist the Sub-Committee in developing a working framework, with concrete guidelines and recommendations. The research was carried out in line with PACE Resolution 1823 (2011) “National parliaments: guarantors of human rights in Europe” and the Handbook for parliamentarians “National parliaments as guarantors of human rights in Europe” and covers the period from June 2017 to June 2020.
3. Most of the information stems from interviews with members of the Sub-Committee and other MPs (of the current and previous convocation of the VRU), the Office of the Agent of Ukraine before the European Court of Human Rights, the Ombudsperson, the Supreme Court, CoE institutions and NGOs. In order to ensure that the information is reliable, representatives from a range of institutions and political groups were interviewed.
4. Although there is a common vision of the Sub-Committee's role among the respondents, the mandate of the Sub-Committee does not entirely match this. Some of the respondents from outside Parliament also feel that Parliament is not performing according to expectations.
5. The longest-standing issues which have been under supervision since 2004-2006 are failure to protect the life of a journalist and to effectively investigate the circumstances of his death, poor material conditions of detention, transportation and lack of adequate medical treatment and lack of effective remedies in this respect, excessive length of judicial proceedings and absence of effective remedies, etc.
6. At the same time, there is a list of cases involving former systemic issues which have been successfully resolved by Ukraine. Recent examples include the issue of legal aid in criminal proceedings, amendments to the Tax Code, or issues relating to the deprivation of non-resident citizens of their pensions, etc.
7. There are about 6 cases concerning the implementation of ECtHR judgments in the Committee's current work plan. On 3 June 2020, the draft law to implement the judgments in the case of *Garnaga v. Ukraine* was adopted at its first reading. The draft laws implementing the ECtHR judgments in the cases of *Veniamin Tymoshenko*, *Shvydka*, *Petukhov*, *Kharchenko*, *Chanyev*, *Kushch*, *Ivashchenko*, *Naydyon* and others are currently being prepared.
8. Many problems relating to the implementation of ECtHR judgments cannot be resolved without the participation of Parliament. The Law of Ukraine “On the Execution of Judgments and Implementation of Practice of the European Court of Human Rights” sidelines the VRU, however, and assigns the primary role in initiating legislative changes to the executive.
9. The level of personal commitment to human rights is very impressive among all the Sub-Committee members interviewed, both current and former. It was noted that a smooth succession between Sub-Committees during the transition from one parliament to the next was ensured thanks to good

¹ In 2019, the VRU saw its largest intake of new members in 25 years: 77% of the newly elected MPs were entering Parliament for the first time. 326 out of the 425 seats in the VRU were won by individuals with no previous parliamentary experience.

professional relations between the Sub-Committee chairpersons. The respondents also noted, however, that, at present, the chairpersons of the Committee and Sub-Committee have to work to raise awareness of the need for the Sub-Committee as such, and of the importance of implementing ECtHR judgments.

10. Unfortunately, many of the respondents from different institutions reported a lack of political will at the highest level to deal with implementation matters. Reference was made to the practice within CoE institutions of sending so-called “reminder letters”. For example, following Resolution 1787 (2011) on the “Implementation of Judgments of the European Court of Human Rights”, the then President of the Assembly sent letters to heads of the national parliamentary delegations of some countries.² Sending such letters to the President of Ukraine and the Speaker of the VRU would be an excellent opportunity to draw the attention of the country’s top officials to issues relating to the implementation of ECtHR judgments.

11. Respondents expressed the view that the parliamentary oversight function is traditionally weak in Ukraine. It was suggested that laws in Ukraine are rather like orphans who have been cast out into the world and forgotten by their parents, and that the Sub-Committee, like all VRU bodies, has inherited this disease. Parliamentary or committee hearings were mentioned among the few successful examples of parliamentary oversight.

12. If meaningful results are to be achieved, the personal commitment on the part of Sub-Committee members needs to be reinforced by the institutional capacity of the Sub-Committee.

13. Respondents said that implementation was hampered by the lack of a comprehensive list of outstanding issues, with clear priorities.

14. It seems that there is a discrepancy between how the situation is perceived in Ukraine and how it is perceived in Strasbourg. Although some politicians in Ukraine have a good understanding of the issues at stake, their vision is not widely shared. The Hudoc-Exec database is an excellent tool and very helpful for professionals, but inaccessible to most people in Ukraine because of language, technical details, etc. Insofar as Ukraine is among those countries which experience the most difficulties in implementing ECtHR judgments, basic information regarding general principles, best practices, etc. is also needed. This gap could be closed by developing a clear roadmap accessible to the general population and by arranging for existing research to be translated and/or by developing a new, solid corpus of materials to that end.

15. Although comprehensive, cross-cutting planning is quite important, the VRU could focus here and now on those issues that Parliament can resolve by itself through amendments to legislation. No external initiative is needed in such cases, and the VRU is the only institution responsible for implementation here. It appears that this opportunity to improve statistical indicators, while at the same time increasing human rights protection in Ukraine, has not been fully grasped.

16. Respondents stressed the need for the Sub-Committee to have a dedicated secretariat. Different models whereby the secretariat could provide organisational and technical support to the Sub-Committee were proposed.

² For more details see Drzemczewski A. (2015), “International Initiatives to Increase the Role of Parliaments in Relation to Human Rights”, in Hunt M., Hooper H., Yowell P. (2015), *Parliaments and Human Rights: Redressing the Democratic Deficit*, Hart Publishing, London.

17. All the respondents mentioned the VRU's training needs and there were positive references to the training implemented with the support of the Council of Europe in 2017-2019.

18. Also mentioned was the lack of interaction with stakeholders such as other VRU structures, executive and judicial bodies, NGOs and CoE institutions. Greater interaction between the Sub-Committee and stakeholders such as other VRU structures, executive and judicial bodies, NGOs and the CoE institutions would go some way towards mitigating the effects of institutional shortcomings.

19. The potential for Ukrainian civil society to facilitate implementation is not being fully tapped. It is a matter of concern that there are very few representatives of civil society involved in the process of execution of ECtHR judgments.

20. Representatives of the CoE institutions indicated their interest in having the Sub-Committee as a focal point in the Ukrainian Parliament. To meet these expectations, the Sub-Committee's institutional capacity and sustainability needs to be improved. For the period covered by the research, the Sub-Committee has been insufficiently autonomous. Its authority is minimal and does not extend beyond the purview of the parent Committee. It is therefore recommended that the CoE engage in interaction at both Committee and Sub-Committee level in order to overcome this limitation. Also, the fact that there is a designated focal point, effectively facilitating interaction, should not prevent CoE institutions from having contacts with other VRU structures and committees.

21. Including a reference to the implementation of ECtHR judgments in the title of the Committee on Legal Policy could increase its visibility and authority and send a strong signal from the VRU to external stakeholders and the Sub-Committee that the execution of ECtHR judgments is of the utmost importance to Parliament. Amending the title of the Committee could enhance its role as the focal point.

22. More detailed recommendations for boosting the capacity of the Verkhovna Rada of Ukraine can be found in the relevant section of this report.

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INTRODUCTION

1. The current research has been conducted within the project implemented by the Parliamentary Project Support Division of the Parliamentary Assembly of the Council of Europe in consultation with the Verkhovna Rada of Ukraine (VRU), various PACE committees, relevant Council of Europe departments and the Council of Europe Office in Kyiv. It forms an integral part of the Council of Europe Action Plan for Ukraine 2018-2021 and is in line with PACE recommendations in respect of Ukraine.
2. The aim is to increase the capacity and role of the Sub-Committee in supervising the implementation of ECtHR judgments.
3. Ukraine has been a member of the Council of Europe since 9 November 1995.
4. On 11 September 1997, the European Convention on Human Rights entered into force in Ukraine.
5. In accordance with Article 32 of the Convention, Ukraine recognised the jurisdiction of the European Court of Human Rights in all matters pertaining to the interpretation and application of the Convention.
6. When the ECtHR first started to deliver judgments against Ukraine, most of the responsibility for implementing those judgments and co-ordinating the execution process was assigned to the government. For ECtHR judgments to be implemented effectively, however, the active involvement of the Verkhovna Rada of Ukraine is essential.
7. On 23 June 2011, the Assembly adopted PACE Resolution 1823 (2011), which called on national parliaments to create adequate procedures to verify the compatibility of draft legislation with ECHR standards and monitor the implementation of the Strasbourg Court's judgments. The Assembly stressed that national parliaments are often overlooked in the context of the implementation of international human rights norms; their potential needs to be further explored; they are key to the effective implementation of international human rights norms at national level and fulfil their duty to protect human rights through legislating (including the vetting of draft legislation), involvement in the ratification of international human rights treaties, holding the executive to account, liaising with national human rights institutions and fostering the creation of a pervasive human rights culture.³
8. Internal structures established in the VRU for supervising the implementation of ECtHR judgments have been around for a long time. In 2012, for example, the VRU created a Sub-Committee on Civil, Economic, Administrative Proceedings, Advocacy and Implementation of Judgments of the ECtHR within the Committee on the Rule of Law and Justice. Before that, a Sub-Committee on Parliamentary Oversight of the Execution of Judgments of the European Court of Human Rights existed within the Committee on the Judiciary.
9. In 2014, early elections to the Verkhovna Rada were held. Although the Committee on Legal Policy and Justice inherited the functions of its predecessor in the previous Parliament, this time there was no sub-committee dedicated to the implementation of ECtHR judgments.
10. In June 2017, the Verkhovna Rada Committee on Legal Policy and Justice reinstated a sub-committee responsible for effective oversight of the execution of ECtHR judgments, namely the Sub-Committee on the Execution of ECtHR Judgments.

³ Assembly Resolution 1823 (2011) "National parliaments: guarantors of human rights in Europe", available at <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=18011&lang=en>, accessed 14 July 2020.

11. In the parliamentary elections of 2019, a significant number of newly elected politicians with no or minimal previous political experience won seats in the VRU.

12. The volatile political situation in Ukraine has also affected the functioning of Parliament in general. Although the Verkhovna Rada plans its legislative activities in advance, it often fails to observe the timelines set out in the plan due to the need to consider urgent draft laws. While that may be justified in the wider economic and political context, the functioning of the VRU and its internal structures has been significantly impaired as a result. The Sub-Committee faces the same difficulties as those faced by Parliament as a whole.

13. After the 2019 elections, the new Verkhovna Rada created a Committee on Legal Policy which inherited the task of supervising the implementation of ECtHR judgments from its predecessor. The Sub-Committee on the Execution of ECtHR Judgments and Alternative Dispute Resolution was set up within this Committee.

14. The VRU and the PACE's Parliamentary Project Support Division have a history of working together. From 2017 to 2019, the PPSD organised training sessions for members of the Verkhovna Rada and staff of the VRU committees. MPs and experts from the UK, Germany, Georgia, the Netherlands, France and Cyprus, staff from the Council of Europe Secretariat and Council of Europe experts shared their experience and helped shape the understanding of new members of the VRU, enabling them to better structure the work of the Sub-Committee.⁴ The Handbook for parliamentarians "National Parliaments as Guarantors of Human Rights in Europe" was published in Ukrainian and disseminated within Parliament and its secretariat.⁵

15. Following the presidential elections in Ukraine in April 2019 and the parliamentary elections in July 2019, the Assembly had to realign and adjust the planned activities to the political realities and needs of Ukraine. One of the realignment exercises involves evaluating the current situation and activities carried out by the Sub-Committee. The present monitoring and evaluation Report will help to assess the functionality of the mechanism and assist the Sub-Committee in developing a working framework, with concrete guidelines and recommendations.

16. The research included:

- documenting and reporting on the work of the Sub-Committee, and identifying areas of the Sub-Committee's work where improvements are needed;
- analysing the role and impact of the relevant stakeholders directly or indirectly responsible for effective implementation of ECtHR judgments at national level;
- evaluating the progress of the work carried out by the Sub-Committee to date, by identifying all the results achieved as well as possible stumbling blocks, and analysing the relevant legal provisions, data, etc.
- providing recommendations and needs assessment to improve the functionality of the Sub-Committee.

17. The research covers the period from June 2017 to June 2020.

18. It is intended for the parliamentarians, parliamentary institutions and the government of

⁴ Implementation of the European Convention on Human Rights: key role of parliament, Press-Release, Council of Europe. Available at <http://assembly.coe.int/nw/xml/News/News-View-EN.asp?newsid=7420&lang=2&cat=151>, accessed 14 July 2020.

⁵ Donald A. and Speck A-K. (2018). *National parliaments as guarantors of human rights in Europe*. Handbook for parliamentarians, Parliamentary Assembly, Council of Europe. Available in Ukrainian at: <http://www.assembly.coe.int/LifeRay/JUR/Pdf/Handbook/HumanRightsHandbook-UA.pdf>, accessed on 14 July 2020. In English available at <http://www.assembly.coe.int/LifeRay/JUR/Pdf/Handbook/HumanRightsHandbook-EN.pdf>

Ukraine, Council of Europe institutions and other international bodies, as well as non-governmental organisations.

METHODOLOGY

19. The report consists of three parts: monitoring results including aggregated data, conclusions aimed to clarify findings and recommendations (based on the author's own impressions or views expressed by respondents that the author believes are valuable), and the recommendations developed by the author together with the respondents. It represents primary monitoring and evaluation of the work of the VRU Sub-Committee in supervising the implementation of ECtHR judgments.

20. No such monitoring and evaluation of the VRU has been conducted recently so there was no existing methodology on which to draw or build. The process of developing appropriate methodology was an integral part of the exercise. For these reasons, no external benchmarks were available when carrying out the research (e.g. previous monitoring and evaluation report, detailed description of best practices, etc.)

21. The form and means of the research were in line with PACE Resolution 1823 (2011) "National parliaments: guarantors of human rights in Europe" and the Handbook for parliamentarians "National parliaments as guarantors of human rights in Europe".

22. The data concerning the Sub-Committee's internal arrangements and its work throughout the period under review were selected as the indicators (for example, number of Sub-Committee sittings, draft laws considered, references in the media, etc.).⁶ Comparable data (e.g. related to a different period of the Sub-Committee's operation such as before the 2019 elections) were cross-referenced.

23. Most of the information has been gleaned from interviews with members of the Sub-Committee and other MPs (of the current and previous VRU convocation), the Office of the Agent of Ukraine before the European Court of Human Rights, the Ombudsperson, the Supreme Court, CoE institutions and NGOs. All the respondents were sent the list of questions in advance.⁷ The questionnaire could be adapted to the stakeholder's specific functions and roles in the execution process.

24. A proposal to provide primary information via an online questionnaire was submitted to all respondents. Representatives of the Department for the Execution of Judgments of the Council of Europe Directorate General Human Rights and Rule of Law, the Ministry of Justice and selected NGOs agreed to follow the procedure suggested. The remaining respondents preferred a personal interview as the primary means of gathering information.

25. The interviews were conducted via face-to-face meetings, telephone interviews or online communication. The semi-structured interview method was used in cases where the primary information was collected via first-hand personal contacts. These were then followed up in order to double-check the relevance of the information gathered and to clarify the views of the respondents. The unstructured interview method was used for follow-up interviews.

26. The primary method of conducting the research was qualitative although the quantitative method was also used where possible.

27. In order to ensure the reliability of the information received, representatives from a range of institutions and political groups were interviewed. Information received from the secretariat of the

⁶ In the event, the indicators cited here as examples proved to be irrelevant, for the reasons explained later in this report.

⁷ The list of questions appears in Appendix 3 to this report.

Verkhovna Rada of Ukraine and obtained from public sources such as the official website of the Verkhovna Rada and online media was also compared and included in the report. The draft version of the findings and recommendations sections of the report was sent to most of the stakeholders for consultation. Some adjustments were made to the report in the light of the comments received.

28. The findings reflected in the research and the conclusions reached by the author have been coloured by certain specific factors such as the parliamentary elections of 2019 and the covid-19 pandemic in 2020, which disrupted the work of the institutions concerned. Social interaction was severely curtailed, resulting, for example, in the cancellation of the parliamentary hearings originally scheduled for March 2020.⁸

29. This report aims to provide the Sub-Committee and other VRU structures, along with the relevant CoE institutions and civil society, with information that could assist them in organising their work in the field of human rights protection.

30. The author hopes that he has managed to present a picture that adequately reflects the situation with regard to the Ukrainian Parliament's work in implementing the judgments of the European Court of Human Rights.

EXISTING EXPECTATIONS REGARDING THE SUB-COMMITTEE'S ROLE

31. During the monitoring and evaluation process, individuals representing the Sub-Committee and national stakeholders (including civil society representatives) expressed a common vision of the Sub-Committee's tasks and its role.

32. They observed that the Sub-Committee should be responsible at the legislative level for overseeing the effective implementation of existing ECtHR judgments (*post-factum* remedial action), establishing a system resistant to further breaches of the Convention, preventing such breaches, and providing a platform for discussion and consensus building and for expert and professional exchanges on the relevant issues pending execution. As an example, the discussions surrounding the implementation of the pilot judgment in the case of *Yuriy Nikolayevich Ivanov* and the follow up to the *Burmych and Others v. Ukraine* judgment were referred to. At the instigation of the Sub-Committee (2017-2019), the topic had been discussed at parliamentary level, and some legislative initiatives encouraged. In particular, the Sub-Committee held a public hearing on the problem of the non-execution of domestic judgments against the State, in co-operation with the Council of Europe, in 2017. There was also a Sub-Committee meeting dedicated to execution matters. Representatives of the stakeholders also expressed the hope that, with its specialist knowledge and experience in the field of human rights, the Sub-Committee would be able to assist other institutions and structures, especially within the VRU, in their work on human rights issues and in co-ordinating their activities, thus ultimately facilitating the execution of ECtHR judgments.

33. Some respondents among the MPs and outside the VRU said that Parliament should exercise parliamentary oversight over the executive where the implementation of ECtHR judgments is concerned.

34. One further point was made by representatives of the Council of Europe institutions. There is

⁸ Following the drafting of the report, it was announced that Parliament was considering holding parliamentary hearings on this subject on 11 November 2020. The draft resolution is available at http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=69473, accessed 14 July 2020.

a feeling that the Sub-Committee should be a focal point for contacts between the Council of Europe and the Ukrainian Parliament, facilitating interaction on execution matters with respect to the legislative measures required by the ECtHR judgments.

35. Although there is a common vision of the Sub-Committee's role among the respondents, the mandate of the Sub-Committee does not entirely match this (see below). Some of the respondents from outside Parliament also believe that Parliament is not performing in a way that meets the expectations mentioned above.

ROLE OF THE VERKHOVNA RADA IN THE IMPLEMENTATION OF ECtHR JUDGMENTS

36. On 23 February 2006, the Verkhovna Rada of Ukraine adopted the Law “On the Execution of Judgments and Implementation of Practice of the European Court of Human Rights” (*Про виконання рішень та застосування практики Європейського суду з прав людини*).

37. The Law stipulates that the task of implementing ECtHR judgments falls to the “Representative Body”, meaning the body responsible for representing Ukraine before the European Court of Human Rights and co-ordinating the implementation of its judgments. At the time of writing, it was the Office of the Agent of Ukraine before the European Court of Human Rights (who is also the Deputy Minister of Justice of Ukraine) which performed this function.

38. According to Article 14 of the Law, every three months the Representative Body is required to make a submission to the Cabinet of Ministers of Ukraine about general measures required under ECtHR judgments.⁹

39. The submission includes proposals for resolving any systemic problems and eliminating their root causes, in particular, analysing the circumstances leading to violations of the Convention, suggesting amendments to legislation and administrative practice, envisaging proposals for professional training on the ECHR and ECtHR practice for judges, prosecutors, lawyers, law enforcement agencies and, lastly, listing the central government agencies responsible for implementing each measure proposed, etc. At the same time, the Representative Body is required to submit proposals to the Verkhovna Rada of Ukraine for consideration with a view to framing the necessary draft legislation.

40. Based on the submission, the Cabinet of Ministers of Ukraine is required to, *inter alia*, adopt legislation aimed at the implementation of general measures or propose draft laws to the Verkhovna Rada of Ukraine in accordance with its right of legislative initiative.¹⁰

41. Although many problems relating to the implementation of ECtHR judgments cannot be resolved without the involvement of the Verkhovna Rada of Ukraine and resolving some of them depends exclusively on Parliament, the legislative body of Ukraine remains sidelined from the implementation process and plays only a secondary role, with the primary role in initiating legislative

⁹ General measures are the actions that need to be adopted in order to prevent new violations or to put an end to continuing violations, in particular (although not exclusively) where the violation stems from a structural or systemic problem of law or policy. See: Donald A. and Speck A-K (2018), National parliaments as guarantors of human rights in Europe. Handbook for parliamentarians, Parliamentary assembly, Council of Europe, p. 10. In Ukrainian available at <http://www.assembly.coe.int/LifeRay/JUR/Pdf/Handbook/HumanRightsHandbook-UA.pdf>, accessed 14 July 2020.

¹⁰ Paraskeva C. and Emberland M (2017), Assessment of the Ukrainian Legislation on the Execution of Judgments of the European Court of Human Rights, Council of Europe. Available at <https://rm.coe.int/coe-assessment-law-execution-of-ecthr-judgments/168097f9dc>, accessed 14 July 2020.

change and making relevant proposals to Parliament being assigned to the executive.

42. Based on the legislative provisions, respondents on behalf of different institutions expressed contradictory views regarding the extent to which the VRU should take an active role in the implementation process. It is worth noting that opinions were also divided among the MPs interviewed.

PROCEDURE AND STRUCTURE

Legislation

43. Pursuant to Article 1 of the Law “On VRU Committees” (hereafter – the Law), a committee of the Verkhovna Rada is a body consisting of People’s Deputies of Ukraine (MPs) operating with a view to the implementation of legislative activity through various avenues, the preparation and preliminary consideration of matters under Parliament’s jurisdiction and the performance of supervisory functions. Committees are accountable and report to the VRU. The Speaker of the VRU is required to co-ordinate the committees’ activities.

44. In accordance with Article 5 of the Law, the VRU is required to approve the number of committees, their titles and terms of reference. Pursuant to Article 6 of the Law, the newly convened Verkhovna Rada forms committees by electing their chairpersons, first deputy chairpersons, deputy chairpersons, secretaries and members. Article 6 of the Law stipulates that when electing MPs to committees, the quotas set by the Verkhovna Rada’s Rules of Procedure must be met.

45. Pursuant to Article 37 of the Law, sub-committees are to be created by committees for the purpose of supporting their main activity. They are to consist of at least three members of the relevant committee. MPs may sit on more than one sub-committee of the same committee. The terms of reference, the names of the sub-committees and the number of members are determined by the committee.

46. According to Article 38 of the Law, during its meetings, a sub-committee examines draft laws and issues referred to it or within its competence and reports to the committee. The chairperson of the sub-committee draws up a timetable for the following month, co-ordinates it with the chairperson of the committee and prepares meetings of the sub-committee. All meetings of the sub-committee are open to all members of the parent committee. Non-sub-committee members may attend meetings of the sub-committee in an advisory capacity and express their views on the matters discussed.

47. Article 39 of the Law stipulates that committee members are required to participate in the work of the committees and sub-committees and to attend meetings of any committee and/or sub-committee to which they belong.

48. Article 54 of the Law determines the legal status of committees’ secretariats. It stipulates that a committee’s secretariat is part of the secretariat of the VRU and subordinated to the committee and the head of the secretariat. The committee’s secretariat is to provide organisational support, information, legal guidance and methodological support for the committee’s activities, etc. The Speaker of the VRU determines the structure and size of committees’ secretariats within the authorised limits. Divisions and services may be established within a committee secretariat according to the committee’s terms of reference, the membership of the committee, and the number of sub-committees.

Mandate

49. There is no special mandate for sub-committees under Ukrainian law. Generally speaking, the authority of any VRU sub-committee is limited to the ordinary powers vested in its members as MPs. Any activity on the part of a sub-committee that extends beyond the activities of the relevant committee as a whole (except self-representation) may take place only if it has the support of the committee and is carried out on its behalf. A sub-committee cannot prejudge the decisions of its parent committee, however. These provisions are fully applicable to the Sub-Committee on the Execution of ECtHR judgments.

50. In the context of the implementation of ECtHR judgments, all the respondents (including representatives of the VRU and external institutions) deemed the powers of the Sub-Committee members to be sufficient.

51. The current Committee on Legal Policy changed the name of the sub-committee responsible for the implementation of ECtHR judgments. This renaming was connected to the scope of its mandate. The current mandate is more extensive than that of the previous sub-committee and also includes matters relating to alternative dispute resolution (arbitration, both domestic and international, and mediation issues).

52. The respondents from the VRU provided two different explanations for this. Some said the decision to rename the sub-committee had been prompted by the desire to reduce the number of cases pending before the domestic courts and so reduce the number of applications to the ECtHR. Others said that it was due to the way in which powers and responsibilities were allocated among the different sub-committees of the Committee on Legal Policy.

Composition

53. In 2019, the VRU saw its largest intake of new members in 25 years: 77% of the newly elected MPs were entering Parliament for the first time. 326 out of the 425 seats in the VRU were won by individuals with no previous parliamentary experience.¹¹

54. The Committee on Legal Policy, along with other VRU committees, was established by VRU Decree No. 19-IX of 29 August 2019.¹²

55. The Sub-Committee on the Execution of ECtHR Judgments and Alternative Dispute Resolution together with the other sub-committees was formed by the Committee on 4 September 2019.¹³

56. All the respondents from the VRU (including opposition MPs) confirmed that MPs were able to join freely any committee or sub-committee they wished.

57. All members of the Sub-Committee are professional lawyers, with previous experience in various sectors of the legal profession (judges, academics, lawyers, other legal practitioners).

58. Membership as compared with the previous Sub-Committee of 2017-2019 increased from 5 to 8 persons. At the same time, 6 of the 8 Sub-Committee members officially belong to more than 2 other sub-committees of the same Committee (see Appendix 2).

59. Two out of the eight members have previous experience in parliamentary work.

¹¹ More detailed analysis of the parliamentary elections statistics is available at <https://zbruc.eu/node/91072>, accessed 14 July 2020.

¹² VRU decree No. 19-IX of 29 August 2019 available at <https://zakon.rada.gov.ua/rada/show/19-20>, accessed 14 July 2020.

¹³ Decision of the Committee on Legal Policy available at <http://kompravpol.rada.gov.ua/uploads/documents/32488.pdf>, accessed 14 July 2020.

Secretariat

60. The Committee on Legal Policy has its own secretariat with 20 staff members. According to the respondents from the VRU, during the previous Parliament, there had been someone in the secretariat who was well trained in ECtHR practice. At the time of the research, this position was vacant, along with 2 others (in total, therefore, 3 positions out of the 20 were vacant).

61. The task of the secretariat is to provide operational support to the Committee itself as well as attending to the functional needs of its sub-committees. There are no staff in the secretariat dedicated to the specific needs of the Sub-Committee.

Planning

62. The Committee on Legal Policy plans out its work for each forthcoming session of the VRU. A plan for the third session, for example, had been adopted on 15 January 2020.

63. This plan contains at least 6 draft laws concerning the implementation of human rights standards (Nos. 0882, 0883, 2450, 2531, 2706 and 2712). A parliamentary hearing entitled “Problems relating to the implementation of ECtHR judgments by Ukraine” was scheduled to take place on 25 March 2020 but was cancelled due to the covid-19 pandemic.¹⁴

64. The Committee schedules its own work and the work of its sub-committees, although no Sub-Committee names are specified in the schedule.

65. No information on strategic planning for the implementation of ECtHR judgments, the Sub-Committee’s work plans or schedules was provided by the respondents. Nor was it available from public sources.

66. Some respondents from the VRU described the work of Parliament during its first year as chaotic. They explain this situation with reference to the political situation in Ukraine and the fact that the planned legislative activity was disrupted by urgent draft laws tabled by the President’s Office. The difficulties experienced by Parliament have a serious impact on all its institutions, including the Committee and the Sub-Committee.

Meetings and Records

67. The Committee on Legal Policy proceeds according to its plan and meets regularly. No information on actual meetings of the Sub-Committee was provided.

68. The Committee keeps minutes of its meetings. There is no obligation to keep records of the Sub-Committee meetings, which have not been logged since 2017.

¹⁴ Following the drafting of the report, it was announced that Parliament was considering holding parliamentary hearings on this subject on 11 November 2020. The draft resolution is available at http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=69473, accessed 25 July 2020.

General overview

69. According to the information provided by the Department for the Execution of Judgments of the European Court of Human Rights of the Council of Europe Directorate General Human Rights and Rule of Law (hereafter – the DEJ), a body with a dual mandate, which advises the Committee of Ministers of the Council of Europe in its task of supervising the execution of judgments and provides expert assistance to any states requesting such assistance in formulating measures pursuant to ECtHR judgments, as at 5 June 2020, 1,595 cases had been transmitted for supervision since the entry into force of the Convention with respect to Ukraine (on 11 September 1997), with 995 cases closed by final resolution adopted by the Committee of Ministers (hereafter – the CM).

70. A similar description of the situation had been provided in the PACE report on the implementation of judgments of the ECtHR:¹⁵

“...In the case of **Ukraine**, the major long-standing problem of the failure to execute domestic judicial decisions or delaying their execution (*Zhovner/Yuriy Nikolayevich Ivanov/Burmych* group) has persisted for over eighteen years. At its 1369th meeting in March 2020, the Committee of Ministers noted the progress made in the payment of compensation to the applicants in the *Burmych* case, but deeply regretted the significant delays in ensuring payment and called upon the authorities to speed up their payment process to all the applicants in this case. As regards general measures, it took note of the recent legislative amendments and other measures taken, but reiterated its “utmost concern at the lack of further tangible action in adopting the relevant institutional, legislative and other practical measures” and deplored the lack of information on the adoption of the National Strategy, the mandate of the Legal Reforms Commission and the body, at the highest political level, which should be responsible for taking the lead in this matter.¹⁵⁸ It underlined that the Ukrainian authorities should demonstrate “sustained political commitment at the highest political level” and called upon the authorities to achieve rapid progress and introduce all necessary measures until this problem is fully resolved.¹⁵⁹ As for the other judgments mentioned in the report of my predecessor, the Committee of Ministers noted some progress made in implementing judgments concerning ill-treatment inflicted by police officials (*Afanasiyev* and *Kaverzin* groups)¹⁶⁰, shortcomings in the legislation governing the use of detention on remand and its application (*Ignatov* group)¹⁶¹ and the lack of impartiality and independence of judges (*Oleksandr Volkov* group of cases)¹⁶². However, little progress has been achieved on long-standing problems such as poor detention conditions (*Nevmerzhitsky* and *Kuznetsov* groups of cases), excessive length of judicial proceedings (*Svetlana Naumenko* and *Merit* groups of cases)¹⁶³, violations of freedom of assembly (*Vyrentsov* group of cases) and the domestic investigation in the *Gongadze* case (examined by the Assembly in 2009).¹⁶⁴ By a decision of 1 April 2020 (no. 258), the Cabinet of Ministers established a special commission on the implementation of the Court’s judgments, composed of members of the executive and of the parliament.”

71. The first case to be placed under the CM’s supervision was *Kaysin and Others v. Ukraine*.¹⁶ Although this case had already been closed, it related to the complex, structural and systemic problem

¹⁵ Implementation of the judgments of the European Court of Human Rights: 10th report by Mr Constantinos Efstathiou and draft resolution of the Parliamentary Assembly, available at <https://pace.coe.int/en/news/7910/-increasing-legal-and-political-difficulties-with-implementing-judgments-of-the-strasbourg-court-warns-committee>, accessed 14 July 2020

¹⁶ App. no. 46144/99; final on 3 May 2001, available at <http://hudoc.exec.coe.int/eng?i=004-47973>, accessed 14 July 2020.

of non-enforcement or delayed enforcement of domestic judicial decisions. A similar issue had arisen again later in the *Zhovner* group of cases,¹⁷ and in *Yuriy Nikolayevich Ivanov*¹⁸ and *Burmych and Others*.¹⁹

72. Along with the above-mentioned issue, the other long-standing issues that have been under supervision since 2004-2006 are failure to protect the life of a journalist and to effectively investigate the circumstances of his death,²⁰ poor material conditions of detention, transportation and lack of adequate medical treatment as well as effective remedies in this respect,²¹ excessive length of judicial proceedings and absence of effective remedies,²² and so forth.²³

73. At the same time, there is a list of closed cases involving former structural or systemic problems that have been successfully resolved by Ukraine. Recent examples include the issues of legal aid in criminal proceedings,²⁴ amendments to the Tax Code,²⁵ or issues concerning the deprivation of non-resident citizens of their pensions,²⁶ etc.

74. Other positive examples of the implementation of ECtHR judgments, where significant progress has been made but certain crucial elements remain pending execution, are the *Oleksandr Volkov* group of cases (judicial reform and matters of independence and impartiality of the judiciary), the *Gorshkov* group,²⁷ etc.

75. *Zelenchuk and Tsytsyura*²⁸ is the most recent example: on 31 March 2020 the law lifting the agricultural land moratorium was adopted. The legislation has been enacted but its impact is still being assessed by the Department.

76. *The PACE report underlined the deep concern* over the number of cases revealing structural problems that had been pending before the Committee of Ministers for more than five years. The number of such cases has fallen only slightly over the last three years. The Assembly also notes that Ukraine is among those countries which have “the highest number of non-implemented Court judgments and still face serious structural or complex problems, some of which have not been resolved for over ten years. This might be due to deeply rooted problems such as persistent prejudice against certain groups in society, inadequate management at national level, lack of necessary resources or

¹⁷ App. no(s). 56848/00+, final on 29 September 2004, available at <http://hudoc.exec.coe.int/eng?i=004-31309>, accessed 14 July 2020.

¹⁸ App. no. 40450/04; pilot judgment, final on 15 January 2010, available at <http://hudoc.exec.coe.int/eng?i=004-31605>, accessed 14 July 2020.

¹⁹ App. no. 46852/13; final on 12/10/2017, available at <http://hudoc.exec.coe.int/eng?i=004-47973>, accessed 14 July 2020.

²⁰ *Gongadze*, app. no. 34056/02; final on 08 February 2006, available at <http://hudoc.exec.coe.int/eng?i=004-31344>, accessed 14 July 2020.

²¹ *Nevmerzhitsky* group, app. no(s) 54825/00+, final on 12 October 2005, available at <http://hudoc.exec.coe.int/eng?i=004-31306>, accessed 14 July 2020.; *Melnik* group, app. no(s) 72286/01+; final on 28 June 2006, available at <http://hudoc.exec.coe.int/eng?i=004-31318>, accessed 14 July 2020. etc.

²² *Svetlana Naumenko* group, app. no(s) 41984/98+, final on 30 March 2005, available at <http://hudoc.exec.coe.int/eng?i=004-31302>, accessed 14 July 2020. and *Merit* group, app. no(s). 66561/01+, final on 30 June 2004, available at <http://hudoc.exec.coe.int/eng?i=004-31316>, accessed 14 July 2020.

²³ For more detailed, up-to-date information, see the country factsheet concerning Ukraine (as of June 2020) available at <https://www.coe.int/en/web/execution/country-factsheets>, accessed 14 July 2020.

²⁴ *Zagorodniy*, app. no. 27004/06, final on 24 February 2011, available at <http://hudoc.exec.coe.int/eng?i=004-26450>, accessed 14 July 2020.

²⁵ *Serkov*, app. no. 39766/05, final on 7 October 2011, available at <http://hudoc.exec.coe.int/eng?i=004-31626>, accessed 14 July 2020.

²⁶ *Zelenchuk and Tsytsyura v. Ukraine*, app. nos. 846/16 and 1075/16, final from 22 August 2018, available at <http://hudoc.exec.coe.int/eng?i=004-50173>, accessed 14 July 2020.

²⁷ On 14 November 2017, the Law of Ukraine “Amending the Psychiatric Care Act” was adopted, introducing the requirement for any extended use of compulsory measures to be reviewed by a court at least every six months; the person concerned or his/her defence counsel/representative has the right to appeal the decision, moreover.

²⁸ *Zelenchuk and Tsytsyura*, *ibid*.

political will or even open disagreement with the Court's judgment".²⁹

Classification of issues

77. The respondents mentioned three types of issues requiring the implementation of measures. The most difficult cases, such as non-enforcement of domestic judicial decisions or reform of the penitentiary system, require a tremendous co-ordinated effort on the part of all political actors and state bodies. These cases require comprehensive and systemic institutional changes.

78. The second group of issues can be resolved in a more manageable way, require fewer resources and involve fewer stakeholders. *Petukhov v. Ukraine (no. 2)*³⁰ concerning the systemic problem of the irreducibility of life sentences in Ukraine is one such case.

79. Finally, some issues can be resolved by the VRU amending legislation or adopting new laws in a more focused, case-by-case manner. One example mentioned by respondents was the case of *Veniamin Tymoshenko and Others*³¹ concerning an unlawful ban on a strike. Implementing this judgment requires amendments to the Transportation Act that can be adopted by the Verkhovna Rada alone.

Openness

80. All respondents from the VRU confirmed that they fully understood that the implementation of ECtHR judgments is not limited to judgments against Ukraine and includes ECtHR judgments against other countries as well.

Examples of work

81. The respondents from the VRU noted that at present, the chairpersons of the Committee and Sub-Committee have to work to raise awareness of the need for the Sub-Committee as such, and of the importance of implementing ECtHR judgments.

82. A round table entitled "Implementation of the ECtHR judgments in the cases of Yuriy Nikolayevich Ivanov v. Ukraine and Burmych and Others v. Ukraine: requirements for general measures" was accordingly held on 27 March 2018. A parliamentary hearing entitled "Problems relating to the implementation of ECtHR judgments by Ukraine" was scheduled to take place on 25 March 2020 (as explained above, however, it was postponed to a later date in the autumn 2020 due to the covid-19 pandemic).³²

83. The Sub-Committee of the VRU of 8th convocation proposed draft law No. 8533 aimed at tackling the problem of state debt incurred as a result of court judgments. The draft law was framed with the Ministry of Justice. Unfortunately, this legislative package was withdrawn from Parliament at the end of August 2019 and its fate remains unknown.

²⁹ Implementation of the judgments of the European Court of Human Rights: 10th report by Mr Constantinos Efstathiou and draft resolution of the Parliamentary Assembly, available at <https://pace.coe.int/en/news/7910/-increasing-legal-and-political-difficulties-with-implementing-judgments-of-the-strasbourg-court-warns-committee>, accessed 14 July 2020

³⁰ App. no. 41216/13, final on 9 September 2019, available at <http://hudoc.exec.coe.int/eng?i=004-52757>, accessed 14 July 2020.

³¹ App. no. 48408/12, final on 2 January 2015, available at <http://hudoc.exec.coe.int/eng?i=004-37058>, accessed 14 July 2020.

³² Following the drafting of the report, it was announced that Parliament was considering holding parliamentary hearings on this subject on 11 November 2020. The draft resolution is available at http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=69473, accessed 25 July 2020.

84. As has already been mentioned, there are about 6 cases concerning the implementation of ECtHR judgments in the Committee's work plan. On 3 June 2020, draft law No. 2450 designed to implement the judgments in the case of *Garnaga v. Ukraine*³³ was adopted at its first reading.³⁴

85. In the course of the monitoring and evaluation process, the representative of the Sub-Committee also referred to material related to the development of draft laws on the implementation of judgments in cases such as *Veniamin Tymoshenko*, *Shvydka*, *Petukhov*, *Kharchenko*, *Chanyev*, *Kushch*, *Ivashchenko*, *Naydyon* and others. This material was sent to the Sub-Committee by the Ministry of Justice of Ukraine with a view to preparing the relevant draft laws.

Preventive function

86. The Council of Europe institutions routinely call on all member states to provide for adequate parliamentary procedures to systematically verify the compatibility of draft legislation with Convention standards and avoid future violations of the Convention, including regular monitoring of all judgments which could potentially affect the respective legal orders.³⁵

87. As mentioned above, all the MPs interviewed demonstrated a full understanding of the importance of preventing human rights violations and abiding by ECtHR judgments. No examples of planned preventive actions on behalf of Parliament were reported, however.

PARLIAMENTARY OVERSIGHT

88. Parliament can and should exercise oversight over the executive regarding the implementation of ECtHR judgments – this can be done via committee and parliamentary hearings, but also via formal requests for members of the executive to appear before Parliament and to provide explanations as to the work undertaken for the purpose of executing judgments.

89. Some respondents from the VRU expressed the view that the parliamentary oversight function is traditionally weak. Mr. R. Sydorovych suggested that laws in Ukraine are rather like orphans who have been cast out into the world and forgotten by their parents, and that the Sub-Committee, like all VRU bodies, has inherited this disease.

90. Parliamentary committee hearings were cited as a successful example of parliamentary oversight in action.

³³ The case of *Garnaga* concerns the right to change one's patronymic. See *Garnaga v. Ukraine*, app. no. 20390/07, available at <http://hudoc.exec.coe.int/eng?i=004-31242>, accessed 14 July 2020.

³⁴ The draft law on amendments to certain legislative acts of Ukraine concerning the right of individuals to change their patronymics available at http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?id=&pf3511=67410, accessed 14 July 2020.

³⁵ See for example, Assembly Resolution 1823 (2011) "National parliaments: guarantors of human rights in Europe", available at <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=18011&lang=en>, accessed 14 July 2020; Assembly Resolution 1726 (2010) "Effective implementation of the European Convention on Human Rights: the Interlaken process", available at <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17849&lang=en>, accessed 14 July 2020; Recommendation CM/Rec (2004)5 of the Committee of Ministers to member states on the verification of the compatibility of draft laws, existing laws and administrative practice with the standards laid down in the European Convention on Human Rights, adopted by the Committee of Ministers on 12 May 2004 at its 114th Session, available at https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805dd194, accessed 14 July 2020 and others.

VISIBILITY

91. Although visibility is perhaps not the most critical issue where the Sub-Committee's activities in connection with implementation are concerned, it is definitely the most neglected one.

Publication of official data

92. A list of the sub-committees formed by the Committee on Legal Policy with details of their composition and mandate was published on the Committee's web-page.³⁶

93. The Committee on Legal Policy publishes its work plans and schedule on the official website of the VRU. During the period when the research was conducted, there were published plans for the 2nd and 3d sessions.³⁷ The schedule of the Committee and Sub-Committee meetings for the period February-July 2020 has been published.³⁸ Agendas for Committee meetings are also made available.³⁹

94. Yet, no such information could be found on the VRU website with regard to the Sub-Committee. The schedule of Committee and Sub-Committee meetings mentioned above gives no details regarding the agendas or names of the sub-committees concerned. The section of the website devoted to meetings of sub-committees is blank.⁴⁰

95. No reports on the work of the Committee or its Sub-Committees were found.⁴¹

96. Although agendas⁴² and records⁴³ of the Committee of the previous Parliament were found on the website, no information regarding its plans, schedules, reports, and sub-committee activities were available on the internet.

97. The respondents representing NGOs confirmed that they have minimal or no information about the Sub-Committee, even though it covers subjects that fall within their own remit. As a result, NGOs cannot attend meetings or make relevant proposals based on the agenda.

Accessibility of other information

98. The respondents from the VRU said there is no public relations strategy or media plan for the Committee or Sub-Committee. They further noted that the Verkhovna Rada has no need to take special steps to attract attention, because the status of Parliament is such that it is always in the spotlight. In their opinion, this also explains why the various bodies of the VRU remain in the background.

99. Web searches revealed that the activities of the sub-committee are under-represented and do not feature prominently in the media.

100. Evidence of this lack of visibility is reflected in the fact that the Sub-Committee was not even mentioned in the document entitled "Strengthening Parliamentary Oversight and Facilitating Coordination between the Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine to

³⁶ General information on the Sub-Committees of the Committee on Legal Policy available at http://kompravpol.rada.gov.ua/news/Pro_komitet/Zagalna_info/73339.html, accessed 14 July 2020.

³⁷ Work plans of the Committee on Legal Policy available at http://kompravpol.rada.gov.ua/news/Pro_komitet/Plans_robot/72848.html, accessed 14 July 2020.

³⁸ Meetings schedule of the Committee on Legal Policy and its Sub-Committees available at http://kompravpol.rada.gov.ua/documents/doc_arch/73002.html, accessed 14 July 2020.

³⁹ Agendas for meetings of the Committee on Legal Policy available at http://kompravpol.rada.gov.ua/documents/zasid/poriadky_den_9skl/, accessed 14 July 2020.

⁴⁰ Recent agendas for the Committee on Legal Policy available at http://kompravpol.rada.gov.ua/documents/zasid_pdkom/, accessed 14 July 2020.

⁴¹ Following the drafting of this report, Committee on Legal Policy reports for the first three sessions of the current Parliament were published. The reports are available at http://kompravpol.rada.gov.ua/news/Pro_komitet/zvit_kom/zvit_sesii/73523.html, accessed 25 July 2020.

⁴² Agendas for meetings of the Committee of the VRU of 8th convocation available at http://kompravpol.rada.gov.ua/documents/zasid/poriadky_den/, accessed 14 July 2020.

⁴³ Records of the Committee of the VRU of 8th convocation available at <http://kompravpol.rada.gov.ua/documents/zasid/protokol/>, accessed 14 July 2020.

Enforce International Human Rights Treaties” produced with the support of the EU-UNDP Parliamentary Reform Project.⁴⁴

RESPONDENTS’ ASSESMENT OF THE SUB-COMMITTEE’S NEEDS

101. All the MPs interviewed during the research stressed the need for the Sub-Committee to have a dedicated secretariat. Although they described different models whereby the secretariat could provide organisational and technical support to the Sub-Committee, the idea was essentially the same. They emphasised that MPs could not continue to work in a professional manner and keep abreast of developments in ECtHR case-law without technical support. Various possibilities for resolving this issue were suggested: 2 or 3 people – whether secretaries or staff in the joint secretariat of the Committee, or in the Chief Legal and Scientific Departments of the VRU – could be dedicated to the Sub-Committee. Whatever the preferred arrangement, the individuals in question should be dedicated to and focused on matters relating to the Council of Europe and the ECtHR. They should have a thorough understanding of human rights issues and be able to provide technical assistance to the Sub-Committee’s members, ensure smooth succession and transition after elections and safeguard institutional knowledge, methodology and practices.

102. All the respondents mentioned the VRU’s training needs. The assessment of these needs varied from basic training for VRU secretariat staff to advanced training for Committee and Sub-Committee members in human rights and ECtHR practice. MPs also said that high staff turnover in the secretariat posed a challenge in this area.

103. All the respondents also underlined that implementation was hampered by the lack of a comprehensive list of outstanding issues, with clear priorities. It was felt that an easy-to-understand inventory of issues was essential if Ukraine was to gradually move forward.

104. For some additional points, see the Conclusions section.

CONTINUITY (SUCCESSION)

105. Some of the MPs who replied to the questionnaire noted that a smooth succession between the Sub-Committees of the current and previous Parliaments was ensured thanks to good professional relations between the person who had chaired the Sub-Committee from 2017 to 2018 and the current chairperson.

106. At the same time, however, there did not appear to be any tools for safeguarding institutional memory or ensuring knowledge management.

⁴⁴ Strengthening Parliamentary Oversight and Facilitating Coordination between the Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine to Enforce International Human Rights Treaties. Recommendations (2019), available at https://www.ua.undp.org/content/ukraine/en/home/library/democratic_governance/coordination-of-VRU-and-CMU-for-implementation-of-international-human-rights-instruments.html, accessed 14 July 2020.

Other VRU bodies

107. The implementation of ECtHR judgments is not the sole preserve of the Sub-Committee but is a function to be performed by the Verkhovna Rada as a whole. Depending on the circumstances, different parliamentary bodies may deal with issues related to the implementation of ECtHR judgments. For example, the question of the implementation of the judgment in the *Veniamin Tymoshenko* case was referred to the Committee on Transportation and Infrastructure. The Committee on Human Rights, Deoccupation and Reintegration of Temporarily Occupied Territories in Donetsk, Luhansk Regions and Autonomous Republic of Crimea, National Minorities and Interethnic Relations also performs cross-cutting functions. The respondents from the VRU cited parliamentary hearings as an example of sound, practical solutions in cases where the terms of reference overlap.

The Ministry of Justice

108. Representatives of the VRU and the MoJ described relations between these institutions as productive, while noting, however, that the level of interaction had declined after the 2019 parliamentary elections.

Supreme Court

109. Representatives of the Sub-Committee and the Supreme Court recognised that interaction between these two institutions was very weak. The few examples given involved merely representatives from both institutions participating in certain public events (such as conferences, round tables, etc.) and a formal exchange of letters.

Ombudsperson

110. Both parties described relations as business-like, although no actual examples of interaction were provided.

NGOs

111. During the monitoring and evaluation process, the MPs interviewed expressed their readiness to work with civil society, although no examples of such co-operation were given.

112. The NGO officials interviewed had very little or no awareness of the work of the Sub-Committee. None of the NGO officials had any experience of working with the Sub-Committee. They did, however, report on their experience of co-operation with the Committee on Human Rights, Deoccupation and Reintegration of Temporarily Occupied Territories in Donetsk, Luhansk Regions and Autonomous Republic of Crimea, National Minorities and Interethnic Relations.

Interagency Commission

113. On 1 April 2020, the Cabinet of Ministers of Ukraine set up a Commission on the Implementation of ECtHR Judgments.⁴⁵ The Commission is a temporary advisory body to the Cabinet of Ministers of Ukraine. It includes representatives of the executive, the Deputy Speaker of the VRU, the chairperson of the Committee on Legal Policy, the chairperson of the Sub-Committee and judges from the Supreme Court. Representatives of the Council of Europe Office in Ukraine, representatives of the European Union in Ukraine and NGOs were also invited to join the Commission.

114. The Commission is chaired by the Deputy Prime Minister for European and Euro-Atlantic Integration of Ukraine, the Minister of Justice is the Vice-Chairperson, and the Agent before the European Court of Human Rights is the Secretary of the Commission. The chairperson of the VRU Legal Policy Committee and the chairperson of the Sub-Committee on the Execution of ECtHR judgments also sit on the Commission.

115. The primary task of the Commission is to develop mechanisms to address systemic and structural issues revealed by the judgments of the European Court of Human Rights in cases against Ukraine, with the aim of preventing such breaches of the Convention in the future, and improving the legal framework for the implementation of ECtHR judgments.

116. No Commission meetings have been held as yet.

Interaction with Council of Europe institutions

117. The Verkhovna Rada of Ukraine, the Committee on Legal Policy and the Sub-Committee have experience of interaction with Council of Europe institutions which the respondents described as positive.

118. Interaction with the Assembly is organised via the national PACE delegation. The Committee on Legal Policy and the Sub-Committee confirmed that they have a very good relationship with the Ukrainian delegation in the Assembly. Indeed, one of the Sub-Committee members is also a member of the Ukrainian delegation.

119. MPs, members of the Ukrainian delegation to the PACE and staff from the VRU secretariat take part in the annual study visits to the Assembly.

120. The DEJ is organising the annual meeting of the network of interlocutors in the execution process which includes the parliamentary Sub-Committee on the Execution of ECtHR judgments. The DEJ was also invited to the parliamentary hearing on the execution of ECtHR judgments, which is due to take place at the end of 2020.⁴⁶

121. There is an ongoing working dialogue on the execution of judgments between the VRU and the DEJ.

122. There have also been negative examples of interaction, however. For instance, representatives of the Ukrainian delegation to the Assembly did not attend meetings with the rapporteurs appointed by the Assembly when the 10th report on the implementation of the Court's judgments was being drawn up.⁴⁷

⁴⁵ Decree of the Cabinet of Ministers of Ukraine "Establishing the Commission on the Implementation of ECtHR Judgments" no. 258 of 1 April 2020, available at <https://zakon.rada.gov.ua/laws/show/258-2020-n#Text>, accessed 14 July 2020.

⁴⁶ Following the drafting of the report, it was announced that Parliament was considering holding parliamentary hearings on this subject on 11 November 2020. The draft resolution is available at http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=69473, accessed 25 July 2020.

⁴⁷ Implementation of the judgments of the European Court of Human Rights: 10th report by Mr Constantinou Efstathiou and draft resolution of the Parliamentary Assembly, para. 3, available at <https://pace.coe.int/en/news/7910/-increasing-legal-and-political-difficulties-with-implementing-judgments-of-the-strasbourg-court-warns-committee>, accessed 14 July 2020.

OTHER FINDINGS

123. In the course of the monitoring and evaluation process, it emerged that the work in preparing the list of cases pending execution was supported by the EU-funded project “Pravo-Justice”.⁴⁸ This project aims to assist the national authorities in developing a strategic vision of the cases against Ukraine pending execution, with a list of legislative, institutional and practical measures for ensuring full execution of ECtHR judgments. The Ministry of Justice and the Supreme Court were involved in the process. Unfortunately, the Parliament of Ukraine has not been considered a target group or beneficiary of the project. The results of this work will also be used, however, in planning and supporting the activities of the Sub-Committee.

CONCLUSIONS

124. This section is intended to assess and explain the findings set out in the previous section.

125. There is reason to believe that the Verkhovna Rada of Ukraine has great potential where the implementation of ECtHR judgments is concerned. It enjoys sufficient legitimacy and authority and could demonstrate progress towards the protection of human rights.

Personal commitment and institutional development

126. The level of personal commitment to human rights is very impressive among all the Sub-Committee members interviewed, both current and former. Co-operation between members of the Sub-Committee of the current and previous Parliaments is constructive and thanks to their close co-operation, they have managed to ensure continuity in the work of the institution. As an example of this co-operation, respondents pointed to the preparations for the parliamentary hearing scheduled for mid-March 2020.

127. If meaningful results are to be achieved, this personal commitment needs to be reinforced by the institutional capacity of the Sub-Committee. Also, responsibility for the implementation of ECtHR judgments needs to be shifted away from just a handful of MPs to the institution as a whole. At the same time, to avoid fluctuations, the effectiveness of the Sub-Committee's work needs to be less dependent on personal attitudes, political affiliation, and other subjective factors. The efforts of the Sub-Committee should be directed first and foremost to the task of executing ECtHR judgments in cases which the State has already lost. Often, the issues involved are merely technical and legal issues, and are not highly politically charged, so the chances of securing political consensus as to the scope and content of measures to be adopted are good.

128. There is a significant demand for a highly trained secretariat within the VUR, dedicated to resolving human rights issues. The secretariat could significantly increase the capacity of the VRU to work on problems relating to the implementation of ECtHR judgments and ensure a smooth transition from one parliament to the next. The Sub-Committee also needs to be placed on a sounder institutional footing to prevent it from being consigned to oblivion, as it was from 2014 to 2017.

129. The respondents suggested various models for achieving this goal. Possibly the most controversial proposal was to assign dedicated secretaries to the Sub-Committee. There is a danger that, in that case, other sub-committees would demand dedicated secretaries too. Another option would

⁴⁸ The report will be available at <https://www.pravojustice.eu/>, the site accessed 14 July 2020.

be to organise the relevant section within the Sub-Committee's secretariat. Although it could help the Sub-Committee to achieve its specific goals, such an arrangement would not address the wider issue of implementation of ECtHR judgments by the Verkhovna Rada at a sufficiently high and centralised level, ensuring overall political commitment to the execution process. The problem is that there are numerous cross-cutting issues assigned to different committees, which concern various judgments handed down by the Strasbourg Court.

130. It might be better, therefore, to have some secretaries well versed in human rights issues working in the secretariat of each VRU committee. Another option would be to have such secretaries in both the Chief Scientific Department and the Chief Legal Department of the VRU. Under this arrangement, all draft laws passing through the VRU would be subjected to scrutiny, and the expert role played by the above Departments in the execution process and their capacity would be enhanced. One final option would be to have a combination of these arrangements.

Roadmap and planning

131. Another area that could be addressed in order to improve the work and reduce the impact of political changes on the implementation process is strategic planning and scheduling. It appears that isolated planning of VRU activity in the context of the execution of ECtHR judgments is not the best approach in the current circumstances. The situation in Ukraine requires close co-ordination between different institutions. It appears that, at the moment, the work is chaotic and poorly co-ordinated. Parliament reacts to external challenges, and there is no understanding of where these issues rank within the wider problems that need addressing.

132. It seems that there is a discrepancy between how the situation is perceived in Ukraine and how it is perceived in Strasbourg. Although some politicians in Ukraine have a good understanding of the issues at stake, their vision is not widely shared. The Hudoc-Exec database is an excellent tool and very helpful for professionals, but inaccessible to the majority of people in Ukraine because of language, technical details, etc.

133. The initiative under the EU Project "PRAVO-Justice"⁴⁹ to provide an analytical document containing an inventory of ECtHR judgments is most welcome. Publishing the list of issues that need to be addressed for judgments to be implemented should provide Ukrainian society with a much clearer and more comprehensible general picture. It could also provide a starting point for further desirable steps.

134. It could be suggested that a comprehensive roadmap for the implementation of ECtHR judgments in Ukraine be devised. The report produced under the "PRAVO-Justice" project together with the National Human Rights Strategy⁵⁰ could form the basis for a future "implementation roadmap". The Council of Europe could provide technical help with roadmap development, verifying information as the "owner" of the information in the report. In its turn, the roadmap could become a unifying baseline for the strategic plans that every institution concerned, including the VRU, could draw up for the practical tasks before it. To enhance its mandatory character, it is strongly recommended that the roadmap and/or strategy be adopted by means of a binding decree of the VRU. The roadmap, with

⁴⁹ The report will be available at <https://www.pravojustice.eu/>, accessed 14 July 2020.

⁵⁰ Approved by Decree of the President of Ukraine No. 501/2015 of 25 August 2015. In Ukrainian and in English available at: <https://minjust.gov.ua/m/natsionalna-strategiya-u-sferi-prav-lyudini-6757>, accessed 14 July 2020.

clear timelines and deliverables, and accompanied by a strategy, would need to be reviewed periodically. A time frame of 1.5 to 2 years does not seem unreasonable in the current situation with regard to human rights in Ukraine.⁵¹

135. Although comprehensive, cross-cutting planning is quite important, even as things stand the VRU could focus on those issues that Parliament is capable of resolving by itself through amendments to legislation. No external initiative is needed in such cases, and the VRU is the only institution responsible for implementation here. It appears that this opportunity to improve statistical indicators, while at the same time increasing human rights protection in Ukraine, has not been fully grasped.

Co-operation

136. It is also strongly recommended that interaction between the Sub-Committee and the stakeholders in the VRU and beyond be stepped up. Interaction with the different institutions concerned is the only way to ensure effective implementation of ECtHR judgments. Firstly, co-operation with stakeholders can help to enhance the authority and expertise of the Sub-Committee. It is also an excellent opportunity to improve the results of the activities and to empower the Sub-Committee to tackle complex issues.

137. The most immediate area of improvement is co-operation with cross-cutting committees. A system of joint working could help to improve the quality of the draft legislation submitted to the VRU and secure consensus as to the legislative solutions developed. The respondents from the VRU cited parliamentary hearings as an example of ways to increase interaction with other institutions. While, however, parliamentary hearings can occasionally be used to co-ordinate inter-agency issues within the VRU itself, they are complicated to organise and designed to co-ordinate activities with a broader group of stakeholders that goes beyond the VRU.

138. It appears that the potential for co-operation with the Ministry of Justice is likewise not being fully exploited. As has been pointed out, co-operation of this kind has been less intense than during the previous Parliament. As the focal point for the Council of Europe, the MoJ is in the best position to understand Ukraine's obligations vis-à-vis its European counterparts.

139. Due to conflicting views on the current proposals for judicial reform in Ukraine, it might be difficult for the Sub-Committee and the SC to find a common language in other areas. Interaction with the Supreme Court, and its specialist departments, also offers considerable potential in the area of implementation, however. Information provided by the SC could help the Sub-Committee to gain a better insight into the practical difficulties involved in implementing ECtHR judgments.

140. The potential for Ukrainian civil society to assist implementation is likewise underexploited and it is a matter of concern that there are very few civil society representatives involved in the process of execution of ECtHR judgments. While this is less true of specialist organisations such as the Ukrainian Helsinki Human Rights Union, the Kharkiv Human Rights Group, and the Ukrainian Institute for Human Rights, which deal with particular legal fields or structural reforms outside the “human rights domain” proper,⁵² it is desirable that the pool of NGOs be expanded in this area, and more emphasis placed on

⁵¹ For example, where a new judgment is adopted, as under the pilot-judgement procedure, the strategy should be amended and priorities should in principle change.

⁵² As an example, see the case of Zelenchuk and Tsytsyura (ibid., para. 93-96), in which EasyBusiness, a Ukrainian independent non-profit civil society organisation, intervened as a third party before the Court; following the judgment, it submitted the communication to the CM under Rule 9, available at [http://hudoc.exec.coe.int/eng?i=DH-DD\(2019\)1215E](http://hudoc.exec.coe.int/eng?i=DH-DD(2019)1215E), accessed on 14 July 2020.

specialisation.

141. Quite apart from its potential to provide expertise, civil society could put pressure on the VRU to pay more attention to the general measures required in response to the Strasbourg Court's judgments. Although monitoring the role of civil society was not one of the tasks of this research, it appears that securing the ECtHR judgment is the final destination point for the NGOs' work. Very few examples of their involvement in the subsequent implementation process were given.

Visibility

142. Were the VRU to be seen to be working towards the execution of ECtHR judgments, that might also give Parliament greater legitimacy in the field of human rights and international law. It is strongly recommended that a PR strategy be devised to promote the work done in executing ECtHR judgments and provide the Ukrainian media with more information on this issue.

143. Publishing the Committee's and Sub-Committee's work plans, reporting on their implementation and publishing information about examples of their work in the media could increase their credibility. It would also be a good opportunity to involve civil society representatives in the relevant activities and win more support from NGOs.

Naming

144. Naming institutions is a way to raise their profile in some areas and highlight their functions or, conversely, to conceal and obscure them. Although the task of implementing ECtHR judgments has been assigned to the relevant sub-committee of the Committee on Legal Policy, that is not immediately obvious from the title of the Committee.

145. A committee, by virtue of its status, has greater visibility than a sub-committee. The Committee on Human Rights, Deoccupation and Reintegration of Temporarily Occupied Territories in Donetsk, Luhansk Regions and Autonomous Republic of Crimea, National Minorities and Interethnic Relations accordingly attracts more attention in human rights matters than the Sub-Committee on the Execution of ECtHR Judgments. The NGOs officials interviewed identified the former as the contact point for all issues relating to human rights. By contrast, virtually none of them mentioned that the Committee on Legal Policy deals with human rights issues.

146. Including a reference to the implementation of ECtHR judgments in the title of the Committee on Legal Policy could increase its visibility. At the same time, it would send a strong signal from the VRU to external stakeholders and the Sub-Committee that the execution of ECtHR judgments is of the utmost importance to Parliament. A possible quid pro quo would be greater institutional responsibility on the part of the Committee and Sub-Committee for the execution of ECtHR judgments.

Focal point

147. Representatives of the CoE institutions indicated their interest in having the Sub-Committee as a focal point in the Ukrainian Parliament, facilitating contacts with parliamentary decision-makers in matters relating to execution. To meet these expectations, the Sub-Committee's institutional capacity and sustainability need to be increased, and its work made more visible. For the period covered by the research, the Sub-Committee has been insufficiently autonomous. The Sub-Committee's authority is minimal and does not extend beyond the purview of the Committee. For this reason, interaction at both

Committee and Sub-Committee level is recommended in order to overcome this limitation. Also, the fact that there is a designated focal point should not prevent CoE institutions from having contacts with other VRU structures and committees. On the contrary, the Sub-Committee should be a means of strengthening such contacts and expert exchanges.

“Reminder letters”

148. Unfortunately, many of the respondents from different institutions reported a lack of political will at the highest political level to deal with implementation matters. In particular, they believe that the execution of ECtHR judgments is not a top priority for Parliament itself.

149. Reference was made to the practice within CoE institutions of sending so-called “reminder letters”. Sending formal letters of this type could be an excellent opportunity to draw the attention of the country’s top officials to issues relating to the implementation of ECtHR judgments. For example, following Resolution 1787 (2011) on the “Implementation of Judgments of the European Court of Human Rights”, the then President of the Assembly sent letters to heads of the national parliamentary delegations of some countries.⁵³

150. Sending such letters to the President of Ukraine and the Speaker of the VRU would be an excellent opportunity to draw the attention of the country’s leaders to issues relating to the implementation of ECtHR judgments.

Alternative human rights bodies

151. With regard to human rights matters, it is recommended that more attention be paid to sources of information about possible violations other than the Strasbourg Court’s case-law. For example, the practice of other European human rights institutions such as the CPT, along with the practice of the United Nations institutions (Human Rights Committee, other committees, information from the Universal Periodic Review, etc.), could also be useful in flagging up problems. The universal character of human rights and the cross-cutting nature of any violations imply the possibility that violations found by other bodies can ultimately be brought before the ECtHR.

Verbatim records of meetings of the Sub-Committee

152. It was found that up until now, no records have been kept of the activities of the Sub-Committee. According to the respondents, moreover, this is common practice for all sub-committees in the VRU.

153. Keeping verbatim records is essential in some respects. Firstly, it can provide transparency in the day-to-day business of the Sub-Committee and give greater prominence to its work and the results achieved.

154. Secondly, verbatim records are part of the institutional memory. Such information could, for example, serve as a reminder of important points made in previous discussions and contribute to better decision-making in the future. It is also vital for ensuring a smooth operational transition within the Sub-Committee after elections.

⁵³ For more details see Drzemczewski A. (2015), *ibid*.

Lack of fundamental information regarding the role of Parliament in implementation

155. Even though the issue of the role of Parliament in the implementation of ECtHR judgments is not new, there are very few written sources for parliamentarians and the Verkhovna Rada secretariat to draw on in this area. The only exception is the Handbook for parliamentarians.⁵⁴ Otherwise, there is a lack of in-depth research available in Ukraine on this subject.

156. Insofar as Ukraine is among those countries which experience the most difficulties in implementing ECtHR judgments, basic information regarding general principles, best practices, etc. is needed. This gap could be closed by arranging for existing research to be translated⁵⁵ and/or by developing a new, solid corpus of materials to that end⁵⁶.

157. This could contribute to better informed activities and decisions on behalf of NGOs (for instance as to the Rule 9 submissions procedure),⁵⁷ Parliament and other relevant institutions.

RECOMMENDATIONS

Verkhovna Rada of Ukraine

- 1) Hold the parliamentary hearing on the role of the Verkhovna Rada of Ukraine in the implementation of ECtHR judgments which was postponed due to the covid-19 pandemic.
- 2) Establish closer working ties with the executive and the judiciary, on both a technical and decision-making level, where appropriate, as regards the execution of ECtHR judgments.
- 3) Establish closer working ties with civil society as regards the execution of ECtHR judgments, building on existing contacts with specialist NGOs and those traditionally involved in the human rights field.
- 4) With the involvement of the parties concerned, discuss and implement the recommendations of the Council of Europe assessment of Ukrainian legislation on the execution of judgments of the European Court of Human Rights (2017).
- 5) Amend the Law “On the Execution of Judgments and Implementation of Practice of the European Court of Human Rights” to increase the supervisory role, involvement and responsibility of Parliament for the implementation of ECtHR judgments.
- 6) Amend the Law “On the Execution of Judgments and Implementation of Practice of the European Court of Human Rights” to introduce controls to ensure that all draft laws are compatible with the European Convention on Human Rights, the case-law of the Court and the obligations to the Council of Europe.
- 7) Establish a procedure for auditing all draft laws for compliance with international human rights standards.

⁵⁴ Donald A. and Speck A-K (2018), National parliaments as guarantors of human rights in Europe. Handbook for parliamentarians, Parliamentary Assembly, Council of Europe. Available in Ukrainian at <http://www.assembly.coe.int/LifeRay/JUR/Pdf/Handbook/HumanRightsHandbook-UA.pdf>, accessed 14 July 2020. In English available at <http://www.assembly.coe.int/LifeRay/JUR/Pdf/Handbook/HumanRightsHandbook-EN.pdf>, accessed 14 July 2020.

⁵⁵ Hunt M., Hooper H., Yowell P. (2015), *Parliaments and Human Rights: Redressing the Democratic Deficit*, Hart Publishing, London.

⁵⁶ Donald A. and Leach P. (2016), *Parliaments and the European Court of Human Rights*, Oxford University Press, Oxford, United Kingdom.

⁵⁷ Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements, available at <https://rm.coe.int/16806eebf0>, accessed 14 July 2020.

- 8) Introduce a procedure for *annual* reporting and *specific case-related* reporting by the executive responsible for the execution of ECtHR judgments to the Sub-Committee on the Execution of ECtHR Judgments and Alternative Dispute Resolution and/or other institutions of the Verkhovna Rada.
- 9) Make wider use of the parliamentary oversight function to ensure the implementation of ECtHR decisions (hold parliamentary, committee and sub-committee hearings, use subpoenas, requests for information from the government and the authorities, require issues of major importance to be subjected to close scrutiny, etc.).
- 10) Draw up a list of priorities in respect of the execution of judgments and include the relevant issues in the plan of legislative work to be carried out by the VRU.
- 11) Adopt a roadmap and/or strategy for the implementation of ECtHR judgments by decree.
- 12) Amend the title of the Committee on Legal Policy to include a reference to the implementation of ECtHR judgments.
- 13) Ensure that MPs are provided with information about the status of execution of ECtHR judgments and that secretariat staff are systematically trained in the ECtHR's case-law.
- 14) Assign sufficient numbers of dedicated specialists well versed in human rights case-law to the secretariat of the VRU (secretariats of committees and/or the Chief Scientific and Legal Departments of the VRU) and provide the secretariat with sufficient resources to enable it to carry out its work.

Committee on Legal Policy

- 1) Pay more attention to human rights issues in the Committee's work, in particular to the issue of supervision of the execution of ECtHR judgments.
- 2) Aside from other issues, compile a list of problems that the VRU can deal with on its own without co-operation from other state bodies and include this list in the plan of legislative work, giving priority to issues that have been outstanding and unresolved for long periods of time.
- 3) Step up interaction with the Ministry of Justice.
- 4) Step up interaction with the judiciary, Constitutional Court, Supreme Court, the Higher Council of Justice and their respective secretariats.
- 5) Step up interaction with the VRU Committee on Human Rights, Deoccupation and Reintegration of Temporarily Occupied Territories in Donetsk, Luhansk Regions and Autonomous Republic of Crimea, National Minorities and Interethnic Relations and other cross-cutting committees in the VRU.
- 6) Include in the report to be provided by the Committee under Article 19-1 of the Verkhovna Rada's Rules of Procedure a section on the implementation of ECtHR judgments.
- 7) Publish on the official webpage of the Committee and elsewhere a detailed schedule of the meetings of the Sub-Committee(s) together with the agendas.
- 8) Systematically publish information on cases pending the adoption of legislative measures by the Parliament of Ukraine, pursuant to ECtHR judgments.
- 9) Develop a PR strategy to promote the work being done in relation to the execution of ECtHR judgments and provide the Ukrainian media with more information on this subject.
- 10) Develop a media plan to raise public awareness of the activities of the Committee and Sub-Committee(s), with a particular focus on the implementation of ECtHR judgments.

Sub-Committee

- 1) Develop a comprehensive list of issues, with clear priorities, requiring implementation with the participation of the Verkhovna Rada of Ukraine; include issues arising from the practice of the UN Human Rights Committee, Universal Periodic Review (UPR), etc. in the list.
- 2) Develop a strategy for the implementation of ECtHR judgments and discuss it with stakeholders such as the Office of the Agent of Ukraine before the European Court of Human Rights, the judiciary, including the Supreme Court, Constitutional Court and others (with a particular focus on civil society: NGOs and lawyers practising at the ECtHR), ensure that it is periodically reviewed and updated.
- 3) Set priorities for legislative work aimed at the implementation of ECtHR judgments.
- 4) Develop a schedule of legislative work aimed at the implementation of ECtHR judgments and monitor its implementation, adjusting to changing needs and priorities.
- 5) Publish the Strategy along with the Schedule of legislative work aimed at the implementation of ECtHR judgments on the website of the Verkhovna Rada of Ukraine, so that it is permanently accessible.
- 6) Introduce an arrangement whereby the Sub-Committee systematically reports to the VRU on the execution of the Strategy and the Schedule for the implementation of ECtHR judgments.
- 7) Establish close co-operation and focused expert exchanges and organise regular interaction with the Department for the Execution of Judgments of the ECtHR on matters relating to the execution of judgments in general, priorities and time-frames for the execution of judgments with respect to general measures to be adopted.
- 8) Step up interaction with national and international media and educate members of the public about what the Sub-Committee does.
- 9) Open Sub-Committee meetings to civil society representatives, establishing regular expert contacts with civil society groups.
- 10) Introduce an arrangement whereby the Sub-Committee systematically and publicly reports to the Committee on Legal Policy on the implementation of the Strategy and the Schedule for the execution of ECtHR judgments, with the report to be published on the Committee's web-page.
- 11) Pay attention to the human rights violations noted in decisions/opinions/reports of human rights bodies other than the ECtHR, such as the CPT, UN Human Rights Committee, CAT, CEDAW and other UN Committees, Universal Periodic Review, etc.
- 12) Introduce the practice of recording, producing verbatim records and publishing minutes of Sub-Committee meetings, according to the same procedure as that followed by the Committee on Legal Policy.
- 13) Interact with the PACE delegation of Ukraine on implementation issues and participate in the processes related to implementation on a regular basis.
- 14) Establish a platform of experts from the NGO sector to assist the Sub-Committee in planning the work and taking the necessary steps to ensure effective implementation of the ECHR's judgments and parliamentary oversight over the actions of state authorities.

Ukrainian delegation to the Parliamentary Assembly of the Council of Europe

- 1) Take the lead in familiarising the Rada with PACE decisions on the implementation of judgments concerning Ukraine (for example, present the PACE report to the Committee, Sub-Committee, etc.).
- 2) Establish close co-operation with the Sub-Committee on the Execution of ECtHR Judgments and Alternative Dispute Resolution.

Members of Parliament

- 1) Responsibly perform the duties incumbent on members of the Sub-Committee, taking into account personal workload, competence and available resources, and with due regard to the need for satisfactory performance of the functions assigned to the Sub-Committee.
- 2) Limit the number of sub-committees to which an MP may belong to two and increase members' personal contribution to the work of the sub-committees on which they sit.

NGOs

- 1) Pay more attention to the implementation of general measures following ECtHR judgments, including those measures requiring legislative changes.
- 2) Raise awareness among civil society of the situation regarding the implementation of ECtHR judgments in Ukraine.
- 3) Use the procedure governing communications under Rule 9 of the *Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements* and give regular feedback on measures adopted pursuant to judgments, both positive and negative.
- 4) Address the most problematic issues which have been pending for more than three or five years, without any action being taken by the authorities, or where execution and the institutional response to ECtHR judgements has been slow.
- 5) To complement the role of NGOs with a more traditional human rights mandate and profile, encourage the involvement of specialist NGOs in expert discussions on the implementation of judgments.

Council of Europe

- 1) Continue to familiarise VRU staff and MPs with the practice of the Committee of Ministers of the Council of Europe regarding supervision of the execution of ECtHR judgments.
- 2) Help MPs to establish professional contacts and share professional experience with their colleagues from parliaments in countries that have positive experience in the supervisory process (such as the Netherlands, UK, Poland, Georgia and others).
- 3) Continue to familiarise staff of the Verkhovna Rada and MPs, and the Rada secretariat, with the case-law of the ECtHR, focusing in particular on instances where domestic legislation was amended while a case was being considered, resulting in a decision favourable to the state in question.

- 4) Continue to familiarise staff of the Verkhovna Rada and MPs, and the Rada secretariat, with the practices of the Committee of Ministers of the Council of Europe, and comparative approaches to resolving problems revealed by ECtHR judgments, in instances where national legislation was amended, leading to the closure of the CM's supervision process.
- 5) In consultation with the VRU regarding implementation issues, engage with both the Committee on Legal Policy and the Sub-Committee on the Execution of ECtHR Judgments as the focal points.
- 6) Provide technical assistance regarding systematic advanced training for VRU secretariat staff in the ECtHR's case-law.
- 7) Involve stakeholders such as the Office of the Agent of Ukraine before the European Court of Human Rights, the Department for the Execution of Judgments of the ECtHR and NGOs in the process of assisting the Sub-Committee in developing a comprehensive list of issues that require measures to be implemented with the participation of the Verkhovna Rada of Ukraine.
- 8) Provide support to Ukrainian and international NGOs focused on issues relating to the implementation of ECtHR judgments in Ukraine in order to increase the number of NGOs working in this area and helping to strengthen civil society involvement in the implementation of ECtHR judgments.
- 9) Support and take part in the events organised by the Sub-Committee (parliamentary or committee hearings, round tables, side events, etc.) to demonstrate to Ukrainian society the importance of the issue of the implementation of ECtHR judgments and the Sub-Committee's work.
- 10) Involve stakeholders such as the Office of the Agent of Ukraine before the European Court of Human Rights, the Department for the Execution of Judgments of the ECtHR and NGOs in the process of helping the Sub-Committee to develop the strategy for resolving systematic problems such as non-execution of judgments, prison reform, etc.
- 11) Continue examining the question of the execution of judgments of the European Court of Human Rights under the procedure established by the PACE through its Resolutions 2178(2017), 2075(2015), 1787(2011) and 1516(2006) and its Recommendations 2079 (2015) and 1955 (2011).
- 12) Continue the practice of sending "reminder letters" to the Speaker of the Verkhovna Rada of Ukraine, the President of Ukraine, the chairperson of the Committee on Legal Policy and the chairperson of the Sub-Committee, referring to the need for Parliament to take a more active role in supervising execution and focusing on specific issues requiring the implementation of measures.
- 13) Provide MPs, staff in the VRU secretariat and Ukrainian civil society with a solid collection of material on the organisation of parliamentary work on the implementation of ECtHR judgments (arrange for the relevant literature or extracts to be translated into Ukrainian - *Parliaments and Human Rights: Redressing the Democratic Deficit*, Murray Hunt, Hayley Hooper, Paul Yowell, or *Parliaments and the European Court of Human Rights* by Alice Donald and Philip Leach or compile other material on best parliamentary practice in other countries).

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APPENDIX 1. LIST OF RESPONDENTS

1.	VRU	Mr Andriy KOSTIN	MP (VRU of 9 th convocation), Chairperson of the Committee on Legal Policy; September-December 2019, Chairperson of the Sub-Committee on the Execution of ECtHR Judgments and Alternative Dispute Resolution
2.	VRU	Mr Roman BABIY	MP (VRU of 9 th convocation), Member of the Committee on Legal Policy; Chairperson of the Sub-Committee on the Execution of ECtHR Judgments and Alternative Dispute Resolution
3.	VRU	Mr Ruslan SYDOROVYCH	MP (VRU of 8 th convocation), Member of the Committee on Judicial Policy and Justice; Chairperson of the Sub-Committee on the Execution of ECtHR Judgments
4.	VRU / PACE	Mr Sergiy VLASENKO	MP (VRU of 8 th and 9 th convocations); Member of the Committee on Legal Policy; Member of the Sub-Committee on the Execution of ECtHR Judgments and Alternative Dispute Resolution; Since 2014, member of the Ukrainian delegation to the Parliamentary Assembly of the Council of Europe (PACE); Member of the Committee on Legal Affairs and Human Rights, Committee on the Election of Judges to the European Court of Human Rights and Committee on Rules of Procedure, Immunities and Institutional Affairs of the PACE
5.	VRU / PACE	Mr Georgii LOGVYNSKYI	MP (VRU of 8 th convocation), Vice-Chairperson of the Committee on Human Rights, Ethnic Minorities and Inter-ethnic relations; From 2014 to 2019: member of the Ukrainian delegation to the PACE; Vice-President of the Parliamentary Assembly; Vice-Chairperson of the Committee on Legal Affairs and Human Rights of the PACE; member of the Sub-Committee on the Execution of ECtHR Judgments of the PACE
6.	VRU / PACE	Mr Leonid YEMETS	MP (VRU of 8 th convocation), First Deputy Chairperson of the Committee on Judicial Policy and Justice; From 2014 to 2019, member of the Ukrainian delegation to the PACE; Chairperson of the Sub-Committee on the Execution of ECtHR Judgments of the PACE
7.	VRU	Ms Kateryna BURBAK	Assistant
8.	MoJ	Mr Ivan LISHCHYNA	Agent before the European Court of Human Rights, Deputy Minister of Justice of Ukraine
9.	MoJ	Ms Olha DAVYDCHUK	Director of the Department, Head of the Office of the Agent of Ukraine before the European Court of Human Rights
10.	MoJ	Ms Irena KOVAL	Office of the Agent of Ukraine before the European Court of Human Rights, Deputy Head of Department – Head of the Expert-Methodology Division

11.	MoJ	Ms Alisa PIETUKHOVA	Office of the Agent of Ukraine before the European Court of Human Rights, Head of Division in the Office of the Agent before the ECHR responsible for co-ordinating the execution of ECtHR judgements and reporting to the Committee of Ministers
12.	SC	Mr Rasim BABANLY	Head of the Department of Analytical and Legal Work
13.	SC	Ms Lina HUBAR	Head of the Division of International and Legal Co-operation
14.	Ombudsperson	Ms Liudmyla DENISOVA	Parliamentary Commissioner for Human Rights
15.	NGO	Ms Olena SEMORKINA	Ukrainian Helsinki Human Rights Union
16.	NGO	Mr Mykhailo TARAKHKALO	Ukrainian Helsinki Human Rights Union
17.	NGO	Mr Maksym SHCHERBATYUK	Ukrainian Helsinki Human Rights Union
18.	NGO	Ms Iryna KUSHNIR	Ukrainian Institute for Human Rights
19.	NGO	Mr Gennadiy TOKAREV	Kharkiv Human Rights Protection Group, NGO
20.	DEJ	Mr Pavlo PUSHKAR	Head of Division
21.	DEJ	Ms Olga DUBINSKA	Legal Officer
22.	DEJ	Ms Yulia GENDLINA	Legal Officer
23.	DEJ	Ms Nadiia ZADOROZHNA	Legal Officer

APPENDIX 2. LIST OF SUB-COMMITTEE MEMBERS AND THEIR PARTICIPATION IN OTHER SUB-COMMITTEES

	<i>Name</i>	<i>number of other sub-committees to which they belong</i>
1.	Mr Roman BABIY	4
2.	Mr Valerii BOZHUK	4
3.	Mr Sergiy VLASENKO	1
4.	Mr Serhii DEMCHENKO	3
5.	Mr Vasyl NIMCHENKO	2
6.	Mr Mykhailo NOVIKOV	5
7.	Mr Pavlo PAVLISH	4
8.	Mr Bohdan TOROKHTII	6

APPENDIX 3. QUESTIONNAIRE USED

1. In your opinion, what are the main expectations of the Department for the Execution of Judgments of the ECtHR concerning the participation of the Ukrainian Parliament in the procedure governing the implementation of ECtHR judgments at national level? Are these expectations being met?
2. What do you know about the role of the Ukrainian Parliament in the implementation of judgments of the ECtHR in Ukraine? Please provide some examples if you have any. What is the role of the VRU Sub-Committee on the Execution of ECtHR judgments in this process?
3. What is the main achievement of the Ukrainian Parliament in the process of the implementation of ECtHR judgments?
4. How is interaction between the Ukrainian Parliament and the Department organised? Could you provide some examples of such co-operation?
5. Which states have the most valuable experience of interaction between their parliaments and the Department regarding the implementation of ECtHR judgments at national level?
6. What kind of experience of interaction on the part of parliaments in other states can be useful for the Parliament of Ukraine?
7. What is the role of the PACE Sub-Committee on the implementation of judgments of the ECtHR in the implementation process? Is there any interaction between the Sub-Committee and the Department? If so, could you provide examples of such interaction?
8. Is it possible to extrapolate ways and means (or experience of another kind) of interaction between the PACE Sub-Committee on the implementation of judgments of the ECtHR and the Department to interaction with national parliaments?
9. In your opinion, is interaction between the Parliament of Ukraine and the ECtHR necessary for better implementation of the ECtHR at national level? If so, how can such interaction help with the process of execution of ECtHR judgments by Parliament?
10. Considering that ECtHR judgments as a rule concern more than one issue that requires the implementation of general measures, is there an exhaustive list of such matters? If so, where can this list be found? If not, what sources could be used to create such a list (other than ECtHR judgments per se)?
11. In your opinion, in what way could the Department help the Parliament of Ukraine to compile a comprehensive list of issues to be addressed by the Parliament of Ukraine?
12. What are the non-financial difficulties encountered by the State when implementing the judgments in the cases of *Yurii Ivanov v. Ukraine* and *Burmych v. Ukraine*?
13. Which cases are the most difficult in terms of implementation, apart from the two mentioned above? What are the difficulties encountered in such cases?
14. In your opinion, which cases are the easiest in terms of implementation by the Ukrainian Parliament, yet still outstanding? Why, in your opinion, have the necessary measures not been implemented by Parliament?
15. Is there a system for evaluating the effectiveness of the Sub-Committee?
16. What impact does the work of the Sub-Committee have on improving human rights standards in Ukraine? Please provide examples.

17. How does the Sub-Committee ensure the implementation of ECtHR judgments in domestic practice? Does it pay attention only to judgments against Ukraine? Does it take into account judgments against other countries?
18. How successful is the Sub-Committee's work as compared with the work of other VRU committees/sub-committees that you are familiar with?
19. What does the Sub-Committee do better than other VRU institutions? What makes this possible, in your opinion?
20. What does the Sub-Committee fail to do or do worse than other VRU committees/sub-committees? Why do you think this happens?
21. What is the greatest achievement of the Sub-Committee in your opinion? What made it possible?
22. Have there been any serious failures in the work of the Sub-Committee? If so, why did they happen?
23. What do you think should be improved in the work of the Sub-Committee? How do you think such improvements can be introduced?
24. If you had to share your experience with parliamentarians of other COE member states who are just beginning to create a similar structure in their own parliaments, or with your successors, what would be the main advice you would give them?
25. What is needed to raise public awareness in Ukraine about the activities of the Sub-Committee? How is the work of the Sub-Committee portrayed on the official website of the VRU? How often/regularly is information about the Sub-Committee updated, information about events held by the Sub-Committee disseminated, and so on? How is information about the Sub-Committee's meeting schedule circulated?
26. With which government agencies does the Sub-Committee systematically/actively/effectively work? Please provide examples of such co-operation. What has such co-operation achieved?
27. With which state bodies is co-operation difficult? Why? What can be done to improve co-operation?
28. With which international bodies or authorities in other countries does the Sub-Committee systematically/actively/effectively work? Please provide examples of such co-operation. What has such co-operation achieved?
29. How is co-operation with the PACE Sub-Committee on the implementation of judgments of the ECtHR and/or the Council of Ministers of the Council of Europe organised?
30. With which international or foreign bodies does the Sub-Committee need to establish new co-operation? What could be achieved through such co-operation?
31. Are there any examples of collaboration between the Sub-Committee and academic institutions and/or scientists? Is such co-operation systematic?
32. With which NGOs or representatives of civil society does the Sub-Committee systematically/actively/effectively work? What forms does this co-operation take? What has co-operation achieved? Please provide examples of such co-operation.
33. Do the members of the Sub-Committee have experience in the field of international human rights standards and, in particular, ECtHR case-law? How is professional training in the field of human rights organised for members of the Sub-Committee? Do members of the Sub-Committee require

assistance in terms of advanced training? What exactly might such assistance involve?

34. In your personal opinion, is the Sub-Committee's mandate sufficiently clearly stipulated in the Verkhovna Rada's Rules of Procedure or other instruments? Do Sub-Committee members individually and/or the Sub-Committee as a whole have enough authority to perform the tasks assigned?

35. Do Sub-Committee members have the authority to require the government or other state bodies of Ukraine to submit documents or information of relevance to the Sub-Committee's activities? Do these powers differ from those ordinarily enjoyed by MPs? If so, how have these powers been exercised in the course of the Sub-Committee's work?

36. Are the powers ordinarily enjoyed by MPs in terms of requesting information and/or documents from the government or other state bodies of Ukraine sufficient as regards the implementation of ECtHR judgments? Does the exercise of such powers depend on other MPs or VRU institutions?

37. Does the Sub-Committee have the power to initiate legislation? If so, how has this power been exercised in the course of the Sub-Committee's work?

38. Does the Sub-Committee have the authority to investigate human rights violations on its own initiative and at its own discretion? If so, how has this power been exercised in the course of the Sub-Committee's work?

39. Does the Sub-Committee have the discretion to access custodial settings (in particular, without prior notice)? If so, how has this power been exercised in the course of the Sub-Committee's work?

40. Do Sub-Committee members have the authority, directly or through specific procedures, to have witnesses present during Sub-Committee meetings and/or to interrogate them? If so, how has this power been exercised in the course of the Sub-Committee's work?

41. Does the Sub-Committee have the discretion to conduct visits, including foreign ones? If so, how has this power been exercised in the course of the Sub-Committee's work?

42. Does the Sub-Committee report to the VRU on its activities? If so, how has this procedure been implemented during the Sub-Committee's work?

43. How are relations between the Sub-Committee and the judicial authorities of Ukraine organised?

44. How is parliamentary oversight of the executive as regards compliance with human rights standards organised? What role does the Sub-Committee play in the parliamentary oversight mechanism?

45. Does the Sub-Committee have the authority to make recommendations to the government? If so, how has this power been exercised in the course of the Sub-Committee's work?

46. Do you feel or have you felt in the past, as a member of the Sub-Committee, pressure or negative influence from other VRU structures or other authorities in Ukraine? If possible, provide examples.

47. How is pluralism of views ensured in the work of the Sub-Committee? How transparent is the procedure for appointing MPs to positions in the Sub-Committee? Is the composition of the Sub-Committee politically neutral? Is representation of the different political parties represented in the VRU ensured within the Sub-Committee? If so, to what extent? What political parties/factions do members of the Sub-Committee belong to?

48. How is succession ensured in the work of the Sub-Committee? Is there a transfer of experience from one Committee to the next (for example, when a new VRU is elected)?

49. What is the reason for renaming the Sub-Committee on the Execution of ECtHR Judgments “the Sub-Committee on the Execution of ECtHR Judgments *and Alternative Dispute Resolution*”? Does the renaming of the Sub-Committee reflect a change in its functions? If so, what exactly has changed?
50. What influence does the Sub-Committee have on the work of the VRU as a whole?
51. How is interaction with other VRU structures involved in the protection of human rights organised? Are other parliamentary bodies (committees or sub-committees) engaged in the same or similar activities? Is there any duplication of functions? How does the distribution of competences work? How is cross-cutting activity co-ordinated? Are there any functions as regards the execution of ECtHR Judgments which have not been assigned?
52. How is co-operation with the executive regarding the execution of ECtHR judgments organised (in particular, with respect to the Office of the Agent of Ukraine before the European Court of Human)?
53. What are the organisational challenges (non-financial) as regards the execution of ECtHR judgments in the cases of *Yuriy Ivanov v. Ukraine* and *Burmych v. Ukraine*? Are there other ECtHR cases where implementation has proven particularly problematic, apart from *Yuriy Ivanov v. Ukraine* and *Burmych v. Ukraine*?
54. How is the collection and analysis of data concerning ECtHR judgments against Ukraine organised? Is there a methodology for this analysis? If so, is it published? When and how was it developed and adopted?
55. Is there a Plan for the work of the Sub-Committee? Is it available?
56. Is there a strategy for the implementation of ECtHR judgments in Ukraine? If so, is it published? When and how was it developed and adopted?
57. Are there priorities in the work of the Sub-Committee? If so, who set those priorities? Based on what principles are the priorities determined? Have they been made public?
58. Is there a schedule for the steps aimed at implementing ECtHR judgments in Ukraine? If so, is it published? When and how was it developed and adopted?