Strasbourg, 07 September 2012

GT-GDR-A(2012)R2 Addendum I

STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)

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**DRAFTING GROUP "A" ON THE REFORM OF THE COURT
(GT-GDR-A)**

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Draft CDDH report on measures taken by the member States to implement relevant parts of the Interlaken and Izmir Declarations

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I. GENERAL INTRODUCTION

A. Background

1. The Declaration adopted at the conclusion of the High Level Conference on the Future of the European Court of Human Rights, organised by the Swiss Chairmanship of the Committee of Ministers in Interlaken, Switzerland on 18-19 February 2010 called upon the States Parties to the European Convention on Human Rights ("the Convention") "to inform the Committee of Ministers, before the end of 2011, of the measures taken to implement the relevant parts of this Declaration". The Declaration adopted at the conclusion of the High Level Conference on the Future of the European Court of Human Rights, organised by the Turkish Chairmanship of the Committee of Ministers in Izmir, Turkey on 26-27 April 2011 reminded the States Parties of their commitment "to implement the relevant parts of the Interlaken Declaration and the present Declaration".

2. Further to the Interlaken Conference, the Steering Committee for Human Rights (CDDH) elaborated a draft structure for the national reports to be submitted by States Parties to the Committee of Ministers on measures taken to implement the relevant parts of the Interlaken Declaration.[1] The Committee of Ministers subsequently endorsed this structure for the national reports and invited all member States to submit their reports as soon as possible and no later than 31 December 2011.[2]

3. The CDDH's terms of reference for the biennium 2012-2013 require it, through its subordinate body the Committee of experts on the reform of the Court (DH-GDR), *inter alia* to prepare a report for the Committee of Ministers "containing (a) an analysis of the responses given by member States in their national reports submitted by 31 December 2011 on measures taken to implement the relevant parts of the Interlaken Declaration, and (b) recommendations for follow-up". The DH-GDR in turn conferred the initial preparation of the draft report on its drafting group A (GT-GDR-A).

4. The present document constitutes the report required under the CDDH's terms of reference.

B. The reporting process and its results

5. By the time of the second and final GT-GDR-A meeting (5-7 September 2012), national reports had been received from 46 of the 47 Council of Europe member States. 45 of these followed the structure endorsed by the Committee of Ministers. The CDDH has taken account of all information received in good time before the second GT-GDR-A meeting.

6. As is to be expected, the nature of the national reports varied to a considerable extent. Most States responded to all or most of the questions put in the endorsed

[1] See the report of the 72nd CDDH meeting, doc. CDDH(2011)R72, Appendix IV.
[2] See the Deputies' Decisions on Follow-up to the 121st Session of the Committee of Ministers (Istanbul, 10-11 May 2011), doc. CM/Del/Dec(2011)1114/1.5, 25 May 2011.

structure, although some States concentrated information into responses to only some of those questions. Equally, the level of detail varied between national reports.

7. Perhaps more significantly, many national reports contained extensive information relating to measures taken prior to the Interlaken Conference (February 2010). Whilst the endorsed structure invited States to mention relevant measures taken prior to the Interlaken Conference as a possible reason why it had not been considered necessary to take action on certain matters, information on such earlier measures was very often included elsewhere in the national report.

8. Considering that the over-arching aim of the exercise is to review recent progress in national implementation of the Convention, however, the CDDH has for the purposes of the present report decided to take a wider range of relevant information into account – whilst remaining true to the specificity of the exercise by giving a certain emphasis to the most recent, post-Interlaken Conference developments – for the following reasons.

9. Many of the provisions of the Interlaken and Izmir Declarations – indeed, it might be said, as regards measures to be taken by member States, the most important ones – concern implementation of the Convention at national level. The Interlaken and Izmir Declarations, however, were not the only incentives to States to take such measures, although as high-level political commitments they were clearly significant ones: the Convention itself establishes a legal obligation to take such measures; in addition, there were binding judgments of the Court against particular States Parties, as well as the series of relevant recommendations made by the Committee of Ministers' to member States between 2000 and 2010, and also other Council of Europe co-operation and assistance activities. It would thus be artificial either to assume that all such measures taken after April 2010 were in response only to the Interlaken and/ or Izmir Declarations (and practically impossible to isolate any such measures that were), or to exclude relevant information concerning important developments in the preceding period.

10. Furthermore, insofar as the current exercise is intended to lead to recommendations for the future, and given that it is not intended as a monitoring exercise in the generally established sense, it is clearly worthwhile to have available a wider range of examples of recent good practice than would be the case were the scope limited to measures introduced after the Interlaken Conference. Indeed, such a limitation would exclude much of the material made available through the national reports.

C. CDDH working methods

11. Given the range of issues addressed in the structure for national reports and the volume of material received, the GT-GDR-A, at its first meeting (14-16 March 2012), decided to focus its attention on certain priority issues and to appoint rapporteurs to prepare draft chapters dealing with them. The priority issues were: increasing the awareness of national authorities of Convention standards and ensuring their application (Interlaken Declaration Action Plan element 1)[3]; the execution of Court judgments,

[3] Rapporteur: Ms Irina CAMBREA (Romania).

including pilot judgments (Interlaken Declaration Action Plan elements 2 and 9 respectively)[4]; taking into account the Court's developing case-law, including judgments against other States (Interlaken Declaration Action Plan element 3)[5]; and ensuring the availability of effective domestic remedies (Interlaken Declaration Action Plan element 4)[6]. At the same time, the GT-GDR-A also decided to address other issues in more summary form. The CDDH endorsed these working methods at its 75th meeting (19-22 June 2012). Finally, it should be underlined that the present report is not intended to present a compilation of national practices but rather an analysis of the national reports illustrated with selected examples of good practice.[7] The fact that a State is not mentioned with respect to a certain issue does not necessarily mean that its national practice is deficient or cannot be considered good. For the sake of brevity and clarity, however, it was necessary to be selective.

II. ANALYSIS OF THE NATIONAL REPORTS

I. Please indicate whether a specific domestic structure has been established to implement or overview the implementation of the Interlaken declaration at national level.

12. Few member States indicated that a specific national structure had been created to implement or to give an overview of the implementation of the Interlaken Declaration at national level.[8]

13. In Croatia, for example, a Working Group was specifically created in October 2011 to determine to what extent Convention standards are applied and to propose to the Government measures to raise the awareness of public authorities; it is composed of representatives of the institutions responsible for training the judicial and executive bodies, as well as institutions responsible for promoting human and minority rights. In Liechtenstein, an informal Working Group was created after the Interlaken Conference, bringing together representatives of the Ministries of Justice and Foreign Affairs. In Romania, at the initiative of and coordinated by the Government Agent, a Reflection Group was constituted in 2011, composed of representatives of the main institutions with attributes in the areas relevant to implementation of the Interlaken Declaration. The objective of this Group is to analyse each aspect of the Action Plan, to summarise all the relevant actions that had already been taken at national level, as well as to identify, plan and organise actions in the area of reform of the Court. For its part, Serbia established, in October 211, an informal inter-governmental body to supervise implementation of the

[4] Rapporteur: Ms Isık BATMAZ (Turkey).
[5] Rapporteur: Ms Brigitte OHMS (Austria)
[6] Rapporteur: Mr Jakub WOLASIEWICZ (Poland).
[7] Compilations of the information received in the national reports with respect to each issue and question can be found in the documents GT-GDR-A(2012)003 REV. – 016 REV. , supplemented by documents GT-GDR-A(2012)017, 018 and 064 (the reports of Turkey, Greece and The Netherlands).
[8] As in, for example, Croatia, Liechtenstein, Romania, Serbia. Armenia and Georgia indicated that creation of a specific national structure was foreseen.

Declaration, composed of members of the Ministry of Justice, the Ministry of Foreign Affairs, the Superior Judicial Council and the Constitutional Court.

14. Many member States have indicated that a pre-existing structure had been specifically charged with implementation of the Interlaken Declaration. For example, the Representative of the Federal Government for questions concerning human rights, within the Federal Ministry of Justice, in Germany; and the Inter-ministerial Committee for matters concerning the European Court of Human Rights, in Poland. Several member States brought up the importance of the role of the Government Agent in the implementation of the Interlaken Declaration at national level.[9]

15. If the creation of a specific structure for the implementation of the Interlaken Declaration provides evidence of the importance that this issue carries for national authorities, it should be noted that the attribution of this issue to a pre-existing structure may nevertheless be sufficient, if this latter is clearly mandated to undertake or co-ordinate work at national level.

II. Please indicate whether any national priorities have been identified with respect to the implementation of the Action Plan and if so, what.

16. Several member States indicated that they had identified national priorities. Amongst these, full execution of Court judgments was the national priority most often evoked.[10] Next came awareness-raising on Convention standards,[11] the institution and consolidation of effective domestic remedies,[12] provision of information to potential applicants[13] and the national procedure for the selection of candidates for the post of judge at the Court.[14] Also mentioned as national priorities were, notably, the establishment of a system of statistical data covering all levels of magistrates, in order better to understand structural or specific reasons at the origin of delays in proceedings before national courts,[15] the secondment of national judges to the Court's Registry,[16] follow-up to the implementation of Committee of Ministers' Recommendations or promoting the conclusion of friendly settlements of unilateral declarations.[17] In Armenia and Croatia, the Working Groups on implementation of the Interlaken Declaration will be charged with identifying national priorities.

[9] As in, for example, Azerbaijan, Belgium, Czech Republic, France, Finland, Hungary, Switzerland, Ukraine.
[10] As in, for example, Austria, Belgium, Denmark, France, Georgia, Germany, Italy, Liechtenstein, Lithuania, Norway, Romania, Russian Federation, Serbia, Ukraine.
[11] As in, for example, Austria, Denmark, Estonia, Germany, Liechtenstein, Lithuania, Romania, Russian Federation, Serbia, Spain.
[12] As in, for example, Germany, Romania, Russian Federation.
[13] As in, for example, Denmark, Norway.
[14] As in, for example, Liechtenstein, Lithuania.
[15] As in, for example, Luxembourg.
[16] As in, for example, Romania.
[17] As in, for example, Serbia.

17. For certain member States, all the provisions of the Action Plan are considered important without priority being given to one or the other of them. Thus in Azerbaijan, all provisions of the Interlaken Declaration Action Plan have been transcribed into the National Programme for action in the field of human rights.

Measures taken to implement relevant elements of the Interlaken Declaration

1. Continue to increase, where appropriate in co-operation with national human rights institutions or other relevant bodies, national authorities' awareness of the Convention standards and to ensure their application;

A. Introduction

18. The question of raising the national authorities' awareness of the Convention standards was already addressed, some years ago, by the CDDH as part of the review of implementation of Committee of Ministers Recommendations Rec(2002)13 on the publication and dissemination in the member States of the text of the European Convention on Human Rights and of the case-law of the European Court of Human Rights and Rec(2004)4 on the European Convention on Human Rights in university education and professional training.[18] The Interlaken Declaration called on member States to increase this awareness-raising, and this call was recently reiterated in the Brighton Declaration.[19]

19. A considerable amount of information has been collected regarding this element of the Interlaken Declaration Action Plan. This can be explained partly by the fact that this question covers a variety of aspects, namely: who is responsible for this awareness-raising, what is the nature of their co-operation with national human rights institutions and other relevant bodies, how should this awareness-raising be carried out and who are the intended recipients? On the other hand, the large amount of information demonstrates recognition of the importance of awareness-raising and member States' concerns about this aspect.

20. It should from the outset be noted that awareness-raising is closely related to other issues addressed in this report, including execution of Court judgments and drawing conclusions from judgments against other States. This relationship is one of mutual reinforcement: enhancing general awareness of Convention standards and obligations may facilitate more specific Convention-related activities, just as those activities generate a lasting effect of enhancing awareness of the Convention.

[18] See document CDDH(2006)008 Addendum I.
[19] See the Declaration adopted at the high-level conference held in Brighton, United Kingdom, on 19 and 20 April 2012, part A.

B. Issues

i. Who is responsible for awareness-raising?

21. In many States,[20] the Ministry of Justice is responsible for raising the national authorities' awareness of the Convention standards. This task may also fall to the Ministry of the Interior,[21] the Ministry of Foreign Affairs[22] or a specialist ministry such as the Ministry of Human Rights and Refugees in Bosnia and Herzegovina. Considerable emphasis is placed on the role of the government agent within the ministry to which he or she is attached[23] whether regarding analysis and dissemination of the Court's case-law or his or her contribution to training activities.

22. Some States have instituted a system comprising officials responsible for this task in several ministries. In Austria, co-ordinators for human rights issues have been introduced in the various ministries and provincial governments. They play a central role and are a contact point for all human rights-related questions for other authorities and in the dialogue with non-governmental organisations. In Finland, it was also decided to set up a network of contact persons comprising representatives from all ministries, co-ordinated by the Ministry of Justice and the Ministry of Foreign Affairs, with the aim of ensuring more effective transmission of information between the various administrative branches. In Croatia, the Working Group for implementation of the Interlaken Declaration Action Plan includes representatives from different bodies and its remit includes preparing training courses for civil servants.

23. Some States also mentioned the role of the judicial authorities and, in particular, their supreme courts. For example, in Lithuania, two consultants in the Supreme Court are responsible for publishing and disseminating extracts of Court judgments relevant to the practice of the domestic courts. In Estonia, since 2010, the Ministry of Justice, when drafting input regarding a newly communicated application, has involved the Council for the Administration of the Courts, which includes representatives from the Supreme Court, the courts of first instance and the appeal courts, the Bar Association, the prosecutor's office and the Minister of Justice. Such roles help ensure that the courts are informed as soon as possible of any problems and may then prevent them from reoccurring in the future.

ii. Co-operation with national human rights institutions or other relevant bodies

24. Many States have stated that awareness-raising is carried out in co-operation with national human rights institutions or other relevant bodies. In Finland, the national human rights institution now comprises three bodies: an independent Human Rights Centre, whose role is to promote information, training, education and research relating to human rights, the Office of the Parliamentary Ombudsman and a Human Rights Delegation that is attached to

[20] Notably in Armenia, Austria, Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Finland, Germany, Hungary, Italy, Lithuania, Poland, Slovakia, Spain, "the former Yugoslav Republic of Macedonia", Ukraine, and the United Kingdom.
[21] As in, for example, Bulgaria and Croatia.
[22] As in, for example, Estonia and Sweden.
[23] Particularly in Albania, Austria, Bosnia and Herzegovina, Croatia, Hungary, Lithuania, Malta, Montenegro, Romania, Serbia, Slovak Republic and Sweden.

the latter and became operational in March 2012 and which serves as a national co-operation body. In the United Kingdom, several national human rights institutions also carry out awareness-raising activities. These are the Equality and Human Rights Commission, the Northern Ireland Human Rights Commission and the Scottish Human Rights Commission.

25. Several States, including Austria, Bulgaria, Bosnia and Herzegovina and Cyprus, mentioned the role of the Ombudsman. In France, enhanced co-operation is brought about via a new independent institution, the "défenseur des droits", which has taken over the role of the former Médiateur de la République, the Children's Ombudsman, the Equal Opportunities and Anti-Discrimination Commission and the National Commission for Police Ethics. Anyone who believes his or her rights have been violated may refer the matter to this independent institution, which has investigative powers. In Armenia, legislation provides for the involvement of the Human Rights Ombudsman, who may attend the meetings of the government and the sessions of parliament where they concern matters relating to human rights and fundamental freedoms, and, where applicable, raise issues relating to human rights violations.

26. Belgium is the only State to have said that it was currently investigating the possibility of setting up a national human rights institution, whose role it would be to help raise national authorities' awareness of the Convention standards.

27. Some States also mentioned co-operation agreements. For example, in April 2011 in Romania, the government agent, the Judicial Services Commission and the Romanian European Institute concluded a co-operation agreement for the translation and dissemination of the Court's case-law. The purpose of assigning the translation of the Court's judgments to the Romanian European Institute was to ensure top quality translations, reviewed by lawyers. In October 2011, the government agent also concluded a co-operation agreement with a legal research institute and two judges' associations, with the aim of carrying out joint activities to analyse developments in the case-law of the national courts and the way in which the courts applied the Convention and the Court's case-law. This co-operation also included debates and training courses and the setting up of a case-law database. In addition, the Romanian and French Judicial Services Commissions initiated a project in 2010 involving four member States, which includes the organisation of study visits.

28. Many States highlighted the importance of co-operation with civil society, universities and the Bar. The Swiss Human Rights Centre, set up in May 2011, is a network comprising various universities and training centres and a human rights association. Its role is to strengthen and develop the necessary competences for implementing mandatory international norms at all levels of the State apparatus, within civil society and in the economy, and to encourage public debate. In Finland, the Human Rights Delegation attached to the Office of the Parliamentary Ombudsman comprises representatives of non-governmental organisations and researchers. Latvia referred to seminars organised in 2011 by non-governmental organisations on specific subjects such as juvenile justice. In Slovakia, some associations play a key role in the translation and dissemination of the Court's case-law. Some States mentioned their co-operation with the Secretariat of the Council of Europe and the European Court of Human Rights, in particular with regard to the organisation of training courses and seminars.

29. The CDDH notes that the national reports did not mention the role of the Council of Europe Commissioner for Human Rights. The Commissioner's visits, recommendations and views – along with those of other high-level Council of Europe office holders – often engage the highest political levels in the member States and are thus a very effective means of awareness-raising, including on issues specific to a particular State, and even of changing or developing attitudes, generating a top-down approach. Effective domestic follow-up to such activities is essential to their practical impact.

iii. The means employed

30. The prime means of raising the national authorities' awareness of the Convention standards is the publication and dissemination of the Court's case-law, and handbooks or other types of publication (reports, bulletins, circulars, best practice guides), aimed primarily at the judicial institutions. The most recent initiatives include the publication in Poland in 2011 of a compendium comprising analyses of the most significant judgments relating to Poland, which was widely disseminated to the courts and prosecutors' offices, and a publication in Portugal in 2012 concerning the judgments delivered concerning that country.

31. It is now current practice in most States to disseminate the Court' case-law regarding the country in question, with publication on the internet well developed and the relevant websites offering a search facility. For example, Bulgaria has introduced an information exchange platform within the judicial system via a website containing the most relevant judgments, once they have been translated. Databases with a search facility are to be found in Romania and Italy. In Romania, a case-law newsletter will in future be distributed in electronic form so as to expand the number of recipients. In the publication field, several States, such as Denmark and Germany, have said that they work together with publishers in the private sector.

32. Mention was also made of the involvement of the media (radio in Bosnia and Herzegovina, press releases in Croatia), and exchanges of best practice between member States (Bulgaria).

33. Training, whether basic or in-service, is a further significant way of raising awareness. Bulgaria said that training was aimed not only at raising officials' awareness of their responsibilities, but also at improving their practical skills and their ability to handle crisis situations, to quickly identify events which could lead to human rights violations and to take the necessary preventative steps. In the field of in-service training, many States, such as Bosnia and Herzegovina, Latvia, Liechtenstein, Montenegro and Romania, mentioned an increase in the number of seminars, round table discussions and other professional events.

34. Some countries, such as Austria, also said that the fact that the Convention had been incorporated into their constitution was a means of raising the awareness of the authorities, particularly the judicial authorities, of the Convention system.

iv. The recipients of the awareness-raising measures

35. While some countries said that human rights training formed part of the basic training of all legal professionals, most said that more particularly they had adapted their training approach to the specific needs of certain sectors. Training is most often organised for judges, prosecutors and lawyers, and for police officers and those in contact with people deprived of their liberty. With regard to the training of judges, in Poland in 2012, the Legal Service Training College introduced systematic training in human rights, distinguishing between general training, focusing on the questions raised most often in the Court's case-law in respect of Poland, and specialist training, for "consultant" judges, focusing on the analysis of more specific issues.

36. Other officials may also be targeted more specifically, such as bailiffs, for example in Romania, immigration officers, in Finland, and local authority representatives, for example in Bosnia and Herzegovina.

37. Few States, apart from Bosnia and Herzegovina, Finland and Norway mentioned that human rights education had been introduced into their school system. Likewise, few States mentioned prominence being given to training for trainers so that they could incorporate the human rights dimension into their courses. In 2010, the Irish Human Rights Commission launched a human rights education and training project for civil and public servants, which is also available online, comprising a specific module for trainers.

v. Problems and possible solutions

38. Among the difficulties encountered, those most often mentioned concerned language issues and the lack of resources, particularly for training. In this connection, it should be recalled that the Human Rights Trust Fund may be able to provide finance for relevant projects. It was also emphasised that raising awareness of the Convention standards could be complicated by the sheer volume of the Court's case-law and the fact that this was occasionally not sufficiently clear and consistent. In this connection, attention may be drawn to the Brighton Declaration which called on the Court to "indicate those of its judgments that it would particularly recommend for possible translation into national languages".[24] It can be noted that the Court has recently revised its policy for publishing judgments: in future, a far smaller, more selective number of judgments will be published by the Court; also, that the Department for the Execution of Court Judgments provides summaries of judgments to national authorities.

C. Conclusions and recommendations

39. As noted above, awareness-raising is closely related to other issues addressed in this report, including execution of Court judgments and drawing conclusions from judgments against other States. Measures taken in pursuit of one objective may thus have beneficial effects with respect others.

[24] See the Brighton Declaration, paragraph 9 h).

40. Some States have chosen to designate co-ordinators and/ or set up networks of contact persons with a responsibility for awareness raising, so as to ensure effective co-ordination and dissemination of information: just as a central co-ordinator may be fundamental for the execution of judgments, so there may be advantage in having an identified authority with clearly defined responsibility for the implementation of awareness-raising measures, as well as for following the Court's case-law and transmitting information. National authorities' efforts at awareness-raising may be enhanced through co-operation with national human rights structures and civil society organisations. Engagement by the highest political levels with the Commissioner for Human Rights and other high-level office holders of the Council of Europe, with effective follow-up to such contacts, is also a valuable means of raising awareness at national level.

41. As regards the means implemented, transmission of information by electronic means and the making available on-line of case-law or information on the Convention system, for example in the form of databases, will contribute to increasing awareness of Convention standards. Partnerships with the private sector may also represent a valuable means of widening the publication of information on the Convention system. Training is another important means of awareness-raising. Training must be appropriate to the recipients concerned; to this end, specific programmes of training for trainers, integrating the human rights dimension, should be developed. In order to be able to evaluate and maximise the impact of these awareness-raising measures, it is also necessary to undertake evaluation of training and of those being trained.

42. Linguistic difficulties having been mentioned as one of the most commonly encountered problems, member States having mutually understandable national languages should develop co-operation activities, including with a view to translating and disseminating the Court's case-law. Finally, the CDDH recalls that States may benefit from the technical or financial assistance of the Council of Europe and that the Human Rights Trust Fund may play an important role in this respect.

2. Fully executing the Court's judgments, ensuring that the necessary measures are taken to prevent further similar violations.

9. Co-operating with the Committee of Ministers, after a final pilot judgment, in order to adopt and implement general measures capable of remedying the structural problems at the origin of repetitive cases.

A. Introduction

43. Article 46 of the Convention requires States Parties to abide by the final judgment of the Court in any case to which they are parties, such judgments being transmitted to the Committee of Ministers, which shall supervise their execution.

44. This obligation to execute Court judgments, along with those in Article 1, to respect human rights, and in Article 13, to provide an effective remedy for alleged violations, is one of the key provisions underpinning the Convention system of human rights protection. Rapid and effective execution of the Court's judgments contributes to enhancing the protection of human rights in member States and to the long-term effectiveness of the European human rights protection system.[25]

45. Although there have been certain positive developments in recent years, important problems persist. These include the increase in the number of judgments of which the finalisation of execution has been pending for over five years, most of which concern important structural problems.[26] Common problems include excessive length of judicial proceedings; non-enforcement of final domestic judicial decisions; poor detention conditions and excessive duration of detention on remand; excessive use of force and other forms of ill-treatment by police or security forces and ineffective investigations into resulting violations; inadequate restitution of or compensation for expropriated property; and lack of effective remedies for such violations.[27]

46. In recent years, the Court has intervened in such situations through recourse to the pilot judgment procedure,[28] which highlights the obligation to resolve problems giving rise to repetitive cases. The need for rapid and effective execution of pilot judgments, and others revealing important structural problems, has been consistently underlined. Although the Court, through justifiable caution, continues to apply the pilot judgment procedure in a relatively small number of cases, it regularly gives high priority to these and other cases involving hitherto unexamined structural or endemic situations,[29] as such cases threaten the effective functioning of the Convention system. The Committee of Ministers likewise prioritises such cases by allocating them to the new "enhanced procedure" for supervision of execution. Nevertheless, whilst there is a shared responsibility to maintain the overall effectiveness of the Convention system, the primary

[25] As noted in the preamble to Committee of Ministers' Recommendation CM/Rec(2008)2 on efficient domestic capacity for rapid execution of judgments of the Court ("CM/Rec(2008)2").
[26] See the 5th Annual Report of the Committee of Ministers on Supervision of the execution of judgments and decisions of the Court (for 2011, "Committee of Ministers' Annual Report, 2011").
[27] See, for example, the Committee of Ministers' Annual Report, 2011; also PACE doc. 12455, "Implementation of judgments of the European Court of Human Rights", report of the Committee on Legal Affairs and Human Rights.
[28] According to Rule 61 of the Rules of Court, introduced on 21/02/11 in response to the call made in the Interlaken Declaration, "[t]he Court may initiate a pilot-judgment procedure and adopt a pilot judgment where the facts of an application reveal in the Contracting Party concerned the existence of a structural or systemic problem or other similar dysfunction which has given rise or may give rise to similar applications." The procedure involves adjournment of any related applications pending judgment in the pilot case. The judgment not only finds a violation in the individual case but identifies the underlying systemic or structural problem and defines the broad outlines of general measures intended not only to remedy the applicant's situation but also those of other (potential) applicants. The decision on just satisfaction in the pilot case may then be adjourned for the respondent State to implement these general measures. Once this has been satisfactorily achieved and a friendly settlement reached, the Court strikes out the remainder of the individual applicant's case. Any pending applications are also struck out on the basis that there is now an effective domestic remedy available for their resolution.
[29] See Rule 41 of the Rules of Court and the Court's Priority Policy, available on the Court's web-site.

responsibility for executing such judgments and fully resolving the underlying problems lies on the respondent State concerned.

47. There have also been important developments concerning execution of judgments in recent years, both before and since the Interlaken Conference, concerning both national implementation and Committee of Ministers' supervision. Notable amongst these are Committee of Ministers' Recommendation CM/Rec(2008)2 on efficient domestic capacity for rapid execution of judgments of the Court, and the CDDH's proposals for the supervision of the execution of judgments in situations of slow execution, which resulted notably in more systematic use of actions plans and action reports as part of the Committee of Ministers' supervision process[30] and the new "twin-track" procedure introduced on 1 January 2011 as part of the reform of the Committee of Ministers' working methods. Alongside these, the Parliamentary Assembly has continued its own work focussing on Court judgments against specific countries whose execution has long been pending, which now includes hearings with relevant national parliamentarians and officials on execution issues.[31] The impact of these developments is apparent in member States' responses to the Questionnaire.[32]

B. Issues

48. The responses received to the Questionnaire, taken as a whole, highlight the significance notably of the following issues.

i. Co-ordination of and responsibility for execution

49. In accordance with CM/Rec(2008)2, many States have designated a co-ordinator of execution of judgments at the national level. This function is often entrusted to the office of the Government Agent before the Court.[33] This would seem a sensible arrangement, given the Agent's prior familiarity with the subject-matter of cases heard by the Court and broader knowledge of both relevant national law and the Convention

[30] See the CDDH's "Practical proposals for the supervision of the execution of judgments of the Court in situations of slow execution", made to the Committee of Ministers in December 2008 (doc. CDDH(2008)014 Addendum II), following which "action plans" (measures a State intends to take to execute a judgment) and "action reports" (information on measures taken to execute a judgment or explanation of why no further measures are necessary) have been established as a key component of the Committee of Ministers' working methods: see doc. CM/Inf/DH(2009)029rev.

[31] See, most recently, PACE Resolution 1787 (2011) and Recommendation 1955 (2011) on implementation of judgments of the European Court of Human Rights, along with the report of the Committee on Legal Affairs and Human Rights (doc. 12455).

[32] See also the results of the *Round table: Efficient Domestic Capacity for rapid execution of the European Court's Judgments* (Tirana, Albania, 15-16 December 2011), in particular the "Conclusions of the Chairperson" and "Synthesis of the replies by member States to the questionnaire on the domestic mechanisms for rapid execution of the Court's judgments".

[33] As, for example, in Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Norway, Poland, Serbia and Sweden.

system.[34] Other approaches include co-ordination by bodies involving relevant ministries and other authorities[35] or, in the case of Liechtenstein, the collegial Government as a whole. The important thing is that responsibility and competence for co-ordination are clearly established.

50. In this connection, several States mentioned the legal basis of the Agent's role in the execution process. In the Czech Republic, Law no. 186/2011 establishes the Agent's "initiating, coordinating and consultative" role, as well as imposing an obligation on other "relevant authorities" to execute Court judgments and co-operate with the Ministry of Justice (i.e. the Agent); the Agent's role is further defined in the 2009 Statute of the Government Agent. In Poland, a combination of legislation and ministerial ordinance and decision establish a special unit for co-ordinating execution of judgments within the department that supports the work of the Agent. In Serbia, a decree provides that the Agent "ensure the implementation of judgments of the Court" and requires all State authorities to provide relevant information and documents, as well as necessary legal and administrative assistance.

51. In addition to the co-ordinator, the ministry or authority responsible for the relevant issue will also be involved in the execution process. Contact persons for liaison with the overall co-ordinator may be designated in individual ministries (e.g. France). There are several examples of legal provisions imposing an obligation on public authorities either to ensure execution of Court judgments or to co-operate with the co-ordinating body. In Lithuania, for example, a draft law, once implemented, will establish the obligation of State and municipal authorities or enterprises to take the necessary measures for execution of Court judgments. In Sweden, there is a specific requirement to grant a residence permit to an applicant against whom a refusal of entry or expulsion order was found by the Court to be in violation of the Convention, unless there are exceptional circumstances. In Liechtenstein, there is the possibility of recourse to a higher political level for resolution of any disagreements that may arise between the bodies involved.

52. The Agent (or other co-ordinating body) may also be responsible for dissemination of information on public authorities' legal obligations. In Bosnia and Herzegovina, for example, the Agent provides national institutions with clarification of the judgment and the obligations that arise from it, also for local authorities. In Germany, the Representative for Human Rights Matters in the Federal Ministry of Justice ensures that all those involved are conscious of the necessity of full execution of a given judgment. In Norway, the Legislation Department of the Ministry of Justice and Police, which *inter alia* co-ordinates execution, informs relevant ministries of the requirements arising from Article 46. In Poland, the Inter-ministerial Committee for matters concerning the Court – composed of experts from relevant government bodies and chaired by the Agent, who may (and does) invite other bodies to participate (e.g. the

[34] As noted also by the Department for the Execution of Judgments: see "Synthesis of the replies to member States to the questionnaire on the domestic mechanisms for rapid execution of the Court's judgments", prepared for the Tirana Round-table (15-16 December 2011).
[35] As in, for example, Armenia, Croatia, Denmark.

Ombudsman's, Prosecutor General's, Sejm's and Senate's offices) – raises awareness of the Convention system within the government administration.

ii. Translation and dissemination of Court judgments

53. Many States specifically mentioned the importance to the execution process of translation and dissemination of Court judgments, insofar as it is intended to achieve necessary changes in domestic case-law and practice. This task is often the responsibility of the co-ordinator/ Agent.[36] In Sweden, the Agent forwards copies of judgments, with explanatory reports in Swedish, to the courts and authorities concerned, sends copies to the Courts of Appeal, Parliamentary Ombudsman, Chancellor of Justice & Bar Association, and publishes summaries on the government's human rights website. In Latvia, the Agent also prepares summary information on judgments for the mass media. In addition to electronic dissemination, judgments are often published in the official journal or gazette.[37] In Romania, it is rather the prosecutor's office at the High Court of Cassation, which produces a summary of the Court's case-law for the period 2009-2010 having an impact on criminal law, intended for all prosecution offices.

iii. Role of parliaments

54. Several States underlined the importance of close co-ordination between the government and the parliament in order to ensure the passage of legislation necessary to the implementation of general measures. This may take various forms and entail different degrees of implication on the part of the co-ordinator. In Bulgaria, Denmark and Turkey, for example, the Agent gives advice or makes proposals to the relevant ministry and other institutions as appropriate. In Cyprus, the Agent drafts necessary legislation and transmits bill to ministry concerned, which then tables it before parliament, with lawyers from the Agent's office attending parliamentary committee proceedings.

55. In addition to their legislative role, parliaments may also engage in oversight of execution of Court judgments. In Germany, the Bundestag has "[urged] the Federal Government to report annually and in an adequate form to the appropriate [parliamentary] committees on the execution of judgments against Germany", in response to which the Federal Ministry of Justice now submits an annual report to the relevant committees, which may decide to place it on their agendas. In Hungary, there has been parliamentary supervision of execution of judgments since 2007, with the Minister of Justice presenting an annual report to the constitutional and human rights committees on execution of judgments and cases pending before the Court. In the United Kingdom, the Government produces approximately once a year a report on progress in implementing Court and domestic courts' human rights judgments, which is scrutinised by the parliamentary Joint Committee on Human Rights.

[36] As in, for example, Austria, Bosnia and Herzegovina, Bulgaria.
[37] As in, for example, Latvia, Serbia.

iv. Role of courts

56. The importance of close contacts with the domestic judicial system, another key actor in the execution process, was also underlined. In Liechtenstein, the Ministry of Justice is in continuous contact with the national courts, allowing questions concerning remedy of a violation of procedural rights to be clarified quickly and "unbureaucratically". In Serbia, the Agent visits courts and takes part in meetings and discussions to indicate the importance of respecting the Convention and executing Court judgments. In the Slovak Republic, there are intensive contacts between the Ministry of Justice and the Constitutional Court, with the participation of the judge of the Court elected with respect to the Slovak Republic and the Agent, aiming to harmonise the Constitutional Court's practice with that of the Court. In "the former Yugoslav Republic of Macedonia", there are regular meetings between the Agent and the presidents of the national courts to underline the significance of executing Court judgments, especially in relation to individual measures, including through reopening where necessary (see further below).

57. One important role that domestic courts can play is the reopening of proceedings: in Estonia, Latvia and "the former Yugoslav Republic of Macedonia", the Criminal, Civil and Administrative Procedure Laws contain provisions on re-examination and reopening, as do the Criminal and Civil Procedure Codes in Georgia and Montenegro; in the former, Court judgments are taken to establish new circumstances justifying review of previous domestic court decisions, and in the latter, domestic courts are bound by the Court's legal views in reopened civil proceedings. In Romania, an extraordinary remedy exists by way of revision of a domestic judgment following a Court judgment.

58. Domestic courts may also provide remedies for non- or incomplete execution of Court judgments. In Germany, the Basic Law [Constitution] makes it possible to raise an objection before the Federal Constitutional Court that State organs disregarded or failed to take into consideration a decision of the European Court of Human Rights. Similarly, in Spain, the Constitutional Court has recognised applicants' right to seek redress from national courts following a Court judgment, when the effects of the violation persist. In Lithuania, if the legislator fails or delays to amend legislation found defective in a Court judgment, the national courts may make good this omission by directly applying the judgment. In Malta, domestic courts may intervene to direct execution of Court judgments.

v. Co-operation with the Council of Europe

59. Several States mentioned the value of co-operation with the Court and the Committee of Ministers and the Department for the Execution of Court Judgments, including through seminars and round-tables and other targeted assistance and co-operation activities, such as expert evaluation of draft legislation. In Belgium, the ministries concerned by a judgment are invited to meetings between the Agent and the Execution Department, with further annual bilateral contacts between the national authorities and the Execution Department, including on specific aspects of general

measures. The parliamentary Joint Committee on Human Rights in the United Kingdom itself regularly visits the Execution Department to discuss cases.

vi. Pilot judgments

60. Relatively little specific information was received concerning implementation of pilot judgments, in part due to the fact that such judgments have only been delivered with respect to a few States Parties.[38] Certain interesting observations were nevertheless made.

61. The Czech Republic noted that in principle, the tools necessary for implementation of a pilot judgment were in place, being those applicable also to implementation of "regular" judgments. Execution of a pilot judgment would probably require co-ordination at a higher political level than that of Agent, which could entail difficulties and the risk that the solution would not be adopted in a timely fashion. In this connection, it can be noted that in Romania, an Inter-ministerial Committee was established to address the problem of reform of legislation and procedures in the field of property restitution following the relevant pilot judgment. Ukraine noted that the issue of execution of specific pilot judgments had been discussed at meetings between the Director General, Human Rights and the Rule of Law of the Council of Europe and high officials including the Head of the Parliament, the Head of the Presidential Administration and judges of the Supreme Court.

62. Germany noted that execution of the pilot judgment to which it was party involved continual exchanges between the Federal Government and the Department for the Execution of Judgments. Romania also underlined the importance of such contacts, along with the involvement of other directly concerned national authorities, citing the example of a conference in Bucharest on "The problem of restitution of properties and the award of pecuniary damages in the light of the perspective of the Court's case-law", organised by the Agent and the Ministry of Foreign Affairs with the Council of Europe and the Court, in which participated high-level representatives of 20 other member States affected by similar problems and at which good practices were exchanged.

vii. Problems and possible solutions

63. A range of possible problems was mentioned by States, although few responses included suggestions of how they might be solved. Possible problems include:

[38] The Registry identifies the following as pilot judgments: *Broniowski v. Poland* (31433/96, 28/09/05), *Hutten-Czapska v. Poland* (35014/97, 19/06/06), *Xenides-Arestis v. Turkey* (46347/99, 22/12/05), *Burdov (No. 2) v. Russia* (33509/04, 15/01/09), *Olaru & otrs v. Moldova* (17911/08, 28/07/09), *Yuriy Nikolayevich Ivanov v. Ukraine* (40450/04, 15/10/09), *Suljagic v. Bosnia and Herzegovina* (27912/02, 03/11/09), *Kuric v. Slovenia* (26828/06, 13/07/10), *Rumpf v. Germany* (46344/06, 02/09/10), *Atanasiu & otrs v. Romania* (30767/05, 12/10/10), *Greens & M.T. v. UK* (60041/08, 23/11/10), *Athanasiou & otrs v. Greece* (50973/08, 21/12/10), *Hamanov and Dimitrov v. Bulgaria* (48059/06, 10/05/11), *Finger v. Bulgaria* (37346/05, 10/05/11), *Ananyev & otrs v. Russia* (42525/07, 10/01/12), *Ummuhan Kaplan v. Turkey* (24240/07, 20/03/12) and *Michelioudakis v. Greece* (54447/10, 03/04/12); the judgments in the cases of *Lukenda v. Slovenia* (23032/02, 06/10/05), *Orchowski v. Poland* (17885/04, 22/10/09) and *Kauczor v. Poland* (45219/06 , 03/02/09) share some but not all of the defining characteristics of a pilot judgment.

- Budgetary issues, particularly with respect to implementation of general measures. Azerbaijan indicated that in one situation, these had been addressed through introduction of a special action programme and associated budget.
- Differing approaches or competing interests at administrative/ government level; the Czech Republic noted that this could be compounded by the lack of a national authority empowered to rule that the obligation to execute a judgment has not been met and to impose measures or penalties as a result.
- Political controversy surrounding particular general measures and/ or insufficient understanding of the obligation to execute Court judgments.
- A lack of political will at government level.
- Similarly, a lack of political will at parliamentary level, where processes occur independently of the government.
- Failure on the part of domestic courts to adapt their case-law, including through re-interpretation of existing legislation, in accordance with the Strasbourg Court's judgments.
- The length of time that has passed between the date of the facts in issue and the Court's final judgment.
- The sometimes ambiguous wording of judgments and/ or the possibility of misinterpretation of the judgment.

C. Conclusions and recommendations

64. As a starting point, it is clear that CM/Rec(2008)2 has proved a source of valuable guidance to many States in enhancing their capacity to execute Court judgments rapidly and effectively, in particular the designation of co-ordinators of execution of Court judgments.[39] An explicit legal basis for the existence and role of the co-ordinator may usefully reinforce clarity, visibility and legal certainty. The formal appointment of contact persons in other ministries and public authorities with whom the co-ordinator will liaise may also facilitate the process. Formalisation of the legal obligation on domestic authorities to execute Court judgments, along with dissemination of information to those authorities on that obligation, may also have similar beneficial effects. Where difficulties arise, in particular in relation to general measures including those required for execution of pilot judgments, the possibility of recourse to higher political authority may help overcome obstacles. Rapid translation and dissemination of Court judgments[40] and summaries thereof, as well as of Committee of Ministers' decisions and resolutions adopted during the supervision process, would also contribute.

65. Parliaments have an important role to play. The co-ordinator should remain informed of the process of drafting necessary legislative reforms, and may play an appropriate role in this process. States should also examine the possibility, within existing

[39] In this respect, see also the results of the *Round table: Efficient Domestic Capacity for rapid execution of the European Court's Judgments* (Tirana, Albania, 15-16 December 2011), in particular the "Conclusions of the Chairperson" and "Synthesis of the replies by member States to the questionnaire on the domestic mechanisms for rapid execution of the Court's judgments", available on the website of the Department for the Execution of Judgments of the Court.

[40] In accordance with Committee of Ministers' Recommendation Rec(2002)13 on the publication and dissemination in the member States of the Convention and the case-law of the Court.

constitutional constraints, of involving national parliaments in an oversight role over execution of judgments.

66. Co-ordinators should also remain informed of developments before relevant domestic courts concerning the resolution of different execution issues through changes in domestic courts' practice or case-law. Similarly, those States which have not already introduced legal provisions permitting the direct application of Court judgments by domestic courts should, where necessary and as appropriate, consider doing so. The crucial role of domestic courts should also be enhanced by ensuring adequate possibilities for re-examining, including re-opening of, proceedings where necessary to remedy a violation found by the Court.[41]

67. Finally, States should ensure full and effective co-operation with the Council of Europe, in particular the Court and the Department for the Execution of Judgments, including through enhanced technical cooperation, issue-specific conferences, seminars etc., and involving also other relevant domestic authorities, including the judiciary, in such processes. This is especially the case where major structural or systemic problems are at stake. The CDDH notes that the Human Rights Trust Fund may be able to provide financing for such co-operation activities.

3. Taking into account the Court's developing case-law, also with a view to considering the conclusions to be drawn from a judgment finding a violation of the Convention by another State, where the same problem of principle exists within their own legal system.

A. Introduction

68. Article 46 of the Convention requires States Parties to abide by final judgments of the Court in cases to which they are parties. That said, Article 32 states that "the jurisdiction of the Court shall extend to all matters concerning the interpretation and application of the Convention and the Protocols thereto which are referred to it…" The States Parties thereby recognise the Court's final authority in these matters. Through its case-law, the Court establishes both general principles of interpretation of the scope and meaning of Convention rights, and the application of those rights in particular circumstances. These principles of interpretation and, where sufficiently similar circumstances exist in the domestic system, application have foreseeable consequences in States other than the Respondent in a case. The Interlaken Declaration therefore encouraged States Parties to respond also to the general principles of the Court's case-law as a whole, so as to resolve predictable problems at domestic level, in accordance with the principle of subsidiarity. In this respect, it should be recalled that the Court has more recently envisaged the possibility of broadening its interpretation of the notion of "well-established case-law",[42] by which applications may be dealt with under the summary

[41] In accordance with Committee of Ministers' Recommendation No. R (2000) 2 on the re-examination or reopening of certain cases at domestic level following judgments of the Court
[42] See article 28(1)(b) of the Convention.

Committee procedure and which hitherto has only been applied in the context of repetitive cases, to take into account the Court's well-established case-law "beyond the particular respondent State concerned".[43] This would be a further argument for States Parties to maintain a good, up-to-date level of knowledge and understanding of generally applicable principles of the case-law as a whole.

69. The issue of execution of Court judgments by the respondent State under Article 46 is dealt with under a separate heading. This part of the report will therefore focus on States Parties' application of the general principles found in the Court's case-law as a whole. That said, the current issue and that of execution of judgments are clearly closely related, as was apparent from the information received.

B. Issues

70. The responses received to the Questionnaire, taken as a whole, highlight the significance notably of the following issues.

i. Responsibility for taking account of the Court's developing case-law and drawing conclusions from judgments against other States

71. It may be recalled that, in connection with execution of judgments under Article 46 of the Convention, a key aspect is the role of a central co-ordinator, as reflected in Committee of Ministers' Recommendation CM/Rec (2008) 2 on efficient domestic capacity for rapid execution of judgments of the Court. Many States indicated that governmental bodies were involved in following the Court's case-law, including judgments against other States: in Austria, for instance, the Federal Chancellery disseminates circulars to all central bodies, the highest courts and the national parliament with a summary of the Court's recent case-law; and in Germany, the Federal Ministry of Justice commissions a report on Court decisions against other States which is widely distributed, including to the Parliament. The Government Agent was, again, frequently mentioned.[44] In Estonia, for example, the Agent prepares annual overviews of the Estonian cases for the government, including an outline of possible problems of compatibility of the domestic legal order with the Convention apparent as a result of judgments against other States, along with proposals for preventing similar violations through amendment of legislation or development of domestic courts' case-law. Several States, including Germany and Liechtenstein, also mentioned the role of the national Permanent Representation to the Council of Europe.

72. Many States referred to the role of the courts.[45] The Constitutional Court of Bosnia and Herzegovina takes into account the relevant jurisprudence of the Strasbourg Court as a whole, as do the Spanish Constitutional and Supreme Courts, the Austrian

[43] See the Preliminary Opinion of the Court in preparation for the Brighton Conference (doc. v2-#3841140, 20/02/12), paras. 22-23.
[44] As in, for example, Cyprus, Czech Republic, Estonia, Georgia, Germany, Hungary, Monaco, Slovak Republic, Sweden, the former Yugoslav Republic of Macedonia.
[45] As in, for example, Bosnia and Herzegovina, Estonia, Lithuania, Luxembourg, Norway.

Constitutional, Administrative and Supreme Courts and the Swiss Federal Tribunal. Similarly, the Lithuanian courts consider the Court's case-law to be an integral part of Convention law, to be taken into account when considering cases. Judges in San Marino refer to the Court's case-law without distinction as to respondent State. Portugal's reply mentioned the fact that the Court's case-law is referred to during judicial training, with the most relevant issues being illustrated by reference judgments delivered whether against Portugal or other States. In Romania, the Superior Judicial Council is considering the value and resource implications of translating and publishing the Court's factsheets on-line. In Sweden, the National Courts Administration (a "service organisation" for domestic courts) publishes a regular newsletter entitled "News from the European Court of Human Rights", with summaries in Swedish of cases deemed to be of interest to Swedish courts concerning both Sweden and other States.

73. Some States mentioned the involvement of parliament. In Luxembourg, for example, the Chamber of Deputies, on adopting reforms to the legislation on hunting following the Court's judgment in the case of *Schneider v. Luxembourg*, invited the government to continue to follow closely the Court's future judgments concerning hunting and to analyse in detail their effects on the relevant national legislation, anticipating the Court's future judgment in the case of *Hermann v. Germany*.

74. The Czech Republic's reply referred to a multiplicity of actors, namely the Agent's office, the Office of the Government Commissioner for Human Rights, the (Registries of the) Constitutional, Supreme and Supreme Administrative Courts, amongst others. In Austria a similar collaborative effort is made in consequence of the constitutional rank of the Convention in the Austrian legal order. In Poland, the inter-ministerial Committee for Matters Concerning the European Court of Human Rights, in which other actors, for example the Ombudsman, participate, is responsible for analysing the most important problems resulting from the Court's case-law with respect to other countries. In Romania, the Court's case-law concerning other States is analysed when the prosecutor is involved in relevant proceedings before the Constitutional Court and High Court of Cassation and Justice.

ii. Legal basis

75. Several States underlined the fact that this responsibility was established through law. In Austria it stems from the constitutional rank of the Convention. In Latvia, a 2009 governmental instruction requires the results of an analysis and assessment of international obligations, including review of the Court's case-law, to be included in an explanatory text accompanying draft legislative acts. In Lithuania, a draft Law on the Basics of the Legislative Process would require governmental institutions to publish the results of an analysis of the compliance of draft legislation with the Convention and the Court's case-law. In Romania, a legal amendment introduced in 2011 requires all legislative proposals to be accompanied by a preliminary evaluation of the human rights impact of the new regulations, including by reference to the Court's case-law. In Ukraine, the Law on enforcement of judgments and application of the European Court of Human Rights' case-law requires national courts to apply any relevant judgments when

considering cases. In the United Kingdom, the 1998 Human Rights Act requires domestic courts to take into account any relevant decision of the Court when determining questions concerning Convention rights.

iii. Procedures

76. Several replies gave information about the procedures followed. In Azerbaijan, weekly seminars and round-tables are held in the Supreme Court and Prosecutor General's office to discuss and draw conclusions from Court judgments finding a violation by another State, leading to guidance to lower courts of prosecutors respectively. In Cyprus, the Agent's office systematically follows the Court's case-law and checks on legislation and domestic administrative practice in order to communicate relevant Court judgments to the domestic authorities concerned; if these authorities provide information to the effect that the law or practice is not compatible with a Court judgment, the Sector advises on the necessary action to be taken. The Agent's office is also informed of potential incompatibilities with the Court's case-law by the Ombudsman, other human rights bodies of the Council of Europe and other international organisations, and following requests for advice from domestic authorities themselves. In Germany, the Agent's office analyses the Court's case-law based on the Court's own "case-law information notes", following which it forwards relevant insights to the competent offices. In Ireland, the case-law information notes and list of weekly communicated cases are actively circulated by the foreign ministry. In the former Yugoslav Republic of Macedonia, the Agent once a year translates relevant Grand Chamber judgments that may have an impact on domestic law.

77. Slovenia specified that, whilst following the evolution of the Strasbourg case-law, it took particular account of systemic judgments, including those against other States; as an example, it mentioned the case of *S. & Marper v. U.K.*, which concerned retention of DNA material, in relation to drafting of new legislation concerning the police.

iv. Modalities of dissemination/ the internet

78. Certain replies addressed the modalities for disseminating relevant information. In Georgia, a collection of judgments, including judgments delivered against other States, is created for national courts. In Liechtenstein, judges and other relevant authorities are provided with commentaries. The Agent's office in Montenegro has in the past two years published two books of selected Court judgments. The importance of the internet was often apparent. Liechtenstein, for example, mentioned that its domestic courts and authorities access the Court's HUDOC database of its case-law. Luxembourg stated that the Justice Ministry's website included a heading concerning international courts, including the Strasbourg Court, under which could be found links to *inter alia* the Court's factsheets and a general collection of the Court's case-law. The United Kingdom reply noted that various sources of information were used, including informal contacts with officials from other States (see further below) and information published on the Court's website, notably the weekly list of communicated cases.

79. The need for translation in addition to publications, for example of law journals, by civil society was also mentioned as a factor. In Romania, for example, not only Court judgments concerning Romania are translated and disseminated but also relevant judgments against other States. The Court's factsheets have been translated into German published on the Court's website thanks to a German donation and the Practical Guide on Admissibility Criteria thanks to a Liechtenstein donation.

v. Co-operation with other States Parties

80. Several States mentioned actions taken in co-operation with other States. The Ministry of Justice of the Slovak Republic, for example, noted that it intended to co-operate with that of the Czech Republic in publishing all translated judgments against the two States on their respective websites. The Agent's offices of Bosnia and Herzegovina, Croatia, Serbia and the former Yugoslav Republic of Macedonia are inter-connected, so that each has access to relevant judgments against the others, bearing in mind the similarities of the respective legal systems and official languages.

vi. Third-party interventions before the Court

81. As the CDDH has underlined in the past, third party interventions are an important tool in the development of principles of general, or wide, application in the Court's case-law.[46] The French reply mentioned the practice of making such interventions in cases before the Court that may have consequences for similar national legislation, noting that this exercise was undertaken with great caution, insofar as the standards in question may appear similar but actually be quite different within their respective legal context. Likewise, San Marino referred to its third-party intervention in the Grand Chamber proceedings in the case of *Lautsi v. Italy*, made in anticipation of the clear domestic implications that the eventual judgment would have.

vii. Examples of domestic action taken as a consequence of judgments against other States

82. The replies received contained several specific examples. The case of *Salduz v. Turkey* was mentioned by several States. In November 2010, for instance, the national parliament of Andorra modified various legal texts relating to criminal law and the rights of the defence. Legislative reforms were also introduced in Belgium, whilst in the United Kingdom, the principle in *Salduz* was incorporated into domestic law through a 2010 decision of the Supreme Court. Other specific judgments mentioned included *M. v. Germany*, following which the Supreme Court of Estonia in June 2011 declared invalid a provision of the Penal Code concerning preventive detention of a person following the completion of their sentence, and *Hirst v. U.K.*, following which Latvia in 2009 had amended its election law. Sometimes changes were based on several Court judgments: in Lithuania, for example, a Supreme Administrative Court judgment of 2011 concerning freedom of assembly referred to various Strasbourg Court judgments against Bulgaria,

[46] See, for example, the CDDH Activity Report on guaranteeing the long-term effectiveness of the control system of the ECHR, doc. CDDH(2009)007 Addendum I, paras. 26-30.

Poland and Russia; and in Latvia, a government regulation on prison rules was amended in 2011 with respect to the rights of convicted prisoners to keep religious objects, with the accompanying explanatory note referring to several Court judgments.

83. The significance of third party interventions in proceedings before the Court was underlined by specific examples: in Latvia, for instance, numerous amendments to relevant legislative acts concerning child abduction were made following Court judgments in which Latvia had made third party interventions.

84. The value of Committee of Ministers' recommendations as guidance to the application of general principles from the Court's case-law was also apparent. In Estonia, for example, an Act regulating the right of journalists to protect their sources of information came into force in December 2010, prepared in response to Court judgments against other States and inspired by Committee of Ministers' Recommendation No. 7 (2000) on the right of journalists not to disclose their sources of information.

viii. Problems and possible solutions

85. A range of possible problems was mentioned by States, although possible solutions were less apparent. Possible solutions may nevertheless be found amongst the conclusions and recommendations that appear in Section C below.

86. One problem often mentioned was the fact that the domestic settings, the concept and scope of relevant legislation and the structure of domestic legal systems often differ between member States. This may make it difficult to refer to a Court judgment concerning another State even if the same problem of principle it addresses has been identified in the domestic legal system, as described by Sweden.[47]

87. Various factors relating to the volume and complexity of the Court's case-law were mentioned, including by Estonia and Poland. The French reply stated that the scope of the legal issues involved in judgments against other States cannot be clearly ascertained unless the case-law on a particular issue is sufficiently clear, consistent and stable.

88. Linguistic difficulties were mentioned, in particular an insufficient knowledge of the official languages of the Court among the judiciary.

89. Another common problem was limited availability of budgetary and human resources. In different ways, Bulgaria, the Czech Republic, Lithuania and the Republic of Moldova all stated that insufficient means hampered their ability to take more effective action in this area.

90. The Czech Republic alluded to political obstacles, noting that in a political debate, despite a general commitment to human rights, Convention standards are not always considered to be the most important criterion, especially when violation of those

[47] A problem also variously referred to by, for example, Albania, France and Malta.

standards has been found in a case against another State where it could be argued that the legal situation is not exactly the same.

C. Conclusions and recommendations

91. Although there is no explicit Convention obligation to take account of judgments against other States, the status of the Convention as an instrument of European legal order combined with the final interpretative authority of the Court imply that to do so is an important aspect of effective domestic implementation of the Convention, as reflected *inter alia* in the Interlaken Declaration. The replies received show that in many States, this message is already well understood and increasingly put into effect. As mentioned elsewhere in this report, however, the volume of the Court's case-load, including notably the very high proportion of judgments finding violations in areas on which there is well-established case-law, as well as the content of its case-law, suggest that much more could yet be done in this area.

92. Given the importance of a central co-ordinator to execution of judgments against a Respondent State, a related process, it is also important that an identified, central authority have clearly defined responsibility for following the Court's case-law as a whole and for transmitting information and/ or giving appropriate advice to relevant actors when significant judgments are delivered. In many cases, this role falls to the Agent's office, including with support provided by the national Permanent Representation to the Council of Europe. A clear legal mandate, where appropriate, might reinforce the role and status of the responsible actor in this respect.

93. The function involves several complementary aspects, including co-ordination and information-sharing with different secondary actors (other government offices, the Ombudsman or national human rights institution, the judicial system and, as regards transmission of information, relevant stakeholders such as the bar, universities and publishers of law journals). In order to help simplify the otherwise daunting task of keeping abreast of the Court's case-law as a whole, systematic use should be made of existing tools, notably those provided on-line by the Court, such as the regular case-law information notes and the continuously updated thematic factsheets, and by the Execution Department, many of which exist in several languages. Informal contacts, both with Council of Europe staff (especially in the Court's Registry) and other Government Agents, should be developed and exploited. Groups of States with mutually understandable official languages and similar domestic legal systems should consider pooling their resources, co-ordinating their work and sharing the results through more formal arrangements, as is already the case for some. Results should be widely and appropriately distributed domestically, including by electronic means such as official websites.

94. At the level of Court proceedings, States should consider – possibly following consultations with relevant national authorities, which may where appropriate include the judiciary – making third-party interventions in cases in which a judgment may be given that would be susceptible to having implications within their own domestic legal order.

States should also consider taking action to inform other potentially interested States of forthcoming cases in which they may wish to make third-party interventions.

95. Whilst many of the problems mentioned – such as the volume and complexity of the case-law, its clarity, consistency and stability, linguistic difficulties and budgetary limitations – are not entirely avoidable or resolvable, they or their effects may be significantly mitigated by taking measures such as those described above.

4. Ensuring, if necessary by introducing new legal remedies, whether they be of a specific nature or a general domestic remedy, that any person with an arguable claim that their rights and freedoms set forth in the Convention have been violated has available to them an effective remedy before a national authority providing adequate redress where appropriate.

A. Introduction

96. Article 13 of the Convention establishes the right to an effective remedy, whereby "everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity". According to the Court's case-law, an effective remedy must exist for all arguable claims of a violation. It must allow the competent domestic authority both to deal with the substance of the relevant Convention complaint and to grant appropriate relief.[48] A remedy is only effective if it is available and sufficient. It must be sufficiently certain not only in theory but also in practice,[49] and must be effective in practice as well as in law,[50] having regard to the individual circumstances of the case. Its effectiveness does not, however, depend on the certainty of a favourable outcome for the applicant.[51] The "national authority" referred to in Article 13 does not necessarily have to be a judicial authority, but if it is not, its powers and the guarantees which it affords are relevant in determining whether the remedy before it is effective.[52]

97. The Committee of Ministers has given further guidance on the implementation of Article 13 in its Recommendation Rec(2004)6 on the improvement of domestic remedies, which mentioned the need for constant review, in the light of the Court's case-law, of the existence and effectiveness of domestic remedies and which underlined the importance of remedies for structural or general deficiencies in national law or practice.

98. The right to an effective remedy, along with the obligations in Article 1, to respect human rights, and Article 46, to execute Court judgments, is one of the key provisions underpinning the Convention system of human rights protection. By contributing to the

[48] See *Halford v. U.K.*, App. No. 20605/92, judgment of 25/06/97, para. 64.
[49] See *Riccardo Pizzati v. Italy*, App. No. 62361/00, Grand Chamber judgment of 29/03/06, para. 39.
[50] See *Kudla v. Poland*, App. No. 30210/96, judgment of 26/10/00, para. 157.
[51] See *Kudla v. Poland*, op. cit., para. 157.
[52] Ibid.

resolution of complaints at domestic level, it is fundamental to the practical application of the principle of subsidiarity. The availability of effective domestic remedies for all arguable claims of violation of the Convention should permit a reduction in the Court's workload – particularly in respect of repetitive cases – as a result, on the one hand, of the decreasing number of cases reaching it and, on the other, of the fact that the detailed treatment of the cases at national level would make their later examination by the Court easier.[53] Furthermore, giving retroactive effect to new remedies, particularly those intended to address structural or systemic problems, would help relieve the Court's case-load by permitting applications already made to Strasbourg to be resolved domestically.[54]

99. In addition to Article 13 and the Court's case-law on it, the issue of the right to an effective remedy has been addressed by the Committee of Ministers, notably in Recommendation Rec(2004)6, as noted above, and also Recommendation CM/Rec(2010)3 on effective remedies for excessive length of proceedings. Excessive length of proceedings nevertheless remains the violation by far the most frequently found in Court judgments – despite introduction of the Court's prioritisation policy, which gives low priority to repetitive cases – and is very often accompanied by a finding of a lack of effective remedy for the violation. Indeed, such repetitive cases generally betray a chronic failure to institute effective domestic remedies, since previous Court judgments, especially pilot or leading judgments, will usually have given indications of general measures necessary to avoid future violations.

B. Issues

100. The responses received to the Questionnaire, taken as a whole, highlight the significance notably of the following issues.

i. Ascertaining the lack of a domestic remedy

101. Several States' replies highlighted the importance of a process or mechanism for ascertaining the lack of a domestic remedy in particular situations. In Cyprus, for example, the Human Rights Sector of the Agent's office ascertains the non-availability of an effective domestic remedy on the basis of Strasbourg and domestic court decisions, or of its own initiative. All Strasbourg Court judgments, both those against Cyprus and those against other States that establish new legal principles, are also communicated to the Registrar of the Supreme Court, which is thereby made aware of the unavailability or ineffectiveness of a particular remedy. In Denmark, the government routinely evaluates the need for introducing new remedies, whether specific or general. The Estonian reply underlined that domestic case-law may be an effective means of revealing the need for new remedies: for example, a 2011 Supreme Court ruling that the State Liability Act was unconstitutional for failure to provide a remedy for excessive length of pre-trial detention, the ruling also remedying the ongoing violation by way of compensation.

[53] As noted in Committee of Ministers' Recommendation Rec (2004) 6 on the improvement of domestic remedies ("CM Rec(2004)6").
[54] See, for example, CM/Rec(2010)3, in the context of remedies for excessive length of proceedings.

ii. General remedies, including "constitutional complaints"

102. The Convention is now effectively incorporated into the domestic law of all member States, very often at constitutional level [55] or with other superior status,[56] with general remedies for violations of rights available before the domestic courts.[57] In Andorra, for example, this is done by the ordinary courts through an urgent procedure: any person may request directly of the duty judge to guarantee respect of their rights or bring to an end a violation; the problem must be resolved within five days and the procedure as a whole within 30 days and the decision may be challenged before the Superior Court of Justice, which must determine the appeal within a month.

103. Many States mentioned a remedy before the national Constitutional Court, often described as a "constitutional complaint".[58] The 2012 Fundamental Law in Hungary, for example, introduced an enhanced system of constitutional complaint whereby the Constitutional Court was empowered to review the fundamental rights-compliance of final judicial decisions; previously, this power was limited to review of the constitutionality of the law applied by the courts. Often this remedy is subsidiary, meaning that other available remedies, notably those before lower courts, must first be exhausted.[59] In Bosnia and Herzegovina, the Constitutional Court has appellate jurisdiction over constitutional issues, including respect for Convention rights and freedoms. In Liechtenstein, the Constitutional Court is the domestic court of last instance for complaints of violation of an individual's Convention rights. In Lithuania, persons alleging a violation of their Convention rights may apply to the courts, which may, if necessary, apply in turn to the Constitutional Court to determine the constitutionality of domestic legal acts, including their compatibility with the Convention, an integral part of domestic law. The Constitutional Court may intervene before all general remedies are exhausted, however, if there is a question of general interest at stake or alternative general remedies would not provide adequate relief.

104. Several States, including Latvia and Poland, underlined the accessibility of such general remedies, referring both to procedural simplicity and the lack of any fee.

105. Many replies referred to the situation of a domestic court finding a domestic legislative provision to be incompatible with Convention rights. The status of the Convention in domestic law and a country's constitutional system are fundamental considerations in this respect. In 2008, major constitutional reforms in France introduced the possibility for a party to raise the unconstitutionality of a legislative provision during proceedings before a domestic court. In Norway, the Convention is an integral part of domestic law under the 1999 "Human Rights Act", by which provisions of incorporated human rights convention are directly applicable, prevailing over national legislation, and

[55] As in, for example, Austria, Bosnia and Herzegovina, Croatia, Czech Republic, Latvia, Montenegro, Poland, the Slovak Republic.
[56] As in, for example, Denmark, Liechtenstein, Norway.
[57] As in, for example, Germany, Ireland, Luxembourg, Monaco, San Marino,
[58] As in, for example, Austria, Bosnia and Herzegovina, Croatia, the Czech Republic, Hungary, Latvia, Liechtenstein, Montenegro, Poland, Serbia, the Slovak Republic, Slovenia, Spain.
[59] As in, for example, the Czech Republic, Montenegro, Serbia, Slovenia.

may be invoked in administrative proceedings before the ordinary courts. In Poland, a constitutional complaint may lead to judgment on the conformity with the constitution or a statute of other normative act on the basis of which a court of administrative authority has issued a final decision.

106. In several States, domestic courts may declare legislative provisions to be incompatible with the Convention.[60] Such findings have different consequences. In Austria and Liechtenstein, the Constitutional Court may void any final decision or decree of and remand the case to a public authority, and may issue a temporary injunction securing the interests of the complainant for the duration. In Switzerland, the courts may decide not to apply a legislative provision in favour of another legal norm, including those established by the Convention. In the United Kingdom, domestic courts must, if possible, read and give effect to legislation in a way that is compatible with Convention rights. If this is impossible, they may make a declaration of incompatibility, which neither affects continuing operation or enforcement of the legislation nor binds the parties to the case, since parliament remains the supreme law-maker, although secondary legislation may be struck down or not applied unless it repeats a requirement of an Act of Parliament. Remedial measures following declarations of incompatibility may be made by ministerial order before parliament or primary legislation. There is no obligation on the government to propose remedial action or on parliament to accept it, although governments in practice have done so.

iii. Remedies introduced by way of legislation

107. The most common way of introducing remedies is by legislation. In Cyprus, the Human Rights Sector of the Agent's office incorporates provisions establishing effective remedies when introducing new or amending existing legislation, with the views of the domestic courts being sought concerning bills introducing judicial remedies. These remedies may also be co-ordinated with action at European level: in Lithuania, for example, the draft Law on the Legal Status of Aliens, when in force, will oblige domestic authorities to execute Strasbourg Court indications of interim measures relating to the expulsion of aliens.

iv. Remedies introduced by way of domestic courts' case-law

108. Another way of introducing remedies – both specific and general – is through domestic courts' case-law. In Lithuania, domestic courts have developed case-law allowing assessment of the compatibility of domestic legal acts with the Convention. In Poland, the Supreme Court may extend the application of existing remedies to new problems identified by the Strasbourg Court. In Sweden, the Supreme Court's case-law has developed a remedy allowing an individual to bring proceedings before a district court if the Chancellor of Justice, to whom claims are first brought, finds there is insufficient evidence to award compensation for violations of Convention rights.

v. Forms of redress

[60] As in, for example, Ireland, Liechtenstein, Malta and the United Kingdom.

109. Various forms of redress were said to be available in the case of a finding of a violation. The possibility of financial compensation was often mentioned.[61] In the Slovak Republic, the Constitutional Court may quash offending acts or order action to be taken; it may also order the relevant authority to abstain from such violations in future or to restore the prior situation, as well as granting adequate financial satisfaction. In the United Kingdom, courts and tribunals may grant any appropriate remedy within their powers, such as damages, quashing a decision or conviction or ordering a public authority not to take impugned action, to victims of violations by public authorities. The Estonian reply suggested that the national legal provisions on redress for violations of Convention rights should in practice eliminate the need for the Court to award just satisfaction.

110. Several States mentioned the possibility of re-examination and re-opening of proceedings as an important part of the system of remedies, contributing to *restitutio in integrum*. In Croatia, the Criminal Procedure Law was recently amended to allow reopening of criminal proceedings following Court finding of violation. In Italy, a new remedy introduced in 2011 allows both re-examination of decisions taken by final instance courts and reopening of proceedings.

vi. General effect of judgments and class actions/ collective complaints

111. Several States' replies referred to the possibility of remedies having effects beyond individual proceedings. In Latvia, the Constitutional Court's judgment is generally binding, so a finding that a legal provision is incompatible with the Constitution applies not only to the complainant but generally. In Lithuania, a Conceptual Framework on Group Action was introduced by the government in 2011, in response to the fact that the number of people making human rights-based complaints to the domestic courts, often based on the same factual and legal issues, was increasing (see further below).[62]

vii. Excessive length of proceedings

112. As noted above, excessive length of proceedings, very often due to structural or systemic problems, remains the most common type of violation found by the Court in its judgments. Many States referred to specific remedies recently introduced to address this problem. In Estonia, a 2011 amendment to the Code on Criminal Procedure and other procedural acts established new preventive remedies against excessive length of proceedings making it possible for domestic courts to be asked to perform a specific procedural act, with any refusal subject to appeal, and introducing new time-limits for guaranteeing an accused's fundamental rights. In Lithuania, a 2010 reform of the Code of

[61] As in, for example, Bosnia and Herzegovina, Monaco, Serbia, the Slovak Republic.

[62] At the Round Table organised by the Slovenian Chairmanship of the Committee of Ministers (Bled, Slovenia, 21-22 September 2009), the following definition of "class action" was put forward: an "action brought by a representative on behalf of an entire class of people with identical or similar rights which results in the imposition of a decision having the authority of res judicata in respect of the members of such class". Other definitions, however, may be equally valid

Criminal Procedure fixed the maximum period for pre-trial investigation and a 2011 reform of the Code of Civil Procedure allows applications to the Court of Appeals to fix the time within which a lower court must take certain procedural actions. In the Republic of Moldova, the Law on redress by the State of the damage due to infringements of the right to trial within a reasonable time or the right to enjoy the enforcement of a judgment within a reasonable time entered into force in 2011, although it is still too early to assess its effectiveness. In Romania, legislative reforms and provisions in the new criminal and civil procedure codes were introduced in 2010, with measures to ensure trial within a reasonable time and to expedite delayed proceedings. In addition, the Superior Judicial Council has sought to sanction disciplinary faults contributing to delays, and a conference on relevant case-law of the Court, involving the Ministry of Foreign Affairs and the Superior Judicial Council, was held in 2010. The response of the Czech Republic referred to the "repatriation" of applications already made to the Strasbourg Court as a result of the introduction in 2006 of a compensatory remedy with retrospective effect.

viii. Detention conditions

113. Another area in which the Court frequently finds violations due to structural or systemic problems is that of detention conditions. Several States mentioned remedies introduced to address such problems. In Georgia, for example, a new Code on Imprisonment entered into force in October 2010, with provisions establishing rights and procedures concerning detention conditions, in particular the right to health care. In Romania, a series of measures have been introduced to address problems relating to detention conditions, including incorporation of recommendations of the Committee for the Prevention of Torture in national legislation.

ix. Problems and possible solutions

114. As regards responses suggesting problems and their possible solutions, several States mentioned budgetary and human resources as possible limiting factors on the potential to introduce new remedies.[63] Some States noted that the legislative reform process necessarily takes a certain time.[64] Ukraine noted that there were several structural problems for which an effective remedy is still lacking, including non-enforcement of domestic court judgments and poor detention conditions, although the government had drafted a Law on State Guarantees of Enforcement of Court Judgments.

115. As regards constitutional complaints, several States noted problems due to a rapid increase in the number made. In Montenegro, for example, there had been in increase of over 3,000% between introduction of the system in 2007 and the end of 2011; a proposed constitutional amendment would increase efficiency by allowing constitutional complaints to be decided by the Constitutional Court sitting in a three-judge panel. Similarly, in Serbia, the increasing number of constitutional complaints has led to a detailed analysis of possible measures to increase the efficiency of the Constitutional Court and resolve complaints without recourse to the Strasbourg Court.

[63] E.g. Albania, Armenia, Bulgaria.
[64] E.g. Albania, Bulgaria, Finland.

116. Other specific problems concerned remedies for excessive length of proceedings. In Bulgaria, it has been noted that the scope of the State and Municipality Responsibility for Damage Act needs broadening to include right for compensation for excessively lengthy proceedings. Draft legislative reforms are expected to be prepared by Ministry of Justice working group during 2012 and adopted by the National Assembly thereafter. In Germany, the general constitutional remedy had been found by the Strasbourg Court to be deficient with respect to excessive length of proceedings. In response, the Act on Legal Protection in the Event of Excessive Length of Court Proceedings and Criminal Investigative Proceedings entered into force in December 2011, allowing for a compensation claim in relation to proceedings before any domestic court up to and including the Constitutional Court. A similar process has taken place in Portugal. The reply of the Czech Republic noted that the effectiveness of a remedy for excessive length of proceedings may be undermined by, for example, inadequate levels of compensation. As with constitutional complaints, a rapid increase in the number of complaints concerning excessive length of proceedings, as for example with the Supreme Court of the Republic of Moldova, may create a backlog.

C. Conclusions and recommendations

117. It would appear that many significant national initiatives have been taken concerning domestic remedies, triggered by judgments of the Court but also inspired by non-binding instruments, notably Committee of Ministers' Recommendations Rec(2004)6 and CM/Rec(2010)3. The Court's judgments revealing persistent systemic and structural problems that give rise to continuing repetitive cases, however, show that in many areas and in many States, further efforts are still required.

118. As a starting point, it is important to have mechanisms, systems or processes in place to identify areas in which new remedies are needed, both of their own initiative and in response to the findings of domestic courts and the Strasbourg Court.

119. Very many States now benefit from some form of general domestic remedy for violations of Convention rights: in many cases, this takes the form of a remedy before the Constitutional Court, often known as a "constitutional complaint", which may be of subsidiary nature (requiring prior exhaustion of other remedies); in others, allegations of human rights violations may be raised in proceedings before any court or tribunal. Several States underlined the importance of this remedy being easily accessible. Various responses have been developed, in accordance with the particularities of the national legal system, to situations in which relevant domestic legislation is found to be incompatible with the Convention: in some countries, the offending provisions may be voided by the relevant court, with general effect; in others, a judicial declaration of incompatibility may be made, requiring action by parliament if the incompatibility is to be resolved.

120. Whilst legislation is the most common means of introducing new remedies, another approach, valuable on account of its flexibility and relative rapidity, is to do so through development of domestic case-law.

121. Where many similar complaints are or even may be brought, there may be an advantage in giving general effect to judgments brought in individual cases (see also above in relation to incompatibility of legislation with Convention rights). There may also be an interest in examining the possibility of introducing some form of class action/ collective complaint procedure.

122. There is still a widespread need to introduce effective domestic remedies for systemic or structural problems. Many States have also found introduction or adaption of general remedies to be a useful solution to such problems. States that continue to be confronted by excessive length of proceedings, the most common violation due to such problems, should also seek inspiration from CM/Rec(2010)3 and its accompanying Guide to Good Practice, which reflected the preference for resolving underlying problems (thereby avoiding future or continuing violations) rather than merely compensating the violations that arise from them – as would be in conformity with the obligation under Article 1 of the Convention.

123. It is important to ensure, at the earliest possible stage, that general remedies are adequate for all situations in which they may be relied upon and specific remedies are fully effective, so as to allow any necessary modification or reform to be undertaken before problems with the remedy arise or applications are made to the Court, in accordance with the principle of subsidiarity in the Convention system. Likewise, where the level of recourse to a particular specific or general remedy becomes problematic, every effort should be made to find solutions at domestic level.

5. Considering the possibility of seconding national judges and, where appropriate, other high-level independent lawyers, to the Registry of the Court.

124. Several member States indicated having proceeded to secondment of national judges or lawyers to the Court's Registry[65] or had begun the selection process to this end. [66] Many member States indicated that this possibility was or would be examined.[67] By contrast Finland has, since 2000, provided direct funding to the Court to cover the cost of an additional lawyer to work on applications against Finland.

125. For those few States that indicated that they did not foresee, for the time being, the secondment of national judges to the Registry, difficulties invoked were mainly financial. National circumstances such as the size of the State were also invoked.

[65] As in, for example, Armenia, Estonia, France, Germany, Ireland, Italy, Luxembourg, Montenegro, Russian Federation, Serbia, Sweden, Switzerland, Turkey.
[66] As in, for example, Republic of Moldova, Romania.
[67] As in, for example, Albania, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Georgia, Italy, Lithuania, Norway, Poland, Slovenia, the former Yugoslav Republic of Macedonia, Ukraine.

126. This practice can only be encouraged insofar as it permits, in particular, on the one hand the reinforcement of the Court's Registry and the reduction of its backlog and, on the other, an increase in the national judge's knowledge of the Court's case-law and the Convention system, which can thereafter play a role in raising awareness of Convention standards when the judge resumes his or her functions at the conclusion of the secondment.

6. Ensuring review of the implementation of the recommendations adopted by the Committee of Ministers to help States Parties to fulfil their obligations.

127. Few recent measures, other than those already mentioned in the framework of the follow-up of certain Committee of Ministers' Recommendations by the CDDH[68] in 2008, were evoked. Member States also often made reference to measures that were developed in the framework of their responses to other issues, for example concerning the execution of judgments, the introduction of new remedies or raising awareness of Convention standards.

128. Generally speaking, member States undertake translation and dissemination of the recommendations,[69] the role of the Government Agent in the follow-up to the recommendations also being underlined.[70] Committee of Ministers' Recommendation (2010)3 on effective remedies for excessive length of proceedings in particular was cited. Ireland thus indicated that a Committee of Experts, charged with the implementation of effective remedies for excessive length of proceedings, had been particularly inspired by the Guide to Good Practice accompanying the Recommendation. For its part, Romania mentioned the introduction of an acceleratory remedy in the new Code of Civil Procedure. Many States also referred to the follow-up of implementation of Recommendation CM/Rec(2008)2 on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights. For further details, see the chapter on the execution of Court judgments in the present report.

7. Ensuring that comprehensive and objective information is provided to potential applicants on the Convention and the Court's case-law, in particular on the application procedures and admissibility criteria.

A. Introduction

129. Following the appeal from the Interlaken Conference to the States Parties and the Court "to ensure that comprehensive and objective information is provided to potential applicants on the Convention and the Court's case-law, in particular on the application procedures and admissibility criteria", in its decision of 11 May 2010 on the follow-up to the

[68] See CDDH(2008)008 Addendum I: CDDH Activity Report: Sustained action to ensure the effectiveness of the implementation of the European Convention on Human Rights at national and European levels.
[69] As in, for example, Czech Republic, Serbia, Slovenia, the former Yugoslav Republic of Macedonia.
[70] As in, for example, Azerbaijan, Croatia, Czech Republic, Lithuania, Monaco, Romania.

Conference, the Committee of Ministers "encouraged the Court to pursue its efforts to provide better information about the Convention system and invited the Secretary General to investigate possible means of providing comprehensive and objective information to potential applicants to the Court on the Convention and the Court's case-law, in particular on the application procedures and admissibility, including through independent national human rights institutions or Ombudspersons"[71]. For this aspect of the work, therefore, it is worth referring both to the relatively comprehensive information provided by the member States but also to the Secretary General's post-Interlaken report on providing objective and comprehensive information to applicants to the Court[72].

B. Issues

i. Who is required to perform this task?

130. Several States highlighted the role of ombudspersons and national human rights institutions in the provision of both information and counselling and advice for potential applicants. Among the institutions cited were the Ombudsman in Bosnia and Herzegovina, the Ombudsman of the Republic of Bulgaria, the Ombudsman's Office in Latvia, the Danish Institute for Human Rights, the Consultative Committee on Human Rights in Luxembourg and the various national human rights institutions in the United Kingdom. In this connection, it is worth noting that a round table meeting was held by the Council of Europe and the Spanish Ombudsman with national human rights bodies in Madrid on 21 and 22 September 2011 and focused in particular on the active role that national bodies might play in providing information for potential applicants to the Court[73].

131. Several States have set up departments responsible for answering questions from potential applicants. These include the community justice and law centres in France, in which people can seek free advice from lawyers, and a legal information and support service in Luxembourg, to which every citizen can turn for information.

132. Some States such as Bulgaria, Latvia and Switzerland also mentioned the important role of civil society, which serves as a communication channel with applicants.

133. In many States, government agents play a key role in providing information for potential applicants. In Bosnia and Herzegovina, Croatia, Lithuania and Turkey, the government agents translate then publish on their websites all decisions and judgments against them, and their sites also include an electronic application form and instructions for potential applicants. In several member States, particularly Austria, Finland and Sweden, the

[71] Committee of Ministers' 120th Session, 11 May 2010, Follow-up to the High-level Conference on the Future of the European Court of Human Rights (Interlaken, 18-19 February 2010)
[72] Document SG/Inf(2010)23final of 6 January 2012.
[73] http://www.coe.int/t/dghl/cooperation/capacitybuilding/Source/nhrs/RT_mad_DebriefingPaper_en.doc; see, in particular, the summary note on the prospects for national human rights institutions to play an active role in passing on information to potential applicants to the Court: http://www.coe.int/t/dghl/cooperation/capacitybuilding/Source/nhrs/RT_mad_Outline_Provision_information_applicants_en.doc

government agent's office provides general information on Court procedure and case-law. In Estonia, at the end of 2010, the government agent published an article on admissibility criteria in a legal review. In Romania, in December 2011, the government agent launched an information campaign for potential applicants in co-operation with the Judicial Service Commission by distributing information brochures designed for the general public in courts and public prosecutor's offices. In Ireland, in November 2011, the government agent held a seminar in co-operation with the Registry of the Court for all practitioners with an interest in the procedure before the Court. It should be said that in no circumstances does the agent provide any information or advice with regard to the merits of any case liable to be brought before the Court; in most cases agents do not have any direct contact with potential applicants but simply address the public at large or a specialised target group.

ii. What measures are implemented?

134. With regard to the measures taken to ensure that information is provided for potential applicants, many States stated that they have translated the practical guide on admissibility drawn up by the Registry of the Court, disseminated it on various government websites and sent it to the Bar. Besides the dissemination of the Court's case-law and general information on the procedure by the authorities[74], reference was made to the production and dissemination of handbooks and reports on Court case-law and procedure[75], seminars for legal practitioners[76] and the provision of information to potential applicants in the course of free consultations. An interesting step was taken in Germany in summer 2011, when it staged a travelling exhibition on the 60th anniversary of the Convention so as to draw the public's attention to the Court and its procedure.

135. It should be noted that many States said that they disseminated information in particular to bar associations. For instance, in the Czech Republic, a handbook for lawyers was published in a review of the Czech Bar Association as well as being available on the web. In Germany, reports on Court case-law are sent to the Lawyers' Association and the Federal Bar Association with the suggestion that they may be used as materials for the training of lawyers. In Andorra and in the former Yugoslav Republic of Macedonia, the Registry's practical guide on admissibility has been distributed to lawyers, including by e-mail. Increasing the capacity of lawyers to comply with admissibility criteria when lodging applications with the Court, in order to reduce the number of inadmissible applications, is also one of the goals that has been set by the Secretary General[77]. As a result, as part of the European Programme for Human Rights Education for Legal Professionals (the HELP II Programme), a pilot project to enhance the capacity of lawyers to meet admissibility criteria has been devised, covering six pilot countries,[78] and information points on admissibility have been set up in these countries employing national experts, whose task is to provide information on admissibility criteria in co-operation with bar associations. Training programmes are also available on line, along with the Court's practical guide on admissibility and special guides produced to meet the specific

[74] Austria, Bulgaria, Hungary, Ukraine.
[75] Czech Republic, Germany, Switzerland.
[76] Ireland, Monaco.
[77] For more details, refer to the report by the Secretary General cited above (doc. SG/Inf(2010)23final).
[78] Albania, Bulgaria, the Czech Republic, Lithuania, the Russian Federation and Turkey.

needs of these six countries.

iii. Problems and possible solutions

136. The problems most often referred to were financial and linguistic ones. It was also noted that the national authorities were not necessarily always the most appropriate discussion partners for potential applicants[79] and that, in any event, full and objective information was not always enough to dissuade applicants from lodging clearly inadmissible applications[80]. It was suggested that independent information sources were needed, such as the Council of Europe's former documentation and information centres[81]. In this connection, it should be noted that it was said in the Interlaken Declaration that "the role of the Council of Europe information offices could be examined by the Committee of Ministers"[82]. The CDDH also noted, in its Activity Report on guaranteeing the long-term effectiveness of the control system of the European Convention on Human Rights, adopted in March 2009[83], that "the Warsaw pilot project[84] should be continued and consideration should be given to providing similar services in other Council of Europe information offices".

C. Conclusions and recommendations

137. Although they are generally considered to have resulted in a decrease in the number of inadmissible applications, it is difficult to assess the impact of the measures introduced. Nonetheless, as is pointed out in the report by the Secretary General cited above, "the impact of any measure will ultimately depend on the identification and/or setting up of effective means and channels for the dissemination of information to the potential applicants".

138. Various bodies can usefully play a role, including notably Ombudspersons and national human rights institutions (national human rights structures), but also law centres and similar bodies, legal professional associations and other civil society organisations. National authorities should in particular establish or further develop co-operation with national human rights structures. The government itself, often through the office of the Agent, may also play a certain role, although more usually in a more general way, for instance through publications and information campaigns. Whoever is involved, it is fundamental that all information provided is objective and comes from sources whose impartiality in the provision of such information is guaranteed.

139. With respect to national human rights structures, the Madrid Round Table (see paragraph 130 above) concluded that they could in particular:

[79] Hungary, Norway.
[80] Czech Republic, Serbia.
[81] Hungary.
[82] Interlaken Declaration, C. 6. a.
[83] See document CDDH(2009)007 Addendum I.
[84] Project in which a lawyer specially trained by the Registry was sent to work part time at the Council of Europe Information Office in Warsaw in order to provide information on the Convention system to those interested.

- provide information about available domestic remedies and the admissibility criteria for applications to the Court on their websites, with links to the Court's website;
- include relevant information in their annual or thematic reports; and
- have on-duty lawyers to advise potential applicants to the Court about domestic remedies and general ECHR admissibility criteria.

140. Information may be provided by various means, including both general dissemination and targeted communication to relevant bodies, notably the Bar and other legal professional associations. The form the information takes may also differ. Translations into the national language, where appropriate, and dissemination of the Registry's Practical Guide on Admissibility Criteria are particularly useful for applicants' legal representatives, as are seminars and the production and dissemination of other more specialised publications. Thought should be given to more innovative approaches for drawing the general public's attention to relevant information; the Court's video-clip on admissibility is a good example of an accessible approach. Optimal use should be made of information technology, notably by making information available on-line or transmitting it to target groups (such as legal practitioners) by electronic means.

141. Full use should be made of available Council of Europe technical and financial assistance, including notably the HELP Programme, which is aimed in particular at lawyers. In this respect, once again, States should consider contributing to the Human Rights Trust Fund, which amongst other things finances the HELP Programme. Consideration should also be given by the Committee of Ministers to the possible role of the Council of Europe information offices in providing information to individual potential applicants, as stated in the Interlaken Declaration and previously supported by the CDDH (see above).

9. Facilitating, where appropriate, within the guarantees provided for by the Court and, as necessary, with the support of the Court, the adoption of friendly settlements and unilateral declaration.

142. All the member States which expressed themselves indicated that they facilitated, when appropriate, the conclusion of friendly settlement and the adoption of unilateral declarations. One of the practices evoked was the systematic examination, for each new case communicated, of the suitability of such an outcome.[85] The following other measures were in particular pointed out: In the Czech Republic, in the framework of the adoption of a new Statute of the Government Agent, the procedure for acceptance by the State of a friendly settlement has been simplified, in particular when the sums involved do not exceed €5,000, and the idea of unilateral declarations, which was unknown at national level, was introduced. In Poland, the rules concerning friendly settlements and unilateral declarations are discussed each year during specific meetings between the Polish authorities and the Court's Registry and are also the subject of inter-ministerial

[85] Austria, Belgium, Croatia, Germany.

consultations. In Romania, a simple and rapid internal procedure has been put in place in order to ensure prompt friendly settlement and unilateral declarations. In Spain, a protocol has been adopted between the Minister of Finance and the Minister of Justice in order to facilitate friendly settlements and unilateral declarations.

143. The difficulties evoked are notably the absence of transparency in the Court's scales for calculating just satisfaction.[86] It has also been indicated that a frequent difficulty in the procedure for friendly settlements concerns the reticent attitude of applicants towards the amounts proposed.[87] This reluctance could be considerably reduced by providing better information to lawyers on the case-law of the Court concerning just satisfaction in similar cases and by the publication of the Court's scales.[88] It has been noted that a large number of cases do not automatically lead to friendly settlements insofar as they raise new issues and are rarely based on well-established case-law.[89] Generally speaking, it has also been pointed out that the parties should be better informed on these possible measures,[90] in particular on unilateral declarations,[91] in order that they may have a real impact on the Court's burden whilst being understood by the applicant.[92]

144. The CDDH also reiterates its earlier recommendations on this issue. Member States should have more systematic recourse to the Registry's practice of putting itself at the disposal of the parties at any time during the proceedings in order to arrive at a friendly settlement of the case and encouragement to States parties to make greater use of friendly settlements in repetitive cases. They should also have more systematic recourse to the practice of unilateral declarations by Respondent States, with the Court encouraging the State to propose from the outset, in addition to possible compensation and/ or individual measures, general measures with a view to remedying a structural problem, where these are possible and appropriate.[93]

10. Ensuring, if necessary by improving the transparency and quality of the selection procedure at national level, full satisfaction of the Convention's criteria for office as a judge of the Court, including knowledge of public international law and of the national legal system as well as proficiency in at least one official language.

[86] Czech Republic.
[87] Romania.
[88] Romania.
[89] Czech Republic.
[90] Estonia.
[91] With respect to unilateral declarations, it can be noted that the Court has now adopted Rule 62A regulating the practice and has also issued further guidance.
[92] France, Ireland.
[93] See the CDDH Final Report on measures resulting from the Interlaken Declaration that do not require amendment of the Convention, doc. CDDH(2012)R74 Addendum II.

145. As regards this element of the Action Plan in particular, one should refer to the Guidelines on the selection of candidates for the post of judge at the European Court of Human Rights and its explanatory report,[94] which includes examples of good practice.

IV. Please indicate whether your authorities have held or are planning to hold consultations with civil society on effective means to implement the Interlaken Declaration Action Plan, as called for in the Declaration itself.

146. Several member States indicated having held or having foreseen to hold consultations with civil society on implementation of the Interlaken Declaration. [95] In Croatia, for example, the Working Group on implementation of the Interlaken Declaration Action Plan included a representative of civil society. In France, the consultation with civil society took place in a continuous way through regular, consistent contacts with the National Consultative Commission on Human Rights, on which sat 30 representatives of civil society, and to which the French national report on implementation of the Interlaken Declaration had been presented. In Romania, the Ministry of Foreign Affairs, in co-operation with the Council of Europe Information Office in Bucharest, organised in October 2010 a conference entitled "The European system of human rights protection – reform and perspectives", to which civil society representatives were invited. In Serbia, in October 2011, the Government Agent organised a Round Table on the theme of Court reform in the light of the Interlaken Declaration, to which were invited representatives of civil society. Similarly, Spain mentioned a meeting with human rights associations in April 2011, at which the issue of implementation of the Interlaken Declaration Action Plan was raised.

147. One should note the particularly important role that civil society can play, especially in making available to potential applicants objective and complete information on the Convention and its case-law, in particular on the procedure for making applications and the admissibility criteria, and for raising national authorities' awareness of Convention standards. For further details, see the relevant parts of the present report.

V. Please indicate whether your authorities would benefit from the technical or financial assistance of the Council of Europe in fulfilling the calls set out in the Interlaken Declaration.

[94] Adopted by the Committee of Ministers on 29 March 2012 at the 1138th meeting of the Ministers' Deputies.

[95] As in, for example, Armenia, Albania, Austria, Azerbaijan, Bulgaria, Croatia, Czech Republic, Denmark, France, Georgia, Ireland, Liechtenstein, Norway, Poland, Portugal, Romania, Serbia, Slovenia, Spain, Sweden, Turkey, United Kingdom.

148. Some member States indicated a wish to benefit from the technical or financial assistance of the Council of Europe.[96]

III. FINAL CONCLUSIONS

149. The current stage of the reform process would have been incomplete without the present report – national implementation is at least as important as an effective Strasbourg control mechanism. The review of the measures taken by member States to implement the relevant parts of the Interlaken and Izmir Declarations thus constitutes, alongside the expected amendments to the Convention itself, an essential feature in the current process of reform of the Convention system. It has proved to be of considerable value by providing a broad over-view, covering many key aspects, of national implementation of the Convention. Indeed, it is unprecedented within the Council of Europe for so many issues to be addressed simultaneously across (almost) all member States in a single report.

150. A large quantity of information on a wide range of issues has been obtained from all but one of the States Parties to the Convention. National reports were almost all submitted in broadly comparable format and cover a common, recent time-frame, even if not limited to measures taken after (whether or not being, strictly speaking, a result of) the 2010 Interlaken Conference.

151. The CDDH has conducted a detailed review and evaluation of the information contained in these reports; although it should be understood that, on account of the nature of the CDDH itself and the quality of the information received, this cannot be considered tantamount to a monitoring exercise of national implementation of the Interlaken and Izmir Declarations. Although the information obtained is not – and was not intended to be – an exhaustive, comprehensive picture of the state of national implementation of the Convention, it nevertheless permits the identification of certain patterns and tendencies in national practices. Preceding chapters of this report have sought to identify good practices from amongst these, in particular concerning the various issues that have been identified as priorities.

152. The present report should be read alongside and in the light of the Brighton Declaration, which placed considerable emphasis on various aspects relating to national implementation and the Convention and to which it is intended to be complementary. The CDDH would also underline that the suggestions and proposals made in this report should not be taken as setting new standards or seeking to harmonise national practices; they are rather set out as potentially flexible solutions found to have been effective in certain member States, which other member States may wish to consider introducing into their own legal systems, circumstances allowing, in order to avoid or address similar issues.

[96] As in, for example, Albania, Armenia, Azerbaijan, Bulgaria, Croatia, Estonia, Georgia, Hungary, Lithuania, Montenegro, Poland, Portugal, Republic of Moldova, Romania, Serbia, Slovenia, the former Yugoslav Republic of Macedonia.

153. On this basis, the CDDH suggests that the Committee of Ministers endorse the following possible recommendations.

Increasing the national authorities' awareness of the Convention standards and ensuring their application

Recommendations for the attention of member States:

- designate co-ordinators[97] in ministries and/or other networks of contact persons for issues relating to human rights in order to ensure optimum co-ordination and dissemination of information;
- strengthen co-operation with national human rights institutions and/ or other relevant bodies;
- encourage the setting up of online databases or the transmission of information via electronic means;
- in the field of training, focus on training for trainers to ensure that syllabuses incorporate the human rights dimension and are tailored to the target audience;
- develop co-operation activities between member States, especially those sharing the same national language in order to translate and disseminate the Court's case-law;
- explore further the possibilities for partnerships with the private sector for the publication of information on the Convention system;
- where appropriate, request the technical or financial assistance of the Council of Europe;
- bearing in mind the importance of available financing to many of the above activities, consider contributing to the Human Rights Trust Fund.

Recommendations for the attention of the Committee of Ministers:

- examine the sources and sufficiency of funding to ensure that the necessary technical and financial assistance may be made available;
- ensure that the Council of Europe is capable of acting as an effective partner to national authorities and other bodies, including national human rights structures;
- review the structures for provision of technical assistance to ensure its effectiveness and sufficient flexibility/ adaptability.

Execution of judgments,[98] including pilot judgments

Recommendations for the attention of member States:

- ensure full implementation of Committee of Ministers' Recommendation CM/Rec(2008)2, in particular by designating a co-ordinator[99] for execution of Court judgments;
- consider giving, where appropriate, an explicit legal basis to the existence and role of the co-ordinator;
- consider formally appointing, where appropriate, contact persons in other ministries and public authorities with whom the co-ordinator may liaise;

[97] N.b. this co-ordinator could be responsible for several areas of activity.

[98] Following the enlargement under Protocol No. 14 of the Committee of Ministers' competence now to supervise also the execution of friendly settlements, the following points should be considered as applying *mutatis mutandis* also to friendly settlements.

[99] N.b. this co-ordinator could be responsible for several areas of activity.

- ensure that the co-ordinator remains informed of the process of drafting necessary legislative reforms, and may where appropriate play an appropriate role in this process;
- ensure that the co-ordinator remains informed of developments before relevant domestic courts concerning the resolution of different execution issues through changes in domestic courts' practice or case-law;
- ensure that relevant authorities are informed of the obligation to execute Court judgments and consider formalising, where appropriate, that obligation in domestic law;
- consider, where appropriate, establishing the possibility of recourse to higher political authorities for resolution of difficulties, in particular in relation to execution of general measures;
- ensure, where appropriate, rapid, high-quality translation and dissemination of Court judgments against the State, as well as of Committee of Ministers' decisions and resolutions concerning supervision of execution;
- examine the possibility, within existing constitutional constraints, of involving national parliaments in an oversight role over execution of judgments;
- where not already the case, consider introducing legal provisions permitting direct application of the Convention by domestic courts;
- ensure adequate possibilities for re-examining, including re-opening of, proceedings where necessary to remedy a violation found by the Court;
- ensure full and effective co-operation with the Council of Europe, in particular the Court and the Department for the Execution of Judgments, and involving also other relevant domestic authorities, including the judiciary, in such processes.

Drawing conclusions from judgments against other States

Recommendations for the attention of member States:

- ensure, where appropriate, the existence of an identified, central authority[100] with clearly defined responsibility in this area and for transmitting information and/ or giving appropriate advice to relevant actors when significant judgments are delivered; this may be the Government Agent, possibly with support from the Permanent Representation to the Council of Europe;
- consider, where appropriate, giving a clear legal mandate to this authority;
- ensure co-ordination and information-sharing with different secondary actors;
- make systematic use of existing tools to help keep abreast of the Court's case-law, notably the Court's on-line case-law information notes and thematic factsheets and resources made available by the Execution Department;
- develop and make use of contacts both with Council of Europe staff (including the Court's Registry) and other Government Agents;
- ensure, where appropriate, high-quality translation and dissemination of relevant Court judgments against other States;
- consider co-operating with other States having mutually understandable official languages and similar domestic legal systems; widely and appropriately disseminate information domestically, including by electronic means, such as official websites;

[100] N.b. the body responsible for this could also be responsible for other areas of activity.

- consider making third-party interventions in cases in which a judgment may be given that would be susceptible to having implications within their own domestic legal order;
- consider taking action to inform other potentially interested States of forthcoming cases in which they may wish to make third-party interventions;

Effective domestic remedies

Recommendations for the attention of member States:

- put in place mechanisms, systems or processes to identify areas in which new remedies are needed, both of their own initiative and in response to the findings of domestic courts and the Strasbourg Court;
- examine the possibility of introducing some form of general domestic remedy: this may take the form of a subsidiary remedy before the Constitutional Court (a "constitutional complaint") or a remedy allowing allegations of human rights violations to be raised in proceedings before any court or tribunal;
- develop, in accordance with the particularities of the national legal system, appropriate responses to situations in which relevant domestic legislation is found to be incompatible with the Convention;
- examine means to enhance the potential for domestic courts to develop remedies through case-law;
- examine the possibility of giving general effect to judgments brought in individual cases and consider whether there may be interest in introducing some form of class action/ collective complaint procedure;
- ensure effective domestic remedies for systemic or structural problems, which may be through the introduction or adaption of general remedies; with respect to excessive length of proceedings, seek inspiration from Committee of Ministers' Recommendation CM/Rec(2010)3 and its accompanying Guide to Good Practice;
- ensure, at the earliest possible stage, that general remedies are adequate for all situations in which they may be relied upon and that specific remedies are fully effective;
- where the level of recourse to a particular specific or general remedy risks over-loading domestic courts, make every effort to find solutions at domestic level.

Providing comprehensive and objective information to potential applicants on the Convention and the Court's case-law, in particular on the application procedures and admissibility criteria

Recommendations for the attention of member States:

- ensure that all information provided to potential applicants is impartial and comes from a source whose objectivity in the provision of information is guaranteed;
- increase the use of information technology;
- establish or further develop co-operation with national human rights structures;
- ensure that the tools devised by the Court, particularly the practical guide on admissibility and the video clip on admissibility, are broadly disseminated, where appropriate after translation;

- make use, where appropriate, of the Council of Europe's technical and financial assistance, especially its HELP Programme;
- consider contributing to the Human Rights Trust Fund.