

Round Table on “action plans and reports in the twin-track supervision procedure”

Strasbourg, 13-14 October 2014

Conclusions

On the 13-14 October 2014, the Council of Europe (Department of the Execution of Judgments) organised a Round Table in Strasbourg dedicated to action plans and reports for the execution of the European Court's judgments.

Action plans/reports constitute one of the foundations of the new twin-track procedure introduced in January 2011 and are considered to be the practical expression of the principle of subsidiarity. In accordance with this principle, the primary responsibility for the execution of judgments lies with States, who can choose the methods with which to implement them, under the Committee of Minister's supervision.

More than three years since the new supervision procedure was put in place, the objective of the round table was to take stock of the practices and developments as well as of the difficulties encountered in the drafting of action plans and reports. The opportunity was also taken to explore all of their potential within the framework of the process of execution of the Court's judgments.

Action plans and reports : an added value to the execution process

The participants noted from the outset that every year since the entry into force of the new working methods, the Committee has been able to close many more cases than in the past and the execution process is speedier for many of the new cases.

The participants also underlined the major contribution that action plans and reports have given to the transparency and dynamism of the process of the execution of judgments. In this regard, they noted that, in a number of countries, the proactivity of the authorities in defining and putting into action the measures required by the Court's judgments and responding to the decisions taken by the Committee of Ministers has improved considerably.

Some participants highlighted the importance of including all concerned actors in the drafting of an action plan, including national parliaments and civil society.

Moreover, examples presented by the participants during the round table illustrated the important potential of action plans in the development of efficient synergies, in particular to find answers to complex and/or structural problems that States are called upon to resolve.

The participants noted with interest the examples given of constructive national debates surrounding key issues and the way in which these debates have enabled key actors to unite at the national level around an action plan which had been largely approved.

The participants agreed that these examples constituted good practices which should be a useful source of inspiration.

Action plans and reports : possibilities for improvement

Some participants reported the need to have signals, at an early stage that the proposed action plan would correspond to the expectations of the Committee of Ministers. Other participants, underlining and relying on the principle of subsidiarity, commented that early dialogue should only be envisaged in specific situations relating to the most complex problems.

The participants also underlined the importance of ensuring that action plans and reports are understandable and easy to read, in particular for people external to the legal system concerned. This would enable the problems raised by the Court's judgments to be easily identified, and give a better understanding of the relevance of the measures taken or envisaged by the authorities, as well as the authorities' reasons for proposing the adoption of such measures with an indicative timetable. It was also noted in this regard that good quality translation of documents drafted in national languages into one of the two official languages of the Council of Europe contributes to their clarity and easiness to read. Moreover, in order to facilitate access to this information, the participants further underlined that there should be a large dissemination in the national language of action plans and reports, as well as the related decisions of the Committee of Ministers. The participants also welcomed as sources of inspiration national initiatives presented which aim to publish action plans and reports in national languages on easily accessible sites, including in particular the site of the authority directly concerned by the execution measures.

Attention was also drawn to measures to ensure careful and efficient drafting of action plans/reports including the preparation of templates for the drafting of the documents by the authority concerned, the establishment of a specific structure for the drafting of such documents and the putting in place of liaison officers.

In the same context, focus was given to the importance of providing regular training to all those involved in the drafting of these action plans and reports, on the European Court's jurisprudence and the requirements of execution.

Certain participants pointed out difficulties in providing a provisional timetable, notably if the adoption of legislative measures was required. It was nevertheless indicated that such timetables, even if they are purely indicative and susceptible to change, facilitate the execution process both at national and European level. In any event, the participants considered that it was important to ensure, through regular updates to action plans, the necessary transparency about the activities undertaken by the authorities, and to avoid a situation where the absence of information raises unnecessary questions.

The participants agreed that the quality and visibility both at national and European level could be further improved. In this regard, a large number of participants drew attention to the need for States to allocate sufficient resources (in the broad sense) at the national level, deployed at an appropriate level of authority. Such resources should ensure a real capacity to mobilise all of the actors in the execution process, to coordinate them effectively and to draft, in good time, the necessary action plans/reports which should be clear, moderate, convincing and progressive, if the circumstances so require. Everyone agreed that the primary responsibility for execution must lie where there is a competency to execute the judgment.

Finally, it was underlined that an action plan can also be usefully inspired by what has already been done by national actors on the same issues aimed at other bodies/international organisations such as the United Nations; it is not necessary to reinvent the wheel but instead to build synergies.

The participants also took note with great interest of the Department of Execution's initiative to prepare a manual for the drafting of action plans/reports. They also considered that it would be useful to update the compilation of domestic mechanisms for the rapid implementation of the Court's judgments which had been prepared in the context of the Tirana Round-Table (15-16 December 2011).

Action plans and reports : future perspectives

Given the increasing interest shown by the Court on questions of execution, action plans and their implementation, together with action reports can be important sources of information for the Court, and even a driving force for greater interaction with it.

The discussions also covered the question of greater involvement of national parliaments in the drafting and follow up of action plans, beyond the Government's annual reports to national parliaments which are already in place in a number of States.

The participants also noted with interest the important existing and potential interaction between cooperation programmes and execution. They noted the important role that a clear and convincing action plan can play in this context in order to progress the measures identified by the authorities, even – when complex problems are present – at the drafting stage of the action plan because the cooperation programmes place expertise and a range of suggestions at the authorities' disposition which will allow them to better exercise the margin of appreciation which they have in the choice of means.

Finally, the round table highlighted that the implementation, even the enhancement of the Committee of Minister's Recommendation CM/Rec(2008)2 to member states on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights, should be afforded particular attention in future reflections on the improvement of execution of the judgments of the European Court of Human Rights.