



## **ROUND-TABLE**

### **EFFICIENT DOMESTIC CAPACITY FOR RAPID EXECUTION OF THE EUROPEAN COURT'S JUDGMENTS**

**organised with the support from the Human Rights Trust Fund under the project "Removing obstacles to the enforcement of domestic court judgments/Ensuring an effective implementation of domestic court judgments"**

Albania, Tirana  
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## **BRIEFING NOTE**

### **Background information**

#### **Context**

The rapid execution of the Court's judgments is essential for ensuring the long-term effectiveness of the Convention system. This was reaffirmed in the 2010 Interlaken Declaration. Besides the need for the full and rapid execution of the final judgments of the European Court, the Interlaken Declaration also calls upon the Member States to render the supervision of the execution more effective and transparent, with particular emphasis on cases requiring urgent individual measures and those disclosing major structural problems.

In order to implement the Interlaken Action Plan, the Committee of Ministers adopted, in December 2010, new working methods allowing the Committee of Ministers to focus on priority cases. The reform underlines that the responsibility for the execution of the Court's judgments/decisions lies with Member States. These have the choice of means to be deployed in order to conform to their obligations under the Convention in line with the principle of subsidiarity. This was also underlined in the Izmir Declaration. The new working methods therefore further reinforce the need for effective mechanisms for execution to be put in place at the national level.

The importance to enhance the domestic capacity to execute the Court's judgments has been stressed by the Committee of Ministers on several occasions. A major result is its Recommendation (2008)2, which contains a set of proposals to be implemented by Member States with a view to strengthening domestic capacity for timely execution of the Court's judgments/decisions. Recommendation (2008)2 underlines the necessity to ensure the effectiveness of the domestic execution process by taking all necessary steps to ensure the execution of all judgments. This implies the rapid identification of measures required to execute judgments and, where significant problems persist, the implementation of the necessary remedial actions taken at high level, political if need be. The Recommendation also stresses the importance of effective coordination of all state actors concerned and the existence of appropriate mechanisms for effective dialogue and transmission of relevant documents.

Recommendation (2008)2 inscribes itself in a series of Recommendations adopted since 2000 to assist states in improving the domestic implementation of the Convention and of the judgments of the Court. For example, the Committee of Ministers adopted in 2001 Recommendation on the re-examination or reopening of certain cases at domestic level following judgments of the European

Court of Human Rights. Most of these have already been the object of a certain follow-up by the Committee of Ministers in order to allow states to exchange experiences. In the light of the Interlaken process the time appears ripe to also exchange experiences on the implementation of Recommendation (2008)2.

### **Questionnaire on Recommendation (2008)2**

In order to facilitate discussions at the round table, a questionnaire on the implementation of Recommendation (2008)2 was drawn up and addressed to all Council of Europe Member States. The Secretariat has received more than 35 replies on the questionnaire (see the Compilation of the replies).

The questionnaire covered the three main areas also addressed by Recommendation (2008)2: i) Mechanisms put in place by member states to ensure timely and effective execution of the Court's judgments at the national level; ii) Drawing up of action plans/reports and related effective coordination/cooperation with the relevant actors at the national level, and iii) Mechanisms to ensure dissemination and publication of the Court's judgments and documents on the execution of judgments issued by the Committee of Ministers.

### **Participants**

Around 70 representatives from more than 30 member states will attend the round table, including representatives from the beneficiary states of the Human Rights Trust Fund projects (Albania, Azerbaijan, Bosnia and Herzegovina, Moldova and Serbia and Ukraine).

### **Human Rights Trust Fund**

The round-table is organised with the financial support from the Human Rights Trust Fund (HRTF) under the project "Removing the obstacles to the enforcement of domestic court judgments/Ensuring an effective implementation of domestic court judgments".

The HRTF was set up in March 2008 by an Agreement between the Council of Europe, the Council of Europe's Development Bank and Norway. The Netherlands joined it shortly after, together with Germany, Finland and Switzerland. The aim of HRTF is to provide the support to the Council of Europe member states' efforts in implementing the European Convention on Human Rights, including in ensuring timely and effective execution of judgments, in particular those revealing structural problems. It does so by financing the organisation of *ad hoc* as well as regular activities, including bilateral consultations, targeted study visits, multilateral round tables and legislative advice (see more on [www.coe.int/execution](http://www.coe.int/execution)).

### **Round-table: objective and thematic sessions**

#### **Expected outcomes**

It is expected that the discussion during the round-table will help to clarify the developments of state practices in the areas covered by Recommendation (2008)2 and the possible role played by the Recommendation in supporting these developments. The round-table will thus notably provide, through discussions, a forum for sharing the experience for setting up effective mechanisms to ensure timely and effective execution of the Court's judgments. It is expected that the discussions will focus on best practice and difficulties encountered in the areas raised in Recommendation 2008(2), such as the establishment of effective co-ordination mechanisms, their functions and their role in drawing up action plans.

## **Thematic Sessions I and II: Mechanisms to ensure coordination/cooperation amongst the national actors involved in the execution of the Court's judgments**

This session will aim at sharing experiences of mechanisms established by member states to coordinate the process of execution of the Court's judgments in which the Government Agents play an essential role. Whilst the Government Agents are responsible for coordination, the primary responsibility often lies within the competent ministries mainly concerned by a particular judgment as well as Permanent Representations to the Council of Europe.

Taking into account Recommendation 2008(2), some Member States have also established the practice of annual reports to keep their parliaments informed of the situation concerning the execution of judgments.

The issues of the setting-up of the structure to coordinate the execution of the Court's judgments at the national level, its role and working methods, contacts with different actors involved in the execution process, including parliaments and national human rights institutions, will be discussed in the Session I and II.

## **Thematic Session III: Mechanism(s) to ensure translation and dissemination of the Court's judgments and decisions/resolutions from the Committee of Ministers**

Recommendation 2008(2) calls upon the Member States to take the necessary steps to ensure that relevant actors involved in the execution process are sufficiently acquainted with the Court's case-law as well as with the relevant Committee of Ministers' recommendation and practice. The Committee of Ministers also issued specific recommendations to Member States on the publication and dissemination of the case-law of the European Court of Human Rights (i.e. Recommendation(2002)13).

This session aims at sharing information on the ways in which Member States ensure translation and dissemination of the Court's judgments them concerning but also those concerning other Member States. The judgments are disseminated in their entirety or in the form of substantial summaries or excerpts. They can be made available in official legal bulletins, law journals, or via services of research and other institutes. The electronic media, such as internet and e-mails, has proved to be an useful tool for dissemination of the judgments. Some Member States are also making public the Committee of Ministers' Decisions and Resolutions concerning the execution of judgments.

## **Thematic Session IV: Drawing up of action plans and their implementation**

According to the Committee of Ministers' new working methods, Member States are required to submit to the Committee of Ministers action plans containing measures envisaged/taken to implement the judgments. Moreover, action reports are to be submitted where the judgments have been already executed. The Government Agents play a key role in the coordination of the drawing up of action plans/reports. In this context, working groups and committees may be established, in particular with respect to judgments revealing structural problems requiring complex measures to be taken. In this context, see also Resolution (2004)2 on judgments revealing an underlying systemic problem.

The arrangements set up in Member States used to draw up action plans/reports vary depending on the complexity of a particular case and measures to be taken to implement the judgments. To facilitate the drawing up of action plans, some countries designed standard forms/questionnaires to help the relevant authorities/departments to respond to the Court's judgments.

The Session IV will focus on the methods used to draft action plans, in particular with respect to judgments revealing structural and/or systemic problems, and difficulties encountered in this respect. It is expected that the Session will reveal challenges faced by Member States in their drawing up as well as steps taken to overcome them.