



Round table: Efficient Domestic Capacity for rapid execution of the European Court's Judgments

15-16 December 2011

Conclusions of the Chairperson

The participants of the Round Table underlined that the responsibility for the execution of judgments of the European Court of Human Rights (hereinafter "the Court") lies with Member States. They also stressed the importance of States sharing their experiences and taking into account existing good practices to ensure effective execution in order to optimise any reform work.

The discussions highlighted that the Committee of Ministers' Recommendation (2008)2 provides useful guidance to the Member States for strengthening domestic capacity for rapid execution of the Court's judgments. The Recommendation has become even more important in the light of the increase of the number of cases requiring execution and the new working methods adopted by the Committee of Ministers in December 2010.

It was also recalled that Recommendation (2008)2 inscribes itself in the series of Recommendations adopted by the Committee of Ministers since 2000 to assist states in improving the domestic implementation of the Convention and of the Court's judgments.¹

Recent developments

Participants welcomed achievements made in the areas covered by Recommendation (2008)2. They noted in particular the different procedures developed in order to provide, without delay, action plans for the execution process and to follow their implementation.

Participants noted the range of approaches developed at domestic level for the rapid execution of the Court's judgments. Strengths and weaknesses were identified in different approaches but it was agreed that no single approach provided the model solution.

Encouraging developments of cooperation and consultations between different authorities concerned were presented as well as efforts undertaken to improve awareness of the Convention requirements. The necessity of further improvements was underlined, notably regarding selection of relevant case-law including against other states. In this context, the decision of the Human Rights Trust Fund to fund a major translation project of the Court is a welcome development.

Participants noted with interest that the necessity of a coordinator had been accepted in all contracting states and that the work of the coordinators, most frequently the Government agents or their offices, had considerably developed since the adoption of Recommendation (2008)2. Moreover, it emerged from discussions that clear and express support from the highest state organs, including

¹ Recommendation (2000)2 on the re-examination or reopening of certain cases at domestic level following judgments of the European Court of Human Rights, Recommendation (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, Recommendation (2004)4 on the European Convention on Human Rights in university education and professional training, Recommendation (2004)5 on verification of the compatibility of draft laws, existing laws and administrative practice with the standards laid down in the European Convention on Human Rights and Recommendation (2004)6 on the improvement of domestic remedies.

at the political level, was frequently of great importance for successful cooperation with other authorities involved in the execution process.

Participants also noted with satisfaction that the practice of action plans had now been generally accepted.

The Execution Department's longstanding practice of providing, where requested, support and advice as to different execution issues, was also recognised.

The Round Table

The replies to the questionnaire and the active discussions at the Round Table identified a number of activities that could assist significantly in enhancing domestic capacity. These included:

1. Synergies among national actors involved in the execution process:

- a) appointing, at the national and regional level (specifically in federal states), Human Rights liaison officers in all ministries, capable of rapidly organising the responses to the Court's judgments within their areas of responsibility and, wherever possible, organising regular meetings of liaison officers from different authorities to discuss issues related to the execution;
- b) providing support for the drawing up of action plans through the setting-up of inter-ministerial committees, working groups and/or task forces, in particular in cases revealing major structural and/or complex problems;
- c) providing adequate support to the coordinator to establish contacts, in particular at high level, with all relevant domestic authorities, including with the judiciary;
- d) keeping parliaments, in particular relevant parliamentary committees, informed of developments concerning the execution of judgments, for example through the practice of preparing annual reports, with a view to enhanced parliamentary involvement in the execution process (such as questions to the governments, debates and hearings);
- e) promoting dialogue, including through informal meetings, in particular between the coordinator and the highest judicial authorities as well as other domestic courts;
- f) promoting stronger involvement in the execution process by ombudspersons, human rights institutions, non-governmental organisations and other actors of the civil society;

2. Visibility of and awareness about the execution process:

- a) ensuring that appropriate action plans are produced without delay and implemented and that the execution process receives adequate publicity;
- b) setting up adequately resourced mechanisms for the selection and translation into state language(s) of the Court's case law - where appropriate in extract or analytical summaries - relevant for the execution process, including also judgments against other states;
- c) ensuring adequate government backed dissemination and publication of relevant judgments, Committee of Ministers' decisions and resolutions relevant to the execution process;
- d) establishing, wherever possible, cooperation amongst states to share translated judgments;
- e) stepping up efforts to raise awareness of relevant case-law from the Court and the execution process amongst the executive authorities, parliaments, the judiciary and lawyers, through initial or in-service training, seminars, round tables, university programs, periodic or *ad hoc* publications;

3. Role and means for the coordinator:

- a) ensuring that all relevant authorities are well acquainted with the state's obligations under Article 46 of the European Convention on Human Rights to abide by the final judgments of the Court in all cases to which they are parties;
- b) ensuring that the role of the coordinator is clearly defined, if appropriate, in legislative or regulatory acts, or through established working methods, including the necessary authority to pursue full and rapid execution of judgments;
- c) ensuring adequate human and financial resources for the coordinator and the relevant authorities involved in the execution process to carry out effectively their tasks;

4. Effective cooperation between domestic authorities and the Council of Europe:

- a) ensuring rapid and efficient information flow between the Committee of Ministers and the domestic authorities through Permanent Representations to the Council of Europe and/or coordinators;
- b) encouraging participation of coordinators in the Committee of Ministers' (DH) meetings;
- c) promoting consultations between the domestic authorities and the Execution Department as such consultations provide an opportunity to discuss problems faced by the domestic authorities and the expectations regarding possible implementation measures;
- d) promoting visits to Strasbourg by relevant domestic authorities, in particular higher judicial authorities and chief prosecutors, to exchange views on the Committee of Ministers supervision process and execution procedures.
