



**ROUND-TABLE:
RECOMMENDATION (2008)2
OF THE COMMITTEE OF MINISTERS
TO MEMBER STATES ON EFFICIENT DOMESTIC
CAPACITY FOR RAPID EXECUTION OF JUDGMENTS
OF THE EUROPEAN COURT OF HUMAN RIGHTS**

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The views expressed are those of the author only.

Even though it is not really nice to speak about one's own accomplishments I feel I can start this presentation with the statement that the Netherlands has a rather good track record when it comes to the execution of judgments of the European Court of Human Rights. Judgments are generally executed within a reasonable period of time, this period varying of course depending on the measures to be taken.

I think there are two specific characteristics of the Dutch mechanism that contribute significantly to this track record. Firstly, the immediate involvement of all relevant actors ensures a quick exchange of information and distribution of tasks. Secondly, political support and, if necessary, involvement guarantees the advancement of the process. I will address both characteristics more in detail.

As a general remark, it might be necessary to mention here that the Dutch execution mechanism is not instituted or described anywhere; not in a law, nor in any other official document. It is a practice that has developed over the years.

On the day of the judgment of the European Court, all relevant stakeholders are informed of the contents of the judgment and the reasoning of the Court. If a violation is found by the Court, very soon after, usually within a week, all the parties that will need to be involved in the execution of the judgment get together, either in real life, or virtually, through e-mail. The parties that I am referring to are, depending on the type of violation found, for example officers from relevant ministries (legislators and policy officers), officers of field services such as the Immigration Service or the Prison Service, representatives of the Council of the Judiciary, etcetera. It is important that those who will do the actual work (draft the law, issue the residence permit, write the circular letter) are at the table.

They will discuss both the individual and general measures needed to execute the judgment. Once there is agreement on the measures needed, the tasks are distributed along the lines of the responsibilities of all the actors involved. Finally, a time-line is agreed. During the time that the measures are being taken, the relevant actors report to the Government Agent, the coordinator of the execution process, on the progress achieved.

The second characteristic of the Dutch execution practice is the political involvement in the process. Firstly, the responsible ministers (in the Netherlands usually the ministers of Foreign Affairs, Security and Justice and/or Immigration and Asylum) are informed of the Court's judgement on the day that it is rendered. A little later, they are also informed on the execution measures proposed and will, obviously, have to sanction them before they are taken.

The reason for this involvement of the ministers is to ensure support for the execution measures needed (which will in turn ensure their adoption), but also so that possible questions asked by the Parliament can be answered.

The Dutch Parliament, including the Senate, is traditionally interested in both the causes of possible violations found by the European Court, as well as in the measures that are taken to remedy these violations. In 2001 the Parliament requested to be regularly informed on all cases before the European Court that involve the Netherlands. Since then, the Minister of Foreign Affairs informs the Parliament every first half of the year on all matters relating to cases before the Court of the previous year that are relevant for the Netherlands. These annual reports contain information on new judgments and admissibility decisions, but also on measures taken in the framework of the execution of judgments.

Obviously, the interest of the Parliament in issues relating to the execution of judgments will generally ensure progress in the execution process. It is logical that ministries give priority to those

issues that are politically relevant. The interests of parliamentarians are generally a good measure for political relevance.

I started this presentation with an impolite statement regarding the good performance of the Netherlands. This doesn't mean however that we don't encounter difficulties in the execution process sometimes. We too have had cases in which it took us several years to take the necessary measures. Usually these delays were caused by the need for new legislation, the adoption of which is generally a lengthy process.

However, the two characteristics of the Dutch execution process I discussed in this presentation will generally ensure a rapid implementation of the necessary measures. The immediate and direct involvement of all the necessary actors will get things started quickly. The information to political figures, both ministers and parliamentarians is not only necessary in the democratic process, it also ensures progress in the execution.