



**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.

Good morning Minister, your excellencies, dear colleagues, friends.

I am honoured to have the opportunity to share with you the Georgian experience we gained so far in the course of the creation of effective system for the execution of the Court's judgments.

First of all I would like to note that Georgia became the high contracting party to the European Convention in 1998 and the first judgment rendered against Georgia was delivered in 2004. Since then, full and rapid execution of the judgments has been priority for Georgia. In order to create and subsequently enhance the effective mechanism for execution of the Court's Judgments, certain substantial measures has been carried out, including the legislative amendments and introduction of new legal remedy in domestic legal order.

As for the challenges we faced, it shall be recalled that in the period of 2004-2008, only one judgment was executed (Final Resolution of 2006). In up to 20 judgments of the European Court the necessity to conduct individual or/and general measures immediately was at stance. Furthermore, the nonexistence of the essential coordination among the legislative, executive and judicial branches posed as great challenge. Aforementioned situation was clearly demanding the urgent response.

Stemming from the recommendation (CM/Rec(2008)2) of the Committee of the Ministers on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights, on 17 March 2008 the Charter of the Department of the State Representation to the International Courts of Human Rights was approved.

Aforementioned Charter envisages formation of the new unit for the supervision upon the execution of the judgments and stipulates its functions and competences.

Simultaneously, upon the establishment of the Unit, major priorities were identified for ensuring of the effective functioning of the system. We focused our efforts to the following directions:

- 1) Full and rapid execution of the Court's Judgments, involving preparation of legislative amendments in order to eliminate existing structural problems.
- 2) Establishment of effective coordination with relevant Government authorities;
- 3) establishment of cooperation with NGOs and civil society
- 4) publication/dissemination of the judgment and analyses of the court-s case law;

Full and Rapid Execution of the Court's Judgments

As mentioned above the adoption of the legislative amendments and introduction of the new legal remedies was vital in the course of rapid execution of the Court's judgments.

As for 28 October 2011 the significant legislative amendments has been introduced in Criminal Procedure Code of Georgia regarding the review of the judgment due to the newly revealed circumstances.

According to the Article 310, paragraph "e" of the Criminal Procedure Code of Georgia the existence of judgment of the European Court of Human Rights, which found the violation of the Convention and its Protocols, constitutes the new circumstance, thus ground for the review of the judgment. The identical clause was introduced in Civil Procedure Code of Georgia.

As a result of these legislative amendments legal deficiencies in national legislation has been eliminated, which in itself enabled the Unit of Supervision on the Execution of the Courts Judgments to meet its obligation in full and timely manner.

Another major advancement achieved was the legal amendments undertaken in the course of the execution of the judgment *Kiladze v. Georgia*. In the course of the enforcement of the aforementioned judgment, the Georgian Government created effective domestic remedy under administrative law, rapidly carried out relevant administrative, legislative and budgetary measures to enable the thousands of Georgian nationals, subject to repressions during the Soviet Union, to apply to domestic courts and receive compensation in line with the newly introduced rules.

The Government would like to refer to systemic and structural problems with respect to reasoning of pre-trial detention identified in “Patsuria”, “Ramishvili” and Gigolashvili” cases. As a result of legislative and other types of general measures introduced in the course of the execution (for example, dissemination of Guidelines on the Reasoning of Pre-Trial Restraint Measures) the structural problems have been eliminated which entitled the Committee of Ministers to adopt the final resolutions in those cases.

In addition, the creation of the effective complaint mechanism in Penitentiary system cannot be left unnoticed. In March 2010, the new Code on Imprisonment was adopted by the Parliament of Georgia. The code introduces new and detailed procedure for filing by detainees; both accused and convicted persons, of complaints to and against the prison authority. The Court has recognized the complaint system introduced in 2010 as effective remedy in *Goginashvili v. Georgia* case.

Currently, as a result of the proactive steps carried out, including the major legislative amendment and creation of the effective cooperation with state organs, based on the resolution of the committee of the ministers 14 judgments has been fully executed. It is essential to note that the latter number constitutes almost half of the judgments rendered against Georgia.

The recent condition of the Georgia with respect of the execution of the judgments is clear indicator the successful reforms taking place in the past few years.

The Government is confident to state that new legislative amendments and other significant measures carried past few years presents promising practical impact, which will mostly be reflected on to rapid execution of the judgments and prevention of the future violations.

Coordination with relevant Government authorities

As it was already elaborated above, the non-existence of cooperation among state organs constituted obstacle for the effective execution of the judgments. Correspondingly, certain concrete and result oriented measures has been carried out to this direction.

Subsequent to 2009, the unit commenced active cooperation with various state agencies; *inter alia*, with the Ministry of Finance, the Ministry of Corrections and Legal Assistance of Georgia, Chief Prosecutor’s Office, National Bureau of Enforcement, the Parliament of Georgia, the Supreme Court of Georgia and generally, with judicial system, media, non-governmental organizations and etc.

The collaboration with the **Ministry of Finance** is crucial for the purpose of transferring the sum for just satisfaction in a timely manner. The above cooperation enabled the unit to cover remaining debt and rule out the probability of the late payments of compensation.

Chief Prosecutor’s Office plays important role in the course of investigation. Within the framework of the judgment execution process on “Davtiani”, Danelia” and “Gharibashvili” cases, new investigations have been launched; as for general measures, circular regarding the investigative standards with respect to facts of inhuman and degrading treatment was prepared in 2009 and transmitted to every prosecutor’s office within Georgia.

From the general standpoint, it should be noted that increasing the awareness of the national authorities of Conventions standards is vital to prevent the future human rights violations. To this ends, the trainings and seminars for prosecutors regarding the investigative standards, pre-trial

detention, and other significant issues is arranged regularly. During the trainings the emphasis is given to standards of the European Court. To this end, the cases against Georgia constitute the subject of thorough analyses.

Cooperation with NGOs

The coordination and the exchange of the information with **non-governmental organizations** constitutes important instrument in the process of providing information to civil society and encourage their participation in execution process of the judgments. The Unit regularly takes part in the round table meeting with non-governmental organizations and other stake-holders.

Furthermore, as for the exchange of the information, it shall be noted that the statistical database created in the unit, concerns every aspect, including the total annual numbers of communicated cases, according to the nature of established violations and articles, received individual or general measures, the just satisfaction and etc. Any interested party has opportunity to receive the above information.

Publication/dissemination of the judgment and analyses of the court-s case law

The dissemination of Court's judgments constitutes important aspect to increase the awareness of the state organs. The publication of European Court's judgments in "Sakanonmdeblo Matsne" are ensured by the Ministry of Justice. The judgments are published on the web-page of the Ministry as well. As the result of the cooperation with the Supreme Court, in 2010, the review of European Court's practice was prepared which includes all European Court's judgments delivered against Georgia during 2004-2010. The mentioned collection is intended for all court instances; and their dissemination take place on a regular basis.

The Department of the State's Representation to the International Courts of Human Rights consistently follows the recent trends and approaches of the Court in order to implement them in the course of our work. We have the practice of analyzing developing case law and draw conclusions from them.

In conclusion, it is further essential to outline that today the solid basis for effective coordination among state agencies and concrete results has been achieved in Georgia.

Let me conclude by stating that notwithstanding major advancement achieved in the past few year, we still face certain challenges in the terms of the execution of the judgments regarding the article 3 of the Convention and the medical treatment of prisoners, however we are determined to spare no efforts to succeed.