



**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.*

## EXECUTION OF JUDGMENTS OF THE EUROPEAN COURT OF HUMAN RIGHTS IN POLAND

The aim of complaints proceedings before the European Court of Human Rights is to supervise the law and practice of states as regards to rights and freedoms protected by the Convention. If breach of those rights and freedoms is declared, the Court is issuing a judgment and execution proceeding begins. Time to time, execution of the judgment is even more important than proceeding before the Court itself. The main purpose of execution of judgments, except a redress on behalf of a claimant, is to identify the cause of breach. If this cause of breach is structural, then it is a clear sign to change wrong law and practice. Only such activity may block new breaches and, in consequence, new judgments. In Poland we came to those conclusions after 15 years.

On 17 May 2007 the Council of Ministers of Poland adopted the „*Action Plan of the Government for the implementation of the judgments of the European Court of Human Rights in respect of Poland*” (*Program Działań Rządu w sprawie wykonywania wyroków Europejskiego Trybunału Praw Człowieka wobec Rzeczypospolitej Polskiej*).

The elaboration of the Action Plan was proposed by the Government Agent before the European Court of Human Rights. In this respect, he took into account conclusions drawn from the Report on his activities in 2001 – 2005. In those conclusions the Government Agent identified the most important areas which in view of the Court’s case-law in respect of Poland required taking general measures.

This initiative was approved by the Minister for Foreign Affairs who presented it to the Council of Ministers in February 2006.

Bearing in mind that the execution of the Court’s judgments falls within the competence of various Ministers, the Government Agent proposed the establishment of a special inter-ministerial Task Force acting at the Minister of Foreign Affairs which was to be charged with the preparation of proposals for the Action Plan. The initiative was endorsed by the Council of Ministers and the Task Force started its operation in August 2006 upon the Ordinance of the Minister for Foreign Affairs.

The experts appointed by 14 Ministers (for Construction Issues, National Education, Finance, Economy, Maritime Economy, Science and Higher Education, Labour and Social Policy, Agriculture and Rural Development, State Treasury, Justice, Interior and Administration, Foreign Affairs, Transport and Health) participated in the Task Force. Their works were supported also by the General Solicitor of the State Treasury (*Prokuratoria Generalna Skarbu Państwa*), State Electoral Commission and Central Board of the Prison Service.

The draft Action Plan was presented by the Task Force to the Council of Ministers in November 2006. After additional inter-ministerial consultations it was approved by the Council of Ministers on 17 May 2007.

The proposals of actions included in the Action Plan aim at increasing the efficiency of the execution of the Court’s judgments in respect of Poland and preventing new violations of the Convention by Poland. Thus, the implementation of the Action Plan will contribute to respect for human rights and rule of law in Poland.

The Action Plan contains proposals of legislative reforms, improvement of practice of application of law and regular dissemination of the Court’s case-law among the society, judges,

prosecutors, administrative organs and other public officials. The Action Plan focuses on such areas as:

- rules governing the application and prolongation of detention on remand;
- prevention of the protraction of judicial and administrative proceedings and increasing the effectiveness of domestic remedies to complain about the length of the proceedings;
- extension of the access to a court (*e.g.* creation of procedures of appeal to a court in cases conducted by maritime and medical chambers, improving guarantees for persons benefiting from free legal aid or applying for exemption from court fees);
- prevention of censorship of correspondence of persons deprived of liberty addressed at the Court;
- increasing the effectiveness of the parental contacts with children ordered by courts;
- effective realisation of Bug river claims,
- introduction of mechanisms ensuring a proper balance between the interest of private owners of flats and those of tenants in the area of the State-controlled rent.

The Action Plan contains also some crucial provisions concerning the co-operation between the Minister for Foreign Affairs and other Ministers in respect of the proceedings before the Court and the execution of its judgments. In particular, the Action Plan envisages the establishment of permanent inter-ministerial Committee for matters concerning the European Court of Human Rights.

The Action Plan will serve as a basis for further actions aimed at improving Polish law and practice, as well as awareness-raising of human rights. It gives an impetus for further works, including legislative reforms that would be undertaken by the relevant Ministers.

The Action Plan contains a follow-up mechanism. The respective tasks are being realised by the relevant Ministers within their competence. The Minister for Foreign Affairs assures assistance and information on the Court's case-law. Special role is played by the aforementioned Committee for matters concerning the European Court of Human Rights. The Committee is charged with preparation of reports on the implementation of the Action Plan. It may also propose solutions in case of difficulties in realising the Action Plan.

The first report was submitted to the Council of Ministers in November 2007.

On 19 July 2007 the Prime Minister established the inter-ministerial *Committee for matters concerning the European Court of Human Rights (Zespół do spraw Europejskiego Trybunału Praw Człowieka)* as his advisory and consultative organ.

The demand to establish permanent inter-ministerial organ dealing on a regular basis with issues concerning the Convention for the protection of human rights and fundamental freedom as well as the case-law of the European Court of Human Rights, was formulated for the first time in the aforementioned Action Plan of the Government for the implementation of the judgments of the European Court of Human Rights in respect of Poland.

The Committee is tasked *inter alia* with:

- preparation of proposals of actions aiming at the execution of the Court's judgments in respect of Poland,
- analysing problems stemming from the applications communicated to the Government by the Court and formulating proposals of actions,
- issuing opinions concerning the compatibility with the Convention of the most important draft laws,
- monitoring the implementation of the Action Plan and submitting reports and proposals.

The Committee constitutes a platform for the exchange of information on the Court's case-law within the Government. It raises the awareness of the European Convention for Human Rights system within the Government administration.

The Committee is composed of experts of all Ministers, Chancellery of the Prime Minister and the General Solicitor of the State Treasury. It acts under the chairmanship of the Government Agent before the ECHR. At present, 37 experts have been appointed to participate in the Committee who represent various departments of all Ministries and the Chancellery of the Prime Minister.

The representatives of other administrative organs, courts or Ombudsman may also be invited at the meetings of the Committee *e.g.* to hold exchange of views. Working groups may be established within the Committee to deal with particular issues.

The experts of the Committee provide assistance to the Government Agent and his staff in connection with the proceedings before the Court and the Committee of Ministers also on *ad hoc* basis, outside the meetings of the Committee.