



Strasbourg, 15 November 2011

**Round-table on 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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**La Table-ronde sur la Recommandation (2008)2 du Comité des
Ministres aux états membres relative à l'exécution rapide des arrêts de
la Cour européenne des droits de l'homme**

**Responses to the Questionnaire on the domestic mechanisms
for rapid execution of the Court's judgments**

**Réponses au questionnaire sur les mécanismes internes de l'exécution
rapide des arrêts de la Cour européenne**

15-16 December 2011

Tirana Hotel International, Albania

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**QUESTIONNAIRE ON THE DOMESTIC MECHANISMS
FOR RAPID
EXECUTION OF THE COURT'S JUDGMENTS**



Introduction

The Department for the Execution of the Court's judgments envisages holding a multilateral round-table to exchange state practices as regards measures to ensure timely and effective execution of the final judgments and decisions of the European Court of Human Rights. The round-table will be organised in December 2011 in Albania. In order to facilitate the preparatory work for the round-table, the below questionnaire was drawn up and sent to selected Member States to be completed and returned to the Secretariat.

Context

It has been stressed since the Ministerial Conference in Rome in 2000 that the rapid execution of the Court's judgments is essential for ensuring the long-term effectiveness of the Convention system. This has been 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 (Action Plan, Supervision of Execution of judgments, Article F(11)).

In order to implement the Interlaken Action Plan, the Committee of Ministers adopted, in December 2010, new working methods. The reform introduced a twin-track approach which allows the Committee of Ministers to focus on priority cases. Moreover, it further develops the concept of action plans/reports, introduced for the first time in 2004, to be submitted by Member States to the Committee of Ministers not later than six months after a judgment becomes final. The reform underlines, however, 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 (Follow-up Plan, Supervision of the execution of judgments, Article H(2)). The aforementioned reform of the Committee of Ministers' working methods therefore further reinforces the need for effective mechanisms to be put in place at the national level.

The need to strengthen 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. The Recommendation underlines the importance of

effective coordination of all state actors involved in the execution process and the necessity to ensure the effectiveness of the domestic execution process. The recommendation 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. 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.

Information on the round-table

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 of the Committee of Ministers on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights (see Appendix 1), and the possible role played by the Recommendation itself in supporting these developments. The round-table will thus notably provide a forum for sharing the experience amongst Member States 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 the Recommendation 2008(2), such as the establishment of effective co-ordination mechanisms, their functions and their role in drawing up action plans.

This activity will be organised with the financial support from the Human Rights Trust Fund under the project "Removing the obstacles to the enforcement of domestic court judgments/Ensuring an effective implementation of domestic court judgments".

Information requested from relevant national authorities

The Member States concerned are kindly invited to submit information on the following issues to the Secretariat (eva.konecna@coe.int) by 31 July 2011.

1. Mechanism(s) to ensure timely and effective execution of judgments of the European Court of Human Rights at the national level

Information on the **mechanism(s) put in place by your country** to execute judgments of the European Court effectively and rapidly (i.e. mandate to initiate and/or take the necessary measures to accelerate the execution process, including mechanisms securing the payment of just satisfaction) would be welcomed. In this respect, replies to the following elements would be appreciated: i) the **mechanism's normative basis**; ii) **mandate/scope of action**; iii) **coordination function** (modalities to liaise with persons or bodies responsible at the national level for deciding on the measures necessary to execute the judgments) and iv) **modalities to acquire information** from other state actors. Information on **challenges** faced by states to fulfill their role in the aforementioned fields would be valuable. In this context, any **action to ensure synergies**

between the relevant national actors involved in the execution process would also be welcomed.

2. Drawing-up of action plans/reports and related effective coordination/cooperation with the relevant actors at the national level

It would be important to receive information on how your country draws up action plans/reports regarding the implementation of the Court's judgments. **Good practice and challenges** faced by your authorities in relation to the coordination of the drafting of action plans/reports, **in particular in respect of judgments revealing structural problems**, would be appreciated.

3. Mechanism(s) to ensure dissemination and publication of judgments of the European Court of Human Rights and decisions and resolutions from the Committee of Ministers

Information on how your authorities ensure **translation and rapid and adequate dissemination** of the Court's judgments and the decisions and resolutions of the Committee of Ministers to the relevant actors would be appreciated. Any other actions necessary to ensure that the relevant actors are sufficiently acquainted with the Court's case-law and the Committee of Ministers practice would be welcomed (e.g. dissemination of the Committee of Ministers recommendations and annual reports). It would be useful to **share information on difficulties encountered by your countries and any initiatives taken to improve the existing mechanism(s) in this field.**

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QUESTIONNAIRE SUR LE MECANISME INTERNE D'EXECUTION RAPIDE DES ARRETS DE LA COUR EUROPEENNE

Introduction

Le Service de l'exécution des arrêts de la Cour envisage de tenir une table ronde multilatérale pour un échange sur les pratiques des Etats et les mesures destinées à assurer l'exécution effective et sans délai des arrêts et décisions définitives de la Cour européenne des droits de l'homme. La table ronde sera organisée au mois de décembre 2011 en Albanie. Pour en faciliter les préparatifs, il a été décidé de rédiger et d'envoyer à plusieurs Etats membres le questionnaire ci-dessous que ceux-ci sont invités à compléter et à retourner au Secrétariat.

Contexte

Depuis la conférence ministérielle de l'an 2000 à Rome, on s'accorde à penser que l'exécution rapide des arrêts de la Cour est essentielle pour assurer l'efficacité à long terme du système de la Convention. Cette idée a été réaffirmée dans la Déclaration d'Interlaken de 2010. Outre la nécessité d'exécuter pleinement et rapidement les arrêts définitifs de la Cour, la Déclaration d'Interlaken exhorte aussi les Etats membres à rendre plus efficace et plus transparente la surveillance de l'exécution en mettant l'accent sur les affaires qui demandent des mesures individuelles urgentes et sur celles qui révèlent de graves problèmes structurels (plan d'action, surveillance de l'exécution des arrêts, article F.11)).

En décembre 2010, Le Comité des Ministres a adopté de nouvelles méthodes de travail pour mettre en œuvre le Plan d'action d'Interlaken. La réforme a donné lieu à une double approche qui lui permet de mettre l'accent sur les affaires prioritaires. De plus, le Comité développe le concept de plans / bilans d'action, imaginés pour la première fois en 2004. Ces plans ou bilans doivent être soumis par les Etats membres au Comité des Ministres dans les six mois qui suivent la date à laquelle un arrêt devient définitif. La réforme insiste toutefois sur le fait que la responsabilité de l'exécution des arrêts / décisions de la Cour européenne incombe aux Etats membres. Ceux-ci ont le choix des moyens à employer pour se conformer aux obligations qui leur incombent en vertu de la Convention conformément au principe de subsidiarité. C'est ce qu'a également souligné la Déclaration d'Izmir (Plan de suivi, surveillance de l'exécution des arrêts, article H.2). En conséquence, la réforme précitée des méthodes de travail du Comité des Ministres

renforce davantage la nécessité de mettre en place des mécanismes effectifs au niveau national.

Le Comité des Ministres a souligné à maintes reprises qu'il fallait renforcer les capacités internes pour exécuter les arrêts de la Cour. Il a notamment adopté à cette fin la Recommandation (2008)2, qui comprend une série de propositions à mettre en œuvre par les Etats membres afin de renforcer les capacités internes et d'exécuter dans les meilleurs délais les arrêts / décisions de la Cour. Dans la Recommandation, le Comité réaffirme l'importance d'une coordination effective de l'ensemble des acteurs étatiques qui interviennent dans le processus d'exécution et la nécessité d'assurer l'efficacité du processus d'exécution interne. La Recommandation s'inscrit dans une série de textes de cette nature adoptés depuis 2000 pour aider les Etats à améliorer la mise en œuvre de la Convention et des arrêts de la Cour. Le Comité des Ministres assure dans une certaine mesure un suivi de la plupart d'entre eux pour permettre aux Etats de faire part de leur expérience. Etant donné le processus d'Interlaken, il semble opportun de procéder à un échange d'expériences sur la mise en œuvre de la Recommandation (2008)2.

Informations sur la table ronde

Le débat lors de la table ronde devrait aider à préciser l'évolution des pratiques des Etats dans les domaines couverts par la Recommandation (2008)2 sur des moyens efficaces à mettre en œuvre au niveau interne pour l'exécution rapide des arrêts de la Cour européenne des droits de l'homme (voir l'annexe 1) et le rôle éventuel joué par la Recommandation elle-même pour favoriser cette évolution. La table ronde constituera donc un cadre pour un échange d'expériences entre les Etats membres sur la mise en place de mécanismes qui assurent véritablement l'exécution effective et rapide des arrêts de la Cour. Le débat devrait être axé sur les bonnes pratiques et sur les difficultés rencontrées dans les domaines évoqués dans la Recommandation, comme la mise en place de mécanismes de coordination efficaces, leur fonctionnement et leur rôle dans la rédaction de plans d'action.

Cette action sera organisée avec le soutien financier sur Fonds fiduciaire « droits de l'homme » dans le cadre du projet « Lever les obstacles à la non-exécution des décisions de justice internes / assurer une mise en œuvre efficace des décisions de justice internes ».

Informations demandées aux autorités nationales compétentes

Les Etats membres concernés sont invités à adresser au Secrétariat (eva.konecna@coe.int) des informations sur les questions suivantes d'ici le 31 juillet 2011.

1. Mécanismes destinés à assurer une exécution effective et rapide des arrêts de la Cour européenne des droits de l'homme au niveau national

Il serait utile de recevoir des informations sur **le(s) mécanisme(s) mis en place dans votre pays** pour exécuter effectivement et rapidement les arrêts de la Cour européenne (c.-à-d. mécanismes habilités à proposer et/ou à prendre les mesures nécessaires pour accélérer le processus d'exécution, y compris les mécanismes assurant le paiement de la satisfaction équitable). A cet égard, des réponses sur les éléments suivants seraient appréciés : i) **cadre normatif du mécanisme** ; ii) **mandat / domaine de compétence** ; iii) **fonction de coordination** (modalités suivies pour assurer la liaison avec les personnes ou institutions responsables au niveau national de l'adoption des mesures nécessaires pour exécuter les arrêts) ; et iv) **modalités suivies pour obtenir des informations** d'autres acteurs étatiques. Des informations sur les **problèmes** auxquels les Etats sont confrontés pour accomplir leur rôle dans les domaines précités seraient précieuses. Dans ce contexte, nous serions aussi heureux de connaître toute **mesure destinée à favoriser des synergies entre les acteurs nationaux compétents qui interviennent dans le processus d'exécution.**

2. Rédaction de plans / bilans d'action et coordination / collaboration effective à ce titre avec les acteurs intéressés au niveau national

Il serait important d'obtenir des informations sur la façon dont votre pays rédige les plans / bilans d'action concernant l'exécution des arrêts de la Cour. Nous serions heureux de recevoir des exemples de **bonnes pratiques et de problèmes** que connaissent vos autorités en matière de coordination de l'élaboration des plans / bilans d'action, **en particulier concernant les arrêts de la Cour qui révèlent des problèmes structurels.**

3. Mécanisme(s) destinés à assurer la diffusion et la publication des arrêts de la Cour européenne des droits de l'homme et les décisions et résolutions du Comité des Ministres

Il serait utile de recevoir des informations sur la façon dont vos autorités assurent la **traduction et la diffusion rapide et appropriée** des arrêts de la Cour et des décisions et résolutions du Comité des Ministres aux acteurs intéressés. Nous serions heureux d'obtenir des exemples d'autres mesures nécessaires pour faire en sorte que les acteurs compétents soient suffisamment familiarisés avec la jurisprudence de la Cour et avec la pratique du Comité des Ministres (par ex. diffusion des recommandations et des rapports annuels du Comité des Ministres). Ce serait une bonne chose si vous **faisiez part des informations sur les difficultés rencontrées par votre pays et sur les initiatives prises pour améliorer le(s) mécanisme(s) existant(s) dans ce domaine.**

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COUNCIL CONSEIL
OF EUROPE DE L'EUROPE

Albanie / Albania

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

I. Mechanisms to ensure timely and effective execution of judgements of the European Court of Human Rights at the national level

Coordinative bodies: The General State Advocacy

Operative bodies: Council of Ministers, Ministry of Justice (Codification Department), the Ministry of Finance (Department of Human Resources), The General Department of Bailiffs and other responsible state institutions

I.a The national procedures employed for execution of judgements of European Court vary depending on the findings of the Court according to article 41 of the Convention, on the amount of just satisfaction. Thus, execution of those judgements where the Court has awarded to applicant an amount of just satisfaction on pecuniary, non pecuniary damages and other expenses, include the following actions:

The Ministry of Justice proposes to Council of Ministers the execution of ECtHR judgements namely per each case. Codification Department in the Ministry of Justice drafts the decision for the Council of Ministers sustained by the relying report on findings of the Court in the judgement subject for execution. The draft decision thereafter is submitted for approval to the Council of Ministers, which adopts the Decision.

The Decision on the execution of ECHR judgements is based on article 100 of the Constitution; on article 46 of European Convention of Human Rights; on articles 5 and 45 of Law no. 9936, date 26.06.2008 "On the menagamnet of budgetary system in the Republic of Albania"; on articles 13 of Law no. 10355, date 2.12.2010 "On the budget for year 2011"(see the appendix attached).

By such decision, Council of Ministers decides for the payment of amount of just satisfaction in favor of applicants, and/or accordingly decides to restitute or compensate in kind the property to the expropriated subjects. The decision indicates the responsible institutions in charge to act for the payment, namely the Ministry of Finance and the Ministry of Justice. Also, it provides the deadline for the payment and indicates the fund resources that shall be used on this purpose.

Relying on the Decision of Council of Ministers, Ministry of Finance proceeds with the opening of account for payment of applicants through its Human Resources Department and the Treasury Unit. In addition, the Human Resources Department operates with the Banks of Second Level for the authorisation of opening of the account. Also, it conducts with the representative of applicants all the necessary actions for submission of technical–legal documentation. A copy of documentary practice for execution of

payments is sent to the General State Advocacy, as: the order of payment issued by the Treasury Unit; the authorisation of Ministry of Finance to the Bank to act for the opening of account; other documents when deemed necessary.

For those judgements, where the ECtHR has reserved itself to express for the amount of just satisfaction according to article 41 of the Convention, by inviting the parties to negotiate, the General State Advocacy informs the Prime Minister and the Minister of Justice aiming to put in place a negotiating group. Relying on the Order of Prime Minister, the negotiating group acts with the applicant's party to reach an agreement on the amount of just satisfaction. At the end, the negotiating group decides accordingly to submit the results of the agreement to the Prime Minister and the Minister of Justice for final approval.

The General State Advocacy has coordinative functions for the execution of ECtHR judgements. More concretely the State Advocacy carries out the following:

- Immediately, the judgement is communicated by the Court, recalls to the Ministry of Justice the deadline when the judgement shall become final, therefore draws the attention for the initiation of procedures for the payment of just satisfaction.
- Immediately the Council of Ministers delivers its decision for the execution of a judgement of European Court, forwards a copy of this decision and a copy of ECtHR judgement as translated in Albanian to the Ministry of Finance, recalling the deadline that must be respected for the payment of just satisfaction in favour of applicants.
- After the ECtHR judgement becomes final, forwards by official letters a copy of the translated version to all the responsible institutions which are competent to find redress for the violations found in the judgement.
- Aiming to find redress of the violations found in the judgement of ECtHR organises seminars, round tables for identification of main key issues that need to be resolved according to the Courts ruling.

I.b In case the European Court has charged the authorities to provide partly or entire restitutio in integrum of the violation found aiming to put the applicant as far as possible close to the situation before the violation had occurred, the procedures for execution of the judgement involve as well the General Bailiff's Department and other state bodies accordingly responsible to act offering immediate redress of the violation. Such actions are carried as individual measures for each case, and could involve state bodies as for example:

- The Bailiff's for the demolition of a construction or building when enforcing a final court decision.
- The Agency for restitution and compensation of properties for the restitution or compensation in kind of a property in favor of applicants;
- The Real Estate Office for the registration of a certain property in behalf of applicants;

- Any administrative body that is responsible to initiate a legal initiative for the regulation of a certain situation in favor of applicants;
- The Codification Department for the amendment of legal acts which comes as a matter of urgency for the regulation of a situation in favour of applicants etc.

II. Drawing-up of action Plans/Reports and related effective coordination/cooperation with the relevant actors at the national level.

Coordinating/operative body: General State Advocacy

Operative body: All state institutions relevant to execution of individual and general measures for ECtHR judgements

The Albanian Party draws up Action Plans/Reports in framework of the execution of individual and general measures of ECtHR judgements, by acting in two standarts:

1. ECtHR Judgements which are under enhanced procedure by the Committee of Ministers. In these cases, the State Advocacy acts as coordinating/operative body informing the Ministry of Justice and the Prime Minister to establish a working group in level of an Inter Ministerial Committee composed by members in capacity of political decision-making seniors, for preparation and adoption of an Draft Action/Report Plan. The Minister of Justice, in capacity of the Head of Committee assigns a second working group in technical level to assist the preparation of action plan. This working group of experts carries meetings to discuss in concrete terms all the issues which are object of monitoring, identifying and designating the strategic measures, the financial resources and the concrete deadlines, for their realisation. Further, the material prepared by this working group passes for verification and examination before the Inter Ministerial Committee, which concludes with its final adoption. The state advocacy, assigns a secretariat with members of its staff that assists both the Committee and the experts of working group, by carrying the following duties:

- Organizes the meetings of both working groups
- Schedules the main duties and items for discussion
- Collects and circulates the information between the members
- Reflects all the opinionones, suggestions into the draft material
- Drafts the final Action Plan/Report
- Circulates the final version between the members of the groups

Thereafter, the Draft adopted by Committee passes for final aproval in the Council of Ministers (as in the case of group Driza) and than is submitted before the Committee of Ministers of Council of Europe.

2. The ECtHR judgements which are under standart monitoring procedure by the Committee of Ministers. On these cases, the State Advocacy in capacity of coordinating/operative body acts through the staff of Legal Representative Office before

International Foreign Courts, and the Office of Inspections. The staff of Legal Representative Office makes the following:

- Analyses the ECtHR judgement and identifies in route the problems that have caused the violation
- Identifies measures which may be required in order to ensure rapid execution.
- Addresses the problematics and liaise with persons or bodies responsible for deciding on the measures necessary to execute the judgment
- Takes or initiates relevant measures to accelerate the execution process.
- Facilitates the adoption of any useful measures to develop effective synergies between relevant actors in the execution process
- Finally, collects the information provided by the responsive bodies, which thereafter is used to support the preparation of Action Plan/Report concerning the case.

The General State Advocate and the Legal Representative before the European Court take care to prepare the Action Plans within the deadlines for submission before the Secretariat of Department for Execution of ECtHR Judgements. They attend all the DH-Meeting of Committee of Ministres to report on Albanian cases. Also they keep informed the respective state authorities on the decisions of Committee of Ministers for Albanian cases, and take care for the supervision of execution of individual and general measures in continuance until their final accomplishment. Also they ensure effective dialogue and transmission of relevant information to the Secretariat of Department for execution of ECtHR judgements.

III. Mechanisms to ensure dissemination and publication of judgements of the European Court of Human Rights and decisions and resolutions from the Committee of Ministres.

Coordinative bodies: General State Advocacy

Operative bodies: Ministry of Justice (Department for Official Translations, the Center for Official Publications)

General State Advocacy takes the necessary steps to ensure that all judgments are executed accordingly and relevant decisions and resolutions of the Committee of Ministers related to those judgments are duly and rapidly disseminated, where necessary in translation, to relevant actors in the execution process.

Immediately a judgement of European Court is communicated, the General State Advocacy informs the Ministry of Justice recalling for translation of the judgement in Albanian language through its Department for Official Translations.

Immediately a judgement of European Court has become final, the State Advocacy informs the Ministry of Justice recalling the publication of judgement as translated in the

official gazette through the Center for Official Publications¹. The publications in the official gazette and in the website of this Center constitute the main form of dissemination of ECtHR judgements. Also, the Center for Official Publications has published an edition with 27 ECtHR judgements for Albanian cases, in translated version, which is subject for further update.

The dissemination of ECtHR judgements has been carried as well from the State Advocacy by official letter to all the responsible institutions for each case, as well through the publication in its official website.

Is worthy to mention that the ECtHR judgements have been published as well in the website of Constitutional Court and in the website of Council of Europe Office in Tirana.

IV. Normative Bases

1. Article 100 of Constitution of Republic of Albania

1. The Council of Ministers defines the principal directions of the general state policy.
2. The Council of Ministers takes decisions upon the proposal of the Prime Minister or the respective minister.
3. Meetings of the Council of Ministers are closed.
4. Acts of the Council of Ministers are valid when signed by the Prime Minister and the proposing minister.
5. The Council of Ministers issues decisions and instructions.

2. Article 46 of European Convention

Binding force and execution of judgments

1. The High Contracting Parties under-take to abide by the final judgment of the Court in any case to which they are parties.
2. The final judgment of the Court shall be transmitted to the Committee of Ministers, which shall supervise its execution.
3. If the Committee of Ministers considers that the supervision of the execution of a final judgment is hindered by a problem of interpretation of the judgment, it may refer the matter to the Court for a ruling on the question of interpretation. A referral decision shall require a majority vote of two thirds of the representatives entitled to sit on the Committee.
4. If the Committee of Ministers considers that a High Contracting Party refuses to abide by a final judgment in a case to which it is a party, it may, after serving formal notice on that Party and by decision adopted by a majority vote of two-thirds of the representatives

¹ Who functions under the authority of Ministry of Justice.

entitled to sit on the Committee, refer to the Court the question whether that Party has failed to fulfil its obligation under paragraph 1.

5. If the Court finds a violation of paragraph 1, it shall refer the case to the Committee of Ministers for consideration of the measures to be taken. If the Court finds no violation of paragraph 1, it shall refer the case to the Committee of Ministers, which shall close its examination of the case.

3. Law Nr.9936, dated 26.06.2008 "On the budget management system in the Republic of Albania"

Article 5

State budget includes all revenue, expenditure and central government funding. State budget includes a reserve fund and a contingency fund of earnings, which is approved by the Assembly in the annual budget law, to the extent of 3 per cent of the total funds approved. Reserve fund is used only for cases of financing costs, which are not recognized and are impossible to be predicted during the budget preparation process. Approval of its use is done by the decision of the Council of Ministers.

Contingency Fund is used as defined in the annual budget law, to face the effects of non-realization of revenue, the need of performing new and increased funding over the funds already approved in the existing programs. State budget can not be inherited from one year to another, except the cases as provided in this law. State budget is balanced in terms of receipts and payments. All income and expenditure of the State Budget are in gross terms.

Article 45

Requests for additional funds

Authorizing officers of central government units to submit to the prime authorizing officer's a request for additional funds to cover unforeseen expenses at the time of budget preparation and can not be postponed for the next budget year. Authorizing officers of local government units present such demands to the council of unit. The request for additional funds is associated with the justification of the request, arguing:

- a) the reasons for not being programmed at the time of budget preparation;
- b) products, derived from the activities to be financed by additional requirements;
- c) contribute to policy goals and objectives;
- d) other items of approved budget funds, which can be reduced to provide the necessary fund, and the consequences that such a reduction would have on the achievement of other objectives.

Prime Authorizing Officer considers requests for additional funds to the central governmental unit by recommending to the Minister of Finance acceptance or rejection of requests for additional funds argued. If additional funding is completed, while respecting the rights and limits in the first paragraph of Article 44 of this law, then the proposal and approval is performed as defined in this section. If additional funding can not be met,

while respecting the rights and limits set out in Article 44 of this Law, the Minister of Finance may propose to the Council of Ministers to enable it, through the use of the reserve fund from the State Budget.

Minister of Finance shall notify, in writing, periodically, the Assembly on the requests for additional funds, approved by the Council of Ministers, through the use of reserve fund of the State Budget and, on request made by the chairman of the parliamentary committee responsible for public finances, answers to the questions from the committee on this issue. Authorizing officers of local governmental units examine the requests for additional funds to spending units and give their recommendations to the respective unit council for rejecting or accepting the request. If the request for additional fund has been accepted, by respecting the rights and limits in the second paragraph of Article 44 of this law, then the proposal and approval is performed as defined in this section.

If additional funding can not be met, while respecting the rights and limits set out in Article 44 of this law, then the mayor of the local governmental unit may propose to its respective council, to enable it through the use of reserve fund the local government unit.

4. Law No. 10 355, dated 12.02.2010 "On the budget for year 2011"
Article 13

Reserve fund of the Council of Ministers of 1 500 million leek is used for unforeseen cases of budgetary institutions. Contingency Fund aimed to maintain the deficit of 3 647 million and the fund aimed for salary increases and pension of 3 533 million leek is used by Decision of the Council of Ministers.

Autriche / Austria

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

I. Mechanism(s) to ensure timely and effective execution of judgments of the European Court of Human Rights at the national level

1. Basically, the Government Agents of Austria act as a pivotal moment in the execution of the Court's judgments (these are representatives of the Austrian Federal Ministry for European and International Affairs/International Law Department (Bundesministerium für europäische und internationale Angelegenheiten / Völkerrechtsbüro) and the Austrian Federal Chancellery-Constitutional Service (Bundeskanzleramt-Verfassungsdienst). They do so within the framework of their usual tasks without a specific legal basis.
2. Advance notices of the delivery of judgments against Austria by the ECHR are sent, as far as possible, to all those concerned, viz. the highest courts, federal ministries, offices of the regional governments involved. As soon as a judgment against Austria is delivered, it will be transmitted to these bodies without delay; a short information is given to the Foreign Minister and/or the Federal Chancellor, if necessary.
3. This is followed by a formal transmission of the judgment, stating whether or not it has already become final. If compensation has been awarded, it will be clarified internally in writing which ministry or regional government is responsible for making such payment to ensure a timely transfer to the applicant.
4. Should further measures for the execution of a judgment be required, the Austrian Agents will contact the central bodies competent to deal with the specific matter and will discuss with them aspects of a correct implementation. This does not affect the primary responsibility to take specific measures, meaning that the Austrian Agents act as advisors only.
5. The Federal Chancellery disseminates circulars to all central bodies in Austria, the highest courts and among others, the Austrian Parliament, with a summary of the ECHR's recent case-law.
6. The Federal Chancellery/Constitutional Service and the Federal Ministry for European and International Affairs, invite on a regular basis so-called human rights coordinators (experts of the federal and regional public administrations) to exchange relevant information on human rights issues. During these meetings implementation measures are discussed, if necessary.

II. Drawing-up of action plans/reports and related effective coordination/co-operation with the relevant actors at the national level

See item 1.

7. Action plans/action reports are formulated by the Federal Ministry for European and International Affairs in close cooperation with the Federal Chancellery/Constitutional Service. It seems to be worth mentioning in this respect that the Federal Chancellery/Constitutional Service is generally in charge of the drafting of legal texts and regulations, acts as legal expert and represents the Austrian Government in proceedings before the Austrian Constitutional Court and the European Court of Justice in Luxembourg; so it is well acquainted with legislative projects and proceedings conducted for example before the Austrian Constitutional Court and the Administrative Court but also before the European Court of Justice. It is thus in constant contact with the Austrian ministries and offices of the regional governments anyway.

III. Mechanism(s) to ensure dissemination and publication of judgments of the ECHR and decisions and resolutions from the Committee of Ministers

See paras. 5 and 6.

8. Moreover, the civil society in Austria ensures a rapid publication of the ECHR's overall case-law in German: the Austrian Institute for Human Rights (Österreichisches Institut für Menschenrechte), Salzburg, in its newsletter Menschenrechte, and especially the Austrian Journal for Jurists (Österreichische Juristenzeitung).

9. It must also be underlined in this context that since the Convention is part of the Austrian Constitution, the ECHR's case-law is followed closely in particular by Austria's highest courts and universities. The Convention and the judgments based thereon are part of the basic and further training of all Austrian jurists, in particular those working in the public service (authorities and courts).

Arménie / Armenia

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

I. Mechanism(s) to ensure timely and effective execution of the Court's judgments at the national level

In all final judgments of the European Court of Human Rights ("the Court") to which Armenia is a party, and in those cases, where the Court finds a violation of the European Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention"), the Government of the Republic of Armenia ("the Government") under Article 46 of the Convention has an obligation to:

- pay any sums awarded by the Court in respect of just satisfaction²;
- adopt, where appropriate, individual measures to put an end to the violation found by the Court³;
- adopt, where appropriate, the general measures needed to put an end to similar violations or prevent them⁴.

In particular, in order to ensure timely and effective execution of the Court's judgments at the national level the Government, inter alia: (i) analysis situation at national level for enabling an assessment of the measures required for its execution, both in short and long time frame, (ii) coordinates the working process with relevant state authorities for deciding on the measures necessary for the rapid execution, (iii) warrants special measures in case of disclosure of a potential systematic problems, which are anticipated to give rise to similar cases in the future, (iv) adopts, where appropriate, new legislation, or other extensive or complex general measures for avoiding similar violations.

II. Drawing up of action plans/reports and related effective coordination/cooperation with the relevant actors at the national level

In respect of delivered judgments, the Government, where appropriate, rapidly prepares (i) action plans on the measures envisaged to execute judgments, by including an indicative timetable, and (ii) action reports on the measures taken to implement the

² With respect to awarded by the Court monetary compensations, the Government undertakes certain activities in order to make an appropriation of monetary means. In Armenia the financial means for such compensations are appropriated by Government decrees on the means of Reserve Fund, according to which financial means are being transferred to the Ministry of Justice of the Republic of Armenia, which is the authority to accomplish the monetary compensation process.

³ As an important means of redressing the effects of a violation of the Convention, the proper legislative amendments were made in Armenia in order to secure the legislative basis for a possibility to reopen of proceedings at the domestic level.

⁴ Even before the delivery of the particular judgment of the Court, starting from the moment of disclosure of both the local and structural problems, the Government takes pro-active actions aimed more general at prevention of similar violations in future. Such actions can, *inter alia*, include the initiation of legislative amendments in order to make national legislation in line with the Court's case-law and to prevent future possible violations.

judgment. In accordance with the established working methods, the Government presents an action plan to the Committee of Ministers at the latest within 6 months after the relevant judgment has become final.

For the improvement of the initial execution phase, i.e. the rapid preparation of good action plan, the Government establishes a national task force between relevant ministries and authorities to prepare the action plan and to ensure its sustained implementation. In that respect, the Government effectively coordinates/cooperates with the relevant actors at the national level for the drafting of action plans/reports. This well-established coordination/cooperation process helps to identify rapidly the scope of the necessary remedial measures (urgent individual measures, structural problems, general measures, etc.) needed to be taken in order to guaranty timely and effective execution of the Court's judgments.

III. Mechanism(s) to ensure dissemination and publication of the Court's judgments and decisions and resolutions from the Committee of Ministers

After the delivery of the judgment, within the established time frame the Government ensures its dissemination and publication. In particular, it translates the judgment into Armenian language and places it on the official website of the Ministry of Justice, as well as, publishes it in the Official Bulletin of the Republic of Armenia.

A study of the Court's case-law in general, and final judgments to which Armenia is a party, in particular, is included in the training curriculum of the police officers, prosecutors and judges (Police Academy, the Prosecutors` School, the Judicial School etc.), as well in the seminars, trainings and round tables organized for the relevant national actors.

Azerbaïdjan/Azerbaïjan

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

1. Mechanism(s) to ensure timely and effective execution of judgments of the European Court of Human Rights at the national level.

The issues of representation the interests of the Government of Azerbaijan before the Court as well as coordination of the activities of state actors with respect to enforcement of the Court's judgments are regulated by the Decree of the President of the Republic of Azerbaijan of 8 November 2003. According to this Decree, main functions of the Agent of the Government of Azerbaijan are: coordination of the activities of relevant State agencies and institutions in order to ensure implementation of the Court judgments; examination of the legal consequences of the judgments and decisions delivered with respect to High Contracting Parties; and drafting proposals concerning the improvement of the law-implementing practice in view of the case-law of the Court.

In order to implement his functions concerning the enforcement of the Court's judgments the Agent has the following competences: to inform the relevant public authorities about the delivery of the judgment with respect to Azerbaijan and supervise the process of the execution of the Court's judgments; where necessary, to propose bringing legal acts in the conformity with the requirements of the Convention and the Court's case law. Legal and organizational support of the Agent is provided by the Human Rights Protection Unit of the Office of the President of the Republic of Azerbaijan. The financial support of the activity of the Agent is disbursed from the state budget of the Republic of Azerbaijan in the order established by law.

2. Drawing-up of action plans/reports and related effective coordination/cooperation with the relevant actors at the national level

Upon entry into legal force of a judgment the Agent informs corresponding authorities about the judgment and requests the information stipulating the steps aimed at execution of the judgment. Subsequently, upon receipt of the requested information the action plan/report is drafted which consist of detailed steps that should be implemented in order to redress a violation of the human rights as well as activities which has already made. The issue of the payment of the just satisfaction is secured separately. The Agent has its budget line and all amounts on just satisfaction shall be paid from this budget.

3. Mechanism(s) to ensure dissemination and publication of judgments of the European Court of Human Rights and decisions and resolutions from the Committee of Ministers

The Court's Judgments and Decisions delivered with respect to Azerbaijan are being translated into Azerbaijani and sent to the relevant authorities by the Agent's circular letter. The Bulletin of the European Court of Human Rights containing the Court's recent decisions and judgments is also published in Azerbaijani and disseminated among the courts and law enforcement agencies on a periodic basis.

Belgique/Belgium

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

1. Mécanismes destinés à assurer une exécution effective et rapide des arrêts de la CEDH au niveau national

- **Cadre normatif du mécanisme**

Tout comme la préparation de la défense de l'Etat belge devant la CEDH, la surveillance/coordination de l'exécution des arrêts est aussi assumée, au niveau national, par l'Agent du Gouvernement belge. Le plus souvent, en effet, ayant traité le dossier devant la CEDH, l'Agent peut identifier rapidement les mesures nécessaires pour exécuter un arrêt.

Depuis juin 1955, la fonction d'Agent du Gouvernement belge est exercée au sein du Ministère de la Justice, actuellement SPF Justice dans la Direction générale de la Législation et des Libertés et Droits fondamentaux. Il s'agit là d'une pratique bien établie même si le rôle et le statut de l'Agent ne sont pas définis dans un document officiel. A ce jour, quatre juristes du service des Droits de l'Homme du SPF Justice assistent l'Agent du Gouvernement dans la défense de l'Etat belge devant la CEDH et dans la surveillance/coordination de l'exécution des arrêts au niveau national. Ces juristes ont le statut de Co-Agents du Gouvernement auprès de la Cour.

- **Mandat / domaine de compétence**

L'Agent et les Co-Agents du Gouvernement belge se chargent aussi bien de la diffusion des arrêts aux autorités concernées et de leur publication sur le site Internet de la Cour de cassation. Ils donnent l'impulsion afin que les satisfactions équitables soient payées dans les délais impartis et participe à l'identification d'éventuelles autres mesures individuelles et/ou l'adoption de mesures générales pour se conformer aux arrêts, en concertation avec les autorités compétentes (autres services du SPF Justice tels que par exemple, le service des grâces, ou d'autres départements ministériels tels que par exemple, le SPF Intérieur s'agissant des arrêts en droit des étrangers).

En tant que coordonnateurs de l'exécution des arrêts, les Co-Agents ont un contact direct avec toutes les autorités susceptibles de devoir adopter des mesures individuelles et/ou mesures générales pour exécuter des arrêts. Des propositions de modification législative ou de pratiques administratives sont parfois initiées directement par les Co-Agents (par exemple, la loi sur la réouverture des procédures pénales) ou très rapidement avant toute intervention spécifique du Comité des Ministres (par exemple, suite à l'arrêt du 24 mai 2007 *Da Luz Domingues Ferreira*, la notification des jugements prononcés par défaut

s'est très vite accompagnée désormais de la mention des formalités à respecter pour former opposition, même bien avant que la législation ne soit modifiée en ce sens). Sa proximité avec des services spécialisés dans les procédures législatives pénales et civiles constitue une aide à cet égard.

- **Fonction de coordination**

Il n'existe pas de mécanisme particulier pour assurer la fonction de coordination et de surveillance de l'exécution des arrêts au niveau national. Cela s'explique essentiellement par le fait qu'à ce jour, vu le nombre encore restreint d'arrêts pour la Belgique, un traitement *ad hoc*, au cas par cas, reste possible pour chaque Co-Agent pour les dossiers dont il est en charge.

Les observations de l'Etat belge comme l'exécution des arrêts font l'objet d'une concertation étroite entre le Bureau de l'Agent du Gouvernement et les autorités concernées. Si nécessaire, des réunions sont organisées pour déterminer les positions communes de l'Etat belge devant la CEDH et les mesures à prendre pour exécuter des arrêts. En cas de divergences de vues, les décisions sont prises dans le respect des compétences des départements. Quand plusieurs arrêts concernent les mêmes autorités, que leur objet soit identique ou non, une seule réunion peut être organisée pour décider les mesures à prendre pour les exécuter (par exemple, l'arrêt *Turan Cakir* du 10 mars 2009 et l'arrêt *Poncelet* du 30 mars 2010 ont constaté des problèmes différents, mais tous deux dans le chef de la police belge).

La Représentation permanente de la Belgique auprès du Conseil de l'Europe assure le relais entre les Co-Agents et l'Agent du Gouvernement belge et le Comité des Ministres sur les questions d'exécution des arrêts. Par ailleurs, les Co-Agents ont des contacts réguliers avec le Département pour l'exécution des arrêts de la CEDH. Ils lui transmettent ses plans et bilans d'action et ils font appel à son expertise lorsque des problèmes particuliers, notamment d'interprétation des arrêts, se posent. Enfin, l'Agent du Gouvernement et ses Co-Agents profitent, souvent, de leurs passages à Strasbourg pour s'entretenir directement avec la Représentation belge et le Département susmentionné du Conseil de l'Europe.

Si le contentieux contre la Belgique venait à augmenter, l'Agent du Gouvernement pourrait organiser, plus systématiquement, des réunions interministérielles sur la problématique de l'exécution des arrêts, au lieu de privilégier une exécution des arrêts, au cas par cas, jusqu'à présent possible, vu le nombre assez limité d'affaires belges pendantes devant le Comité des Ministres.

En outre, l'Agent du Gouvernement belge envisage de désigner, au sein de son équipe, un point focal pour l'exécution des arrêts pour standardiser davantage entre les Co-Agents la procédure d'exécution (rédaction des bilans et plans d'action, sommaires des publications, avis de diffusion, amélioration de la banque d'encodage des requêtes et du

suivi des arrêts) ainsi que faciliter les contacts de l'Agent du Gouvernement belge avec les autorités internes, la Représentation permanente de la Belgique auprès du Conseil de l'Europe et le Département pour l'exécution des arrêts de la Cour.

- **Modalités suivies pour obtenir des informations d'autres acteurs étatiques**

Au-delà de la coordination avec les autorités belges responsables d'adopter des mesures individuelles et/ou générales (autres services du SPF Justice – modifications législatives notamment procédurales, grâces, établissements pénitentiaires, etc. – ou d'autres départements ministériels), les Co-Agents du Gouvernement belge sont également régulièrement en contact avec les services de comptabilité pour garantir le paiement dans les délais des satisfactions équitables octroyées par la Cour. Les Co-Agents procèdent eux-mêmes à la publication des arrêts et des décisions concernant la Belgique sur le site Internet de la Cour de cassation et ils veillent également à leur diffusion aux autorités concernées (par exemple, beaucoup d'arrêts de la CEDH sont envoyés au Collège des Procureurs généraux pour être diffusés ensuite à tous les ressorts judiciaires) ainsi qu'aux autres acteurs potentiellement intéressés par leur contenu (par exemple, l'arrêt *Turan Cakir* susmentionné met en cause la police pour des faits de violence mais intéresse également l'Inspection générale de la police fédérale et de la police locale et le Comité P, puisqu'ils sont tous deux des organes de contrôle externe de la police).

- **Difficultés/problèmes et bonnes pratiques**

De manière générale, la charge de travail des Co-Agents du Gouvernement les empêchent souvent d'être proactifs pour une exécution rapide et effective des arrêts de la Cour (ces derniers sont chargés en effet de fonctions également auprès d'autres instances internationales). A cet égard, sous l'ancien système, les Co-Agents avaient tendance à attendre l'échéance des réunions DH du Comité des Ministres pour récolter et transmettre les informations sur l'exécution des arrêts. Le nouveau système procédural de surveillance apparaît en ce sens justifié, reposant désormais sur des règles et des délais précis et sur davantage d'initiatives à prendre de la part des Etats. L'Agent du Gouvernement belge a décidé de concentrer plus d'efforts, dans les prochains mois, sur l'exécution des arrêts pour tenter, avec l'aide d'un point focal, de résorber une partie de son arriéré actuel de cas pendants devant le Comité des Ministres. Il est aussi parfois difficile de suivre, de près, les différentes démarches/étapes d'exécution réalisées dans chaque dossier. L'Agent du Gouvernement prévoit à cet effet d'affiner sa banque de données sur la gestion des requêtes pour pouvoir suivre, de manière plus systématique, l'exécution des arrêts. Enfin, avec la réforme actuelle de l'Etat belge accompagnée d'un nouveau transfert de compétences fédérales vers les régions, il est possible que les entités fédérées (communautés et/ou régions) soient davantage mises en cause devant la CEDH. La fonction de coordinateur général pour la défense de l'Etat belge et pour l'exécution

des arrêts exercée à ce jour, au niveau de l'Etat fédéral, pourrait en être rendue plus complexe.

2. Rédaction de plans / bilans d'action et coordination / collaboration effective à ce titre avec les acteurs intéressés au niveau national

• Méthode utilisée

Depuis la nouvelle procédure de surveillance de l'exécution des arrêts, entrée en vigueur le 1^{er} janvier 2011, l'Etat belge n'a présenté que quelques Bilans d'action et Plans d'action. A cet effet, l'Agent du Gouvernement suit un modèle standard présentant quatre rubriques : 1) résumé introductif de l'affaire, 2) paiement de la satisfaction équitable et autres mesures individuelles, 3) mesures générales et 4) conclusions de l'Etat défendeur. En raison d'un certain retard accumulé dans la procédure d'exécution des arrêts au niveau interne, de nombreuses informations transmises au Comité des Ministres dans le passé relatives à des affaires anciennes n'ont pas encore été reprises sous la forme de Plans d'action ou de Bilans d'action, conformément à la nouvelle procédure.

• Difficultés/problèmes et bonnes pratiques

Face à des arrêts parfois rédigés en termes trop généraux, l'Agent du Gouvernement belge peut être confronté à des difficultés d'interprétation et par voie de conséquence, des problèmes pour identifier précisément les mesures nécessaires à proposer pour les exécuter. L'Agent du Gouvernement fait face parfois également à des réticences internes pour exécuter des arrêts, en raison du caractère sensible et éminemment politique de certains arrêts et/ou encore d'un manque de connaissance actualisée des standards européens en droits de l'homme de certaines autorités internes. En tant qu'experts, les Co-Agents du Gouvernement belge fournissent des avis et font un travail permanent de sensibilisation en droits de l'homme, en interne (auprès d'autres services du SPF Justice) mais également à l'extérieur, auprès d'autres départements ministériels et d'autres services publics. Cette sensibilisation, nécessaire à débloquer les obstacles à l'exécution de certains arrêts, pourrait aussi se réaliser en partie en renforçant davantage la visibilité de l'Agent du Gouvernement au niveau national.

• Expériences en matière d'arrêts révélant des problèmes structurels

A ce jour, l'expérience belge est assez limitée en termes d'arrêts de la CEDH révélant des problèmes structurels. Comme de nombreux Etats, le problème structurel principal constaté par la CEDH a été le dépassement du délai raisonnable devant les juridictions belges (civiles, pénales et administratives). De nombreuses mesures ont été prises par

l'Etat belge pour essayer de résorber cet arriéré judiciaire, notamment l'adoption de législations temporaires renforçant le personnel des cours et des tribunaux et de Plans contenant d'autres mesures. Cependant, ces mesures n'ont pas été prises, spécifiquement, dans le cadre de l'exécution des arrêts de la CEDH à ce sujet.

La Belgique a aussi fait l'objet d'autres condamnations pour problèmes de type procédural/structurel mais ces derniers ont été assez vite résolus par l'adoption de modifications législatives (par exemple, la loi intervenue entre l'arrêt de chambre et l'arrêt de Grande chambre *Taxquet* du 16 novembre 2010 obligeant désormais les Cours d'assises à motiver leur verdict de culpabilité), nouvelles pratiques (par exemple, suite à l'arrêt *M.S.S.* du 21 janvier 2011, les demandes d'asile devant être analysées par la Grèce en vertu du règlement de Dublin sont examinées par les instances belges d'asile) ou encore de revirements jurisprudentiels (par exemple, suite à l'arrêt *Goktepe* du 2 juin 2005, les questions devant les Cours d'assises relatives à la culpabilité sont désormais individualisées).

3. Mécanisme(s) destinés à assurer la diffusion et la publication des arrêts de la CEDH et les décisions et résolutions du Comité des Ministres

- **Publication des arrêts**

Comme déjà indiqué, les Co-Agents du Gouvernement belge procèdent, eux-mêmes, à la publication des arrêts concernant la Belgique sur le site Internet de la Cour de cassation. Ceux-ci sont postés dans leur intégralité en français, tandis qu'un sommaire (constats principaux et mots-clés) préparé en français et en néerlandais par les Co-Agents du Gouvernement est également posté sur le site. A ce jour, les décisions et résolutions du Comité des Ministres ne figurent pas sur le site mais il serait, en effet, intéressant d'y rajouter les résolutions finales intervenues pour chaque arrêt en vue de pouvoir informer le grand public des mesures prises par l'Etat belge pour se conformer aux arrêts de la CEDH. On pourrait également envisager de mettre un lien pour chaque arrêt vers le site d'exécution des arrêts du Conseil de l'Europe pour que les personnes intéressées puissent suivre plus facilement le processus d'exécution des arrêts.

- **Diffusion des arrêts**

Comme indiqué plus haut, les Co-Agents du Gouvernement belge veillent aussi à la diffusion de tous les arrêts de la CEDH aux autorités internes concernées ainsi qu'aux autres acteurs potentiellement intéressés par leur enseignement. A ce jour, les arrêts ne sont pas envoyés aux experts universitaires ou encore à des membres de la société civile. L'Agent du Gouvernement belge envisage, par ailleurs, de rédiger un rapport annuel sur

l'exécution des arrêts à destination du Parlement et, éventuellement, du Conseil des Ministres pour discussion. Cela pourrait permettre notamment de renforcer sa visibilité. Enfin, l'Agent du Gouvernement et ses Co-Agents pourraient contribuer plus souvent à des séminaires de formation à l'attention de juges belges sur la jurisprudence de la CEDH.

Nous serions particulièrement intéressés de savoir les pratiques auxquelles les autres Etats recourent pour diffuser les arrêts dont ils font l'objet.

- **Difficultés rencontrées**

En raison de contraintes budgétaires, l'Etat belge ne procède plus à la traduction dans leur intégralité des arrêts de la CEDH en néerlandais et en allemand. Ces traductions confiées à des professionnels, en outre, retardaient sensiblement la publication des arrêts. Autrement, toujours en raison de manque de temps, plusieurs initiatives susmentionnées (par exemple, rapports annuels au Parlement) n'ont pu jusqu'à présent être réalisées. Enfin, sur le site même du SPF Justice, on pourrait également mettre beaucoup plus d'informations sur les activités du service des Droits de l'Homme, et notamment liées à sa fonction d'Agent du Gouvernement belge auprès de la Cour.

Bruxelles, le 9 novembre 2011

**Bosnie-Herzégovine/Bosnia and
Herzegovina**

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

1. Mechanisms(s) to ensure timely and effective execution of the judgments of the European Court of Human Rights at national level

With regard to the execution of judgments of the European Court of Human Rights, the Decision of the Council of Ministers of Bosnia and Herzegovina on the Agent of the Council of Ministers of Bosnia and Herzegovina before the European Court of Human Rights and the Office of the Agent of the Council of Ministers of Bosnia and Herzegovina before the European Court of Human Rights (published in the "Official Gazette of BiH", no. 41/03 and 65/05) prescribes as follows: [...]

Article 7.

The Agent of the Council of Ministers of BiH shall take care of the execution of judgments of the European Court of Human Rights in Bosnia and Herzegovina and shall inform the Council of Ministers of BiH and the Committee of Ministers of the Council of Europe about the execution. Final judgments of the European Court of Human Rights shall be published in the "Official Gazette of BiH" and submitted to the bodies that have violated any human rights guaranteed by the Convention or its Protocols, as well as to the bodies responsible for the execution of the final judgment.

Article 8

All administrative bodies and other authorities of Bosnia and Herzegovina, Federation of BiH, Republika Srpska and the Brcko District of Bosnia and Herzegovina shall be obliged to cooperate and provide all necessary support to the Agent of the Council of Ministers and to ensure that the Agent is unimpeded in fulfilling the obligations of Bosnia and Herzegovina. All bodies and authorities referred to in paragraph 1 of this Article shall be obliged, upon the request of the Agent of the Council of Ministers of BiH, to submit all data, information and case files that are necessary for the activities within the Agent's competence. The responsible person or a head of the relevant authority, body or administrative organization shall be held accountable for non-compliance with this obligation, particularly if it caused pecuniary or any other damage, or impossibility to adequately represent the Council of Ministers of BiH. The Council of Ministers of BiH shall be informed on the failure of the entities referred to in paragraph 3 above to fully implement their obligations.

Thus, the Agent of the Council of Ministers of BiH (hereinafter: the Agent) is in charge of the execution of the Court's judgments. In practice, it means that the Agent ensures translation of the judgments in one of the official languages in Bosnia and Herzegovina, submission of the judgments to the bodies competent for the execution and to other relevant bodies which have been involved in the domestic proceedings. Translation of the Court's judgments is also submitted to the Council of Ministers of BiH, the Government of the Federation of BiH and the Government of the Republika Srpska.

The Agent also ensures that the translation of the judgments is published on the official web site of the Office of the Agent and once the judgment had become final, translation of the judgment is published in the "Official Gazette of BiH".

The Agent provides relevant domestic authorities with the analyses of the judgments and explanation of the obligations arising from the judgment.

Bosnia and Herzegovina has a specific and complex constitutional arrangement, with two entities, the Republika Srpska and the Federation of Bosnia and Herzegovina, which have their own respective jurisdictions. At the state level, there is the Council of Ministers of BiH with its own jurisdiction.

Due to this complex state organization, each Entity Government has an office which is competent to cooperate with the Agent when the execution of a judgment is within the Entity's jurisdiction. In the course of the execution of the judgment, the Entity's office coordinates the activities of the relevant Entity's institutions. However, the Agent is authorized to directly cooperate with all authorities and institutions in all of Bosnia and Herzegovina in the process executing the Court's judgments.

When a judgment reveals a structural problem in both Entities, the Agent cooperates with competent institutions in both Entities in order to implement general measures with an aim to remedy the violation found in the judgment on the whole territory of Bosnia and Herzegovina. The Agent requests all relevant information concerning execution of the judgments from the domestic bodies competent for the execution and forwards it to the Department for the execution of judgments of the European Court of Human Rights. The Agent also regularly informs the Council of Ministers of BiH about the course of the execution of judgments and submits reports on the execution of judgments to the Committee of Deputy Ministers of the Council of Europe. Also, the Agent regularly reminds the competent authorities about their duty to undertake individual or general measures, and their obligation to regularly submit all relevant information about the course of the execution of the judgment.

Difficulties related to the execution of the Court's judgments in Bosnia and Herzegovina arise from the specific and complex constitutional and legal order and the existence of many levels of government with their own jurisdiction and legislation. Consequently, the Agent has to cooperate with many institutions at different levels of government (e.g. with the bodies of the Government of the Republika Srpska, the Government of the Federation of BiH and with the Council of Ministers of BiH).

2. Drawing-up of action plans/reports and related effective coordination/cooperation with the relevant actors at the national level

If the judgment discloses a structural problem, the Agent informs the competent bodies on the obligation to produce an action plan for the implementation of the judgment.

On the basis of the Agent's analysis of the judgment and in cooperation with the Agent, a competent body produces an action plan and submits it to the competent Government for adoption. In the process of producing an action plan, the Agent provides all necessary explanations concerning the judgment and obligations arising from it to the competent bodies. Before an action plan is produced, relevant stakeholders usually organize a meeting with the Agent in order to clarify all issues concerning the implementation of the

judgment.

Since there are two Entities in Bosnia and Herzegovina with their own respective jurisdictions and a state level authority with its own jurisdiction, it is usual for both Entities to adopt their own action plans for the execution of the same judgment. Namely, since every Entity has its own legislation and jurisdiction, it is often necessary that both Entities adopt an action plan in order to remedy the violation found in the judgment under its jurisdiction. This is the situation where the violation found in the judgment exists in both Entities and it is necessary to amend the legislation or to change practices in both Entities, so that the violation found in the judgment is remedied on the whole territory of Bosnia and Herzegovina.

When the violation found in the judgment exists only in one of the Entities, an action plan is produced by the relevant Entity. Also, if the violation found in the judgment is a result of the state level legislation or practice, the Council of Ministers of Bosnia and Herzegovina adopts an action plan.

3. Mechanism(s) to ensure dissemination and publication of judgments of the European Court of Human Rights and decisions and resolutions from the Committee of Ministers

The Agent ensures translation of the judgments into one of the official languages in Bosnia and Herzegovina, submission of the judgments to the bodies competent for the execution and to other relevant bodies that have been involved in the domestic proceedings.

The Agent also ensures that the translation of the judgments is published on the official website of the Office of the Agent, and once the judgment has become final, the translation of the judgment is published in the "Official Gazette of BiH".

Also, the Agent ensures that relevant recommendations of the Committee of Ministers are translated and published on the website of the Office of the Agent. The Agent also informs the Council of Ministers of BiH and other relevant domestic institutions on resolutions of the Committee of Ministers. The Agent ensures that the press releases of the Court concerning the judgments delivered against Bosnia and Herzegovina are translated and published on the website of the Office of the Agent in a timely fashion. There is a strong interest of the media in the cases and judgments against Bosnia and Herzegovina, and the Agent regularly makes statements to the media and generally informs the public about all Court's judgments and decisions delivered against Bosnia and Herzegovina.

Sarajevo,

Bulgarie/Bulgaria

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

I. Mechanism(s) to ensure timely and effective execution of judgements of the ECHR at the national level

In relation to the execution of the Court's judgements the main obligation of the Government is to pay the applicant the awarded sum for just satisfaction.

One of the tasks to be carried out by the Government Agent at the Ministry of justice is to prepare in time all necessary documents which the Minister of Justice is going to present before the Council of Ministers.

In order to timely execute the ECHR's decisions the Government Agent manages and delivers information to the Permanent Representation of the Republic Bulgaria to the Council of Europe, to the Foreign Ministry, the Interior Ministry, the National Assembly, to the delegates and the MEPs at PACE. The Government Agents react immediately and reply to any questions arisen about the implementation of the general and the individual measures.

The Friendly settlements and the Unilateral declarations are also prepared by the Government Agents.

In order to inform them and to prevent similar violations the newly translated ECHR judgements are promptly sent to the prosecution authorities, the courts and to all concerned institutions and government bodies.

The General measures to be taken by the Government include publishing, dissemination and /or legislative amendments.

Only the Bulgarian versions of the Court's judgements on the merits get published on the website of the Ministry of Justice. Unfortunately, the translation of the judgement and hence their publications is delayed for about a year due to financial and other difficulties. Some specific judgement however receive prompt translation.

Under the Constitution of the Republic of Bulgaria the right of legislative initiative belongs to the Council of Ministers and to the members of the parliament. When necessary the Government Agent reports to the Minister of Justice.

- Legislation:

1.1. Article 5. (4) of the Constitution: Any international treaty, which has been ratified according to a procedure established by the Constitution, which has been promulgated,

and which has entered into force for the Republic of Bulgaria, shall be part of the domestic law of the land. Any such treaty shall take priority over any conflicting standards of domestic legislation.

1.2. The European Convention for the Protection of Human Rights and Fundamental Freedoms is ratified by a law, adopted by the National Assembly on 31.07.1992 - SG No. 66/14.08.1992, Issued by the Ministry of foreign affairs, promulgated, SG No. 80/2.10.1992, effective for Republic of Bulgaria since 7.09.1992, amended and supplemented, SG No. 38/21.05.2010

1.3. Art. 18c. of Council of Ministers' Regulation no. 26 from 02 February 2004 for the Procedural Representation of the Republic of Bulgaria before the ECHR (SG 68/04) (1) The Unit "Procedure representation of the Republic of Bulgaria before the European Court of Human Rights" shall be organized in a department directly subordinated to the Minister of Justice, who shall through the Government Agents:

1. prepare and defend the position of the Republic of Bulgaria in each case, in which it is a party;
2. conduct negotiations for reaching friendly settlements with the adverse party and prepare drafts of agreements, which are subject to approval by the Council of Ministers of the Republic of Bulgaria;
3. implement the necessary activities, related to the fulfilment of the decisions of the European Court of Human Rights (ECHR), entered into force, and of the resolutions of the Committee of the ministers of the Council of Europe, for the fulfilment of the decisions of ECHR on cases, in which the Republic of Bulgaria is a party;
4. summarise and analyse the established breaches of the European Convention for protection of human rights and fundamental freedoms and prepare proposals for undertaking concrete measures, in this number legislative, having as objective termination or prevention of these breaches;
5. investigate, analyse and summarise the practice of ECHR for applying of the European Convention for protection of human rights and fundamental freedoms, cooperating for the dissemination of this practice.

According to Art. 5. (2) The Funds required for payment of sums awarded by the decisions of the ECHR, as well the funds for friendly settlements are provided from the state budget.

Also: The Structural Regulations of the Ministry of Justice

II. Drawing-up of action plans/reports and related effective coordination/cooperation with the relevant actors at the national level

In accordance with the requirements set by the Committee of Ministers, the Government Agents started composing the Action Plans and the Reports for the execution of the Courts' judgments. In this regard, in Sofia (in May) a meeting took place between representatives of the Department for the execution of ECHR judgements and the representatives of the Bulgarian Ministry of justice.

III. Mechanism(s) to ensure the dissemination and publication of judgements of the ECHR, and decisions and resolutions from the Committee of Ministers.

Once a judgement becomes translated in Bulgarian it is promptly sent by post and/or email to all concerned authorities.

The decisions on the admissibility do not get published on the web site of the Ministry of Justice (or elsewhere). However, the web site offers a link to the HUDOC search engine.

At the request of the Department for the execution of judgments of the ECHR the Ministry of Justice has published on its website five resolutions of the Committee of Ministers in Bulgarian and English versions.

Croatie/Croatia

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

1. Mechanism(s) to ensure timely and effective execution of judgments of the European Court of Human Rights at the national level

I. The mechanisms' normative basis

Execution of judgments of ECtHR in Croatia is regulated solely by Article 7 of the Ordinance on the Government Agent of Croatia before the ECtHR and his Office (hereinafter: The Ordinance). This provision stipulates that the Government Agent of RoC before the ECtHR cares for the execution of ECtHRs' judgments, and reports thereon to the Committee of Ministers of the Council of Europe. A specialized Department for Execution of ECtHR judgments and monitoring the Case-law of the Court is formed within the Office.

Article 162 of the Ordinance on Internal Order of the Ministry of Justice stipulates that the Government Agent is the Head of the Office for Monitoring the Case-law and Representation of Croatia before the European Courts that is one of directorates within the Ministry of Justice.

The Department for Execution of ECtHR judgments counts the Head of the Department and one junior lawyer.

II. Mandate/scope of action, coordinating function

Other than the general provision which entrusts the care for the execution of ECtHRs' judgments to the Government Agent, no other provisions govern specific authorities of the Government Agent in the execution process in relation to other domestic actors to be involved in execution of a specific ECtHR judgment.

However, Article 8 of the Ordinance on the Government Agent obliges all administrative bodies and other bodies of state authority to cooperate with the Government Agent and enable the unobstructed work of the Government Agent. This obligation of all state authorities to cooperate with the Government Agent enables the Government Agent's Office to request **information needed** from the competent authorities.

The cooperation foreseen in the abovementioned Article of the Ordinance also contributes to the realization of the **coordinating function** of the Government Agent throughout the execution process.

Every judgment of the Court against Croatia, as well as admissibility decisions and decisions on friendly settlements are translated into Croatian language and published on web page of the Ministry of Justice (within the space provided for the Office for Monitoring the Case-law and Representation of Croatia before the European Courts). The Office also drafts the press releases regarding the judgments and publishes them on the same web page.

The Department for Execution in the Agent's Office analyses every judgment in order to make a preliminary assessment of possible means of execution, as well as to determine which domestic authorities shall be involved in the execution process. The judgment, together with the analysis, is then disseminated to all relevant authorities. At that point, the execution process fully begins.

In "simpler" cases, which do not require the application of comprehensive measures, the Government Agent's Office collects relevant information from authorities concerned, and may propose concrete actions needed to secure the efficiency of the execution process.

In complex cases, especially when the execution of a judgment requires that measures be taken in various areas of state responsibility, the Government Agent proposes to the Government to establish an Expert Group for the execution of a specific ECtHR judgment. In such cases, the Government Agent provides the necessary expertise and gives guidelines in order to ensure that appropriate measures of execution are deployed.

In all cases, the Government Agent can organize meetings with representatives of relevant authorities, in order to discuss any issue of importance to the efficient execution. This modality of action is especially appropriate in interdepartmental cases (where several ministries are involved in the execution process). Meetings with representatives of relevant ministries are an effective tool for **ensuring the synergy** of actions taken by different national actors throughout the execution process.

Finally, according to Article 9 of The Ordinance, if the Government Agent, in relation to a specific case raised before the ECtHR, finds that a piece of domestic legislation does not comply with the Convention she/he will incite the Government of the Republic of Croatia as well as any other competent body to harmonize that piece of legislation with the Convention.

The main challenge that the Government Agents' Office is occasionally faced with while working on the execution of judgments is a direct consequence of the interdepartmental nature of such work and the Agent's position within the executive power hierarchy. The Government Agent's Office is organized within the Ministry of Justice, while many issues dealt with in the execution process relate to the competencies of other ministries. Often (unless an Expert Group for the execution of a specific judgment is formed) there are no officials within

different ministries designated as a reference contact for issues related to the execution of ECtHR judgments.

Furthermore, different state authorities are continuously taking action within their competence, sometimes unaware of the influence their actions may have on the execution process. This issue is mainly related to the insufficient knowledge of the Convention, obligation of the state to abide by final judgments of the ECtHR, and the role of the Government Agent and her Office. Therefore, lawyers of the Government Agent's Office have to use all available means to stay informed of the work that different state authorities are doing within their competence.

As regards execution of the judgments when cooperation with other branches of power (legislative, judicial) is necessary (when a change of the practices or changes of the case-law of the Supreme Court, Constitutional Court can remedy violation and prevent possible future ones) position of the Government Agent within the Ministry of Justice, and his/her rank in the executive hierarchy does not contribute to the smooth and timely execution process.

2. Drawing up of action plans/reports and related effective coordination/cooperation with the relevant actors at national level

Drawing up of action plans/reports is primarily in the competence of the Government Agent's Office, i.e. the Department for Execution of ECtHR judgments. Based on the information obtained from relevant national authorities (both regarding individual and general measures), legal experts employed in the Department for Execution draw up action plans/reports, which are subject to final approval by the Government Agent. Since this is the primary method of composing action plans/reports, a broad overall knowledge, not only of the Convention law and relevant practice of the Committee of Ministers in the execution process, but also of all areas of domestic law is required from legal experts of the Government Agent's Office.

However, in more complex cases (revealing structural problems), where the execution process requires the formation of interdepartmental Expert Groups, drawing up of draft action plans can be entrusted to such Expert Groups. In such cases, the Government Agent's Office provides the necessary expert assistance, and is in charge of final editing and approval of draft action plans prepared by the Expert Group.

Since the introduction of the twin-track system, Croatia has formed Expert Groups for the execution of ECtHR judgments in two specific cases, and the action plan (as well as the follow-up to the action plan) was composed and delivered to the CoM in one of these cases (in the other case the deadline for delivering the action plan/report has yet not expired). The cooperation of the

Government Agent's Office with Expert Groups in both cases has shown good results.

3. Mechanism(s) to ensure dissemination and publication of judgments of the European Court of Human Rights and decisions and resolutions from the Committee of Ministers

The Government Agent's Office translates ECtHR judgments, decisions on admissibility and friendly settlements decisions. The Office also translates recommendations/resolutions of the Committee of Ministers and of Parliamentary Assembly of CoE related to matters dealing with the Court. However, since there is no translation service within the Government Agent's Office, relevant materials are translated either by the Office lawyers, or by a contracted professional translator, depending on the extensiveness of the material translated. Translations made by the contracted professionals are reviewed by the Office lawyers, and all translations are finally approved by the Government Agent.

When a translation of the judgment, admissibility decision or decision on friendly settlement is finalized, it is disseminated to the relevant authorities (affected by the judgment or those that will take active part in the execution process). Translations of all judgments against Croatia and decision are regularly published on the web page of the Ministry of Justice (www.mprh.hr) link to the Office of the Government Agent before the ECtHR.

Additionally, overviews of the ECtHR case-law (covering judgments against Croatia and other landmark judgments of the Court) are prepared by the Government Agent's Office and are periodically published by the Office.

Translation of the Convention and the Rules of the ECtHR, as well as translations of relevant Recommendations and Resolutions of the Parliamentary Assembly and of the Committee of Ministers are also published on the web page of the Ministry of Justice.

Press-releases regarding all ECtHR judgments concerning Croatia are published on the web page of the Ministry of Justice, as well as relevant information regarding the work of the Committee of Ministers in the execution process (information on relevant decisions and resolutions regarding Croatia, the publication of annual reports, etc.).

Chypre/Cyprus

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

1. The authority responsible in Cyprus for carrying through the execution of Judgments of the Court is the Attorney-General; under the Constitution he is the Republic's legal adviser and as such the Agent of the Government. The Attorney-General heads the Republic's permanent legal service. A sector specializing in human rights and staffed with lawyers familiar with Strasbourg case-law, (the Human Rights Sector) has been set up and operates in the Legal Service under the Attorney-General/Government Agent. In addition to inter alia its responsibility to deal with individual recourses and give legal advice to the authorities respecting administrative practice and legislation in light of the Court's case-law, the Human Rights Sector is also the domestic mechanism for enforcement of the Court's judgments ; its lawyers have the responsibility to see to it on behalf of the Attorney-General/Government Agent, that the Court's judgments are enforced (the Sector is also specially responsible for the implementation of the Recommendations adopted by the Committee of Ministers in May 2004).

2. The execution process is controlled and coordinated by the Human Rights Sector. The control is carried out by exercise of the powers of legal adviser which covers the whole spectrum of government administration (the Republic's Government Ministries/Departments, the Ministers, the Council of Ministers, and the President). Counsel of the Human Rights Sector advise on behalf of the Attorney-General the government authority concerned in each case, on the legislative/administrative measures that must be adopted in the light of the Court's judgment for ensuring enforcement.

3. The legal advice is given at the same time that the Judgment is communicated and explained by the Sector to the Ministry/Government Department concerned. More particularly, within a maximum of about 2 weeks the judgment is transmitted by letter to the Ministry(ies)/Government Department(s) concerned. In this letter the said Ministry(ies)/Department(s) is extensively advised on the measures which need to be adopted concerning execution. Within the same time-span the judgment is also disseminated to the Supreme Court of Cyprus for transmission to all courts, to the President of the Cyprus Bar Association, the Chairmen of the Human Rights and Legal Affairs Parliamentary Committees, and to all Parliamentary Committees which may become involved in the adoption of legislative measures for enforcement of the judgment when the measures are tabled in the legislature by the Government for this purpose. In the letters transmitting the judgment a summary is given of the facts of the case and basic rationale of the judgment.

4. The adoption of administrative measures as per the advice given is monitored and coordinated by the Sector. Where the advice given is for the adoption of legislative measures, the Sector prepares itself the necessary legislation and transmits the bill to the Ministry concerned for processing it to the Council of Ministers and Parliament (in Cyprus all bills emanating from the Government are tabled in the legislature by the competent Ministry following their approval by the Council of Ministers). The Sector's counsel attend and participate in the discussions of the relevant bills before Parliamentary Committees. An Explanatory Memorandum accompanying all bills, which is also prepared by the Sector and is signed by the Attorney-General, explains the particular bill's provisions, and that its purpose is Cyprus' compliance with the Court's judgment.

5. All follow-up relevant to the execution process and to the supervision carried out by the Committee of Ministers is done by the Human Rights Sector, and usually by the lawyer who has also dealt with the particular individual recourse. All questions/clarifications required by the Committee of Ministers are furnished by the lawyer concerned. Action plans/reports are always prepared by the Sector following consultations with the authorities concerned .

6. The judgment is inserted immediately in the Legal Service web-site (in the Human Rights Sector part of the site). The letter by the Human Rights Sector transmitting the judgment to the President of the Cyprus Bar Association and explaining its rationale (see para.3) is published in the Cyprus Law Journal by way of commentary on the judgment . The judgment's translation into Greek is assigned by the Human Rights Sector to private translators. The translated judgments are inserted in the above Legal Service web site and are transmitted to the Cyprus Bar Association which inserts them on its web-site. The translated judgments are also published in the above Law Journal of the Association. This has a wide circulation in the legal community of Cyprus. It contains legal articles, and important domestic and other judgments with commentaries by practicing lawyers and academics.

7. The payment of just satisfaction is also under the control of the Attorney-General/Government Agent. The payments are made out of funds of the Legal Service Accounts-Department. These are availed to it by the Government for payment of all judgments issued against the Republic (that is, of also domestic judgments). Payment is effected by the Legal Service Accounts-Department, following internal instructions to it by counsel from the Human Rights Sector who has been dealing with the recourse in which the Court has made the award for just satisfaction. Following such instructions the Accounts-Department contacts the applicants concerned and/or their counsel for payment. Under the above procedure it is not required to bring into the matter of payment of the amounts awarded, the Ministry/Ministries concerned.

République Tchèque/Czech Republic

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

I. Mechanism(s) to ensure timely and effective execution of judgments of the European Court of Human Rights at the national level

Information on the mechanism(s) put in place by your country to execute judgments of the European Court effectively and rapidly (i.e. mandate to initiate and/or take the necessary measures to accelerate the execution process, including mechanisms securing the payment of just satisfaction) would be welcomed. In this respect, replies to the following elements would be appreciated: i) the mechanism's normative basis; ii) mandate/scope of action; iii) coordination function (modalities to liaise with persons or bodies responsible at the national level for deciding on the measures necessary to execute the judgments) and iv) modalities to acquire information from other state actors. Information on challenges faced by states to fulfill their role in the aforementioned fields would be valuable. In this context, any action to ensure synergies between the relevant national actors involved in the execution process would also be welcomed.

The function of coordination is entrusted to the Government Agent before the Court whose office performs within the Ministry of Justice. His powers are defined by Government Resolution of 17 August 2009 no. 1024, but there is also a provision relating to the execution of Court's judgments in Act no. 186/2011 which has just entered into force (July 2011) (and replaced Act no. 318/2001 whose provision on execution is weaker despite similarities). The mechanism put in place in the Czech Republic has therefore a clear legal basis, supplemented with a Government resolution.

Section 4 of Law no. 186/2011 reads: "Relevant authorities [mainly various public authorities, but possibly also other entities], without undue delay, shall take all necessary individual and general measures with the aim to put an end to a violation of the Convention established in a final judgment of the Court and to prevent further violation of the Convention stemming from similar reasons for which the Court concluded to a violation. Upon request of the Ministry of Justice and within the time limit it sets, the authorities it determines shall notify it in writing of concrete measures which they have taken or proposed, or intend to take or propose, including an indicative calendar of their adoption."

The above mentioned Government resolution which approves the Statute of the Government Agent lays down a certain number of more concrete rules, but is binding only on governmental bodies. These are, nevertheless, normally the most relevant for drafting action plans or proposing necessary general measures. The Government Agent is supposed to be the coordinator within Recommendation CM/Rec(2008)2 (the resolution was adopted inter alia with regard to the Recommendation), he (or she) represents the Czech Republic not only before the Court, but also before the Committee of Ministers (unless he delegates some tasks to the Permanent Representation), and exercises powers of the Ministry of Justice under Act no. 186/2011. The Government resolution specifies the contact points for the purposes of the cooperation with the Agent that the ministries

have to determine; however, if need be, the Agent could also turn to the chief representative of the authority concerned which is the ordinary contact point within other bodies than the ministries. The Agent is also entitled to create an advisory body for every question which falls within his competence (i.e. possibly also in the field of execution activity). It is to be noted that neither Act no. 186/2011 nor the Government resolution modify powers vested in various public authorities; consequently, the Agent cannot act in place of an authority which for example does not act itself although it is legally bound to act.

According to the Government resolution, the Agent, after providing a translation of the Court's judgment, reports to the Minister of Justice and proposes further action. If the Court made an award of just satisfaction, the Ministry of Justice notifies the Ministry of Finance of the judgment and requests the relevant sum of money from the budgetary reserve of the Government. This notification is often preceded by a clarification process in order to determine whether the awarded sum should be increased by a chargeable tax (it is relevant only insofar as the value added tax is concerned in connection with legal services provided to the applicant by an attorney if the attorney charges the tax and pays it to the State); the clarification takes place if relevant information in this regard is not contained in the case file (and it is indeed often missing). (In our opinion, it is not up to the State to search for a possible increase of an award and determine to which extent a tax is chargeable in the circumstances of the case if it has not been proved in previous proceedings before the Court.)

If other measures of execution are to be taken, the mechanism provided for by Act no. 186/2011 is followed. The Government resolution says that the calendar of implementation has to be fixed in an agreement between the authority concerned (see, however, the above remark on the personal scope of application of the resolution) and the Agent. If there is not an agreement, the decision belongs to the Government on the basis of a proposal submitted by the Minister of Justice.

II. Drawing-up of action plans/reports and related effective coordination/cooperation with the relevant actors at the national level

It would be important to receive information on how your country draws up action plans/reports regarding the implementation of the Court's judgments. Good practice and challenges faced by your authorities in relation to the coordination of the drafting of action plans/reports, in particular in respect of judgments revealing structural problems, would be appreciated.

Action plans are generally the result of coordination between the Agent and the authority concerned. If it is deemed necessary to give the action plan more weight (e. g. the underlying issue is of a more systemic character) or it concerns more than one governmental authority, the draft action plan is submitted to the Government for approval.

III. Mechanism(s) to ensure dissemination and publication of judgments of the European Court of Human Rights and decisions and resolutions from the Committee of Ministers

Information on how your authorities ensure translation and rapid and adequate dissemination of the Court's judgments and the decisions and resolutions of the Committee of Ministers to the relevant actors would be appreciated. Any other actions necessary to ensure that the relevant actors are sufficiently acquainted with the Court's case-law and the Committee of Ministers practice would be welcomed (e.g. dissemination of the Committee of Ministers recommendations and annual reports). It would be useful to share information on difficulties encountered by your countries and any initiatives taken to improve the existing mechanism(s) in this field.

The translation of a judgment against the Czech Republic is always ensured and published on the web site of the Ministry of Justice. It is done no later than three months from the delivery of the judgment. The Agent informs public authorities which have acted in the case or which are concerned by the execution of the judgment (circular letters are sometimes sent out to courts in order to acquaint them with the judgment if the Agent considers it appropriate). The narrative (informative) part of the report about the judgment submitted to the Minister of Justice by the Agent is circulated this way together with the translation of the judgment itself.

The authorities directly involved in the process of execution of a judgment are also informed about the evolution of the supervision by the Committee of Ministers, including about the contents of the Committee of Minister's decisions or resolutions in the case.

Danemark/Denmark

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

I. Mechanism(s) to ensure timely and effective execution of judgments of the European Court of Human Rights at the national level

When describing the institutional setting in Denmark it must be emphasized that there are rather few Danish cases pending before the European Court of Human Rights (on average 5-15 a year), and only a few of these result in a negative judgment from the Court.

In Denmark, the Ministry of Foreign Affairs, the International Law Department, handles official correspondence with the Court and is directly responsible for contacts with the Committee of Ministers.

When the Ministry of Foreign Affairs receives a judgment from the Court in a case against Denmark, this judgment is immediately transmitted to the Ministry of Justice and – usually in collaboration with the Ministry of Justice – to other relevant authorities.

In cases where the Court has invited the Government to submit observations, a delegation is established for the purpose of preparing and drafting the Government's observations in the case. The Ministry of Foreign Affairs and the Ministry of Justice are standing members of such delegations which – depending on the subject matter of the case – also may include other relevant ministries or authorities.

Following a judgment stating a violation of the Convention, the delegation established in the case will examine the Court's judgment and carefully assess how to implement it.

If it is concluded that legislation is required, the public authority responsible for the violation of the Convention will propose such new legislation to the Danish Parliament. In this connection, the Ministry of Justice will give advice on how to draft the new legislation.

If it is found that a judgment can be implemented by changing administrative practice, the public authority responsible for the violation will take the steps necessary to initiate the change in administrative practice required.

In cases where the applicant has been awarded compensation by the Court, the relevant public authority will conduct any payment from its annual budget.

In all cases, the Government – via the Ministry of Foreign Affairs – informs the Committee of Ministers of the steps taken by the Government to execute the judgment.

If the execution of a judgment requires long-term measures, e.g. drafting of new legislation etc., the Government prepares an action plan to the Committee of Ministers which includes a description of the measures envisaged to execute the judgment and the time-limits fixed. If the execution of a judgment only requires more simple follow-up measures, e.g. payment of compensation to the applicant, the Government will produce a letter to the Committee of Ministers informing it when the payment has been made. In addition, the Government always informs the Committee of how the judgment has been disseminated.

II. Drawing-up of action plans/reports and related effective coordination/cooperation with the relevant actors at the national level

Please see above.

III. Mechanism(s) to ensure dissemination and publication of judgments of the European Court of Human Rights and decisions and resolutions from the Committee of Ministers

As appears from the above, the Ministry of Foreign Affairs immediately transmits judgments in cases against Denmark to the Ministry of Justice and – usually in collaboration with the Ministry of Justice – to other relevant authorities.

In addition, the Ministry of Justice sends brief summaries in Danish of relevant case-law from the Court to other ministries and administrations concerned by the substance of the judgment, including the Supreme Court, the Administration of Courts, the Ombudsman and the Director of Public Prosecutions. Along with the brief summaries in Danish, the original judgments and decisions (in English or French) are enclosed. Also, the brief summaries in Danish are published on the Ministry of Justice's webpage.

Furthermore, summaries in Danish of a selection of the judgments of the Court are published in the periodical EU-law & Human Rights Law (EU-ret & Menneskeret). According to an agreement between the publisher and the Ministry of Justice, the latter is bound to produce rather comprehensive summaries of all relevant judgments. These judgments are selected by an editorial group with special knowledge in the field of human rights.

The Ministry of Justice publishes the above mentioned brief summaries of all cases against Denmark in which the Government has sent observations to the Court. These cases are also, as a principal rule, published in the periodical EU-law & Human Rights Law.

The criteria used to select other cases to be disseminated are primarily whether the judgment is relevant to the circumstances in Denmark, for example, if the legislation in question is similar to Danish legislation. Furthermore, a case is selected to be disseminated if the judgment establishes a new or modified case-law from the Court.

By directly informing affected authorities about relevant case-law from the Court and publishing summaries of relevant case-law on the internet, the Government ensures that the Court's case-law is effectively disseminated.

Estonie/Estonia

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

I. Mechanism(s) to ensure timely and effective execution of judgments of the European Court of Human Rights at the national level

According to § 9(5) sub-clause 3) of the Foreign Relations Act, the Ministry of Foreign Affairs shall organise the representation of the Republic of Estonia at the European Court of Human Rights. The representation includes also co-ordination of execution of the Court's judgments and decisions.

Therefore the Government Agent before the European Court of Human Rights works in the Estonian Ministry of Foreign Affairs and the execution related co-ordination is also one of the tasks of the Agent. The co-ordination includes mainly communication with and gathering of information from other ministries.

More precisely, concerning payment of just satisfaction, first the Government Agent communicates with the applicant and finds out the bank account to which the payment is to be transferred. Next the Agent forwards the judgment (or decision) with relevant information to the Ministry of Finance. The sums of just satisfaction are always paid by the Ministry of Finance and there have never been any problems with deadlines (all sums of just satisfactions have been transferred within 3 months of the final judgment/decision).

Concerning general measures, for example if the legislation should be amended, the Ministry of Foreign Affairs forwards relevant proposals to the Ministry of Justice and/or to any other relevant Ministry who has the authority to initiate draft laws.

Regarding the acquisition of information from other state actors, according to § 38 (3) of the Public Information Act State and local government officials have the right to access information which is classified as information intended for internal use in order to perform their duties.

Finally it should be stressed that the number of judgments/decisions against Estonia is not high and smooth co-operation already exists, therefore very strict and detailed regulation is not needed.

II. Drawing-up of action plans/reports and related effective coordination/cooperation with the relevant actors at the national level

Action plans/reports regarding the implementation of the Court's judgments/friendly settlement decisions are drawn up in co-operation with the Government Agent and the Permanent Representation of Estonia to the Council of Europe. The Government Agent

provides specific information for the Representation and the Representation presents the information to the Execution Department.

III. Mechanism(s) to ensure dissemination and publication of judgments of the European Court of Human Rights and decisions and resolutions from the Committee of Ministers

Each judgment and decision made against Estonia is immediately translated into Estonian and forwarded to relevant authorities.

Judgment/decision with translation and comments is always sent to the Ministry of Justice and the courts, the Supreme Court and the Chancellor of Justice.

All translations are published on the web-site of Ministry of Foreign Affairs (<http://www.vm.ee/?q=taxonomy/term/229>). At the same web-page different information about the Court (basic texts, declarations, case-law news etc) can be found. Relevant resolutions of the CM are also translated into Estonian and published at the web-site.

Finlande/Finland

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

I. Mechanism(s) to ensure timely and effective execution of judgments of the European Court of Human Rights at the national level

i-ii) Normative basis and mandate/scope of action

The execution of judgments of the European Court of Human Rights is monitored and coordinated by the Government Agent as the coordinator referred to in paragraph 1 of Recommendation (2008)2 of the Committee of Ministers to the member states.

The substantive national work, such as possible legislative amendments, is pursued by relevant ministries responsible for the issue in question.

There is legislative basis concerning the execution of judgments in Finland. According to Section 13 of the Government Rules of Procedure (262/2003), the competence of the Ministry for Foreign Affairs, and therein the Unit for Human Rights Courts and Conventions, covers matters concerning international judicial and investigative bodies. According to Section 93 of the Rules of Procedure of the Ministry for Foreign Affairs (550/2008), the Director of the Unit for Human Rights Courts and Conventions at the Legal Service of the Ministry for Foreign Affairs acts as Government Agent before the European Court of Human Rights.

iii-iv) Coordination function and modalities to acquire information

The coordination function of the Government Agent as well as the acquisition of information is accomplished mainly through direct contacts with the relevant ministries and based on the fairly established procedure in this respect.

Once a judgment of the European Court of Human Rights is rendered, the judgment is sent by the Government Agent to the ministry/ministries with the relevant legislative competence. An analysis on the required individual and general measures (other than payment of just satisfaction and dissemination and publication of the judgment, see below), such as possible legislative amendments, is undertaken by the ministry/ministries in question in coordination with the Government Agent. Upon drafting the action plans/action reports (see answer to question 2 below), the required information is provided by the ministries to the Government Agent.

The aforementioned cooperation with different ministries is accomplished through appointed contact persons and/or officials responsible for the issue in question. Normally, the measures concerning execution are discussed with the same officials that have been

involved in preparing the ministries' statements for the preparation of the Government's observations during the proceedings before the Court.

Should the execution require input from other authorities, the contacts with such authorities and the acquisition of information is undertaken through the relevant ministries.

Once a judgment becomes final, the Government Agent sends a letter concerning the payment of just satisfaction to the relevant ministry/ministries, i.e., the ministry who is responsible for the payment. The letter includes reference to the judgment, the amount to be paid and other payment details. Finally, the ministry in question is reminded to submit a receipt of the payment to the Government Agent. Accordingly, the ministry in question is responsible for effectuating the payment in due time and according to its own procedures and to submit the receipt to the Government Agent.

For the sake of clarity, it merits to be said that in the majority of the cases the required measures are limited to the payment of just satisfaction and the dissemination and publication of the judgment.

II. Drawing-up of action plans/reports and related effective coordination/cooperation with the relevant actors at the national level

The action plans/reports are drafted by the Government Agent in cooperation with the relevant ministries (see answer to question 1 above).

III. Mechanism(s) to ensure dissemination and publication of judgments of the European Court of Human Rights and decisions and resolutions from the Committee of Ministers

The judgments of the European Court of Human Rights are disseminated to the relevant national authorities, as well as always to the Parliamentary Ombudsman, the Office of the Chancellor of Justice, the Committee for Constitutional Law of the Parliament, the Supreme Court and the Supreme Administrative Court.

The judgments in English along with summaries of the judgments in Finnish are published in the Finlex-database (www.finlex.fi). Finlex is a database of Finnish legislation, secondary legislation, international treaties, case-law and Government Bills.

A press release is given usually the same day the judgement is issued.

France/France

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

I. Mécanismes destinés à assurer une exécution effective et rapide des arrêts de la Cour européenne des droits de l'homme au niveau national.

Par circulaire n°5464/SG du 23 avril 2010, le Premier ministre a rappelé et précisé les modalités internes de l'exécution des décisions de la Cour européenne des droits de l'Homme. La coordination de l'exécution est confiée Ministères des affaires étrangères et européennes (MAEE) et en son sein, à la direction des affaires juridiques.

Cette direction, qui est aussi l'agent du gouvernement devant la Cour européenne des droits de l'homme, est donc compétente pour saisir les différents ministères et se voir transmettre un compte-rendu des mesures prises à la suite de chaque arrêt.

Afin de favoriser cette coordination chaque ministère a désigné, en application de la circulaire du Premier ministre, l'un de ses services comme étant l'interlocuteur unique ministériel sur l'ensemble des questions relatives à l'exécution.

Dès sa notification au gouvernement, chaque décision de la Cour européenne est transmise par le MAEE aux interlocuteurs ainsi désignés au sein de l'ensemble des ministères compétents. Ceux-ci sont alors tenus de compléter un questionnaire type prévu par la circulaire du Premier ministre et de le faire parvenir au MAEE au plus tard un mois avant le délai dans lequel un bilan ou un plan d'action est attendu par le comité des ministres.

Concernant les synergies entre le gouvernement et les autres acteurs nationaux, le gouvernement se félicite de la bonne coopération qui s'est établie en matière d'exécution des arrêts de la Cour avec la Commission nationale consultative des droits de l'homme et avec le Médiateur de la République, qui ont déjà fait connaître, en application des règles du comité des ministres, leur évaluation des mesures prises par l'Etat en exécution d'arrêts d'importance particulière. Il serait à cet égard souhaitable, du point de vue du gouvernement, que ces acteurs assurent un suivi de leur évaluation au fur et à mesure que le gouvernement rend compte des dispositions qu'il a prises.

II. Rédaction de plans et bilans d'action et coordination avec les acteurs intéressés au niveau national

A partir des contributions que les ministères concernés adressent en réponse au questionnaire accompagnant chaque décision de la CEDH, le MAEE élabore les plans et bilans d'action.

N'étant qu'au début de la mise en œuvre de ces nouvelles modalités, il est un peu tôt, de l'avis du gouvernement, pour évaluer ce point précis.

III. Mécanismes destinés à assurer la diffusion, la traduction et la publication des arrêts de la Cour et les décisions et résolutions du Comité des ministres.

La plupart des arrêts de la Cour étant disponibles dans les deux langues de travail du Conseil de l'Europe, leur traduction n'est pas un problème pour le gouvernement français.

Lorsqu'il rend compte des mesures prises en exécution de chaque arrêt, chaque ministère est tenu de faire état des mesures qu'il a prises pour le diffuser auprès de ses services.

Par ailleurs, la Cour de cassation publie sur son site Internet un « *Observatoire du droit européen* » qui présente un résumé de l'ensemble des affaires concernant la France.

Géorgie / Georgia

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

I. Mécanismes destinés à assurer une exécution effective et rapide des arrêts de la Cour européenne des droits de l'homme au niveau national

1.1. Cadre législatif et réglementaire

Au niveau interne, l'exécution des arrêts de la Cour Européenne des Droits de l'Homme est régie par la Loi relative aux « Procédures de l'exécution », dont l'article 2 alinéa « k » dispose que les arrêts de la CEDH font l'objet de procédures de l'exécution établies par ladite Loi. L'article 21§5 de la même Loi indique qu'un acte administratif individuel, relatif à l'exécution d'un arrêt de la CEDH est émis par le Ministre de la Justice de Géorgie. A la lumière de la Recommandation CM/Rec(2008)2 du Comité des Ministres aux

États membres sur des moyens efficaces à mettre en oeuvre au niveau interne pour l'exécution rapide des arrêts de la CEDH, adoptée par le Comité des Ministres le 6 février 2008, lors de la 1017^e réunion des Délégués des Ministres, un nouveau règlement interne du Département de la représentation de l'État auprès des juridictions internationales des droits de l'homme du Ministère de la justice de Géorgie a été adopté le 17 mars 2008.

Le règlement prévoit la création d'une nouvelle Division de surveillance de l'exécution des arrêts de la CEDH (ci-après « Division ») au sein du Département et décrit ses fonctions et domaines de compétences.

1.2. État général de l'exécution en Géorgie jusqu'à 2009

La création d'une nouvelle unité structurelle au sein du Ministère de la justice était un pas primordial étant donné qu'au moment du début de fonctionnement de la Division (octobre 2008), la situation générale en matière de l'exécution en Géorgie était médiocre. Pour la période de 2004-2008 un seul arrêt de la Cour (« Assanidze ») était clos avec la résolution finale (2006). L'adoption de nombreuses mesures individuelles et/ou générales était urgente dans une vingtaine d'affaires y compris les intérêts de retard et d'autres sommes à payer à cause de la différence du taux d'échange en vigueur le jour de paiement dans une dizaine d'affaires.

Par ailleurs, l'adoption d'amendements législatifs était nécessaire dans plusieurs arrêts en vue de remédier aux problèmes structurels constatés dans les arrêts et assurer la conformité de la législation interne avec la Convention et la jurisprudence de la Cour. D'autres problèmes, tels que les nouvelles enquêtes, la réouverture du procès civil et pénal sur la base des arrêts de la Cour, la diffusion des arrêts etc. mettaient également d'obstacles à l'exécution rapide. Cette situation exigeait la mise en place dans les plus brefs délais de la coopération et de coordination entre les différents acteurs internes, surtout il s'agissait de manque de synergie nécessaire

entre les autorités exécutives, législatives et judiciaires concernées par les arrêts de la Cour. En conséquence, la tâche de la Division consistait entre autres à développer la pratique en matière de l'exécution et créer un mémoire institutionnelle, en d'autres termes, de construire le mécanisme dans son ensemble.

Dans le cadre du questionnaire, la Division présente ci-après l'information sur les mesures adoptées et le progrès accomplis par la Géorgie pour la période de 2009-2011.

2. Mandat et domaine de compétence de la Division

Comme il a été noté ci-dessus, le mandat et les compétences de la Division ont été établis en conformité avec la recommandation CM/Rec(2008)2. Notamment, la Division :

- élabore des propositions nécessaires pour l'exécution des arrêts de la CEDH rendus contre la Géorgie, les présente au Ministre de la Justice et contribue à leur mise en oeuvre ;
- en vue d'analyser les problèmes constatés par la Cour, et d'identifier des mesures nécessaires afin de garantir l'exécution rapide, effectue des recherches dans la jurisprudence et prépare les recommandations et circulaires destinées aux autorités concernées ;
- adopte des mesures nécessaires à l'exécution des arrêts CEDH, prépare, le cas échéant, des plans d'action/bilans d'action et en informe le Comité des Ministres ;
- présente des mesures prises par la Géorgie dans les affaires la concernant aux réunions DH du Comité des Ministres ;
- est en dialogue permanent avec le CM et lui transmet des informations pertinentes ;
- coopère avec les acteurs pertinents du processus d'exécution au niveau (autorités exécutives, législatives et judiciaires) et avec les Divisions similaires d'autres États membres ;
- prépare des projets d'amendements législatifs, conformément à l'arrêt de la CEDH et les présente au Ministre de la Justice ;
- élabore des propositions relatives à la conformité de la législation géorgienne avec la Convention EDH et les arrêts de la Cour EDH, réalise l'expertise des projets de loi du point de vue de leur conformité avec les standards du droit international des droits de l'homme ;
- assure la traduction, la diffusion et la popularisation de la jurisprudence CEDH ;
- organise des séminaires et des formations.

3. Fonction de coordination

Depuis 2009, la Division a mis en place la coopération très active avec les différents acteurs au niveau interne parmi lesquels on peut citer le Ministère des finances, le Ministère de pénitence de probation et de l'aide juridique, le Parquet principal, le Bureau national de l'exécution, le Parlement, la Cour suprême et le système

judiciaire dans son ensemble, le média, les Organisations non-gouvernementales etc.

3.1. La coopération avec le Ministère des finances est importante du point de vue de paiement de la satisfaction équitable dans un délai imparti ou le cas échéant, des intérêts moratoires.

Du point de vue procédurale, la chancellerie du Premier-Ministre joue également un rôle important puisque l'ordonnance de paiement de la SE est signée par le Premier-Ministre lequel charge le Ministère des finances à mettre en oeuvre le paiement.

3.2. La coopération avec le Ministère de pénitence, de probation et de l'aide juridique occupe également une place importante dans l'ordre du jour du Division compte tenu de l'objet du litige et les violations constatées par la Cour dans un certain nombre de ses arrêts. Les informations fournies par ce Ministère sont importantes en vue d'analyser le progrès ainsi que les problèmes dans le système pénitentiaire, dans le cadre de l'exécution des arrêts « Poghossyan », « Ghavtadze », etc.

3.3. Le Parquet principal de la Géorgie joue un rôle important en matière de nouvelles enquêtes dans le cadre de l'exécution des arrêts de la Cour. Dans le cadre de l'exécution des arrêts « Davtyan », « Danelia » et « Gharibashvili », une circulaire relative à l'enquête sur les mauvais traitements a été préparée et diffusée aux parquets en 2009. Les amendements législatifs (adoption de nouveaux codes de la procédure pénale et de détention) et le changement de la pratique conformément à la jurisprudence de la Cour ont permis le règlement des problèmes relatives à la détention provisoire, dans le cadre de l'exécution des arrêts « Patsuria », « Ramishvili et Kokhreidze », « Nikolaishvili » et « Gigolashvili ». Du point de vue plus général, des formations régulières sont organisées pour les procureurs sur l'ensemble du territoire géorgien en matière des enquêtes, de la détention provisoire et d'autres aspects importants relatifs à leur champ de compétences. Dans le cadre de ces formations, l'attention des procureurs est attirée sur les standards établis par la jurisprudence de la Cour. Ainsi les arrêts rendus contre la Géorgie sont analysés.

3.4. Il faut noter que compte tenu de la nature de violation constatée par la Cour dans ses arrêts, la Division est habilitée à contacter et demander des informations à toute autorité concernée. Ainsi, dans le cadre de l'exécution des arrêts « Saghinadze » et « Tchitchinadze », les mesures appropriées ont été adoptées grâce à la coopération de la Division avec le Ministère des réfugiés et le Ministère des affaires intérieures.

3.5. Dans le cadre de l'exécution des arrêts « Iza » ltd et Makrakhidze et « Amat-G » ltd et Mebagishvili et « Kvitsiani » la coopération de la Division également très active et fructueuse avec le Bureau national de l'exécution a permis d'adopter de nombreuses mesures importantes en matière de l'exécution des décisions de la justice interne. À ce jour, grâce à cette coopération, le problème systémique de la

non-exécution est réglé.

3.6. L'action coordonnée avec le Parlement de Géorgie a permis à la Division d'effectuer les amendements législatifs très importants dans le cadre de l'exécution de plusieurs arrêts de la Cour. Par exemple, on peut citer l'amendement du Code de la procédure civile dans le cadre de l'exécution de l'arrêt « FC Mretebi », relatif à la réouverture du procès civil sur le fondement de l'arrêt de la Cour. Un autre exemple de la coopération avec le Parlement est celui de l'adoption des amendements de la Loi relative aux « Victimes de répressions politiques » et du Code de la procédure administrative. Ces amendements ont servi à éradiquer le vide législatif et régler en grande partie le problème systémique relevé par la Cour dans l'arrêt « Klaus et Youri Kiladze ».

Les amendements législatifs adoptés dans le cadre de l'exécution de l'arrêt « Klaus et Youri Kiladze » peuvent également servir d'exemple d'une coopération remarquable entre les trois branches du pouvoir étant donné qu'avec le Parlement et la Cour suprême, la Cour a également contribué à la préparation du projet d'amendements susmentionnés.

3.7. Un autre aspect de coopération avec le système judiciaire est le règlement du problème de la diffusion de la jurisprudence de la Cour européenne à toutes les juridictions internes. Par ailleurs, on peut citer les tables-ronde organisées avec les juges dans le cadre de l'exécution de l'arrêt « Klaus et Youri Kiladze ». Les problèmes existants dans les affaires « Kidzinidze », « Kobelyan » et « Kharitonashvili » ont été également réglés grâce à la coopération avec les juridictions nationales.

3.8. La coopération avec des ONG représente un outil important pour l'information et la participation de la société civile des efforts du gouvernement en vue d'assurer l'exécution rapide et efficace des arrêts de la Cour et dans le cadre plus général, d'évaluer l'état des droits de l'homme dans le pays. Pour en citer l'exemple, la coopération avec l'Association de jeunes juristes de Géorgie (GYLA) et « Mémorial » a contribué au progrès dans l'exécution des arrêts « Klaus et Youri Kiladze », « Tsintsabadze » etc.

3.9. L'échange d'informations avec les ONG et les médias occupe une place importante. La base de données statistique créée par la Division concerne tous les aspects et contient toutes les informations concernant le nombre des arrêts globaux et annuels rendus par la Cour, le type des violations constatées, les mesures individuelles et/ou générales adoptées, le paiement de la satisfaction équitable etc. Toute personne ou autorité intéressée peut ainsi avoir l'information détaillée sur l'état de l'exécution. Il convient également de noter que plusieurs reportages télévisés, articles dans la presse et interviews dans les radios nationales ont été récemment consacrés à l'exécution de l'arrêt « Klaus et Youri Kiladze ». Outre l'information de la société dans son ensemble, ces reportages ont permis aux personnes concernées par ledit arrêt de recevoir les informations nécessaires sur les modalités

procédurales.

Pour conclure, le Division considère avec satisfaction qu'à ce jour, les bases solides ainsi que les résultats concrets de la coopération et de la coordination ont été créées. La coopération a pris le caractère régulier et sera approfondie au fur et à mesure de nécessités de l'exécution.

II. Rédaction de plans d'action / bilans d'action et coordination au niveau national

Le Division accorde une attention particulière à la rédaction des plans/bilans d'action étant donné que ce sont des instruments clés du processus de l'exécution. Le premier plan d'action unifié, relatif au traitement de l'hépatite « C », du sida et de la tuberculose dans le système pénitentiaire géorgien a été présenté au CM en 2009, dans le cadre de l'exécution des arrêts « Ghavtadze » et « Poghossyan ». Un autre plan/bilan d'action a été également présenté au CM en 2009, dans le cadre de l'exécution des arrêts « Iza » ltd et Makrakhidze et « Amat-G » ltd et Mebagishvili. Après de la mise en place du nouveau système de surveillance de l'exécution, la Division a, de son côté, intensifié le travail à cet égard et a déjà présenté plusieurs plans et bilans d'actions au Secrétariat.

En ce qui concerne la coordination avec les acteurs intéressés au niveau national, voir ci-dessus.

III. Diffusion et publication

La publication des arrêts dans le Journal Officiel est assurée par le Ministère de la Justice. Les arrêts sont également publiés sur le site web du Ministère. Étant donné que dans plusieurs arrêts, la diffusion des arrêts auprès des juridictions concrètes a été demandée par le CM, cette question a fait l'objet d'une attention particulière de la part de la Division. Outre l'absence de régularité de la diffusion des arrêts aux juridictions précises, le souci était également l'absence d'une revue spéciale permettant de diffuser la jurisprudence CEDH établie dans l'ensemble des arrêts rendus par rapport à la Géorgie et aux autres États membres et assurer ainsi la diffusion systématique et la prévention des violations de la Convention.

En conséquence, plusieurs réunions ont été organisées avec la Cour suprême en vue de trouver la solution globale à long terme à cette situation. Cette coopération a donné des résultats et en 2010, la Cour suprême a préparé la revue de la jurisprudence de la CEDH établie dans les arrêts rendus par rapport à la Géorgie en 2004-2010. Cette revue est essentiellement destinée aux juridictions dans leur ensemble et leur a été diffusée par la Cour suprême. L'attention des juges est attirée sur les problèmes principaux soulevés par la Cour dans ses arrêts. Ainsi, la revue permet aux juridictions géorgiennes d'avoir une image globale de la jurisprudence strasbourgeoise d'autant plus qu'un autre volet de cette revue contient un bref aperçu des arrêts importants rendus par la CEDH durant une année judiciaire par rapport aux autres États membres (deux volumes, relatives aux arrêts rendus par la Cour en 2007-2009 sont déjà sorties).

Conclusion

Aujourd'hui, en analysant la période susmentionnée, on peut constater que la situation en Géorgie en matière de l'exécution des arrêts de la CEDH a considérablement changé et que le progrès important a été réalisé. Cela a permis à la Division de clore presque la moitié des affaires pendantes et adopter les mesures individuelles et/ou générales dans la plupart des affaires actuellement figurant à l'ordre du jour du CM.

Il convient également de dire qu'il reste encore beaucoup à faire pour atteindre les objectifs fixés et la Division continue le travail intensif à cet égard.

Allemagne/Germany

QUESTIONNAIRE ON THE DOMESTIC MECHANISM FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

I. Mechanism(s) to ensure timely and effective execution of judgments of the European Court of Human Rights at the national level

Information on the mechanism(s) put in place by your country to execute judgments of the European Court effectively and rapidly (i.e. mandate to initiate and/or take the necessary measures to accelerate the execution process, including mechanisms securing the payment of just satisfaction) would be welcomed. In this respect, replies to the following elements would be appreciated: i) the mechanism's normative basis; ii) mandate/scope of action; iii) coordination function (modalities to liaise with persons or bodies responsible at the national level for deciding on the measures necessary to execute the judgments) and iv) modalities to acquire information from other state actors. Information on challenges faced by states to fulfill their role in the aforementioned fields would be valuable. In this context, any action to ensure synergies between the relevant national actors involved in the execution process would also be welcomed.

The Agent of the Federal Government for Human Rights Matters is Germany's chief contact person regarding implementation of the Court's judgments. She is responsible to a certain degree for the implementation of these judgments (see 1.a. below). However, she only has power to take measures which specifically lie within her remit. This is because the policy in Germany is for the body which is in charge of the measures that must be taken to bear responsibility for the implementation of the judgment. This means that a broad variety of authorities and other bodies may be involved in implementing a judgment:

1. The Federal Government

a) The Agent of the Federal Government for Human Rights Matters at the Federal Ministry of Justice

Within the Federal Government, it is primarily for the Federal Ministry of Justice (BMJ) to implement the Court's judgments. BMJ is home to the Agent of the Federal Government for Human Rights Matters, who is in charge of doing this.

This includes – with regard to individual measures – the payment of just satisfaction. In order to ensure payment within the given deadline, payment is always initially made by the Federal Ministry of Justice, irrespective of which level of domestic governance or which domestic institution caused the violation of the Convention. The bill is settled between the Federation and the Laender at a later date. In an act of the Federal Government, the Lastentragungsgesetz (act on the division of charges), it is stipulated that the costs shall be borne by the level of domestic governance which caused the violation of the Convention. If, for example, a Land is responsible for the violation, this

Land must compensate the Federal Government for the just satisfaction paid. If both the Federation and the Laender are responsible for the violation of the Convention, the bill is split between them according to their individual share of the responsibility.

All courts and authorities that were involved in the domestic proceedings underlying a judgment or decision of the Court are informed of this judgment/decision. The Agent of the Federal Government for Human Rights Matters does this by sending an original copy and a translation of the decision/judgment to the affected Land ministries. The justice ministries of the Laender and all ministries of the Federal Government each have a liaison officer for the Agent who is in charge of further coordination within his or her remit.

If it is established that the Convention has been violated, the letter sent out with the judgment points out that the Court's judgment must be heeded. To the extent that it is necessary, the Agent includes in this letter a list of the individual and general measures which should be taken in order to implement a judgment in full.

If it is an act of federal law which underlies a violation of the Convention, the ministry responsible/the directorate-general responsible for the matter within the Federal Ministry of Justice is informed of this. Any required changes to the law, or indeed any new laws, are then drawn up by the responsible ministry/BMJ directorate-general and the legislative process is initiated by the Federal Government accordingly. During this phase, the Agent has the task of scrutinising the legislation in order to evaluate its compatibility with the Convention as interpreted by judgment of the Court.

If the violation of the Convention is due to piece of legislation in one of the Laender, the Land in question must undertake the procedure to amend this act.

If the violation ensued as a result of an administrative practice that is contrary to the Convention, the Agent requests that the affected authorities or Laender submit information on how this practice is being altered.

b) The Federal Foreign Office/The Permanent Representation to the Council of Europe
The Federal Foreign Office supports the Agent of the Federal Government for Human Rights Matters at the Ministry of Justice in the execution of the Court's judgments.

The Permanent Representation to the Council of Europe observes the developments in the Council of Europe. It reports to the Federal Foreign Office and informs the Agent for Human Rights Matters at the Federal Ministry of Justice on decisive developments.

The Permanent Representation attends the meetings of the Committee of Ministers and represents and acts on behalf of the Federal Republic of Germany.

2. The Deutscher Bundestag (German Federal Parliament)

As for domestic supervision, the Bundestag has decided on the following procedure: "The Bundestag urges the Federal Government to report annually and in an adequate form to the appropriate committees (Committee on Human Rights and Humanitarian Aid, Committee on Legal Affairs, and the Petitions Committee) on the execution of judgments

against Germany” (BT-Drs. 16/5734). The Federal Ministry of Justice follows this decision with an annual report on the case law of the European Court of Human Rights and on the implementation of its decisions in cases against the Federal Republic of Germany.

This report is submitted to the responsible committees (Committee on Human Rights and Humanitarian Aid, Committee on Legal Affairs, and the Petitions Committee). If the committees so desire, then the report is put on their session agendas. An oral report by the Federal Government is usually requested at the same time.

After this, the Bundestag (parliament of the Federation) and the Bundesrat are responsible for passing any necessary legislation for the implementation of a judgment.

3. Implementation on the level of the constituent states (Länder)

Because of German federalism there is a clear division of competences between the Federation and Germany’s constituent states (Länder). The competences of the Länder comprise some spheres that are closely linked to the Convention. For example, the Land police, the execution of domestic immigration law, execution of sentences and the educational system all fall within the remit of the Länder.

In this respect, the Länder are responsible for implementing the Court’s Judgements within their remit. As mentioned above, the Agent for Human Rights Matters at the Federal Ministry of Justice informs the Länder of the measures necessary for the implementation of a judgment.

4. The Federal Constitutional Court

The Federal Constitutional Court is assigned an important task: it guarantees the full implementation of ECtHR judgments and prevents national authorities from circumventing the full effects of a judgment.

For example, in 2004 it quashed the judgment of a domestic court because the case law of the ECtHR had not been taken into consideration in full (Federal Constitutional Court, Decision of 14 October 2004, 2 BvR 1481/04, §63). Furthermore, it ruled that a constitutional complaint can be filed with the Constitutional Court if a domestic state authority has not taken the judgments of the ECtHR into consideration.

To quote the Constitutional Court:

“Against that background, it must be possible, based on the appropriate provision in the Basic Law, to raise an objection in proceedings before the Federal Constitutional Court that state organs disregarded a decision of the European Court of Human Rights or failed to take it into consideration. In this regard, the provision of the Basic Law is closely connected with the primacy of law embodied in the principle of the rule of law, under which all state organs are bound within their competences by statute and law.” (Federal Constitutional Court, Decision of 14 October 2004, 2 BvR 1481/04, § 63)

5. Domestic court system. Reopening proceedings and general recognition of the Court’s judgments

The implementation of judgments by the domestic court system is twofold. Firstly, all branches of the national court system are subject to reopening provisions which enable the applicant to re-institute proceedings if the ECtHR has found a violation of the Convention and the contested domestic judgement is based on that violation.

The reopening of a criminal case on this basis was made possible in 1998 (section (6) of the Code of Criminal Procedure), while the reopening of all other cases was adopted in 2006 (section 580 (8) Code of Civil Procedure in conjunction with the respective other Code of Procedure).

[section 173 Code of Administrative Court Procedure (Verwaltungsgerichtsordnung); section 202 Social Courts Act (Sozialgerichtsgesetz); section 79 Labour Courts Act (Arbeitsgerichtsgesetz); § 134 Code of Procedure for the Finance Courts (Finanzgerichtsordnung).]

In general, each successful applicant has to file a motion with the appropriate court in order to enable the court to revise the decision and to fully consider the reasoning and the findings of the ECtHR. In certain civil proceedings (e.g. in parent and child cases) it is possible to initiate new proceedings at any time. In these cases it is not necessary to reopen proceedings.

Secondly, in considering the Court's judgments in other cases, the domestic courts fulfil their fundamental duty to respect the judgments of the ECtHR. This includes rulings against Germany and other member states of the Council of Europe.

II. Drawing-up of action plans/reports and related effective coordination/cooperation with the relevant actors at the national level

It would be important to receive information on how your country draws up action plans/reports regarding the implementation of the Court's judgments. Good practice and challenges faced by your authorities in relation to the coordination of the drafting of action plans/reports, in particular in respect of judgments revealing structural problems, would be appreciated.

The actions plans/reports are written by staff at the Office of the Agent of the Federal Government for Human Rights Matters at the Federal Ministry of Justice. In putting together these plans/reports, they request the necessary information from the liaison officers at the Federal and Land levels. The draft action plan/report is agreed upon with all those involved. The final version is then translated in-house at the Federal Ministry of Justice and sent to the Execution Department of the Council of Europe via the Permanent Representation in Strasbourg. Care is taken to ensure in all cases that the Execution Department receives an initial report at the latest within six months of the judgment becoming final.

In order to stimulate cooperation between the various actors on the Federal and Land levels, the Federal Ministry of Justice organises an annual Federation-Laender meeting, which is attended by all liaison officers from the Federation and the Laender. This

conference has proved to be an excellent mechanism for simplifying procedures and creating synergies.

III. Mechanism(s) to ensure dissemination and publication of judgments of the European Court of Human Rights and decisions and resolutions from the Committee of Ministers

Information on how your authorities ensure translation and rapid and adequate dissemination of the Court's judgments and the decisions and resolutions of the Committee of Ministers to the relevant actors would be appreciated. Any other actions necessary to ensure that the relevant actors are sufficiently acquainted with the Court's case-law and the Committee of Ministers practice would be welcomed (e.g. dissemination of the Committee of Ministers recommendations and annual reports). It would be useful to share information on difficulties encountered by your countries and any initiatives taken to improve the existing mechanism(s) in this field.

The Agent of the Federal Government for Human Rights Matters not only ensures that the organs affected by a judgment or decision of the Court are informed of the ruling. As a general measure, all judgments and decisions of the Court in matters pertaining to Germany are announced, translated and broadly circulated by the Federal Government. For this purpose, translations of the judgments and decisions are sent to all justice ministries of the Laender with the request that these be circulated to the courts; they are also sent to the affected federal courts and federal ministries.

Furthermore, the German translations are made available to the Council of Europe in anonymised form for publication on its German-language website. Important judgments and decisions are also reported on the BMJ's website and a link is provided to the German translation located on the Council of Europe website. In addition to this, the Federal Government makes the translations produced at the Federal Ministry of Justice available to various legal journals for publication. For this purpose, the Office of the Agent has its own email distribution list, to which all relevant publishing houses and even other interested persons can be added. Additionally, the Federal Government financially supports the publication of a collection of the Court's decisions in German by the publishers N.P. Engel which contains the key rulings of the European Court of Human Rights, including in proceedings against other Convention States.

Furthermore, the circulation of the annual report compiled at the Federal Ministry of Justice on the rulings of the European Court of Human Rights in cases against Germany also helps draw greater attention to the Court's case law.

In order to ensure that the Court's rulings against other States apart from Germany are reflected in the rulings of the German courts as well, a further report commissioned by the Federal Ministry of Justice on the rulings of the European Court of Human Rights concerning Applications filed against other States has been produced and widely distributed since 2010.

Grèce /Greece

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided by relevant national authorities

I. Mechanisms to ensure timely and effective execution of judgments of the European Court of Human Rights at the national level

The execution of the ECtHR judgments in Greece is coordinated and monitored by the Legal Council of the State (hereafter "the LCS"), an independent (quasi) judicial authority, whose President is also the Agent before the ECtHR. The co-ordination role of the LCS is provided by Presidential Decree No. 238/2009 (on the implementation of the provisions regarding the Legal Council of the State).

Once the Court's Registrar notifies the LCS a judgment or decision, the latter sets forth the procedure for its execution at national level. This procedure comprises 3 main phases:

1) payment of just satisfaction: the LCS orders the competent public treasury service (within the Ministry of Finance) to pay the beneficiaries the amounts granted by the Court in application of Article 41 of the Convention. The beneficiaries, as well as their representatives are notified about the advanced notices of payment

2) dissemination of the cases: all ECtHR's judgments against Greece, translated in Greek, are widely disseminated to all judicial and administrative authorities concerned by the specific judgment. The judgments are forwarded together with an accompanying explanatory notice, where a short summary of the violations found is presented. The Court's judgments are also available on the Legal Council's website, access free.

3) co-ordination function: as mentioned above, the LCS monitors and co-ordinates the implementation of the Court's judgments. In particular, it indicates the appropriate measures (both individual and general) to remedy the violation(s) found in each particular case, ensures the adoption of the indicated measures and co-ordinates, when necessary, the different actors involved in the execution procedure. It also provides assistance, especially in the form of guidelines to and consultations with the competent authorities during the process of adoption of the necessary measures.

It should also be noted that the Permanent Representation of Greece to the Council of Europe follows the developments in the Council of Europe, attends all Human Rights meetings of the Committee of Ministers, conveys information and co-operates closely with the LCS. Members of the LCS also attend Human Rights meetings in some occasions.

II. Drawing-up of action Plans/Reports and related effective coordination/cooperation with the relevant actors at the national level.

The LCS is responsible for the drafting of the action plans/action reports in each case, acting as a link between the competent national authorities and the Council of Europe. In that respect, it collects all relevant elements (including legislative or other measures envisaged) and presents them accordingly.

Having an important experience from the handling of the cases before the ECtHR, the European Union Court of Justice, as well as the higher national courts (Court of Cassation, *Conseil d'Etat*), the LCS is acquainted both with International and European, as well as national legislation and case-law; in addition, it is involved in the national legislative process. It can therefore co-ordinate and guide the national authorities in a more constructive/pro-active way in their efforts to adopt the appropriate measures for the execution of the ECtHR's judgments.

It is noted that the drafting of action plans/action reports in judgments that reveal a structural problem is not an easy task. The main challenges faced by the LCS in this context mainly concern the disparity of competences between different departments/within the competent Ministries, as well as some shortcomings regarding the constant updating on the Court's case-law identified between judicial/administrative authorities. In order to enhance the coordination and familiarise different state actors with the ECtHR requirements the LCS has taken various initiatives e.g. organisation of various scientific events (round tables, colloques, seminars) with the participation of academics, judges and lawyers which aim at presenting different issues raised through the ECtHR's case-law.

III. Mechanisms to ensure dissemination and publication of judgments of the European Court of Human Rights and decisions and resolutions from the Committee of Ministers.

As already mentioned above (see reply to question I), the Government Agent ensures that the Court's case-law is translated and widely disseminated. It should be mentioned that judgments or their summaries are also published in other legal journals/reviews.

In addition, different seminars and round tables are organised in order to familiarise the national legal community with the Court's case-law.

It should also be underlined that the Convention and the Court's case-law form part of the curriculum of the national judges.

Hongrie/Hungary

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

I. Mechanism(s) to ensure timely and effective execution of judgments of the European Court of Human Rights at the national level

The mechanism of the execution of judgments of the ECHR is based on the Government decree No. 2004/1994. (I. 21.) on the tasks to be accomplished on account of the entry into force of the European Convention of Human Rights. According to the decree:

„1. In proceedings conducted before the European Court of Human Rights the Government of the Republic of Hungary shall be represented by a Government Agency to be set up within the Ministry of Justice. This information shall be communicated to the Council of Europe by the Minister of Foreign Affairs through diplomatic channels.

2. The Government Agency shall carry out its activity under the guidance of the minister responsible for justice.

3. The Minister of Finance shall make arrangements for the performance of the Government's financial obligations (payment of just satisfaction under (former) Article 50 of the Convention, reimbursement of costs incurred) arising from Court decisions. Payments under such heads shall be effected in the name of the Government from the Miscellaneous Expenditure of the Ministry of Finance.

4. The Government Agency shall be entitled to initiate via the minister responsible for justice

- redresses for violations found by the Court,**
- changes in legislation and – in respect of legal practice, with a view to ensuring compliance with the Convention – the working out of proper practice.**

5. Upon the initiative of the Government Agency the competent ministers and government offices shall, in the interest of disclosing the facts and promoting the defense of the Government, cooperate with the Agency in respect of the proceedings conducted before the the Court. The Government also request the President of the Supreme Court and the Attorney-General to cooperate with the Agency.”

According to the decree of the Parliament No. 23/2007. (III.20.) the minister responsible for justice yearly informs the Committees of the Parliament responsible for constitutional

and human rights affairs about the execution of judgments in connection with Hungary of the ECHR.

II. Drawing-up of action plans/reports and related effective coordination/cooperation with the relevant actors at the national level

The action plans/reports are prepared with the cooperation of the relevant authorities (courts, ministries, public prosecution etc.).

III. Mechanism(s) to ensure dissemination and publication of judgments of the European Court of Human Rights and decisions and resolutions from the Committee of Ministers

All the Hungarian judgments are translated and published on the website of the Government (www.kormany.hu). The translations of the judgments are also sent to the the relevant authorities.

Italie/Italy

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

1 Mécanisme pour assurer l'exécution rapide et effective des arrêts de la Cour Européenne des Droits de l'Homme au niveau national

La loi du 9 janvier 2006 n.12 a ajouté aux compétences du Président du Conseil des Ministres toutes les dispositions nécessaires à l'exécution des arrêts de la CEDH. Le texte de loi prévoit aussi une importance primordiale du Parlement, parce que c'est à lui que la Présidence du Conseil des Ministres doit communiquer les arrêts, de manière que les commissions parlementaires, qui rédigent les propositions de loi, puissent en tenir compte.

En exécution de ladite loi, la Présidence du Conseil des Ministres présente chaque année un rapport au Parlement sur l'exécution des arrêts de la CEDH.

La Chambre des Députés a institué elle-même un observatoire, qui chaque année rédige un rapport sur les arrêts de la Cour EDH

Il ne faut pas négliger le rôle joué par les arrêts rendus par la Cour Constitutionnelle.

Dans les arrêts n. 348 et n.349 du 24 octobre 2007, la Cour Constitutionnelle, à laquelle dans le système italien est attribué la tâche d'évaluer la conformité des lois internes à celles constitutionnelles - a statué que, par l'entremise de l'article 117 de la Constitution⁵, la Convention Européenne des Droits de l'Homme, telle qu'interprétée par la Cour EDH, constitue la référence pour évaluer la conformité ou non à la Constitution d'une loi interne.

Le résultat concret est équivalent à l'annexion de la Convention dans la Constitution. Plusieurs arrêts de la Cour Constitutionnelle ont désormais évalué la légitimité ou l'illégitimité constitutionnelle d'une disposition de loi interne tout en utilisant les paramètres de la CEDH.

Il s'agit d'un pas très important pour assurer en Italie l'application de la Convention et des arrêts de la Cour EDH, parce que dans le droit italien la disposition de loi déclarée inconstitutionnelle par la Cour cesse de s'appliquer même aux situations qui se sont déroulées avant cette déclaration, sauf le limite de la chose jugée

Modalités pratiques des contacts

Le bureau des Co-agents à Strasbourg dirittiumani.rappstra@esteri.it
paola.accardo@esteri.it silvia.coppiari@esteri.it, constitue le trait d'union entre les pertinentes activités du bureau de l'Agent auprès du Ministère des Affaires Etrangères ersilia.spatafora@esteri.it, le Ministère de la Justice emilia.debellis@giustizia.it, la Présidence du Conseil des Ministres u.deaugustinis@palazzochigi.it,
m.piccirilli@palazzochigi.it

⁵ « Le pouvoir de légiférer est exercé par l'Etat et les Régions dans le respect de la Constitution et les contraintes des obligations internationales »

Les Ministère des Finances (**Ministero dell'Economia e delle Finanze** Dipartimento dell'Amministrazione generale del personale e dei servizi del tesoro *Direzione centrale degli uffici locali e dei servizi del Tesoro* clara.dellanna@tesoro.it) s'occupe des paiements

2. Préparation des plans d'action et des bilans d'action; coordination et coopération entre différentes autorités concernées au niveau national

Sur la base des informations et des indications provenant des autorités concernés, le bureau des co-agents à Strasbourg rédige les plans et les bilans d'action

Les mesures générales pour l'actuation des arrêts peuvent consister en instructions aux administrations, circulaires et - s'il le faut - modifications de lois (pour ce qui concerne l'action au niveau Constitutionnel il faut rappeler ce que on a déjà dit en réponse à la première question)

Suite à la loi 9 janvier 2006 n12, chaque année le Département des Affaires Juridiques de la Présidence du Conseil des Ministres présente au Parlement un rapport sur l'exécution des arrêts de la Cour Européenne des Droits de l'Homme

3. Moyens pour assurer la publication et la diffusion des décisions et arrêts de la CEDH et des résolutions du Comité des Ministres

Les arrêts concernant l'Italie et les arrêts importants concernant les autres pays ainsi que certaines décisions sont publiés en langue originale et en traduction italienne dans le CED de la Cour de Cassation et dans des sites internet institutionnels

Le Bureau des avocats de la Chambre des Députés rédige chaque année un

« Observatoire des arrêts de la Cour EDH

http://www.camera.it/422?europa_estero=128

Enfin, il ne faut pas négliger que en Italie la formation continue des juges vise de plus en plus à des fréquentes mises à jour sur les thèmes de la Convention et la Jurisprudence de la Cour EDH

Liechtenstein/ Liechtenstein

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

I. Mechanism(s) to ensure timely and effective execution of judgments of the European Court of Human Rights at the national level

Information on the mechanism(s) put in place by your country to execute judgments of the European Court effectively and rapidly (i.e. mandate to initiate and/or take the necessary measures to accelerate the execution process, including mechanisms securing the payment of just satisfaction) would be welcomed. In this respect, replies to the following elements would be appreciated:

i) the mechanism's normative basis;

In Liechtenstein, the responsibility for dealing with applications before the European Court of Human Rights (ECtHR), including the implementation of the ensuing judgments, is laid down in the Government's allocation of business, the so-called "Departmental Plan" ("Ressortplan"). This plan is an ordinance which is based on the Law on Administrative Organization of the State as well as on Article 91 of the Liechtenstein Constitution. Since complaints against Liechtenstein so far have mainly been related to the procedural guarantees of Article 6 of the Convention, the Ministry of Justice (Ressort Justiz), which is responsible for the relevant procedural law, has almost exclusively been entrusted – in the sense of an agent to the Court – with leading these cases before the Court.

ii) mandate/scope of action;

Government in Liechtenstein is based on the principle of collegiality (i.e. decisions are reached by the Government as a collegial body). In addition to the Government as a collegial body, the individual Members of Government are autonomous in their areas of responsibility (Ministries) to the extent that business is allocated to them in order to be dealt with independently. Incoming applications against Liechtenstein before the ECtHR are taken note of by the Government and the dealing with these applications is then assigned to the competent Ministry. This assignment also includes measures for the implementation of judgments of the ECtHR. The implementation can be carried out directly by the competent Ministry, unless further measures are necessary. The responsible Ministry must examine the judgment regarding the need for implementation and, if necessary, has to submit the necessary implementation measures, including their allocation to the competent authorities, to the Government for approval.

iii) coordination function (modalities to liaise with persons or bodies responsible at the national level for deciding on the measures necessary to execute the judgments) and

The officer in charge in the competent Ministry reports directly to the Member of Government responsible for that Ministry. Any communication on the need to implement a judgment is therefore possible in a very fast and straightforward way. Modalities exist only in the sense that an orderly internal communication takes place, which is facilitated by the smallness of Government structures in Liechtenstein.

iv) modalities to acquire information from other state actors. Information on challenges faced by states to fulfill their role in the aforementioned fields would be valuable. In this context, any action to ensure synergies between the relevant national actors involved in the execution process would also be welcomed.

Different ways are available to the competent Ministry in this regard. On one hand, information can be sought by way of administrative assistance. If this way proves to be inadequate, the Ministry may request a decision by the Government, by which other state actors are obliged to provide information or to take certain measures.

The allocation of Government business according to the “Departmental Plan” (“Ressortplan”) regularly leads to synergies. For example, the Ministry of Justice which is responsible for procedural laws is in constant contact with the national courts. Issues concerning the implementation of a judgment on a breach of the procedural safeguards of the Convention can therefore be discussed rapidly and efficiently with well-established contacts in the national courts.

II. Drawing-up of action plans/reports and related effective coordination/cooperation with the relevant actors at the national level

It would be important to receive information on how your country draws up action plans/reports regarding the implementation of the Court’s judgments. Good practice and challenges faced by your authorities in relation to the coordination of the drafting of action plans/reports, in particular in respect of judgments revealing structural problems, would be appreciated.

It is standard procedure that each judgment is checked by the responsible officer in the competent Ministry with regard to a possible need for implementation. The officer then reports on this to the competent Government Member. This includes making proposals for the solution of a certain problem or specifying the competent authority, if the issue is outside the area of competence of the Ministry. Further concrete actions (legislative projects, instructions, information) depend on the need for implementation and might be submitted by the responsible Ministry to the Government for approval.

III. Mechanism(s) to ensure dissemination and publication of judgments of the European Court of Human Rights and decisions and resolutions from the Committee of Ministers

Information on how your authorities ensure translation and rapid and adequate dissemination of the Court's judgments and the decisions and resolutions of the Committee of Ministers to the relevant actors would be appreciated. Any other actions necessary to ensure that the relevant actors are sufficiently acquainted with the Court's case-law and the Committee of Ministers practice would be welcomed (e.g. dissemination of the Committee of Ministers recommendations and annual reports). It would be useful to share information on difficulties encountered by your countries and any initiatives taken to improve the existing mechanism(s) in this field.

According to standard practice, judgments are translated into the national language (German) and are published. This is arranged on a regular basis by the responsible Ministry, regardless of any additional implementation measures. The publication is done in the legal journal "Liechtensteinische Juristenzeitung (LJZ)" which includes the official collection of judgments of the Liechtenstein courts and is standard reading in the legal field. Furthermore, the judgments are also sent to the presidents of the national courts. Decisions and resolutions of the Committee of Ministers in connection with judgments concerning Liechtenstein have so far never been of such substantive importance that a translation or further dissemination appeared to be necessary. For the most part, these decisions only confirmed the successful implementation of a certain judgment. However, if thought necessary, such a translation could be initiated at any time by the competent Ministry.

Lituanie/Lithuania

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

I. Mechanism(s) to ensure timely and effective execution of judgments of the ECtHR at the national level

The execution of the judgments of the ECtHR currently is regulated by the Law of the Republic of Lithuania on Compensation for Damage Caused by Illegal Actions of Institutions of Public Authority and the Representation of the State (no. IX-895, 21 May 2002) and by the Regulation on the Activity of the Agent of the Government of the Republic of Lithuania to the European Court of Human Rights, approved by the Resolution No. 929 of the Government of the Republic of Lithuania of 3 July 1995. Upon the adoption of the Recommendation 2008(2) of the Committee of Ministers on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights the said Regulation on the Activity of the Agent of the Government were supplemented by the Resolution of the Government No. 2011 of 18 September 2008 with special provisions designated *inter alia* for the implementation of the Recommendation 2008(2). By the said Resolution of the Government No. 2011 the Agent in cooperation with the Ministry of Justice and other relevant domestic institutions was designated as a co-ordinator of the execution of judgments at the national level. The Agent was empowered *inter alia* to initiate and/or take the necessary measures to accelerate the execution process. It should be noted in this regard that the Agent acted as *de facto* co-ordinator even before the adoption of the said legislative changes. From the very beginning of his activities the Agent had all powers to acquire relevant information from other state institutions, as well as to take initiative to ensure synergies between the relevant national actors involved in execution process.

The Law on Compensation for Damage Caused by Illegal Actions of Institutions of Public Authority and the Representation of the State (no. IX-895, 21 May 2002) regulates *inter alia* the mechanism for the payment of the compensation of damages awarded by the ECtHR. According to the mentioned Law the Ministry of Justice administers the allocations for compensation of damage awarded by the ECtHR. The Government Agent under Article 2 of the said Law is obliged to provide the Ministry of Justice immediately with the judgments (and/or decisions) of the Court whereby pecuniary and/or non-pecuniary damage is awarded or note is taken of friendly settlement reached between the parties in the cases against the Republic of Lithuania. It is established in the said Law that the judgments (and/or the decisions) of the ECtHR, including those confirming friendly settlements reached between the parties to the proceedings must be executed within the time-limits as set forth in the instruments of international law. Thus, the amounts of the compensation awarded by the Court are paid by the Ministry of Justice within three months of the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention (or within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1) to the bank account indicated in the applicant's relevant request or in cash if he/she so wishes.

The execution process as concerns other individual and general measures is carried on the case-by-case basis having regard to the nature of the violation found by the ECtHR.

Primarily, the Government Agent ensures the translation and dissemination of the ECtHR judgment to the relevant authorities (see answer to question no. 3). Simultaneously the Government Agent prepares an explanatory note noticing the circumstances that caused the finding of the violation of the European Convention on Human Rights also drawing attention to the ECtHR's case-law. Informing about the judgments of the ECtHR the Government Agent also request the national authorities to provide all information about the existing situation in the relevant field in order to clarify what precise individual and/or general measures would be necessary with the view to fully execute the judgment of the Court. Thus the Government Agent usually initiates relevant individual and general measures. For the general measures the Government Agent cooperates closely with the Ministry of Justice, also during last years the meetings of the Government Agent with the Law Committee of the Seimas are periodically arranged where *inter alia* the problems of the execution of judgments are discussed. If to note difficulties with regard to certain general measures, especially legislative ones, the lack of a particular political will for the adoption of new legislation sometimes could be envisaged⁶.

So far, upon getting relevant information from the Government Agent regarding the violation found by the Court due to mal administrative practices or improper application of national legislation by the domestic courts, the respective domestic institutions were used to change promptly their mal practices. As Lithuanian law provides for the reopening of the proceedings after the adoption of certain judgment of the Court finding a violation, this instrument also confers the courts with the possibility to develop relevant general measures. For example, in cases where the violations of the requirements of Article 6 of the Convention were found by the ECtHR alongside retrial the domestic courts might develop new case-law taking into consideration relevant findings of the Court. The most prominent example was the decision of 16 December 2008 of the Supreme Court of Lithuania adopted in the reopened criminal case of the applicant before the Court R. Ramanauskas⁷, where taking into account the judgment of the Court of 5 February 2008 the Supreme Court pronounced on general principles in cases where criminal conduct simulation model is employed. The decision of 16 December 2008 adopted by the Supreme Court of the Republic of Lithuania constituted a general

⁶ For example, upon the adoption of the judgment of the Court of 11 September 2007 in the case *L. v. Lithuania* (application no. 27527/03) finding a violation of Art. 8 of the Convention, the case revealed a limited legislative gap in gender-reassignment surgery, which, in the Court's opinion, left the applicant in a situation of distressing uncertainty *vis-à-vis* his private life and the recognition of his true identity.

By the said judgment the Court ordered to pass the required subsidiary legislation to Article 2.27 of its Civil Code on gender reassignment of transsexuals, within three months of the present judgment becoming final, and, alternatively, should those legislative measures prove impossible to adopt within three months, to pay the applicant EUR 40,000 in respect of pecuniary damage.

As there appeared no possibilities to adopt relevant legislative changes within 3 months, the applicant was paid with damages awarded by the Court. The draft law, introduced by the parliamentarians on 19 March 2008, which provides for one of the possibilities to eliminate the legal gap - the revocation of Article 2.27 of the Civil Code of the Republic of Lithuania, is still pending for the parliamentary consideration.

⁷ By the Grand Chamber judgment of 16 December 2008 in the case of *Ramanauskas v. Lithuania* the violation of Article 6 § 1 of the Convention was found, in connection with improper use the criminal conduct simulation model, and the applicant's subsequent conviction.

measure, capable of preventing similar violations in cases where criminal conduct simulation model would be employed⁸.

II. Drawing-up of action plans/reports and related effective coordination/cooperation with the relevant actors at the national level

The action plans/reports are drawn-up by the Agent upon consulting all relevant domestic institutions and gathering appropriate information. Usually the Government Agent upon informing the relevant institutions about the violation of the Convention found and sending certain explanatory note, receives all necessary information from the State institutions enabling to indicate which precise measures must be initiated, and subsequently submits the Execution Department of the Committee of Ministers with appropriate action plans/reports. Then the implementation of necessary measures is being constantly observed, also meanwhile the Execution Department is being provided for with all relevant and updated information as regards any progress in the execution process in some particular case. Upon the receipt of the information from the relevant state institutions that a particular individual or general measures have been fully implemented, which leads in itself to a conclusion that a particular judgment in the case against Lithuania is fully executed, the Government Agent prepares immediately the action report and submits it to the Execution Department informing it of all measures taken. The action plan/report is sent directly to the Department for the execution of judgments of the ECtHR also sending the copy to the Permanent Representation of Lithuania to the Council of Europe.

No challenges were faced by the Lithuanian Government so far in respect of judgments revealing some structural problems, though, as an exceptionally complicated process for preparing action plan/report could be indicated the one in the case *Paksas v. Lithuania* ([GC], no. 34932/04, 6 January 2011) concerning the restriction of the right to free elections of the impeached president. In the said case following the delivery of the judgment of the Court, the Prime Minister of Lithuania by the ordinance of 17 January 2011 formed the working group on Preparation of the Proposals for the execution of the judgment of the Grand Chamber of the Court of 6 January 2011 in the case of *Paksas v. Lithuania*. The said Working group concluded *inter alia* that to comply with the judgment of the Court the amendments of the Constitution of Lithuania are necessary in order to remove an irreversible and permanent nature of the disqualification for the persons removed from office following impeachment proceedings for committing a gross violation of the Constitution and breaching the constitutional oath from taking the office a member of parliament. The possible alternatives for possible amendments of the Constitution have been proposed. As under Article 147 § 1 of the Constitution of Lithuania a motion to alter or supplement the Constitution of the Republic of Lithuania may be submitted to the Seimas by a group of not less than 1/4 of all the Members of the Seimas or not less than by 300,000 voters, it was decided by the Government on 6 June 2011 to proclaim publicly the conclusions of the said Working group and to transmit

⁸ In accordance with the information provided for on the [Website of the Department for the execution of judgments of the European Court of Human Rights](#) the case of *Ramanauskas v. Lithuania* is in principle closed, waiting for adoption of Final Resolution.

them for the Seimas, in noticing that in accordance with Article 46 of the Convention the High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties. Further steps from the part of the legislator are being awaited in order to prepare and submit some more precise action plan/report in the said case.

III. Mechanism(s) to ensure dissemination and publication of judgments of the ECtHR and decisions and resolutions from the Committee of Ministers

The judgments of the ECtHR in cases against Lithuania are translated as soon as possible. The Division of Representation at the ECtHR acting within the Ministry of Justice established in order to facilitate the Government Agent in performing his/her functions ensures prompt translation of any judgment of the Court against Lithuania.

All judgments and their translations are placed on the official internet site of the Ministry of Justice, the translation of the judgments are also placed on the official internet site of the National Courts' Administration. Thus they are freely accessible to all interested persons. The Government Agent separately informs all domestic courts and other relevant institutions about the judgments, sending their translation into Lithuanian together with the explanatory note. Moreover, the Government Agent with an assistance of the Division of Representation at the ECtHR ensures the periodical publishing of the collections of all judgments and decisions against Lithuania of a relevant year.

The final resolutions of the Committee of Ministers are placed on the official internet site of the Ministry of Justice, too.

Luxembourg / Luxembourg

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

I. Mechanism(s) to ensure timely and effective execution of judgments of the European Court of Human Rights at the national level

Le nombre relativement limité de jugements rendus par la CEDH contre le Luxembourg ne justifie pas, de l'avis du Gouvernement, la création d'une structure nationale spécifique pour assurer l'exécution des jugements au niveau national. La méthode actuelle, évolutive et constamment adaptée aux situations nouvelles, a globalement démontré son efficacité.

Ainsi, la centralisation du suivi de l'exécution des affaires rendues contre le Luxembourg est assuré par l'Agent du Gouvernement luxembourgeois, au sein de et assisté par la Représentation Permanente auprès du CdE.

➤ Suivi du paiement de la satisfaction équitable :

Dès réception d'un arrêt de condamnation, celui-ci est transmis, accompagné d'une notice détaillant les sommes dues par le Luxembourg, à la personne de contact désignée au sein du service responsable du paiement de la satisfaction équitable du Ministère d'Etat. Une fois l'information du paiement reçue par la RP, la fiche de transmission est remplie et envoyée au service de l'exécution des arrêts.

➤ Suivi de l'exécution des mesures individuelles et générales:

Tous les arrêts rendus par la CEDH sont systématiquement transmis aux Ministères et institutions concernés par la violation par les soins de l'Agent du Gouvernement.

Pour la grande majorité des affaires luxembourgeoises qui concernent des problèmes d'équité des procédures judiciaires au niveau national, une personne de contact au sein du ministère de la Justice assure la coordination et le suivi de l'exécution et en réfère régulièrement à l'Agent du Gouvernement et à la RP. Le Procureur général et la Présidente de la Cour supérieure de justice sont automatiquement rendus attentifs aux mesures à prendre et les communiquent aux autres juridictions nationales plus particulièrement responsables de la violation.

Pour les affaires impliquant d'autres Ministères, une personne de contact est désignée au cas par cas au sein du service responsable de la réparation de la violation. Soit spontanément à chaque étape de l'exécution, soit à la demande de l'Agent du Gouvernement, rapport est fait par le service concerné des progrès effectués pour l'exécution de l'affaire.

En cas de problème structurel plus important ou impliquant plusieurs services, ou si une lenteur dans l'exécution est observée par l'Agent du Gouvernement, une réunion est convoquée à Luxembourg avec les acteurs concernés afin d'identifier le problème et faire pression là où cela s'avère nécessaire pour débloquer la situation. Cette procédure informelle et ponctuelle a été amorcée dans le contexte de la préparation de la Conférence d'Interlaken, puis poursuivie pour la mise en œuvre du plan d'action.

Ainsi, depuis l'automne 2009, plusieurs « réunions de travail » ont été tenues au niveau de hauts fonctionnaires et impliquant les Présidents de la Cour Supérieure de Justice, des Cours et Tribunaux, le Procureur Général et les Procureurs d'Etat. A noter plus particulièrement qu'une réunion exclusivement consacrée aux « problèmes récurrents et spécifiques luxembourgeois dans l'exécution des affaires contre le Luxembourg » a également rassemblé les Ministres de la Justice et des Affaires étrangères, une délégation parlementaire, le juge luxembourgeois à la CEDH, la Présidente de la Cour supérieure de justice et le membre luxembourgeois au CDDH le 9 novembre 2011.

Cette procédure informelle a notamment permis de résoudre le problème récurrent du formalisme excessif de la Cour de Cassation, ainsi que d'amorcer la mise en œuvre d'un « plan d'informatisation » des tribunaux qui permettra d'apporter la solution adéquate aux problèmes de délais de procédure.

II. Drawing-up of action plans/reports and related effective coordination/cooperation with the relevant actors at the national level

Les plans et bilans d'action sont le résultat de la procédure de suivi de l'exécution des arrêts ci-dessus décrite. Ainsi, les informations transmises par les services concernés par chaque affaire à l'Agent de Gouvernement sont compilées par ce dernier avant d'être transmises au service de l'exécution des arrêts.

Le nombre relativement réduit d'affaires permet de considérer qu'une telle méthode fonctionne de manière relativement satisfaisante.

III. Mechanism(s) to ensure dissemination and publication of judgments of the European Court of Human Rights and decisions and resolutions from the Committee of Ministers

Depuis octobre 2009, une procédure de diffusion automatique est appliquée à l'égard de chaque arrêt rendu par la CEDH contre l'Etat luxembourgeois.

Ainsi, dès leur prononcé et avant qu'ils ne soient rendus définitifs, les arrêts sont transmis par les soins de la Représentation Permanente/Agent du Gouvernement et par voie électronique aux destinataires suivants:

- Le CODEX, unique mensuel juridique au Luxembourg, reçoit tous les arrêts rendus contre le Luxembourg pour leur publication sur son site internet ainsi que

dans l'édition papier de son magazine (<http://www.codex-online.com>). En compensation à cette publication automatique, le Ministère des Affaires étrangères verse des subsides réguliers au budget du CODEX.

- Le Ministère de la Justice de notre Gouvernement est immédiatement informé d'un nouvel arrêt concernant le Luxembourg et met tous les arrêts en ligne sur son site (http://www.mj.public.lu/juridictions/arrets_concernant_le_luxembourg/index.html). Lorsque la violation constatée par la Cour n'est pas limitée à l'article 6 de la Convention et qu'un autre Ministère est concerné par la violation de la Convention, celui-ci est également dûment informé de l'arrêt de la Cour au niveau ministériel et du département concerné.
- Pour la grande majorité des affaires luxembourgeoises qui concernent des problèmes d'équité des procédures judiciaires au niveau national, le Procureur général et la Présidente de la Cour supérieure de justice (qui comprend la Cour de cassation et la Cour d'appel) seront également rendus attentifs, par nos soins, à l'arrêt prononcé par la CEDH. La Cour supérieure de justice est également compétente pour la diffusion de l'arrêt aux autres juridictions nationales plus particulièrement responsables de la violation.

L'adoption de décisions et résolutions du Comité des Ministres font l'objet de notes et de communication officielle par la Représentation Permanente auprès de tous les acteurs nationaux concernés.

Le français étant une langue officielle du Luxembourg, aucune traduction n'est requise et ne retarde la diffusion des arrêts de la CEDH ou instruments du Conseil de l'Europe.

République de Moldova/
Republic of Moldova

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

I. Mechanism(s) to ensure timely and effective execution of judgments of the European Court of Human Rights at the national level

General background

1. The Republic of Moldova approached to the execution of the Court's judgments/decisions by ensuring the distinctions set between the just satisfactions awards, individual and general measures resulted from any of the Court's judgment/decision that involves the adoption of such measures. It must be noted that the judgments/decisions of the Court are considered in the domestic legal order as being a proper enforcement writ and in this sense they are assimilated with any judgment or decision issued by a domestic court.

2. It should be noted at the outset that it is a difficult task to explain thoroughly the entire mechanism(s) of enforcement and execution of the Court's judgments/decisions since it involves many actors and authorities with different jurisdiction and competences. For that reason, the mechanism will be explained in a brief manner as far as possible. However, the main aim to form a general view on such mechanism will be regarded in any case.

3. The following explanations will be divided in several compartments, which include the elements that have been expressly required by the Questionnaire. We also will try to simulate concisely the entire process of enforcement since the moment of adoption of a judgment of the Court. It will be helpful for having a general viewpoint on the domestic process(s).

4. Finally we note that the following reply will reflect only the mechanism(s) that is running now, without having considered previous shortcomings or issues that became already obsolete. It may be some references to previous proceedings for a comparison but rather in principle.

Actors/authorities implied/mandate and scope of actions

5. There are several **directly** and **implicitly** authorities involved:

- Main actors

a. **The Agent for the Government** - main actor and principle supervisor who observes and advises all domestic authorities on the measures should carry out for a proper enforcement. He is an independent public servant with a diplomatic status who is assimilated to the vice-minister of justice, being hierarchically subordinated only to the Minister of Justice and to the Prime-minister, Head of the Government. The Agent may be summoned as an intervener in regress proceedings (see below for details).

b. The Permanent Governmental Commission for the Supervising of execution of the Judgments of the European Court – it is an consultative formation that unites the Minister of Justice (in charge), of Finances, the Governmental Agent, the Head of Governmental Registry, the General Prosecutor or his deputy, the President of the Supreme Court or his deputy. They usually have regular meetings in which different challenges or sensitive questions of execution are discussed. Usually, they rely on topics of general nature or on the matters of extreme financial burden due to judgments/decisions adopted by the Court. They adopt in common the Decisions on these issues, which are bind the authorities involved. The Commission may invite other authorities and require explanations or their proposals.

c. The Governmental Agent's Division – assists the Governmental Agent in fulfilling of all his functions. The Division is a part of the Ministry of Justice staff, which is appointed only by the Minister. The Division has one Head of Division, his Deputy and seven counsellors or advisers. They have two main directions of activity – the litigious proceedings before the Court and the monitoring of the execution of the Court's judgments/decisions. These directions of activity are not clearly distributed between the counsellors or heads of the Division.

d. The Ministry of Finances – has only a duty to identify the financial sources that potentially would be paid as just satisfaction and it is the single authority what effectively pays awards for just satisfaction under Article 41 of the Convention. The Ministry may be involved as an intervener party in civil proceedings for regress against the authorities/public servants/individuals that caused a violation held by the Court.

e. The General Prosecutor (his subordinates are also included) – is informed about all judgments/decisions that implied a payment and about all other judgments/decisions that are relevant for prosecution and criminal trial activity. The General Prosecutor can reopen, on base of the judgment's/decision's findings, the criminal proceedings especially in cases on torture, ill-treatment or those which implies the investigation of deaths, deprivation of liberty etc.. In other cases he may initiate criminal proceedings against the public servants, which contributed in a criminal way to commitment of breaches of the applicant's rights. Also, only the General Prosecutor has the ability to commence a regress action in a civil court for refund the sums paid as just satisfaction.

f. The Supreme Council of Magistrates – is also informed about all judgments/decisions, being simultaneously requested to spread the findings of the Court between the judges. Also, the Supreme Council has the ability to consider the findings of the judgments/decisions for an eventual initiation of disciplinary sanctions against the judges involved.

g. The Supreme Court of Justice – is usually informed about all judgments/decisions for being considered in an establishment of judicial practice and for its own case-law. In cases when the judgment/decision implies a reopening of the domestic civil or criminal proceedings by request from the parties [the applicant before the Court] the Supreme Court should be unavoidably informed.

- Implicit actors

h. Ministry of Foreign Affairs and European Integration - has the powers to represent effectively the interests of Moldova before the Committee of Ministers and in particular in forwarding of any relevant information to the Department for Execution about the enforcement of individual and general measures. The Ministry has a special Division in this sense and they collaborate directly with the Governmental Agent (and his Division) who submits such information for their awareness.

i. The Division for drafting of legislation from the Ministry of Justice – becomes involved in all cases when the changing, amendment or enacting of law is required by the judgment/decisions.

j. The National Institute of Justice – has abilities to perform the professional improvement of acting and forthcoming prosecutors and judges. It also organises seminars and studies for others actors who took part in justice.

k. Bailiffs – they are informed about the judgments/decisions in certain cases when the findings of the Court would require enforcing of a domestic judgment, in particular in non- or delayed-enforcement cases. In old mechanism of execution of the judgments/decisions of the Court, the bailiffs were required to enforce effectively the payments awarded for just satisfaction, but now they became part of private system of enforcement [state licenced activity] that have been recently embraced by Moldova. Therefore they cannot be afforded with abilities to enforce such payments since they can perceive fees from the sum awarded by the Court. Therefore, the Ministry of Finances agreed rather to make transfers on the applicant's bank accounts than to entitle somebody else to make effective payments. The bailiffs have their own managerial bodies and the special Division from the Ministry of Justice supervise their activity, the latter being able to put in question their discipline and compatibility with the licence's requirements.

l. Other authorities or governmental bodies – depending on the circumstances of the examined case and/or if the findings of the Court require an adoption of general or individual measures, the concerned authority is informed.

Relevant national law/the normative basis¹

¹ The translation of the below legal provisions would be provided further upon the request and if it would be necessary required.

² See <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=313132>

³ See <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=286229>

⁴ See <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=326970>

Main provisions

6. The law on the Governmental Agent Nr. 353 of 28/10/2004², in particular the provisions of:

a. Article 6 (b) – the Agent's status for monitoring and supervision of execution;

- b. Article 15 – the enforcement writ status of the Court’s judgments/decisions and the onus of payment by the Ministry of Finances of the just satisfactions awards;
- c. Article 16 – duty to made public the judgments/decisions by the Official Gazette;
- d. Article 17 – regress proceedings; Article 17 (3) – dissemination of the judgments/decisions
- e. Articles 18 *et seq.* – mandate and the scope of actions of the Governmental Agent and his Division.

7. The Civil Procedure Code of 30 May 2003³³ set the following relevant provisions:

a. Articles 447 (c), 447 (2) and 449 (g), taken in conjunction – provide the abilities of the General Prosecutor to request a revision and the powers of the Supreme Court to revise domestic judgments that allegedly had breached the applicant’s rights under the Convention, in cases when the Governmental Agent notice that a pending application gives sufficient reasons to consider that a violation took place. The Governmental Agent motions the General Prosecutor who appears as a part in civil proceedings on revision. Neither the Government Agent nor the applicant can initiate on their own motion such revision.

b. Article 449 (h) – institutes another base for revision of the domestic judgments and for reopening of the domestic civil proceedings due to adoption of the judgment/decision of the Court. Such revision may be commenced only by interested party, usually by the applicant(s) or his representative(s), who considered that the reopening of the proceedings since adoption of the Court’s judgment/decision would redress his breached rights. There is a time-limit for institution of such proceedings which is calculated from the moment when the Court’s judgment/decision became final.

8. The Criminal Procedure Code of 14 March 2003³⁴ set as follows:

a. Article 6 (44) – declares the general notion of the “fundamental vice that affected the proceedings” as being a breach of the rights and fundamental freedoms under the Convention, Constitution and other international treaties. Such vices are considered as being basis for reopening or finishing of the proceedings in any stages of the criminal proceedings (trial, prosecution etc.).

b. Article 22 – sets the principle of *non bis in idem*, which can be overturned if there was established a fundamental vice that affected the proceedings. Such exception can be usually used as basis for reopening of the proceedings in ill-treatment/torture-cases if perpetrator(s) has not been properly punished or prosecuted.

c. Article 287 (4) – enshrines the powers to reopen only the prosecution that ended with a breach of fundamental rights and freedoms. The hierarchically higher prosecutor can reopen such proceedings.

d. Articles 452, 453 § 1 (a), 455 (7) – declare that the General Prosecutor and any person injured in his or her rights can request before the Supreme Court an annulment of any judgment that has been affected by the fundamental vice(s) and if an international court held

about such a violation of the rights or fundamental freedoms. Article 454 sets different time-limits for initiation of annulment proceedings, which is within six month after an international court notified the Government about its judgment/decision (Article 454 (3)). In any case when the accused rights have been breach or have been affected by fundamental vice the annulment proceedings can be commenced anytime (Article 454 (1)), even in cases of deceased persons.

9. The Enforcement Code of 24 December 2004 by it Article 11 (l) provide that the Court's judgments/decisions, in the domestic legal order, are enforcements writs in part of the payment of just satisfaction sums.⁵

⁵ See <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=336538>

⁶ See <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=327643>

⁷ See <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=339395>

⁸ See <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=295840>

⁹ See <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=286038>

Other relevant provisions

10. The Parliament's Decision no. 72 of 28 March 2008⁶ concerning the judgments of the European Court of Human Rights against the Republic of Moldova, their enforcement and the prevention of violating the human right and fundamental freedoms – sets general policy concerning the enforcing of the Court's judgments/decisions by all involved authorities.

11. The Parliament's Decision no. 90 of 12 May 2011 regarding the National Plan of Action in the Sphere of Human Rights for 2011-2014⁷ – has planned several general measures in regard to the implementation of the Court's judgments/decisions and it generally relies on situation concerning the execution of the above.

12. The Government's Decision of 31 December 2004 on instituting of the Permanent Governmental Commission for the Supervising of execution of the Judgments of the European Court (amended correspondingly)⁸ – see above about its mandate and jurisdiction.

13. There are certain Constitutional Court's Decisions that declare the status of the Court's judgments/decisions that are the integral part of the domestic legal order, in particular the Decision no. 55 of 14 September 1999⁹.

14. Also, the Supreme Court delivered certain Explicative Decisions by which it relied on the Court's case-law as being part of its own practice and the judicial case-law of all courts. In particular the most relevant are the Explicative Decision of the Extended Panel no. 17 of 19 June 2000 concerning the implementation and applicability of the European Convention on fundamental right and freedoms by the domestic courts, and the recent Disposition of the Acting President of Supreme Court no. 17 of 14 July 2011 concerning the consistence of the case-law of the Supreme Court's Panels and implementation of the ECHR's case-law¹⁰.

15. The General Prosecutor's Office enacted its own regulation on the Court's case-law in several fields (investigation of ill-treatment/torture cases, requests for detention on remand, rights of children and victims, etc.) Such regulations are only for internal use.

¹⁰ See http://csj.md/news.php?menu_id=380&lang=5

¹¹ See collection of press-releases <http://www.justice.gov.md/ro/noutati-agent-guvernamental/>

¹² See collection of judgments/decisions <http://justice.md/md/cedo/>

The process of execution/coordination function/modalities of acquiring of information

16. There are several stages that can be divided in the execution process.

The notification

17. The judgment/decisions are notified to the Governmental Agent and his Division by e-mail and by post. In day of delivering of a judgment/decision the Governmental Agent's Division is preparing the respective press-release on a judgment or relevant decision. In due course, usually on same date of delivering, the press-release is published on the Ministry of Justice web page¹¹.

18. The judgment or decision is registered in the Division's database and a counsellor or head/deputy of Division is appointed to ensure its translation and to identify the relevant authorities (apart from those that are informed *ex-officio* under the law) that should be informed.

19. Also, the counsellor is responsible to identify appropriate modalities for payments of just satisfaction awards. He or she may require the applicant or his representatives to submit their details of bank accounts. If the applicant envisages appointing another person who may receive the payments, the counsellor requires respective mandate.

The submission for enforcement

20. After the judgment/decision becomes final the translation thereof is published in full on the web page¹² and it is submitted for publication in the Official Gazette. If it is voluminous, the Division submits to the publication in the Official Gazette only an outline with brief statements of facts, findings in law and the operative part of the judgment/decision. In any case the authorities receive full copy of the translated judgment/decision and it is always published in full on the web page.

The execution

Individual measures/reopening of the proceedings/restitutio in integrum

21. The Government Agent or his Division forwards the full copy of the final judgment/decision to:

a. Ministry of Finances - for payments of just satisfaction awards, accompanied by the details of bank accounts and other relevant information or documents that are necessary to identify the applicant who must receive the payments. In all cases the Division marks the deadlines for payments as they were established by the judgment/decision.

b. The General Prosecutor – who is requested to examine the opportunity to commence the regress proceedings and/or to reopen the criminal proceedings in case if he has such kind of jurisdiction. The Government Agent or his Division also requires to be informed in due course about the relevant developments.

c. The Supreme Council of Magistrates – is informed *ex-officio* in the same way as the General Prosecutor, except that it cannot be required to commence regress proceedings.

d. The Supreme Court of Justice – is often informed with forwarding of a full translated copy of judgment/decision. Especially, the Government Agent/Division informs the Supreme Court when the reopening of the proceedings is required.

e. Other relevant authorities – are informed with submission of a full copy of judgment/decision in case if they were involved in the litigation solved by the Court and they can be required to redress the applicant's situation in other non-judicial ways.

22. In all cases the judgment/decision is forwarded being accompanied by the Governmental Agent's/Division's comments on modalities of execution of the individual and general measures. In all cases the authorities are invited to inform the Governmental Agent/Division about developments and challenges that they encountered in execution process. The Governmental Agent/Division may explain upon the additional requests the modalities of ensuring of execution.

General measures

23. In all cases when the judgment/decision is submitted to the above authorities they are required to ensure the changing of practices or case-law and/or to come with legislative initiatives in amending or enacting laws. The process of informing about the adoption of general measures is the same as the above-mentioned and it is performed simultaneously. However, if a law should be enacted or amended, the Governmental Agent/Division addresses their requests directly to Department on Drafting of Legislation of the Ministry of Justice and/or the authorities that might be directly involved. In condition when the practices and/or the case-law should be changed, the Governmental Agent/Division requires the respective authorities.

24. The Governmental Agent/Division collaborates with the National Institute of Justice in regard to the professional improvement of the judges and prosecutors and they may be invited to hold special courses in respect of the Convention or particular issue resulted from a judgment/decision.

25. In all cases, if the issue resulted from a judgment/decision must be solved by enacting or amending laws or by changing practices the authorities invite the Governmental Agent/Division to submit his/its comments and opinion.

Regress actions

26. In general, by means of all judgments/decisions, the regress can be initiated against the person(s) who have contributed to commitment or have committed actions that defined a violation. Such regress action has also a deterrent effect.

27. However, this regress action is usually initiated only after an establishment by a judicial way of culpability of person(s) involved, after the finishing of criminal or disciplinary proceedings. The commencement of such action is only in the General Prosecutor's

jurisdiction and only if there was a just satisfaction payments under the judgment/decision. The Ministry of Finances and the Governmental Agent are always invited to intervene in the proceedings.

The modalities to acquire information

28. The modalities to acquire in information are as those commonly used. This includes mutual requests between authorities from/to the Governmental Agent/Division and *vice versa*. Usually, the ordinary post services are used but in urgent cases other alternative services can be also handled.

29. The general information about execution is concentrated in the Governmental Agent's Division that is to be transmitted for awareness of the Ministry of External Affairs. The latter submits information for the attention of the Department for the Execution of Committee of Ministries.

30. About the several executorial measures, such as payments of just satisfaction awards and the reopening of the proceedings, the authorities are required to inform the Governmental Agent or his Division by the law or *ex-officio*. Other information is submitted upon the express requests of the Governmental Agent or his Division.

31. Information about the enacting or amending of laws is gathered by common ways of awareness by which a law becomes accessible.

32. The Governmental Agent or his Division examines, in a final instance, all petitions or requests filled by an applicant or by interested parties concerning the execution process. If the contestation of executorial measures implies a judicial examination or, eventually, criminal prosecution, such motions are forwarded to the courts or prosecution bodies and the applicant or other interested parties are recommended to use such proceedings.

II. Drawing-up of action plans/reports and related effective coordination/cooperation with the relevant actors at the national level

33. According to aforementioned, the mechanism(s) of execution foresees that the drawing-up of plans/reports and other related issues would be in competence of the Governmental Agent/Division who should secure coordination and cooperation in entire executorial process. The modalities of acquire of information for reports/plans and for coordination of the measures that should adopted are the same as it was explained above.

34. In case of reports they are submitted to the Ministry of External Affairs for their retransmission for the attention of the Department for the Execution.

35. In case of actions plans, they should be draw-up and adopted by the special Governmental Commission mentioned above. Neither the Governmental Agent nor his Division have any powers to enact norms or plans that can bind authorities. Their role is solely consultative and/or representative one.

36. The same ideas concern to the judgments that reveal systemic or structural problems.

III. Mechanism(s) to ensure dissemination and publication of judgments of the ECtHR and decisions and resolutions from the Committee of Ministers

37. The above considerations in respect of the mechanism(s) for execution have explained how the dissemination and publication of the Court's judgments/decision take place in Moldova. This process is merely relied on the dissemination of the judgments/decisions delivered against Moldova. However, other aspect is the dissemination of the Court's judgments that were adopted in respect of other European states.

38. In this sense the Governmental Agent/Division selects sporadically the relevant case-law of the Court and places the press-releases, in eventuality, or informs directly the authorities. Also, the Governmental Agent/Division replies to the authorities' or judicial requests to submit the relevant case-law of the Court, having translated in full or in part its judgments/decisions.

39. The same mechanism(s) applies in respect of the resolutions/recommendations of the Committee of Ministers, in dissemination of which the Department of International Treaties and Relations of the Ministry of Justice or the special Departments of Ministry of Internal Affairs play also an active role.

As to the difficulties encountered

40. As it can be foreseen from aforementioned, the main role in the execution processes is put on the Governmental Agent and his Division. On the other side they play active role in the pending and litigious proceedings before the Court that also require serious attention. Among other principal difficulties, which can be deduced from above-mentioned, there are the lack of human resources and the barriers on the Governmental Agent's abilities and powers.

41. The Government Agent plays merely a representative role on the legal domestic order and he can only to consult or to initiate enforcement but not to control it effectively. He can acquire information about the enforcement process but he cannot effectively influence that process. The law on the Governmental Agent establishes the duty of all authorities to inform and to collaborate with the Agent but he has no real levers to influence the process. Moldova, however did not meet really serious situations in which the authorities were not collaborative. But the Government Agent can encounter problems in trying to promote enacting of laws or challenging of judicial practices, if the domestic courts are not responsive or there is no political will in legislative body.

42. Also, in the last few years the Division that support the Governmental Agent suffered from a serious migration of its staff from public to private sector. The reasons are clear why. This migration seriously affected the abilities of the Governmental Agent's Division to place its attention on the executorial processes. The main interests of the Division are however placed on the litigious proceedings in cases pending before the Court that have been increased in last few years, especially after the adoption of the Protocol no. 14 to the Convention. The Ministry of Justice envisages reforming the Governmental Agent's Division by enhancing its capabilities and, among others things, by dividing it into two subsections

one of them should supervise only the enforcement processes. Still, the lack of human resources remains an issue to be solved.

43. The dissemination does not reveal problems in respect of the Court's judgments/decisions against Moldova, but the spread of the relevant principles established by the Court's case-law in other cases can be bounded by the language barriers and the lack of sufficient resources for their translation.

44. It seems that the domestic authorities place their attention on the execution of judgments/decisions rather than on preventive measures that can deter future violations.

Pays-Bas/Netherlands

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

1. Mechanisms to ensure timely and effective execution of judgments of the European Court of Human Rights at the national level.

2. Drawing-up of action plans/reports and related effective coordination/cooperation with the relevant actors at the national level.

General

The Netherlands has in the past abided and shall in future abide by all final judgments against the Netherlands of the European Court of Human Rights (hereafter the Court).

The mechanism

The Netherlands has in place to ensure timely and effective execution of judgments of the Court, is not based on a legal framework, but the result of working arrangements between the ministries that developed over time.

The relevant state actors

After the Court renders a judgment in which it finds a violation of the Convention the Dutch Government Agent to the ECHR officially informs the relevant state actors at the various ministries of that judgment and its content. These are usually the same state actors who were already involved in the case when it was still pending before the Court. On the day of the judgment, the relevant Ministers are informed of its content and the possible consequences. If the execution of a judgment entails individual or general measures, the Government Agent has a coordinating function. A few days after the judgment, there is usually a meeting between all relevant departments and services in the different ministries involved and, if applicable, representatives of the judiciary. These actors will decide what means must be deployed to conform to the obligations under the Convention. They will report back to the Government Agent what individual and general measures shall be taken to execute the judgment. Individual measures have, until now, not posed many problems in the Netherlands.

In cases concerning aliens, they usually entail the provision of a residence permit. The possibility of requesting reopening of judicial proceedings is provided by law. As regards general measures, the relevant actors will sometimes decide that a legislative amendment is necessary. However, due to the lengthiness of the legislative process, a modification of decrees, policies or jurisprudence will be preferred where possible. The actors involved will also propose a time table for that execution. After the relevant ministers have

approved the proposed measures, they will be taken without delay. The Government Agent will follow up on the execution of the action plan and will keep the Execution Department informed accordingly.

If the Court has granted the applicant just satisfaction the Government Agent assures the timely payment of the just satisfaction by paying the ordered amount to the applicant from the budget of the ministry of Foreign Affairs. After that, the expenses are recovered from the relevant ministry(ies). This construction serves to minimize the risk of delay in the payment of just satisfaction. Lastly, the Government Agent informs the Execution Department of the timely payment of just satisfaction.

Challenges

The process of executing a judgment can sometimes be quite lengthy if the effective execution of that judgment requires amendment of the domestic law. The drafting of the legislation and the process of parliamentary approval is, logically, time consuming. This process can easily take several years.

Sometimes judgments do not provide the desired clarity on what the duties under the Convention of a Member State are. In addition, sometimes the Execution Department seems to have a broader interpretation of those duties than the judgment implies. These two situations naturally create challenges in the domestic execution process.

Monitoring by the parliament

The Minister of Foreign Affairs – also on behalf of various other Ministers - provides an annual report to the parliament with an overview of the Court’s judgments and decisions against the Netherlands including a summary of the individual and general measures that have been taken that year in specific cases where the Court has found a violation of the Convention. This annual report was instituted more than 10 years ago on request of the Dutch Senate. This instrument guarantees involvement of parliamentarians and facilitates their monitoring of the execution of judgments. It has proven its merits, as in general the Netherlands is quick in the execution of judgments.

III. Mechanisms to ensure dissemination and publication of judgments of the European Court of Human Rights and decisions and resolutions from the Committee of Ministers.

Individual cases are brought to the attention of both parliament and the general public by means of the annual report mentioned under 1.

In addition, the Court’s case law is widely disseminated in the academic sphere in several peer-reviewed law journals, among which:

- EHRC: European Human Right Cases
- NJB: Dutch lawyers magazine (<http://www.njb.nl/>)
- NJCM-bulletin: Dutch human rights magazine(http://www.njcm.nl/site/bulletins/bulletin_info)

Even though the judgments are published in their original language, the summaries of these judgments, are available in the Dutch language fairly soon after the judgment is delivered.

In the presence of this academic debate, the government does not see an additional role in disseminating jurisprudence from the Court.

Norvège/Norway

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

I. Mechanism(s) to ensure timely and effective execution of judgments of the European Court of Human Rights at the national level

The Ministry responsible for the subject-matter of the judgment from the Court also has the responsibility for executing the judgment. However, the Legislation Department in the Norwegian Ministry of Justice has been designated as coordinator for the execution of judgments of the Court, cf. rec. 2008(2) para. 1. The Legislation Department represents the Norwegian Government in the CDDH and sub-committees and is well informed on the requirements arising from the Convention Article 46 and the reporting procedures put in place by the Committee of Ministers and the Execution Department.

The Legislation Department informs the relevant ministries on the requirements arising from the Convention Article 46 and the reporting procedures put in place by the Committee of Ministers and the Execution Department. To the extent necessary the Legislation Department also ensures that other relevant authorities or bodies are involved in the execution process. Normally, at least the Attorney General of Civil Affairs and the Ministry of Foreign Affairs are well informed and involved in the process.

The mechanism has no normative basis, but a circular on the obligations arising from the Convention Article 46 and the reporting procedures put in place by the Committee of Ministers and the Execution Department is under development.

II. Drawing-up of action plans/reports and related effective coordination/cooperation with the relevant actors at the national level

The first Norwegian action plan usually contains the following elements:

1. Introduction
2. If necessary, a résumé of the judgment and the obligations (individual and general) that arises from the judgment
3. Information on initiated and planned individual measures, including payment of compensation
4. Information on initiated and planned general measures, including publication and dissemination of the judgment
5. Conclusion

Subsequent action plans normally only contain information on new general measures (all individual measures are usually implemented within the 6 month time limit).

The responsible Ministry draws up the action plans after receiving necessary input and guidance from the Legislation Department and other relevant bodies, cf. 1 above.

III. Mechanism(s) to ensure dissemination and publication of judgments of the European Court of Human Rights and decisions and resolutions from the Committee of Ministers

Summaries of all judgments against Norway with a link to the original judgment from the Court are published on the website www.lovdata.no. Summaries of other important judgments from the Court are published on the same website. The summaries are written by the Norwegian Centre of Human Rights at the University of Oslo. Lovdata is the principal internet source for legal information in Norway and is widely used by all who practice law, including lawyers, civil servants and judges. The Norwegian Centre of Human Rights at the University of Oslo also publishes a monthly electronic newsletter on important judgments from the Court, including all category one judgments. To the extent necessary judgments of the Court are distributed directly to relevant public authorities and other actors.

Each year the Norwegian Ministry of Foreign affairs publishes a white paper (stortingsmelding) on the cooperation within the Council of Europe. The white paper is presented to the Norwegian Parliament (Storting) and is publicly accessible on the website of the Norwegian Government. In the white paper important achievements of the Council of Europe the last year are presented, including decisions and resolutions from the Committee of Ministers and judgments from the Court.

Pologne/Poland

QUESTIONNAIRE ON THE DOMESTIC MECHANISM FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

1. Mechanism(s) to ensure timely and effective execution of judgments of the European Court of Human Rights at the national level

According to Article 32 of the Law on Government Administration of 1997, representation and protection of the interests of the Republic of Poland abroad, including the representation before international courts and tribunals, has been entrusted to the Minister of Foreign Affairs. This also implies the coordination of the implementation of the European Court's judgment at the national level.

According to § 2 of the Ordinance no. 7 of 2003 on the Government Agent, as amended in November 2010, the Government Agent cooperates with relevant constitutional, governmental and self-governmental bodies. § 3 of the 2003 Ordinance provides that the Government Agent may request the appointment of co-agents, including a co-agent responsible for coordination of the execution of the European Court's judgments.

The Government Agent is supported by the Department for Proceedings before International Human Rights Protection Bodies. In January 2011, a special unit (three persons) within the Department has been created for co-ordination of the execution of judgments of the European Court of Human Rights.

In fulfillment of its tasks, the Government Agent also co-operates with a special unit of the Department of Human Rights in the Ministry of Justice, which, among other things, is in charge of the publication of the Court's judgments and their dissemination to the judiciary.

Since the majority of the violations found by the European Court of Human Rights in cases against Poland concerns the functioning of the judiciary, the two bodies mentioned above cover the implementation of the majority of cases.

However, as other violations of the Convention may result from the wrongdoing of other public authorities, the Prime Minister created, on 19 July 2007, the inter-ministerial Committee for Matters Concerning the European Court of Human Rights.

The inter-ministerial Committee is composed of experts from all ministries, Chancellery of the Prime Minister and the General Solicitor of the State Treasury, and is chaired by the Government Agent. The chair of the Committee may invite other persons to participate in the works of the Committee, in particular the representatives of the public administration, courts, parliamentarians or Ombudsman.

The inter-ministerial 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 system within the government administration. In particular, the Committee has been tasked with the following issues:

- Preparation of proposals of actions aiming at the execution of the Court's judgments with respect to Poland;

- Analyzing 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;
- Analyzing of the most important problems concerning the Court's case-law with respect to other countries;
- Monitoring the implementation of the execution of judgments of the European Court and submitting reports and proposals.

The inter-ministerial Committee may work either in plenary or in working groups charged with particular issues. Public administration organs are obliged provide all the necessary assistance to the Committee, in particular to submit all necessary information and documents.

The Committee is obliged to submit to the Prime Minister quarterly reports about its activities.

2. Drawing-up of action plans/reports and related effective coordination/cooperation with the relevant actors at the national level

The judgments of the European Court of Human Rights are analyzed initially by the unit for co-ordination of the execution of judgments of the European Court of Human Rights which prepares a draft action plan/report and then request the relevant administrative bodies to provide information on individual and general measures.

In case of more complicated cases, special working groups are created (depending on the violation found) or the case is examined by the inter-ministerial Committee.

3. Mechanism(s) to ensure dissemination and publication of judgments of the European Court of Human Rights and decisions and resolutions from the Committee of Ministers

The position of Poland with respect to the **publication and dissemination of the Court's judgments** has evolved with the passage of time. Shortly after the access to the Council of Europe all the judgments of the European Court against Poland have been published. However, taking into account that the majority of cases concerns are the so called "repetitive" or "clone" cases, it has been decided that only the "precedent" or otherwise "leading" cases should be translated, published and disseminated.

All the leading cases against Poland are published on the website of the Ministry of Justice so that all the judges have a direct access to them (www.ms.gov.pl). The Ministry of Justice is also charged with the dissemination of the Court's judgments to the all the courts, the Supreme Court and the National School of Magistrates. Other institutions are also involved in the dissemination process. In particular Police on its Internet site publishes the Court's judgments involving the police forces.

Portugal / Portugal

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

I. Mechanism(s) to ensure timely and effective execution of judgments of the European Court of Human Rights at the national level

L'exécution effective des arrêts rendus par la Cour Européenne des Droits de l'Homme contre le Portugal a toujours été assurée par le biais du «Service de l'Agent du gouvernement», en articulation avec la Mission Permanente du Portugal auprès du Conseil de l'Europe. Ce modèle se présente comme le plus efficace car il est orienté par ceux qui connaissent le mieux chacun des cas et qui sont en meilleures conditions pour tracer les plans et définir les actions qui s'avèrent nécessaires et adéquates à l'exécution, et qui, ensuite, mieux centraliseront aussi les contacts avec les différentes entités.

II. Drawing-up of action plans/reports and related effective coordination/cooperation with the relevant actors at the national level

Ayant à l'esprit chaque arrêt sont prévues, en concret, les mesures qui se montrent les plus adéquates et, en conformité, est dressée la liste des entités qui doivent être impliquées dans l'exécution.

En général, est sollicitée la collaboration des Conseils supérieurs soit de la magistrature judiciaire, soit des Tribunaux administratifs et fiscaux, soit du Ministère public, visant à la divulgation et sensibilisation des magistrats pour la jurisprudence de la Cour Européenne des Droits de l'Homme, ainsi qu'à l'adoption d'autres mesures de gestion, considérées adéquates. Souvent, est également sollicitée la collaboration des écoles de formation de magistrats ou d'officiers de police afin d'inclure dans leurs programmes la matière des arrêts de la Cour Européenne, en particulier ceux qui concernent le Portugal.

Lorsque sont en cause des pratiques administratives on sollicite la collaboration des dirigeants des secteurs respectifs de l'administration publique visant à l'adoption de mesures de correction de pratiques erronées et à la sensibilisation des fonctionnaires. Et lorsqu'une mesure d'ordre législatif se montre adéquate, la situation est communiquée au service compétent du département de politique législative pour l'inclusion de la matière dans les réformes législatives en cours.

Enfin, en ce qui concerne les paiements d'indemnités octroyées, respectifs montants, délais et éclaircissements de doutes concernant des cas spécifiques, il y a un contact permanent entre le "Service de l'Agent" et les services des secrétariats généraux du Ministère de la justice et du Ministère des finances, où des procédures adéquates sont déjà consouées.

En général, et compte tenu que dans les cas contre le Portugal ont prédominance les cas «répétitifs» (en particulier, les cas liés à un retard dans la justice), les mesures de fond adéquates à l'inversion de la situation sont pondérées et ont donné lieu à des réformes successives; en particulier dans les législations processuelles et dans l'organisation judiciaire, de nouvelles réformes sont à l'heure actuelle en cours. Cependant, le non ralentissement du recours des citoyens devant les tribunaux n'a pas permis une résolution rapide de la situation, comme il serait souhaitable.

III. Mechanism(s) to ensure dissemination and publication of judgments of the European Court of Human Rights and decisions and resolutions from the Committee of Ministers

Les arrêts de la Cour Européenne des Droits de l'Homme rendus contre le Portugal sont publiés, d'immédiat, dans la page officielle du Bureau de documentation et droit comparé de l'Office du Procureur général (où fonctionne le Service de l'Agent), dans un lieu propre dédié à la Cour Européenne et sa jurisprudence. De même, sont publiés sur cette page les principales Résolutions et d'autres documents pertinents (par exemple, le Guide pratique sur la recevabilité, la note de la Cour sur les arrêts pilote, ou les Déclarations d'Interlaken et d'Izmir).

Les arrêts sont traduits et publiés en portugais (sauf en cas répétitifs). De même, est prévue la traduction d'autres documents, d'intérêt majeur, ce qui est toutefois dépendant de la disponibilité des services de traduction, dont la priorité est nécessairement accordée aux observations et à d'autres actes de procédure.

D'autre part, jusqu'à l'an 2007 (inclus) a été publiée par le "Service de l'Agent» une brochure annuelle avec des résumés de la jurisprudence sélectionnée de la Cour Européenne des Droits de l'Homme. Et jusqu'en 2009 (inclus) a été publiée une chronique annuelle sur la jurisprudence de l'année précédente, de la responsabilité d'un ancien agent du Gouvernement portugais devant cette Cour, dans une revue juridique de domaine national. Dans les deux cas, cette sélection de jurisprudence concernait soit le Portugal soit d'autres Etats membres.

À présent, une publication officielle est en préparation (en livre) contenant la jurisprudence principale de la Cour Européenne des Droits de l'Homme vis-à-vis du Portugal pendant les 10 dernières années.

Roumanie/Romania

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

I. Mechanism(s) to ensure timely and effective execution of judgments of the European Court of Human Rights at the national level

Information on the mechanism(s) put in place by your country to execute judgments of the European Court effectively and rapidly (i.e. mandate to initiate and/or take the necessary measures to accelerate the execution process, including mechanisms securing the payment of just satisfaction) would be welcomed. In this respect, replies to the following elements would be appreciated: i) the mechanism's normative basis; ii) mandate/scope of action; iii) coordination function (modalities to liaise with persons or bodies responsible at the national level for deciding on the measures necessary to execute the judgments) and iv) modalities to acquire information from other state actors. Information on challenges faced by states to fulfill their role in the aforementioned fields would be valuable. In this context, any action to ensure synergies between the relevant national actors involved in the execution process would also be welcomed.

The mechanism's normative basis is represented by the Government Ordinance no. 94/30 August 1999, published in the Official Journal no. 424/31 August 1999, as modified by the Government Urgency Ordinances nos. 64/28 June 2003, published in the Official Journal no. 464/29 June 2003 and 48/21 April 2008, published in the Official Journal no. 330/25 April 2008 and approved by Law no. 191/21 October 2008, published in the Official Journal no. 728/28 October 2008.

The enforcement of ECHR's judgments, regarding both individual and general measures, is supervised by the Directorate of the Government Agent for the European Court of Human Rights within the Ministry of Foreign Affairs.

In this context, it also supervises the payment of the just satisfaction awarded by the European Court – by transmitting the necessary data to the Ministry of Public Finances in order for this authority to pay the sums awarded by the Court.

Regarding individual measures other than the payment of just satisfaction, the aforementioned directorate informs the authorities involved about the measures of this nature required to enforce a ECHR judgment and the need to fulfill the obligations implied in order to fully execute the judgment.

Concerning general measures, the directorate initiates and coordinates the actions of the actors involved. Thus, it raises awareness as to the possible general measures implied by the European Court's judgments and consults and coordinates the authorities involved in order to carry into effect the necessary actions in order to fulfill the obligations required by the judgment.

As for the modalities to liaise with persons or bodies responsible at the national level for deciding on the measures necessary to execute the judgments and the modalities to acquire information from other state actors, they are accomplished by means of written correspondence, consultations, meetings and inter-ministerial working groups (see below, point 2).

II. Drawing-up of action plans/reports and related effective coordination/cooperation with the relevant actors at the national level

It would be important to receive information on how your country draws up action plans/reports regarding the implementation of the Court's judgments. Good practice and challenges faced by your authorities in relation to the coordination of the drafting of action plans/reports, in particular in respect of judgments revealing structural problems, would be appreciated.

The action plans/reports are drawn-up, in particular with regard to judgments revealing structural problems or special issues, following consultations held with the authorities concerned, meetings and inter-ministerial working groups.

As an example in this sense, in order to comply with the European Court's pilot judgment rendered in the *Maria Atanasiu and others* case (concerning properties nationalised during the communist period in Romania), an inter-ministerial committee ("the inter-ministerial committee concerning the process of reformation of the legislation and procedures in the field of restitution of properties") was constituted in order to accomplish the general measures required for solving the problem identified by the Court. This group consists of representatives of the following authorities: the National Authority for the Restitution of Properties, the Ministry of Justice, the Ministry of Public Finances, the Ministry of Administration and Interior, the Ministry of Agriculture and Rural Development, the Ministry of Environment and Forests, the Ministry of Foreign Affairs, the Working Office of the Prime Minister and the Authority for State Assets Recovery. Regular consultations also took place between the abovementioned committee and the parliamentary sub-commission for supervision of the execution of the ECHR's judgments within the Chamber of Deputies.

Another example would be the constitution of the group of experts concerning Moldovan and others group of cases, with a view to insure the full compliance of the undertakings of the Romanian government in respect of general measures aimed at fighting against the discrimination against Roma. The aforementioned group is coordinated by the cabinet of the vice prime-minister and consists of representatives of the following authorities: the National Agency for the Roma, the General Secretariat of the Government, the Ministry of Administration and Interior, the Ministry of Foreign Affairs and the Ministry of Regional Development and Tourism. The role of this group is, among others, to evaluate the manner in which the activities implied by the enforcement of the Court's judgments

in this group of cases were implemented and to indicate the necessary works in order to fulfill all the objectives and the necessary financial effort in this respect.

III. Mechanism(s) to ensure dissemination and publication of judgments of the European Court of Human Rights and decisions and resolutions from the Committee of Ministers

Information on how your authorities ensure translation and rapid and adequate dissemination of the Court's judgments and the decisions and resolutions of the Committee of Ministers to the relevant actors would be appreciated. Any other actions necessary to ensure that the relevant actors are sufficiently acquainted with the Court's case-law and the Committee of Ministers practice would be welcomed (e.g. dissemination of the Committee of Ministers recommendations and annual reports). It would be useful to share information on difficulties encountered by your countries and any initiatives taken to improve the existing mechanism(s) in this field.

According to the relevant legislation in the field (presented above - see point 1), the institution of the Government Agent may solicit the publication in the Official Journal of ECHR decisions and judgments concerning Romania. As a rule, the judgments revealing structural problems or special issues (for example, problems with which the Court had not dealt before with respect to Romania) are published in the Official Journal.

Also, the applicant in a case in which the European Court rendered a judgment by which it held that there had been a violation of the Convention may solicit the free publishing of the judgment in the Official Journal, in view of introducing a request for revision according to Article 322 paragraph 9 of the Code of civil procedure or Article 408¹ of the Code of criminal procedure. In this case, the ECHR judgment is published within 3 months from the date of the registration of the request.

The translation is insured by the European Institute of Romania, in virtue of the Protocol of collaboration signed to that effect with the Ministry of Foreign Affairs – the institution of the Government Agent, the scope of the aforementioned protocol being the cooperation in view of improving the access to the Strasbourg Court's judgments and decisions. Moreover, the translations are published on the internet site of the institute (www.ier.ro).

On 16 March 2011, a Protocol was also signed between the Ministry of Foreign Affairs – the institution of the Government Agent and Freedom House Romania with the aim of drafting a report on the situation of the Romanian cases before the ECHR, organizing seminars for journalists and magistrates on the Strasbourg Court's judgments, promotion of a campaign of awareness raising on human rights and drafting proposals of improvement of the legislation in force, where such a measure is necessary.

Moreover, there are legal magazines - such as the one of the National Institute of Magistracy ("Themis"), that are distributed freely to the judges and prosecutors. The aforementioned magazine includes also judgments of the courts applying the Convention

and the jurisprudence of the ECHR. Other legal magazine doing so are “The judicial messenger” and the revue issued periodically by the Superior Council of Magistracy (“Justice News”).

The Protocol signed between the Ministry of Foreign Affairs and the National Institute of Magistracy dates from November 2003 and concerns the cooperation concerning the formation of justice auditors and the continuous formation of magistrates in the field of the protection of human rights. The abovementioned institute has, as part of its core curriculum for the second year of studies, the subject “European Convention on Human Rights”. The subject is also taught at the National Institute for the Preparation of Lawyers. The purpose is to allow law professionals to become familiarized with the ECHR case-law and, particularly, with the case-law issues concerning Romanian legislation and practice, as part of the broader effort of dissemination of the ECHR case-law.

In addition, the persons working within the institution of the Agent of the Government to the European Court of Human Rights give lectures concerning the European Human Rights Convention and the case-law of the European Court of Human Rights for members of various professional sectors, including judges, prosecutors, lawyers and law enforcement officers upon request from the institutions that insure the preparation and professional training of those above-mentioned.

Also, the translated ECHR judgments concerning Romania including the period 1998-2006 (3 volumes) were published in cooperation with the Information Bureau of the Council of Europe and distributed freely to all courts.

All judgments concerning Romania were also presented within the volumes “Judgments of ECHR rendered in cases against Romania between 1994-2009. Analysis. Consequences. The authorities responsible » and “Judgments of ECHR rendered in cases against Romania in 2010. Analysis. Consequences. The authorities responsible”, Academic Publishing House, a project that was supported by the Association of European Magistrates for Human Rights, the Center for European Law Studies of the Institute for Judicial Research within the Romanian Academy, the Association Forum of Judges of Romania and the Revue Forum of Judges.

The Romanian Institute of Human Rights has translated and published Mr. Berger's book “European Court of Human Rights’ case-law”.

Judgments against Romania are published in several widespread legal magazines. Moreover, they are disseminated to courts, the Superior Council of Magistracy and the other authorities specifically concerned/involved in the case.

The ECHR case-law against Romania is published on the internet site of the High Court of Cassation and Justice (www.scj.ro) in Romanian, French and English. It is also published on the internet site of the Superior Council of Magistracy (www.csm1909.ro).

Information on case-law concerning Romania and on other aspects related to the ECHR (such as how to fill in an application form to the Court) are also available on the internet site of the Information Bureau of the Council of Europe, www.coe.ro and on that of the Ministry of Foreign Affairs – institution of the Government Agent – www.mae.ro. The ECHR’s Practical guide on admissibility criteria was also translated and published on the latter website.

As for the decisions, resolutions, recommendations and annual reports from the Committee of Ministers, awareness is raised by means of their dissemination in the context of the consultation and cooperation with the authorities concerning the enforcement of the Strasbourg Court’s decisions and judgments.

With regard to annual reports, the institution of the Government Agent issues press releases concerning the conclusions reached by the Committee of Ministers concerning Romania, including detailed statistics on the situation of Romania in the field of execution of the Strasbourg Court’s judgments.

Fédération de Russie/
Russian Federation

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

I. Mechanisms to ensure rapid and effective enforcement of the judgments of the European Court of Human Rights at the national level

In connection with the ratification of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter - "the Convention") and to ensure effective protection of the interests of the Russian Federation in cases pending before the European Court of Human Rights (hereinafter - "the European Court"), the President of the Russian Federation issued Decree of 29 March 1998 no. 310 (hereinafter - "Decree no. 310"), On the Representative of the Russian Federation at the European Court of Human Rights - Deputy Minister of Justice of the Russian Federation (as amended by Decrees of 22.12.1999 no. 1678, of 28.06.2005 no. 736, of 20.03.2007 no. 370, of 07.05.2007 no. 585s, of 14.12.2008 no. 1771, of 06.07.2010 no. 836).

Pursuant to said Decree no. 310:

The position of the Representative of the Russian Federation at the European Court of Human Rights - Deputy Minister of Justice of the Russian Federation (hereinafter - "the Representative") - has been established.

The Regulation on the Representative of the Russian Federation at the European Court of Human Rights - Deputy Minister of Justice of the Russian Federation (hereinafter - "the Regulation") - has been approved.

It is stated that the Government of the Russian Federation in developing draft federal laws on the federal budget provides for a separate item costs to protect the interests of the Russian Federation at the European Court of Human Rights and payment of monetary compensation to the applicants in the case of the relevant decisions delivered by the European Court of Human Rights.

Presently, the material support and other support of the activities of the Representative is performed by the Ministry of Justice of the Russian Federation in accordance with Presidential Decrees of 13 October 2004 no. 1313 (as amended of 12 July 2011) Issues of the Ministry of Justice of the Russian Federation, of 20 March 2007 no. 370 Issues of Support of the Activities of the Representative of the Russian Federation at the European Court of Human Rights — Deputy Minister of Justice of the Russian Federation.

According to the Regulation on the Representative, basic functions actually performed by the Representative, include:

Analysis of the legal consequences of the judgments of the European Court delivered in respect of the Member States of the Council of Europe, as well as preparation, in the light of the European Court's case law and the Committee of Ministers of the Council of Europe, the recommendations on improvement of the Russian legislation and case-law, and also on participation of the Russian Federation in international treaties and on developing the international law, complying with the interests of the Russian Federation;

Ensuring cooperation between the federal state authorities, state authorities of the constituent entities of the Russian Federation and local self-governments in enforcement of the judgments of the Court and the decisions of the Committee of Ministers of the Council of Europe in relation to the complaints about violations of the Convention by the Russian Federation, including the restoration of violated rights of the applicants, payment of monetary compensation awarded by the Court and general measures taken to address and (or) prevent violations of the mentioned Convention provisions by the Russian Federation.

The Representative, in accordance with the abovementioned functions assigned to him/her shall:

In the event that the Court delivers a judgment on violation of the Convention by the Russian Federation, notify all the concerned federal state authorities, state authorities of the constituent entities of the Russian Federation, state authorities of local self-governments, which no later than one month after the receipt of notification shall notify the Representative on measures taken to ensure the enforcement of the judgment of the Court through correction of violations of the Convention, including the restoration of violated applicants' rights, and (or) prevention of such violations, and shall direct the confirming documents to the Representative for their subsequent submission to the Committee of Ministers of the Council of Europe;

Regardless of the nature of the violations revealed by the European Court, inform the Constitutional Court of the Russian Federation, the Supreme Court of the Russian Federation, the Supreme Commercial Court of the Russian Federation and the Prosecutor General's Office of the Russian Federation of the indicated judgment delivered by the Court;

In the event that the Court delivers a judgment to award the compensation to the applicant for the damage incurred, prepare and forward the documents necessary for the payment of the compensation to an authorized agency (presently, the Administration of the Russian Ministry of Justice), which no later than 15 days upon the receipt shall pay the appropriate sum to the applicant and send copies of the payment documents to the Representative in confirmation (as noted above, the budgetary allocation for payment of compensation is included into the federal budget for the Russian Ministry of Justice for the respective year, the practice is formed regarding the advance request of the bank account details from the applicants to ensure observance of the terms of enforcement of the European Court judgments regarding the payment of just compensation amounts);

Ensure, in conjunction with concerned federal state authorities, the development of relevant draft laws and submit, according to the established procedure, the proposals on use of the right of legislative initiative, if the enforcement of the decisions of the Court is related to amendments and supplements to the federal laws;

Ensure, together with the relevant federal executive bodies, preparation of drafts of the relevant regulations and submit the same for consideration by the relevant state authorities, if enforcement of the Court's judgments is connected with amendments and supplements to the regulations of the President of the Russian Federation, the Russian Government, and other regulations;

Inform the Permanent Representative of the Russian Federation at the Council of Europe about enforcement or the progress of enforcement of the Court's judgments and render him/her advisory assistance upon consideration of questions of violations of the Convention by the Committee of Ministers of the Council of Europe; where necessary, set up working groups composed of representatives of the federal state authorities.

In addition, with a view of improvement of the legal system of the Russian Federation, by Decree no. 657 of 20 May 2011 of the President of the Russian Federation On Monitoring of Enforcement of Law in the Russian Federation, the Ministry of Justice of Russia was authorized to monitor the law enforcement in the Russian Federation, in order to enforce the decisions of the Constitutional Court of the Russian Federation and judgments of the European Court, under which it is required to adopt (issue), amendment or declaring void (abolition) of legislative or other regulatory acts of the Russian Federation, and to coordinate the monitoring of the law enforcement carried out by the federal executive bodies, and its procedural guidelines. This Decree of the Russian Federation in the Russian Ministry of Justice will be directly implemented by the Department of Legislative Drafting and Law Enforcement on close cooperation with the Representative and his/her Office, other subdivisions of the Russian Ministry of Justice and the competent state authorities.

Therefore, currently, necessary frameworks are created and implemented in order to ensure the enforcement of the judgments of the European Court and to take required individual and general measures for elimination and prevention of future violations of the Convention, as found by the European Court.

II. Preparation of Action Plans/Action Reports and ancillary effective coordination/cooperation with the relevant authorities and officers

Following the entry into force the European Court's judgments, as noted above, are forwarded to the competent state authorities.

If a violation of the Convention provisions is found in a judgment, upon sending of the judgment by the Representative, the question about adoption of individual and general

measures for elimination of violations and prevention thereof in the future, including bringing proposals in the action plan of the Russian authorities and time-limit for taking the relevant measures, is raised. The submitted information and proposals are included in the Action Report/Plan with further submission to the Secretariat of the CMCE. And, where necessary, in cases of disputed issues and controversies among departments, activity is performed with a view to elaborate a common position. Such practice proved its efficiency upon enforcement of a number of judgments, including those identifying system problems. The enforcement of the 'pilot' judgments in *Burdov v. Russia (2)*, judgments in groups *Kalashnikov*, *Khashiev*, etc., may be given as positive examples of such activity.

The questions requiring additional discussion within the dialogue of the representatives of the member states to the Convention at a round table may include the following questions: subsidiary role of the CMCE and its executive divisions as one of the fundamental principles for Convention mechanism, the interpretation of the term "complex problems" is applicable to the criteria of assignment of a case as falling under the procedure of enhanced monitoring of the CMCE, introduction of additional form of document as an interim report and other relevant issues related to the enforcement of the European Court's judgments.

III. Ensuring dissemination and publication of the judgment of the European Court and the resolutions and decision of the CMCE

The translation of all final decisions and judgments of the European Court in respect of Russia is arranged in the Office of the Representative, with engagement of a translation company. The translations of the relevant judgments, as noted above, are sent to the competent state authorities and local administrations for information, use in practice and adoption of measures for elimination and prevention in the future of violations of the Convention found. Similarly, the decisions and the resolutions of the CMCE in respect of Russia are translated and disseminated.

In addition, the European Court's judgments, the decisions and the resolutions of the CMCE are translated and sent to other countries, when such judgments and documents raise case issues and important general issues.

Some European Court's judgments, decisions and resolutions of the CMCE and press releases of the said bodies are published on the web site of the Ministry of Justice of the Russian Federation.

Serbie/Serbia

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

I. Mechanism(s) to ensure timely and effective execution of judgments of the European Court of Human Rights at the national level

The execution of judgments of the ECtHR in the Republic of Serbia is coordinated by the state Agent before the ECtHR. Namely, the Decree on the Agent of the Republic of Serbia before the ECtHR provides that the agent “ensures for the implementation of judgments of the ECtHR” (stara se o izvršenju presuda ECtHR).⁹ The same Decree prescribes that all state authorities have been obliged to provide the Agent relevant information and documents, as well as necessary legal and administrative assistance.¹⁰

The judgments of the ECtHR are published in the Official Gazette of RS and this is also regulated by the same Decree, mentioned above.¹¹ Also, it provides that when the Agent in relation to the applications lodged before ECtHR against Serbia, finds that the domestic legislation is not in compliance with the Convention, he/she will inform the competent state authorities and the Government and indicate the necessity of putting certain legislation in compliance with the Convention.

In principle, the above mentioned Decree is the only normative basis concerning the execution of judgments of the European Court.¹²

The Agency Sector before ECtHR serves as the focal point that needs to inform other state actors and provide information (both to the Department for execution of ECtHR judgments and to the state institutions), initiate activities and measures necessary for execution of judgments. It also ensures that the judgments are translated and published. The acquisition of information from other state actors usually means that the Agent requires certain information from the competent state actors, while these actors provide the relevant information. The provided information are shaped into reports, action plans, etc., depending on the concrete activity.

⁹ The Decree on the Agent of the Republic of Serbia before the European Court for Human Rights, Article 6, paragraph 2 reads as follows: *If a judgement of the European Court of Human Rights shall establish that the Republic of Serbia had violated the Convention, the Agent shall ensure its execution.*

¹⁰ Supra, Article 4

¹¹ Supra, Article 6, par. 1

¹² Besides Article 18 of the Constitution of the Republic of Serbia, that provides the direct implementation of human rights guaranteed by the Constitution, generally accepted rules of international law, ratified international treaties and laws:

Human and minority rights guaranteed by the Constitution shall be implemented directly.

The Constitution shall guarantee, and as such, directly implement human and minority rights guaranteed by the generally accepted rules of international law, ratified international treaties and laws. The law may prescribe manner of exercising these rights only if explicitly stipulated in the Constitution or necessary to exercise a specific right owing to its nature, whereby the law may not under any circumstances influence the substance of the relevant guaranteed right.

Provisions on human and minority rights shall be interpreted to the benefit of promoting values of a democratic society, pursuant to valid international standards in human and minority rights, as well as the practice of international institutions which supervise their implementation.

In order to ensure synergies between the relevant national actors involved in the execution process, the Agent visits courts, takes part in different kinds of meetings and discussions indicating the importance to respect the Convention and also to execute the judgments of the European Court.

II. Drawing-up of action plans/reports and related effective coordination/cooperation with the relevant actors at the national level

The challenges faced by the state authorities and the Agent in particular (since this Sector should at the end of the day provide relevant information) concern the drawing-up of the action plans/reports. The problems particularly arise in respect of judgments revealing structural problems. When the structural problems have been found, it is usually necessary to involve several state actors, changes of legislation may be needed, different implications have to be assessed (in particular those concerning state budget). Also, it is necessary to follow the domestic procedures and it is often not an easy task to reach a consensus between all concerned and to provide the implementation of the general measures needed. The good example of this is the Action Plan submitted with regard to the problem of non-execution of domestic judgments rendered against socially-owned companies (EVT group of judgments). In the drafting of this Action Plan representatives of several different institutions have been included.

Sometimes, there are difficulties in understanding of state institutions regarding the State obligations under Article 46 of the Convention. However, mostly the Agency Sector has good cooperation with courts, ministries and other relevant actors in the process of informing of the Committee of Ministers of the developments in a particular case.

III. Mechanism(s) to ensure dissemination and publication of judgments of the European Court of Human Rights and decisions and resolutions of the Committee of Ministers

As it was mentioned under point 1, the Agent ensures that the Court's judgments and the decisions are translated and disseminated. They are published in the Official Gazette and available through different data basis for lawyers. Also, judgements are published on the website of the Agent, including translation into Serbian. The collection of selected judgements and decisions against Serbia is published once a year.

Regarding resolutions of the Committee of Ministers, there is no legal obligation to publish them in the Official Gazette. However, since the Agency Sector represents the Republic of Serbia at the DH CM meetings, it also ensures that the relevant information is forwarded to the concerned state actors. The resolutions, recommendations and decisions with their translations into Serbian are also forwarded to the relevant state institutions.

République Slovaque/Slovak
Republic

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

I. Mechanism(s) to ensure timely and effective execution of judgments of the European Court of Human Rights at the national level

In the Slovak Republic it is the government agent who ensures and supervises the proper execution of the Court's judgments, submits reports to the Committee of Ministers of the Council of Europe on the general and individual measures taken in the Slovak Republic in connection with their execution, and prepares the necessary documents with a view to terminate the supervision of such execution.

Since 2003 the members of the government agent's office regularly participated at meetings of the Committee of Ministers' Deputies of the Council of Europe and bilateral negotiations with the Council of Europe Secretariat. Participation in such meetings and bilateral negotiations aids to the government agent responsible for execution at national level to have a clear idea of what is expected of the state during the execution phase.

II. Drawing-up of action plans/reports and related effective coordination/cooperation with the relevant actors at the national level

It is the role of the government agent the drawing-up of action plans and the coordination/cooperation with the relevant actors at the national level. This model ensures the effective execution of the Court's judgments because of the fact that the agent is already aware of the details of a case, and can quickly identify the general and individual measures that need to be adopted.

III. Mechanism(s) to ensure dissemination and publication of judgments of the European Court of Human Rights and decisions and resolutions of the Committee of Ministers

The Slovak translations of all judgments of the Court against the Slovak Republic and of the important admissibility decisions are regularly published in the journal *Justičná revue*. The Committee of Ministers recommendations and their Slovak versions are published on the website of the Ministry of Justice.

The government agent and co-agent as the external members of the Pedagogic department of the Judicial Academy are lecturing regularly at seminars for judges, senior court officers and prosecutors about the Court's case-law and the Committee of Ministers' practise. The organisation of regular seminars for judges and prosecutors has helped also to bring about a significant improvement in the length of time taken by the

latter and the quality of the information they forward at the agent's request with a view to prepare the Slovak Republic's observations for the Court and the Committee of Ministers. The government agent is in intensive contact with the Constitutional Court with a view to harmonise the case-law thereof with the Court's.

Slovénie/Slovenia

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

I. Mechanism(s) to ensure timely and effective execution of judgments of the European Court of Human Rights at the national level

Weak and not effective execution of European Court of Human Rights judgments in Member States of the Council of Europe does not contribute to the effective implementation of the rule of law in these Member States. The Republic of Slovenia therefore has some normative mechanism(s) in practice that do provide for the enforcement of the ECHR judgments, however, it does not have a special normative mechanism with respect to systemic responses to ECHR decisions on systemic problems of Slovenia's legal order or similar problems that are common to all or many Member States.

For the enforcement of ECHR judgments in the area of criminal law (criminal charges concerning only criminal offences, not minor offences - misdemeanours!) there is a special provision in the Criminal Procedure Act of 1994 (with amendments up to 2009) stating that the criminal proceedings shall be renewed in favour of the convicted person by the (criminal) court of the Republic of Slovenia if the decision of the European Court of Human Rights is focused on any reason for renewal of criminal proceedings (Article 416 of the Criminal Procedure Act). There is no similar procedure for civil proceedings in Slovenia's legislation, however there is currently a relevant case pending at the Constitutional Court of the Republic of Slovenia to address this issue.

Slovenia's Courts Act of 1994 (with amendments up to 2011) also contains a general norm stating that the decision of the European Court of Human Rights has to be enforced by the appropriate court of the Republic of Slovenia, but only if an international treaty (the European Convention on Human Rights) or a statute regulating certain judicial proceedings (Act of the National Assembly of the Republic of Slovenia) requires so (Article 113 of the Courts Act). As was already stated in previous paragraph, such special regulation exists only for the area of renewal of criminal proceedings.

Any other decisions of the European Court of Human Rights concerning the Republic of Slovenia are enforced, when they include a(n) (pecuniary) obligation for the Republic of Slovenia, by the State Attorneys' Office of the Republic of Slovenia (Article 27, paragraph 2 of the Republic of Slovenia Budget for 2011 and 2012 Implementation Act of 2010, with amendments up to 2011 in connection with Article 11, paragraph 1 of the State Attorneys' Act of 1997, with amendments up to 2009). In short, the State Attorneys' Office pays the compensation to the aggrieved party on behalf of the Republic of Slovenia.

At the end, there is no specialised system for enforcing or systemically implementing the ECHR decisions in Slovenia. In cases of systemic or semi-pilot judgments (like *Matko v. Slovenia* of 2006 or *Lukenda v. Slovenia* of 2005) there is usually a quick legislative reaction by the executive authority of the Republic of Slovenia (the competent Ministry), and in preparation of such reaction actors from the State Attorneys' Office, police, judiciary, state prosecution, civil society etc. do participate.

Slovenia takes into account also other systemic judgments of the European Court of Human Rights, even if they were issued against other Member State. For example, the case of *S. and Marper v. the United Kingdom* (2008) we have included the decision of the Court in the new (Draft) police legislation of the Republic of Slovenia that shall be presumably adopted by the National Assembly of the Republic of Slovenia (the Parliament) in November 2011.

For additional information with respect to Slovenia's action(s) in the semi-pilot case of *Lukenda v. Slovenia* (2005) see: *Responding to Systemic Human Rights Violations - An Analysis of 'Pilot Judgments' of the European Court of Human Rights and Their Impact at National Level*, Philip Leach, Helen Hardman, Svetlana Stephenson, Brad K. Blitz, Intersentia, Antwerp, Oxford, Portland, 2010 (pp. 180-181 and 75-104).

II. Drawing-up of action plans/reports and related effective coordination/cooperation with the relevant actors at the national level

The European Court of Human Rights decided in the case of *Lukenda v. Slovenia* (2005) in relation to Article 46 in the Convention, that the length of judicial proceedings remained a major problem in Slovenia. It therefore encouraged Slovenia to amend the existing ranges of legal remedies and add new program for friendly settlements with respect structural problems of court backlogs in Slovenia. In 2006 and following a proposal by Slovenian Government, a special Act was adopted, to aid parties in legal proceedings that introduced acceleratory legal remedies in cases of excessively long judicial proceedings as well as means of just satisfaction (compensation - especially financial). Furthermore, a special program (The Lukenda Project) for elimination court backlogs that contains a series of measures relating to staff, premises and finances was adopted at the end of 2005. This program has proven to be successful. The effectiveness of implementation of the Act on the Protection of the Right to a Trial without Undue Delay of the Republic of Slovenia (of 2006, with amendments up to 2009) and The Lukenda Project of 2005 is constantly being monitored by the European Court of Human Rights and, so far, the reviews have been positive. In 2009 amendments of the above-mentioned act that was adopted by the legislative authority. They are aimed at straitening the effectiveness of the implementation of the Act, thus providing additional protection to the right of parties in legal proceedings to a trial without undue delay and trial within reasonable time. In 2009 the top of judicial branch, which, in terms of the division of powers and independence of the courts is, of course, independent both from the executive as well as the legislative branches, assessed that the project for elimination backlogs was being implemented fairly successfully.

The Interlaken Declaration and Action Plan of February 2010 specified that priority should be given to full and expeditious compliance with the Court's judgments. Slovenia fully agrees with the Interlaken Declaration and Action Plan.

III. Mechanism(s) to ensure dissemination and publication of judgments of the European Court of Human Rights and decisions and resolutions from the Committee of Ministers

The duty of the Republic of Slovenia is to provide the text of the Slovenian judgments of the European Court for Human Rights in Slovenian language. Most of the substantive judgments are published on the web site of the State Attorneys` Office. (<http://www2.gov.si/dp-rs/escp.nsf>). Given that, Slovenia didn't detect any problems to ensure dissemination and publication of judgments of the European Court of Human Rights.

In 2009 Slovenia also published a renovated (the status of the case law is as of April 2009) Short guide to the European Convention on Human Rights of Donna Gomien - in Slovene language and distributed it free of charge to all judges, state attorneys, state prosecutors, lawyers (private attorneys), Ministries, the Police and Members of the National Assembly.

Committee of Ministers recommendations are unfortunately not systemically translated in Slovene language and widely disseminated. An exception, which might be a beginning of better practice is the translation and publication (at the web page of the Ministry of Justice of the Republic of Slovenia) of the Recommendation CM/Rec(2010)3 of the Committee of Ministers to member states on effective remedies for excessive length of proceedings. The text of the translated Recommendation has been widely distributed, also to the judiciary.

Espagne / Spain

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

I. Mechanism(s) to ensure timely and effective execution of judgments of the European Court of Human Rights at the national level

La supervision de l'exécution des arrêts de la Cour EDH à l'égard de l'Espagne est coordonnée par la Sous-direction générale des affaires constitutionnelles et des Droits de l'Homme, qui relève du Service juridique de l'État – Direction du Service Juridique de l'État (Ministère de la Justice)¹³. Ses fonctions sont régies par le Règlement du Service juridique de l'État approuvé par le Décret Royal 997/2003, du 25 juillet, et modifié par le Décret Royal 247/2010, du 5 mars. Même si cette Unité a pour mission principale, en ce qui concerne la Cour EDH, de représenter et de défendre juridiquement le Royaume d'Espagne devant la Cour EDH, ainsi que d'examiner et de préparer les rapports, les observations et les mémoires qui devront être présentés à cette dernière, elle assume également, pour des raisons évidentes, un rôle essentiel dans le suivi de l'exécution des arrêts contre l'Espagne. Pour ce faire, cette Unité travaille en coordination avec le Ministère des Affaires Etrangères et de la Coopération, et tout particulièrement avec la Représentation Permanente auprès du Conseil de l'Europe, l'assistant dans "les affaires et procédures sur les Droits de l'Homme", ainsi que le prévoient ses attributions.

Pour mener à bien cette fonction, elle requiert des organes judiciaires, des départements ministériels et des autorités de l'État, des communautés autonomes et des Administrations publiques, les informations et la collaboration nécessaires, entre autres choses, à la supervision de l'exécution des arrêts. À cet effet, l'article 3, alinéa 1.f) du Règlement du Service juridique de l'État accorde à ladite Sous-direction la faculté de collecter de la part des organes judiciaires, des départements ministériels et des autorités de l'état, des communautés autonomes et des administrations publiques, en général, les informations de fait, ainsi que toute la collaboration qui s'avèrera nécessaire pour une bonne représentation du Royaume d'Espagne dans les affaires à son encontre auprès de la Cour européenne des Droits de l'Homme et des autres organes des droits de l'homme du Conseil de l'Europe.

Il convient de noter que la représentation ainsi que la défense lors des audiences qui concernent l'État auprès du Tribunal Constitutionnel et de la Cour EDH, sont regroupées dans la même Sous-direction. Cela revêt de l'importance si l'on prend en considération le fait que toutes les questions relatives à la Convention européenne des Droits de l'Homme, et par conséquent aux droits fondamentaux, sont de nature éminemment constitutionnelle (cf. article 10.2 de la Constitution espagnole).

¹³ *Abogacía General del Estado – Dirección del Servicio Jurídico del Estado (Ministerio de justicia)*

En vue de favoriser les synergies entre les organes judiciaires, les départements ministériels et les autorités de l'État, des communautés autonomes et des Administrations Publiques, qui pourraient avoir des responsabilités en matière d'exécution des arrêts contre l'Espagne prononcés par la Cour EDH, la Sous-direction générale des affaires constitutionnelles et des Droits de l'Homme favorise la sensibilisation à la jurisprudence de la Cour EDH essentiellement au moyen d'une diffusion et d'une traduction rapide des arrêts, et tout spécialement au travers de contacts avec le Conseil Général du Pouvoir Judiciaire, organe responsable de la formation des juges et des magistrats. Une page web est également en cours d'élaboration pour favoriser un meilleur accès, tant à ladite jurisprudence, qu'à la documentation du Comité des Ministres ayant trait à l'exécution des arrêts.

II. Drawing-up of action plans/reports and related effective coordination/cooperation with the relevant actors at the national level

La mise en place d'un système de Plans d'action / Bilans d'action a permis à la Sous-direction générale des affaires constitutionnelles et des Droits de l'Homme de faire un suivi plus structuré de l'état d'exécution des arrêts concernant l'Espagne. À cet effet, un modèle de document a été créé, permettant de structurer de façon similaire toute l'information relative à l'état d'exécution pour l'ensemble des affaires.

Le paiement des satisfactions équitables est traité de façon urgente et prioritaire. Plus concrètement, un système administratif très simple a été conçu pour favoriser une rapide mise à disposition des sommes allouées au requérant; la seule exigence étant une inscription au Registre des créanciers, qui se fait sur présentation du numéro d'identification fiscale. Lorsque le requérant n'accomplit pas cette démarche, un système qui a été mis en place récemment permet de conserver cette somme à la disposition du requérant, même si ce dernier n'a pas accompli les démarches administratives indiquées ci-dessus. Après cette mise à disposition de la somme allouée au titre de la condamnation à une satisfaction équitable, l'intéressé est informé qu'il pourra la retirer après avoir attesté son identité auprès de la Caisse Générale des Dépôts du Trésor de l'Espagne. En outre, il convient de signaler que, d'une façon générale, l'Espagne entame les démarches de paiement avant même que l'arrêt n'ait acquis son caractère définitif, et ce dès que le Royaume d'Espagne a décidé du non-renvoi de l'affaire devant la Grande Chambre.

Lors de l'élaboration des Plans d'action / Bilans d'action, une attention toute particulière est accordée à la jurisprudence du Tribunal Constitutionnel et du Tribunal Suprême, qui permettent, d'une part, de démontrer le niveau de réception de la jurisprudence de la Cour EDH, et d'autre part, de vérifier si l'affaire en question présente un caractère structurel ou non.

En ce qui concerne les mesures d'ordre général qui pourraient découler des arrêts de la Cour EDH, la Sous-direction générale des affaires constitutionnelles et des Droits de l'Homme, au moment de rédiger le Plan d'action / Bilan d'action, sollicite préalablement l'avis des centres directeurs compétents de l'Administration espagnole sur l'adoption d'initiatives législatives en rapport avec la matière à laquelle fait référence l'arrêt.

III. Mechanism(s) to ensure dissemination and publication of judgments of the European Court of Human Rights and decisions and resolutions from the Committee of Ministers

Actuellement les arrêts de la Cour EDH concernant l'Espagne sont traduits en langue espagnole et diffusés à travers un vaste réseau de contacts qui englobe le Tribunal Constitutionnel, le Conseil Général du Pouvoir Judiciaire, le Tribunal Suprême, le Procureur Général de l'État, l'École Nationale de la Magistrature, tous les Tribunaux Supérieurs de Justice et les procureurs des dits tribunaux, ainsi que l' "Audiencia Nacional".

Parallèlement à ce système de diffusion générale, les arrêts traduits en langue espagnole sont communiqués à tous les organes administratifs et judiciaires qui ont pris part dans l'affaire en question.

Lorsque le contenu de l'arrêt le recommande, il existe un mécanisme spécifique de diffusion à travers le Réseau de Coopération Internationale du Conseil Général du Pouvoir Judiciaire, qui prévoit la participation d'au moins un membre du Pouvoir Judiciaire dans chaque province espagnole. Ce système de diffusion comprend une note explicative et attire l'attention sur le contenu de l'arrêt, afin d'en obtenir sa rapide diffusion et la prise en considération par les tribunaux de justice de chaque territoire.

En outre, la traduction des arrêts fait l'objet d'une publication dans le Bulletin Officiel du Ministère de la Justice, qui est désormais en format web et peut être consulté par l'ensemble des citoyens sur le site du Ministère (www.mjusticia.es).

D'ici la fin de l'année, cette page web inclura un lien spécifique permettant la consultation de tous ces arrêts, ainsi que d'autres outils en relation avec la Cour EDH et le CEDH, de façon structurée et simple.

Les traductions en langue espagnole des décisions et des arrêts de la Cour EDH concernant l'Espagne sont communiquées depuis un an à la Cour EDH, qui les rattache comme traduction en langue espagnole dans la base de données HUDOC.

Suède/Sweden

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

I. Mechanism(s) to ensure timely and effective execution of judgments of the European Court of Human Rights at the national level

The execution of judgment of the Court against Sweden is monitored and co-ordinated by the Government Agent. The primary Government Agent of Sweden is the Director General for Legal Affairs at the Ministry of Foreign Affairs (MFA) according to a decision by the Government. In addition there are a varying number of MFA civil servants (two at the moment) who have been designated to act as Government Agents in individual cases.

With the role as Agent in a particular case follows implicitly a role as co-ordinator during the execution process and there is thus no particular mandate to this effect. Measures to ensure execution are taken in close co-operation with Government Officials at the ministries responsible for the area of law relating to the subject-matter of the case. Thus, for instance, if the case concerns the right to an oral hearing in a social security matter, the Ministry of Justice (who covers court matters from a procedural point of view) and the Minister of Health and Social Affairs (who covers the relevant legislation on social security) will be involved. It deserves to mention that all Swedish government ministries are part of the Government Offices, which is a single integral authority also comprising the Prime Ministers Office and the Office of Administrative Affairs. This may in fact facilitate the work during the execution phase.

When the Government Agent receives the Court's judgment, her or she will immediately forward it to the other ministries involved in the case. An analysis is undertaken to identify the measures required to ensure execution of the judgment. In most cases, it is a question of securing payment of just satisfaction as well as dissemination and publication of the judgment. However, in some cases a judgment has necessitated amendment of Swedish legislation.

In addition, cases against Sweden have required the granting of a residence permit where the Court has found that it would be contrary to the Convention to expel an individual to his or her country of origin. On this point it may be observed that a provision in the Swedish Aliens Act (Swedish Code of Statutes 2005:716) stipulates that normally, if an international body that is competent to examine complaints from individuals has found that a refusal-of-entry or expulsion order in a particular case is contrary to the Swedish commitment under a convention, a residence permit shall be granted to the person covered by the order unless there are exceptional circumstances (Chapter 5, Section 4 of the Act).

The payment of just satisfaction following a judgment of the Court requires a Government decision to that effect. The Government Agent makes the necessary arrangements for this and ensures that payment is made to the applicant or his or her counsel. In practise the payment of any damages awarded to the applicant by the Court is made by the Legal, Financial and Administrative Service Agency (Kammarkollegiet) while payment of compensation for costs and expenses is made by MFA. If, on account of the subject matter of a case, several ministries can be considered responsible for the breach of the Convention then, prior to the Government decision on just satisfaction, the Government Agent ensures that there is an agreement on how the financial burden for the damages awarded by the Court should be shared between them. Normally this does not meet with any problems.

If a judgment should require amendment of domestic legislation, it is the task of the ministry responsible for the legislation in question to initiate and pursue the amendment. This will follow the normal procedures for amending Swedish legislation¹⁴. However, a problem in relation to the Convention has often already been recognised and work with amending the law initiated, and sometimes finalised, even before the Court has issued its judgment.

Should the execution process require information to be obtained from other state actors, the contacts with the actor will normally be taken by the ministry responsible for the relevant area of law. Thus, for instance, in cases concerning aliens, the Ministry of Justice will make contact with the Swedish Migration Board.

II. Drawing-up of action plans/reports and related effective coordination/cooperation with the relevant actors at the national level

As concerns action reports on execution of the Court's judgments against Sweden to be submitted to the Committee of Ministers, they are normally drafted by the Government Agent in the particular case in close co-operation with the ministries involved in the case. The latter will be asked to submit information to the Agent on e.g. legislative and other measures that are planned or have been implemented, as required by the judgment in question, and the action report will be drafted inter alia on the basis of this information. The final report will normally be transmitted to the Swedish Representation in Strasbourg with an instruction to forward the report, proof of payment and any other documentation to the Secretariat of the Committee of Ministers. A case is considered closed at national level when the Agent has received the Committee of Ministers final resolution in the case, which unfortunately sometimes can take several years even in relatively uncomplicated cases. The resolution is sent to all relevant actors in the case as a matter of routine.

¹⁴ For a description in English of this process, see http://www.riksdagen.se/templates/PageWFrame_____6577.aspx

III. Mechanism(s) to ensure dissemination and publication of judgments of the European Court of Human Rights and decisions and resolutions from the Committee of Ministers

An important part of the execution process is of course the publication and dissemination of the Court's judgment. The Government Agent forwards on a regular basis copies of the Court's judgments together with explanatory reports in Swedish to all courts and authorities that have been involved in a particular case. In addition, copies are sent to all Courts of Appeal, the Parliamentary Ombudsmen, the Chancellor of Justice and the Swedish Bar Association. Moreover, summaries in Swedish of the judgments are published on the Government's human rights website (www.manskligarattigheter.se) from where there are links to the judgments on the Court's website. Summaries of judgments in Swedish are also published on the Swedish National Courts Administration's website (Nytt från Europadomstolen; www.domstol.se). On the latter website is also published summaries in Swedish of a selection of judgments from the Court concerning other member states.

To sum up, there is an established procedure for the execution of the Court's judgments against Sweden in which the Government Agent plays a central role. So far, the procedure has run relatively smoothly and hence Sweden has had no real reason on the basis of its own experience to consider the issue of speeding up the procedure.

Suisse/Switzerland

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

I. Mechanism(s) to ensure timely and effective execution of judgments of the European Court of Human Rights at the national level

En matière d'exécution des arrêts de la CourEDH, il n'existe pas, en Suisse, de mécanisme spécifique de surveillance au sens stricte.

L'Office fédéral de la justice (OFJ) est chargé de représenter la Suisse devant la CourEDH. L'Agent du Gouvernement est nommé par le directeur de l'OFJ

L'agent du Gouvernement peut rendre attentif les autorités compétentes, fédérales et/ou cantonales à la nécessité d'exécuter l'arrêt. Il peut donc intervenir auprès de l'autorité chargée d'adopter les mesures en question. L'agent du Gouvernement n'a toutefois pas de pouvoir décisionnel, il assure la coordination et fourni des conseils. Il sied également de relever que les tribunaux, notamment le Tribunal fédéral, accordent un effet direct aux arrêts de la Cour contribuant ainsi à l'exécution rapide et durable de l'arrêt en question.

Sur le plan des mesures à caractère individuel, on mentionnera également que, depuis environ 20 ans, le requérant a la possibilité de demander la réouverture de la procédure (voir, p.ex., l'ATF [arrêt du Tribunal fédéral] 137 I 86ss [2011], 120 V 150ss [1994] -> <http://www.bger.ch/fr/index/jurisdiction/jurisdiction-inherit-template/jurisdiction-recht/jurisdiction-recht-leitentscheide1954.htm>). Cette possibilité, de même le réexamen du cas d'espèce, peut contribuer considérablement à accélérer l'exécution rapide d'un arrêt de la Cour.

Sur le plan des mesures à caractère général, l'expérience suisse montre que le pouvoir (et la volonté) des tribunaux d'appliquer directement la Convention et la jurisprudence de la Cour (même contra legem ; cf. l'ATF 5F_6/2008 du 18 juillet 2008, consid. 4.1 s. (-> <http://www.bger.ch/fr/index/jurisdiction/jurisdiction-inherit-template/jurisdiction-recht/jurisdiction-recht-urteile2000.htm>); ATF 124 II 480ss) peut contribuer non seulement à éviter la répétition des violations constatées mais aussi à dépolitiser le processus d'exécution des arrêts. Cela nonobstant, la voie législative peut constituer une alternative.

II. Drawing-up of action plans/reports and related effective coordination/cooperation with the relevant actors at the national level

Les plans et/ou les rapports d'action sont établis par l'agent du Gouvernement, en étroite coopération avec les autorités, fédérales et/ou cantonales. Il n'existe pas de procédure formalisée.

III. Mechanism(s) to ensure dissemination and publication of judgments of the European Court of Human Rights and decisions and resolutions from the Committee of Ministers

Lorsque la CourEDH rend un arrêt dans une affaire suisse, l'agent du Gouvernement transmet immédiatement celui-ci aux tribunaux et autorités directement concernés.

Le français étant une langue officielle en Suisse, les arrêts de la CourEDH ne sont pas traduits. La Suisse contribue toutefois financièrement à la collection germanophone des arrêts et décisions de la CourEDH (Europäischer Gerichtshof für Menschenrechte - Deutschsprachige Sammlung, Kehl ; <http://www.eugrz.info/html/egmr.html>). De plus, l'agent du Gouvernement publie des rapports trimestriels sur la jurisprudence de la CourEDH. Ces rapports contiennent des résumés, d'une part, de tous les arrêts et décisions que la Cour a rendus dans des affaires suisses et, d'autre part, des arrêts les plus importants concernant d'autres Etats parties en allemand, en français et en italien (http://www.bj.admin.ch/content/bj/de/home/themen/staat_und_buerger/menschenrechte2/europaeische_menschenrechtskonvention.html ; http://www.bj.admin.ch/content/bj/fr/home/themen/staat_und_buerger/menschenrechte2/europaeische_menschenrechtskonvention.html ; http://www.bj.admin.ch/content/bj/it/home/themen/staat_und_buerger/menschenrechte2/europaeische_menschenrechtskonvention.html).

Turquie / Turkey

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

Introduction

The below information has been received from the relevant Turkish authorities and is in response to a questionnaire prepared by the Department for the Execution of the judgments of the European Court of Human Rights (ECtHR) for the roundtable to be held in Tirana, Albania on 15-16 December 2011.

The case-law of the ECtHR has always shown that the principle of subsidiarity is the first level of securing execution of the Court's judgments. Imperatively it is the national state that has the primary responsibility of establishing and choosing how this principle is to function within the Convention system, and as to what sort of individual and general measures are required to implement the Court's judgment. The subsidiarity aspect is part and parcel of the execution stage of any judgment of the Court and this view was emphatically made prominent in the Interlaken and İzmir Declarations.

Under sub-paragraph H -2. relating to the 'Supervision of the execution of judgments' the İzmir Declaration : Reiterates the calls made by the Interlaken Conference concerning the importance of execution of judgments and invites the Committee of Ministers to apply fully the principle of subsidiarity, by which the States Parties have in particular the choice of means to deploy in order to conform to their obligations under the Convention; In this respect, in Turkey, it is the Ministry of Foreign Affairs, the Ministry of Justice and the Ministry of the Interior which take on the major leading roles when it comes to seeing that possible domestic structural/systemic problems which may exist, do not preclude conformity with ECtHR judgments at the national level.

With this regard the following presents information relating to the domestic mechanisms available for the rapid execution of the Court's judgments in Turkey.

I. Mechanism(s) to ensure timely and effective execution of judgments of the European Court of Human Rights at the national level

A) Execution relating to Individual measures (payments of just satisfaction)

In general, there are no difficulties in bringing about the materialisation of individual measures in relation to payment of just satisfaction. In fact, the utmost importance and meticulous attention is placed by the authorities in effecting the full payment of the awarded just satisfaction award within the stipulated deadline set by the Court.

The modalities here are well in place.

- The Ministry of Foreign Affairs and the Finance Ministry, through joint co-ordination and an interchange of written information, liaise to ensure that as

soon as a decision becomes final, the amount adjudicated on in the judgment of the Court is effectively and speedily paid.

- In this respect Turkey does not have any trouble whatsoever in materialising this aspect of the Court's judgment.

A) Execution relating to General Measures

i) No Requirement of Legislative Changes/Amendments

Execution through general measures is more swiftly and easily implemented through executive policy and/or precautionary changes when a revision of the relevant legislation is not required.

- The Ministry of Justice is in a position to evaluate, consult and liaise with other relevant administrative and/or executive and /or other bodies/actors directly involved in relation to the violation in question and can thus obviate and/or preclude its continuation.
- For instance, the Justice Ministry can publicise, either in its Judicial Legal Journal or under its auspices, through a circular, how an administrative practice can be conducted so as to be in conformity with the ECtHR's judgment.
- Many constitutional and legislative reforms have been initiated to deal with this aspect of the execution of Court judgments.

ii) Requirement of Legislative Changes/Amendments

The relevant authorities direct and carry out necessary consultations with/amongst the governmental Departments.

Since here the materialising of the execution of the judgment of the Court necessitates a revision and/or change in the relevant legislation, evidently the passage of such a process through the executive/administrative bodies and committees into the legislative body mechanism itself, consumes a great deal of time and effort and presents much of a challenge to those involved.

Obviously this normative basis presents many challenges in securing rapid execution in that much more time is taken in the implementation of the Court's judgment. This is a situation requiring the relevant authority who has the responsibility of alleviating the violation, to go through an unavoidable and lengthy legislative procedural process in order to bring about the execution of the Court's judgment.

iii) Modalities in place to secure implementation

a) However, in any respect, in its state structure, Turkey has been able to bring to life a great many reform packets. Conformity with ECtHR precedents has also been secured through such following methods/modalities:

- The 'Law on the Compensation of the Losses Resulting from the Terrorist Acts and from the Measures Taken Against Terrorism' (Law no. 5233) has created an exemplary internal legal remedy for terror victims and has thus provided a vehicle whereby the Court's decisions can be implemented.
- In 2010, in a referendum to amend the Constitution, which had as one of its aims to alleviate abuses and prevent violations of human rights issues at the national level; recognition of the right to individual petition to the Constitutional Court was granted.
- Much effort has been spent in creating projects aimed at preventing similar and/or repetitive violations which go beyond simply taking legislative measures. However with this aim in mind, in particular, the Ministry of Justice and the Ministry of the Interior have published and distributed circulars. In addition, both ministries have also initiated various educational and training activities. All have been and are being done with a view to raise awareness and to prevent repetitive violations.

b) Below are some general examples of what the relevant State bodies and governmental ministries are achieving and are in the process of bringing about in their efforts to create/speed up mechanisms to secure execution of the Court's judgments:

- Attempts to bring about administrative measures/changes and possible revisions in the laws to prevent ECHR Convention violations and take concrete steps in this direction;
- Efforts to secure training for (seconded) judges specialising in human rights at the ECtHR itself;
- Positive measures have been taken with an aim to reduce the number of applications to the ECtHR, especially those related to prevention of lengthy trials.
- Efforts for the establishment of a European Court of Human Rights Department within the Ministry of Justice framework is close to realisation. The functions of such a department requires the full monitoring of and cooperation with the Court's judgments. It aims to provide personnel with training/education in human rights issues and is expected to greatly forestall a number of structural and systemic disfunctions.
- The Ministry of Justice is developing a constructive process to circulate guidelines and information to judges to encourage more detailed reasoning in

- domestic courts' decisions in relation to the extension of the period of detention pending trial.
- The introduction of a legislative provision now awaiting passage through the National Assembly to alleviate the problems related to the detention of illegal immigrants in guesthouses and whose applications for asylum entail a lengthy process, is expected to be passed and brought into force in the near future.
 - In its responsibility to assist the Ministry of Foreign Affairs in the preparation and presentation of observations on a more extended basis, tireless efforts by the Ministry of Justice to provide/compile necessary details and material, continues.
 - Recently conducted visits to the ECtHR and Secretariat by members of the Turkish Judiciary has facilitated a better awareness and understanding of ECHR Convention norms and the Court's expectations, thus enabling Turkish Judges to better incorporate human rights principles into their own judgments.

II. Drawing-up of action plans/reports and related effective coordination/cooperation with the relevant actors at the national level

Under the Law on the Administrative Framework of the Ministry of Foreign Affairs, Action Plans/Reports are as a general rule prepared by the Ministry of Foreign Affairs in conjunction, cooperation and with the assistance of the relevant public bodies and institutions. In this respect in order to ensure proper collaboration and co-operation between the relevant actors involved, in actual practice, regular meetings are conducted on important and vital issues especially those in respect of judgments revealing structural problems. Such plans and reports are drafted only after thorough liaison with all relevant department and bodies.

III. Mechanism(s) to ensure dissemination and publication of judgments of the European Court of Human Rights and decisions and resolutions from the Committee of Ministers

The Ministry of Foreign Affairs takes on the vital role of disseminating ALL of the ECtHR judgments as soon as they are published. The published judgments are made known to the Turkish National Assembly, the Supreme Judicial Organs, the Prime Ministry, the relevant Government Ministries, the relevant Governors Offices, the Local Authorities and the concerned Public Authorities and Institutions. Translations of the Court's judgments are distributed before the judgment becomes final.

Additionally, the judgments and their translations are publicised on the official website pages of various bodies and institutions and ECtHR judgments involving 'key case-law' qualities are publicised in judicial journals and published in judicial bulletins.

For example, the Ministry of Justice has created a website found at www.inhak-bb.adalet.gov.tr under the title of the 'Human Rights Information Bank', which not only publishes the translated judgments but also contains current and practical information on the ECtHR process, including the execution stage before the Committee of Ministers and on the provisions of the ECHR Convention.

Conclusions

Turkey for her part upholds the vision of the realization of the İzmir Declaration to the full. In the İzmir follow-up to the Interlaken Conference concerning the importance of the execution of judgments, Turkey aims through conformity with the principle of subsidiarity, to gradually move towards this aimed-for goal by evaluating ways and methods which she can deploy in order to conform to her obligations under the Convention. It must be remembered that this principle first requires each individual member state to assess and evaluate what is required in the form of individual and general measures. Turkey is active in this field.

Through the State and governmental institutions ,Turkey in her sincere desire to secure complete compliance with ECtHR decisions and through the principle of subsidiarity, extends unswerving efforts at creating new mandates/projects and in securing legislative measures, which in this respect continue, unabated.

Information/activities will be further provided and/or publicised as and when such projects/and given mandates to accelerate the execution process, are brought to life.

«L'ex-République Yougoslave de
Macédoine»/“the former Yugoslav
Republic of Macedonia”

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

I. Mechanism(s) to ensure timely and effective execution of judgments of the European Court of Human Rights at the national level

Republic of Macedonia aware of its obligation for effective and prompt execution of the judgments of the European Court of Human Rights in respect of the Republic of Macedonia, as well as of the complexity of the field and the issues related to execution, had considered the other countries experiences in this sphere, and decided to introduce the legal regulation of the execution.

Namely, the Republic of Macedonia adopted the Law on Execution of decisions of the European Court of Human Rights in 2009 ("Act").

The Act provides that after the court verdict stated (concluded) a violation of Article of the Convention on Human Rights from that moment begins the obligation to implement the decisions of the Court in all its segments:

- payment of the amount awarded to the applicants as just satisfaction ,
- adoption and implementation of the individual measures necessary to eliminate the violations and consequences that have occurred thereof, and
- general measures to eliminate the causes that led for submission of the application before the Court, aiming to prevent the same or similar violations in the future.

The Government agent located in the Ministry of Justice, supported by an institutionalized form of the ministry, communicate the Government and prepare detailed Information that contains the overview of the causes of the violation of the Convention, aiming to identify and implement the possible general measures.

It is also provided that the Government will form an Interministerial Commission for the execution of the decisions of the ECHR, whose task will be to monitor the execution, to analyze in depth the ECHR judgments against the state, determining the causes which led to the violation of the rights, recommending general and individual measures for the relevant authorities to eliminate the violations determined by the Court, to exchange the information in the area of execution and more activities determined by the Act.

The Interministerial Commission will be consist of the officials heading the Ministry of Justice, Ministry of Interior, Ministry of Foreign Affairs, Ministry of Labour and Social Policy, Ministry of Finance, Ministry of Education and Science, Ministry of Health, Ministry of Transport and Communications Ministry of Local Government and the

President of the Judicial Council, President of the Supreme Court, President of the Council of Public Prosecutors, the Public prosecutor as well as the Government agent.

After the receipt of the decision by the Court, the official translation into Macedonian language will be prepared immediately, which will be published on the website of the Ministry of Justice.

The Act obliges the Government agent within 15 days after translation of the decision to inform the Government about the decision and the obligations of the Republic of Macedonia therein. Based on that information the Government decides whether to submit a request for review of the matter before The Grand Chamber.

After the notice of the finality of court's decision, the applicant or his representative will be communicated to provide (submit) data (information) for his bank account for payment of the funds awarded by the Court.

Upon reception of the data an appropriate information for the finality of the decision is submitted to the Government and the Ministry of Finance in order to start the procedure for payment of the funds imposed. The Ministry of Finance carries out the payment and submit a confirmation for the payment made of the funds imposed, to the Ministry of Justice (Supporting Department for the work of the Government agent).

This confirmation immediately shall be sent to the Department for execution of the judgments of the European Court of Human Rights - Directorate General of Human Rights and Legal Affairs, Council of Europe and the Permanent Mission of the Republic of Macedonia to the Council of Europe.

If the applicant, often dissatisfied with the amount awarded by the ECHR, refuses to submit his bank account to make the payment of funds awarded under the decision of the Court, the Ministry of Finance provides that the funds for payment will be transferred to the special deposit account within the Ministry of Justice. For this payment the applicant is notified as well as Strasbourg.

The GA Department shall make further efforts to communicate with the applicant in order to transfer the funds on the bank account of the applicant, up to 5 years after their disposal. After this period, funds will be returned to the State Budget.

In case of death or statutory changes of the applicant, under the decision of the Court just satisfaction will be paid to the heirs of the natural person or legal successors of the legal person under law.

According the Act, The Government agent is obliged within three months after the delivery of the notice of finality of the decision, to inform the Inter-Ministerial Commission for the decision and to propose general and individual measures to eliminate the violation determined by the decision.

The Interministerial Commission shall analyze the decision of the Court, shall consider possible measures and prepare a recommendation to the relevant state authorities, units of local government, judiciary and public prosecutors for possible general and individual measures, to eliminate the violations determined by the decision and prevent the occurrence of same or similar violations.

The Act also determines responsibility for implementing or not implementing the decision of the Court in an inappropriate manner. This means that a failure to recommendations of the Interministerial Commission, non-implementation or implementation of the decision of the Court in an inappropriate manner, will be noted with temporary resolution of the Committee of Ministers, which will result in the responsibility of the officials of the competent state authorities, units of local government, judiciary and public prosecution.

Until complete functioning of the legal solution for execution all activities are carried out by the Government agent within the Ministry of Justice.

II. Drawing-up of action plans/reports and related effective coordination/cooperation with the relevant actors as the national level

Within the frames of the new manner of execution of the judgments adopted by the ECHR which was introduced in December 2010, the Government has an obligation continuously to prepare Action reports to the Committee of Ministers of the Council of Europe in order efficiently to report on the measures and actions undertaken for each decision individually.

Given the fact that the Law on execution of judgments of the ECHR is not yet effective, The Government agent currently does not have the authorization to define the required measures and conditions necessary for preparing the action plan. There are no such preparations. The Government agent prepares action reports only to inform for the general and individual measures undertaken in Republic of Macedonia.

So far the practice has shown that it is easier to define the General measures which impose the need for amendments to laws and other regulations in the judicial sphere that generated the violation found.

It is due to to the fact that the Government agent is located within the Ministry of Justice and can more easily enforce the appropriate legal solution in the sphere of justice.

But this is not a case if it's necessary to change the legislation in other spheres, especially in the area of police, economics, finance, insurance and pension etc. It is therefore necessary to constitute The Interministerial Commission as an appropriate body which may not only determine the need for appropriate legislative changes but also to define and determine the time the obligation to implement appropriate actions.

III. Mechanism(s) to ensure dissemination and publication of judgments of the European Court of Human Rights and decisions and resolutions from the Committee of Ministers

The judgments and decisions of the European Court of Human Rights for the cases brought against the Republic of Macedonia are publicly announced on the web site of the Ministry of Justice of the Republic www.pravda.gov.mk. The translation is performed by the Ministry of Justice, Department for support of the Governments' Agent work. Judgments and decisions are published in Macedonian and English language aiming to make them available for the professional as well as for the general public.

At the same time, the Government's agent disseminate the decision to the Supreme Court of the Republic of Macedonia, all the appellate courts and basic courts or the state authorities involved in the specific cases against the country before the European Court of Human Rights. At the same time it informs about the stated violations of the Convention rights, pointing out the need to define appropriate measures for execution of the judgment of the ECHR. With this notice to the above subjects shall be also submitted a translation of the decision in Macedonian language.

In order to make all the public authorities more familiar with the practice of the ECHR and the importance of the principle of subsidiarity established by the ECHR ratified by the Republic of Macedonia in 1997, in 2010 the Government Agent and the Ministry of Justice have started the practice of translation into Macedonian and dissemination of translated Court's judgments that concern other countries to all national authorities and institutions. Thus, 20 judgments of the ECHR delivered by the Grand Chamber, as a main creator of the judicial practice of the Court, were translated into Macedonian language and published. The translated judgments concern rights which are guaranteed by the Convention and are most commonly invoked before the Court in the applications against Republic of Macedonia, taking into account the structure of the applications lodged against the country before the Court.

The publication also encompasses part of the judgments delivered by the Court in the cases against Republic of Macedonia, which were basis for certain legislative changes in the country (for example judgments delivered in cases Sulejmanov and Parizov), or judgments which might impose further legislative changes in the future, in the processes of their execution. This part of the publication aimed at emphasizing the importance of effective implementation of the Convention at national level, the importance of prompt and full execution of the Court's judgments, as well as the necessity of improvement of the effectiveness of domestic legal remedies.

A part of the publication is dedicated to a small number of Macedonian Supreme Court's decisions, delivered in the cases concerning the right to a trial within a reasonable time. The establishment of the legal basis for the competence of the Supreme Court in respect of this right guaranteed by the Convention, and the introduction of the Court's practice and rules in the domestic practice concerning the protection of the right to a trial within a

reasonable time, came as a response to the numerous violations to the right of a trial within a reasonable time found by the Court in the cases against the Republic of Macedonia.

At the same time the legal provisions of Article 36 of the Law on Courts which provide direct application of the rules and practice of the ECHR in deciding upon the length remedy represents a pioneer step and more liberal entry of the Court`s judicial practice as a source of law in Macedonia. Considering the pending cases against the country before the ECHR, and the Court`s practice, it seems quite certain that in near future the legislature will be faced by the need for greater step towards the establishment of case law (domestic and international) as a source of law in Macedonia.

This practice of translation and dissemination of the Court`s case law will continue throughout 2011, with parallel efforts to resolve the serious financial problem imposed by the translation of extensive Court`s judgments in Macedonian language.

Ukraine / Ukraine

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

I. Mechanism(s) to ensure timely and effective execution of judgments of the European Court of Human Rights at the national level

Firstly it is necessary to note that on 23 February 2006 the Law on the Enforcement of Judgments and the Application of the Case-Law of the European Court of Human Rights of (hereafter – “the Enforcement Law”) entered into force for Ukraine.

According to the Preamble of the Enforcement Law, it regulates relations appeared from:

- the State's obligation to enforce judgments of the European Court of Human Rights (hereinafter – “the Court”) in cases against Ukraine;
- the necessity to eliminate reasons of violation by Ukraine of the Convention for the Protection of Human Rights and Fundamental Freedoms and protocols thereto;
- the need to implement European human rights standards into legal and administrative practice of Ukraine;
- the necessity to create conditions to reduce the number of applications before the European Court of Human Rights.

The Law provides for the clear and effective mechanism of execution of ECHR judgments.

Namely, it envisages that within 10 days from the date of receipt of the Court's letter on a certain judgment being final, the respective notification shall be sent to the applicant and to the State Bailiffs' Service.

Among other, the applicant shall be informed on the procedure of the enforcement of the judgment (inter alia the list of the necessary documents to be submitted to the State Bailiffs' Service) and his right for the review of the impugned proceedings (where necessary).

The payment of the sums, awarded by the Court, shall be conducted within 3 months from the date, the judgment became final, or within the period, envisaged by the judgment itself.

According to the Enforcement Law all the authorities concerned shall be informed about judgments delivered in respect of Ukraine with the purpose to take all necessary measures to prevent violation of the Convention in future, and as a result to improve their “administrative practice”.

The Law provides that within 10 days from the date of receipt of the Court's letter on a certain judgment being final a short summary of the judgment translated in Ukrainian and an explanatory note as to the Court's conclusions in a certain judgment shall be disseminated among the authorities concerned.

The authorities are invited to take measures to avoid similar violations in future and to bring their practices in accordance with the Convention and the Court's requirements and to inform what certain measures have been taken.

Moreover, the Court's conclusions in each judgment shall be included into the motion to the Cabinet of Ministers of Ukraine as to execution of ECRH judgments. Following this submission the Cabinet of Ministers of Ukraine draws the attention of the national authorities concerned to the impermissibility of repeating similar violations and orders to bring their practices in accordance with the requirements of the Convention (for more details see § 2).

II. Drawing-up action plans/reports and related effective coordination/cooperation with the relevant actors at the national level

The Enforcement Law sets in details procedures and relevant actions of the State authorities with respect to revealing and eliminating structural problems which are at the heart of violation found by the Court.

As it was stated above within 10 days from the date of receipt of the Court's letter on a certain judgment being final a short summary of the judgment translated in Ukrainian together with an explanatory note as to the Court's conclusions in a certain judgment and the statement of measures necessary to remedy the violation found shall be disseminated among the authorities concerned.

Each quarter the Government Agent prepares and sends to the Cabinet of Ministers of Ukraine a motion on general measures to be taken to enforce the judgment. The Agent analyzes the problems revealed in the Court's judgments and draws up the measures necessary to eliminate the problem with the purpose to prevent similar violations.

The abovementioned measures shall include: amendment of the legislation in force; administrative practice amendment; other measures, aimed at eliminating underlying structural problems and elimination of the violations of the Convention caused by these shortcomings as well as securing the maximum redress for the violations found.

In response to the motion on general measures the Cabinet of Ministers of Ukraine shall:

- adopt, within its competence, legal acts to execute general measures;
- submit to the Parliament, according to the legislative initiative procedure, the propositions as to the adoption of the new draft laws, amendment or abolishment of the legislation in force;
- instruct the authorities concerned to implement the measures proposed.

The Enforcement Law also provides for amendments to courts' practice in view of the structural problem found by the Court, and for ensuring of appropriate trainings for different categories of officials in whose jurisdiction the structural problem lays.

It should be noted that the Government Agent yearly introduces to the Government his Annual Report, which includes the analysis of the problems in the Convention implementation and the assessment of the effectiveness of the remedies adopted.

Moreover, the Agent is entitled to call interdepartmental meetings. Frequently, such meetings are held in order to develop common position and adopt action plans as to the execution of the Court judgments.

III. Mechanism(s) to ensure dissemination and publication of judgments of the European Court of Human Rights and decisions and resolutions of the Committee of Ministers

The Enforcement Law provides for special mechanism for the most promptly and comprehensive dissemination of the Court's judgments in cases against Ukraine.

Thus, within 10 days from the date of the receipt of the notification on a judgment being final, a short summary of the judgment translated in Ukrainian shall be disseminated among the authorities concerned and shall be published in the Government's Courier [Uriadovyi Kurier] – Government's official magazine.

The summaries of the judgments are placed on the Ministry of Justice's official web-site

According to the Enforcement Law the translations of the full texts of judgements against Ukraine shall be published in a print edition specializing in the Court's case-law and which is disseminated in the legal community.

The Government Agent who is responsible for the translation and publication of the Court's judgments pays special attention to the timely and correct translation of the judgments as well as to their dissemination.

In this connection it shall be noted, that all the final judgments against Ukraine are to be translated into Ukrainian and placed on the Ministry of Justice's official web-site. They are published in the official Government's print outlet – the Official Herald of Ukraine [Ofitsiynyi Visnyk Ukrainy].

Some judgements are also translated and published by non-governmental organizations.

Royaume –Uni/United Kingdom

QUESTIONNAIRE ON THE DOMESTIC MECHANISMS FOR RAPID EXECUTION OF THE COURT'S JUDGMENTS

Information provided from relevant national authorities

I. Mechanism(s) to ensure timely and effective execution of judgments of the European Court of Human Rights at the national level

a) The process for the execution of the Court's judgments against the UK

- There are two Government ministries responsible for the execution of judgments of the European Court of Human Rights ("the Court").

The first is the Ministry of Justice ("MoJ") which has the main responsibility for domestic human rights (including the UK Human Rights Act which brings the ECHR into the UK domestic law).

The second is the Foreign and Commonwealth Office ("FCO") – the UK's Ministry for Foreign Affairs – which has responsibility for human rights in the international context. The FCO is the home department for both the UK's Agent to the Court and the UK's representation in Strasbourg, the UK Delegation to the Council of Europe ("the UK Delegation").

- Since 2010, the MoJ has had a light coordination role in relation to the execution of the judgments of the Court against the UK. This coordination role involves responsibility for the domestic coordination of information from the particular Government ministry which has the main responsibility for executing the judgment ("the responsible Government department") and sending the final information to the UK Delegation. The process for obtaining this information is described below. The main responsibility for the actual execution of a particular judgment belongs to the responsible Government department(s)¹⁵.

The UK Delegation represents the UK at all Committee of Ministers' meetings on the execution of judgments (CDDH).

- The UK has a system of 'Cabinet government' which follows the 'principle of collective Cabinet responsibility'. This means that all Government ministers are responsible for all the decisions which the Government takes.

¹⁵ The relevant Government department for a case is determined when the case is first communicated to the UK by the Registry of the Court. At this point, consideration is given to which department(s) would have the main responsibility for changing law, policy or practice if any were to be found in violation of the ECHR. If there is more than one department concerned, an agreement is made at the start of the process about the division of responsibility, work and liability.

This principle acts as a de facto coordination mechanism in relation to the execution of the Court's judgments because any disagreements about how to execute a judgments are addressed when decisions are made collectively in the relevant Cabinet committee.

- If the responsible Government is too slow to take the necessary action to execute a judgment, there is a mechanism to bring this delay to the attention of the relevant minister of the departments and its senior officials. It is possible for the Government's Minister for Human Rights to write to the relevant Minister to stress the need for quick action to execute the relevant judgment and to remind the minister of the requirement to do this. (However, this procedure is rarely required or used).

The process:

- (i) Initial communication of the judgment: The UK's Agent to the Court receives notification of a judgment in a case and informs the responsible Government department(s) about the judgment and the action which they must take to begin to execute the judgment. At the same time, the Agent will also inform the Human Rights team at the MoJ.

For more complex cases, there may be a meeting with legal counsel to discuss the meaning of the judgment in greater detail.

- (ii) Plans for execution: With the initial communication from the Agent, an 'implementation form'¹⁶ is sent to the responsible Government departments for them to complete and send to the Human Rights team at the MoJ.

This form has been designed to help Government departments with responding to the Court's judgments. It gives the responsible Government departments advice on how to understand the judgments and how to produce the Action Plan¹⁷ which will be required by the Committee of Ministers. It therefore helps to ensure that the appropriate information can be submitted to the Committee of Ministers on time.

A particular difficulty with the execution of the Court's judgments is that many officials in Government might only have experience of one or two judgments of this nature in their careers. The form has been designed, therefore, to guide them through the experience and make the process as easy as possible.

Using the form also ensure all the information needed for the effective oversight of the execution process is provided to the MoJ and the UK Delegation, including the contact details for the officials responsible for the execution of the judgment.

¹⁶ A copy of the implementation form is attached to this response.

¹⁷ A copy of the Action Plan template is attached to this response.

- (iii) Submitting proof of just satisfaction payments: For judgments where just satisfaction has been given, the implementation form gives advice on the process for the payment of just satisfaction and gives details of what evidence of payment will be needed. The initial communication from the Agent will also give the just satisfaction template form, produced by the Secretariat of the Committee of Ministers.

The responsible Government department is instructed to send their evidence of payment before the deadline. The MoJ can remind the responsible Government departments of the deadline where necessary. Once the MoJ has checked the information is satisfactory, it will then send the information to the UK Delegation/the Secretariat of the Committee of Ministers.

- (iv) Providing updates: The responsible Government department is also instructed to provide the MoJ with an update about the execution of the judgment, using the Action Plan template, within six months of the judgment becoming final. The MoJ can, again, remind the responsible department of the deadline where necessary. Once the MoJ has checked that the information is satisfactory, it will send the information to the UK Delegation/the Secretariat of the Committee of Ministers. This process is repeated until the Action Plan can be turned into an Action Report with the confirmation that the UK Government believes that the case is ready to be closed.

For cases subject to the enhanced supervision by the Committee of Ministers, there will be more frequent contact between MoJ and the lead departments to ensure that updates are provided for any discussion of the case at CDDH.

b) External oversight of the execution of judgments

- The UK Parliament appoints a Joint Committee on Human Rights (“the Joint Committee”). Joint Committees are parliamentary committees consisting of members of both Houses of Parliament. The Joint Committee on Human Rights supervise and report on areas including Government legislation and cross-Government policies which affect human rights¹⁸.
- The Government produces a report approximately once a year which describes the Government’s progress in responding to adverse human rights judgments – from the both the European Court of Human Rights and UK domestic courts. The last report was published on July 2010¹⁹ in which the Government set out its position on the execution of these types of judgments; responded to the Joint Committee’s own report and recommendations on these issues; and responded to the Committee of Ministers’ annual report (and the statistics in that report) in relation to the UK’s record on the execution judgments of the European Court.

¹⁸ <http://www.parliament.uk/business/committees/committees-a-z/joint-select/human-rights-committee/>

¹⁹ <http://www.justice.gov.uk/downloads/publications/policy/moj/2010/responding-human-rights-judgements-2009-2010.pdf>

The Government is currently preparing a similar report on its response to judgments in the past twelve months, which should be available later in 2011.

- The Joint Committee will also usually hold an oral evidence session with the Minister for Human Rights (from the Ministry of Justice) during which it can ask the Minister any question within the remit of the Committee.
- This oversight of the Joint Committee – and the Government’s response to its work, advice and recommendations – helps to ensure that there are proper processes to ensure the timely and effective execution of human rights judgments, as well as promoting and disseminating greater knowledge of the judgments of the European Court (as per question 3 of this questionnaire).

Implementation of adverse judgments from the European Court of Human Rights:

Form for Lead Departments

This form allows Lead Departments to provide the Ministry of Justice (MoJ) and Foreign & Commonwealth Office (FCO) with all the information they need to support the process of implementing an adverse judgement. At the end of each section of the form, Explanatory Notes are provided to explain the different fields in each part of the form and the information that should be provided.

Part 1: Preliminary information

This section of the form deals with basic information about the case and the team that will be handling implementation. It should be submitted to the Ministry of Justice within four weeks of the judgment being received. Contact details for submitting forms are listed below.

Case name:	
Application number:	Date of judgment:
Judgment of the: Chamber Grand Chamber (delete as appropriate)	Lead Department: Minister with policy responsibility:
Lead departmental lawyer:	
Email address:	
Telephone number:	

Lead policy official:
Email address:
Telephone number:
Convention articles held to have been violated:
Summary of judgment:
If a Chamber judgment, do you intend to seek referral to the Grand Chamber: Yes/No

Part 1 of the form only should now be sent to the Ministry of Justice Information and Human Rights Policy, copied to HMG's Agent to the European Court of Human Rights and the Deputy Head of Mission in Strasbourg; contact details below. Please also ensure you keep a copy for your own records.

MoJ Information and Human Rights Policy:
 Anthony Myers (Anthony.Myers@justice.gsi.gov.uk)

Agent to the Court:
 The FCO Legal Adviser who dealt with the case when it was going through the ECtHR.
 If you are not sure who your FCO Legal Adviser is, contact MoJ HRD.

DHM UKDel Strasbourg:
 Kate Jones (Kate.Jones@fco.gov.uk)

Execution of Judgments of the European Court of Human Rights
Action Plan/Action Report and Updates Template
Name of Case (application no./: judgment final on .././....)
Information submitted by the United Kingdom Government on [date]

Case Summary

1. Case description:

- The case involved (insert brief summary of the facts of the case, including any legislation or regulations found to have been in breach).
- The Court held that there had been a violation of (insert the articles of the ECHR which the ECtHR held to have been violated in its judgment) because....

Individual Measures

2. Just satisfaction:
 - [The just satisfaction award has been paid; evidence attached/previously supplied] or
 - [Arrangements to make the just satisfaction payment are in hand] or
 - [The Government will forward information on payment of just satisfaction in due course].

3. Individual measures:
 - [The Government considers no further individual measures are required because (give explanation as to why the Government considers no further measures necessary/why no consequences of the violation persist)] or
 - [The Government has taken the following individual measures (give details and copies of²⁰/weblinks to any relevant documents and indicate how the consequences of the violations have erased or may erase the consequences of the violation for the applicant(s); request confidentiality if necessary)] or
 - [the Government intends to take the following individual measures in order to erase the consequences of the violation for the applicant (give details) by (date)] or
 - [The Government is considering whether any further individual measures are necessary (give details of steps being taken, with timetable for decision)].

[Conclusion for Action Report “The Government considers that no other individual measures appear necessary”.]

General Measures

4. Publication:
 - [The judgment has been published in (give references to law reports/journals)] or
 - [The Government will forward details of publication in due course].

5. Dissemination:
 - [The Government considers it is unnecessary to disseminate the judgment because (explanation)] or

²⁰ Documents can be attached to action plans. If possible, avoid attaching them to action reports as the requirement for translation can delay closure of the case significantly. Include a weblink or a summary of the document instead.

- [The judgment has been disseminated to (give details of competent authorities and copies of/weblinks to documents)] or
- [The Government intends to disseminate the judgment to (give details of competent authorities and intended date of dissemination); further information will be provided in due course] or
- [The Government will forward information on dissemination in due course].

6. Other general measures:

- [The Government considers no further general measures are necessary because (give explanation as to why the Government considers no further measures necessary explaining why no consequences of the violation persist)] or
- [The Government has taken the following general measures (give details and copies of²¹/weblinks to any legislation/other relevant material)] or
- [The Government intends to take the following general measures (explanation) by (date) indicate anticipated timetable where appropriate] or
- [The Government is considering whether any further general measures are necessary/what further general measures should be taken (give details of steps being taken, with timetable for decision)].

For measures indicated above explain how these measures have/are expected to prevent similar violations.

7. - [The Government considers that all necessary measures have been taken and the case should be closed] or
- [The Government will forward further information as soon as possible].

II. Drawing-up of Action Plans/Reports and related effective coordination/cooperation with the relevant actors at the national level

a) Coordination of execution between different actors

- The Agent will have already identified the responsible Government department(s) when it first received a communicated case from the Registry of the Court. Therefore, coordination of the execution of a judgment between different actors is usually an easy process. Judgments are communicated to any responsible Government department. The MoJ, as coordinator, is also informed according to the process described above.
- In relation to progressing the work of execution of a judgment, the Government department primarily affected by the judgement will act as the lead point of contact and will ask for action/information from other departments/agency to include in the Action Plan.

²¹ Documents can be attached to action plans. If possible, avoid attaching them to action reports as the requirement for translation can delay closure of the case significantly. Include a weblink or a summary of the document instead.

However, the overall burden of the work will depend on the conclusions of the judgment as to which area(s) violated the ECHR.

b) Responding to structural problems

- In relation to structural problems - which might require a change to legislation or major change of policy or practice – the relevant Government departments will prepare advice for Ministers in their department/for the ministerial lead for the issue.
- The proposed policy will then be agreed across Government through the usual Cabinet clearance process (described above) – the issues are raised with the relevant committee of the Cabinet for agreement. As part of this process, there may also be a process of public consultation, especially concerning any changes to legislation.
- For major structural issues, there may also be the possibility of another remedial measure to address the violation found by a court in its judgments. The UK Human Rights Act 1998 provides for a specific measure to change legislation to ensure compliance with adverse human rights judgments/the ECHR: the Remedial Order under section 10 of the Act. The remedial order is a form of secondary legislation which provides a quick mechanism to amend (change) or repeal (remove) primary legislation in order to remove any incompatibility with the ECHR.

III. Mechanism(s) to ensure dissemination and publication of judgments of the European Court of Human Rights and decisions and resolutions from the Committee of Ministers

a) Communication/dissemination/publication:

- In relation to judgments involving the UK, the process described above (communication from the Agent to the Court) is used to ensure that all relevant Government departments are aware of judgments.
- In terms of wider dissemination and publication, the Action Plan requires the responsible Government departments to:
 - confirm that the adverse judgment has been sent to any relevant bodies affected by it. If this not considered necessary an explanation will be required; and
 - identify at least two relevant publications where the adverse judgment has been published in the public domain²².
- The Action Plan ensures, therefore, that there is a consistent level of information; allows an assessment of how far the judgment has been disseminated; and, if necessary, to request further action from the lead department.

²² There is no definitive list of where judgements need to be published. However, it is usual for departments to publish details of adverse judgements on their website, especially where the remedy involves changes to legislation.

b) Greater knowledge of judgments of the Court and the procedures of the Committee of Ministers

- The MoJ and Agent to the Court at the FCO make use of existing relationships, both formal and informal, between Government departments to ensure information is communicated effectively and acts as a central point of contact for most questions. There are also networks for both Human Rights lawyers and Human Rights policy officials across Government which meet and have contact throughout the year.
- In particular, in relation to cases involving other Council of Europe Member States, the MoJ monitors the Court's judgments²³ to identify cases that will have a definite impact on existing UK cases and issues. In addition to communicating developments directly to relevant departments, the MoJ produces a 'Human Rights Information Bulletin' which is sent to all Government departments to highlight significant developments and cases.
- However, it would not be possible for one department to identify all judgments that may be relevant to others in Government. Consequently, all Government departments are expected to identify judgments relevant to their responsibilities, for wider dissemination as appropriate to relevant bodies for which they are responsible. The work of the MoJ and FCO is supplementary to these processes.

²³ The list of communicated cases published by the Registry of the Court every week has been helpful for this. However, both the number of communicated cases and the fact that some cases are communicated in French only means that reviewing the whole list would require a significant amount of time by someone with the appropriate level of French language skills. This is a resource which might not be available.

Recommendation CM/Rec(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

(Adopted by the Committee of Ministers on 6 February 2008 at the 1017th meeting of the Ministers' Deputies)

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

a. Emphasising High Contracting Parties' legal obligation under Article 46 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereafter referred to as "the Convention") to abide by all final judgments of the European Court of Human Rights (hereinafter referred to as "the Court") in cases to which they are parties;

b. Reiterating that judgments in which the Court finds a violation impose on the High Contracting Parties an obligation to:

- pay any sums awarded by the Court by way of just satisfaction;
- adopt, where appropriate, individual measures to put an end to the violation found by the Court and to redress, as far as possible, its effects;
- adopt, where appropriate, the general measures needed to put an end to similar violations or prevent them.

c. Recalling also that, under the Committee of Ministers' supervision, the respondent state remains free to choose the means by which it will discharge its legal obligation under Article 46 of the Convention to abide by the final judgments of the Court;

d. Convinced that rapid and effective execution of the Court's judgments contributes to enhancing the protection of human rights in member states and to the long-term effectiveness of the European human rights protection system;

e. Noting that the full implementation of the comprehensive package of coherent measures referred to in the Declaration "Ensuring the effectiveness of the implementation of the European Convention on Human Rights at national and European levels", adopted by the Committee of Ministers at its 114th Session (12 May 2004), is, inter alia, intended to facilitate compliance with the legal obligation to execute the Court's judgments;

f. Recalling also that the Heads of State and Government of the member states of the Council of Europe in May 2005 in Warsaw underlined the need for an accelerated and full execution of the judgments of the Court;

g. Noting therefore that there is a need to reinforce domestic capacity to execute the Court's judgments;

h. Underlining the importance of early information and effective co-ordination of all state actors involved in the execution process and noting also the importance of ensuring within national systems, where necessary at high level, the effectiveness of the domestic execution process;

i. Noting that the Parliamentary Assembly recommended that the Committee of Ministers induce member states to improve or, where necessary, to set up domestic mechanisms and procedures – both at the level of governments and of parliaments – to secure timely and effective implementation of the Court’s judgments, through co-ordinated action of all national actors concerned and with the necessary support at the highest political level;¹

j. Noting that the provisions of this recommendation are applicable, mutatis mutandis, to the execution of any decision² or judgment of the Court recording the terms of any friendly settlement or closing a case on the basis of a unilateral declaration by the state;

RECOMMENDS that member states:

1. designate a co-ordinator – individual or body – of execution of judgments at the national level, with reference contacts in the relevant national authorities involved in the execution process. This co-ordinator should have the necessary powers and authority to:

- acquire relevant information;
- liaise with persons or bodies responsible at the national level for deciding on the measures necessary to execute the judgment; and
- if need be, take or initiate relevant measures to accelerate the execution process;

2. ensure, whether through their Permanent Representation or otherwise, the existence of appropriate mechanisms for effective dialogue and transmission of relevant information between the co-ordinator and the Committee of Ministers;

3. take the necessary steps to ensure that all judgments to be executed, as well as all relevant decisions and resolutions of the Committee of Ministers related to those judgments, are duly and rapidly disseminated, where necessary in translation, to relevant actors in the execution process;

4. identify as early as possible the measures which may be required in order to ensure rapid execution;

5. facilitate the adoption of any useful measures to develop effective synergies between relevant actors in the execution process at the national level either generally or in response to a specific judgment, and to identify their respective competences;

6. rapidly prepare, where appropriate, action plans on the measures envisaged to execute judgments, if possible including an indicative timetable;

7. take the necessary steps to ensure that relevant actors in the execution process are sufficiently acquainted with the Court's case law as well as with the relevant Committee of Ministers' recommendations and practice;

8. disseminate the vademecum prepared by the Council of Europe on the execution process to relevant actors and encourage its use, as well as that of the database of the Council of Europe with information on the state of execution in all cases pending before the Committee of Ministers;

9. as appropriate, keep their parliaments informed of the situation concerning execution of judgments and the measures being taken in this regard;

10. where required by a significant persistent problem in the execution process, ensure that all necessary remedial action be taken at high level, political if need be.

Note 1 Parliamentary Assembly Recommendation 1764 (2006) – “Implementation of the judgments of the European Court of Human Rights”.

Note 2 When Protocol No. 14 to the ECHR has entered into force.

* * * * *

Recommandation CM/Rec(2008)2 du Comité des Ministres aux Etats membres sur des moyens efficaces à mettre en œuvre au niveau interne pour l'exécution rapide des arrêts de la Cour européenne des Droits de l'Homme

(adoptée par le Comité des Ministres le 6 février 2008, lors de la 1017^e réunion des Délégués des Ministres)

Le Comité des Ministres, en vertu de l'article 15.b du Statut du Conseil de l'Europe,

a. Soulignant l'obligation juridique des Hautes Parties contractantes au regard de l'article 46 de la Convention européenne de sauvegarde des Droits de l'Homme et des Libertés fondamentales (ci-après « la Convention ») de se conformer à tous les arrêts définitifs de la Cour européenne des Droits de l'Homme (ci-après « la Cour ») dans les litiges auxquels elles sont parties ;

b. Réitérant le fait que les arrêts dans lesquels la Cour a constaté une violation imposent aux Hautes Parties contractantes une obligation de :

- verser toute somme octroyée par la Cour au titre de la satisfaction équitable ;
- adopter, le cas échéant, des mesures de caractère individuel pour mettre un terme à la violation constatée par la Cour et pour, autant que faire se peut, en réparer les effets ;
- adopter, le cas échéant, les mesures de caractère général nécessaires pour mettre un terme aux violations similaires ou les prévenir.

c. Rappelant également que, sous la surveillance du Comité des Ministres, l'Etat défendeur demeure libre de choisir les moyens par lesquels il s'acquittera de son obligation juridique au titre de l'article 46 de la Convention afin de se conformer aux arrêts définitifs de la Cour ;

d. Convaincu qu'une exécution rapide et effective des arrêts de la Cour contribue à renforcer la protection des droits de l'homme dans les Etats membres et à assurer l'efficacité à long terme du système européen de protection des droits de l'homme ;

e. Notant que la pleine mise en œuvre de l'ensemble des mesures cohérentes évoquées dans la Déclaration « Assurer l'efficacité de la mise en œuvre de la Convention européenne des Droits de l'Homme aux niveaux national et européen », adoptée par le Comité des Ministres lors de sa 114^e Session (12 mai 2004), vise, entre autres, à faciliter le respect de l'obligation juridique d'exécuter les arrêts de la Cour ;

f. Rappelant que les Chefs d'Etat et de Gouvernement des Etats membres du Conseil de l'Europe ont souligné en mai 2005 à Varsovie la nécessité d'une exécution rapide et complète des arrêts de la Cour ;

g. Notant qu'à cet effet il convient de renforcer les moyens internes d'exécution des arrêts de la Cour ;

h. Soulignant l'importance de l'information précoce et de la coordination efficace de tous les acteurs étatiques impliqués dans le processus d'exécution et notant également l'importance d'assurer au sein des systèmes nationaux, si nécessaire à haut niveau, l'efficacité du processus d'exécution interne ;

i. Notant que l'Assemblée parlementaire a recommandé au Comité des Ministres d'inciter les Etats membres à améliorer ou, si nécessaire, à créer les mécanismes et les procédures internes – aux niveaux tant des gouvernements que des parlements – permettant de garantir une mise en œuvre rapide et effective des arrêts de la Cour, grâce à l'action concertée de tous les acteurs nationaux concernés et avec le soutien nécessaire au plus haut niveau politique²⁴;

j. Notant que les dispositions de cette recommandation sont applicables mutatis mutandis à l'exécution de toutes les décisions²⁵ ou arrêts de la Cour entérinant les termes d'un règlement amiable ou clôturant une affaire sur la base d'une déclaration unilatérale de l'Etat ;

RECOMMANDÉ aux Etats membres :

1. de désigner un coordinateur – personne physique ou instance – de l'exécution des arrêts au niveau national, avec des personnes de contact identifiées au sein des autorités nationales impliquées dans le processus d'exécution des arrêts. Ce coordinateur devrait se voir confier les pouvoirs et l'autorité nécessaires pour :

- obtenir les informations pertinentes ;
- se concerter avec les personnes ou entités responsables au plan interne des décisions concernant les mesures à prendre pour exécuter un arrêt ; et
- le cas échéant, prendre ou initier les mesures pertinentes pour accélérer ledit processus ;

2. de veiller à la mise en place de mécanismes efficaces de dialogue et de transmission des informations pertinentes entre le coordinateur et le Comité des Ministres, que ce soit par l'intermédiaire de la Représentation Permanente ou d'une autre manière ;

3. de prendre les mesures nécessaires pour garantir que tout arrêt à exécuter, ainsi que toutes les décisions et/ou résolutions du Comité des Ministres pertinentes relatives à l'arrêt, soient dûment et rapidement diffusés, y compris si nécessaire par le biais de traductions, aux acteurs pertinents du processus de l'exécution ;

4. d'identifier à un stade aussi précoce que possible les mesures qui peuvent s'avérer nécessaires pour garantir une exécution rapide ;

²⁴ Recommandation 1764 (2006) de l'Assemblée parlementaire – « Mise en œuvre des arrêts de la Cour européenne des Droits de l'Homme ».

²⁵ Lorsque le Protocole n° 14 à la CEDH sera en vigueur.

5. de favoriser l'adoption de toute mesure utile pour développer des synergies efficaces entre les acteurs pertinents du processus d'exécution au niveau national, que ce soit de manière générale ou en réponse à un arrêt spécifique, et identifier leurs compétences respectives ;
6. de préparer rapidement, le cas échéant, des plans d'action sur les mesures envisagées pour exécuter les arrêts, assortis si possible d'un calendrier indicatif ;
7. de prendre les mesures nécessaires pour garantir que les acteurs pertinents du processus d'exécution soient suffisamment familiarisés avec la jurisprudence de la Cour, ainsi qu'avec les recommandations et la pratique pertinentes du Comité des Ministres ;
8. de diffuser le vade-mecum du Conseil de l'Europe sur le processus d'exécution auprès des acteurs pertinents et encourager son utilisation, tout comme celle de la base de données du Conseil de l'Europe contenant des informations sur l'état d'exécution de toutes les affaires pendantes devant le Comité des Ministres ;
9. de tenir, le cas échéant, leurs parlements informés de la situation relative à l'exécution des arrêts et des mesures prises et à prendre à cet égard ;
10. si un problème substantiel et persistant dans le processus d'exécution l'impose, d'assurer que toute action utile soit entreprise à haut niveau, politique si nécessaire, pour y remédier.

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