



Strasbourg, 9 October 2007

DH-PR(2007)004

STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)

**COMMITTEE OF EXPERTS FOR THE IMPROVEMENT
OF PROCEDURES FOR THE PROTECTION
OF HUMAN RIGHTS
(DH-PR)**

REPORT

62nd meeting

Strasbourg, 3-5 October 2007

1. The Committee of Experts for the Improvement of Procedures for the Protection of Human Rights (DH-PR) held its 62nd meeting in Strasbourg on 3-5 October 2007. The meeting was chaired by Mr Vit SCHORM (Czech Republic). The list of participants appears in Appendix I and the agenda, as adopted, in Appendix II.

2. Mr. Jan KLEIJSEN, Director of the Directorate of Standard-Setting of the Directorate General of Human Rights and Legal Affairs (DG-HL) informed the DH-PR of the recent merging of former Directorates General I (Legal Affairs) and II (Human Rights). He then warmly welcomed the key work carried out by the DH-PR on guaranteeing the long term effectiveness of the Convention system at the national and European levels and encouraged the experts with their work.

Work carried out by GROUP A – EXECUTION OF JUDGMENTS

Adoption of the draft recommendation on efficient domestic capacity for rapid execution of the Court's judgments

3. The DH-PR examined the draft submitted to it, paying particular attention to the changes introduced in the text by Group A during its last meeting (September 2007). It welcomed all changes suggested, including new paragraph (i) in the preamble reproducing paragraph 1.4 of Parliamentary Assembly Recommendation 1764(2006) on Implementation of Judgments of the European Court of Human Rights.

4. After some discussion, it was agreed by the majority of the Committee that, for sake of clarity, the wording of the third indent of preamble paragraph (b) should also encompass the obligation to adopt, where appropriate, the general measures needed to put an end to similar violations and not just to prevent them (See Appendix III).

5. The Committee adopted the draft recommendation as it appears in Appendix III for examination by the CDDH in November.

Development of further practical proposals for the supervision of execution of judgments in situations of slow or negligent execution

6. The DH-PR agreed with Group A that before developing further practical proposals it was necessary to identify objective indicators to alert the Committee of Ministers to possible problems concerning the slow or negligent execution of a given judgment in the midst of the vast number of judgments on its agenda. It also found it useful to have an inventory of tools already at the disposal of the Committee of Ministers to react to situations of slow or negligent execution. It therefore noted with pleasure that the Department for the Execution of Judgments offered to prepare two separate documents on these topics for Group A's next meeting to help it assess whether the existing tools are adequate and sufficient with regard to all situations of slow or negligent execution.

7. As regards more specifically the proposal for which Group A requested approval to continue reflection (i.e. the possible setting up of sub-committees within the Committee of

Ministers to facilitate the supervision of the execution of certain judgments)¹, the DH-PR held a lengthy exchange of views. It was grateful to the Italian delegation for having put such a concrete thought-provoking proposal forward, which may reinforce the role of the Committee of Ministers. The Committee shared the concerns underlying the proposal, i.e. the increase in number of judgments to supervise in a given meeting alongside the technical complexity of such judgments makes it in practice difficult for Delegations in the Committee of Ministers to get involved in other cases but those concerning their own country. It therefore agreed that there was a need for “specialisation” of the Committee of Ministers.

8. However, the doubts expressed and questions raised by Group A were highlighted again.² Moreover, Mr. Christos GIAKOUMOPOULOS, Director of the Directorate of Monitoring of the DG-HL, informed the Committee that with its current human and financial resources the Secretariat would not be in a position to assist frequent meetings of several permanent sub-committees. However, he suggested that a realistic concretisation of the spirit of the Italian proposal could consist in the prerogative of the Bureau of the Chair of the Committee of Ministers to decide when and for what cases to set-up a/several sub-committee(s), and with what composition. This proposal was endorsed by the DH-PR, which appreciated its flexibility. The DH-PR was of the view that it could be tested, if the Committee of Ministers’ so wished, in an experimental way over a limited amount of time (e.g. a year and half). If successful in practice in gaining increased efficiency in supervising the execution of judgments, the Committee of Ministers might ask the CDDH to reflect on whether it would be appropriate to formalise it.

9. The DH-PR also exchanged views on another practical proposal raised but not discussed in detail in Group A, i.e. the possible appointment by the Committee of Ministers of one or more *rapporteurs* to assist its work. The confrontational character of such a possibility did not find sufficient ground for support among experts. Moreover, the experts were of the view that priority should be given to the proposal referred to in the previous paragraph. It was therefore decided to instruct Group A not to pursue reflections on it at this stage

10. As to past practical proposals, Ms Corinne AMAT of the Department for the Execution of Judgments of the Court up-dated the DH-PR on progress concerning the drafting of the vademecum on the execution process. She reminded DH-PR experts that they should not hesitate to send her any comments/ideas (Corinne.amat@coe.int). Some members highlighted in this regard that the outline of the vademecum (see Appendix IV, document DH-PR(2007)003) was very detailed and all possible relevant issues seemed to be included in it. Further comments could probably be made after having had the opportunity to read the draft vademecum.

11. Ms Amat also informed the Committee that from a technical point of view the developments of the database on the execution of judgments started some months ago are completed. The Department for the Execution of Judgments has now started entering in it the relevant additional information that the system may now contain. The first concrete result of the work will be presented to the Committee of Ministers at its next HR meeting (15-17 October 2007). It will then be published on the website of the Department for the Execution of Judgments.

¹ See paras 11-12 and Appendix IV, document GT-DH-PR A(2007)004

² See para. 11, document GT-DH-PR A(2007)004.

The DH-PR asked the Secretariat to present these developments to Government Agents as soon as possible.

Work carried out by GROUP B – REVIEW OF THE RECOMMENDATIONS

12. Mr. Markus JAEGER, Deputy to the Director, Office of the Council of Europe Commissioner for Human Rights, informed the Committee of the concrete contribution to the review of the Recommendations that the Commissioner would undertake.³ This contribution was welcomed unanimously.

13. The Committee noted that before the end of its terms of reference, Group B would draft a “review” in respect of each priority recommendation, comprising a short introductory part on the state of play of available information; an analytical core part on the assessment of the actual implementation of the recommendations, including shortcomings and examples of good practice; a conclusions part on the impact of the measures taken on the long term effectiveness of the Convention. The Secretariat would, on its part, prepare “country compilations of information” containing in a single document all information submitted by a given State on the implementation of the five Recommendations. It was clarified that such compilations would be sent to the DH-PR expert of the relevant Countries as soon as ready so that any up-date could be sent to the Secretariat in due time.

14. Finally, the issue of the possible follow-up of the work of Group B was raised to guide the Group in its reflection on this. It was recalled that the creation of Group B was meant to launch the follow-up of the Recommendations by identifying good practices and areas of shortcomings. This task is reaching its end and the DH-PR generally felt that it would not be appropriate for Group B to be transformed in a “monitoring” body. It thus encouraged Group B to reflect and possibly suggest other means of continuing the follow-up (e.g. targeted bilateral work involving the Council of Europe Commissioner for Human Rights and its focal points might be a fruitful way forward).

Elections

15. The DH-PR suggested to the CDDH to re-elect its Chair, Mr Vit SCHORM (Czech Republic), for a one-year term of office, not renewable. It decided to re-elect Ms Björg THORARENSEN (Iceland) as Vice-Chair for a one-year term of office, not renewable.

Other business

16. The DH-PR member from the Slovak Republic informed the Committee that her authorities were examining the possibility of organising a **Colloquy in Bratislava in spring 2008** on the role of Government Agents and the execution of judgments. The Secretariat informed the DH-PR that it welcomed the idea of such a Colloquy and was ready to help the Slovak authorities in organising it.

³ For details, see paras 12-15, document GT-DH-PR B(2007)007.

17. The Secretariat informed the DH-PR that at its up-coming meeting (11-12 October 2007), the Bureau of the CDDH would examine the follow-up to be given to a letter addressed to the CDDH by an NGO highlighting problems resulting from the lack of its involvement in the process of the supervision of the execution of judgments. The DH-PR was of the view that it was unfortunate that this letter had been distributed to it and considered it inappropriate to discuss the merits of the letter, which had not been addressed to it, or any other issue related to it. Moreover, it unanimously considered that NGO submissions of information on the execution of judgments should not be addressed to intergovernmental committees but to the Committee of Ministers as foreseen by Rule 9 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.⁴ It therefore invited the CDDH Bureau, without prejudice to any other decision it may take, to transfer the letter to the Committee of Ministers.

⁴ See document CM(2006)90 adopted by the Committee of Ministers on 10 May 2006.

Appendix I**List of participants****ALBANIA / ALBANIE**

Apologised / Excusé

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Apologised / Excusé

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PARTICIPANTS

PARLIAMENTARY ASSEMBLY / ASSEMBLEE PARLEMENTAIRE

Apologised / Excusé

**OFFICE OF THE COUNCIL OF EUROPE COMMISSIONER FOR HUMAN RIGHTS /
BUREAU DU COMMISSAIRE AUX DROITS DE L'HOMME DU CONSEIL DE L'EUROPE**

Mr Markus JAEGER, Deputy to the Director / Adjoint au Directeur

All other participants: excused / tous les autres participants: excusés

* * *

OBSERVERS/OBSERVATEURS

All excused / Tous excusés

* * *

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Interpreters/Interprètes

Mme Chloé CHENETIER

Mme Cynera JAFFREY

M. Robert SZYMANSKI

Appendix II**Agenda****Item 1: Opening of the meeting and adoption of the annotated agenda****Working documents**

- Draft annotated agenda DH-PR(2007)OJ002
- Report of the 3rd meeting of the GT-DH-PR A (3-5 September 2007) GT-DH-PR A(2007)004
- Report of the 9th meeting of the GT-DH-PR B (6-7 September 2007) GT-DH-PR B(2007)007
- CDDH Interim report: sustained action to ensure the effectiveness of the implementation of the ECHR at national and European levels (7 May 2007) CM(2007)53final
- Report of the 64th meeting of the CDDH (10-13 April 2007) CDDH(2007)011
- Report of the 61st meeting of DH-PR (28-30 March, 2006) DH-PR(2007)003

Item 2: Work carried out by GROUP A – EXECUTION OF JUDGMENTS**a. Adoption of the draft recommendation on efficient domestic capacity for rapid execution of the Court’s judgments****Working documents**

- Draft recommendation on effective means at domestic level for the rapid execution of the Court’s judgments as adopted by Group A during its 3rd meeting (3-5 September 2007) Appendix III and §§ 3-5, GT-DH-PR A(2007)004
- Working document of the Committee on Legal Affairs and Human Rights: “Implementation of judgments of the European Court of Human Rights – Issues currently under consideration” Part C, AS/Jur (2007) 49

Information documents

- Collection of information submitted by member states on the execution of judgments at national level DH-PR(2006)007Bil rev
- Proposals for the draft recommendation submitted by some members/participants of Group A GT-DH-PR A(2007)001 Bil
- Elements prepared by the Secretariat for possible inclusion in the draft recommendation GT-DH-PR A(2007)002
- Avenues for reflection on the effective means at domestic level for the rapid execution of the Court’s judgments: Note from the Department for the Execution of Judgments of the Court GT-DH-PR A(2006)003
- Parliamentary Assembly Resolution 1516(2006) and Recommendation 1764(2006) on “Implementation of judgments of the European Court of Human Rights” and the Jurgens’ report, of 18 September 2006, doc 11020 <http://assembly.coe.int/main.asp?Link=/documents/workingdocs/doc06/fdoc11020.htm>
- Report by the Ministers’ Deputies to the 116th Session of the CM (12 May 2006) CM(2006)39 final

b. Development of further practical proposals for the supervision of execution of judgments in situations of slow or negligent execution**Working document**

- Practical proposals to be further explored Appendix IV and §§ 6-12, GT-DH-PR A(2007)004

Information documents

- Working methods for supervision of the execution of the European Court of CM/Inf/DH(2006)9 rev 3

- Human Rights' judgments
- Report by the Ministers' Deputies to the 116th Session of the CM CM(2006)39 final
 - Practical suggestions from the CDDH to the Ministers' Deputies to address situations of slow or negligent execution of judgments of the European Court of Human Rights CDDH(2006)008, Appendix IV
 - Responses in the event of slow or negligent execution or non-execution of judgments of the European Court of Human Rights: Information document prepared by Directorate General II – Human Rights CM(2003)37 rev 6

Item 3: Work carried out by GROUP B – REVIEW OF THE RECOMMENDATIONS

Working document

- Report of the 9th meeting of the GT-DH-PR B (6-7 September 2007) GT-DH-PR B(2007)007

Information documents

a) With regard to all recommendations

- Replies to the new questionnaire DH-PR(2006)004 Bil rev 3
- Questionnaire on the implementation of the five recommendations (27 July 2006) DH-PR(2006)002
- Report by the Ministers' Deputies to the 116th Session of the CM (12 May 2006) CM(2006)39 final
- Comments/supplementary information from NGOs and NHRIs on the CDDH Activity report DH-PR(2006)005Bil
- CDDH Activity report (7 April 2006) CDDH(2006)008 + Addenda
- Text of the recommendations and their explanatory reports or appendices DH-PR(2005)012

b) With regard to the three priority recommendations

- Working document: The effectiveness of the ECHR at national level (Rapporteur: Mrs Marie-Louise Bemelmans-Videc), 21 June 2007 AS/Jur (2007) 35 rev
- Conclusions and reports of the Athens Round Table on "Implementing human rights and the rule of law in Europe: the co-operation between Ombudsmen, National Human Rights Institutions and the Council of Europe Commissioner for Human Rights", 12-13 April 2007
http://www.coe.int/t/commissioner/Activities/event_files/070412NHRIRoundtable_en.asp
- Background paper: Effective Protection of Human Rights in Europe: Enhanced Co-operation between Ombudsmen, National Human Rights Institutions and the Council of Europe Commissioner for Human Rights, April 2007 CommDH/Omb-NHRI(2007)1 Rev 3

c) With specific regard to Recommendation Rec(2004)6 on improvement of domestic remedies

- Preliminary analysis of replies concerning Rec(2004)6 GT-DH-PR(2007)001 Bil
- Study 316/2004 on the effectiveness of national measures in respect of excessive length of proceedings (22 December 2006) CDL-AD(2006)036
- Replies to the Questionnaire on excessive length of proceedings (15 February 2007) CDL(2006)026
- Report on length of court proceedings in the member states of the Council of Europe based on the case-law of the European Court of Human Rights (8 December 2006) CEPEJ(2006)15

d) With specific regard to Recommendation Rec(2004)5 on verification of compatibility of standards

- Preliminary analysis of replies concerning Rec(2004)5 GT-DH-PR(2007)002 Bil

e) With specific regard to Recommendation Rec(2000)2 on the re-examination or reopening

- Preliminary analysis⁵ of replies concerning Rec(2000)2 GT-DH-PR(2007)004 Bil
- Suggested revision of the summary table concerning Rec(2000)2 (document prepared by the Department for the Execution of Judgments of the Court) GT-DH-PR B(2006)007

Item 4: Any other business

⁵ Table of good practices to be prepared by the Execution Department, within limits of time and resources.

- Election of the Chairperson and Vice-Chairperson of the DH-PR

Item 5: Adoption of the conclusions of the meeting

Appendix III**Draft recommendation on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights**

(as adopted by DH-PR at its 62nd meeting, 3-5 September 2007)

- 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 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 coordination 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 recommended⁶ that the Committee of Ministers induce member states to improve and 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;

⁶ Recommendation 1764(2006) « Implementation of the judgments of the European Court of Human Rights

- j. Noting that the provisions of this Recommendation are applicable, *mutatis mutandis*, to the execution of any decision⁷ 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 coordinator - 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 coordinator 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 coordinator 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 general 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.

⁷ When Protocol No. 14 to the ECHR has entered into force.