



CDDH(2018)23

22/11/2018

**STEERING COMMITTEE FOR HUMAN RIGHTS /
COMITE DIRECTEUR POUR LES DROITS DE L'HOMME
(CDDH)**

**Compilation of national reports on the implementation
of the Brussels Declaration /**

**Compilation des rapports nationaux sur la mise en œuvre
de la Déclaration de Bruxelles**

TABLE OF CONTENTS / TABLE DES MATIERES

ALBANIA / ALBANIE	5
ANDORRA / ANDORRE	14
ARMENIA / ARMENIE.....	17
AZERBAIJAN / AZERBAIDJAN	27
CYPRUS / CHYPRE	32
CZECH REPUBLIC / REPUBLIQUE TCHEQUE.....	38
DENMARK / DANEMARK.....	46
ESTONIA / ESTONIE	50
FINLAND / FINLANDE	56
FRANCE	63
GERMANY / ALLEMAGNE	98
IRELAND / IRLANDE	103
LIECHTENSTEIN	108
LITHUANIA / LITUANIE	114
LUXEMBOURG.....	125
MONACO	129
MONTENEGRO.....	141
NETHERLANDS / PAYS-BAS	148
NORWAY / NORVÈGE.....	157
POLAND / POLOGNE.....	163
RUSSIAN FEDERATION / FEDERATION DE RUSSIE.....	196
SLOVAKIA / SLOVAQUIE	231
SWEDEN / SUEDE.....	239
UNITED KINGDOM / ROYAUME-UNI.....	246

INTRODUCTION

1. The High-level Conference on the “Implementation of the Convention on Human Rights, our shared responsibility”, organised by the Belgian Chairmanship of the Committee of Ministers in Brussels, on 26 and 27 March 2015, recalls “the primary responsibility of the States Parties to ensure the application and effective implementation of the Convention and, in this regard, reaffirms that the national authorities and, in particular, the courts are the first guardians of human rights ensuring the full, effective and direct application of the Convention – in the light of the Court’s case law – in their national legal system, in accordance with the principle of subsidiarity”.¹ Furthermore, the Declaration “first and foremost calls on the States Parties, the Committee of Ministers, the Secretary General and the Court to give full effect to this plan”.² In this context, the Committee of Ministers “invited the States Parties, the Court and the Secretary General to implement the part of the Brussels Declaration which concerns them directly, to co-operate when relevant, and to inform the Committee of Ministers of the progress made in this respect by 30 June 2016”.³

2. The present document is a compilation of national reports on the implementation of the Brussels Declaration, with 24 States parties having submitted their reports.⁴ Most of the reports submitted follow the structure of the Brussels Declaration. Frequent reference is made to measures adopted prior to the Brussels Declaration or comments are made to the effect that national reports supplement the information provided in the previous national reports on implementation of the Brighton, Interlaken and Izmir Declarations. It may be noted in this context that the Committee of experts on the system of the European Convention on Human Rights (DH-SYSC), in accordance with its terms of reference, previously prepared reports to the Committee of Ministers on measures taken by the member States to implement relevant parts of the Interlaken, Izmir and Brighton Declarations.⁵

3. In addition to the present document, the follow-up to the Brussels Declaration will also include an analysis by the Secretariat, scheduled to be completed in September 2019, which will equally be reflected in the future Contribution of the CDDH to the evaluation provided for by the Interlaken Declaration. The national reports compiled in the present document have already served as a source of information for the collection of good practices on the Convention in university education and professional training by the Drafting Group on the follow-up to the Recommendation Rec(2004)4 of the Committee of Ministers to member States on the European Convention on Human Rights in university education and professional training (DH-SYSC-III).⁶

* * *

¹ Brussels Declaration, 27 March 2015, Section B. of the Action Plan – Implementation of the Convention at national level.

² Brussels Declaration, Implementation of the Action Plan, point 1.

³ See the decisions taken at the 125th session of the Committee of Ministers on Securing the long-term effectiveness of the supervisory mechanism of the European Convention on Human Rights, 14 April 2015. The invitation for States to submit reports on the implementation of the Brussels Declaration has been expressed on a few occasions, see the Synopsis of the meeting of the Rapporteur Group on Human Rights on 28 February 2017, document GR-H(2018)CB2, item 10; Synopsis of the meeting of the Rapporteur Group on Human Rights on 8 September 2016, document GR-H(2016)CB8, item 4.

⁴ Albania, Andorra, Armenia, Azerbaijan, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Ireland, Liechtenstein, Lithuania, Luxembourg, Monaco, Montenegro, Netherlands, Norway, Poland, Russian Federation, Slovakia, Sweden, United Kingdom.

⁵ Documents CDDH(2012)R76 Addendum I; CDDH(2016)R85 Addendum I.

⁶ See document DH-SYSC-III(2018)R1.

INTRODUCTION

1. La Conférence de haut niveau sur « la mise en œuvre de la Convention européenne des droits de l'homme, une responsabilité partagée », organisée par la Présidence belge du Comité des Ministres à Bruxelles, les 26 et 27 mars 2015, rappelle « la responsabilité première des États parties de garantir l'application et la mise en œuvre effective de la Convention et, à cet égard, réaffirme que les autorités nationales et, en particulier, les juridictions sont les premiers gardiens des droits de l'homme permettant une application pleine, effective et directe de la Convention - à la lumière de la jurisprudence de la Cour - dans leur ordre juridique interne, et ce, dans le respect du principe de subsidiarité »⁷. En outre, la Déclaration « appelle, en priorité, les États parties, le Comité des Ministres, le Secrétaire Général et la Cour à donner plein effet à celui-ci »⁸. Dans ce contexte, le Comité des Ministres « invite les États parties, la Cour et le Secrétaire Général à mettre en œuvre la partie de la Déclaration de Bruxelles qui les concerne directement, à coopérer si besoin est et à informer le Comité des Ministres des progrès réalisés en la matière »⁹.

2. Le présent document est une compilation des rapports nationaux sur la mise en œuvre de la Déclaration de Bruxelles, 24 États parties ayant soumis leurs rapports¹⁰. La plupart des rapports suivent la structure de la Déclaration de Bruxelles. Il est souvent fait référence aux mesures prises avant la Déclaration de Bruxelles ou il y a des commentaires selon lesquels les rapports nationaux complètent les informations fournies dans les précédents rapports nationaux sur la mise en œuvre des Déclarations de Brighton, d'Interlaken et d'Izmir. Il convient de noter à cet égard que le Comité d'experts sur le système de la Convention européenne des droits de l'homme (DH-SYSC), conformément à son mandat, a déjà préparé des rapports au Comité des Ministres sur les mesures prises par les États membres pour mettre en œuvre les parties pertinentes des Déclarations d'Interlaken, Izmir et Brighton.¹¹

3. Outre le présent document, le suivi de la Déclaration de Bruxelles comprendra également une analyse par le Secrétariat, dont l'achèvement est prévu en septembre 2019, qui sera également reflétée dans la future Contribution du CDDH à l'évaluation prévue par la Déclaration d'Interlaken. Les rapports nationaux compilés dans le présent document ont déjà servi de source d'information pour la collection de bonnes pratiques concernant la Convention dans l'enseignement universitaire et la formation professionnelle, par le Groupe de rédaction sur le suivi de la Recommandation Rec(2004)4 du Comité des Ministres aux États membres sur la Convention européenne des Droits de l'Homme dans l'enseignement universitaire et la formation professionnelle (DH-SYSC-III).¹²

⁷ Déclaration de Bruxelles, 27 mars 2015, Section B. du Plan d'action de la Déclaration - Mise en œuvre de la Convention au niveau national.

⁸ Déclaration de Bruxelles, Mise en œuvre du Plan d'action, point 1.

⁹ Voir les décisions prises lors de la 125^e session du Comité des Ministres sur « Garantir l'efficacité continue du système de la Convention européenne des droits de l'homme », le 14 avril 2015. L'invitation faite aux États de présenter des rapports sur la mise en œuvre de la Déclaration de Bruxelles a été exprimée à quelques reprises, voir le Carnet de bord de la réunion du Groupe de Rapporteurs sur les droits de l'homme du 28 février 2017, document GR-H(2018)CB2, point 10 ; Carnet de bord de la réunion du Groupe de Rapporteurs sur les droits de l'homme du 8 septembre 2016, document GR-H(2016)CB8, point 4.

¹⁰ Albanie, Andorre, Arménie, Azerbaïdjan, Chypre, République tchèque, Danemark, Estonie, Finlande, France, Allemagne, Irlande, Liechtenstein, Lituanie, Luxembourg, Monaco, Monténégro, Pays-Bas, Norvège, Pologne, Fédération de Russie, Slovaquie, Suède, Royaume-Uni.

¹¹ Documents CDDH(2012)R76 Addendum I; CDDH(2016)R85 Addendum I.

¹² Voir document DH-SYSC-III(2018)R1.

ALBANIA / ALBANIE

Introduction

1. In reply to your letter concerning implementation of the Brussels Declaration, adopted in March 2015, in the framework of the reform of the system of the European Convention of Human Rights, we hereby inform you that Ministry of Justice, judicial bodies and Constitutional Court constantly refer to the ECtHR jurisprudence thus aligning the positions with the European standards and values and the best practices in protection of human rights in Europe.

2. As regards implementation of the Convention, the courts and especially the High Court and the Constitutional Court play an important role as when issuing their decisions they refer to concrete cases of ECtHR. A considerable part of the activity of the Constitutional Court is linked to the control of the due legal process, constitutional procedural law (article 6 of the ECHR, article 42 of the Constitution), therefore the practice in this regard is considerable.

3. It is worth mentioning that the State Advocate Office of the Republic of Albania that has primary access and cooperates directly with the Council of Europe and the European Court of Human Rights (the Court), plays a central role in implementation of the Convention at local level and improvement of the climate of human rights in Albania, both before and during the proceedings before the European Court and after the issuing of the judgement by this Court, in the enforcement procedure at national level.

4. Some of the steps undertaken by the State Advocate Office, before and during the proceedings before the European Court are:

- Ensuring access to necessary information for the potential applicants, through the website of the State Advocate Office, which contains decisions of the European Court of Human Rights against the Albanian state and necessary contacts for the direct information through the offices of this institution;
- Direct contact with the citizen and making available the requested information, through the telephone number or official email of the institution;
- Cooperating with local offices of the Council of Europe through HELP programme for study visits in the Court and the Council, to educate further Albanian judges and jurists professionally;
- Cooperating with the School of Magistrates for the involvement of judgements of the European Court of Human Rights in the curricula of this school for initial and continuous training of prospect magistrates and current magistrates on the findings of the Court and latest developments in the framework of the Convention;
- Cooperating constantly with several institutions including Ministry of Justice, through legal advice and opinions on future draftlaws¹³, existing laws in the framework of verification of compatibility of the latter and also internal administrative practice with the standards of the Convention and developments in the case-law of the Court. This is a result in the framework of the Action Plans on improvement and finding of effective remedies for the findings of the Court in the cases against Albania, in the phase of enforcement of decisions at local level.

5. Once the judgement of the European Court is issued:

- Submitting within the time limit the Action Plans and Action Reports that foresee individual and general measures to redress and find the necessary legal and administrative tools to redress violations found by the court. This is done in cooperation

¹³ Law "On treatment of property and completion of the property compensation process" which is a finding of violations and problems raised by the ECHR in the pilot judgement "Manushaqe Puto v Albania"

with institutions affected by the respective decision and other state agencies interested in the process;

- Preparing and reporting to the Ministry of Justice over further approval by the Council of Ministers, the draft decisions of the Council of Ministers concerning execution of respective individual measures foreseen in each decision of the Court as a just compensation in the form of financial compensation and/or taking of necessary steps to fulfil obligations against the complainant/applicant;
- Cooperating with the respective institutions and state agencies for complete and effective enforcement of Court judgements and advising these authorities to find the most adequate way to enforce these judgements;
- In the framework of Justice Reform, in order to implement effective redress of violations found by the ECtHR, it has made available to the Ministry of Justice a summary of the violations found by the ECtHR and it has made concrete proposals concerning the redress provided by the case-law of the European Court and other member states.¹⁴
- Forwarding the judgements of the Court to the School of Magistrates in order to include them in the curricula of this institution for the initial and continuous professional training of magistrates and prosecutors of the Republic of Albania;
- Maintaining, through the Government Agent attached to the European Court of Human Rights, close cooperation with the government agents and respective institutions of other Contracting States, to promote relevant information exchange, best practices and positive and successful experience for the solution to problems raised by the findings of the Court in various cases, analogue or similar between two states;
- Preparing the respective reports for the translation and publishing of decisions of the Court, following the process of their publication in the Official Gazette, through the Official Publication Centre and publishing these translations on the website of the State Advocate Office in order to facilitate access to all the interested parties, and notifying respectively through the social media where this institution is present;
- Translating, where possible and publishing to the State Advocate Office website the information most relevant to the case being reviewed, in enforcement procedure by the Committee of Ministers, including:
 - Action Plans;
 - Action Reports;
 - Information documents;
 - Decisions of Council of Ministers;
 - And any other document relevant for the case.
- Translating into local language and publishing the summary of the main Court judgements throughout the years to promote access to the Court judgements and respective case-law for cases of different topics, through the last initiative of the Court in cooperation with the Registrar of the Court and other international stakeholders. In the framework of this initiative, the State Advocate Office, in cooperation with OSCE Albania and other organisations has made possible in 2015 the publication of the main judgements summarised by the European Court with subject matters that cover a wide range of social themes.

6. Taking necessary measures for the full implementation of the measures foreseen in the document of the Brussels Conference as regards the Contracting States is of fundamental importance as regards a decent representation before the ECtHR and Committee of Ministers of the Council of Europe.

7. For additional detailed information on:

- most outstanding practice of the CC, guided by the ECtHR judgements and the recent legal improvements with the law no. 8577 dated 10.2.2000 "On organisation

¹⁴ Draft decision "On just compensation" (as findings on the violations in ECtHR judgement Luli and Others v Albania"

and functioning of the Constitutional Court of the Republic of Albania” amended by law no. 99/2016 dated 06.10.2016 (*CC organic law*);

- decisions of the High Court, that refer to the ECtHR judgements;
- activities on human rights organised for the effective judges and prosecutors by the School of Magistrates.

CONSTITUTIONAL COURT

8. Briefly we are presenting some of the most outstanding practices of the Constitutional Court, guided by the ECtHR judgements and the recent legal improvements with the law no. 8577 dated 10.2.2000 “On organisation and functioning of the Constitutional Court of the Republic of Albania” amended by law no. 99/2016 dated 06.10.2016 (*CC organic law*) according to the required standards of the ECtHR.

INDIVIDUAL CONSTITUTIONAL APPEAL

9. A considerable part of the activity of the Constitutional Court is linked to the control of the due legal process, constitutional procedural law (article 6 of the ECHR, article 42 of the Constitution), therefore the case-law in this regard is considerable.

Concerning access to CC

10. The Constitutional Court has extended the possibilities of the individual, by interpreting the standing in favour of access to the court. The individual may approach this court not only after exhaustion of all the instances of the adjudication, but also when the following of the appeal procedures would result in excessive violation or a further aggravation of the situation.

11. In concrete terms, this court in the case with the applicant *K.Kryekurti (2011)* deems that the violation of the right to a due legal process guaranteed by article 42 of the Constitution may be claimed before the Court only upon exhaustion of all the options provided by the appeal system and this applies even in the case where the preliminary judicial proceedings lead to a further aggravation or excessive violation of this right. As the applicant has exhausted the means of appeal against “measure of arrest in prison” and the applicant appeals against a decision of the High Court, the nature of this ruling requires, by derogation, that it be considered final for the purposes of article 131/f of the Constitution.¹⁵ This practice was based on the case-law of the ECtHR according to which it is estimated that an exemption must be made from the principle, that article 6 of the Convention does not apply to rulings when the nature of the ruling requires this exemption. (*Markass Car Hire Ltd v Cyprus, judgement dated 23 October 2001, Micallef v. Malta, judgement date 15 October 2009*)

12. This standard is reflected with the amendments to the Constitutional Court law, article 71/a according to which individual constitutional appeal is reviewed by the Constitutional Court where: a) the applicant has exhausted all the effective legal remedies before approaching the Constitutional Court or where the domestic legislation does not foresee the available effective legal remedies.

Concerning the prolongation of procedures beyond reasonable time limits

13. CC in the case with the applicant *A. Koliqi (2012)* held that this court may review even the applications of individuals over the violation of the right to a trial within the reasonable time limits, irrespective of the fact that the trial for the protection of rights, freedoms and constitutional and legal interests may not have been conducted at all instances of trial by the courts of ordinary jurisdiction. In this regard, the Constitutional Court deems that in such

¹⁵ D. no.28/2011

cases, the individual must approach the Court because there are no other effective remedies available to speed up the process.¹⁶

14. In the case with the applicant *O. Shyti (2011)* it acknowledges that: “.....the complexity of the case, the attitude of the proceeding body and the applicant have become a reason for the prolongation of the judicial proceedings beyond the reasonable time limits. Even though delays, attributed to the proceeding body, have occurred for objective reasons and the legal spaces have allowed the reviewing of the case, according to the Court, the lengthy proceedings by the state authorities are unjustifiable. In this case, CC underlines that there is no special legal remedy for compensation of damage caused by the failure to observe the constitutional standard of reasonable time limit, but however this court has found the violation.¹⁷

15. Concerning the claim for unreasonable lengthy proceedings, in order for the local system to be more effective and the Constitutional Court not to be overloaded with cases of this nature, the respective provisions will be made in the criminal and civil procedure code, in order for the individual to have the right to appeal before the ordinary courts, where the violation has occurred.

16. According to the recent amendments to the law, CC may be challenged as regards the duration of the constitutional process conducted by the court, if the individual claims unreasonable length, 1 year after the filing of the application to the CC. (article 71/ç).

Concerning the reinstatement in time limits and trial in absentia

17. ECtHR in the case *Shkalla v Albania* held: “Calculation of the time limit of appeal had to start from the date the complainant was informed effectively of the punishment rather than from the date of the decision of the HC. Consequently, non-admission of the application by the CC has violated his right to access the court.” CC, as a college, decided that the applications against the decision of punishment in absentia not to be sent to trial because the applicant had filed the application outside the two year time limit of appeal before the CC. This practice has been revised and corrected. For instance, in the decision *V. Kondili (2015)*¹⁸, CC deems that based on the constitutional jurisprudence and the ECtHR case-law on the effective remedy over restoration of the rights claimed to have been violated by those who are tried in absentia, the submission by the applicant of the request for reinstatement in time limits does not become an obstacle to review the individual constitutional appeal, because it is exactly this effective remedy that provides the reasonable possibilities for restoration of rights claimed, by challenging the punishment in absentia. Concerning *ratione temporis* standing, the Court held that the start of the two year period is the date when the applicant is informed of the criminal decision rather than the date of the final decision of the High Court.

18. Following the amendments to the organic law of the CC, the time limit of two years for submission of applications is reduced to 4 months, while the start of the legal time limit is set at the moment the violation is found, thus permanently solving the problem of reinstatement in time limit in relation to the person tried in absentia.

Concerning the failure to take a final decision

19. In the case *Vlash Marini v Albania*, ECtHR held that CC by refusing the application and dismissing the case and not taking a decision over the individual because of a voting tie, violated his right to access the “court defined by the law”. Cases of this nature have been

¹⁶ D. no.12/2012

¹⁷ D.no.47/2011

¹⁸ D.no.31/2015

recorded even after Marini before the CC until the entry into force of the amendments to the CC organic law.

20. With the new amendments to the CC organic law, there are no other provisions on the refusal of the application, but only adjustment of the situation where no quorum is required, thus if the majority of 5 persons is not formed, the application is considered dismissed. (article 73/4).

Concerning the effect of judgements of the ECtHR for the Albanian system (reopening of proceedings)

21. In relation to the effect of ECtHR judgements in the Albanian internal legal system, this Court, in one case repealed the decision of the High Court with the reasoning that even though the Albanian criminal system does not allow (from the formal point of view) a review of final criminal decisions through the reopening of the process, after the ECtHR found serious violation of the due process of law, the High Court had to apply directly the Constitution and the ECHR, by reopening criminal processes completed by final decision, after a judgement rendered by the ECtHR.

22. Specifically, in the case with the applicant *A.Xheraj* (2001), CC repealed the decision of the High Court with the reasoning that even though the Albanian criminal system does not allow (from the formal point of view) a review of final criminal decisions through the reopening of the process, after the ECtHR found serious violation of the due process of law, the High Court had to apply directly the Constitution and the ECHR, by reopening criminal processes completed by final decision, after a judgement rendered by the ECtHR.¹⁹ Even through the CCP lacks the procedural provisions for the reopening of proceedings after the ECtHR judgement, in case the latter finds violation of the law by the court, this did not refrain the CC, through its case-law, from obliging the High Court to reconsider the case.

23. With the amendments of the law, CC has been added new competence in this regards; first, case review when the international courts come to the conclusion that the human rights are violated by the law or normative act; second, reopening of the judicial proceedings when the international court finds violation of human rights by the CC. (article 71/c).

SCREENING OF LAW AND SUB-LEGAL ACTS

24. Concerning the screening of laws, it may be said that ECtHR has been a guide for the elaboration of standards principles of legal certainty, right of appeal, guarantees by an independent and impartial body etc.

25. One of the cases to be mentioned, even though there are several such cases in the CC case-law, is the CC decision no. 1/2013 concerning the claim for issue of a normative act of the CoM for release of buildings of lawful owners by the homeless citizens, who reside in the buildings that are former-property of expropriated subjects contrary to article 101 of the Constitution, thus in absence of the requirement of need and emergency, according to the constitutional requirements for the issue of the normative act with the force of law, CC argues the need by the judgement *Puto v Albania*.

26. According to CC, the Albanian state is in a situation where the need to find a final solution to the constant confrontation between the public interest, thus guaranteeing the right to property and housing interest of the social group of the tenants in the buildings of former-owners, constitutes a necessity. Even though the interest of the tenants for definitive housing is of special importance, in the conditions where balance between these interests continues to

¹⁹ D. no.20/2011

be inverted, beyond any reasonable time period, because the owners have an individual weight beyond the proper measure or scale for almost 20 years, the situation requires intervention of the state for the taking of urgent measures. Guaranteeing the right to property constitutes the priority of the Albanian state, especially based on the guidelines of the recent decision-making of the ECtHR in the case “*Manushaqe Puto and other v Albania*” concerning the non-enforcement of final decisions, which recognize the right to property of owners.

27. All the cases mentioned above indicate the approach of this court to the consideration of the Convention violations as constitutional violations, and the legal adjustment of the situation within the national framework, according to the principle of subsidiarity.

28. However, the amendments to the organic law of the Constitutional Court with increased competence, clearer and more complete rules and procedures are expected to make CC effective as a means of appeal from the point of view of article 13 of the ECHR, thus restoring the violated rights of the individual, and a greater dimension to the effective protection, within the national legal system.

29. Recently, the Constitutional Court has become member of the Supreme Court Network (SCN), a forum to strengthen dialogue between the ECtHR and Supreme Courts of Council of Europe member states. This new instrument of communication and cooperation is essential for the absorption of ECtHR judgements by the national courts. This membership becomes even more important and necessary in the conditions of a new reality of cooperation between ECtHR and CC, according to the recent amendments of the organic law of the Constitutional Court, according to which, the Constitutional Court during the case review has the right to request advisory opinions by the ECtHR concerning enforcement of rights and freedoms foreseen by the European Convention of Human Rights and additional protocols, as a reflection of protocol 16 of ECHR, ratified by the Albanian State.

DECISIONS OF THE HIGH COURT REFERRING TO THE ECtHR

• CRIMINAL UNIFYING DECISIONS

Main Register no.2

Decision no 1 dated 27.04.2015

In paragraph 48 of this decision, the High Court refers to the ECtHR case *Rosin v Estonia* no. 26540/08, dated 13.12.2013, § 55.

Main Register no.1

Decision no 2 dated 25.05.2015

In paragraph 15 of this decision, the High Court refers to the ECtHR case *Vinter and others v United Kingdom*, applications no.66069/09, no. 130/10 and 3896/10, dated 09.07.2013, § 115.

Main Register no.3

Decision no 3 dated 02.11.2015

In paragraph 27 of this decision, the High Court refers to the ECtHR case *Boman v Finland*, no. 41604/11, dated 17.02.2015; *Sergey Zolotukhin v. Russia*, no. 14939, dated 10.02.2009, § 82-83; *Salier v. Austria*, 06.09.2002; *Franz Fischer v. Austria*, 29.08.2001 and *Oliver v. Switzerland*, 30.07.1998. Moreover, in paragraph 47 it refers to the cases *Alimuçaj v Albania*, 20134/05 dated 07.02.2012, § 150-151 and *Baskaya dhe Okçuoglu v Turkey*, 08.07.1999.

Main Register no.1/4

Decision no 1 dated 10.03.2014

In paragraph 27 of this decision, the High Court refers to the ECtHR case *Sejdovic v Italy*, no. 56581/00, dated 01.03.2006, § 82; *Somogyi v. Italy*, no. 67972/01, 18.05.2004, § 66 and *Medecina v. Switzerland*, no. 20491/92, 14.06.2001, § 55. Moreover, in paragraph 28, 29 and 30 it refers to the cases *Sejdovic v Italy*, § 86, § 87, § 88. In paragraph 59 of this decision, the High Court refers to the ECtHR case *Ardian Shkalla v Albania*, no. 26866/05, 10.05.2011 and *Haxhia v. Albania*, 34783/06, 05.11.2013.

Main Register no.2

Decision no 2 dated 03.11.2014

In paragraph 28 of this decision, the High Court refers to the ECtHR case *Nikitin v Russia*, no.50178/99, dated 20.07.2004, § 37; *Lucky Dev v. Sweden*, no.7356/10, dated 27.11.2004, § 56; *Sergey Zolotukhin v. Russia*, no.14939/03, dated 10.02.2009, § 107 and *Xheraj v. Albania*, no.37959/02, dated 29.07.2008, § 70. In paragraph 29 it refers to the case *Gjyli v Albania*, no. 32907/07, 29.09.2009, § 31-34.

• UNIFYING CIVIL DECISIONS

Main Register no.4

Decision no 4 dated 10.12.2013

In paragraph 70 of this decision no. 4 dated 10.12.2013, the High Court refers to the ECtHR case *Ramadhi and others v Albania*, § 36, § 77; *Nuri v. Albania*; *Hamzaraj no 1 v. Albania and Puto v. Albania*. Moreover in paragraph 71, the High Court refers to the ECtHR case *Maria Atanasiu and others v Romania*, § 134-136. Even paragraph 72 of the same decision refers to the case *Viasu v Romania* and case *Ramadhi and Hamzaraj v Albania*.

• CRIMINAL DECISIONS

Main Register no 6/36

Decision No 6/36 dated 14.04.2016

In paragraph 19 of this decision, the High Court refers to the ECtHR case *Minelli v Switzerland*; *John Murray v. United Kingdom*, 08.02.1996 and *Telfner v. Austria*, 20.06.2001.

Main Register no.4/28

Decision no 4/28 dated 25.04.2016

In page 8 of this decision, the High Court refers to the ECtHR case *Prager and Obserchlick v Austria*, 26.04.1995 and *De Hayes and Gjisels v. Belgium*, 24.02.1997. Even in page 9 of this decision, the High Court refers to the ECtHR case *Jerusalem v Austria* 27.02.2001 and *Castells v. Spain*, 23.04.1992.

Main Register no.3/1

Decision no 3/1 dated 31.03.2016

In paragraph 16.3 of this decision, the High Court quotes the ECtHR judgement in case *Schiesser v Switzerland*, dated 04.12.1979 In paragraph 16.5 of this decision, the High Court quotes the ECtHR judgement in case *Labita v Italy*, 2000 and *Castravet v. Moldova*, 2007.

Main Register No.52804-00088-00-2013

Decision no.00-2013-1404 (170)

In this decision, the High Court refers to the ECtHR case *Bujnița v Moldova*, no.36492/02, § 21.16 January 2007 and *Rosca v. Moldova*, no.6267/02, § 24, 22 March 2005.

Main Register No. 53101-00707-00-2015

Decision no.00-2015-1198 (100)

In this decision, the High Court refers to the ECtHR cases *Stone Court Shipping Company s.a v Spain*, 28 October 2003, §§ 33-35; *Pérez de Rada Cavanilles v. Spain*, 28 October 1998, § 45 and *Miragall Escolano and others v. Spain*, 25 January 2000, §§ 36-38.

Main Register No. 56250-00851-00-2015**Decision No. 00-2016-1223**

In this decision, the High Court refers to the ECtHR cases *Allenet de Ribemont v France*, dated 10.02.1995, § 35.

Main Register No. 53101-01428-00-2015**Decision No. 00-2016-1156**

In this decision, the High Court refers to the ECtHR case *Sejdović v. Italy* (10 November 2004) and *Somogyi v. Italy* (18 May 2004).

Main Register No. 53201-01196-00-2014**Decision No. 00-2016-1191**

In this decision, the High Court refers to the ECtHR case *Sejdović v. Italy* (10 November 2004) and *Somogyi v. Italy* (18 May 2004)

- **CRIMINAL DECISIONS ON ARREST MEASURES**

Main Register No. 61004-00977-00-2014**Decision No. 00-2014-1963 (169)**

In this decision, the High Court refers to the ECtHR case *Saban v. Moldova*, decision date 04.10.2005.

Main Register no. 70007-01563-00-2016**Decision no. 00-2016- 1591 (178)**

In this decision, the High Court refers to the ECtHR case *Belchev v. Bulgaria*, 2004; *McKay v. United Kingdom*, 2006; *Neumeister v. Austria*, 1968; *Sarban v. Moldova*, 2005; *Mansur v Turkey*, 1995 and *Smirnova v. Russia*, 2003.

Main Register No.61007-01726-00-2015**Decision No. 00-2015-2465 (156)**

In this decision, the High Court refers to the ECtHR case *Mouisel v. France*, 2001, no. 67263/01, § 37, ECHR 2002-IX and *Melnik v. Ukraine*, 2006, no. 72286/01, § 94, 28 March 2006.

Main Register no. 61004-02403-00-2015**Decision no. 00-2015 -3243 (226)**

In this decision, the High Court refers to ECtHR case *Clooth v. Belgium*, ECtHR 12.12.1991; *Yagci and Sargin v. Turkey*, ECtHR 23.05.1995; *Wemhoff v. Germany*, ECtHR 1968 and *Jablonsky v. Poland*, 21.12.2000.

Main Register No.61004-01139-00-2014**Decision no.00-2014-1739 (185)**

In this decision, the High Court refers to the ECtHR case *Clooth v. Belgium*, ECtHR 12.12.1991; *Yagci and Sargin v. Turkey*, ECHR 23.05.1995; *Neumeister v. Austria*, ECHR, 27 June 1968, § 10; *Smirnova v. Russia* and *Letellier v. France*, ECHR, 26 June 1991, § 43.

- **CIVIL DECISIONS**

Main Register No. 11241-01128-00-2016**Decision no.00-2016 - 2159 (228)**

In this decision, the High Court refers to the ECtHR case *Sabeh El Leil v. France*, and *Çudak v. Lithuania*.

**TRAINING ACTIVITIES ON HUMAN RIGHTS FOR JUDGES AND PROSECUTORS IN
SERVICE
PERIOD: APRIL 2015-DECEMBER 2016**

21-22 July 2015	Assistance on better protection regarding Article 10 (Freedom of Expression) of ECHR, through implementation of the standards of European Court of Human Rights.	21 participants
20-21 Oct 2015	Assistance on better protection regarding Article 10 (Freedom of Expression) of ECHR, through implementation of the standards of European Court of Human Rights.	14 participants
16-17 Mar 2016	Human Rights.	14 participants
29-30 Mar 2016	Understanding and correct application of article 3 of ECHR and domestic legislation on this field.	10 participants
27 May 2016	Asylum law. (with administrative law judges)	18 participants
15-16 June 2016	Applicability of the constitutional principle of ne bis in idem in the viewpoint of the ECHR (article 4 of Protocol no.7).	25 participants
24 tetor 2016	Direct application of the convention on elimination of all forms of discrimination against women (CEDAW). Role of the court and the justice system.	10 participants
25 Oct 2016	Direct application of the convention on elimination of all forms of discrimination against women (CEDAW). Role of the court and the justice system.	22 participants
26 Oct 2016	ECtHR case law regarding the rights of disabled persons. UN convention and the Albanian legislation regarding disabled persons and the role of the justice system.	23 participants
27 Oct 2016	ECtHR case law regarding the rights of disabled persons. UN convention and the Albanian legislation regarding disabled persons and the role of the justice system.	30 participants
31 Oct 2016	ECtHR case law regarding the rights of disabled persons. UN convention and the Albanian legislation regarding disabled persons and the role of the justice system.	25 participants
31 Oct 2016	Legal framework of the marginalized group's rights, focusing on the women and girls. Istanbul convention on the domestic violence and the role of the justice system.	21 participants
1 Nov 2016	Legal framework of the marginalized group's rights, focusing on the women and girls. Istanbul convention on the domestic violence and the role of the justice system.	15 participants
1 Nov 2016	ECtHR case law regarding the rights of disabled persons. UN convention and the Albanian legislation regarding disabled persons and the role of the justice system.	13 participants
3 Nov 2016	ECtHR case law regarding the rights of disabled persons. UN convention and the Albanian legislation regarding disabled persons and the role of the justice system.	26 participants
9-10 Nov 2016	Practical cases regarding the application of ECHR. 1. ECtHR case law and the Albanian legislation on property rights in framework of legal changes; 2. ECtHR case law and the Albanian legislation on article 5 and 14 of the ECHR; 3. ECtHR case law and the Albanian legislation on articles 6 and 13 of the ECHR.	15 participants

ANDORRA / ANDORRE

Preliminary introduction

1. The Principality of Andorra holds an excellent record among member States of the Council of Europe with regard to the low number of judgments of the European Court of Human Rights (ECtHR). From 1959 to 2016, Andorra has only been condemned in 6 occasions.
2. According to the information provided by the Court, on 01/07/2016, there were only 5 pending applications (1 being processed, 1 before a single judge and 3 before a Chamber).
3. Furthermore, Andorra had only one case pending of execution. The case, which required the introduction of new legislation (the revision appeal), had recently been resolved and an action report requesting the closure of the affair has already been sent to the Department for the Execution of judgments of the ECtHR.
4. However, some of the measures of the Brussels declaration have already been studied and some, further developed. This report contains specific replies to the concrete undertakings contemplated in the Declaration, keeping always in mind the low number of cases pending before the ECtHR.

B. 1. a) Prior to and independently of the processing of cases by the Court: ensure that potential applicants have access to information on the Convention and the Court, particularly about the scope and limits of the Convention's protection, the jurisdiction of the Court and the admissibility criteria

5. The Andorran Bar association organizes regularly training courses addressed to law professionals on how to prepare an application before the ECtHR with the objective to explain the scope and limits of the Convention's protection together with admissibility criteria. The last one took place on 03/12/2015 with the participation of 60 law professionals.

B. 1. b) Prior to and independently of the processing of cases by the Court: increase efforts at national level to raise awareness among members of parliament and improve the training of judges, prosecutors, lawyers and national officials on the Convention and its implementation, including as regards the execution of judgments, by ensuring that it constitutes an integrated part of their vocational and in-service training, where relevant, including by having recourse to the Human Rights Education for Legal Professionals (HELP) programme of the Council of Europe. As well as to the training programmes of the Court and to its publications

6. Members of the Andorran Parliament who are members of the Andorran delegation to the Parliamentary Assembly of the Council of Europe (PACE) have already been active in their role of monitoring the Government's action with regard to the execution of some ECtHR judgments. Only recently, in relation to the only case pending of execution, parliamentarians questioned in several occasion the Government's plan of action. Such a monitoring function helps to pressure the Government to find a solution for the case. Furthermore, it is important to note that most of the Andorran judges and prosecutors come regularly to the Council of Europe as expert members of a variety of committees, like the DB-BIO, CCPE, CCJE, CDPC, PC-OC, CDCJ, CEPEJ. All these experts from the judiciary (judges and prosecutors) are very familiar with the Convention system and, more especially, with the work of the ECtHR. Finally, Andorra has already initiated some contacts with the HELP programme to explore the possibility to participate in the organized courses offered to Spanish and French professionals.

B. 1. c) Prior to and independently of the processing of cases by the Court: promote, in this regard, study visits and traineeships at the Court for judges, lawyers and national officials in order to increase their knowledge of the Convention system

7. The possibility to organize study visits and traineeships at the Court is currently being assessed. No results have yet been reported.

B. 1. d) Prior to and independently of the processing of cases by the Court: take appropriate action to improve the verification of the compatibility of draft laws , existing laws and internal administrative practice with the Convention, in the light of the Court's case law

8. Each time a judgment of the ECtHR required some legislative reform, the Government has proceeded accordingly. In a recent case pending of execution, a specific law on the revision appeal was introduced in order to comply with the "restitutio in integrum". Until now, no repetitive or systemic cases, which would have required structural changes, have been detected.

B. 1. e) Prior to and independently of the processing of cases by the Court: ensure the effective implementation of the Convention at national level, take effective measures to prevent violations and to provide effective domestic remedies to address alleged violations of the Convention

9. The low number of cases before the ECtHR also serves as an indication of the few violations of the Convention committed in Andorra.

B. 1. f) Prior to and independently of the processing of cases by the Court: consider making voluntary contributions to the Human Rights Trust Fund and to the Court's special account to allow it to deal with the backlog of all well-founded cases, and continue to promote temporary secondments to the Registry of the Court

10. Unfortunately, the Andorran budget for voluntary contributions to all international organizations, of which Andorra is a member, is rather limited. The Government has prioritized vulnerable groups of citizens.

B. 1. g) Prior to and independently of the processing of cases by the Court: consider the establishment of an independent National Human Rights Institution

11. The establishment of an independent National Human Rights Institution has been the recommendation of some monitoring mechanisms, among them, the CPT (Committee for the Prevention of Torture), CRC (Committee on the Rights of the Child), CEDAW (Committee Against Discrimination of Women) and the UPR (Universal Periodical Review). However, Andorra has always claimed that the size of the country does not allow for many institutions with similar nature. The Andorran Ombudsman, which was created in 1998 and whose mandate has been already enlarged in one occasion, also according to some monitoring mechanisms recommendations (ECRI, among them), has demonstrated to be highly efficient in its functions. Finally, and in order to comply with the latest ECRI's recommendation of 2016 (not yet officially published) with regard to its mandate, a new revision of the Ombudsman law has been drafted and is currently under assessment.

B. 2. a) After the Court's judgments: continue to increase their efforts to submit, within the stipulated deadlines, comprehensive action plans and reports, key tools in the dialogue between the Committee of Ministers and the States Parties, which can contribute also to an enhanced dialogue with other stakeholders, such as the Court, national parliaments or National Human Rights Institutions

12. So far, Andorra has duly submitted comprehensive action plans and reports within the stipulated deadlines in all cases pending of execution. Only recently, Andorra has finally executed the only pending case.

B. 2. b) After the Court's judgments: in compliance with the domestic legal order, put in place in a timely manner effective remedies at domestic level to address violations of the Convention found by the Court

13. It has never been the case so far.

B. 2. c) After the Court's judgments: develop and deploy sufficient resources at national level with a view to the full and effective execution of judgments, and afford appropriate means and authority to the government agents or other officials responsible for coordinating the execution of judgments

14. The current structure of the Government Agent is adjusted to the number of existing cases.

B. 2. d) After the Court's judgments: attach particular importance to ensuring full, effective and prompt follow-up to those judgments raising structural problems, which may furthermore prove relevant for other States Parties

15. No such situations have occurred so far.

B. 2. e) After the Court's judgments: foster the exchange of information and best practices with other States Parties, particularly for the implementation of general measures

16. The Government Agent participates regularly to the meetings of Government Agents, and between them and the Registrar of the ECtHR. The Government Agent is also a part of the informal network, which exchange information and share best practices on a regular basis.

B. 2. f) After the Court's judgments: promote accessibility to the Court's judgments, action plans and reports as well as to the Committee of Ministers' decisions and resolutions, by:
- developing their publication and dissemination to the stakeholders concerned (in particular, the executive, parliaments and courts, and also, where appropriate, National Human Rights Institutions and representatives of civil society), so as to involve them further in the judgment execution process;
- translating or summarising relevant documents, including significant judgments of the Court, as required

17. - Recently, a selection of Court judgments, which might have some effect in the Andorran legislation, are been sent to the High Justice Council for its distribution among judges and prosecutors, as well as the Legal Department of the Andorran Government.

18. - French is one of the current languages spoken in Andorra, for this reason, there is no need to translate Court judgements. Furthermore, the Andorran Bar Association has recently started to publish in its web page those cases that might raise some interest to the law professionals.

B. 2. g) After the Court's judgments: within this framework, maintain and develop the financial resources that have made it possible for the Council of Europe, since 2010, to translate a large number of judgments into national languages

19. No information available with regard to this point.

B. 2. h) After the Court's judgments: in particular, encourage the involvement of national parliaments in the judgment execution process, where appropriate, for instance, by transmitting to them annual or thematic reports or by holding debates with the executive authorities on the implementation of certain judgments

20. In view of the fewer cases and the active involvement of the Andorran parliamentarians, there has never been the need for further action in this regard.

B. 2. i) After the Court's judgments: establish "contact points", wherever appropriate, for human rights matters within the relevant executive, judicial and legislative authorities, and create networks between them through meetings, information exchanges, hearings or the transmission of annual or thematic reports or newsletters

21. There has never been considered the possibility to establish "contact point" due to the lower number of cases before the ECtHR.

B. 2. j) After the Court's judgments: consider, in conformity with the principle of subsidiarity, the holding of regular debates at national level on the execution of judgments involving executive and judicial authorities as well as members of parliament and associating, where appropriate, representatives of National Human Rights Institutions and civil society

22. This possibility has never been considered due to the lower number of cases before the ECtHR.

ARMENIA / ARMENIE

Introduction

1. Acknowledging its primary role in strengthening the democratic and legal space founded on respect for fundamental human rights and freedoms enshrined by the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter, the Convention), the Government of Armenia reaffirms its deep and abiding commitment to take continues steps for further reinforcing the existing legislative, practical and structural mechanisms of human rights protection. Recalling the measures already undertaken in the framework of the Convention implementation, and, *inter alia*, through the implementation of the Interlaken, Izmir and Brighton Declarations, the Armenian Government present the information on the steps taken under the Brussels Declaration.

B. 1. a) Prior to and independently of the processing of cases by the Court: ensure that potential applicants have access to information on the Convention and the Court, particularly about the scope and limits of the Convention's protection, the jurisdiction of the Court and the admissibility criteria

2. On 30 September 2015, within the framework of the Council of Europe project, the official website of the Government Representation before the European Court of Human Rights was launched. This is the first initiative of this kind among the Council of Europe Member States. The ultimate goal of this website is to raise awareness among the potential applicants on the Convention system and to ensure that they have access to information on the Convention and the Court, as well as to make the execution of the Court's judgments more efficient in line with the Brussels Declaration adopted by the Council of Europe Committee of Ministers in March 2015. The Agent's website is an important tool making the international

documents on human rights protection more accessible, and the mechanisms for legal protection provided by these documents more available to public. It promotes effective functioning of human rights protection mechanisms, as well as increases the level of targeted and institutional cooperation in the scope of the execution of judgments.

3. In this context and more specifically, the information regarding the scope and limits of the Convention protection, the jurisdiction of the Court and the admissibility criteria is available (in Armenian as well) on the Agent's website. In regard of admissibility criteria, it is to be mentioned in particular that in cooperation and with the support of the Council of Europe, the Practical Guide on Admissibility Criteria has been translated into Armenian and published on the Agent's website. It is also noteworthy that the Committee of Ministers welcomed the discussed initiative of the Armenian Government and noted about it in its 9th Annual Report for 2015 under the section Special Actions of Member States to Improve the Implementation of the Convention.

B. 1. b) Prior to and independently of the processing of cases by the Court: increase efforts at national level to raise awareness among members of parliament and improve the training of judges, prosecutors, lawyers and national officials on the Convention and its implementation, including as regards the execution of judgments, by ensuring that it constitutes an integrated part of their vocational and in-service training, where relevant, including by having recourse to the Human Rights Education for Legal Professionals (HELP) programme of the Council of Europe. As well as to the training programmes of the Court and to its publications

4. Giving a greater emphasis to increasing the knowledge of respective professionals of the field on the Convention system, continues efforts are made to raise awareness of public officials, lawyers, etc., in particular, through organizing periodic professional trainings²⁰ and seminars, as well as by promoting study visits and traineeships at the Court.

5. In this regard, the respective training curricula of the Justice Academy, the Police Academy, the Law Institute of Ministry of Justice, as well as academic programs developed for lawyers have special training courses on the Convention and the Court's case-law. In particular, the Justice Academy provides trainings for judges and candidates for judges, prosecutors and candidates for prosecutors, investigators and candidates for investigators, as well as other public officials. The Law Institute provides trainings for penitentiary officials and civil servants. As regards the Police Academy, these courses are provided for police officers and students who study at the Academy. Finally, relevant courses on the Convention and the Court's jurisprudence are included in the academic programs of higher education institutions of Armenia.

6. **Justice Academy:** The relevant courses on the Convention and the Court's case-law are an integral part of the vocational and in-service trainings of judges and candidates for judges, prosecutors and candidates for prosecutors, investigators and candidates for investigators. The common core curriculum of the Academy for 2015-2016 included the following courses on the Convention and the Court's case-law: "*The Fundamentals of the ECtHR Jurisprudence and Contemporary Trends*"; "*Contemporary Issues of the ECtHR in Civil Cases*"; "*Contemporary Issues of the ECtHR in Administrative Cases*"; "*ECtHR Case-law in the Framework of Protection of the Property*"; "*The ECtHR Case-law in Civil Procedure*"; "*Contemporary Issues of the ECtHR in Criminal Cases*". It is to be noted that issues in respect of the Convention and the Court's case-law have been subject for discussion during other courses as well.

7. **Police Academy:** Based on the proposals made by the Office of the Government Agent before the European Court of Human Rights, as well as by the Ministry of Justice,

²⁰ This includes both vocational and in-service trainings.

separate mandatory subjects (*“The CPT and the UNCAT Standards”*, *“The European Court of Human Rights Judgments Finding Violation of Article 3 of the Convention delivered in respect of Armenia”*) have been included in the academic curriculum of the Police Academy. Specific topics such as safeguards against ill-treatment of persons detained by the Police, specificities on holding detained persons at the Police, the standards of record keeping, standards of investigation of alleged ill-treatment cases at the Police, the standards on material conditions of places of holding arrestees and/or detainees, etc., will be taught in the framework of these subjects with the purpose of increasing both the academic knowledge and the professionalism of the Police staff in the respective field. Furthermore, the issues in respect of the Convention and the Court’s case-law are studied and discussed during different courses taught at the Police Academy, such as *“European Law”*; *“Human Rights and the Police”*; *“Fundamentals of Human Rights”*; *“Ensuring Fundamental Rights and Freedoms of Human and Citizen during Police Activities”*, etc.

8. **Chamber of Advocates and School of Advocates:** For each academic semester, the curriculum of trainings for advocates includes mandatory courses on the Convention and the Court’s case-law. In this framework, targeted courses have been organized in respect of different rights enshrined under the Convention (e.g. Freedom of expression, Right to a fair trial, Prohibition of discrimination, Right to liberty and security). Giving particular importance to the role of advocates for lodging applications before the Court, specific courses on the admissibility criteria, engagement of the advocate in the Court’s proceedings, practical skills for lodging applications before the Court, the capacity building of advocates and human rights defenders for applying Convention standards at national level, etc. have been organized as well. Furthermore, a video conference, with the participation of Council of Europe experts, was held during which the recent judgments of the Court in respect of Armenia have been discussed.

9. **Recourse to the HELP program and the Court’s publications:** As it is mentioned in the 2015-2018 Action Plan of the Council of Europe for Armenia, the co-operation initiated with the national training institutions for legal professionals - the Justice Academy, the School of Advocates and the Chamber of Advocates - under the auspices of HELP enables the judges, prosecutors, lawyers, investigators, and judicial assistants to have better access to human rights training. Selected training courses and materials on the Convention and Court’s case-law were already prepared and disseminated, a pool of trainers was established and seminars were organized. In this context, in June 2016 a pilot distance-learning course, relevant to the introduction on the Convention and the Court’s case-law, was launched for a group of 11 participants in the Justice Academy. Furthermore, the experts and professors of the Justice Academy take part in developing of courses, manuals and guidelines in the framework of the HELP program.

10. According to the information provided by the Chamber of Advocates, the latter and the School of Advocates use the practical and theoretical materials published on the HELP platform in the course of the trainings for advocates. It is to be noted as well that 2015-2018 Action Plan of the Council of Europe for Armenia specifies that the cooperation in this regard, will be continued, with a particular focus on the development and adaptation of HELP distance-learning courses, to increase the training possibilities on human rights.

B. 1. c) Prior to and independently of the processing of cases by the Court: promote, in this regard, study visits and traineeships at the Court for judges, lawyers and national officials in order to increase their knowledge of the Convention system

11. Apart from the information mentioned hereinabove, it should be emphasized as well that Armenian authorities are closely cooperating with the European and international organizations in the framework of specific projects. In this context, professional trainings,

seminars, round-table discussions have been organized for targeted groups, as well as training manuals have been published under auspices of different projects. For example:

- In the framework of the Council of Europe project on *“Strengthening the Application of the European Convention on Human Rights and the Case-law of the European Court of Human Rights in Armenia”* training manuals, related to the Court’s case-law, have been developed regarding 4 courses and published.²¹ Furthermore, a series of trainings, seminars and discussions have been organized which touched upon different articles of the Convention and the Court’s case-law in that respect.
- In the context of another multi-year Council of Europe and European Union joint project *“Supporting the Criminal Justice Reform and Combating Ill-treatment and Impunity in Armenia”* training materials have been elaborated by national and international experts on 4 courses^{22, 23}. In this framework 4 sets of training-of-trainers were organized in June 2016. During the trainings both the national and international experts introduced to the participants the study materials regarding these 4 courses, as well as the specific teaching methodology thereof. In the framework of the same project, another training manual on *“Admissibility of Evidence in the Course of Criminal Proceedings in the Light of the European Court of Human Rights Case-law”* has been developed as well.
- Another Council of Europe and European Union project *“Penitentiary Reform – Strengthening Healthcare and Human Rights Protection in Prisons in Armenia”* (2015-2017) aimed at, *inter alia*; improving the capacity of the penitentiary staff of applying the relevant European prison standards is being implemented. In this framework, training courses on *“Human Rights and Medical Ethics”* and *“Health Promotion and Prevention Measures”* have already been developed based on which the training courses for about 800 employees of Penitentiary Service will be implemented.

12. **Study visits and traineeships:** Turning to the issue of promoting study visits and traineeships at the Court, as well as fostering the exchange of information and best practices with other State Parties the following is worth emphasizing. Within the framework of the Council of Europe project *“Strengthening the Application of the European Convention on Human Rights and the Case-law of the European Court of Human Rights in Armenia”* a visit to Brussels and Strasbourg was organized in July 2015. The representatives from Executive and Judiciary met the Representative of the Belgian Government at the European Court of Human Rights and the Staff thereof. Issues relating to organization of the activities with the Court, preparation and submission of the government positions as well as execution of judgments were discussed. The delegation members also met with the representatives of the Constitutional Court of the Kingdom of Belgium. In Strasbourg the delegation members participated in the Grand Chamber hearings. Meetings were held with the Council of Europe

²¹ 1) “The ECtHR Case-Law in Civil Procedure”, 2) “The ECtHR Case-Law in the Framework of Protection of the Property”, 3) “Contemporary Issues of the ECtHR Case-Law in Criminal Cases”, 4) “Contemporary Issues of the ECtHR Case-Law in the Administrative Cases”.

²² 1) “Investigation of Cases of Torture and Other Forms of Ill-treatment and of Right to Life”, 2) “General Methodology for Investigation of a Criminal Case”, 3) “Investigation of Cases Involving Vulnerable Victims/Witnesses and Suspects”, 4) “Pre-trial Detention and Related Matters of Investigation of a Criminal Case”.

²³ This 24-month-long project is aimed at strengthening the implementation of European human rights standards in Armenia. In particular, it is expected to improve the legislation on criminal matters and institutional mechanisms for combating ill-treatment in line with European human rights standards, to strengthen the capacity of the Academy of Justice to train prosecutors and investigators on criminal justice and human rights and to improve the knowledge and skills of investigators on criminal justice and human rights, including effective investigations of ill-treatment cases.

Commissioner for Human Rights, representatives of the Council of Europe anti-torture Committee, European Commission against Racism and Intolerance and Department for the Execution of the European Court of Human Rights Judgments. During the meetings the legal position of the mentioned organizations on the legal system of the Republic of Armenia and the peculiarities of effective fulfillment thereof, as well as issues relating to the process of execution the Court's judgments were discussed. The Council of Europe institutions highly appreciated the co-operation with the Republic of Armenia and expressed confidence that such practice will result in considerable achievements in the human rights sector.

13. In the framework of the project *“Penitentiary Reform - Strengthening Healthcare and Human Rights Protection in Prisons in Armenia”* (2015-2017) health-care service specialists of the Penitentiary Service of the Republic of Armenia participated in a seminar concerning prison health-care services which was held in Madrid, Spain in October 2015. In addition, representatives of the Penitentiary Service took part in training courses for exchange of experience, on the development of the system of health-care services of penitentiary institutions, professional training courses for medical and non-medical staff of penitentiary institutions, as well as in training courses on material equipment of prisons, held in Stockholm, Kingdom of Sweden, in June 2016.

14. In November 2015 the “Euro Conseils” and “European Arbitration Chamber” organized a study visit to Paris and Strasbourg for judges, lawyers of Chamber of Advocates and the staff of the Ministry of Justice on the Human Rights and Alternative Dispute Resolution Matters. Program included very useful practical studies in respect of Human Rights and Alternative Dispute Resolution. During the trip to Strasbourg the participants examined the activity of the Court, participated in the hearings, as well as increased their knowledge of the Convention system.

B. 1. d) Prior to and independently of the processing of cases by the Court: take appropriate action to improve the verification of the compatibility of draft laws , existing laws and internal administrative practice with the Convention, in the light of the Court's case law

15. The Republic of Armenia has made the Convention an integral part of its legal system and accepted the jurisdiction of the Court with the main objective to ensure consistent application of European human rights standards in Armenia. In the light of this, the Republic of Armenia continuously strengthens its efforts to improve the verification of the draft and existing laws and internal administrative practice with the Convention, in the light of the Court's case-law. In principle, this is one of the key tools of implementation of the Convention at national level by contributing to prevention of the Convention violations and provision of domestic preventive remedies prior to and independently from the Court's judgments.

16. **Verification of draft laws with the Convention:** In this regard, the mandatory and integral part of each and every single draft law is its Rationale, where, *inter alia*, the policy behind the draft shall be presented making reference to best international practice and standards, including the Convention and the Court's case-law. Therefore, whenever there is necessity to amend or adopt new laws aimed at strengthening the human rights protection mechanisms detailed rationales accompany the drafts providing the Legislature with the information on the compatibility of draft legislation with the European standards and best practices. Furthermore, in the legislation drafting process the Armenian authorities actively cooperate with regional and international organizations to ensure the compliance of draft texts with international standards. In this context, for example during the 2015 Constitutional Amendments an active cooperation was established with the Venice Commission. It is to be noted that according to the Venice Commission opinion on the draft amendments²⁴ to the

²⁴ Constitutional amendments of 2015

Constitution of Armenia²⁵, the provisions of the chapter on Fundamental rights and freedoms of the human being and the citizen comply with the international law treaties on human rights, especially the Convention and soft law instruments of the Council of Europe, Venice Commission and OSCE commitments in the area of human rights.²⁶ Furthermore, the Commission considered that this chapter establishes an elaborate and modern catalogue of fundamental rights taking up many guarantees from the Convention and/or the Charter of Fundamental Rights of the European Union.²⁷ The Commission highlighted that the amendments show particular openness towards international/European standards of human rights protection.²⁸

17. Apart from the 2015 Constitutional Amendment, in the context of ongoing legislative reforms, e.g. in the drafting process of the new Code of Criminal Procedure, new Criminal Code, new Code on Administrative Offences, new Code of Civil Procedure, new Penitentiary Code, Law on Probation, while introducing major amendments to the existing Civil Code, drafting anti-discrimination legislation and specific legislation on domestic violence the Armenian authorities actively cooperated and continue to cooperate with organizations such as the Council of Europe, European Union, GIZ, IRZ. Permanent assistance and expertise is provided in the framework of different projects by international experts in this regard. Furthermore, an active collaboration is established with the Venice Commission, which recently gave a positive feedback on the draft new Constitutional Law on Human Rights Defender, as well as the draft new Electoral Code.

18. **Verification of existing laws and internal administrative practice with the Convention:** In this regard it is important to highlight the primary role of the Constitutional Court and the Court of Cassation. More specifically, the Law on the Constitutional Court defines that *“The Constitutional Court is the highest body of the constitutional justice which provides supremacy and direct enforcement of the Constitution in the legal system of the Republic of Armenia.”*, i.e. it is responsible for supervising the constitutionality of laws and other legislative instruments. In the exercise of its mandate, the Constitutional Court extensively refers to and applies the legal standards enshrined by the Convention and the legal positions developed through the Court’s well established case-law. According to the position established through its case-law, the Constitutional Court deems the application of the standards developed through the Court’s case-law crucial. For example, when deciding on the constitutionality of Article 17 of the Civil Code, the analysis of the Constitutional Court was, *inter alia*, grounded on the Convention, judgments of the Court delivered in respect of Armenia and the Court’s case-law. Based on this the Constitutional Court ruled that this Article is unconstitutional, as it did not provide a right to claim non-pecuniary damages.

19. Turning to the Court of Cassation, as the highest judicial instance in Armenia the primary role of which is to ensure the unified application of law, it has a central role to play in ensuring a consistent application of the Convention and the Court’s case-law in Armenian courts, which ensures legal certainty and predictability and strengthens the protection of human rights and freedoms at domestic level. In this regard, the Court of Cassation, while deciding on the matters under consideration extensively refers and applies the Convention standards and the legal positions enshrined by the Court’s well established case-law.

20. In addition to the mentioned, whenever in the course of analysis of existing legislation or its practical application gaps are revealed, or the assessment of the legislation leads to the conclusion that the legislative guarantees need to be further strengthened, the legislative amendments are initiated. For example, the institute of compensation for non-pecuniary

²⁵ Reference Document: [CDL-AD\(2015\)037](#)

²⁶ *Ibid.* § 16

²⁷ *Ibid.* § 18

²⁸ *Ibid.* § 22

damage caused by public officials has been introduced in the Armenian legislative system in November 2014 and has been further amended in December 2015. These further amendments were preconditioned by the necessity to fully implement relevant Decision of the Constitutional Court of the Republic of Armenia; to ensure better legal protection for the Republic of Armenia citizens by vesting them with an accurate mechanism of available domestic remedies; to guarantee proper implementation of Armenia's international obligations; to ensure effective execution of the Court's judgments, as well as prevent further similar violations in the future. For these reasons, *inter alia*, the scope of fundamental rights and freedoms for breach of which compensation for non-pecuniary damage can be claimed was expanded, and benchmark amounts of compensation have been increased.

21. Another recent example of legislative initiative is the improvement of the mechanism for ensuring the rights of persons deprived of liberty. In cooperation with Human Rights Defender's Office and practicing lawyers the Law on Holding Arrested and Detained Persons has been amended. Following the amendments the person deprived of liberty is entitled to meet his defense counsel or an advocate visiting to undertake the defense of the case in private, without hindrance, limitation to the number and length of the meetings and irrespective of the working days or hours. He/she also has a right to meet not only with his/her defense counsel but also with any advocate not involved in the defense of his/her case for matters not connected with the investigation of the case (e.g. divorce or any other civil matter).

B. 1. e) Prior to and independently of the processing of cases by the Court: ensure the effective implementation of the Convention at national level, take effective measures to prevent violations and to provide effective domestic remedies to address alleged violations of the Convention

22. Reference is made to the general and specific information provided in respect of point 1(a), (b), (c), (d).

B. 1. f) Prior to and independently of the processing of cases by the Court: consider making voluntary contributions to the Human Rights Trust Fund and to the Court's special account to allow it to deal with the backlog of all well-founded cases, and continue to promote temporary secondments to the Registry of the Court

23. The issue of continuing to promote temporary secondments to the Registry of the Court is being discussed at present. Once the decision is adopted officially the relevant information will be submitted to the Court.

B. 2. a) After the Court's judgments: continue to increase their efforts to submit, within the stipulated deadlines, comprehensive action plans and reports, key tools in the dialogue between the Committee of Ministers and the States Parties, which can contribute also to an enhanced dialogue with other stakeholders, such as the Court, national parliaments or National Human Rights Institutions

24. Acknowledging that comprehensive action plans and reports are key tools in the dialogue between the Committee of Ministers and the State Parties, the Armenian authorities continue to increase their efforts in this regard. First of all the Government Agent's Office and, in particular, the Division for the Execution of the Court's Judgments²⁹, actively cooperates with all national stakeholders concerned to ensure effective, full and timely execution of the judgments. Secondly, a result-oriented and very fruitful cooperation is established with the Council of Europe Department for the Execution of the European Court of Human Rights

²⁹ Established since 2014

Judgments. More specifically, since 2013, periodic bilateral consultations have been organized both in Yerevan, Armenia and Strasbourg, France between the Armenian authorities and the representatives from the Department. During these meetings the basic principles of the Court's judgments execution process, practical and new methodological aspects of drafting action plans and reports, as well as the best practice regarding the execution have been discussed. The parties, more specifically, focused on the execution measures of the judgments delivered in respect of Armenia and issues regarding the potential closure of particular cases. Both the Armenian delegation and representatives of the Department for the Execution of the European Court of Human Rights Judgments highlighted the importance of such meetings and consultations for strengthening and increasing the effectiveness of cooperation established and ameliorating the execution process. As a result of this cooperation and comprehensive action plans and reports submitted by the Government of Armenia overall 33 cases have been closed by the Committee of Ministers in 2015-2016. Furthermore, the Armenian authorities strengthen their efforts to submit the action plans and reports within stipulated deadlines. In this context, in 2016, the action plans and reports in respect of new cases, in general, have been communicated to the Committee of Ministers within the stipulated deadlines.³⁰

25. Turning to the dialogue with National Human Rights Institutions, the Armenian Government highly appreciate their role for protection and promotion of human rights and acknowledge the importance of cooperation with them. In this regard, the submissions under Rule 9.2 of the *Rules of the Committee of Ministers for the Supervision of the Execution of Judgments and of the Terms of Friendly Settlements* are highly valued and up to date detailed responses have been communicated in respect of all these submissions without any exception.

B. 2. b) After the Court's judgments: in compliance with the domestic legal order, put in place in a timely manner effective remedies at domestic level to address violations of the Convention found by the Court

26. To address the violations found by the Court in a timely and effective manner the Armenian authorities take constant steps. First and foremost, as to the individual measures, according to the domestic order, the just satisfaction awarded by the Court is paid based on the Government Decrees. In this context, the Government Agent's Office and, in particular, the Division for Execution of the Court's Judgments actively cooperates with national stakeholders concerned, i.e. Ministry of Finance and Government Staff. Based on this fruitful cooperation, in 2016 all the just satisfaction amounts have been paid to the applicants within the stipulated deadlines. Secondly, in line with Recommendation No. R (2000)2 of the Committee of Ministers to Member States on the re-examination or reopening of certain cases at domestic level following judgments of the Court, the domestic procedural legislation provides for the right to apply for the reopening of his/her case at the domestic level on the ground of new circumstance.

27. Turning to the general measures, the judgments in respect of Armenia are translated and published on the official websites of the Ministry of Justice (<http://moj.am/>) and the Armenian Government Representation before the European Court of Human Rights (agent.echr.am). Considering the importance of preventing further possible violations, as well effectively implementing the Court's judgments, the Government ensure the dissemination thereof. Relevant authorities involved are provided with respective information about the obligations assumed by the Republic of Armenia under the Convention.

28. In addition to the mentioned hereinabove, the Government stress the importance of appropriate university education and professional training programs as an effective and

³⁰ Whenever there were delays (maximum from 2 weeks – 1 month), these delays were preconditioned by the necessity to submit full and comprehensive documents.

preventive mechanism for ensuring the Convention standards awareness-raising (for more details, see paragraphs 3-12 of the present document).

29. Finally, if the violation found by the Court is the direct consequence of legislative and/or practical gaps or misapplications existing at the material time, the Armenian Government undertakes corresponding measures to ensure effective follow-up to the judgments. For example, considering the comprehensive steps taken by the Armenian authorities aimed at, *inter alia*, improvement of material conditions at places of deprivation of liberty, in 2015 the Committee of Ministers closed the supervisory proceedings of *Kirakosyan group of cases* - supervised under enhanced procedure.³¹ Another large group of cases, namely *Minasyan and Semerjyan group of cases*³² - supervised under enhanced procedure - was closed in 2015 based on both the legislative measures undertaken and consecutive judicial practice of the adopted legislation.³³

30. In the framework of the execution of the Court's judgments, the institute of compensation for non-pecuniary damage caused by public officials has been introduced in the Armenian legislative system in November 2014 and has been further amended in December 2015 addressing the violations found in *Poghoyan and Baghdasaryan v. Armenia*³⁴, *Khachatryan and Others v. Armenia*³⁵ and *Sahakyan v. Armenia*³⁶ cases. Based on this, the Committee of Ministers adopted final resolution closing the cases in 2016.³⁷ Taking into account both the practical and legislative measures undertaken by the Armenian authorities, another important group of cases - *Galstyan group of cases*³⁸ - which was supervised by the Committee of Ministers for quite a long time (almost 8 years) was closed in 2016 as well.

31. Another example of important legislative amendments is the package of laws amending legislation criminalizing torture adopted by the Parliament on 9 June 2015. As a result, the article defining torture was totally changed and brought in full conformity with Article 1 of the UN Convention against Torture. These legislative amendments are vital for the execution of

³¹ *Kirakosyan v. Armenia* (no. 31237/03, final on 04/05/2009); *Mkhitarian v. Armenia* (no. 22390/05, final on 04/05/2009); *Tadevosyan v. Armenia* (no. 41698/04, final on 04/05/2009) *Karapetyan v. Armenia* (no. 22387/05, final on 27/01/2010); <http://hudoc.echr.coe.int/eng?i=001-158924>

³² *Minasyan and Semerjyan v. Armenia* (no. 27651/05, judgment (merits) final on 23/09/2009; judgment (just satisfaction) final on 07/09/2011); *Hovhannisyan and Shiroyan v. Armenia* (no. 5065/06, judgment (merits) final on 20/10/2010; judgment (just satisfaction) final on 15/02/2012); *Yeranosyan and Others v. Armenia* (no. 13916/06, final on 20/10/2010); *Danielyan and Others v. Armenia* (no. 25825/05, final on 09/01/2013); *Tunyan and Others v. Armenia* (no. 22812/05, final on 11/02/2013); *Baghdasaryan and Zariyants v. Armenia* (no. 43242/05, final on 13/02/2015); *Gharibyan and Others v. Armenia* (no. 19940/05, final on 13/02/2015); *Ghasabyan and Others v. Armenia* (no. 23566/05, final on 13/02/2015).

³³ In the cases in question the Court found that during the expropriation process for the purpose of implementing State construction projects, the domestic courts had unlawfully deprived the applicants of their property under conditions that were not prescribed by law but only by government decrees. The Court has also examined the lawfulness of termination of the right of use of accommodation (recognized as a special property right under Armenian law). It has found that in the context of the mentioned expropriation proceedings, the right at issue was terminated in an unforeseeable and arbitrary manner, as the domestic courts had relied on legal rules which were not applicable to that kind of situation.

³⁴ no. 22999/06, judgment of 12/06/2012, final on 12/09/2012

³⁵ no. 23978/06, judgment of 27/11/2012, final on 27/02/2013

³⁶ no. 66256/11, judgment of 10/11/2015, final on 10/02/2016

³⁷ Resolution CM/ResDH(2016)184 adopted on 6 September 2016 at the 1263rd meeting of the Ministers' Deputies

³⁸ *Galstyan v. Armenia* (no. 26986/03, final on 15/02/2008); *Ashughyan v. Armenia* (no. 33268/03, final on 01/12/2008); *Amiryan v. Armenia* (no. 31553/03, final on 13/04/2009); *Gasparyan v. Armenia* (No.1) (no. 35944/03, final on 13/04/2009); *Sapeyan v. Armenia* (no. 35738/03, final on 13/04/2009); *Gasparyan v. Armenia* (No.2) (no. 22571/05, final on 16/09/2009); *Kirakosyan v. Armenia* (no. 31237/03, final on 04/05/2009); *Tadevosyan v. Armenia* (no. 41698/04, final on 04/05/2009) *Mkhitarian v. Armenia* (no. 22390/05, final on 04/05/2009) *Karapetyan v. Armenia* (no. 22387/05, final on 27/01/2010); *Hakobyan and Others v. Armenia* (no. 34320/04, final on 10/07/2012). The cases concerned the conduct of administrative proceedings and the imposition of administrative penalties (usually detention) for participation in demonstrations or other minor offences.

*Virayan group of cases*³⁹ supervised by the Committee of Ministers under enhanced procedure.

B. 2. c) After the Court's judgments: develop and deploy sufficient resources at national level with a view to the full and effective execution of judgments, and afford appropriate means and authority to the government agents or other officials responsible for coordinating the execution of judgments

32. For the improvement of the execution process, a specialized division (Division for Execution of Judgments and Other Convention Requirements) has been established in the Ministry of Justice in 2014 in line with the Recommendation CM/Rec(2008)2 of the Committee of Ministers. The two main areas of focus for the new division is the execution of judgments of the European Court of Human Rights and implementation of international human rights standards (CoE CPT, UN CAT, SPT and related standards). This unit is capable of, among the others, acquiring relevant information, establishing necessary connections with government and non-government bodies, international organizations, drafting respective legislative amendments with the ultimate goal of fastening and making the process of implementation of the Court's judgments more effective.

B. 2. d) After the Court's judgments: attach particular importance to ensuring full, effective and prompt follow-up to those judgments raising structural problems, which may furthermore prove relevant for other States Parties

33. Reference is made to the general and specific information provided in respect of point 2(a) and (b).

B. 2. e) After the Court's judgments: foster the exchange of information and best practices with other States Parties, particularly for the implementation of general measures

34. Reference is made to the general and specific information provided in respect of point 1(b) and (c).

B. 2. f) After the Court's judgments: promote accessibility to the Court's judgments, action plans and reports as well as to the Committee of Ministers' decisions and resolutions, by:
- developing their publication and dissemination to the stakeholders concerned (in particular, the executive, parliaments and courts, and also, where appropriate, National Human Rights Institutions and representatives of civil society), so as to involve them further in the judgment execution process;
- translating or summarising relevant documents, including significant judgments of the Court, as required

35. In this respect, in addition to the detailed information provided in paragraphs 1 and 2 of the present document, it is to be noted as well that one of the main objectives of the Agent's website was to promote the accessibility to the Court's judgments, action plans and reports as well as other relevant documents to the execution process. Therefore all the said materials are published on the official website of the Armenian Government Representation before the European Court of Human Rights (agent.echr.am). Furthermore, as mentioned hereinabove, considering the importance of preventing further possible violations, as well as effectively implementing the Court's judgments, the Government ensure the dissemination thereof. Relevant authorities involved are provided with respective information about the obligations assumed by the Republic of Armenia under the Convention.

³⁹ *Virabyan v. Armenia* (no. 40094/05, final on 02/01/2013); *Nalbandyan v. Armenia* (nos. 9935/06 and 23339/06, final on 30/06/2015)

36. Turning to the issue of translating and summarizing relevant documents, including significant judgments of the Court, it is to be mentioned that the Government of Armenia actively cooperates with the Council of Europe in this regard in the framework of different projects. For example, in the framework of the Council of Europe project on “*Strengthening the Application of the European Convention on Human Rights and the Case-law of the European Court of Human Rights in Armenia*” a number of handbooks, as well as the Court’s significant judgments have been translated in Armenian to ensure wider dissemination.

B. 2. h) After the Court's judgments: in particular, encourage the involvement of national parliaments in the judgment execution process, where appropriate, for instance, by transmitting to them annual or thematic reports or by holding debates with the executive authorities on the implementation of certain judgments

B. 2. i) After the Court's judgments: establish "contact points", wherever appropriate, for human rights matters within the relevant executive, judicial and legislative authorities, and create networks between them through meetings, information exchanges, hearings or the transmission of annual or thematic reports or newsletters

B. 2. j) After the Court's judgments: consider, in conformity with the principle of subsidiarity, the holding of regular debates at national level on the execution of judgments involving executive and judicial authorities as well as members of parliament and associating, where appropriate, representatives of National Human Rights Institutions and civil society

With reference to point 2(h), (i) and (j) of Chapter B of the Brussels Declaration

37. As mentioned hereinabove, a specialized Division for Execution of Judgments and Other Convention Requirements has been established in the Ministry of Justice in 2014. It is to be recalled that the two main areas of focus for the new division is the execution of judgments of the European Court of Human Rights and implementation of international human rights standards (CoE CPT, UN CAT, SPT and related standards). This unit is capable of, among the others, acquiring relevant information, establishing necessary connections with government and non-government bodies, international organizations, drafting respective legislative amendments with the ultimate goal of fastening and making the process of implementation of the Court’s judgments more effective.

38. To strengthen the capacity of the Judiciary on human rights issues, a human rights unit, namely Division for the Judicial Acts of the European Court of Human Rights, was established in the Judicial Department of Armenia. This unit is, *inter alia*, responsible for preparing case summaries (in Armenian) of the Court’s judgments, advising the Court of Cassation on the Court’s case-law, as well as guaranteeing the fruitful cooperation of the Judicial Department with the Court.

39. Acknowledging that the full implementation of the Convention (including the execution process) at national level is a multilayer and comprehensive process, the Department for Relations with the European Court of Human Rights and namely Division for Execution of Judgments (Ministry of Justice) actively cooperate with the Judicial Department, Executive and Legislative Powers to ensure effective and prompt follow-up to the judgments of the Court delivered in respect of Armenia. The process of establishing fruitful and result-oriented cooperation among all the national stakeholders concerned requires continuous and dynamic approaches. Thus, modern solutions are always studied and introduced with an objective to further strengthen the collaboration mechanisms.

AZERBAIJAN / AZERBAIDJAN

B. 1. a) Prior to and independently of the processing of cases by the Court: ensure that potential applicants have access to information on the Convention and the Court, particularly about the scope and limits of the Convention's protection, the jurisdiction of the Court and the admissibility criteria

1. All Declarations were translated into Azerbaijani language and were published in internet in order to bring the essence of the reforms of the European Court of Human Rights (ECHR) to the attention of public.

2. Moreover, the Practical Guideline that particularly mentioned in the declarations and played an important role in reducing inadmissible applications which consisted of a vast majority, was translated and published in the web page of the court and Ministry of Justice. It should be noted that the translation and third edition of the Guideline have been finished and it will also be published in the web pages soon.

B. 1. b) Prior to and independently of the processing of cases by the Court: increase efforts at national level to raise awareness among members of parliament and improve the training of judges, prosecutors, lawyers and national officials on the Convention and its implementation, including as regards the execution of judgments, by ensuring that it constitutes an integrated part of their vocational and in-service training, where relevant, including by having recourse to the Human Rights Education for Legal Professionals (HELP) programme of the Council of Europe. As well as to the training programmes of the Court and to its publications

3. In the country, a special importance is given to learning the case law of European Convention on Human Rights and ECHR. The relevant courts are advised to organize learning the case law of the ECHR and to take it into consideration in court practice by the Decree of President of the Republic of Azerbaijan regarding the modernizing of the court system in the Republic of Azerbaijan dated 19 January 2017. The "National Action Program on Increasing Efficiency of Protection of Human Rights and Freedoms in the Republic of Azerbaijan" dated 2012, sets the essence of learning the case law of European Convention on Human Rights and ECHR further and in relation to that specific provisions are stipulated there and relevant measures have been implemented successfully.

4. In order to increase the potential of the Academy of Justice regarding holding of relevant trainings (the integration of European Convention on Human Rights component and methodology and means of Human Rights Education for Legal Professionals (HELP) to the curriculum), the Project named "Application of case law of European Convention on Human Rights and ECHR" is being implemented which is the part of 2014-2016 Action Plan of the Council of Europe for Azerbaijan.

5. In general, within the framework of the Project, 38 instructors are trained those consisting of 7 judges (1 from Court of First Instance, 2 from Court of Appeal and 4 from Supreme Court), 20 lawyers, 6 practitioner lawyers and 5 employee of Academy of Justice.

6. Various seminars were organized for selected instructors and they deepened their knowledge in the field of European Convention on Human Rights as well as their pedagogical practice.

7. 17 Trainings (13 in Baku and 4 in regions) have been organized by the trained local instructors and foreign specialists during the years of 2015-2016 for 448 lawyers and 7 trainings were organized in 2016 for 150 judges with the topics of application of case law of European Convention on Human Rights and ECHR.

8. One of the objectives of the "Application of case law of European Convention on Human Rights and ECHR" Program was to apply the Human Rights Education for Legal Professionals (HELP).

9. Within the framework of the Co-operation Programme (PCF 2015-2017) for countries of Eastern Partnership, "Guide on the Article 5 of the Convention" was prepared and published in accordance with implementation of "Application of case law of European Convention on Human Rights and ECHR" Project which is the joint Programme of European Union and Council of Europe (The Guide was prepared by the Research Division of the ECHR). The tutorial was printed in 2500 copies considering to be used by judges, prosecutors, lawyers, and other lawyers who deal with legal issues in practice.

10. Relevant working group consisting of two international and three local experts was established in order to prepare the new HELP course in Azerbaijani language and renew the materials and means of the European Convention on Human Rights and HELP in Azerbaijani language. The instructor staff of the Justice Academy was also drew in for providing proposals and recommendations to materials that intend to be prepared. The Working Group considered the instruction materials regarding Article 5 of the European Convention on Human Rights as conclusion and the placement of it was decided to the HELP platform.

11. Contact persons were appointed for judges and lawyers on the HELP Programme of the Council of Europe. The main activities of those persons consist of promoting HELP Programme in Azerbaijan, making judges and lawyers to be familiar with opportunities of using the HELP Platform and operating national website of HELP Programme.

12. As well as, "Case law of the ECHR" section was created in the website of the Justice Academy. In this section, opportunities of viewing (in electronic form) the case law of the ECHR, judgements of the ECHR against Azerbaijan and literature on European Human Rights were created and put in use.

B. 1. c) Prior to and independently of the processing of cases by the Court: promote, in this regard, study visits and traineeships at the Court for judges, lawyers and national officials in order to increase their knowledge of the Convention system

13. Specific provision was stipulated in the Joint Action Plan with Council of Europe regarding application of European Convention on Human Rights and case law of the ECHR which presented on May, 2014.

14. Within the Framework of this Plan, a two year project was successfully implemented regarding implementation of that provision. During the Project, as being the main counterpart, trainings were held for instructors, judges, prosecutors and lawyers in the Justice Academy, acquaintance visits were organised to the ECHR for judges and lawyers (40 judges paid a visit to the ECHR in the years of 2015-2016).

15. According to the agreement with the Council of Europe acquaintance visit are planned to the ECHR for candidate judges for this year.

B. 1. d) Prior to and independently of the processing of cases by the Court: take appropriate action to improve the verification of the compatibility of draft laws, existing laws and internal administrative practice with the Convention, in the light of the Court's case law

16. Bearing in mind the judgements against Azerbaijan, amendments were made to the legislation and new draft laws were prepared. For example, law about rights of persons was adopted which widens the scope of rights and privileges of persons who are under investigation.

17. In addition, within the framework of implementation of general measures, the following measures were implemented regarding improvement of legislation:
Relevant draft law was prepared and adopted in order to improve extradition procedures and provide legal aid from the point of view regarding protection of human rights.

- When the applications about accused persons regarding selection of arrest as a restriction are considered, the decision of the Supreme Court about "Application of legislation by courts" was adopted for all courts with relevant recommendations bearing in mind

obligations on human rights. Moreover, amendments were made to the legislation about calculation of period for being in prison.

- Supreme Court adopted a decision about opportunities for restricting freedom of speech and related rights with it. Relevant recommendations were given to courts by indicating concrete case law and rules of conduct were determined in activities with mass media.

In relation with the amendment made to the legislation regarding non-dissemination of information during preliminary investigation, Prosecutor-General adopted an order regarding observation of presumption of innocence.

B. 1. e) Prior to and independently of the processing of cases by the Court: ensure the effective implementation of the Convention at national level, take effective measures to prevent violations and to provide effective domestic remedies to address alleged violations of the Convention

B. 1. f) Prior to and independently of the processing of cases by the Court: consider making voluntary contributions to the Human Rights Trust Fund and to the Court's special account to allow it to deal with the backlog of all well-founded cases, and continue to promote temporary secondments to the Registry of the Court

With reference to point 1(e) and (f) of Chapter B of the Brussels Declaration

18. In accordance with Brighton Declaration, in order to simplify filtration, Azerbaijan financed secondment of a judge to the Secretariat of the ECHR. This kind of experience successfully simplifies the court work.

19. It should particularly be mentioned that the judge from our state has already worked for one year and according to the appeal of the Council of Europe, his additional one year stay in Strasbourg is being planned.

20. Apart from this, the issue of financing of an additional judge is agreed with the Ministry of Finance. For that reason, it is planned to start the procedure of secondment of a second judge.

B. 1. g) Prior to and independently of the processing of cases by the Court: consider the establishment of an independent National Human Rights Institution

21. Within the framework of State Programme on protection of human rights, in order to restore human rights and freedoms violated by governmental and municipal bodies and officials and prevent violation of human rights, Constitutional Law of the Republic of Azerbaijan "On Commissioner for Human Rights of the Republic of Azerbaijan " was adopted and according to this Constitutional Law "The Office of the Commissioner for Human Rights (Ombudsman)" was established in 2002 .

22. The Ombudsman considers applications of citizens of the Republic of Azerbaijan, foreigners, stateless persons and legal persons regarding violation of human rights.

B. 2. a) After the Court's judgments: continue to increase their efforts to submit, within the stipulated deadlines, comprehensive action plans and reports, key tools in the dialogue between the Committee of Ministers and the States Parties, which can contribute also to an enhanced dialogue with other stakeholders, such as the Court, national parliaments or National Human Rights Institutions

23. Some projects aimed at modernising Justice System in Azerbaijan by promoting rule of law and protection of human rights, as well as, "Support for Justice Reforms" Program which implemented within the framework of European Neighbourhood Policy, gave their successful outcomes.

24. Also, projects of "European Convention on Human Rights, implementation of case law of ECHR", "Support for increasing effectiveness of courts, improving the training of judges and self-governing in courts" and "Dialogue of civil society" are being implemented.

25. The special event for us was the high-level conference held in Baku in 2014 on the implementation of European Convention on Human Rights by national courts which was within the framework of chairmanship of our country in Committee of Ministers of the Council of Europe.

26. Various issues were discussed in the Conference including measures stipulated in the Brighton Declaration with the participation of the former chairperson of ECHR, Din Shpilman, as well as, chairpersons of Constitutional and Supreme Courts of Europe. It should be noted that Baku Conference was an additional impulse for increase in the culture of human rights. By the way, within the framework of the event, participants of the Conference as well as former Judges of the ECHR participated in the trainings organised for judges and prosecutors.

27. In general, the judges of the ECHR visit Azerbaijan every year and hold training and this efficient cooperation is highly appreciated. By now, 20 judges as well as 3 chairpersons have visited Azerbaijan.

B. 2. f) After the Court's judgments: promote accessibility to the Court's judgments, action plans and reports as well as to the Committee of Ministers' decisions and resolutions, by:

- developing their publication and dissemination to the stakeholders concerned (in particular, the executive, parliaments and courts, and also, where appropriate, National Human Rights Institutions and representatives of civil society), so as to involve them further in the judgment execution process;*
- translating or summarising relevant documents, including significant judgments of the Court, as required*

B. 2. g) After the Court's judgments: within this framework, maintain and develop the financial resources that have made it possible for the Council of Europe, since 2010, to translate a large number of judgments into national languages

With reference to point 2(f) and (g) of Chapter B of the Brussels Declaration

28. Monthly "Information Notes" journal of the ECHR has been translated into Azerbaijani in the form of bulletin by the Baku Law Centre (BLC) since 2008. It is distributed among the law community - courts, justice, prosecutor bodies, lawyer agencies, parliament, central library and relevant educational bodies in the form of publication in 1000 copies per month.

29. It should be noted that "Information Notes" journal of the ECHR consists of monthly general summary of the judgments of the Court. When it comes to the bulletin translated by BLC, at least one of the judgments adopted in a month which have significance for operating of Azerbaijani courts is wholly translated and put in the bulletin additionally. The judgements related with Azerbaijan are translated unequivocally.

30. The bulletin has been translated with the organisational support of the Azerbaijan Law Reform Centre since 2011.

31. For information, it should also be noted that within the framework of the published bulletins, hundreds of court judgements and summaries have been translated and published till now.

32. As a result of cooperative relations between BLC and ECHR, 156 judgments (80 of it is final judgment) out of 597 that adopted by the ECHR were translated by the BLC. Those judgements are placed in the electronic base (HUDOC) of ECHR at present.

33. At the same time, the press-releases about new judgments of ECHR are translated and published in the website (www.lawreform.az) of the Azerbaijan Law Reform Centre

consonantly. In order to make the information available, these press-releases are published in the Facebook social network of the organisation.

34. It should be noted that the website of the Azerbaijan Law Reform Centre is the highest-ranked webpage in the country for daily visit. The website is visited by 700-800 visitors daily.

CYPRUS / CHYPRE

B. 1. a) Prior to and independently of the processing of cases by the Court: ensure that potential applicants have access to information on the Convention and the Court, particularly about the scope and limits of the Convention's protection, the jurisdiction of the Court and the admissibility criteria

1. In Cyprus ' case it is in practice unusual for applicants to apply to the Court in person without representation by counsel. Therefore, efforts are directed at the legal profession of Cyprus, through the publication and dissemination of the Court's judgments and decisions. The Court's Guide on Admissibility Criteria has been inserted on the website of the Office of the Attorney General, Human Rights Sector, and has been published in the Cyprus Bar Association's journal (Cyprus Law Journal). Moreover, the Sector communicated to the Cyprus Bar Association the new requirements for introducing an application with the European Court of Human Rights for the purposes of forwarding the information to its members. The communication letter gave a short account of what an individual application to the Court should contain and enclosed the notes for filing in the application form in the Greek language and the new rule 47 also in the Greek language.

2. The Human Rights Committee of the Cyprus Bar Association frequently organizes free seminars and lectures on the protection of human rights under the Convention system. The latest seminar is addressed to Young and Trainee Counsels and focuses on the admissibility criteria.

B. 1. b) Prior to and independently of the processing of cases by the Court: increase efforts at national level to raise awareness among members of parliament and improve the training of judges, prosecutors, lawyers and national officials on the Convention and its implementation, including as regards the execution of judgments, by ensuring that it constitutes an integrated part of their vocational and in-service training, where relevant, including by having recourse to the Human Rights Education for Legal Professionals (HELP) programme of the Council of Europe. As well as to the training programmes of the Court and to its publications

3. Although the Convention and its implementation does not constitute an integral part of the judges', prosecutors', lawyers and national officials' vocational and in service training, nonetheless they frequently attend seminars and conferences on these issues.

B. 1. c) Prior to and independently of the processing of cases by the Court: promote, in this regard, study visits and traineeships at the Court for judges, lawyers and national officials in order to increase their knowledge of the Convention system

4. The future possibility of this will be considered.

B. 1. d) Prior to and independently of the processing of cases by the Court: take appropriate action to improve the verification of the compatibility of draft laws, existing laws and internal administrative practice with the Convention, in the light of the Court's case law

5. Verification of the compatibility of all draft laws and existing laws with the Convention and the Court's case-law rests with the Attorney-General/Government Agent. The Sector was set up in the Attorney-General's Office for carrying out the functions and tasks necessary for

implementing the 2004 Recommendation of the Committee of Ministers, on inter alia, compatibility of administrative practice and legislation with the Convention/Court 's case-law (Rec(2004)5) .

6. All laws to be tabled at Parliament by the Government are either drafted or vetted by counsel for the Republic on behalf of the Attorney General. The compatibility therefore of all proposed legislation with the Convention and the Court's case law is controlled and verified by the Attorney General. All draft laws are accompanied to the Council of Ministers and Parliament with a short explanatory memorandum signed by the Attorney General, setting out the aim of the law and a brief summary of its basic provisions. Signature of the memorandum by the Attorney General means in effect that the Republic's legal adviser has ascertained the draft law's compatibility with the Constitution and the Convention. Scrutiny may also be carried out in the course of parliamentary discussions through questions by members of Parliament particularly those who are also members of the Parliamentary Assembly.

7. In exercise of the Attorney General 's function as the Republic's legal adviser, the Sector operates as follows concerning the verification of compatibility of laws in force or administrative practice with the Convention : It is the responsibility of the Sector's lawyers to systematically follow the European Court of Human Rights case-law and check on domestic administrative practice/legislation, for tracing and communicating to domestic authorities concerned, judgments in the light of which it is possible that administrative practice/legislation may need to be reviewed . In this respect, judgments/press releases of the European Court of Human Rights constituting established case-law or new case-law developments are communicated by the Sector to Ministries/Government Departments concerned for inquiring as to applicable domestic administrative practice/legislation relevant to the judgment and ascertaining whether this is compatible with the judgment.

8. Where it is ascertained on the basis of information obtained that administrative practice or legislation in force is not compatible with the Convention lawyers from the Sector advise on the legislative/administrative measures which must be adopted. If this requires the adoption of legislative measures, by introducing new or amending existing legislation, the relevant bill is drafted by the Sector. It is to be noted that the amendment to the Ombudsman Law referred to in paragraph 13 below expressly reflects by law the constitutional function of the Attorney-General/Government Agent and the entailed responsibilities of the Sector to "advise (national authorities) to introduce legislation and take measures and decisions in the light of the case law of" inter alia, the European Court of Human Rights, "and on the compatibility of existing legislation, measures and decisions with the said case law"⁴⁰

9. The Sector is furthermore seized of administrative practice/legislation which may be incompatible with the Court's case-law for acting as above -

- i. Through reports which are always transmitted to it by the Ombudsman, following investigation of individual complaints for human rights violations, discrimination and ill-treatment, and through reports which are transmitted by the Ombudsman in the capacity of Commissioner for the Protection of Human Rights
- ii. through reports made by human rights committees/bodies of the Council of Europe, the EU and the UN,
- iii. through requests for legal advice made by the authorities themselves, respecting administrative measures/action taken or proposed to be taken which has a human rights dimension/aspect.

B. 1. e) Prior to and independently of the processing of cases by the Court: ensure the effective implementation of the Convention at national level, take effective measures to prevent violations and to provide effective domestic remedies to address alleged violations of

⁴⁰ Section 5 (5) of the Ombudsman Law (L. 3/ 1991) as amended by law 158(1)/2011.

<i>the Convention</i>

10. The Convention has been integrated into the domestic legal order; it is directly applicable and is rendered by Constitutional provision of superior force to domestic legislation.⁴¹ This has been held by domestic case law to mean that, in the event of conflict between domestic legislation and the provisions of the Convention or its Protocols, the courts must give effect to the latter.

11. There is evidence that domestic courts apply directly the Court's judgments even if the domestic legal provision whose application led to a violation of the Convention is still in force. By way of example is the case law that developed by first instance courts following the *Theodossiou Ltd v Cyprus* judgment.⁴² Following this judgment, first instance courts delivered judgments in similar cases and applied the Court's judgment of *Theodossiou* directly. In other words, the first instance courts, in the light of the *Theodossiou* judgment did not apply the express rule set out in the relevant domestic law, rather, they applied directly the judgment of *Theodossiou*.⁴³ The Committee of Ministers exercising its function under Article 46, paragraph 2 of the Convention decided to close its examination of *Theodossiou Ltd against Cyprus*.⁴⁴

12. A constitutional remedy to address violations of the Convention is afforded by Article 146 of the Constitution. The Article vests the Administrative Court with power to declare null and void decisions, acts and omissions of the administration which it finds to be Contrary to the Constitution or a law, or to have been taken in excess or in abuse of powers. The Administrative Court can thus make declarations of nullity when the decisions concerned contravene the human rights provisions of the Constitution itself, (corresponding to Convention rights) or the provisions of the Convention and its Protocols, which by their ratification are integrated in the domestic legal order.

13. Case law has also established a court remedy for human rights violations. The remedy was established by judicial precedent in 2001 by unanimous judgment of the Supreme Court sitting as Full Bench in the civil case of *Takis Yiallourou v. Evgenios Nicolaou*.⁴⁵ The Supreme Court held that alleged violations of human rights are actionable, that district courts can adjudicate upon complaints of human rights violations in the context of a civil action, and that the successful litigant is entitled to damages for their violation and other appropriate remedies that a court exercising civil jurisdiction is empowered to grant to a successful litigant. The judgment is based on Article 35 of the Constitution which is similar to Article 1 of the Convention. It places a duty on legislative, executive and judicial authorities in Cyprus to secure within the limits of their respective competence, the sufficient application of the constitutional provisions safeguarding fundamental rights and liberties.

14. A specific mechanism responsible for facilitating the effective implementation of the Convention at national level operates under the Government Agent, that is, the Attorney-General of the Republic of Cyprus. This is the Human Rights Sector of the office of the Government Agent/Attorney-General (hereinafter Sector). The Sector consists of lawyers from the Attorney-General's Office familiar with Strasbourg case-law and human rights issues. The same lawyers deal also with individual applications under the Government Agent/Attorney-General and are responsible to see to it on his behalf that the Court's judgments and case-law are disseminated and executed.

⁴¹ Article 169(3) of the Constitution provides that treaties and conventions concluded on behalf of the Republic shall have superior force to any domestic law.

⁴² *Michael Theodossiou Ltd v Cyprus*, no. 3181 1/04, judgment 15.01.09.

⁴³ See *Elenis Damianou Charalambides and Cyprus Republic via Attorney General*, reference no. 61/2003, judgment of 31 January 2011; *Androullas Charalambous Christodoulou and Attorney General and Christodoulou Charalambous Christodoulou and Attorney General*, references nos. 21/2010 and 22/2010, judgment of 2 April 2014.

⁴⁴ Resolution CM/ResDH(2016)5, 3 February 2016.

⁴⁵ Civil Appeal No.9931, Judgment of 8 May 2001.

15. Important to some measures necessary for implementing the Convention at national level is the constitutional function of the Attorney General as legal adviser of the Republic and in particular of the Council of Ministers, the President and the Ministers. For the adoption of necessary implementation measures the lawyers of the Sector exercise the above function on behalf of the Attorney General. The Attorney General's function as legal adviser of the Republic and at the same time Government Agent, his office's mode of operation in the Government machinery in conjunction with his other constitutional functions respecting court proceedings, enable the Human Rights Sector to operate effectively and act promptly respecting implementation of the Convention and the Court's case law at national level.

B. 1. f) Prior to and independently of the processing of cases by the Court: consider making voluntary contributions to the Human Rights Trust Fund and to the Court's special account to allow it to deal with the backlog of all well-founded cases, and continue to promote temporary secondments to the Registry of the Court

16. The Republic contributed in 2016 to the Court's special account.

17. As for secondment to the Registry of the Court, the future possibility for this will be considered.

B. 1. g) Prior to and independently of the processing of cases by the Court: consider the establishment of an independent National Human Rights Institution

18. The Cyprus Ombudsman functions as an independent national human rights institution in accordance with the Paris Principles, in exercise of powers and competences which have been gradually concentrated on this office under different Laws covering specific human rights issues. In addition to the powers and competences under the Ombudsman Law, the Cyprus Ombudsman is afforded wide competences and powers as an Anti-discrimination Commissioner covering all forms of discrimination; as Cyprus' designated national preventive mechanism under Article 3 of the Optional Protocol of the UN Convention against Torture; and as an independent mechanism to promote, protect and monitor under Article 33(2) the implementation of the Convention of the Rights of Persons with Disabilities.

19. Moreover, by an amendment to the Ombudsman Law, the Cyprus Ombudsman functions also as "Commissioner for the Protection of Human Rights" and her Office operates as an Independent National Human Rights Institution. By the above amendment, additional powers are afforded to the Commissioner aiming at the promotion and protection of human rights, their preservation and extension in the Republic and the application by national authorities of fundamental human rights principles. With this aim the Commissioner is specifically empowered to, *inter alia*, examine and prepare "*ex proprio motu*" reports addressed to the authorities, with views, suggestions, and proposals respecting any human rights issue or any situation of violation of human rights in the Republic, and for this purpose to have contacts and consultations with *inter alia* non-Government organizations and other human rights authorities and commissioners in the Republic and abroad.

B. 2. a) After the Court's judgments: continue to increase their efforts to submit, within the stipulated deadlines, comprehensive action plans and reports, key tools in the dialogue between the Committee of Ministers and the States Parties, which can contribute also to an enhanced dialogue with other stakeholders, such as the Court, national parliaments or National Human Rights Institutions

20. All follow-up relevant to the execution process (including Action Plans/Reports) and to the supervision carried out by the Committee of Ministers is done by the Sector and usually by

the lawyer who had dealt with the case before the Court. There is in this respect an effective and direct dialogue between the Sector and the Department for the Execution of the European Court of Human Rights Judgments where all relevant Action Plans/Reports and updated information is forwarded.

B. 2. b) After the Court's judgments: in compliance with the domestic legal order, put in place in a timely manner effective remedies at domestic level to address violations of the Convention found by the Court

21. Following a number of judgments against Cyprus for violation of the reasonable time requirement of Article 6 of the Convention respecting the length of civil and administrative court proceedings, the Court made also findings of violation of Article 13. The Sector drafted a bill introducing a new domestic judicial remedy of a specific nature. The bill was adopted by Parliament and came into force on 5 February 2010 by Law 2(1)/2010. It provides domestic remedies for allegations of excessive length of civil and administrative proceedings at all levels of jurisdiction. The Law provides that in determining the issues of violation and assessment of compensation the domestic courts must take into account the case-law of the European Court of Human Rights. The European Court dismissed as inadmissible on the ground of non-exhaustion of domestic remedies an application lodged in relation to Article 6 and 13 of the Convention. The Committee of Ministers exercising its function under Article 46, paragraph 2 of the Convention decided to close its examination of the 25 cases against Cyprus.

B. 2. c) After the Court's judgments: develop and deploy sufficient resources at national level with a view to the full and effective execution of judgments, and afford appropriate means and authority to the government agents or other officials responsible for coordinating the execution of judgments

22. Pursuant to the Committee of Ministers recommendation 2008(2) which recommended that member states designate a coordinator of execution of judgments at the national level, it is noted that the execution process is controlled and coordinated by the Attorney-General/Government Agent through the lawyers of the Human Rights Sector of his office. The Attorney-General's constitutional function of legal adviser of the Republic and at the same time Government Agent, and his office's mode of operation in the Government machinery enable the Human Rights Sector to operate effectively and act promptly respecting the execution of judgments.

23. Lawyers of the Sector advise the administration on the Attorney General's behalf, on the legislative/administrative measures (individual and general) that must be adopted in the light of the Court's judgments for ensuring prompt execution with prevention of further similar violations. 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 drafts also 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 Parliament by the competent Ministry following their approval by the Council of Ministers). The Sector's lawyers attend and participate in the discussions of the relevant bills before Parliamentary Committees. Parliamentary Committees concerned are already acquainted with the judgment through the Sector's preceding relevant letter communicating the judgment (paragraph 25 below). Furthermore, an Explanatory Memorandum accompanying all bills, which is also prepared and signed by the Attorney-General explains the particular bill's provisions, stating that its purpose is to ensure compliance with the Court's judgments and to prevent future similar violations.

B. 2. d) After the Court's judgments: attach particular importance to ensuring full, effective and prompt follow-up to those judgments raising structural problems, which may furthermore prove relevant for other States Parties

24. The payment of just satisfaction is also under the control of the Attorney-General/Government Agent and is made out of funds availed by the Treasury to the Accounts Department of the Attorney-General's Office. Payment is effected by the Accounts Department following instructions by the Sector. Under this procedure it is not required to bring the Ministry concerned into the matter of payment of just satisfaction.

B. 2. e) After the Court's judgments: foster the exchange of information and best practices with other States Parties, particularly for the implementation of general measures

25. The future possibility of this will be explored.

B. 2. f) After the Court's judgments: promote accessibility to the Court's judgments, action plans and reports as well as to the Committee of Ministers' decisions and resolutions, by:
- developing their publication and dissemination to the stakeholders concerned (in particular, the executive, parliaments and courts, and also, where appropriate, National Human Rights Institutions and representatives of civil society), so as to involve them further in the judgment execution process;
- translating or summarising relevant documents, including significant judgments of the Court, as required

26. Court's judgments and decisions in cases brought against Cyprus are communicated to Ministries/Government Departments concerned which are at the same time extensively advised in the communication letter explaining the facts and judgment's reasoning, on the measures (individual and general) which must be adopted concerning execution. The Committee of Minister's supervision procedures and the Government's obligations in this respect, including the need to act promptly, are also explained in the letter. These judgments and decisions are also disseminated to the Supreme Court for distribution to lower courts. The dissemination is accompanied by letters setting out a summary of the judgment and explaining the reasoning for the Court's finding of violation.

27. The Human Rights Sector also communicates to the Cyprus Bar Association and the chairpersons of the Parliamentary Committees for Human Rights, Legal Affairs and other Parliamentary Committees which may be concerned (for example in the execution process at a later stage), all judgments and admissibility decisions brought against Cyprus. The communication letters give an account of the facts and explain the basic reasoning of the judgment.

28. The Sector has its own separate section at the website of the Attorney General's Office and all judgments and decisions in cases brought against Cyprus are inserted there (both in English and Greek translation). The Greek translation of the judgment/decision is also published at the *Cyprus Law Journal*. Sometimes there is also publication by way of article, the communication letter sent by the Sector to the President of the Cyprus Bar Association analyzing the judgment which is referred to in paragraph 25 above.

29. Resolutions of the Committee of Ministers are translated into the Greek language and inserted in the Attorney General's Office website and published at the *Cyprus Law Journal*.

30. Action plans/action reports are sent to Ministries/Government Departments concerned and to the Supreme Court, if the judgment concerns the courts, and to the relevant Parliamentary Committee where Bills are being discussed.

B. 2. h) After the Court's judgments: in particular, encourage the involvement of national parliaments in the judgment execution process, where appropriate, for instance, by transmitting to them annual or thematic reports or by holding debates with the executive authorities on the implementation of certain judgments

29. See paragraphs 21, 25 and 28.

B. 2. i) After the Court's judgments: establish "contact points", wherever appropriate, for human rights matters within the relevant executive, judicial and legislative authorities, and create networks between them through meetings, information exchanges, hearings or the transmission of annual or thematic reports or newsletters

30. The future possibility of this will be considered, wherever appropriate.

B. 2. j) After the Court's judgments: consider, in conformity with the principle of subsidiarity, the holding of regular debates at national level on the execution of judgments involving executive and judicial authorities as well as members of parliament and associating, where appropriate, representatives of National Human Rights Institutions and civil society

31. The future possibility of this will be considered. It should be noted however that Cyprus has few cases pending for execution per year, the process of which usually ends smoothly by the adoption of a final resolution by the Committee of Ministers.

CZECH REPUBLIC / REPUBLIQUE TCHEQUE

Introduction

1. The Government of the Czech Republic (hereinafter "the Government") recall that at its 125th session held in May 2015, the Committee of Ministers endorsed the declaration unanimously adopted on the occasion of the High-level Conference on "The Implementation of the European Convention on Human Rights, our shared responsibility", which took place in Brussels on 26 and 27 March 2015, and expressed its determination to implement the Brussels Declaration as a priority. The Committee of Ministers in this context invited member States to take the measures required under Chapter B of the Brussels Declaration and to report to the Committee of Ministers accordingly. Therefore, the Government hereby present to the Committee of Ministers the measures taken at the national level in order to satisfy the requirements contained in Chapter B of the Brussels Declaration, which called upon the States Parties to:

2. B. 1. a) Prior to and independently of the processing of cases by the Court: ensure that potential applicants have access to information on the Convention and the Court, particularly about the scope and limits of the Convention's protection, the jurisdiction of the Court and the admissibility criteria

2. Under the official website of the Ministry of Justice, the Office of the Government Agent administers a designated section where potential applicants can find all relevant information on the application process. It also includes a link to the Czech version of the Court's website on how to make and lodge an application to the Court. In this respect, "the Practical Guide on Admissibility Criteria" was translated into Czech in 2013. Information on the application process is also provided on the website of the Czech Bar Association.

3. Furthermore, the Office of the Government Agent administers various other measures with the aim to inform relevant actors, including potential applicants, about the scope and limits of the Convention's protection. These measures include inter alia the Czech database of the Court's case law and the Government Agent's periodic Newsletter on the latest case law of the Court, freely available on the official website of the Ministry of Justice (for more, see paras. 37–38 below). The Czech Bar Association also publishes on its website summaries of the Court's leading judgments thematically listed by Articles of the Convention.

B. 1. b) Prior to and independently of the processing of cases by the Court: increase efforts at national level to raise awareness among members of parliament and improve the training of

judges, prosecutors, lawyers and national officials on the Convention and its implementation, including as regards the execution of judgments, by ensuring that it constitutes an integrated part of their vocational and in-service training, where relevant, including by having recourse to the Human Rights Education for Legal Professionals (HELP) programme of the Council of Europe. As well as to the training programmes of the Court and to its publications

4. The Law of the Convention forms an integral part of the annual syllabus of the Judicial Academy. Various experienced lecturers, including staff members of the Office of the Government Agent, provide trainings, lectures and seminars at the Judicial Academy within the framework of professional education for judges, prosecutors, and other staff of the judicial system. The Deputy Government Agent is a certified trainer of the HELP programme and some staff members of the Office of the Government Agent are permanent registered lecturers of the Judicial Academy.

5. Members of Parliament are informed about the relevant Court's jurisprudence during the legislative process, since the Legislative Rules of the Government as well as the Rules of Procedure of the Chamber of Deputies require the explanatory report to a draft law to include an evaluation of conformity of the proposed legislation with international human rights obligations and, explicitly, with the European Convention on Human Rights and the Court's case law. The Office of the Government Agent has increased efforts to raise awareness among members of Parliament through various other supplementary means. For example, after the Government take note of the annual report of the Government Agent, the report is presented to Parliament and its subsidiary bodies (for more, see para. 42 below). Furthermore, both chambers of Parliament have their representatives sitting on the Committee of Experts on the Execution of Judgments of the European Court of Human Rights (for more, see paras. 44 *et seq.* below). In addition, interested members of Parliament receive the Government Agent's Newsletter on the recent case law of the Court (for more, see para. 38 below).

B. 1. c) Prior to and independently of the processing of cases by the Court: promote, in this regard, study visits and traineeships at the Court for judges, lawyers and national officials in order to increase their knowledge of the Convention system

6. For the first time, in 2016, the Ministry of Justice seconded a judge of a national court to the European Court of Human Rights. He should serve at the Registry for the period of one year.

7. The Czech Bar Association organizes regular study visits at the Court for advocates and trainee lawyers.

B. 1. d) Prior to and independently of the processing of cases by the Court: take appropriate action to improve the verification of the compatibility of draft laws, existing laws and internal administrative practice with the Convention, in the light of the Court's case law

8. Article 4 § 4 of the Legislative Rules of the Government explicitly provides that the authority responsible for drafting a new piece of legislation or an amendment of an existing piece of legislation shall always assess its compatibility with the Convention and the Court's case law. In concreto, the responsible authority shall summarize the relevant case law of the Court and shall explain and substantiate in detail whether the draft legislation is in line with these standards.

9. Before their submission to the Government, all governmental draft laws are reviewed by the Legislative Council of the Government (an advisory body of the Government for the Government's legislative work). The Council assesses *inter alia* whether draft laws are in conformity with the constitutional order and international treaties (Article 1 of the Statute of the Legislative Council of the Government). It is composed of 30 mostly external experts. Some of them are renowned experts in human rights law who regularly raise issues concerning the compatibility of a draft law with the Convention during the meetings of the Council. The

Council has eight working commissions, including one on European Law. It is currently being considered how to firmly accommodate the verification of the compatibility of draft laws with the Convention into the work of the Working Commission on European Law.

10. There are complementary measures in place to facilitate the process of verification of the compatibility of draft laws with the Convention and the Court's case law.

11. First, every ministry has a human rights focal point who is also an appointed member of the Committee of Experts on the Execution of the Court's Judgments (for more, see paras. 44 et seq. below). This Committee does not merely deal with the execution of judgments against the Czech Republic, but can also address broader issues of compliance of national legislation and practice with the case law of the Court against other States Parties to the Convention. The Committee has already done so in respect of cases *Y.Y. v. Turkey*, *Rutkowski and Others v. Poland*, and *Blokhin v. Russia*.

12. Second, the responsible authorities can make use of the Czech database of the Court's case law and of a periodic newsletter on recent case law of the Court which is regularly distributed to all ministries, including their human rights focal points.

13. Third, the Council of Europe's Toolkit to inform public officials about the State's obligations under the European Convention on Human Rights has been translated to Czech.

14. The Office of the Government Agent administers and supports these processes and serves as a consultative body for the compatibility of draft legislation with the Convention and the Court's case law. The Office monitors whether such compatibility has been properly assessed by the responsible authority. If not, it can request changes to be made either in the assessment of compatibility or in the draft law itself.

15. Furthermore, the Office of the Government Agent has been developing an interactive Compatibility Guide. The Guide will be freely available on a designated website. Its purpose is to ensure that government officials responsible for the drafting of new legislation as well as members of Parliament can consult the Guide and assess the compatibility on the basis of information contained therein.

B. 1. e) Prior to and independently of the processing of cases by the Court: ensure the effective implementation of the Convention at national level, take effective measures to prevent violations and to provide effective domestic remedies to address alleged violations of the Convention

16. The Convention forms a part of the Czech constitutional order under Article 10 of the Czech Constitution, and as such is directly binding on all subjects within the Czech jurisdiction.

17. The Court recognized that the Czech Republic already has an effective general legal remedy – a constitutional appeal – in respect of violations of Convention rights (see e.g. *Miler v. the Czech Republic*, no. 56347/10, decision of 25 September 2012, §§ 22 and 24). The Czech Constitutional Court is empowered to receive appeals from any individual who claims that a final decision given in proceedings to which he or she was a party, or a measure or any other action taken by a public authority, has infringed his or her fundamental rights or freedoms as guaranteed by constitutional law. The Constitutional Court also has the power to order a public authority to stop infringing an appellant's rights. As stated above, the Convention is, indeed, a part of the constitutional law, and the Constitutional Court makes frequent references to the Court's case law.

18. Furthermore, an action under Act no. 82/1998, "the State Liability Act", constitutes a general compensatory remedy for damage incurred in execution of public powers, including non-pecuniary damage. The Act also specifically provides a remedy for unreasonable length of proceedings. The Court has repeatedly recognized the effectiveness of this remedy (see e.g. *Vokurka v. the Czech Republic*, no. 40552/02, decision of 16 October 2007; for undue delays in proceedings on family law matters, see *Drenk v. the Czech*

Republic, no. 1071/12, judgment of 4 September 2014).

19. In cases already brought before the Court where there is a high probability of a violation of the Convention, the Office of the Government Agent has been developing a new practice in recent years. Before reaching a friendly settlement in such cases, the Office of the Government Agent identifies (in cooperation with the applicant's legal representative, if possible) general and individual measures that need to be taken in order to remedy the situation at the national level and prevent similar applications to the Court. The Office of the Government Agent then initiates consultations with relevant actors within various branches of the Government and the judiciary to decide upon such measures and to put them in place. If this process is successful, the Office of the Government Agent then reaches a friendly settlement in the given case since there is no more need for the Court's judgment finding a violation as the situation has already been remedied at the national level. In other words, it is executed before the Court delivers the respective judgment. Such practice has proven useful even in cases in which the applicant does not wish to reach a friendly settlement. Although the Court ultimately finds a violation in the given case, the judgment has, in fact, already been to a large extent executed or, at least, the execution process has been initiated.

B. 1. f) Prior to and independently of the processing of cases by the Court: consider making voluntary contributions to the Human Rights Trust Fund and to the Court's special account to allow it to deal with the backlog of all well-founded cases, and continue to promote temporary secondments to the Registry of the Court

20. In 2015, the Czech Republic made a voluntary contribution to the Court's special account.

21. A new proposal has recently been made and the matter is under consideration.

22. Furthermore, in September 2016, a judge of a national court has been seconded to the Court's Registry.

B. 1. g) Prior to and independently of the processing of cases by the Court: consider the establishment of an independent National Human Rights Institution

23. Although the Public Defender of Rights (hereinafter "the Ombudsperson") has not yet applied for accreditation to the International Coordinating Committee of National Human Rights Institutions and therefore has not been officially recognized as a National Human Rights Institution within the meaning of the 1994 Paris Principles, it already works as an independent institution for the protection and promotion of human rights, which in many ways fulfils the requirements of the Paris Principles.

24. The scope of operation and the powers of the Ombudsperson are regulated by a special law. The Ombudsperson's task is to observe the performance of the State Administration in accordance with law and with the principles of good governance, whereby contributing to the protection of fundamental rights and freedoms. The Ombudsperson conducts independent investigations, makes recommendations to remedy deficiencies and requires the authorities to fulfil them. The Ombudsperson can recommend to complainants what steps they can take to protect their rights. The authorities are obliged to cooperate with the Ombudsperson and take corrective measures. Otherwise, the Ombudsperson shall inform the superior authorities, the Government or the public. The Ombudsperson also deals with the supervision of the places where persons are deprived of their liberty pursuant to the Optional Protocol to the Convention against Torture (the National Preventive Mechanism). As a body to combat discrimination, the Ombudsperson also provides assistance to victims of discrimination in the protection of their rights. The Ombudsperson also monitors the protection of the rights of foreigners and their treatment during expulsion.

25. The Ombudsperson is independent of any other authority and has his/her own permanent Office (secretariat), which is financially independent and fulfils his/her tasks. The

Ombudsperson informs the Chamber of Deputies about his/her activities in regular reports which are published. Based on his/her activities, the Ombudsperson recommends changes to legislation, government policies and administrative procedures. The Ombudsperson often makes comments on the proposals of government policies and legislative measures vis-à-vis the protection of human rights.

26. Thus, under the current legal status, the Ombudsperson has in fact already been fulfilling the role of the authority for the protection and promotion of human rights inspired by the Paris Principles.

B. 2. a) After the Court's judgments: continue to increase their efforts to submit, within the stipulated deadlines, comprehensive action plans and reports, key tools in the dialogue between the Committee of Ministers and the States Parties, which can contribute also to an enhanced dialogue with other stakeholders, such as the Court, national parliaments or National Human Rights Institutions

27. The relevant legal framework, in particular Act no. 186/2011, of 8 June 2011, on Providing Cooperation for the Purposes of Proceedings before Certain International Courts and Other International Supervisory Bodies, serves as an effective tool to ensure timely submission of action plans and reports in respect of judgments against the Czech Republic.

28. The Act explicitly provides that upon request of the Ministry of Justice (i.e. the Office of the Government Agent) and within the set deadlines, the competent authorities shall inform the Ministry/the Office about measures taken or proposed with the aim to execute the judgment of the Court or about measures they are about to take or propose, including the expected time frame for the adoption of such measures. The Office of the Government Agent is then responsible for the drafting of action plans and reports on the basis of information received from the competent authorities

B. 2. b) After the Court's judgments: in compliance with the domestic legal order, put in place in a timely manner effective remedies at domestic level to address violations of the Convention found by the Court

29. Following the Court's judgment, the Constitutional Court Act allows for the reopening of the proceedings before the Constitutional Court. It is possible to reopen the proceedings in any case, be it criminal, civil, commercial, administrative, etc. More information is available on the respective Council of Europe website.

B. 2. c) After the Court's judgments: develop and deploy sufficient resources at national level with a view to the full and effective execution of judgments, and afford appropriate means and authority to the government agents or other officials responsible for coordinating the execution of judgments

30. The authority and competencies of the Government Agent are firmly established in Act no. 186/2011, of 8 June 2011, on Providing Cooperation for the Purposes of Proceedings before Certain International Courts and Other International Supervisory Bodies, and in the Government Agent's Statute annexed to Government Resolution No. 1024/2009 of 17 August 2009.

31. This legal framework sets formalized channels of communication among relevant authorities, providing for effective execution of judgments coordinated by the Government Agent to whom domestic authorities owe a legal duty to cooperate. The Act stipulates that all branches of the Government as well as the judiciary are required to take without undue delay both individual and general measures to put an end to violations of the relevant international instrument found in individual cases. The Government Agent's Statute specifies that after the translation of the respective judgment, the Government Agent submits a report to the Minister of Justice and recommends to, and consults with, public authorities concerned what steps

should be taken following the finding of a violation by the Court. The Committee of Experts on the Execution of the Court's Judgments (an advisory body of the Government Agent) plays an important role in this process (for more, see paras. 44 et seq. below). It should be pointed out that this legal framework does not affect existing competencies of executive, legislative and judicial branches.

32. According to the Statute, if the Government Agent and the domestic authorities concerned do not reach a consensus regarding measures that need to be taken to execute the Court's judgment, the issue can be brought, upon the proposal of the Minister of Justice, to the attention of the Government for a decision about further action. This procedure has not been activated yet.

32. In addition, according to the Constitutional Court Act, if an international court finds that an obligation resulting for the Czech Republic from an international treaty has been infringed by the encroachment of a public authority, especially that, due to such an encroachment, a human right or fundamental freedom of a natural or legal person was infringed, and if such infringement was based on a legal enactment in force, the Government shall submit to the Constitutional Court a request for the annulment of such legal enactment, or individual provisions thereof, if there is no other way to ensure it will be repealed or amended. However, this option has not been used yet.

B. 2. d) After the Court's judgments: attach particular importance to ensuring full, effective and prompt follow-up to those judgments raising structural problems, which may furthermore prove relevant for other States Parties

33. There have been only a small number of Court's judgments against the Czech Republic raising structural problems so far. With one exception, the Czech Republic has not faced particular difficulties with the execution of such judgments. If such difficulties arise, the relevant legal framework contains sufficient safeguards to overcome them (see paras. 28–31 above). In addition, various complementary measures were recently introduced with the aim to further strengthen the execution process of the Court's judgments at the national level, such as the establishment of the Committee of Experts on the Execution of the Court's Judgments. These measures should indeed ensure full, effective and prompt follow-up to judgments raising structural problems (for more, see paras. 37 et seq. below).

B. 2. e) After the Court's judgments: foster the exchange of information and best practices with other States Parties, particularly for the implementation of general measures

34. A mailing list is set up among Government Agents, sharing information and good practices about the respective national legal systems as well as the avenues of possible execution of the Court's leading judgments.

35. Under the Czech chairmanship in the Committee of Ministers (May–November 2017), the Office of the Government Agent will be organizing an informal meeting of Government Agents in Prague. The program of the meeting is under consideration. One of the topics for discussion could possibly be the recommendation under point B.2.e) of the Brussels Declaration.

36. Although not its member, the Czech Republic has at its own expenses actively participated in the DH-SYSC Drafting Group on Recommendation CM/REC(2008)2 and contributed to its work in order to foster the exchange of information and best practices with other States Parties in the area of implementation of the Convention and execution of the Court's judgments.

B. 2. f) After the Court's judgments: promote accessibility to the Court's judgments, action plans and reports as well as to the Committee of Ministers' decisions and resolutions, by:

- *developing their publication and dissemination to the stakeholders concerned (in particular, the executive, parliaments and courts, and also, where appropriate, National Human Rights Institutions and representatives of civil society), so as to involve them further in the judgment execution process;*
- *translating or summarising relevant documents, including significant judgments of the Court, as required*

37. When the Court's judgment against the Czech Republic becomes final, the Office of the Government Agent always sends its full translation to the domestic authorities concerned, including courts.

38. The full translation and a summary of the judgment are uploaded on the Czech database of the Court's case law (with its advanced search engine and key words adjusted to the Czech legal system) freely available on a designated website. This database contains full translations and summaries of all judgments in cases against the Czech Republic, summaries of all decisions in cases against the Czech Republic and summaries of significant judgments of the Court against other States Parties since 2012. The database is regularly updated. The Office of the Government Agent is in a final phase of negotiations over the possibility to publish hundreds of translations and summaries of Court's significant judgments prior to 2012, whose copyright holder is a leading Czech legal information services provider.

39. Moreover, since 2012, the Office of the Government Agent in cooperation with the Constitutional Court, the Supreme Court, the Supreme Administrative Court and the Office of the Ombudsperson has been publishing a periodic newsletter, which is divided into thematic sections and includes detailed summaries of all judgments and decisions against the Czech Republic and significant judgments against other states delivered during the last but one trimester. All summaries that appear in the newsletter are also uploaded on the Czech database of the Court's case law. The newsletter is electronically distributed to all courts, ministries, public prosecutor offices and other interested institutions and organizations, such as human rights NGOs, academia, the Czech Bar Association and individual advocates and other professional public. It is also made freely available at the Ministry of Justice's website for further use.

40. In addition, annual reports of the Government Agent to the Government are made available on the Ministry of Justice's website. It provides information about the status of execution of all judgments against the Czech Republic in a given year. In concreto, it contains chapters dedicated to:

41. (i) final resolutions of the Committee of Ministers in cases against the Czech Republic in the given period; (ii) individual measures that have been taken or are intended to be taken in the given period in cases against the Czech Republic; (iii) general measures that have been taken or are intended to be taken in the given period in cases against the Czech Republic.

B. 2. g) After the Court's judgments: within this framework, maintain and develop the financial resources that have made it possible for the Council of Europe, since 2010, to translate a large number of judgments into national languages

43. The Government recall that the Office of the Government Agent together with other relevant national actors regularly prepares Czech summaries of new significant judgments of the Court. These summaries are uploaded on the Czech database of the Court's case law. In December 2016, the database contained nearly 900 judgments and decisions of the Court translated or summarized in Czech.

B. 2. h) After the Court's judgments: in particular, encourage the involvement of national parliaments in the judgment execution process, where appropriate, for instance, by transmitting to them annual or thematic reports or by holding debates with the executive authorities on the implementation of certain judgments

44. The Subcommittee for Legislative Initiatives of the Public Defender of Rights and for the European Court of Human Rights was established in 2014 within the Constitutional Law Committee of the Chamber of Deputies, one of the specialised working organs of the Chamber of Deputies which support the latter's legislative and supervisory functions. The Subcommittee can discuss any matters related to the Convention and the Court, which it deems important to inform the members of Parliament about, and can invite the Government Agent or his staff for this purpose.

45. The annual report of the Government Agent to the Government, containing inter alia information pertaining to the execution of all judgments in respect of the Czech Republic in a given year (for more, see para. 39 above), is presented to Parliament and discussed by the Subcommittee. The Subcommittee then reports to the Constitutional Law Committee the results of its deliberations on the Government Agent's annual report, raising awareness especially as regards general measures that must be implemented by way of enacting legislation in the future.

46. In addition, it is to be noted that both chambers of Parliament have their representatives sitting on the Committee of Experts on the Execution of Judgments of the European Court of Human Rights (for more, see paras. 44 et seq. below). Other members of Parliament have a standing invitation to attend the meetings of the Committee of Experts.

B. 2. i) After the Court's judgments: establish "contact points", wherever appropriate, for human rights matters within the relevant executive, judicial and legislative authorities, and create networks between them through meetings, information exchanges, hearings or the transmission of annual or thematic reports or newsletters

B. 2. j) After the Court's judgments: consider, in conformity with the principle of subsidiarity, the holding of regular debates at national level on the execution of judgments involving executive and judicial authorities as well as members of parliament and associating, where appropriate, representatives of National Human Rights Institutions and civil society

47. In 2015, the Office of the Government Agent established the Committee of Experts on the Execution of Judgments of the European Court of Human Rights (hereinafter "the Committee"). Its legal basis stems from Article 5 § 5 of the Government Agent's Statute, which allows the Government Agent to establish a consultative body for any question relating to the fulfilment of his/her mission.

48. The Committee is composed of all key relevant actors, including representatives of all ministries, Parliament, the Constitutional Court, the Supreme Court, the Supreme Administrative Court, the Supreme Public Prosecutor's Office, the Ombudsperson, the Czech Bar Association, academia and leading human rights NGOs. The Office of the Government Agent serves as its secretariat.

49. The Committee's primary role is to hold a constructive debate about the Court's judgments against the Czech Republic and to recommend appropriate (general) measures with a view to ensuring their successful implementation. These recommendations are then used by the Office of the Government Agent as a solid basis for the initiation and coordination of the execution process at the national level (for more, see paras. 28–29 above). Furthermore, the Committee can also address broader issues of compliance of national legislation and practice with the case law of the Court against other States Parties to the Convention.

50. Before the meetings of the Committee, a background material drafted by the Office of the Government Agent is distributed among its members. The background material identifies key elements of the Court's recent judgments against the Czech Republic relevant for its execution and contains information about proposed steps and tasks for the competent authorities. The background material serves as a basis for the discussion of the Committee. After the respective meeting of the Committee, the background material is made available on the Ministry of Justice's website.

51. Committee members usually hold senior positions and, in particular those who represent ministries, are considered to be human rights focal points within their institutions.

Conclusion

52. The Government of the Czech Republic conclude that they have fulfilled the commitments undertaken by the States Parties under Chapter B of the Brussels Declaration.

DENMARK / DANEMARK

B. 1. a) Prior to and independently of the processing of cases by the Court: ensure that potential applicants have access to information on the Convention and the Court, particularly about the scope and limits of the Convention's protection, the jurisdiction of the Court and the admissibility criteria

1. On the homepage of the Danish Ministry of Justice anyone can find general information about the European Convention on Human Rights and the Court. The page also contains information and guidance on how to write an application to the Court and the possibilities for national and international legal aid.

2. The Court's Practical Guide on Admissibility Criteria is made public on the homepage and there is also a Danish guide which explains how to file an application to the Court. The guide, inter alia, contains a chapter on the admissibility criteria.

3. It is also possible for anyone to contact – in writing or by phone – the Constitutional Law and Human Rights Division in the Ministry of Justice with questions about the Convention and the Court.

4. It is of course always also a possibility to contact a lawyer. If a person cannot afford a lawyer there are possibilities for contacting free legal aid institutions paid by the state and to some degree public free legal aid by means of a lawyer.

B. 1. b) Prior to and independently of the processing of cases by the Court: increase efforts at national level to raise awareness among members of parliament and improve the training of judges, prosecutors, lawyers and national officials on the Convention and its implementation, including as regards the execution of judgments, by ensuring that it constitutes an integrated part of their vocational and in-service training, where relevant, including by having recourse to the Human Rights Education for Legal Professionals (HELP) programme of the Council of Europe. As well as to the training programmes of the Court and to its publications

5. The Danish courts arrange their own courses with subjects relevant to the judges. Human rights are promoted at several courses.

6. The Director of Public Prosecutions has the main responsibility for the training and education of the entire Danish prosecution service. Most of the training is done in intense 1-5 days courses with teachers recruited from the prosecution service itself and external teachers recruited from the courts and private law firms. Some of these main courses may focus on human rights issues and other international legislative obligations which Denmark is committed to. These courses are executed in cooperation with the courts and The Association of Danish Lawyers and are offered to prosecutors, judges and attorneys on all levels. Other courses – both the mandatory and optional ones – often involve human rights as an important part. In addition to this, The Director of Public Prosecutions office also offers to host theme days or lectures on demand on any topic – including human rights – which a local part of the prosecution service might find to be of relevance.

7. The Association of Danish Lawyers frequently provides courses for lawyers, judges and other legal professionals, including courses involving aspects of human rights.

8. The Danish Bar and Law Society is aware of the opportunity of study visits and traineeships for lawyers at the Court.

B. 1. c) Prior to and independently of the processing of cases by the Court: promote, in this regard, study visits and traineeships at the Court for judges, lawyers and national officials in order to increase their knowledge of the Convention system

9. See 1b) above.

B. 1. d) Prior to and independently of the processing of cases by the Court: take appropriate action to improve the verification of the compatibility of draft laws, existing laws and internal administrative practice with the Convention, in the light of the Court's case law

10. Denmark continuously aims to secure a high human rights standard in policy and law making. Therefore, all considerations concerning the possible preparation of new legislation are carried out within the framework of Denmark's human rights obligations. Guidelines issued by the Ministry of Justice regarding the examination of legislation prescribe that the international conventions on human rights that Denmark is a party to must be considered during the preparation of legislation. In 2015, the Ministry of Justice has emphasized in its annual official letter concerning legislative matters to all the ministries that if a proposal entails essential considerations regarding the European Convention on Human Rights, the bill must reflect these considerations.

11. In regard to existing laws, see 2b) below.

B. 1. e) Prior to and independently of the processing of cases by the Court: ensure the effective implementation of the Convention at national level, take effective measures to prevent violations and to provide effective domestic remedies to address alleged violations of the Convention

12. See 2b) below.

B. 1. F) Prior to and independently of the processing of cases by the Court: consider making voluntary contributions to the Human Rights Trust Fund and to the Court's special account to allow it to deal with the backlog of all well-founded cases, and continue to promote temporary secondments to the Registry of the Court

13. Denmark will consider making voluntary contributions subject to the availability of funds.

B. 1. G) Prior to and independently of the processing of cases by the Court: consider the establishment of an independent National Human Rights Institution

14. The National Human Rights Institution in Denmark - the Danish Institute for Human Rights - was established by law in 1987 as an independent state-funded institution. Its mandate is to promote and protect human rights and equal treatment in Denmark and abroad. The Danish Institute for Human Rights advises government, parliament, ministries and public authorities on human rights, and produces analyses and research on human rights. The Danish Institute for Human Rights is independent and works in accordance with the Paris Principles.

B. 2. a) After the Court's judgments: continue to increase their efforts to submit, within the stipulated deadlines, comprehensive action plans and reports, key tools in the dialogue between the Committee of Ministers and the States Parties, which can contribute also to an enhanced dialogue with other stakeholders, such as the Court, national parliaments or National Human Rights Institutions

15. See 2b) below.

B. 2. b) After the Court's judgments: in compliance with the domestic legal order, put in place in a timely manner effective remedies at domestic level to address violations of the Convention found by the Court

16. The Danish mechanism is not based on a written procedure, but the result of working arrangements between the national authorities that developed over time. In this context it should be noted that Denmark has only in relatively few cases been held to be in violation with the European Convention on Human Rights.

17. The role as co-ordinator is handled by the Danish Government's Agent, placed in the Danish Ministry of Foreign Affairs.

18. The Ministry of Foreign Affairs immediately transmits judgments in cases against Denmark to the Ministry of Justice and to other relevant authorities. An analysis is then undertaken, by the particular authorities in question, to identify measures required to ensure execution of the judgment. Such analysis will often be carried out with assistance from the Ministry of Justice.

19. If individual measures are required in order to comply with the judgment, the authority in question will be responsible for carrying out the necessary steps, for example the payment of compensation.

20. If general measures are required in order to comply with a judgment, for example in cases where the underlying problem is the Danish legislation, the legislation in question will be reassessed by the responsible authority and – usually – in collaboration with the Ministry of Justice. If measures at legislative level turn out to be required, the responsible minister would prepare the necessary amendments and present the proposal to the Parliament whereafter it will be up to the Parliament to adopt the proposed amendment.

21. For instance, it should be mentioned that in the judgment of 11 January 2006 in the joint cases *Sørensen and Rasmussen v. Denmark* (application no. 52562/99 and 52620/99) the Court found that Denmark had violated Article 11 of the Convention. The case concerned the existence of close-shop agreements in the applicant's fields of employment which violated their rights to freedom of association. By law no. 153 of 2 February 2006 the Danish law was changed in order to be in accordance with the interpretation of the Convention set forward in the judgment of 11 January 2006.

22. In order to comply with a judgment, reopening of the proceedings by the Danish Court might be required. Judicial proceedings may be reopened under the terms of the Administration of Justice Act (*Retsplejeloven*).

23. For instance, it should be mentioned that in the case *Jersild v. Denmark* of 23 September 1994 (Resolution DH (95) 2012) the European Court of Human Rights held the conviction of the applicant, a journalist who contributed to the dissemination of racist statements, to be in violation of Article 10 of the Convention. Subsequently, the impugned criminal proceedings were reopened. By judgment of 4 June 1996 the Court of Appeal of Eastern Denmark (*Østre Landsret*) acquitted the applicant and ordered the state to pay all his costs both in the old and new proceedings.

24. It should be noted that no judgments against Denmark at the European Court of Human Rights has led to a need to reopen a civil case.

B. 2. c) After the Court's judgments: develop and deploy sufficient resources at national level with a view to the full and effective execution of judgments, and afford appropriate means and authority to the government agents or other officials responsible for coordinating the execution of judgments

25. See 2b) above.

B. 2. d) After the Court's judgments: attach particular importance to ensuring full, effective and prompt follow-up to those judgments raising structural problems, which may furthermore prove relevant for other States Parties

26. See 2b) and 2e) below.

B. 2. e) After the Court's judgments: foster the exchange of information and best practices with other States Parties, particularly for the implementation of general measures

27. Denmark does not have an intensive practical experience in this regard. However, Denmark will exchange information, including information on implementation of general measures and best practices, with other States Parties upon request.

B. 2. f) After the Court's judgments: promote accessibility to the Court's judgments, action plans and reports as well as to the Committee of Ministers' decisions and resolutions, by:
- *developing their publication and dissemination to the stakeholders concerned (in particular, the executive, parliaments and courts, and also, where appropriate, National Human Rights Institutions and representatives of civil society), so as to involve them further in the judgment execution process;*
- *translating or summarising relevant documents, including significant judgments of the Court, as required*

28. Summaries in Danish of a selection of the essential judgments of the Court including judgments against Denmark are published in the periodical EU-law & Human Rights Law (EU-ret & Menneskeret) which is published six times a year. 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.

29. The Danish Courts and the Danish prosecution receive the journal.

B. 2. g) After the Court's judgments: within this framework, maintain and develop the financial resources that have made it possible for the Council of Europe, since 2010, to translate a large number of judgments into national languages

30. See 2f) above.

B. 2. h) After the Court's judgments: in particular, encourage the involvement of national parliaments in the judgment execution process, where appropriate, for instance, by transmitting to them annual or thematic reports or by holding debates with the executive authorities on the implementation of certain judgments

31. In Recommendation CM/Rec(2008)2 on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights, the Committee of Ministers recommended that member states as appropriate, keep their parliaments informed of the situation concerning execution of judgments and the measures being taken in this regard.

32. With reference to this Recommendation, the Danish Government annually informs the Danish Parliament about judgments from the European Court of Human Rights in cases against Denmark.

B. 2. i) After the Court's judgments: establish "contact points", wherever appropriate, for human rights matters within the relevant executive, judicial and legislative authorities, and create networks between them through meetings, information exchanges, hearings or the transmission of annual or thematic reports or newsletters

33. See 1a) 1b) and 2f) above.

B. 2. j) After the Court's judgments: consider, in conformity with the principle of subsidiarity, the holding of regular debates at national level on the execution of judgments involving executive

and judicial authorities as well as members of parliament and associating, where appropriate, representatives of National Human Rights Institutions and civil society

34. See 1b) and 2f) above.

ESTONIA / ESTONIE

1. Estonia submitted its revised report under the Interlaken Declaration to the Council of Europe Committee of Ministers on 23 April 2012 and under the Brighton Declaration on 4 December 2014. The current report under the Brussels Declaration deals with the relevant developments since 2015 and does not repeat what was already covered in the previous reports.

B. Implementation of the Convention at national level

B. 1. a) Prior to and independently of the processing of cases by the Court: ensure that potential applicants have access to information on the Convention and the Court, particularly about the scope and limits of the Convention's protection, the jurisdiction of the Court and the admissibility criteria

2. General information for potential applicants regarding the Convention and the Court is available on the official webpage of the Ministry of Foreign Affairs.⁴⁶ The webpage includes relevant links to the full text of the Convention and to all of its additional protocols in Estonian, published at the electronic Riigi Teataja (State Gazette).⁴⁷ Potential applicants are also provided with links to the Court and the Council of Europe webpages. Additionally, the Ministry of Foreign Affairs relevant webpage provides information on the Interlaken, Izmir, Brighton and Brussels declarations (the texts of the declarations are provided both in English and in Estonian) and a selection of the Committee of Ministers documents regarding the Convention and the Court (equally available both in English and in Estonian). Information is also available in Estonian regarding all the decisions and judgments of the Court concerning the applications brought against Estonia.

3. As to the information regarding the admissibility criteria, the Ministry of Foreign Affairs has translated into Estonian the 2014 version of the Practical Guide on Admissibility Criteria. Both the English and Estonian versions of the practical guide are electronically available on the Ministry of Foreign Affairs webpage. A link to the practical guide is also provided on the electronic Riigi Teataja and on the webpage of the Supreme Court of Estonia.

4. The application form as well as the relevant guidelines based on Rule 47 of the Rules of Court (entered into force on January 2016) are both provided in Estonian and Russian on the Ministry of Foreign Affairs webpage. The Ministry of Foreign Affairs has forwarded the information regarding the adoption of new application form with explanations to the Estonian Bar Association to be distributed to all the lawyers.

5. Additionally, the Chancellor of Justice consistently applies the practice of explaining the rules and procedure of recourse to the ECtHR to the individuals who have petitioned the Chancellor's Office with a relevant problem, because the petitioners are not always aware of the rules and requirements and there may be misunderstandings regarding the possibility of recourse to the ECtHR and the issues of interpretation of the Convention on Human Rights.

B. 1. b) Prior to and independently of the processing of cases by the Court: increase efforts at

⁴⁶ <http://www.vm.ee/?q=taxonomy/term/229>

⁴⁷ Riigi Teataja is a gazette of official online publications of the Estonian legislation and all other legal instruments, domestic court decisions, legal news, etc.

national level to raise awareness among members of parliament and improve the training of judges, prosecutors, lawyers and national officials on the Convention and its implementation, including as regards the execution of judgments, by ensuring that it constitutes an integrated part of their vocational and in-service training, where relevant, including by having recourse to the Human Rights Education for Legal Professionals (HELP) programme of the Council of Europe. As well as to the training programmes of the Court and to its publications

6. In Estonia, the training department of the Supreme Court deals with the training of judges. Topics relating to the Convention and case law of the Court continue to be a constant part of the training programme of Estonian judges. Public prosecutors can also regularly participate in the training courses for judges organised by the Supreme Court. In addition, the Legal information department of the Supreme Court has published over the years several overviews and analysis on different topics of the Convention rights most relevant or problematic to Estonia in order to support judicial training as well as to foster uniform application of the law in light of the Court's case law. The most recent analysis pertains to the Court's case law in respect of the conditions of prison chambers. The respective analyses are publicly available on the website of the Supreme Court.

7. Advisers from the Office of the Chancellor of Justice, have organised training courses to Estonian lawyers on topics of law enforcement (May and November 2015, and October 2016), state liability (spring 2016) and the interpretation of the Estonian Constitution (September and November 2016), covering the subject matters also in relation to the ECtHR case-law. The Chancellor of Justice in her annual reports, which are published in the Riigi Teataja, also continues to draw attention to the key judgments of the ECtHR delivered during the reporting year.

8. In May 2015, the Government Agent before the ECtHR and an Estonian lawyer working at the Registry of the Court carried out a training course for the members of the Estonian Bar Association on bringing a case to the Court. The course dealt with the questions of admissibility criteria and the completing of the application form.

9. In May 2016, the Government Agent before the ECtHR and the lawyer of the International Law office of the Ministry of Foreign Affairs conducted a training course to the Ministry of the Interior and its subordinate agencies' lawyers and specialists, concentrating on the key case law of the Court in the relevant subject matter areas.

10. At the end of each calendar year the Government Agent before the ECtHR submits a report on her activities to the Government and to the Constitutional Committee and Legal Affairs Committee of the Parliament. The report, that is also made public, includes a complete overview of the cases pending before the Court that are launched against Estonia; an overview of the decisions and judgments made by the Court in respect of Estonia; an overview of the key decisions and judgments in respect of other Member States but with relevance to laws or administrative practice of Estonia.

11. Further, the Government Agent always sends the ECtHR judgments in respect of Estonia together with a short summary explaining the judgment to the Ministry of Justice and other relevant ministries, the Chancellor of Justice and the Supreme Court. The Ministry of Justice, in turn, forwards the relevant information to the e-mail list of the Estonian judges, so that the materials reach all the judges.

12. In addition, the 2016 Estonian Lawyers' Days programme was dedicated to international and human rights law. One of the aims of the conference was to celebrate the 20-year anniversary of Estonia joining the Convention system and its keynote speech was delivered by the President of the Court, Mr Guido Raimondi. The topics discussed during the conference as well as Mr Raimondi's visit contributed greatly to raise awareness on the

Convention and its implementation among Estonian lawyers as well as among members of wider public. Additionally, as a follow-up to the conference, an article by the Government Agent before the ECtHR was published in Estonian legal journal *Juridica* that gave a thorough overview of the Court's case law adopted in the course of 20 years in respect of Estonia.

B. 1. c) Prior to and independently of the processing of cases by the Court: promote, in this regard, study visits and traineeships at the Court for judges, lawyers and national officials in order to increase their knowledge of the Convention system

13. The Supreme Court of Estonia seconded an adviser of the Constitutional Review Chamber, as an expert to the Registry of the Court for the period of 15 October 2013 to 30 September 2016. Since 1st of September 2016 a judicial clerk of the Civil Chamber of the Tallinn Court of Appeal, has replaced him. In addition, a judge from Harju County Court has been in the Registry of the Court, and his secondment was supported by the Estonian state and the European Judicial Training Network.

14. A long-time Estonian lawyer at the Registry of the Court was in 2016 elected as a Judge of the Supreme Court of Estonia and has now returned to Estonia to take up the position at the Criminal Chamber of the Supreme Court.

B. 1. d) Prior to and independently of the processing of cases by the Court: take appropriate action to improve the verification of the compatibility of draft laws , existing laws and internal administrative practice with the Convention, in the light of the Court's case law

15. The Convention is an integral part of the Estonian legal order and all domestic bodies vested with right of legislative initiative are warranted to ensure compliance of all national legislation with the Convention. As a general practice, a draft law is, therefore, accompanied by an explanatory memorandum which analyses the compatibility of the draft law with the rights set out in the Convention. The questions on the compliance with the Convention are subsequently undertaken by the relevant parliamentary committee in charge of the preparation of the bill and/or addressed during parliamentary debates. Additionally, the President of the Republic of the Estonia has a right not to promulgate a legislation adopted by the Parliament in case he or she finds it to be incompatible with the Constitution of Estonia.

16. In general, it is the responsibility of the ministries to scrutinise the compliance of existing laws with the Convention and to initiate legislative amendments if necessary. The Government Agent and the officials dealing with human rights' issues in the Ministry of Foreign Affairs also systematically monitor the developments of the Court's case law and accordingly publish and disseminate the Court's judgments to draw attention of other ministries or the courts to certain developments in the Court's case law, especially concerning laws relating to areas in which there is a potentially higher risk of a violation of human rights. The compliance of the laws to the Convention is also verified within the framework of the constitutional review procedure at the Supreme Court.

17. The compatibility of administrative practice to the Convention requirements is fostered by appropriate publication and dissemination of the relevant case-law of the Court to all the authorities concerned. When relevant and necessary, appropriate training is provided to the decision makers. Additionally, courts are required to assess the conformity of administrative practice to the Convention standards if such compatibility issue rises.

18. The Chancellor of Justice contributes further to the assessment of the compatibility of the draft laws, existing laws and administrative practice to the Convention provisions. The Chancellor has a legal duty to monitor that the authorities' actions are in conformity with Estonia's international obligations and that the fundamental rights and freedoms of people

living in Estonia are protected. Within this competence the Chancellor analyses the petitions and proposals made to her concerning the amendments of acts, passage of new acts and activities of state agencies and, when necessary and appropriate, issues opinions, recommendations, requests and reports to the relevant body of authority.

B. 1. e) Prior to and independently of the processing of cases by the Court: ensure the effective implementation of the Convention at national level, take effective measures to prevent violations and to provide effective domestic remedies to address alleged violations of the Convention

19. According to the Estonian Constitution, the Convention forms an integral part of the Estonian legal order and is directly applicable (§ 123). By interpreting and applying national law, all public bodies have the responsibility, therefore, to give due regard to the Convention provisions. The fact that the Convention is incorporated into Estonian legal order and is directly applicable equally means that everyone who considers that his or her Convention rights have been violated can turn to respective public offices or courts for the protection of his or her rights. The public offices and courts are respectively obliged to consider those claims in the light of the Convention and the Court's case law.

20. The implementation of the Convention and the prevention of its violations are additionally safeguarded by the practices addressed under points b, c and d above.

B. 2. a) After the Court's judgments: continue to increase their efforts to submit, within the stipulated deadlines, comprehensive action plans and reports, key tools in the dialogue between the Committee of Ministers and the States Parties, which can contribute also to an enhanced dialogue with other stakeholders, such as the Court, national parliaments or National Human Rights Institutions

21. Action plans and reports are submitted within the stipulated deadlines. The Government Agent before the Court draws up action plans and reports in cooperation with a ministry or state agency that is responsible for the adoption of necessary measures.

B. 2. b) After the Court's judgments: in compliance with the domestic legal order, put in place in a timely manner effective remedies at domestic level to address violations of the Convention found by the Court

22. The payment of compensation is within the competence of the Ministry of Finance and has always been fulfilled in a timely manner. The responsibility to implement other individual or general measures rests on the state body in charge of the area in which the Court found a violation (e.g. amendment of procedural codes should be initiated by the Ministry of Justice; judicial practice can be changed by the courts etc.)

23. The Code of Criminal Procedure, the Code of Misdemeanour Procedure, the Code of Civil Procedure and the Code of Administrative Court Procedure foresee a possibility of reopening proceedings before the Supreme Court once the Court has found a violation of the Convention and such a violation cannot be eliminated or damage caused thereby cannot be compensated otherwise than by means of review.

B. 2. c) After the Court's judgments: develop and deploy sufficient resources at national level with a view to the full and effective execution of judgments, and afford appropriate means and authority to the government agents or other officials responsible for coordinating the execution of judgments

24. In Estonia the Government Agent before the Court (located in the Ministry of Foreign Affairs) is the coordinator of execution of judgments at the national level. Although, the status of the Government Agent is not regulated by law, the Agent's rights and obligations for coordinating the execution of judgments have developed in the course of practice. After a violation is found by the Court the Government Agent notifies the relevant authorities about the case and presents her recommendations on how to implement the judgment and to ensure the prevention of similar violations in the future. Subsequently, the relevant authorities submit their opinions and plans regarding the implementation of the judgment, as substantive execution of the judgment rests on a state agency in charge of the subject area.

B. 2. d) After the Court's judgments: attach particular importance to ensuring full, effective and prompt follow-up to those judgments raising structural problems, which may furthermore prove relevant for other States Parties

25. So far no violations raising structural problems have been found by the Court in respect of Estonia.

B. 2. e) After the Court's judgments: foster the exchange of information and best practices with other States Parties, particularly for the implementation of general measures

26. Regular information exchange on various topics regarding the implementation of the Convention and the Court's case law takes place among the Government Agents via email. In every two to three years the Government Agents also organise meetings (the most recent one took place in Tallinn in September 2016) to discuss some of the most topical issues of their work, including the implementation of the Court's decisions and judgments.

27. Also, during the meetings of the Committee of Experts on the System of the European Convention on Human Rights (and before the Committee of Experts on the Reform of the Court), the experts hold regular exchanges of information on various topics of mutual interest. For example an exchange of information on the provision in the domestic legal order for re-examination or reopening of cases following judgments of the Court or an exchange of information on the implementation of the Convention and the execution of judgments of the Court have been held.

B. 2. f) After the Court's judgments: promote accessibility to the Court's judgments, action plans and reports as well as to the Committee of Ministers' decisions and resolutions, by:
- developing their publication and dissemination to the stakeholders concerned (in particular, the executive, parliaments and courts, and also, where appropriate, National Human Rights Institutions and representatives of civil society), so as to involve them further in the judgment execution process;
- translating or summarising relevant documents, including significant judgments of the Court, as required

28. As of the beginning of 2012, the Ministry of Justice started publishing short summaries of the Court's judgments and decisions in respect of Estonia⁴⁸ and periodical overviews of the judgments in respect of other states⁴⁹ in electronic Riigi Teataja. At the beginning of 2013, in cooperation with the Ministry of Foreign Affairs, the Riigi Teataja also published the Estonian translations of all the ECtHR judgments in respect of Estonia, which had previously been available only on the homepage of the Ministry of Foreign Affairs.⁵⁰

⁴⁸https://www.riigiteataja.ee/kohtuteave/otsing_kohtulahendi_analyys.html?pealkiri=&kohtuTasand=ANA_EUINKO&kohtuLiik=&sisu=&lahendiNr=&minOtsuseKp=&maxOtsuseKp=&minAvaldatud=&maxAvaldatud=&leht=0

⁴⁹https://www.riigiteataja.ee/oigusuudised/kohtuudiste_nimekiri.html

⁵⁰<https://www.riigiteataja.ee/viitedLeht.html?id=3>

29. The Ministry of Foreign Affairs also continues to publish Estonian translations of the Court's judgments and decisions in respect of Estonia, as well as brief news on those judgments and decisions, on its website.⁵¹ The judgments and decisions in respect of Estonia are also promptly forwarded to relevant authorities along with comments on their implications to Estonian legal order and practice and/or recommendations on how to comply with a particular judgment so as to ensure the prevention of similar violations in the future.

30. The Ministry of Foreign Affairs website also contains the annual overviews by the Government Agent before the Court.

31. The action plans and reports are submitted by the Government Agent to the Council of Europe Committee of Ministers Department for the execution of the ECtHR judgments. The action plans and reports are thereafter published on the website of the Department insofar as the department has made them available.

B. 2. g) After the Court's judgments: within this framework, maintain and develop the financial resources that have made it possible for the Council of Europe, since 2010, to translate a large number of judgments into national languages

32. Estonia has maintained the resources that enable it to translate the judgments and decisions in respect of Estonia into Estonian.

B. 2. h) After the Court's judgments: in particular, encourage the involvement of national parliaments in the judgment execution process, where appropriate, for instance, by transmitting to them annual or thematic reports or by holding debates with the executive authorities on the implementation of certain judgments

33. Each year the Government Agent prepares a report for the Government, outlining the judgments and decisions made in respect of Estonia and the various aspects relating to their execution, including the need to amend legislation. Drawing from the judgments made against other member states, the overview also identifies certain problematic areas in the Estonian legislation that require scrutiny in light of the developments of the Court's case law. The overview is also forwarded to the Constitutional Committee of the Parliament and to the Legal Affairs Committee of the Parliament.

B. 2. i) After the Court's judgments: establish "contact points", wherever appropriate, for human rights matters within the relevant executive, judicial and legislative authorities, and create networks between them through meetings, information exchanges, hearings or the transmission of annual or thematic reports or newsletters

34. The Ministry of Foreign Affairs Legal Department has established network of contacts involving officials of relevant ministries, the Supreme Court and the Parliament. Cooperation with them normally takes place according to the needs of a particular case at hand and in an unofficial manner.

B. 2. j) After the Court's judgments: consider, in conformity with the principle of subsidiarity, the holding of regular debates at national level on the execution of judgments involving executive and judicial authorities as well as members of parliament and associating, where appropriate, representatives of National Human Rights Institutions and civil society

⁵¹ <http://vm.ee/et/taxonomy/term/229>

35. The execution of the majority of cases in respect of Estonia has been relatively straightforward. The Court has also not found so far any violations raising structural problems that may demand wider changes in law and practice. Discussions among relevant stakeholders on the execution of judgments have, therefore, normally taken place on a case-by-case basis by means of information exchange and meetings.

FINLAND / FINLANDE

B. 1. a) Prior to and independently of the processing of cases by the Court: ensure that potential applicants have access to information on the Convention and the Court, particularly about the scope and limits of the Convention's protection, the jurisdiction of the Court and the admissibility criteria

1. Information on the European Convention on Human Rights and the European Court of Human Rights is available in Finnish and Swedish in the Finlex data bank (<http://www.finlex.fi/fi>). Finlex is a public and free Internet service maintained by the Finnish Government (Ministry of Justice) which provides legislative and other judicial material. Finlex is available free of charge and available for everyone for instance in public libraries.

2. Moreover, the Unit for Human Rights Courts and Conventions of the Ministry for Foreign Affairs provides the text of the Convention as well as complaint forms on request. Information on submitting human rights applications to the Court is available at the website of the Ministry for Foreign Affairs (<http://formin.finland.fi/public/default.aspx?nodeid=49304&contentlan=1&culture=fi-FI>).

3. The website provides information on the admissibility and examination of applications and the execution of related judgments. The website also provides instructions for submitting an application, a link to the case law website of the Court (<http://www.hudoc.echr.coe.int>) and another link to the Finnish Government's legislative data bank Finlex, which contains summaries in Finnish of the Court's judgments since 1960 (<http://www.finlex.fi/fi/oikeus/eurooppa/feit/>). In respect of judgments concerning Finland, the data bank also provides the whole original text in English.

4. Furthermore, the Unit for Human Rights Courts and Conventions of the Ministry for Foreign Affairs also provides information by phone and e-mail e.g. on submitting human rights applications to the European Court of Human Rights and on the admissibility criteria to the Court.

5. Europe Information – the EU information service of the Ministry for Foreign Affairs – provides general instructions for submitting an application to the European Court of Human Rights (<https://eurooppatiedotus.fi/sina-ja-eu/valitus-vetoamismahdollisuudet-eussa/>).

6. The Supreme Court publishes a newsletter on European law, which also describes the most important new rulings by the European Court of Human Rights in its judgments in respect of each article of the Convention. The newsletter also reports on other rulings considered useful for the administration of justice in Finland.

7. The Parliamentary Ombudsman publishes an annual report, which includes summaries of the decisions and judgments issued by the Court and on monitoring the execution of the judgments concerning Finland (<https://www.oikeusasiamies.fi/en/web/guest/annual-reports>).

8. The Human Rights Centre (<https://www.ihmisoikeuskeskus.fi/in-english>), which is part of the National Human Rights Institution, publishes annually a number of international reviews

of topical human rights issues. These reviews, circulated widely, report on significant new judgments of the Court.

9. The Edilex real-time legal information service (<https://www.edilex.fi>) produced by Edita Publishing Ltd, intended for legal professionals, publishes summaries of the case law of the European Court of Human Rights. The service is subject to a charge.

B. 1. b) Prior to and independently of the processing of cases by the Court: increase efforts at national level to raise awareness among members of parliament and improve the training of judges, prosecutors, lawyers and national officials on the Convention and its implementation, including as regards the execution of judgments, by ensuring that it constitutes an integrated part of their vocational and in-service training, where relevant, including by having recourse to the Human Rights Education for Legal Professionals (HELP) programme of the Council of Europe. As well as to the training programmes of the Court and to its publications

10. As regards efforts at national level to improve the training of judges on the Convention and its implementation and the study visits at the Court for judges, the training unit of the Ministry of Justice arranges training on human rights treaties and fundamental rights annually. The training is intended to support judges in their daily work by explaining the status of human rights treaties and fundamental rights in the administration of justice and by describing the content of such treaties and the principles for interpreting them. For years, Ms *Päivi Hirvelä*, former judge of the European Court of Human Rights, has been one of the planners and trainers of the course.

11. The obligations laid down in the Constitution of Finland are highly relevant for the legal basis of fundamental and human rights training intended especially for the national officials. According to section 22 of the Constitution, the public authorities shall guarantee the observance of basic rights and liberties and human rights. The fulfilment of this obligation necessitates ensuring that the national officials have an adequate knowledge of fundamental and human rights, including the European Convention on Human Rights.

12. The Finnish Institute of Public Management Ltd (HAUS) organizes a course on fundamental rights and human rights for national officials in Finland. The course provides education on the European Convention on Human Rights as well.

13. The Human Rights Centre, established in 2012, is an important partner of the Government in the field of fundamental and human rights education and training since one of its statutory tasks is to promote fundamental and human rights education and training. Other key partners include municipalities as well as human rights organisations.

14. With regard to strengthening the fundamental and human rights training of national officials, the Second National Action Plan on Fundamental and Human Rights focuses, in particular, on developing online materials and training on fundamental and human rights themes as part of, for example, the introductory training programme of new officials and training on legislative drafting. A course on fundamental and human rights for Government officials has already been conducted as a pilot project. The online material related to the course and other material on fundamental and human rights have been published on the Government Intranet site where they are available to all Government officials.

B. 1. c) Prior to and independently of the processing of cases by the Court: promote, in this

regard, study visits and traineeships at the Court for judges, lawyers and national officials in order to increase their knowledge of the Convention system

15. Every year, 6–8 judges or prosecutors from Finland visit the European Court of Human Rights. One judge has completed the Human Rights Education for Legal Professionals (HELP). The Intranet of the judiciary provides information on HELP training.

16. Furthermore, the Ministry of Justice sends some participants per year to the Brussels I Regulation training arranged by the European Judicial Training Network (EJTN). After completing the training, the participants spread the information further in their employer agencies, for instance by saving the received training material on joint work stations or giving presentations on their visit and the lessons learned to their department or agency meetings. Finland usually has only one or two places available in the training events of the European Judicial Training Network (EJTN) and the Academy of European Law (ERA), and the number of applicants always exceeds that of places.

B. 1. d) Prior to and independently of the processing of cases by the Court: take appropriate action to improve the verification of the compatibility of draft laws, existing laws and internal administrative practice with the Convention, in the light of the Court's case law

17. The European Convention on Human Rights has been incorporated into Finnish legislation by an Act of Parliament with the status of ordinary law. When drafting legislation, authorities must take account of the provisions of the Convention and the case law of the European Court of Human Rights. The Ministry of Justice has published a handbook for legislative drafters, which includes comprehensive information on how to take fundamental and human rights into account in legislative drafting.

18. As regards the verification of the compatibility of draft laws, existing laws and internal administrative practice with the Convention in the light of the Court's case law, each ministry is responsible for guaranteeing the implementation of fundamental and human rights in legislative drafting within its own administrative branch. Government Bills for legislation are duly assessed in relation to the Constitution (especially fundamental rights) and human rights treaties, including the Convention, in order to ensure their full compliance.

19. The function of the Constitutional Law Committee of Parliament is to issue statements on the constitutionality of legislative proposals and other matters brought to its consideration and on their relation to international human rights treaties (section 74 of the Constitution). The Committee's statements on constitutional and human rights issues are authoritative at the different stages of the readings in Parliament and constitute a central source of reference in assessing the implementation of fundamental and human rights. The Constitutional Law Committee emphasizes a human rights friendly interpretation of legislation.

B. 1. e) Prior to and independently of the processing of cases by the Court: ensure the effective implementation of the Convention at national level, take effective measures to prevent violations and to provide effective domestic remedies to address alleged violations of the Convention

20. Once the Agent of the Government of Finland before the European Court of Human Rights receives judgments or decisions concerning Finland from the Court, she promptly

informs the Courts and all domestic authorities which have been involved in each case concerned and always the Parliamentary Ombudsman, the Chancellor of Justice, the Supreme Court, the Supreme Administrative Court, the Constitutional Law Committee of Parliament and the Ministry of Justice of any such rulings.

21. In Finland the Agent of the Government works in a coordinating role for the swift and complete execution of the judgments and decisions of the Court in relation to the national level and to the Execution Department of the Committee of Ministers at the international level. The applicable principle is that the ministry within whose legislative jurisdiction the violation is found is responsible for the national actions to execute the judgment or decision. This may require general measures, individual measures, payment of compensation or other forms of action.

B. 1. f) Prior to and independently of the processing of cases by the Court: consider making voluntary contributions to the Human Rights Trust Fund and to the Court's special account to allow it to deal with the backlog of all well-founded cases, and continue to promote temporary secondments to the Registry of the Court

22. In 2017, Finland's contribution to the Court amounted to 140,000 euros. Moreover, in 2017 Finland has supported the *Positive Impact of the European Court of Human Rights* project with 20,000 euros. The Brighton Conference of 2012 advancing the reform process of the Court introduced a special account to support the Court's activities by ensuring the necessary resources for it. Finland's contribution to the account is the fifth largest and amounted to 176,020 euros in 2012–2016. In 2016, Finland's contribution amounted to slightly less than 16,000 euros.

B. 1. g) Prior to and independently of the processing of cases by the Court: consider the establishment of an independent National Human Rights Institution

23. The Human Rights Centre and its Human Rights Delegation together with the Office of the Parliamentary Ombudsman form the National Human Rights Institution in Finland. At the end of 2014, it was granted an A status according to the Paris Principles.

24. The Human Rights Centre started its work at the beginning of 2012. It was established by Act (535/2011), which defines the tasks and composition of the Centre. The tasks of the Centre are to promote information distribution, training, education and research related to fundamental and human rights, elaborate studies on the realization of fundamental and human rights, make initiatives and issue statements for the promotion and realization of fundamental and human rights, participate in the European and international cooperation for the promotion and safeguarding of fundamental and human rights, and to perform other similar tasks for the promotion and realization of fundamental and human rights. The Human Rights Centre does not consider complaints or other individual cases. The Human Rights Centre has a new task to promote, protect and monitor the implementation of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) together with the Parliamentary Ombudsman. It is the first statutory task collectively assigned to Finland's National Human Rights Institution.

25. The Human Rights Centre has a Human Rights Delegation with 20–40 members. The Centre is linked to the Office of the Parliamentary Ombudsman. The Parliamentary

Ombudsman appoints the Delegation for a four-year term at a time. The Delegation's composition should be diverse in terms of expertise as well as representative, and the selection process should be transparent. Presently the Centre has a Director and three expert level officials. The Delegation functions as a cooperative body in the field and helps to intensify information flow between the different actors. It also deals with human rights issues of a far-reaching significance and principal importance.

26. Provisions on the mandate of the Parliamentary Ombudsman are laid down in the Constitution of Finland (section 109). In addition to the Constitution, provisions on the activities of the Parliamentary Ombudsman are contained in the Act on the Parliamentary Ombudsman (197/2002). The Ombudsman oversees the legality of actions taken by the authorities, primarily by investigating complaints received. He can take matters under investigation on his own initiative. The Ombudsman also conducts on-site investigations in public offices and institutions and issues statements. In November 2014, the Parliamentary Ombudsman became the National Preventive Mechanism (NPM) under the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

B. 2. a) After the Court's judgments: continue to increase their efforts to submit, within the stipulated deadlines, comprehensive action plans and reports, key tools in the dialogue between the Committee of Ministers and the States Parties, which can contribute also to an enhanced dialogue with other stakeholders, such as the Court, national parliaments or National Human Rights Institutions

27. Action plans and reports are drafted by the Government Agent in cooperation with the relevant ministries.

28. The drafting of the action plans and reports is accomplished normally through the direct contacts with the relevant ministries and contact persons and/or officials responsible for the substantive issue in question. Normally, these tasks are accomplished with the same officials that have been involved in preparing the ministries' statements for consideration by the Government Agent for the Government's observations in the proceedings before the Court.

B. 2. b) After the Court's judgments: in compliance with the domestic legal order, put in place in a timely manner effective remedies at domestic level to address violations of the Convention found by the Court

29. The Government Agent has direct contacts with the relevant ministries and contact persons and/or officials responsible for the substantive issue in question. The work of the Government Agent is based on an established procedure in this respect followed already from 1990s. Normally, the measures concerning execution are discussed and cleared up with the same officials that have been involved in preparing the ministries' statements for consideration by the Government Agent for the Government's observations in the proceedings before the Court. If need be, necessary contact at the level of the relevant highest officials or exceptionally even at the level of ministers will be taken. Should the execution require input from other authorities, the contacts with such authorities and the acquisition of information is undertaken, depending on the case at issue, through the relevant ministries or directly.

30. Furthermore, a judgment passed by the European Court of Human Rights may constitute grounds for reversing a domestic judgment. Under Finnish legislation, a final

judgment may be reversed for instance if it is manifestly based on misapplication of the law (Code of Judicial Procedure, chapter 31, sections 7 and 8, 109/1960).

31. Furthermore, a private party is entitled to receive reasonable compensation out of State funds if an excessive length of judicial proceedings is considered to violate the party's right to a trial within a reasonable time (Act on Compensation for the Excessive Length of Judicial Proceedings, 362/2009).

B. 2. c) After the Court's judgments: develop and deploy sufficient resources at national level with a view to the full and effective execution of judgments, and afford appropriate means and authority to the government agents or other officials responsible for coordinating the execution of judgments

32. In Finland the Government Agent is responsible for coordinating the execution of the Court's judgments. In the execution of judgments, each ministry is responsible for safeguarding fundamental and human rights in its own field.

33. If a final judgment against Finland orders compensation to be paid to the applicant, it is paid by the State Treasury, which is responsible for the financial management of the State.

B. 2. d) After the Court's judgments: attach particular importance to ensuring full, effective and prompt follow-up to those judgments raising structural problems, which may furthermore prove relevant for other States Parties

34. When the Court has found against Finland, the domestic legislation or administrative practice has been amended in order to prevent any further similar violations.

35. As a result of several judgments on excessive length of proceedings cases, a new specific legal remedy was created by the Act on Compensation for the Excessive Length of Judicial Proceedings (362/2009), which entered into force on 1 January 2010. According to the Act a party may be entitled to monetary compensation payable from State funds for undue delays in judicial proceedings. By the Act amending the Act on Compensation for the Excessive Length of Judicial Proceedings (81/2013), which entered into force on 1 June 2013, the aforementioned remedy was extended to cover also administrative law cases in administrative courts. The Code of Judicial Procedure has been supplemented with new provisions (363/2009) on urgent consideration of cases covered by the aforementioned Act on Compensation for the Excessive Length of Judicial Proceedings. These remedies have been explained in more detail in the Government's report on the implementation of the Brighton Declaration.

B. 2. e) After the Court's judgments: foster the exchange of information and best practices with other States Parties, particularly for the implementation of general measures

36. The Government is of the view that the Steering Committee for Human Rights (CDDH), its expert committees and drafting groups as well as annual meetings of the Government Agents provide excellent opportunities for the exchange of information, views and good practices with other Contracting States.

B. 2. f) After the Court's judgments: promote accessibility to the Court's judgments, action plans and reports as well as to the Committee of Ministers' decisions and resolutions, by:

- developing their publication and dissemination to the stakeholders concerned (in particular, the executive, parliaments and courts, and also, where appropriate, National Human Rights Institutions and representatives of civil society), so as to involve them further in the judgment execution process;*
- translating or summarising relevant documents, including significant judgments of the Court, as required*

37. As regards promoting accessibility to the Court's judgments, actions plans and reports as well as the Committee of Ministers' decisions and resolutions in Finland the dissemination and publication of the judgments is efficient. The judgments of the Court are disseminated to the relevant national authorities, as well as always to the Parliamentary Ombudsman, the Office of the Chancellor of Justice, the Constitutional Law Committee of Parliament, the Supreme Court, the Supreme Administrative Court and the Human Rights Centre. The judgments in English along with summaries of the judgments in Finnish are also published in the Finlex data bank. A press release by the Government Agent/the Ministry for Foreign Affairs is given usually the same day the judgement is issued.

B. 2. g) After the Court's judgments: within this framework, maintain and develop the financial resources that have made it possible for the Council of Europe, since 2010, to translate a large number of judgments into national languages

38. See above 1 f) above.

B. 2. h) After the Court's judgments: in particular, encourages the involvement of national parliaments in the judgment execution process, where appropriate, for instance, by transmitting to them annual or thematic reports or by holding debates with the executive authorities on the implementation of certain judgments

39. The Agent of the Government will submit an annual report on the applications to the European Court of Human Rights against Finland in 2017 to the Constitutional Law Committee of Parliament in the beginning of 2018.

B. 2. i) After the Court's judgments: establish "contact points", wherever appropriate, for human rights matters within the relevant executive, judicial and legislative authorities, and create networks between them through meetings, information exchanges, hearings or the transmission of annual or thematic reports or newsletters

40. The Network of Contact Persons for Fundamental and Human Rights with representatives from all ministries provides also a forum for discussions concerning the execution of the judgments of the Court. The first Network was appointed in 2012 to monitor the implementation of the first National Action Plan on Human Rights Plan. A new Network was appointed in 2015 to draft a new Action Plan for 2017-2019 and to, *inter alia*, strengthen coordination and dialogue as regards fundamental and human rights within the Government, monitor the fundamental and human rights situation in Finland based on information produced by international monitoring bodies and monitor the implementation of Finland's human rights obligations and commitments. The Network provides for more systematic monitoring of the fundamental and human rights situation in Finland and expedites information flows within the ministries.

B. 2. j) After the Court's judgments: consider, in conformity with the principle of subsidiarity, the holding of regular debates at national level on the execution of judgments involving executive and judicial authorities as well as members of parliament and associating, where appropriate, representatives of National Human Rights Institutions and civil society

41. In 2016, the Government of Finland received only two decisions and one judgment from the Court. In 2017, the number of judgments is two. Considering the low number of issued judgments, the holding of regular debates at national level on the execution of judgements has not been prioritised. Should the number of judgments rise and reveal, for example, any systemic problems, debates will be held, as appropriate.

FRANCE

1. La Déclaration de Bruxelles (Plan d'Action, Mise en œuvre, article 3) appelle les Etats parties à informer le Comité des Ministres, avant fin juin 2016, sur les nouvelles mesures prises pour améliorer le processus d'exécution des arrêts de la Cour. Le délai accordé aux Etats parties pour rendre compte des mesures prises pour mettre en œuvre la Convention au niveau national au titre de la Déclaration de Bruxelles, initialement fixe à la fin du mois de juin 2016, a été prolongé jusqu'au 31 décembre 2016.

2. Conformément à la pratique qui avait été retenue pour la remise de rapports nationaux justifiant de la mise en œuvre de la Déclaration de Brighton, le Gouvernement français se propose de s'inspirer de la feuille de route établie par le Secrétariat général (SG/Inf(2015)29) pour déterminer la structure et le contenu de son rapport national de mise en œuvre de la Déclaration de Bruxelles. Cette feuille de route a un double objectif: d'une part, aider les Etats membres à fournir les informations demandées et, d'autre part, assurer une structure uniforme des rapports nationaux afin de permettre au Comité des Ministres d'examiner sur une base d'égalité les mesures prises par les États membres pour mettre en œuvre le Plan d'Action de la Déclaration de Bruxelles.

Eléments pertinents de la Déclaration de Bruxelles

3. La Déclaration de Bruxelles contient plusieurs recommandations adressées aux États membres, exclusivement ou en collaboration avec d'autres parties intéressées, regroupées sous l'intitulé de «Plan d'action ». Puis, elle invite les États parties à la mise en œuvre de la Déclaration. Le Gouvernement souhaite répondre à ces deux points de la Déclaration de Bruxelles, dans les parties qui concernent exclusivement les États parties.

• Plan d'action pour les États membres

A1 (a). La Conférence encourage la Cour à continuer à développer sa coopération et son échange d'informations, sur une base régulière, avec les États parties et le Comité des Ministres, notamment s'agissant des requêtes répétitives et pendantes.

4. Le 5 octobre 2015, la Cour européenne des droits de l'homme (ci-après « Cour EDH ») a lancé le Réseau d'échanges d'informations sur la jurisprudence avec les juridictions suprêmes nationales. Le Réseau d'échange d'informations sur la jurisprudence a pour but de favoriser un échange mutuel d'informations entre la Cour EDH et les cours suprêmes

nationales. Elle permettra d'assurer la cohérence des décisions rendues au regard de la jurisprudence européenne. Cet échange se fera par l'intermédiaire des services de recherche des cours suprêmes et du jurisconsulte de la Cour EDH.

5. Jusqu'à cette date, les juridictions suprêmes pouvaient contacter le jurisconsulte de la Cour EDH pour être informées de la jurisprudence de la Cour. Ce point d'entrée devait également permettre un partage de ressources de recherche des différentes cours. Pour autant, les États membres ont exprimé au fil des années la conviction qu'un renforcement et une amélioration du dialogue entre la Cour et les hautes juridictions nationales seraient bénéfiques à l'application de la Convention.

6. Une phase de test a été initiée avec les deux juridictions suprêmes françaises, à savoir le Conseil d'Etat et la Cour de cassation, afin de mieux cerner les attentes, les besoins et les difficultés. Cette phase a permis de s'interroger sur le type d'informations utiles à échanger, les modalités selon lesquelles cet échange pourrait s'effectuer, les conditions de développement du réseau dans le respect des règles de confidentialité et du principe d'indépendance des juridictions nationales.

7. La principale priorité du premier semestre 2016 (phase II) est la mise en place d'un site internet réservé au réseau, d'un accès restreint aux cours supérieures membres du réseau, et l'adoption des mesures nécessaires pour que les juridictions supérieures qui souhaitent rejoindre le réseau puissent le faire aussitôt que possible.

8. Au cours des prochains mois, la Cour reprendra contact avec les juridictions des autres États parties qui ont déjà exprimé leur intérêt à cet égard, afin de les inviter à prendre les premières mesures en ce sens.

B. 1. a) En amont et indépendamment du traitement des affaires par la Cour : veiller à ce que les requérants potentiels aient accès à des informations sur la Convention et la Cour, en particulier sur la portée et les limites de la protection de la Convention, la compétence de la Cour et les critères de recevabilité

9. Les requérants potentiels français ont l'avantage de pouvoir accéder à l'ensemble des informations disponibles en langue française nécessaires à l'introduction d'une requête sur le site de la Cour EDH.

10. Ainsi, la Cour EDH a mis en ligne sur son site Internet plusieurs documents opérationnels donnant les clés nécessaires pour déposer une requête devant la Cour EDH.

11. A côté du formulaire type de requête, les requérants disposent d'un document intitulé « Questions et réponses », visant à répondre à la quasi-totalité des questions susceptibles de se poser lorsqu'un requérant ou son conseil souhaite déposer une requête.

12. Afin de renforcer encore davantage l'intelligibilité de ce document, la Cour EDH a mis en ligne plusieurs vidéos afin de répondre aux principales questions susceptibles de se poser sur les conditions de recevabilité d'une requête.

13. Tout d'abord, la Cour a mis en ligne une vidéo de 15 minutes, intitulée « Courts talks », qui présente à des juges, avocats et professionnels du droit, ainsi qu'aux représentants de la société civile, les critères de recevabilité que chaque requête doit remplir pour être examinée par la Cour.

14. Par ailleurs, la Cour EDH a mis en ligne un tutoriel expliquant de quelle manière le formulaire de requête doit être rempli par les requérants ou leurs avocats afin d'être examiné par la Cour EDH.

15. A côté de ces outils destinés à expliquer les modalités de saisine de la Cour, le service de communication de la Cour met en ligne chaque semaine des communiqués de presse sur les principaux arrêts et décisions rendus par la Cour et publie mensuellement une lettre d'information sur la jurisprudence de la Cour EDH.

16. A côté de ces précieux outils établis par la Cour, de nombreuses informations sur la jurisprudence de la Cour EDH sont disponibles sur divers sites français d'information.

17. Sur la base de données LegiFrance⁵², qui est l'outil de référence du grand public en ce qui concerne la diffusion du droit, une rubrique relative à l'actualité de la jurisprudence européenne détaille les principaux arrêts rendus par la Cour EDH contre la France depuis le 1^{er} janvier 2015.

18. Par ailleurs, la Cour de cassation publie, sur son site Internet, une veille bimestrielle sur le droit européen, en particulier sur la jurisprudence de la Cour EDH⁵³. De même, le Centre de recherches et de diffusion juridiques (C.R.D.J.) du Conseil d'Etat publie une veille juridique ainsi qu'un bulletin de droit européen sur l'intranet du Conseil d'Etat et des tribunaux et cours administratives d'appel, afin d'assurer la connaissance la plus large possible de la jurisprudence de la Cour EDH auprès de l'ensemble des juridictions administratives.

19. Plusieurs ministères mettent également en ligne des informations sur la jurisprudence de la Cour EDH.

20. Ainsi, le ministère de la Justice assure une présentation sur son site Internet de la Cour EDH ainsi que les modalités de sa saisine⁵⁴. Il a par ailleurs inséré sur son site un lien permettant d'accéder directement au site Internet de la Cour EDH. Cette diffusion d'information sur Internet est complétée par la diffusion des arrêts de la Cour EDH auprès des directions du ministère concernées et des juridictions qui sont intervenues dans la préparation des observations en défense (cours d'appel et Cour de cassation). La diffusion des arrêts de la Cour EDH rendus à propos d'Etats étrangers, lorsqu'ils sont susceptibles d'avoir des incidences sur le droit en vigueur, est également assurée.

21. Il convient de souligner que le ministère des Affaires étrangères et du Développement international envisage d'accroître l'information disponible sur son site Internet relative aux droits de l'homme. L'idée est de recenser l'ensemble des informations existantes et de permettre aux utilisateurs de trouver l'ensemble des informations utiles en matière de droits de l'homme, par la mise en ligne de différentes notes d'information (synthèses de jurisprudence notamment) et le renvoi aux pages des différents sites existants consacrés aux droits de l'homme.

22. Enfin, la Commission nationale consultative des droits de l'homme (CNCDH), institution nationale des droits de l'homme, publie sur son site internet des résumés de l'ensemble des arrêts rendus par la Cour EDH concernant la France dans un onglet spécifiquement dédié à la jurisprudence de la Cour EDH.

⁵² <https://www.legi.france.gouv.fr/Droit-europeen!Actualite/Jurisprudence/Jurisprudence-2016>

⁵³ https://www.courdecassation.fr/publications_26/publications_observatoire_droit_europeen_2185/panorama_ce_dh_cjue_3556/2016_7618/janvier_fevrier_2016_7619/doctrine_34292.html

⁵⁴ <http://www.justice.gouv.fr/europe-et-international-10045/la-justice-europeenne-10282/>

23. Ainsi, il existe des sources d'information nombreuses et variées sur la procédure devant la Cour EDH ainsi que sur sa jurisprudence.

B. 1. b) En amont et indépendamment du traitement des affaires par la Cour : redoubler les efforts nationaux pour sensibiliser les parlementaires et pour accroître la formation des juges, procureurs, avocats et agents publics à la Convention et à sa mise en œuvre, en ce compris le volet exécution des arrêts, en veillant à ce qu'elle fasse, le cas échéant, partie intégrante de leur formation professionnelle et continue, notamment par le recours au Programme européen de formation aux droits de l'homme pour les professionnels du droit (HELP) du Conseil de l'Europe ainsi qu'aux programmes de formation de la Cour et à ses publications

24. La prise en compte des développements de la jurisprudence de la Cour EDH et l'exécution des arrêts de la Cour sont des préoccupations majeures du Gouvernement français.

25. Le renforcement de la sensibilisation des autorités nationales à la Convention s'effectue notamment par le biais d'enseignements spécifiques dispensés lors de la formation initiale et continue des juges ainsi que des fonctionnaires.

26. Le Gouvernement souhaite présenter les modules de formation effectivement proposés aux magistrats, aux agents de l'administration pénitentiaire au cours des deux dernières années (2014/2016), ainsi qu'aux parlementaires. Il renvoie pour les périodes antérieures à la contribution remise par la France sur le suivi de la Déclaration de Brighton (pièce n° 1 en annexe).

a) Les modules de formation proposés aux magistrats en matière de droits de l'homme

- En ce qui concerne la formation des magistrats administratifs⁵⁵, plusieurs modules ont été proposés pour améliorer ou parfaire leur connaissance de la Convention et de la jurisprudence de la Cour EDH.

27. Ainsi, en 2016, les nouveaux magistrats administratifs ont suivi, lors de leur formation initiale, une journée de formation à la Cour EDH, au cours de laquelle ils ont pu rencontrer le juge français à la Cour EDH et être sensibilisés aux méthodes d'instruction et de jugement de la Cour EDH.

28. Par ailleurs, dans le cadre du plan de formation continue, ont été proposés sur la période comprise entre 2014 et 2016 aux magistrats administratifs par le Centre de formation des juges administratifs deux séminaires dont les intitulés sont les suivants :

- La Cour européenne des droits de l'homme (11 juin 2015, 12 et 13 janvier 2016, 12 mai 2016),
- Droits fondamentaux et hiérarchie des normes (1 au 3 février 2016).

29. Au titre de la formation initiale, 104 magistrats ont suivi une formation dans les locaux de la Cour EDH.

30. Au titre de la formation continue, 6 magistrats ont suivi une formation dans les locaux de la Cour EDH (formation des 12 et 13 janvier 2016).

⁵⁵ Les magistrats administratifs regroupent environ 1 500 magistrats, alors que les magistrats judiciaires comptent environ 8 500 magistrats.

- En ce qui concerne la formation des magistrats judiciaires, ceux-ci bénéficient également d'une offre variée de stages en matière de droits de l'homme.

31. Dans le cadre de leur formation initiale, les auditeurs de justice ont été sensibilisés, au cours des années 2014 et 2015, au droit de la Convention européenne des droits de l'homme lors de leur période d'étude initiale à Bordeaux. Ainsi, leur ont été proposées les séquences suivantes:

- une conférence introductive du juge français à la Cour EDH, M. André Potocki, intitulée « le juge national et la CEDH »,
- une sensibilisation aux programmes d'e-learning proposée par le Conseil de l'Europe («Help»),
- des ateliers au cours desquels les auditeurs de justice analysent des cas pratiques de droit français ou se posent des questions relatives à l'application de la Convention. Ces cas pratiques font l'objet d'une correction par des membres du greffe de la Cour qui rappellent la jurisprudence récente de la Cour. Ces ateliers sont co-animés par des magistrats coordinateurs de formation des pôles civil et pénal afin de faire le lien avec les autres enseignements.

32. La promotion 2014, composée de 273 auditeurs de justice, a bénéficié de trois demi-journées de formation en la matière (8 heures environ).

33. La promotion 2015, composée de 262 auditeurs de justice, a bénéficié de deux demi-journées de formation en la matière (6 heures environ).

34. La promotion 2016, constituée de 366 auditeurs de justice, bénéficiera du même type de formation lors de sa scolarité à l'automne prochain (trois demi-journées, dont une de travail à distance).

35. Dans le cadre de leur formation continue, les magistrats judiciaires se voient proposer depuis 2011 des formations directement en lien avec l'application de la Convention. Entre 2014 et 2016, les magistrats judiciaires ont pu participer à :

- un stage collectif de trois jours sur la Convention européenne des droits de l'homme, organisé par l'Ecole nationale de la magistrature et la Cour (première session du 18 au 22 mai 2016, seconde session du 16 au 20 novembre 2016). Ce stage est consacré à la découverte du fonctionnement de la Cour et aux procédures applicables. Il est organisé deux fois par an depuis 1998. Le nombre de magistrats qui ont suivi cette formation depuis 2013 est de 43 en 2013, 34 en 2014, 31 en 2015 et 40 en 2016;
- un stage collectif de cinq jours sur la Convention européenne des droits de l'homme, mode d'emploi, dirigé par un membre de la Cour. Ce module vise à faire part de l'expérience concrète sur le fonctionnement de la Convention par des experts. Il aborde également la question spécifique de l'exécution des arrêts de la Cour sur une demi-journée. Cette formation a été suivie en 2015 par 33 magistrats et 12 participants extérieurs (greffiers, magistrats étrangers, administrateur civil), et en 2014, par 50 magistrats et 21 participants extérieurs.
- un stage de cinq jours sur le Conseil de l'Europe (première session du 22 au 26 juin 2016, seconde session du 28 septembre au 2 octobre 2016), est organisé par l'Ecole nationale de la magistrature et le Conseil de l'Europe. Il est consacré à la découverte des institutions du Conseil de l'Europe et du fonctionnement de

la Cour. Il est organisé deux fois par an. La participation à cette formation est la suivante: 34 magistrats en 2013, 16 magistrats en 2014, 15 magistrats en 2015 et 46 places en 2016.

- un stage de trois jours sur les droits fondamentaux et la hiérarchie des normes dirigé par un membre de la Cour (1er au 3 février 2016), également ouvert aux magistrats administratifs. Après une présentation de la notion et du champ d'application des droits fondamentaux, cette session a pour ambition de suggérer une méthodologie dans l'approche de ces questions, qui interrogent l'office du juge. Alternant conférences et cas pratiques, elle permet d'appréhender la gestion des conflits non natifs, et notamment au regard de la place de la Convention, tout en apportant un éclairage sur le Conseil constitutionnel et la Cour de cassation. En 2015, 21 magistrats et 12 participants extérieurs ont assisté à cette session. En 2014, ils étaient respectivement 36 et 13 participants extérieurs (juges consulaires, personnels du CGLPL et administrateur civil).

36. Une formation spécifique de deux jours devrait être dispensée par un magistrat judiciaire sur le thème du « juge face aux enjeux de la société », et plus spécifiquement sur les discours de haine (3 et 4 novembre 2016).

37. Enfin, dans le cadre des autres sessions de formation continue organisées par l'Ecole nationale de la magistrature et regroupées au sein de 7 pôles d'enseignement thématiques de l'école (humanités judiciaires, civil, pénal, dimension internationale de la Justice, vie économique, communication et environnement pénitentiaire), de nombreuses sessions abordent la jurisprudence de la Cour EDH.

38. Ainsi, en 2015, 31 actions de formation continue, rassemblant 985 magistrats et 486 participants extérieurs (avocats, administrateurs civils, médecins, personnels du contrôleur général des lieux de privation de liberté (ci-après le CGLPL), greffiers, membres de l'administration pénitentiaire ...) ont abordé la jurisprudence de la Cour dans les domaines les plus divers (sessions consacrées au droit des étrangers, au juge et à la fin de vie, à l'identité sexuelle et aux droits, à l'audience correctionnelle, aux fonctions pénales ...).

b) Les modules de formation proposés aux parlementaires

39. Des efforts de sensibilisation à la Convention et à son interprétation par la Cour sont effectués à destination des parlementaires.

40. Plus particulièrement, le ministère des Affaires étrangères et du développement international adresse aux deux Assemblées la lettre de jurisprudence annuelle sur les arrêts et décisions de la Cour relatives à la France. Il est également envisagé de leur adresser une lettre de jurisprudence relative aux arrêts étrangers les plus importants.

41. Par ailleurs, la délégation française au sein de l'Assemblée parlementaire du Conseil de l'Europe publie à l'attention de tous les parlementaires français une revue trimestrielle évoquant la jurisprudence de la Cour EDH.

c) Les formations proposées à certaines catégories de fonctionnaires

i) *Les formations à destination des agents de l'administration pénitentiaire*

42. L'Ecole nationale de l'administration pénitentiaire (ENAP) assure dans le cadre de ses formations professionnelles initiale et continue un enseignement sur les droits de l'homme qui, suivant les publics, a pour objectif une sensibilisation ou une expertise.

43. Le Département « Droit et service public » est responsable de cet enseignement au sein de la Direction de la Formation.

44. Trois remarques préalables sont nécessaires pour appréhender les volumes horaires dédiés à chacune des promotions ci-dessous:

- 1) L'enseignement relatif aux droits de l'homme dispensé aux personnels pénitentiaires des différents corps requiert une démarche de sensibilisation et un objectif de professionnalisation. A ce titre, si la Convention européenne des droits de l'homme (ci-après « la Convention») tient évidemment une place centrale dans ces séquences, l'étude et les travaux relatifs aux textes du Conseil de l'Europe plus immédiatement attachés au domaine pénitentiaire tiennent aussi une place importante. On fait ici référence aux recommandations européennes relatives aux règles pénitentiaires européennes ou aux règles européennes de la probation qui, au demeurant, sont aujourd'hui des références obligées des pratiques professionnelles nationales. Le tableau ci-dessous ne saurait être considéré comme exhaustif ou limitatif. En effet, sans que les volumes horaires y afférents puissent être mesurés, de multiples séquences relevant d'autres domaines d'enseignement (sécurité, management, probation, greffe et applicatifs informatiques) développent dans leurs contenus des références aux instruments européens et internationaux de protection des droits de l'homme.
- 2) Du point de vue de la formation continue des personnels, l'ENAP codirigé depuis l'année 2000 un Master 2 Droit de l'exécution des peines et droits de l'homme qui, sur deux années, forme 30 personnels pénitentiaires, cette fois à un niveau d'experts, à l'ensemble des dispositifs textuels et jurisprudentiels de protection européenne des droits de l'homme.

PUBLICS	VOLUMEHoraire GLOBAL Département Droit et service public	VOLUME Horaire cours Droits de l'homme REP et RPE
Surveillants 182	74	2
Surveillants 183	67	2
Surveillants 184	70	2
Surveillants 185	114	2
Surveillants 186	65	2
Surveillants 187	60	2
Directeurs 40	6	3
Directeurs 41	99.5	6
Directeurs 42	125	6
Directeurs 43	115	6
Directeurs 44	45	6
Directeurs 45		9
1ers surveillants 19	9	5

1ers surveillants 20	42	5
1ers surveillants 21	43	6
1ers surveillants 22	39	6
1ers surveillants 22	39	6
Lieutenants 16 concours	66	6
Lieutenants 16 LA	11	3
Lieutenants 17 concours	89	6
Lieutenants 17 LA	17	3
Lieutenants 18 concours	147	6
Lieutenants 18 LA	42	3
Lieutenants 19 concours	70	6
Lieutenants 19 LA	19	6
Lieutenants 20	70	6
CPIP 15	12	12
CPIP 16	73	12
CPIP 17	142	12
CPIP 18	181	14
CPIP 19	59	9
CPIP 20		15
DPIP 4	26	9
DPIP 5	69	12
DPIP 6	68.5	12
DPIP 7	23	12
DPIP 8		15

d) Les conférences, séminaires et colloques organisées depuis 2014 sur la jurisprudence de la Cour EDH

45. Le tableau ci-dessous retrace les différences conférences organisées par le Conseil d'Etat sur la jurisprudence de la Cour EDH pour la période comprise entre 2014 et 2016.

Date	Objet	Intervenants
30 janvier 2015	La subsidiarité : une médaille à deux faces ?	M. Jean-Marc Sauvé, Vice-président du Conseil d'Etat
2 février 2015	L'utilisation des moyens de constitutionnalité et de conventionnalité devant le juge de droit commun : vers un rééquilibrage ?	M. Bernard Stirn, Président de la Section du contentieux
24 février 2015	Les 10 ans de la loi Léonetti : le droit de la fin de vie	M. Jean-Marc Sauvé, Vice-président du Conseil d'Etat
10 avril 2015	L'ordre juridique national en prise avec le droit européen et international : questions de souveraineté ?	M. Jean-Marc Sauvé, Vice-président du Conseil d'Etat

5 octobre 2015	Le juge administratif et les discriminations	M. Bernard Stirn, Président de la Section du contentieux
5 octobre 2015	Principe d'égalité et droit de la non discrimination	M. Jean-Marc Sauvé, Vice-président du Conseil d'Etat
21 octobre 2015	Quelle souveraineté juridiques pour les Etats et pour l'Union ?	M. Jean-Marc Sauvé, Vice-président du Conseil d'Etat
25 novembre 2015	Droit comparé et territorialité du droit dans l'espace européen	M. Jean Marc Bonichot,
30 mars 2016	L'Europe des frontières : enjeux et défis	
25 mai 2016	Le creuset normatif européen : l'exemple du droit des étrangers	

46. Par ailleurs, la formation HELP dispensée par le Conseil de l'Europe a été suivie par de nombreux français.

47. En effet, d'après les informations recueillies auprès du service HELP, 2962 utilisateurs ont sélectionné la nationalité française.

48. Parmi les 2 962 utilisateurs, 1475 sont des avocats (2014-2016).

49. HELP crée chaque année des comptes pour un cours en partenariat avec l'EFB (Ecole de Formation professionnelle des Barreaux de la Cour d'Appel de Paris) intitulé «Avoir le reflexe européen ». Ce cours correspond au cours «introduction to the ECHR and ECtHR ».

50. Le détail par année est le suivant :

EFB 2016 : 1096, dont 81 étudiants en régime salarié.

EFB 2015 : 88 étudiants

EFB 2014 : 291 étudiants.

51. Les 1487 utilisateurs restants n'ont pas indiqué leur catégorie professionnelle. Il est donc difficile de déterminer leur qualité (juges, avocats, procureurs, académiques ou autres).

B. 1. c) En amont et indépendamment du traitement des affaires par la Cour : promouvoir, à cet égard, les visites d'études et les stages à la Cour pour des juges, des juristes et des agents publics afin d'accroître leur connaissance du système de la Convention

52. D'après les informations recueillies auprès de la Cour EDH, près de 260 magistrats français ont été reçus en stages ou en formation auprès de la Cour EDH.

53. Le détail de ces données figure dans le tableau joint, élaboré par les services de la Cour EDH (pièce n° 2 en annexe).

54. Il en ressort que les magistrats judiciaires comme les magistrats administratifs participent activement aux formations proposées par la Cour EDH, quel que soit le niveau de juridiction représenté.

B. 1. d) En amont et indépendamment du traitement des affaires par la Cour : prendre les mesures appropriées pour améliorer la vérification de la compatibilité des projets de loi, des législations existantes et des pratiques administratives internes avec la Convention, à la lumière de la jurisprudence de la Cour

55. Le Gouvernement français assure un contrôle a priori (i) et a posteriori (ii) de la compatibilité des textes nationaux avec la Convention et la jurisprudence de la Cour.

i) Le contrôle a priori de la compatibilité des textes nationaux avec la Convention et la jurisprudence de la Cour EDH

Sur le contrôle de compatibilité a priori des projets de loi

56. Le contrôle de compatibilité des textes avec la Convention et la jurisprudence de la Cour est exercé en amont à plusieurs stades de leur élaboration par différentes autorités.

57. En premier lieu, un contrôle de compatibilité a priori est effectué par les ministères responsables de la rédaction des projets de loi.

58. Chaque ministère dispose d'une direction en charge de la rédaction des textes nationaux (par exemple, au sein du ministère de l'Intérieur, la direction générale des étrangers en France, au sein du ministère de la Justice la Direction des affaires civiles et du Sceau, ...).

59. Chacune de ces directions chargées de l'activité normative au sein de chaque ministère s'appuie sur ses propres juristes et/ou la direction des affaires juridiques du ministère pour s'assurer de la compatibilité du projet de texte qu'elle(s) élabore(nt) avec les engagements internationaux de la France, et notamment la Convention et la jurisprudence de la Cour EDH.

60. En outre, la rédaction de l'exposé des motifs et du projet de loi par les ministères compétents s'accompagne de la rédaction d'une étude d'impact, prévue par l'article 39 alinéa 2 de la Constitution dans sa rédaction issue de la loi constitutionnelle du 23 juillet 2008 et les dispositions des articles 8 à 12 de la loi organique n° 2009-403 du 15 avril 2009.

61. Cette étude d'impact doit contenir des développements sur «*l'articulation du projet de loi avec le droit européen en vigueur ou en cours d'élaboration et son impact sur l'ordre juridique interne*».

62. L'étude d'impact n'est pas assimilable à un exposé des motifs enrichi, mais constitue un outil d'évaluation et d'aide à la décision.

63. L'élaboration de l'étude d'impact doit être engagée dès le stade des réflexions préalables sur le projet de loi. Le ministère compétent doit ainsi prendre l'attache du

Secrétariat général du Gouvernement (ci-après « SGG ») dès la mise en chantier du projet de réforme, pour que soit organisée une réunion de cadrage qui doit permettre de déterminer le coordinateur de l'étude d'impact, rappeler la méthodologie applicable, fixer la liste des contributions ministérielles attendues, ainsi que le calendrier (voir, circulaire du 15 avril 2009 relative à la mise en œuvre de la révision constitutionnelle).

64. Il convient de préciser que la rubrique « impact juridique » des études d'impact sur les projets de loi a pour objet principal d'expliquer la manière dont les textes nouveaux vont s'insérer dans le droit en vigueur.

65. En pratique, force est de constater que les études d'impact comportant des analyses sur la compatibilité du projet de loi avec la Convention ne sont pas systématiques. Néanmoins, c'est l'avis du Conseil d'Etat (cf. infra) qui est le principal temps de l'examen du respect de la Convention et de la jurisprudence de la Cour EDH par les projets de loi.

66. En deuxième lieu, lorsque l'expose des motifs, le texte du projet de loi et l'étude d'impact sont finalisés par le ministère concerné, ces trois documents sont soumis à l'analyse du SGG, organe administratif placé sous l'autorité du Premier ministre.

67. Chargé notamment de veiller à la qualité de la loi, le SGG procède à une nouvelle analyse de la compatibilité des projets de loi avec les engagements internationaux et les dispositions constitutionnelles.

68. Dans ce cadre, le SGG vérifie à nouveau le respect par les textes qui lui sont soumis des exigences conventionnelles et de la jurisprudence de la Cour. Le SGG échange avec les ministères pour s'assurer de la compatibilité du projet de loi et, à défaut, pour modifier le texte en conséquence.

69. Le Conseil d'Etat ne sera saisi du projet de loi que si l'étude d'impact est jugée suffisante par le cabinet du Premier ministre et par le SGG. Dans l'affirmative, elle est transmise au Conseil d'Etat pour recueillir son avis en application de l'article 39 de la Constitution.

70. En troisième lieu, le Conseil d'Etat, qui intervient dans ce cadre en qualité de conseiller du Gouvernement et non en tant qu'autorité juridictionnelle, émet un avis sur le projet de loi qui lui est soumis.

71. Dans ce cadre, le Conseil d'Etat effectue un contrôle de la compatibilité des projets de loi avec l'ensemble des normes juridiques, au nombre desquelles figure bien évidemment la Convention et la jurisprudence de la Cour EDH.

72. Cette fonction consultative est assurée par les cinq sections consultatives du Conseil d'Etat (section de l'Intérieur, section sociale, section des travaux publics, section de l'administration et section des finances).

73. A la différence de la section du contentieux du Conseil d'Etat qui ne peut se prononcer que sur les moyens dont il est saisi, les sections consultatives exercent leur contrôle en prenant en considération toutes les normes constitutionnelles et conventionnelles.

74. Lorsque les sections consultatives ont un doute sur la conventionnalité du projet de loi, elles saisissent la délégation du droit européen de la section du rapport et des études, dont l'une des missions est de répondre aux consultations adressées par les sections administratives sur le droit de l'Union européenne et sur le droit de la Convention.

75. Les questions liées notamment à la compatibilité des projets de loi avec la Convention sont examinées tous les jeudis devant l'Assemblée générale de sections consultatives. L'Assemblée générale est présidée par le vice-président du Conseil d'Etat, entouré des présidents des six sections consultatives et d'une trentaine de conseillers d'Etat.

76. Depuis le 1^{er} mars 2015, les avis adoptés par le Conseil d'Etat sur les projets de loi ordinaires sont publiés sur le site internet Légifrance, à l'issue du Conseil des Ministres qui les a adoptés. Cette publication inclut le texte du projet de loi et de l'étude d'impact qui l'accompagne.

77. Depuis la réforme constitutionnelle du 23 juillet 2008, le Conseil d'Etat a étendu sa compétence consultative aux propositions de loi élaborées par les parlementaires dont il peut également être saisi par le président de l'Assemblée nationale ou du Sénat. Le Conseil d'Etat garantit ainsi un contrôle sur la compatibilité des propositions de lois avec la Convention et la jurisprudence de la Cour.

78. Les avis du Conseil d'Etat sur les projets et propositions de loi ne sont pas contraignants. Pour autant, compte tenu de leur caractère public, ils sont la plupart du temps pris en compte par le Gouvernement lors de la finalisation du texte.

79. A titre d'illustration, dans un avis rendu le 28 janvier 2016, le Conseil d'Etat a apprécié la compatibilité du projet de loi renforçant la lutte contre le crime organisé et son financement, l'efficacité et les garanties de la procédure pénale au regard notamment de l'article 8 de la Convention.

80. Dans cet avis, le Conseil d'Etat a veillé à ce que le projet concilie les impératifs de lutte contre le crime organisé et le terrorisme avec le respect des droits et libertés susceptibles d'être affectés, et notamment la liberté individuelle, le respect de la vie tel qu'il est protégé notamment par l'article 8 de la Convention, ainsi que la liberté d'aller et venir.

81. En 2015, 118 projets de loi et 4 propositions de lois ont fait l'objet d'un avis du Conseil d'Etat.

82. Une fois l'avis rendu et transmis, le SGG peut, en concertation avec le ou les ministère(s) concerné(s), modifier le projet de loi en fonction des recommandations formulées par le Conseil d'Etat dans son avis.

83. Une fois le texte finalisé, le projet de loi est transmis pour délibération au Conseil des Ministres, puis au bureau de l'assemblée saisie.

84. Ainsi, dans les faits, un contrôle de compatibilité de l'ensemble des projets et propositions de lois avec la Convention et la jurisprudence de la Cour EDH est assuré avant leur adoption par le Parlement par trois autorités différentes (ministère concerné/SGG/Conseil d'Etat).

Sur le contrôle de compatibilité a priori des autres textes

85. Le contrôle de compatibilité a priori n'est pas réservé aux seuls actes de valeur législative, mais existe aussi à l'égard de certains actes de nature réglementaire.

86. Ainsi, les projets d'ordonnances et certains décrets sont soumis à l'examen des mêmes autorités que les projets et propositions de loi, à savoir le ministère compétent, le SGG, puis le Conseil d'Etat.

87. En vertu de l'article 38 de la Constitution, le Conseil d'Etat doit obligatoirement être saisi de tous les projets d'ordonnance avant leur adoption par le Conseil des ministres.

88. De même, certains décrets ne peuvent être pris ou modifiés qu'après la saisine du Conseil d'Etat.

89. Ainsi, le Conseil d'Etat est obligatoirement saisi des projets de décrets dans trois hypothèses, à savoir lorsque :

- des dispositions législatives ou réglementaires ont prévu que des décrets ne pourraient être pris qu'après avis du Conseil d'Etat;
- un projet de décret tend à modifier un décret qui a été pris après avis du Conseil d'Etat (CEAss. 3 juillet 1998, Syndicat national de l'environnement, no 177.248),
- un projet de décret modifie un texte de forme législative antérieure à d'entrée en vigueur de la Constitution de 1958.

90. Il appartient au Gouvernement d'apprécier s'il convient de soumettre les autres projets de décrets à l'avis du Conseil d'Etat.

91. Le Gouvernement n'est pas tenu de suivre l'avis du Conseil d'Etat sur les projets d'ordonnance. S'agissant des décrets en Conseil d'Etat, il ne peut édicter que le texte adopté par le Conseil d'Etat ou le projet qu'il lui a soumis.

92. Là encore, le contrôle exercé par le Conseil d'Etat est très important: en 2015, il a contrôlé 68 projets d'ordonnance et 999 projets de décrets (dont 800 décrets réglementaires).

Sur le contrôle de compatibilité a posteriori des textes en vigueur

93. L'analyse de la compatibilité des textes en vigueur avec la Convention et la jurisprudence de la Cour EDH n'est pas prévue par la Constitution.

94. Pour autant, un contrôle peut être effectué, bien qu'il soit moins systématique.

95. En premier lieu, un contrôle de compatibilité est exercé dans le cadre de l'exécution des arrêts de la Cour.

96. A ce titre, les différents ministères et notamment le Ministère des affaires étrangères et du Développement international s'assurent, lors de la parution de chaque arrêt de constat de violation concernant la France, de la compatibilité des textes en vigueur avec la Convention et la jurisprudence de la Cour.

97. En tant que de besoin, des réunions interservices sont organisées avec les ministères concernés en concertation avec le SGG pour réfléchir aux modifications législatives qui paraissent nécessaires et au calendrier dans lequel elles pourraient être adoptées.

98. En second lieu, le ministère des Affaires étrangères et du Développement international envisage, dans le cadre de la mise en œuvre de la Déclaration de Bruxelles, de publier une lettre annuelle de jurisprudence sur les arrêts de la Cour concernant d'autres Etats parties, qui seraient susceptibles d'avoir une influence sur le droit national.

99. Si le ministère des Affaires étrangères et du Développement international appelle déjà l'attention des ministères concernés sur les conséquences de certains arrêts rendus par la Cour concernant d'autres Etats membres sur la législation nationale, il ne le fait que de

manière ponctuelle et isolée. La publication de cette lettre annuelle de jurisprudence permettrait de procéder à une analyse globale de la jurisprudence de la Cour relative à des arrêts concernant d'autres Etats parties.

100. En troisième lieu, le Conseil d'Etat peut être amené à traiter de demandes d'avis que sollicite le Gouvernement.

101. A titre d'illustration, le Conseil d'Etat a été saisi par le Premier ministre sur la conformité à la Constitution du projet de créer un registre national des crédits aux particuliers.

102. Si le Conseil d'Etat a été saisi de la conformité du texte à la Constitution, il s'est néanmoins également prononcé dans cet avis sur le nécessaire respect de l'article 8 de la Convention lors de la constitution de fichiers.

103. Ensuite, la Cour de cassation, dans son rapport annuel publié à la Documentation française, mentionne les suggestions de modifications législatives, notamment afin de permettre une meilleure compatibilité avec la Convention. A titre d'illustration, le rapport 2014 de la Cour de cassation invite à modifier l'article 500-1 du code de procédure pénale pour renforcer sa compatibilité avec l'article 6 § 1 et l'article 6 § 3 de la Convention en ce qui concerne un prévenu qui n'aurait connu que tardivement les motifs du jugement et qui se serait désisté après le délai d'un mois, tout en restant exposé à un risque d'aggravation de sa peine au cas où le ministère public ne se serait pas désisté de son appel incident.

104. Enfin, la Commission nationale consultative des droits de l'homme (ci-après la « CNCDH », institution nationale des droits de l'homme, et le Défenseur des droits⁵⁶, autorité constitutionnelle indépendante, examinent, dans le cadre des recommandations qu'ils formulent au Gouvernement, la compatibilité des textes en vigueur avec la Convention européenne des droits de l'homme. Ces deux structures exercent un contrôle de la mise en œuvre par la France de ses engagements internationaux, comme la Convention respectivement dans le rapport sur les droits de l'homme en France publié tous les deux ans et leurs rapports d'activité. Ces documents compilent et analysent la jurisprudence de la Cour EDH ainsi que les observations formulées par les organes de surveillance.

B. 1. e) En amont et indépendamment du traitement des affaires par la Cour : assurer l'application effective de la Convention au niveau national, prendre les mesures effectives pour prévenir les violations et mettre en place des recours nationaux effectifs pour répondre aux violations alléguées de la Convention

105. Comme le Gouvernement a déjà eu l'occasion de l'indiquer dans sa contribution sur le suivi de la Déclaration d'Interlaken, l'effectivité de certaines voies de recours a favorisé la mise en œuvre effective des droits consacrés par la Convention.

a) Le renforcement du contrôle du juge administratif sur les décisions prises par l'administration pénitentiaire

106. Le juge administratif a renforcé l'étendue de son contrôle sur les décisions prises par l'administration pénitentiaire.

1. L'approfondissement du contrôle de légalité sur les décisions prises en matière pénitentiaire

⁵⁶ En application de l'article 32 de la loi organique n° 2011-333 du 29 mars 2011, le DDD peut être consulté par le Gouvernement sur tout projet de loi ou toute question relevant de son champ de compétence.

107. En premier lieu, le juge administratif a approfondi son contrôle sur la légalité des décisions prises par l'administration pénitentiaire.

108. Tout d'abord, le juge administratif a rétréci le champ des « mesures d'ordre intérieur ». Par une décision du 21 mai 2014, le Conseil d'Etat a considéré que constitue une décision susceptible de recours une sanction disciplinaire d'avertissement prise à l'encontre d'un détenu eu égard à sa nature et à ses effets sur la situation des personnes détenues (CE 21 mai 2014, *Garde des Sceaux, ministre de la Justice c. Mme Guimon*, n° 359.672). De même, le Conseil d'Etat a considéré que constitue une mesure susceptible de faire l'objet d'un recours pour excès de pouvoir la décision prolongeant l'affectation d'un détenu en secteur « portes fermées » compte tenu de l'aggravation de ses conditions de détention (CE 6 décembre 2012, *Garde des Sceaux, ministre de la Justice et des libertés c. M David*, n° 344.995).

109. Par ailleurs, la jurisprudence administrative récente accroît les droits fondamentaux des détenus. Ainsi, le Conseil d'Etat a rappelé l'importance du droit de tout détenu de pratiquer le culte de son choix. Il en a déduit que l'administration pénitentiaire doit agréer comme aumônier un nombre suffisant de ministres du culte concerné, sous la seule réserve des exigences de sécurité et de bon ordre de l'établissement. Il ajoute qu'elle doit également permettre l'organisation du culte dans les établissements pénitentiaires, dans la mesure où les locaux le permettent et dans les seules limites du bon ordre et de la sécurité (CE 16 octobre 2013, *Garde des Sceaux, ministre de la justice c. M Fuentes et autres*, n° 35.115).

110. Enfin, le juge administratif exerce un contrôle de nécessité et de proportionnalité sur les restrictions apportées par les sanctions aux droits et libertés fondamentales des détenus (CE 11 juin 2014, *M Dominique Stojanovic*, n° 365.237). Ainsi, le Conseil d'Etat a considéré que la sanction de cellule disciplinaire, qui emporte pendant toute sa durée la suspension de l'accès aux activités notamment à caractère cultuel, ne peut être regardée comme portant une atteinte excessive au droit des détenus de pratiquer leur religion, « eu égard à l'objectif d'intérêt général de protection de la sécurité et du bon ordre dans les établissements pénitentiaires qu'elles poursuivent, à la durée maximale de la sanction en cause et aux droits dont les détenus continuent de bénéficier ».

2. L'assouplissement des conditions d'engagement de la responsabilité de l'administration pénitentiaire

111. Par ailleurs, le Conseil d'Etat a assoupli les conditions d'engagement de la responsabilité de l'administration pénitentiaire. En effet, il a jugé que, lorsque les ayants droit d'un détenu qui s'est suicidé en prison recherchent la responsabilité de l'Etat, ils peuvent utilement invoquer, dans le cadre de leur action dirigée contre le service public pénitentiaire, une faute du personnel de santé de l'unité de consultations et de soins ambulatoires de l'établissement de santé. Cette solution est d'autant plus remarquable que l'établissement de santé est une personne morale distincte de l'Etat (CE 24 avril 2012, *M et Mme Massioui*, n° 342.104).

3. Le recours aux procédures de référé en matière pénitentiaire

112. Tout d'abord, l'utilisation du référé liberté offre aux personnes incarcérées les moyens de faire cesser très rapidement les atteintes graves et manifestement illégales à leurs libertés fondamentales.

113. Ainsi, le juge administratif est intervenu pour faire cesser les atteintes graves et manifestement illégales portées aux libertés fondamentales des détenus du centre pénitentiaire des Baumettes à Marseille du fait de leurs conditions de détention. Dans son ordonnance du 22 décembre 2012, Section française de l'Observatoire international des prisons et autres, le juge des référés du Conseil d'Etat a estimé que la prolifération d'animaux

nuisibles (rats et insectes) et de cadavres de rats dans les espaces communs et les cellules, imputable à une carence de l'administration, affectait la dignité des détenus et engendrait un risque sanitaire pour l'ensemble des personnes fréquentant l'établissement. Le Conseil d'Etat en a conclu que ces conditions de détention constituaient une atteinte grave et manifestement illégale à une liberté fondamentale (n° 368.816). Le Conseil d'Etat a dès lors enjoint à l'administration de réaliser un diagnostic des prestations de lutte contre les animaux nuisibles à intégrer dans le prochain contrat de dératisation et de désinsectisation du centre pénitentiaire ainsi que, dans l'intervalle, une opération d'envergure susceptible de permettre la dératisation et la désinsectisation de l'ensemble des locaux de ce centre.

114. Egalement, le référé liberté a permis de suspendre en urgence l'exécution de certaines caractéristiques de fouilles de détenus jugées attentatoires à leur dignité (Ord. 6 juin 2013, Section française de l'observatoire international des prisons, no 368.816). Après avoir constaté que le régime de fouilles corporelles intégrales systématiques à l'égard de toute personne détenue sortant des parloirs instaure par une note de service du directeur de la maison d'arrêt de Fleury-Merogis portait une atteinte grave et manifestement illégale à une liberté fondamentale, le Conseil d'Etat a enjoint à l'administration pénitentiaire de modifier sans délai les conditions d'application de ce régime, afin de permettre la modulation de ces fouilles en fonction de la personnalité des détenus et de modifier, dans un délai de quinze jours à compter de la notification de son ordonnance, la note en question.

115. Pour le placement des personnes détenues en cellule disciplinaire ou en confinement, la loi pénitentiaire du 24 novembre 2009 a rappelé à l'article 726 du code de procédure pénale que, lorsqu'une personne détenue est placée en quartier disciplinaire ou en confinement, elle peut saisir le juge du référé liberté sur le fondement de l'article L. 521-2 du code de justice administrative. Le Conseil d'Etat a ajouté que, si l'article R. 57-7-32 du code de procédure pénale prévoit, pour la personne détenue, l'obligation de former un recours administratif préalable obligatoire, cette disposition ne fait pas obstacle à ce qu'un référé liberté soit introduit (CE 28 décembre 2012, Theron, n° 357.494).

116. Enfin, le référé provision prévu à l'article R. 541-1 du code de justice administrative permet d'accélérer le processus d'indemnisation des personnes incarcérées. Dans sa décision *Thevenot*, le Conseil d'Etat a tout d'abord rappelé que tout prisonnier a droit à être détenu dans des conditions conformes à la dignité humaine. Il a en outre jugé qu'une personne détenue peut obtenir du juge des référés l'octroi d'une provision au titre du préjudice qu'elle a subi du fait de ses conditions de détention contraires à la dignité humaine, lorsque l'obligation de l'administration n'est pas sérieusement contestable (6 décembre 2013, n° 363.290).

b) La modification des voies de recours ouvertes contre les décisions de rejet en matière d'asile

117. En réponse aux arrêts LM c. France (n° 9152/09) et ME. c. France du 6 juin 2013 (n° 50094/10), le Parlement a adopté la loi n° 2015-925 du 29 juillet 2015 relative à la réforme du droit d'asile, qui a modifié le régime juridique applicable aux demandes d'asile en rétention afin notamment de le mettre en conformité avec la jurisprudence de la Cour EDH.

118. Ce régime, défini à l'article L. 551-6 du code de l'entrée et du séjour des étrangers et du droit d'asile, présente les caractéristiques suivantes.

119. En premier lieu, il n'existe plus d'automatisme dans le placement en procédure prioritaire d'un demandeur d'asile qui se trouve en rétention administrative.

120. L'autorité préfectorale procède désormais à un examen individuel sur la nécessité du maintien en rétention administrative.

121. Si l'autorité préfectorale considère que la demande n'est pas dilatoire, l'intéressé sort immédiatement de rétention et peut présenter sa demande d'asile qui sera examinée en procédure normale.

122. A l'inverse, l'étranger peut être maintenu en rétention et sa demande sera examinée en procédure accélérée par l'OFPPRA⁵⁷.

123. En second lieu, le demandeur d'asile dispose d'une voie de recours juridictionnelle contre la décision préfectorale de maintien en rétention administrative.

124. Lorsque l'autorité préfectorale décide de maintenir en rétention un demandeur d'asile, il lui notifie la décision de refus, qui doit mentionner les voies et délais de recours. Le demandeur d'asile peut contester devant le juge administratif la décision de maintien en rétention dans le cadre d'un recours qui suspend l'exécution de la mesure (article L. 512-1 du code de l'entrée et du séjour des étrangers et du droit d'asile).

125. Ce recours doit être exercé dans un délai de 48 heures suivant la notification de cette décision. Ce délai est insusceptible de prorogation.

126. Si le juge administratif annule la décision de l'autorité préfectorale, il est immédiatement mis fin à la rétention et l'étranger est autorisé à se maintenir en France pendant toute la durée de l'examen de son recours par la Commission Nationale du Droit d'Asile (ci-après «la CNDA») contre la décision de l'OFPPRA.

127. En cas de rejet de la requête, le demandeur d'asile peut faire appel du jugement dans un délai d'un mois devant la cour administrative d'appel en application du nouvel article L. 777-2-5 du code de l'entrée et du séjour des étrangers et du droit d'asile.

B. 1. f) envisager d'apporter des contributions volontaires au Fonds fiduciaire pour les droits de l'homme et au compte spécial de la Cour pour lui permettre de traiter l'arriéré de toutes les affaires bien fondées, et continuer à promouvoir des détachements temporaires auprès du greffe de la Cour

128. En 2013, le Gouvernement a affecté 50 000 euros au compte arriéré des affaires prioritaires de la Cour.

129. Lors des dernières négociations sur le programme et le budget 2016/2017, la France a souhaité montrer son attachement aux travaux du Conseil de l'Europe et de la Cour EDH, malgré ses contraintes budgétaires.

130. Ainsi, le reliquat du budget ordinaire 2014, qui s'élevait à la somme de 382.137,03 euros, a été notamment affecté à hauteur de 40 000 € au compte spécial pour la résorption de l'arriéré des affaires prioritaires de la Cour EDH.

131. En revanche, la France n'a pas contribué au Fonds fiduciaire du Conseil de l'Europe.

132. En ce qui concerne le détachement de magistrats, le Gouvernement a mis à la disposition du Service de l'exécution des arrêts de la Cour EDH un fonctionnaire issu du ministère de l'Intérieur. Par ailleurs, deux magistrats judiciaires, dont l'un est en cours de remplacement, sont affectés au greffe de la Cour, ainsi qu'un magistrat administratif.

⁵⁷ Office français de protection des réfugiés et apatrides.

B. 1. g) En amont et indépendamment du traitement des affaires par la Cour : envisager la création d'une Institution nationale indépendante des droits de l'homme

133. En France, une institution nationale des droits de l'homme existe depuis 1947. Son existence a été confirmée par la loi n° 2007-292 du 5 mars 2007. Il s'agit de la Commission nationale consultative des droits de l'homme, qui est une instance indépendante, accréditée de statut A par les Nations Unies, comme pleinement conforme aux principes de Paris. Cette institution indépendante et pluraliste est composée de 64 membres, à savoir : 30 représentants de la société civile (ONG et syndicats représentatifs), 30 personnalités qualifiées (experts indépendants siégeant dans les instances internationales des droits de l'homme, représentants des religions et de courants de pensée, avocats, magistrats, universitaires), le Défenseur des droits, un représentant du Conseil économique, social et environnemental, un député et un sénateur.

134. La CNCDH est dotée de deux grandes missions principales d'expertise et de contrôle:

- assurer, auprès du Gouvernement et du Parlement, un rôle de conseil et de proposition dans le domaine des droits de l'homme et du droit international humanitaire,
- contrôler les engagements internationaux de la France en matière de droits de l'homme.

135. La CNCDH fait valoir son expertise dans le cadre d'avis publiés au Journal Officiel de la République française. Ces avis interviennent dans le temps parlementaire, au cours de l'élaboration de la loi, pour formuler des recommandations au Gouvernement et au Parlement afin d'améliorer les projets et propositions de lois dans le sens d'une meilleure garantie des droits et libertés fondamentaux, et notamment ceux consacrés par la Convention (voir, par exemple, CNCDH 21 mai 2015, Avis sur la réforme du droit des étrangers, JORF no 0159 du 11 juillet 2015, texte n° 94 ; CNCDH 18 février 2016, Avis sur le projet de loi constitutionnelle de protection de la Nation, JORF n° 0048 du 26 février 2016, texte n° 103; CNCDH 17 mars 2016, Avis sur le projet de loi renforçant la lutte contre le crime organisé, le terrorisme et leur financement et améliorant l'efficacité et les garanties de la procédure pénale, JORF n° 0129 du 4 juin 2016, texte n° 69).

136. CNCDH 26 mai 2016, Avis sur le projet de loi relatif à la transparence, à la lutte contre la corruption et à la modernisation de la vie économique, à paraître).

137. Dans le cadre de sa mission de contrôle, la CNCDH réalise des missions d'investigation sur le terrain et met en ligne des dispositifs de signalement pour bénéficier de remontées d'informations sur les questions dont elle a à traiter. C'est ainsi que, pour mener à bien sa mission de contrôle des mesures de police relatives à l'état d'urgence, elle a créé une plateforme de signalement. Cela lui a permis, à partir d'un travail de recoupement d'informations, de constater un certain nombre de défaillances dans l'application de la loi de 1955 (voir, CNCDH 18 février 2016, Avis sur le suivi de l'état d'urgence, JORF n° 0048 du 26 février 2016, texte no 102) et d'appeler le Gouvernement à la plus grande vigilance dans le respect des obligations découlant de l'article 15 de la Convention.

138. Plus spécifiquement, la Commission peut, sur saisine du Gouvernement ou de sa propre initiative, appeler l'attention des pouvoirs publics sur les mesures qui lui paraissent de nature à favoriser la protection et la promotion des droits de l'homme, notamment en ce qui concerne:

- la ratification des instruments internationaux relatifs aux droits de l'homme,

- et, le cas échéant, la mise en conformité de la loi nationale avec lesdits instruments.

139. Par ailleurs, la CNCDH réalise des missions d'évaluation des politiques publiques dans le cadre de rapports publiés à la documentation française. Elle est rapporteur national indépendant en matière de racisme (voir, CNCDH, La lutte contre le racisme, l'antisémitisme et la xénophobie, Rapport annuel 2015, La Documentation française 2016) et de traite des êtres humains (CNCDH, La lutte contre la traite et l'exploitation des êtres humains, Année 2015, La Documentation française 2016).

140. La Commission évalue également certains plans d'action liés au droit des femmes. Membre de la plateforme nationale d'actions globales pour la Responsabilité sociétale des entreprises, elle a vocation à évaluer le « Plan Entreprises et droits de l'homme ».

141. Elle participe à différents réseaux: le réseau international des institutions nationales des droits de l'homme (GANRHI), le réseau européen des institutions nationales des droits de l'homme (ENNHRI), le réseau francophone des commissions nationales des droits de l'homme (AFCNDH), etc. ...

142. Elle entretient des contacts étroits et réguliers avec le Gouvernement sur les questions relatives aux droits de l'homme et à l'application de la Convention. Elle a, en ce sens, publié de nombreux avis relatifs au système de la Convention et de la Cour EDH, dont le dernier portait précisément sur la Déclaration de Bruxelles, à savoir l'avis sur la Conférence de Bruxelles relative à la mise en œuvre de la Convention et à l'exécution des arrêts de la Cour (CNCDH 19 mars 2015, Avis sur la Conférence de Bruxelles relative à la mise en œuvre de la Convention européenne des droits de l'homme et à l'exécution des arrêts de la Cour européenne des droits de l'homme, JORF, n° 0073 du 27 mars 2015, texte n° 98). De manière générale, elle adopte régulièrement des positions de principe à l'attention des pouvoirs publics, à l'occasion des différentes conférences de haut niveau sur le sujet. Il est à noter, à ce titre, que la Présidente de la CNCDH a participé à la Conférence de Bruxelles, sur invitation du ministère des Affaires étrangères et du Développement international.

143. La CNCDH dépose également des tierces interventions dans le cadre des recours dirigés contre la France devant la Cour EDH, ainsi que des communications auprès du Comité des Ministres commentant les mesures d'exécution prises par le Gouvernement français à la suite d'arrêts de condamnation. Elle suit également les travaux du Comité directeur des droits de l'homme et de ses organes subdivisés, en qualité de représentant du réseau européen des INDH (ENNHRI).

144. Elle agit régulièrement avec les organes du Conseil de l'Europe, comme le Commissaire aux droits de l'homme, l'ECRI ou encore le CPT, entre autres.

145. Il existe également d'autres instances en matière de défense des droits de l'homme qui, même si elles n'ont pas le statut d'institution nationale des droits de l'homme, jouent un rôle actif dans ce domaine : le Défenseur des droits (DOD, autorité publique constitutionnelle) et le Contrôleur général des lieux de privation de liberté (CGLPL, autorité administrative indépendante). Comme la CNCDH, elles déposent des tierces interventions devant la Cour et s'entretiennent régulièrement avec le Gouvernement sur l'application de la Convention en France et l'exécution des arrêts de la Cour.

B. 2. a) En aval des arrêts de la Cour : continuer à accentuer leurs efforts pour produire, dans les délais impartis, des plans et bilans d'action complets, instruments-clés du dialogue entre le Comité des Ministres et les Etats parties, qui peuvent également contribuer à un dialogue renforcé avec d'autres acteurs, tels que la Cour, les parlements nationaux ou les institutions nationales des droits de l'homme

146. Le Gouvernement français s'attache à transmettre dans le délai de six mois suivant la date à laquelle les arrêts sont devenus définitifs les plans et bilans d'action correspondants.

147. Par ailleurs, il s'efforce de transmettre des plans et bilans d'action répondant aux exigences du Guide sur la rédaction des plans et bilans d'action et de les mettre à jour régulièrement.

148. Il s'efforce également d'assurer le suivi le plus étroit possible de l'exécution des affaires françaises en cours de surveillance par le Comité des Ministres. À ce titre, il relance régulièrement les requérants pour obtenir les pièces justificatives manquantes nécessaires au règlement de la satisfaction équitable ainsi que les ministères concernés pour s'assurer de l'avancement du paiement des sommes dues.

149. Le Gouvernement assure également la mise à jour régulière des plans et bilans d'action concernant les affaires françaises surveillées par le Comité des Ministres. À cet égard, le ministère des Affaires étrangères et du Développement international, en tant que coordinateur, relance les ministères contributeurs pour obtenir les dernières informations ou les informations manquantes relatives aux plans et bilans d'action du Gouvernement français.

150. Comme évoqué ci-après (B 2 i, B 2 h, et B 2 j), le Gouvernement français s'attache également à instaurer un dialogue renforcé avec la CNCDH, les autres structures nationales de protection des droits de l'homme et le Parlement.

B. 2. b) En aval des arrêts de la Cour : en conformité avec l'ordre juridique interne, mettre en place en temps opportun des recours effectifs au niveau national pour réparer les violations de la Convention constatées par la Cour

151. Les mécanismes de réouverture des procédures internes après une condamnation de la Cour EDH ont fait l'objet de modifications aussi bien devant les juridictions administratives que devant les juridictions judiciaires.

a) Les mécanismes de réouverture des procédures internes devant les juridictions administratives

152. La réouverture des procédures internes après une condamnation de la Cour EDH a donné lieu à plusieurs décisions récentes du Conseil d'Etat relatives, d'une part, aux violations trouvant leur source dans une procédure juridictionnelle et, d'autre part, aux violations imputables à un Agissement administratif.

153. Par une décision du 4 octobre 2012, *M. Baومت*, le Conseil d'Etat a jugé que selon l'article 46 de la Convention, la complète exécution d'un arrêt de la Cour EDH condamnant un Etat implique, en principe, que cet Etat prenne toutes les mesures qu'appellent, d'une part, la réparation des conséquences que la violation de la Convention a entraînées pour le requérant, et, d'autre part, la disparition de la source de cette violation (n° 328.502).

154. Il a cependant précisé que l'exécution de l'arrêt de la Cour EDH ne peut, en l'absence de procédures organisées pour prévoir le réexamen d'une affaire définitivement jugée, avoir pour effet de priver les décisions juridictionnelles de leur caractère exécutoire.

155. Par ailleurs, dans une décision d'Assemblée du 30 juillet 2014, *M. Vernes*, le Conseil d'Etat a jugé que lorsque la violation constatée par la Cour EDH concerne une sanction administrative prononcée par l'Autorité des marchés financiers qui était devenue définitive, le

constat par la Cour EDH d'une méconnaissance des droits garantis par la Convention constitue un élément nouveau qui doit être pris en considération par l'autorité investie du pouvoir de sanction (n°358.564). Il en a déduit qu'il incombe en conséquence à cette autorité, lorsqu'elle est saisie d'une demande en ce sens et que la sanction prononcée continue de produire des effets, d'apprécier si la poursuite de l'exécution de cette sanction prononcée méconnaît les exigences de la Convention. Dans ce cas, l'auteur de la sanction peut y mettre fin, en tout ou en partie, eu égard aux intérêts dont elle a la charge, aux motifs de la sanction et à la gravité de ses effets ainsi qu'à la nature et à la gravité des manquements constatés par la Cour.

156. Ainsi, lorsqu'est en cause une décision administrative de sanction, un arrêt de la Cour EDH peut avoir pour effet d'obliger l'administration, sous certaines conditions, à reconsidérer sa position.

157. Dans le cadre de cette même affaire, saisi du nouveau rejet de la demande de relèvement de la sanction prononcée par l'Autorité des marchés financiers, le Conseil d'Etat a indiqué que, en l'absence de procédure de relèvement des sanctions prévue par les textes, lorsqu'une autorité investie du pouvoir de sanction est saisie d'une demande tendant au relèvement d'une sanction qu'elle a prononcée et qui continue de produire ses effets, il lui revient d'apprécier si des éléments nouveaux, tels qu'une décision du juge pénal prononçant une relaxe ou un arrêt de la Cour EDH constatant une violation de la Convention, sont de nature, eu égard aux motifs de la sanction, à justifier de mettre un terme à son exécution. Le Conseil d'Etat a ajouté que « *le seul écoulement du temps ou le comportement de l'intéressé depuis le prononcé de la sanction n'est pas en soi un élément nouveau justifiant que l'autorité soit tenue d'examiner une demande de relèvement de ladite sanction* » (CE 9 mars 2016, *M. Vernes*, n° 392.782).

158. En l'espèce, le Conseil d'Etat a estimé que le seul constat par la Cour EDH d'une méconnaissance des exigences prévues par l'article 6 § 1 de la Convention « *n'imposait pas, par lui-même, à la commission des sanctions de l'AMF de mettre un terme à l'exécution de la sanction dont M. V avait fait l'objet; que la commission des sanctions a pu à bon droit se fonder, notamment, sur la circonstance que les irrégularités relevées par la Cour concernaient des droits procéduraux et non des droits substantiels et sur la circonstance que la Cour avait elle-même relevé dans son arrêt que le constat d'une violation fournissait en soi une satisfaction équitable au requérant ; que, de même, elle a pu juger à bon droit qu'il ne pouvait être déduit des éléments du dossier que les violations de la Convention constatées lors de la procédure menée par la COB à l'encontre de M. V. auraient été d'une gravité telle qu'un doute sérieux serait jeté sur la sanction prononcée* » (même décision).

159. Cette décision du Conseil d'Etat constitue donc la première illustration du mécanisme de contrôle d'une décision administrative prise à la suite d'une demande de réexamen d'une situation consécutive à un arrêt de condamnation par la Cour EDH.

b) Les mécanismes de réouverture des procédures internes devant les juridictions judiciaires

160. En matière pénale, la loi n° 2000-516 du 15 juin 2000 a introduit la possibilité d'un réexamen d'une décision pénale consécutivement au prononcé d'un arrêt de condamnation de la Cour EDH. Elle vise à offrir la possibilité pour le requérant de faire corriger des conséquences dommageables auxquelles, en raison de leur nature et de leur gravité, la satisfaction équitable accordée en application de l'article 41 de la Convention ne pourrait mettre un terme.

161. Cette procédure a été récemment modifiée par la loi n° 2014-640 du 20 juin 2014 relative à la réforme des procédures de révision et de réexamen d'une condamnation pénale

définitive, qui a fusionné la procédure de révision et la procédure de réexamen. (art. 622-1 du code de procédure pénale). Le législateur a souhaité codifier plus précisément la procédure à suivre devant cette commission, car jusqu'à présent, les droits octroyés aux parties avaient été définis de manière prétorienne. A titre d'illustration, le texte codifié désormais la pratique qui s'était instaurée de laisser la possibilité au requérant ou à son avocat de s'exprimer en dernier. Cette modification vise à répondre pleinement aux exigences de l'article 6 de la Convention.

162. En revanche, en matière civile, la Cour de cassation juge que « *l'arrêt de la Cour européenne des droits de l'homme dont il résulte qu'un jugement rendu en matière civile et devenu définitif a été prononcé en violation des dispositions de la Convention, n'ouvre aucun droit à réexamen de la cause* » (voir, par exemple, Cass. Soc. 30 septembre 2005, no 04-47130).

163. Dans cette affaire, la Cour de cassation a confirmé la position de la cour d'appel, qui avait relevé que l'action dont elle était saisie se heurtait à l'autorité de la chose jugée de sorte qu'elle était irrecevable.

164. La deuxième chambre civile de la Cour de cassation a réaffirmé ce principe dans un arrêt du 17 octobre 2013, aux termes duquel juges ont estimé qu'« *un arrêt de la Cour européenne des droits de l'homme dont il résulte qu'un jugement rendu en matière civile et devenu définitif a été prononcé en violation des dispositions de la Convention européenne de sauvegarde de droits de l'homme et des libertés fondamentales n'ouvre aucun droit à réexamen de la cause* »⁵⁸.

165. Pour la Cour de cassation, l'obstacle le plus sérieux au réexamen des décisions internes consécutif à une décision de violation prononcée par la Cour EDH est celui de l'autorité de la chose jugée. Ainsi, la Cour a jugé, dans son arrêt de rejet, que« *la cour d'appel qui (...) a relevé que l'action dont elle était saisie avait un objet et une cause identique entre les mêmes parties à celle qui avait été tranchée par un précédent arrêt, a exactement décidé qu'elle se heurtait à l'autorité de la chose jugée en sorte qu'elle était irrecevable* ».

166. Aucun texte législatif n'est intervenu à ce jour pour permettre la réouverture d'une procédure civile après un constat de violation par la Cour EDH. Des réflexions sont toutefois en cours sur la possibilité d'une procédure de révision en matière civile afin de mettre un terme à certaines situations⁵⁹.

167. Il n'est donc à ce jour pas possible de voir sa cause réexaminer en matière civile après un constat de violation de la Cour EDH.

[Complément à la contribution de la France sur la mise en œuvre de la Déclaration de Bruxelles adoptée lors de la conférence de haut niveau sur la mise en œuvre de la Convention des 26 et 27 mars 2015 :]

⁵⁸ 2e Civ., 17 octobre 2013, pourvoi n° 12-22.957

⁵⁹ Le projet de loi de justice du XXIème siècle, actuellement en cours d'examen devant la commission mixte paritaire, prévoit d'insérer dans le code de l'organisation judiciaire un article L. 451-3 qui serait rédigé de la manière suivante: « Le réexamen d'une décision civile définitive rendue en matière d'état des personnes peut être demandé au bénéfice de toute personne ayant été partie à l'instance et disposant d'un intérêt à le solliciter, lorsqu'il résulte d'un arrêt rendu par la Cour européenne des droits de l'homme que cette décision a été prononcée en violation de la convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales ou de ses protocoles additionnels, des lors que, par sa nature et sa gravité, la violation constatée entraîne, pour cette personne, des conséquences dommageables auxquelles la satisfaction équitable accordée en application de l'article 41 de la même convention ne pourrait mettre un terme ».

168. A l'occasion de la conférence de haut niveau sur «la mise en œuvre de la Convention Européenne des droits de l'homme, une responsabilité partagée », qui s'est déroulée à Bruxelles les 26 et 27 mars 2015 sous la présidence belge du Conseil de l'Europe, les Etats parties à la Convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales ont été appelés « *à adopter, à la lumière du présent Plan d'action, d'éventuelles nouvelles mesures pour améliorer leur processus d'exécution et à en informer, à ce sujet, le Comité des Ministres d'ici la fin juin 2016* ».

169. La France a remis son rapport sur la mise en œuvre de la Déclaration de Bruxelles le 12 juillet 2016.

170. Cependant, le délai de remise du rapport que les Etats parties sont invités à présenter ayant été prorogé jusqu'au 31 décembre 2016, la France vous prie de bien vouloir trouver ci-dessous, à titre de complément, les éléments de réponse Suivants.

171. En effet, s'agissant de la recommandation B 2 (b) de la Déclaration de Bruxelles, par laquelle « *la Conférence appelle les Etats parties [...] en conformité avec l'ordre juridique interne, à mettre en place en temps opportun des recours effectifs au niveau national pour réparer les violations de la Convention constatées par la Cour* », la France avait fait état, lors de la remise de son rapport le 12 juillet 2016, des réflexions alors engagées pour permettre la réouvertures des procédures civiles après un constat de violation par la Cour européenne des droits de l'homme (ci-après la « Cour EDH »).

172. Or, la loi n° 2016-1547 de modernisation de la justice du XXI^e siècle a été adoptée le 18 novembre 2016. Son article 42 a inséré dans le code de l'organisation judiciaire des dispositions instaurant une procédure de réexamen des décisions civiles définitives rendues en matière d'état des personnes à la suite d'une décision de la Cour EDH constatant une violation de la Convention. Cette procédure vise à offrir, comme c'est le cas en matière pénale, la possibilité pour la personne partie à l'instance de faire corriger les conséquences dommageables de la décision prise en méconnaissance de la Convention lorsque, en égard à la nature et à la gravité de la violation, la satisfaction équitable accordée en application de l'article 41 de la Convention ne pourrait mettre un terme à ces conséquences.

173. Cette procédure étant applicable aux décisions rendues en matière d'état des personnes, elle a vocation à s'appliquer aux décisions se prononçant sur la situation juridique d'une personne au plan individuel (notamment date et lieu de naissance, nom, prénom, sexe, capacité), au plan familial (filiation, mariage, divorce, séparation de corps, effet de la parenté et de l'alliance) et au plan politique (qualité de français ou d'étranger).

174. Le réexamen peut être demandé par les personnes parties à l'instance engagée devant la Cour EDH ainsi que par le représentant légal ou, en cas de décès, par les ayants-droits, de la partie intéressée.

175. La demande de réexamen doit être adressée dans le délai d'un an à compter de la décision de la Cour EDH. La loi du 18 novembre 2016 prévoit également des dispositions transitoires, afin de permettre aux personnes intéressées par une décision rendue par la Cour EDH avant l'entrée en vigueur de la loi de présenter une demande de réexamen dans un délai d'un an à compter de cette date d'entrée en vigueur.

176. La demande est examinée, comme en matière pénale, par la cour de réexamen, qui statue sur sa recevabilité avant, le cas échéant, de se prononcer sur le fond. Si la cour estime la demande fondée, elle annule la décision civile définitive et renvoie le requérant devant une juridiction de même ordre et de même degré. Toutefois, si le réexamen du pourvoi est de

nature à remédier à la violation constatée par la Cour EDH, la cour de réexamen renvoie le requérant devant l'assemblée plénière de la Cour de cassation.

177. La date d'entrée en vigueur des dispositions de l'article 42 de la loi du 18 novembre 2016 sera fixée par décret en Conseil d'Etat, au plus tard six mois après la promulgation de la loi, soit le 19 mai 2017.

Pièce jointe: Article 42 de la loi n°2016-1547 du 18 novembre 2016.

B. 2. c) développer et déployer les ressources suffisantes au niveau national en vue d'une exécution complète et effective de tous les arrêts, et donner les moyens et l'autorité appropriés aux agents du gouvernement ou autres agents publics chargés de la coordination de l'exécution des arrêts

178. Le Premier Ministre a adressé à l'ensemble des ministères une circulaire le 23 avril 2010 relative à l'exécution des arrêts de la Cour EDH (pièce n°4 en annexe).

179. Cette circulaire marque la volonté affirmée du Gouvernement de voir assurer la bonne exécution des arrêts de la Cour EDH et d'organiser ses services pour que ce but soit atteint.

180. La circulaire précitée rappelle aux services de l'Etat les règles applicables en matière d'exécution et leur donne des directives précises pour exécuter les arrêts de la Cour EDH en désignant pour chaque ministère concerné un interlocuteur unique chargé des actions en matière d'exécution, le service désigné au titre de l'exécution étant le même que celui en charge du contentieux devant la Cour EDH.

181. La coordination interministérielle est, quant à elle, assurée par le ministère des Affaires étrangères et du Développement international.

182. Les efforts accomplis en matière d'exécution se sont traduits par une réactivité plus forte et une réduction des affaires pendantes devant le Comité des Ministres ces dernières années (171 affaires pendantes fin 2009, 101 fin 2010, 70 fin 2011, 69 fin 2015).

183. En dépit de la mise en place de ce réseau étoffé de correspondants en matière d'exécution et de la réduction importante du nombre d'affaires françaises surveillées par le Comité des Ministres, des efforts doivent encore être accomplis pour améliorer le processus d'exécution des arrêts de la Cour EDH.

184. Les pistes d'amélioration pourraient poursuivre deux axes.

185. En premier lieu, les délais de paiement devraient être raccourcis afin d'éviter le paiement d'intérêts moratoires. Même s'il a tendance à diminuer, le nombre d'affaires dans lesquelles le paiement est intervenu dans les délais impartis est encore insuffisant⁶⁰. Un retro-planning devrait être mis en place sur chaque dossier pour solliciter une consignation des sommes dues au titre de la satisfaction équitable dès que le délai laisse aux requérants ou à leurs conseils pour produire les pièces nécessaires au paiement comptable est dépassé.

⁶⁰ Dans le rapport d'activité du Servex 2015, il ressort des tableaux publiés que le nombre d'affaires payées hors délais sont passées de 11 à 6 entre 2014 et 2015. Pour autant, le nombre d'affaires payées dans les délais est passé de 8 à 4.

186. En second lieu, le processus d'exécution doit être repensé afin, d'une part, de mieux associer le Parlement, l'INDH et les autres structures nationales compétentes pour la protection des droits de l'homme (c£ infra points B.2. h), B. 2. F) 1 et B.2. i) de la présente contribution), et, d'autre part, de faciliter la prise de décision quant au choix des mesures qui s'imposent en matière d'exécution. A cet égard, le rôle central du coordinateur doit être réaffirmé et précisé et son autorité renforcée.

187. La mise à jour de la circulaire paraît donc opportune. Une concertation interministérielle devrait être prochainement initiée pour permettre cette mise à jour.

188. Par ailleurs, le Ministère des Affaires étrangères et du Développement international envisage de publier une lettre annuelle sur l'exécution des arrêts de la Cour concernant la France. Cette lettre aurait pour objet de présenter de manière générale le nombre d'arrêts placés sous la surveillance du Comité des Ministres en procédure soutenue ou en procédure standard, le nombre d'affaires françaises clôturées par le Comité des Ministres, le montant de satisfaction équitable que la France a été condamnée à payer, ainsi que les principales difficultés rencontrées au cours de l'année en matière d'exécution.

B. 2. d) En aval des arrêts de la Cour : accorder une importance particulière à un suivi complet, effectif et rapide des arrêts soulevant des problèmes structurels qui, par ailleurs, peut s'avérer pertinent pour d'autres Etats parties

189. Le Gouvernement suit avec attention les évolutions de la jurisprudence de la Cour EDH, même lorsqu'elle ne concerne pas la France.

190. Comme évoqué précédemment (cf. point B1d), si le ministère des Affaires étrangères et du Développement international procède traditionnellement à la publication d'une lettre annuelle de jurisprudence sur les arrêts et décisions rendus par la Cour EDH concernant la France, il envisage également de publier annuellement une lettre d'analyse de la jurisprudence de la Cour EDH concernant d'autres Etats parties et susceptible d'intéresser sa réglementation nationale.

191. Depuis le début de l'année 2016, il travaille activement à l'élaboration de cette note de jurisprudence (pour les années 2015-2016).

192. Cette lettre de jurisprudence sur les arrêts de la Cour EDH concernant d'autres Etats étrangers poursuit un triple objectif.

193. D'une part, comme évoqué précédemment, elle doit permettre au Gouvernement de mesurer plus systématiquement les conséquences éventuelles de la jurisprudence de la Cour EDH rendue à propos d'autres Etats parties sur la réglementation nationale.

194. A titre d'illustration, le Gouvernement suit avec attention depuis l'arrêt *Grande Stevens et autres c. Italie* du 4 mars 2014 (n° 18640110, n° 18647/10, n° 18663/10, n° 18668/10 et n° 18698/10) la jurisprudence de la Cour EDH sur le principe *non bis in idem*, compte tenu de l'impact qu'elle est susceptible d'avoir sur notre réglementation nationale.

195. Le respect du principe *non bis in idem* fait aujourd'hui l'objet de réflexion en droit interne et dans le domaine des délits boursiers une proposition de loi étant actuellement examinée par le Parlement pour poser le principe de l'interdiction du cumul sanction administrative et sanction pénale dans ce domaine.

196. D'autre part, cette note de jurisprudence sur les arrêts concernant d'autres Etats parties permettrait de suivre l'évolution de la jurisprudence de la Cour EDH dans des domaines faisant l'objet de contentieux en cours.

197. En effet, ce suivi de la jurisprudence de la Cour EDH permettrait, le cas échéant, de compléter nos écritures pour tenir compte en temps réel de l'évolution de la jurisprudence dans certaines matières.

198. Enfin, elle permettrait au Gouvernement français de mieux identifier les affaires susceptibles de justifier une tierce intervention de sa part aux côtés des autres Etats parties.

B. 2. e) En aval des arrêts de la Cour : privilégier l'échange d'informations et de bonnes pratiques avec d'autres Etats parties, en particulier pour la mise en œuvre des mesures générales

199. Le Gouvernement français est très favorable aux échanges d'informations et de bonnes pratiques avec d'autres Etats parties dans le cadre des contentieux en cours devant la Cour EDH (a) ou dans le cadre du processus d'exécution (b).

a) *Le développement des échanges avec les autres Etats parties dans le cadre du contentieux pendant devant la Cour EDH*

200. Le Gouvernement français a engagé une réflexion afin de développer les tierces interventions dans tous les litiges, auquel il n'est pas directement partie, qui sont susceptibles soit de porter sur des législations similaires à la législation nationale, soit de poser des questions mettant en cause des décisions prises par les autorités nationales. Entre 2014 et 2016, il a été décidé par le Gouvernement français de former une tierce intervention dans quatre affaires.

201. Ainsi, il a décidé de présenter une tierce intervention dans les affaires *Frisvold c. Norvège* et *Flom Jacobsen c. Norvège* (affaires en cours de délibéré, n° 24130/11 et 29758111), en raison de la similitude de sa législation avec celle applicable en Norvège.

202. Ces affaires portaient sur un cumul de sanction entre sanction fiscale et sanction pénale contre le contribuable reconnu coupable de fraude fiscale et le respect du principe non bis in idem garanti par l'article 4 du Protocole n° 7.

203. La France est intervenue aux côtés de la Norvège, dès lors que notre législation nationale autorise ce type de cumul. Les faits à l'origine de la fraude fiscale peuvent donner lieu à une sanction fiscale (amende) et à une sanction pénale (délit de fraude fiscale puni d'une peine d'emprisonnement et d'une peine d'amende). En outre, cette affaire dont la chambre s'est dessaisie au profit de la Grande Chambre est l'occasion de préciser les critères d'application du principe *non bis in idem*.

204. De même, le Gouvernement français a décidé de former une tierce intervention aux côtés du Gouvernement belge dans l'affaire *V.M c. Belgique* (n°60125/ II, affaire en cours d'instruction), qui portait notamment sur les modalités d'examen des demandes d'asile en France.

b) *Le développement des échanges avec les autres Etats parties dans le cadre du processus d'exécution des arrêts de la Cour EDH*

205. Par ailleurs, des échanges se développent entre les Etats parties sur les mesures nécessaires à l'exécution des arrêts de la Cour EDH.

206. Ainsi, des échanges informels (par courrier électronique) ont lieu entre les Etats parties (entre les agents du gouvernement) sur des thématiques communes, portant notamment sur la satisfaction équitable.

207. Par ailleurs, les résultats de la table ronde qui s'est tenue les 5 et 6 octobre 2015 sur la réouverture des procédures civiles et pénales à l'initiative du Service de l'exécution des arrêts de la Cour ont été transmis par le Gouvernement français au ministère de la Justice.

208. Ils sont venus contribuer à la réflexion en cours sur la mise en place d'une procédure de révision en matière civile. En effet, ils ont permis d'établir une comparaison entre le système français et les systèmes juridiques des autres Etats parties et d'appréhender sous un nouveau jour les obstacles à la mise en place d'un mécanisme de réouverture des procédures en matière civile.

209. Ces échanges avec les autres Etats parties devraient se poursuivre et se développer en matière d'exécution.

B. 2. f) En aval des arrêts de la Cour : favoriser l'accès aux arrêts de la Cour, aux plans et bilans d'action ainsi qu'aux décisions et résolutions du Comité des Ministres :

- en développant leur publication et leur diffusion aux acteurs concernés (en particulier, l'exécutif, les parlements, les juridictions, mais aussi, le cas échéant, les institutions nationales des droits de l'homme et des représentants de la société civile), en vue de leur implication accrue dans le processus d'exécution des arrêts ;*

210. Comme indiqué précédemment au point B.I(a) du présent rapport, la diffusion des arrêts de la Cour EDH est largement assurée par le biais de plusieurs supports, à savoir les sites de la Cour EDH, de Légifrance, des différents ministères, de la CNCDH, ainsi que sur les principaux sites juridiques français.

211. Pour autant, comme indiqué précédemment, afin de favoriser encore davantage l'accès aux arrêts de la Cour, le ministère des Affaires étrangères et du Développement international publie chaque année une lettre de jurisprudence de la Cour EDH retraçant de manière exhaustive l'ensemble des arrêts et décisions pris par la Cour EDH à l'encontre de la France, qu'il s'agisse des décisions d'irrecevabilité, des arrêts de rejet et des arrêts de condamnation. Cette lettre de jurisprudence contient également une analyse des statistiques concernant la France et des principales affaires françaises rendues par la Cour EDH.

212. Cette lettre de jurisprudence est adressée à l'ensemble des ministères et services intéressés. Depuis 2015, sa diffusion a été élargie à une plus grande variété d'acteurs, à savoir aux juridictions suprêmes (Conseil d'Etat et Cour de cassation), au Parlement (Commission des Affaires étrangères de l'Assemblée nationale et du Sénat), à la CNCDH et à certaines autres instances indépendantes intervenant en matière de droits de l'homme et intéressées par le contentieux CEDH (DDD et CGLPL).

213. Afin d'en assurer une diffusion encore plus large notamment auprès du grand public, le ministère des Affaires étrangères et du Développement international conduit actuellement une réflexion sur la mise en ligne, sur son site Internet, de la lettre de jurisprudence de la Cour EDH et d'autres éléments utiles d'information.

214. En ce qui concerne plus spécifiquement l'exécution des arrêts de la Cour, un lien vers le site du Service de l'exécution des arrêts de la Cour devrait être accessible sur le site Internet du ministère des Affaires étrangères et du Développement international afin de permettre aux utilisateurs qui le souhaitent d'accéder aux plans et bilans d'action concernant la France, ainsi qu'aux résolutions clôturant les affaires françaises.

215. Par ailleurs, dans le cadre des échanges intervenus avec le Parlement, la CNCDH en sa qualité d'INDH et les autres structures nationales de protection des droits de l'homme, à savoir le Défenseur des droits et le Contrôleur général des lieux de privation de liberté (dans son champ de compétence), il a également été convenu que, dès la publication des arrêts de la Cour EDH et simultanément à leur notification aux ministères concernés, les structures nationales de protection des droits de l'homme seront invitées à faire part de leurs observations sur les implications juridiques et pratiques des arrêts rendus par la Cour EDH concernant la France. Un délai de quatre mois leur sera donné pour transmettre leurs observations, ce qui permettrait au Gouvernement de prendre connaissance de leurs observations et, le cas échéant, de modifier ou compléter le plan ou bilan d'action.

216. Par ailleurs, il est désormais prévu que les plans d'action et bilans d'action leur seront transmis systématiquement concomitamment à l'envoi de ces documents au Servex, comme indique au point 3 de la mise en œuvre du Plan d'action ci-après.

217. Cette transmission spontanée de ces documents contribue à un meilleur accès de ces structures à l'information sur l'exécution des arrêts de la Cour EDH.

B. 2. f) En aval des arrêts de la Cour : favoriser l'accès aux arrêts de la Cour, aux plans et bilans d'action ainsi qu'aux décisions et résolutions du Comité des Ministres :
- en traduisant ou résumant les documents pertinents, y compris les arrêts significatifs de la Cour, autant que de besoin

218. La traduction des arrêts de la Cour ne pose pas de réelles difficultés en France, des lors que la langue française constitue l'une des deux langues officielles de la Cour EDH. Si certains arrêts ne sont traduits qu'en anglais, les principaux arrêts rendus par la Cour EDH, et notamment l'intégralité des arrêts de la Grande Chambre sont disponibles en français.

B. 2. g) En aval des arrêts de la Cour : maintenir et développer, dans ce cadre, les ressources financières ayant permis au Conseil de l'Europe, depuis 2010, de traduire de nombreux arrêts dans les langues nationales

219. La France n'est pas concernée par cette mesure, la langue française étant l'une des deux langues officielles de la Cour.

B. 2. h) En aval des arrêts de la Cour : en particulier, encourager l'implication des parlements nationaux dans le processus d'exécution des arrêts, lorsque c'est approprié, par exemple, en leur transmettant des rapports annuels ou thématiques ou par la tenue de débats avec les autorités exécutives sur la mise en œuvre de certains arrêts

220. Afin de répondre à l'invitation de la Déclaration de Bruxelles d'impliquer davantage les parlements nationaux au processus d'exécution des arrêts de la Cour EDH, des contacts ont été pris avec les services de la commission des Affaires Européennes des deux assemblées parlementaires.

221. Lors d'une rencontre organisée le 22 février 2016 à l'initiative du ministère des Affaires étrangères et du Développement international avec les services de la Commission des affaires

européennes de l'Assemblée Nationale, ces derniers ont répondu favorablement à la proposition du ministère des Affaires étrangères et du Développement international de les rendre destinataires des bilans et/ou plans d'action au moment de leur envoi au Comité des Ministres. Ils ont également répondu favorablement à la proposition du ministère des Affaires étrangères et du Développement international de leur transmettre la lettre annuelle des arrêts et décisions de la Cour EDH concernant la France ainsi que les arrêts concernant d'autres Etats parties.

222. Ainsi, la lettre annuelle de jurisprudence des arrêts et décisions concernant la France et celle concernant d'autres Etats parties sera adressée chaque année à l'Assemblée nationale et au Sénat.

223. En outre, la délégation française au sein de l'APCE a décidé de rédiger, à l'attention des parlementaires nationaux, un document de synthèse sur la situation de la France en matière d'exécution des arrêts de la Cour EDH. Dans un souci de transparence, le Parlement a échangé avec le ministère des Affaires étrangères et du Développement international lors de la rédaction de ce document de synthèse.

224. Enfin, il a été convenu qu'une réunion annuelle serait organisée sur la thématique de l'exécution des arrêts de la Cour EDH.

225. Si des auditions du ministère des Affaires étrangères et du Développement international ont déjà été organisées à l'initiative des assemblées sur des thématiques bien ciblées (Protocole n° 15 et exécution des arrêts *Mennesson* et *Labassee* sur la gestation pour autrui), il a été convenu que le principe d'une rencontre annuelle serait institutionnalise.

B. 2. i) En aval des arrêts de la Cour : mettre sur pied, dans la mesure où cela est approprié, des « points de contact » droits de l'homme au sein des autorités exécutives, judiciaires et législatives concernées, et créer des réseaux entre eux par le biais de réunions, d'échanges d'informations, d'auditions ou par la transmission de rapports annuels ou thématiques ou encore de courriers périodiques d'information

226. Comme indiqué au point B.2(c), un « réseau droits de l'homme » a déjà été constitué en France, à la suite de l'adoption de la circulaire du 23 avril 2010, avec l'ensemble des ministères concernés par l'exécution des arrêts de la Cour ainsi que le Conseil d'Etat. Aux côtés du ministère des Affaires étrangères et du Développement international, qui assure la coordination interministérielle du processus d'exécution des arrêts de la Cour, chaque ministère a désigné un interlocuteur chargé du suivi de l'exécution des arrêts de la Cour EDH susceptible d'être saisi de toutes questions en lien avec ce thème.

227. Il est désormais envisagé, dans le cadre de la mise en œuvre de la Déclaration de Bruxelles, d'élargir ce réseau.

228. En effet, comme indiqué précédemment, il est prévu que le ministère des Affaires étrangères et du Développement international approfondisse les échanges avec l'ensemble des acteurs nationaux concernés par cette thématique, à savoir le Parlement, de la CNCDH et d'autres structures nationales de protection des droits de l'homme, tels que le Défenseur des droits et le Contrôleur général des lieux de privation de liberté, et les associe à l'exécution des arrêts de la Cour.

229. Des points de contacts ont été désignés dans chacune de ces structures pour relayer l'information qui sera transmise par le ministère des Affaires étrangères et du Développement international.

230. Le « réseau droits de l'homme » élargi disposera d'une grande variété d'informations constituée notamment de :

- la mise en ligne sur le site du ministère des Affaires étrangères et du Développement international des arrêts et décisions de la Cour EDH concernant la France et d'autres informations utiles,
- une lettre annuelle de jurisprudence sur les arrêts et décisions de la Cour concernant la France,
- une lettre annuelle de jurisprudence sur les arrêts et décisions de la Cour concernant les autres Etats parties,
- ainsi qu'une lettre annuelle sur l'exécution des arrêts de la Cour EDH par la France.

B. 2. j) En aval des arrêts de la Cour : envisager, en conformité avec le principe de subsidiarité, la tenue de débats réguliers au niveau national sur l'exécution des arrêts – impliquant les autorités exécutives et juridictionnelles ainsi que les membres des parlements et associant, lorsque c'est approprié, des représentants des institutions nationales des droits de l'homme et de la société civile

231. Comme indiqué au point B.2.(h), le Gouvernement envisage de développer les échanges avec le Parlement, notamment sous la forme d'une rencontre annuelle avec les parlementaires intéressés par l'exécution des arrêts de la Cour EDH.

232. Les auditions du Gouvernement devant les commissions des assemblées étaient déjà pratiquées sur des sujets d'actualité en lien avec la Convention, la jurisprudence de la Cour EDH et l'exécution de ses arrêts.

233. Ainsi, le ministère des Affaires étrangères et du Développement international a été auditionné en avril 2015 par la Commission des affaires étrangères du Sénat dans le cadre du projet de loi sur la ratification du Protocole n° 15. Les échanges ont notamment porté sur les conséquences des modifications apportées par ce Protocole aux conditions de recevabilité des requêtes et au droit de recours individuel devant la Cour EDH.

234. Par ailleurs, la commission des lois du Sénat a réalisé une mission d'information sur la thématique de la gestation pour autrui. Un rapport a été rédigé par deux parlementaires, à savoir M. Yves Detraigne et Mme Catherine Tasca, après avoir effectué de nombreuses auditions.

235. Dans ce cadre, le ministère des Affaires étrangères et du Développement international a été auditionné sur les arrêts *Mennesson* et *Labassee c. France* rendus par la Cour EDH le 26 juin 2014 et les conséquences à en tirer.

236. Enfin, la commission de la défense de l'Assemblée nationale s'est saisie du sujet de la liberté d'association des militaires dont le cadre juridique alors en vigueur avait été critiqué par la Cour EDH dans ses arrêts *Adefdromil* et *Matelly c. France* rendus le 2 octobre 2014.

237. Dans ce cadre, la commission de la défense de l'Assemblée nationale a organisé les auditions suivantes :

- 8 avril 2015: audition, d'une part, des membres du comité d'action des anciens militaires et marins de carrière (COMAC) sur la liberté d'association et la représentation des militaires, et d'autre part, de représentants d'associations de réservistes opérationnels sur la situation des réserves et sur la liberté d'association et la représentation des militaires,

- 6 mai 2015 : examen du rapport d'information sur l'état d'avancement de la manœuvre ressources humaines du ministère de la Défense et les conséquences arrêts de la Cour EDH du 2 octobre 2014,
- 12 mai 2015: audition d'une délégation de membres du conseil supérieur de la fonction militaire sur la liberté d'association des militaires.

238. Les travaux de la commission des lois ont permis de préparer l'adoption de la loi du 28 juillet 2015 modifiant l'article L. 4121-4 du code de la défense en octroyant aux militaires le droit de constituer des associations nationales professionnelles de militaires.

239. Il est désormais envisagé d'institutionnaliser des débats entre les autorités exécutives et les autorités législatives. A ce jour, il est proposé d'organiser au moins un débat annuel sur l'état d'exécution des arrêts de la Cour EDH concernant la France avec les parlementaires intéressés, étant précisé que des réunions thématiques pourraient également être organisées à la demande des parlementaires.

240. Pour initier cette nouvelle pratique, l'Assemblée nationale a pris l'initiative d'organiser le 23 mai 2016 une réunion rassemblant des universitaires, des membres du Conseil d'Etat, le coordinateur national qu'est le ministère des Affaires étrangères et du Développement international, la CNCDH en sa qualité d'INDH nationale, les autres structures nationales indépendantes, à savoir le DDD et le CGLPL, ainsi que des représentants du Service de l'exécution des arrêts de la Cour EDH. Cette réunion avait pour objet d'aborder deux thématiques en lien avec l'exécution des arrêts de la Cour, à savoir la prise en compte par la Cour EDH des contraintes nationales d'exécution des arrêts de la Cour EDH et les modalités nationales d'une exécution plus efficace.

241. La dynamique du Gouvernement est la même avec les structures nationales de protection des droits de l'homme.

242. Tout d'abord, le ministère des Affaires étrangères et du Développement international a rencontré, à l'automne 2015, des représentants de la CNCDH, sur la base d'une note adressée le 13 août 2015 par la CNCDH au ministère des Affaires étrangères et du Développement international, ainsi que des représentants du DDD et du CGLPL pour discuter notamment du suivi de la Déclaration de Bruxelles, ainsi que les modalités de leur association au processus d'exécution. Ces discussions ont permis d'avancer dans le sens d'une meilleure implication de la CNCDH et des autres structures nationales de protection des droits de l'homme, ainsi qu'il sera exposé ci-après au point 3 de la mise en œuvre du Plan d'action ci-après.

243. Par ailleurs, des échanges spécifiques ont eu lieu avec la CNCDH sur l'exécution des arrêts de la Cour EDH et les thématiques en lien avec la réforme du système conventionnel. Les ministères, et tout particulièrement le ministère des Affaires étrangères et du Développement international, sont ainsi régulièrement invités à participer aux réunions du pôle international de la CNCDH, afin d'être informés des travaux en cours et de pouvoir y contribuer.

244. A titre d'illustration, en février 2015, la CNCDH a demandé au ministère des Affaires étrangères et du Développement international de présenter l'état d'avancement des négociations sur la Déclaration de Bruxelles. La place et le rôle des structures nationales de protection des droits de l'homme dans le processus d'exécution des arrêts de la Cour EDH ont été évoqués à cette occasion.

245. En outre, la CNCDH a sollicité en décembre 2015 le ministère des Affaires étrangères et du Développement international pour évoquer l'état d'urgence. L'une des questions

abordées lors de cette rencontre a porté sur la notification de l'article 15 de la Convention par la France à la suite des attentats terroristes survenus 13 novembre 2015 à Paris.

246. Ces discussions ont alimenté les avis rendus par la CNCDH sur l'état d'urgence et notamment la notification de l'article 15 de la Convention, à savoir la Déclaration sur l'état d'urgence du 15 janvier 2016 (Déclaration sur l'état d'urgence et ses suites, JORF n° 0031 du 6 février 2016, texte no 57) et deux avis relatifs à la situation née de l'état d'urgence (CNCDH 18 février 2016, Avis sur le suivi de l'état d'urgence, JORF n° 0048 du 26 février 2016, texte no 102 ; CNCDH 18 février 2016, Avis sur le projet de loi constitutionnelle de la protection de la nation, JORF n° 0048 du 26 février 2016, texte n° 103).

247. Afin de favoriser les échanges sur les sujets en lien avec les droits de l'homme, et notamment sur les questions d'exécution des arrêts de la Cour, le ministère des Affaires étrangères et du développement international organisera chaque année au moins une rencontre avec la CNCDH. Une telle rencontre sera également organisée avec le Défenseur des droits et le Contrôleur général des lieux de privation de liberté.

248. A côté de ces échanges bilatéraux, qui seront renouvelés, le Gouvernement est favorable à ce que des échanges à plusieurs voix, notamment avec les ministères intéressés, aient lieu sur l'exécution des arrêts de la Cour EDH concernant la France.

249. A cet égard, des échanges thématiques en lien avec l'exécution des arrêts de la Cour EDH pourraient également être organisés avec tous les acteurs intéressés. La table ronde, qui a eu lieu le 23 mai 2016, organisée par la commission des affaires européennes de l'Assemblée nationale sur l'exécution des arrêts de la Cour en est une bonne illustration. Elle a permis de réunir sur un sujet commun l'ensemble des acteurs concernés par l'exécution, à savoir les autorités juridictionnelles, législatives, exécutives, ainsi que les principales structures nationales des droits de l'homme et la société civile.

250. Des échanges thématiques en lien avec l'exécution des arrêts de la Cour pourraient également être organisés avec tous les acteurs intéressés. La table ronde, qui a eu lieu le 23 mai 2016, organisée par la commission des affaires européennes de l'Assemblée nationale sur l'exécution des arrêts de la Cour EDH en est une bonne illustration. Elle a permis de réunir sur un sujet commun l'ensemble des acteurs concernés par l'exécution, à savoir les autorités juridictionnelles, législatives, exécutives, ainsi que les structures nationales de protection des droits de l'homme et la société civile (pièce n° 3 en annexe).

• Mise en œuvre du plan d'action

(...) 3. La Conférence appelle les Etats parties à adopter, à la lumière du présent plan d'action, d'éventuelles nouvelles mesures pour améliorer leur processus d'exécution des arrêts et à informer à ce sujet, le Comité des Ministres d'ici la fin juin 2016;

251. Trois axes principaux de réforme sont envisagés pour améliorer le processus d'exécution des arrêts de la Cour EDH concernant la France.

1) Une amélioration du circuit d'exécution

252. La circulaire du 23 avril 2010 précitée a permis de mettre en place un circuit d'exécution efficace, organisé autour d'un service coordinateur (le ministère des Affaires étrangères et du Développement international) et d'interlocuteurs compétents dans chaque ministère ou structure intéressé(e) par l'exécution des arrêts de la Cour EDH.

253. Le circuit d'exécution demeure toutefois perfectible.

254. En premier lieu, la circulaire du 23 avril 2010 pourrait être mise à jour au moins sur deux points.

255. D'une part, le mécanisme d'offres réelles explicite dans l'annexe 2 a été supprimé au profit d'un mécanisme de consignation des sommes allouées au titre de la satisfaction équitable auprès de la Caisse des dépôts et consignations.

256. D'autre part, compte tenu du souhait du Gouvernement d'instituer un réseau « droits de l'homme » impliquant davantage le Parlement, la CNCDH, le DDD et le CGLPL dans le processus d'exécution, il apparaît nécessaire de formaliser ces innovations dans une circulaire rénovée.

257. En second lieu, les mécanismes de résolution des litiges survenant lors du paiement de la satisfaction équitable par les ministères concernés doivent être repensés pour améliorer leur efficacité.

258. Une concertation interministérielle doit prochainement être initiée pour améliorer le circuit d'exécution des arrêts de la Cour EDH sur l'ensemble de ces points.

2) Une meilleure diffusion de l'information sur l'exécution des arrêts de la Cour EDH

259. En premier lieu, le Gouvernement souhaite diffuser plus largement de l'information sur l'exécution des arrêts de la Cour EDH.

260. Comme indiqué aux points B.2. (h) et B.2.G) de la présente contribution, la proposition consiste à mettre en place, en plus de la lettre annuelle de jurisprudence sur les arrêts et décisions de la Cour EDH concernant la France, deux nouveaux supports d'information, à savoir la lettre annuelle de jurisprudence sur les arrêts de la Cour EDH concernant les autres Etats parties et une lettre d'information sur l'exécution des arrêts de la Cour EDH concernant la France. La diffusion de ces documents devrait être large, des lors qu'elle devrait être assurée auprès de l'ensemble des publics intéressés (Parlement, juridictions suprêmes, CNCDH, DDD et CGLPL).

261. En second lieu, le Gouvernement transmettra au Parlement et aux structures nationales de protection des droits de l'homme, simultanément à leur envoi au Servex, les plans et bilans d'action.

262. De même, l'ensemble des points de contact seront informés, dès transmission par le Servex, des résolutions finales adoptées par le Comité des Ministres.

263. Cette transmission vise à assurer la plus grande transparence possible de l'action du Gouvernement en matière d'exécution des arrêts de la Cour EDH, en assurant largement la diffusion de documents dont la publication était jusqu'à présent relativement discrète.

3) Un approfondissement du dialogue sur les mesures d'exécution prises ou envisagées pour l'exécution des arrêts de la Cour EDH

264. En premier lieu, le Gouvernement propose de transmettre, dès leur publication et simultanément aux ministères concernés, les arrêts de violation définitifs tant à la CNCDH qu'au Défenseur des Droits⁶¹ pour recueillir leurs observations éventuelles. Les arrêts définitifs de violation de la Cour seront également transmis au CGLPL dans les domaines

⁶¹ Si l'ODD n'a pas à proprement parler la qualité d'INDH, ses observations paraissent néanmoins opportunes compte tenu de la mission générale de défense des droits de l'homme qui lui a été confiée.

relevant de sa compétence. Un délai de 4 mois pourrait leur être donné pour transmettre leurs observations, ce qui permettrait à l'ensemble des services compétents de prendre connaissance de leurs observations et, le cas échéant, de modifier ou compléter le plan ou bilan d'action. Ces observations ne devraient cependant porter que sur les seules mesures générales et non sur les mesures individuelles qu'implique l'exécution de l'arrêt en cause, exception faite du cas où les mesures individuelles se confondent avec les mesures générales. En effet, les mesures individuelles consistent dans la grande majorité des cas dans le paiement d'une satisfaction équitable, qui n'appelle pas d'observations particulières de la part de ces autorités. Au surplus, la mission attribuée par la loi à la CNCDH et au DDD porte principalement sur les questions de portée générale dans le domaine des droits de l'homme.

265. La saisine de ces instances au début du processus d'exécution des arrêts de la Cour EDH présente l'avantage de leur laisser du temps pour analyser la portée de l'arrêt en cause et mesurer l'opportunité de présenter une contribution.

266. En outre, comme indiqué précédemment, le Gouvernement transmettra au Parlement, à la CNCDH, au DDD et, dans son champ de compétence, au CGLPL, simultanément à leur envoi au Servex, la version finale des plans et bilans d'action.

267. En second lieu, le Gouvernement poursuivra sa politique actuelle de dialogue a posteriori sur l'exécution des arrêts de la Cour EDH concernant la France avec l'ensemble des acteurs intéressés, à savoir le Parlement ainsi que la CNCDH, le DDD et le CGLPL.

268. Ce dialogue pourra se tenir dans des cadres aussi variés que la publication de lettres de jurisprudences, des débats, des colloques ou encore des auditions.

4. La Conférence encourage tous les Etats parties à examiner avec le Service de l'exécution des arrêts l'ensemble de leurs affaires pendantes, à identifier celles pouvant être clôturées et les problèmes majeurs subsistants et, sur la base de cette analyse, à œuvrer à résorber progressivement l'arrière de leurs affaires en cours;

269. Si le Servex organisait habituellement une réunion annuelle en juillet avec la Représentation permanente de la France auprès du Conseil de l'Europe afin de dresser un état des lieux des affaires en cours d'exécution et faire le point sur les plans et bilans d'action attendus, une nouvelle organisation a été mise en place à la suite de la Déclaration de Bruxelles.

270. Une réunion spécifique s'est tenue le 27 janvier 2016 en présence de la Représentation permanente de la France auprès du Conseil de l'Europe, au cours de laquelle le Servex a remis à la Représentation permanente un tableau listant l'ensemble des affaires françaises en cours d'exécution et des informations attendues dans chacune de ces affaires.

271. Au cours de cette réunion, le Servex a présenté les affaires qui lui paraissaient pouvoir être prochainement clôturées sous réserve que le Gouvernement français soit en mesure de mettre à jour ses plans d'action et d'apporter d'ultimes précisions sur certaines questions précises.

272. Sur la base de ce tableau, le ministère des Affaires étrangères et du Développement international a saisi l'ensemble des ministères compétents pour mettre à jour 30 plans d'action, en détaillant les éléments attendus pour chacun d'entre eux.

273. A ce jour (mai 2016), grâce à une forte mobilisation des services concernés et un important travail de suivi, le Gouvernement a d'ores et déjà été en mesure de transmettre au Servex onze plans et bilans d'action mis à jour.

274. Ce travail de mise à jour, qui va se poursuivre, devrait permettre au Servex de clôturer certaines affaires anciennes.

5. La Conférence appelle, en particulier, le Comité des Ministres et les Etats parties à impliquer, le cas échéant, la société civile et les institutions nationales des droits de l'homme dans la mise en œuvre du plan d'action.

275. Le Gouvernement français renvoie sur ce point aux développements qui figurent aux points B.2. j), point 3 relatif à la mise en œuvre du Plan d'action dans la présente contribution.

Annexes:

Pièce n° 1 : Contribution française sur la mise en œuvre de la Déclaration de Brighton

Pièce n° 2 : Tableau établi par la Cour EDH sur les visites d'études et stages de formation des juges, juristes et agents publics français

Pièce n° 3 : Compte rendu de la table ronde du 23 mai 2015 organisée par l'Assemblée nationale

GERMANY / ALLEMAGNE

B. Implementation of the Convention at national level

The Conference recalls the primary responsibility of the States Parties to ensure the application and effective implementation of the Convention and, in this regard, reaffirms that the national authorities and, in particular, the courts are the first guardians of human rights ensuring the full, effective and direct application of the Convention - in the light of the Court's case law - in their national legal system, in accordance with the principle of subsidiarity.

The Conference calls upon the States Parties to:

B. 1. a) Prior to and independently of the processing of cases by the Court: ensure that potential applicants have access to information on the Convention and the Court, particularly about the scope and limits of the Convention's protection, the jurisdiction of the Court and the admissibility criteria

1. The website of the Federal Ministry of Justice provides links to the Court's German website as well as to HUDOC. These websites are well known in Germany and several other links can be found on sites used for legal research. German translations of the Court's case law are published in legal journals and on several websites. Together with Austria, Liechtenstein and Switzerland, Germany provides for a German translation of the Court's admissibility guide, which is available on the Court's website.

2. Furthermore, a German translation of all judgments in cases against Germany is published on the website of the Federal Ministry of Justice and Consumer Protection in the Ministry's case-law database (www.bmjbv.de/egmr). In addition to this, these translations are sent to several important publishing houses that bring out legal periodicals.

B. 1. b) Prior to and independently of the processing of cases by the Court: increase efforts at national level to raise awareness among members of parliament and improve the training of judges, prosecutors, lawyers and national officials on the Convention and its implementation, including as regards the execution of judgments, by ensuring that it constitutes an integrated part of their vocational and in-service training, where relevant, including by having recourse to the Human Rights Education for Legal Professionals (HELP) programme of the Council of Europe. As well as to the training programmes of the Court and to its publications

3. Germany is already heavily committed to raising awareness of the Convention and its implementation. All judgments in cases against Germany are included in an annual report drawn up at the Federal Ministry of Justice and Consumer Protection (Report on the Case Law of the European Court of Human Rights and on the Execution of its Judgments in Cases against the Federal Republic of Germany). This report is widely disseminated (e.g. to parliament, the constituent states, lawyers' associations) and published on the Federal Ministry of Justice and Consumer Protection website.

4. The Ministry annually commissions an additional academic Report on Case Law in Cases against other Member States, as far as these judgments are relevant for the German legal system. This report is disseminated and published as widely as the one mentioned above. The Committee for Human Rights and Humanitarian Aid of the German Federal Parliament (Bundestag) regularly includes both reports on its agenda for discussion with representatives of the Federal Ministry of Justice and Consumer Protection.

5. As regards Human Rights Education for Legal Professionals, fundamental freedoms and human rights are mandatory subjects in law studies under the provisions of the German Judiciary Act. Links with European law, legal methods and philosophical, historical and social foundations are mandatory focal points in the core areas of civil law, criminal law, public law and procedural law. This includes the relationship with fundamental freedoms and human rights.

6. As a supra-regional further-training institute, the German Judicial Academy is responsible for providing instruction to judges of all courts and public prosecutors of all specialities, furnishing them with up-to-date information relating to social, political and economic developments. The Federal Ministry of Justice and Consumer Protection regularly supports a seminar at the academy dealing with the ECtHR and its case law.

7. In accordance with the legislation in force, attorneys are obliged to pursue further training. It falls to the Federal Bar Association to promote this further training. The Federal Bar Association uses the "Deutsches Anwaltsinstitut" (German Attorneys' Institute) as a common training body for lawyers. The German Attorneys' Institute regularly runs a further-training course on the application of the European Convention on Human Rights.

8. Because of Germany's federal system, each of the 16 Lander has its own regulations governing the initial and further training of public servants responsible for the prison services. However, the content and objectives of the training are in essence the same.

9. Training covers various aspects of fundamental freedoms and human rights, as well as the specific features and scope of the European Convention on Human Rights. This is the case, for example, in courses dealing with subjects such as constitutional and public law, civic and social instruction and political training, as well as in theoretical studies in areas such as criminal law, legislation on the enforcement of sentences, remand in custody, social education and the psychology of sentence enforcement. During the practical part of training, and in view of the profession's sentence enforcement responsibilities, fundamental freedoms and human rights are addressed from the point of view of the treatment of detainees with due regard for their dignity.

10. In further training courses and during staff meetings, information is regularly provided on the above subjects and efforts are made to further develop staff knowledge in this area. Events and conferences dealing with practical problems such as relations with difficult detainees place particular emphasis on respect for human rights, with reference to both national legislation and international instruments such as the European Convention on Human Rights.

B. 1. c) Prior to and independently of the processing of cases by the Court: promote, in this regard, study visits and traineeships at the Court for judges, lawyers and national officials in order to increase their knowledge of the Convention system

11. Over the years, large numbers of German officials have taken part in study visits to the Court, including those attending the above-mentioned seminar at the German Judicial Academy. In addition, the Federal Ministry has started organising annual study visits for groups of judges, concentrating on specific areas of the Court's case law (e.g. family law).

B. 1. d) Prior to and independently of the processing of cases by the Court: take appropriate action to improve the verification of the compatibility of draft laws, existing laws and internal administrative practice with the Convention, in the light of the Court's case law

B. 1. e) Prior to and independently of the processing of cases by the Court: ensure the

effective implementation of the Convention at national level, take effective measures to prevent violations and to provide effective domestic remedies to address alleged violations of the Convention

d) and e) answered together:

12. As regards draft legislation in Germany, the ministry with overall responsibility for the draft concerned is first responsible for examining draft legislation to ensure conformity with the Convention - before that Ministry submits it to the other ministries for approval.

13. Ever since the Federal Republic of Germany was founded in 1949, the Federal Ministry of Justice and Consumer Protection has served as the central body within the Federal Government with responsibility both for examining whether draft laws and statutory instruments proposed by the federal ministries meet legal and formal requirements, and for advising the ministries on preparing their legislative proposals.

14. Since that time, the Federal Ministry of Justice has been meeting these obligations on a daily basis. When commenced at an early stage, the scrutiny of legislation can make a key contribution to improving the quality of legal provisions. The main task is to examine whether new provisions are consistent with the current legal system: Are they compatible with the Constitution? Do they conform to European and international law? Do they fit coherently into the existing system of legal provisions of the same rank?

15. To this end, the Joint Rules of Procedure of the Federal Ministries contain the following provision:

"Section 46:

Before a bill is submitted to the Federal Government for adoption, it must be sent to the Federal Ministry of Justice to be examined in accordance with systematic and legal scrutiny. ..."

16. Furthermore, the Rules of Procedure of the Federal Government state in section 26:

"According to these rules the Minister of Justice can protest against the adoption of a bill if it is inconsistent with the current law."

17. In the case of executive orders based on enabling legislation, there is an examination of conformity by the ministry with overall responsibility for the order as well as, in the course of the scrutiny procedure, the Federal Ministry of Justice.

18. Once the draft bill has been adopted by the Federal Cabinet, the Legal Affairs Committee of the Bundestag and the Legal Affairs Committee of the Federal Council (Bundesrat) are responsible for further examining it to ensure conformity with the Convention until the legislative process has been concluded.

19. Similar control mechanisms are in place on the level of the Länder.

20. Concerning applicable legislation or administrative practice, all courts and administrative organs in Germany are bound by the Basic Law (the German constitution) and must consider developments in European and public international law. They must especially take into account the decisions of the ECtHR, as clearly established by the Federal Constitutional Court (BVerfG). The BVerfG has explicitly stated that the Convention, as interpreted by the ECtHR, must be considered when interpreting the provisions of the Basic Law.

21. When facing a problem of compliance with ECtHR judgments which require the adoption of general measures, the Courts will still have to apply the current law, since the ECtHR cannot declare national laws invalid. However, the courts would have to interpret any legal provision as far as possible in light of the ECtHR's decision. It would also be possible to refer such issue to the Federal Constitutional Court for a ruling on the constitutionality of the relevant provision (which generally includes compatibility with the Convention) if no helpful interpretation is possible.

22. If somebody takes the view that existing laws or administrative practice violate the Convention, he or she can bring forward this argument in court proceedings. It is also possible to argue likewise in an individual complaint before the Federal Constitutional Court after having exhausted all lower-court remedies.

23. If the general measures in question involve federal legislation, the executive branch will be obliged to produce a draft of the necessary legislative measures, which will then be examined by the legislative bodies. The Bundestag usually leaves the first draft to the executive branch, but it also has the right to initiate legislation.

B. 1. f) Prior to and independently of the processing of cases by the Court: consider making voluntary contributions to the Human Rights Trust Fund and to the Court's special account to allow it to deal with the backlog of all well-founded cases, and continue to promote temporary secondments to the Registry of the Court

24. Germany is among those Member States already contributing to the Human Rights Trust Fund and to the Court's special account. Temporary secondments to the Registry of the Court are organised on a regular basis and Germany is willing to continue this practice in the future as well.

B. 1. g) Prior to and independently of the processing of cases by the Court: consider the establishment of an independent National Human Rights Institution

25. The German Institute for Human Rights is Germany's independent National Human Rights Institution in compliance with the Paris Principles of the United Nations (status A). It was established in March 2001 on the recommendation of the Bundestag.

B. 2. a) After the Court's judgments: continue to increase their efforts to submit, within the stipulated deadlines, comprehensive action plans and reports, key tools in the dialogue between the Committee of Ministers and the States Parties, which can contribute also to an enhanced dialogue with other stakeholders, such as the Court, national parliaments or National Human Rights Institutions

B. 2. b) After the Court's judgments: in compliance with the domestic legal order, put in place in a timely manner effective remedies at domestic level to address violations of the Convention found by the Court

B. 2. c) After the Court's judgments: develop and deploy sufficient resources at national level with a view to the full and effective execution of judgments, and afford appropriate means and authority to the government agents or other officials responsible for coordinating the execution of judgments

B. 2. d) After the Court's judgments: attach particular importance to ensuring full, effective and prompt follow-up to those judgments raising structural problems, which may furthermore prove relevant for other States Parties

B. 2. e) After the Court's judgments: foster the exchange of information and best practices with other States Parties, particularly for the implementation of general measures

B. 2. f) After the Court's judgments: promote accessibility to the Court's judgments, action plans and reports as well as to the Committee of Ministers' decisions and resolutions, by:
- developing their publication and dissemination to the stakeholders concerned (in particular, the executive, parliaments and courts, and also, where appropriate, National Human Rights Institutions and representatives of civil society), so as to involve them further in the judgment execution process;
- translating or summarising relevant documents, including significant judgments of the Court, as required

B. 2. g) After the Court's judgments: within this framework, maintain and develop the financial resources that have made it possible for the Council of Europe, since 2010, to translate a large number of judgments into national languages

B. 2. h) After the Court's judgments: in particular, encourage the involvement of national parliaments in the judgment execution process, where appropriate, for instance, by transmitting to them annual or thematic reports or by holding debates with the executive authorities on the implementation of certain judgments

B. 2. i) After the Court's judgments: establish "contact points", wherever appropriate, for human rights matters within the relevant executive, judicial and legislative authorities, and create networks between them through meetings, information exchanges, hearings or the transmission of annual or thematic reports or newsletters

B. 2. j) After the Court's judgments: consider, in conformity with the principle of subsidiarity, the holding of regular debates at national level on the execution of judgments involving executive and judicial authorities as well as members of parliament and associating, where appropriate, representatives of National Human Rights Institutions and civil society

2. a) - j) answered together. First, see above answers to 1.

Additionally, concerning the execution stage:

26. Responsibility for the execution process lies with the Agent's Office. The Agents must present the Action Plans and Action Reports to the Committee of Ministers, and in the process of drafting the Action Plan the necessary measures must be identified in cooperation with the responsible authorities within the German system.

27. There is no written procedure for the adoption of general measures. Once the judgment becomes final, the Agent's Office within the Federal Ministry of Justice will analyze the judgment and determine whether general measures are called for. If so, the ministry will initiate the necessary steps - depending on the nature of the measures (federal legislation, Länder legislation, practice directives, etc.).

28. If the general measures in question involve federal legislation, the executive branch will be obliged to produce a draft of the necessary legislative measures, which will then be examined by the legislative bodies. The Bundestag will usually leave the first draft to the executive branch, but it also has the right to initiate legislation. The same applies for legislation on the constituent state level.

29. As described above, the Federal Ministry of Justice is the starting point for the identification of any need for legislation, but the coordination of such measures falls to whichever ministry is responsible for the respective field of legislation.

30. The Agent's Office maintains a network of contacts at the other federal ministries, all ministries of justice in the constituent states and representatives of the highest federal courts, including the Federal Constitutional Court. Once a year, the Agent's Office invites these contacts to a meeting at the Federal Ministry of Justice and Consumer Protection. The national judge at the ECtHR and the head of the German Division of the Registry regularly take part in these meetings. They have been found to provide a highly appropriate forum for exchange. This leads to better mutual understanding as far as matters of ECtHR case law are concerned.

31. The Agent's Office actively takes part in an exchange of information and best practices with other States Parties. This exchange takes place via e-mail within the network of Government Agents, but also during the meetings of the different Working Groups of the CDDH.

IRELAND / IRLANDE

32. Ireland fully supported the Declaration and Action Plan adopted in Brussels on 27 March 2015 and endorsed by the Committee of Ministers at its meeting in May 2015. Ireland has sought to ensure that it meets the requirements agreed by States and has set out below its position in relation to that part of the Declaration dealing with the implementation of the Convention at national level. Ireland looks forward to the analysis of the national reports on the implementation of the Brussels Declaration which is under preparation and continues to reflect on how best to ensure the implementation of the Convention at national level.

B. Implementation of the Convention at national level

B. 1. a) Prior to and independently of the processing of cases by the Court: ensure that potential applicants have access to information on the Convention and the Court, particularly about the scope and limits of the Convention's protection, the jurisdiction of the Court and the admissibility criteria

33. An information seminar for applicants' lawyers took place in November 2011 and the need for further training is kept under review.

34. General information for potential applicants regarding the European Convention on Human Rights and the Court is available on the website of the Department of Foreign Affairs and Trade. In particular the website provides a link to the relevant page of the website of the European Court of Human Rights on how to make a valid application to the European Court of Human Rights.

35. The Irish Human Rights and Equality Commission (IHREC), Ireland's national human rights institution (NHRI), plays a key role in ensuring that potential applicants have access to information on the Convention. In performance of its statutory function to provide information to the public about human rights and equality, IHREC provides information and guidance on the protections available under the Convention as part of the range of protections available under international human rights law. Furthermore, IHREC is empowered to give practical help, including legal assistance to help people to defend their rights and to act as *amicus curiae* in proceedings that involve or are concerned with the human rights or equality rights of any person. IHREC also makes a significant contribution to the pre-legislative scrutiny process described in 12.

B. 1. b) Prior to and independently of the processing of cases by the Court: increase efforts at national level to raise awareness among members of parliament and improve the training of judges, prosecutors, lawyers and national officials on the Convention and its implementation, including as regards the execution of judgments, by ensuring that it constitutes an integrated part of their vocational and in-service training, where relevant, including by having recourse to the Human Rights Education for Legal Professionals (HELP) programme of the Council of Europe. As well as to the training programmes of the Court and to its publications

36. Adverse judgments of the Court are laid before the national parliament. Certain of those judgments have led to extensive parliamentary debate regarding the legislation proposed to implement those judgments. Ireland will continue to reflect on how to ensure involvement of national parliaments in the implementation of judgments.

37. Following the adoption in 2013 by the Committee of Ministers of the toolkit to inform public officials about the State's obligations under the European Convention on Human Rights, details of the website with the toolkit was distributed across Government Departments.

38. In 2015 the first meeting of the Inter-Departmental Committee on Human Rights⁶² took place and it continues to meet on a regular basis. As part of that process, colleagues from other Departments are updated on cases involving Ireland pending before the Court and the state of play of implementation of judgments against the State.

B. 1. c) Prior to and independently of the processing of cases by the Court: promote, in this regard, study visits and traineeships at the Court for judges, lawyers and national officials in order to increase their knowledge of the Convention system

39. In December 2016, a study visit of Irish judges to the European Court of Human Rights took place. This visit was organised directly between the Supreme Court and the European Court of Human Rights. Judges from all jurisdictions within the Irish legal system were represented, that is: Supreme Court, Court of Appeal, High Court, Circuit Court and District Court.

B. 1. d) Prior to and independently of the processing of cases by the Court: take appropriate action to improve the verification of the compatibility of draft laws, existing laws and internal administrative practice with the Convention, in the light of the Court's case law

Government Departments

40. The implications of legislative proposals for human rights and the rights protected under the European Convention of Human Rights, are taken into account at an early stage by Government Departments when developing policy and proposals. Legal divisions and units within Government Departments (which include lawyers seconded by the Attorney General's Office and trained in ECHR law) provide advice to Government Departments in this regard.

41. In the course of preparing draft legislation Government Departments will sometimes use the mechanism of a Regulatory Impact Assessment which (depending on the context of the legislation) may include a human rights focus. A Regulatory Impact

⁶² To improve the coherence of the promotion and protection of human rights in Irish foreign policy, an Inter-Departmental Committee on Human Rights was established in 2015 and is chaired by a Minister of State (see Page 36, The Global Island: Ireland's Foreign Policy for a Changing World (2015)).

Assessment is a tool used when a new regulation or regulatory change is being considered to address particular policy issues, in order to explore alternative options to the use of regulation. The Regulatory Impact Assessment identifies the objectives to be achieved and examines the possible impacts of the various options available. In relation to the latter, the relevant Government Department assesses whether the proposals impinge disproportionately on the rights of citizens. Where significant human rights impacts are identified, a high level of analysis of the proposed regulation is required. In examining such impacts, consideration is given to the European Convention on Human Rights.

Attorney General's Office

42. When the Attorney General and his Office are advising on proposals for draft legislation or responding to formal memoranda for Government in relation to such proposals, the State's obligations under the European Convention on Human Rights, as incorporated into Irish law at a sub-constitution level by the European Convention of Human Rights Act 2003 (see paragraphs 12-15, below, for more detail on the 2003 Act), are taken into account. The Office also advises on the human rights and ECHR aspects of public law litigation against the State and those advices and the judgments of the courts on compatibility with the ECHR are taken into account when advising on legislation.

The Houses of the Oireachtas (the National Parliament)

43. Furthermore, the Houses of the Oireachtas (the National Parliament) establish Parliamentary Committees to discuss laws and draft laws which will include a human rights perspective. In the past public hearings have been held by such committees with a focus on the human rights compliance of proposed legislation. Further, the Oireachtas maintains a research capacity to inform Oireachtas members of human rights developments in the process of pre-legislative scrutiny.

44. Pre-legislative scrutiny is where Parliament, through its committees, scrutinises General Schemes of draft legislation. Ministers are required to forward the General Scheme of a Bill to the relevant Committee for scrutiny. In the exceptional circumstance where a Minister does not do so, he/she must explain to the House (of Parliament) why this was not done. The Committees are empowered (but not obliged) to consider the General Scheme. Pre-legislative scrutiny allows extensive engagement of the public in law-making as it enables parliamentary committees to consult civil society and advocacy groups, stakeholders and experts. This process takes place regularly. For instance, of the approximately 45 General Schemes published between March 2011 and October 2014, there were 36 cases of pre-legislative scrutiny by the Joint Committees of the Houses of the Oireachtas.

B. 1. e) Prior to and independently of the processing of cases by the Court: ensure the effective implementation of the Convention at national level, take effective measures to prevent violations and to provide effective domestic remedies to address alleged violations of the Convention

45. The European Convention on Human Rights Act 2003 ("the Act"), which entered into effect on 31 December 2003, obliges organs of the State, subject to any statutory provision or rule of law, to perform their functions in a manner compatible with the State's obligations under the Convention provisions. Organs of the State are defined in the Act to include a tribunal or any other body (other than the President or the Oireachtas⁶³ or either House of

⁶³ Article 15 of the Irish Constitution defines the Oireachtas as the National Parliament. The Oireachtas consists of the President and two houses: a house of representatives called Dáil Éireann and a Senate to be called Seanad Éireann.

the Oireachtas or a Committee of either such House or a Joint Committee of both such Houses or a court) which is established by law or through which any of the legislative, executive or judicial powers of the State are exercised.⁶⁴

46. When interpreting and applying any statutory provision or rule of law, the European Convention on Human Rights Act 2003 obliges courts, in so far as is possible, subject to the rules of law relating to such interpretation and application, do so in a manner compatible with the State's obligations under the Convention provisions.

47. There are no impediments to an applicant in drawing to the attention of a national court or tribunal the relevant provisions of the European Convention on Human Rights and the jurisprudence of the European Court of Human Rights.

48. The 2003 Act was amended in 2014 to create an enforceable right to compensation for a person whose detention is found to be in breach of Article 5 of the European Convention on Human Rights (the Convention) and where the detention is a result of judicial error.⁶⁵

B. 2. a) After the Court's judgments: continue to increase their efforts to submit, within the stipulated deadlines, comprehensive action plans and reports, key tools in the dialogue between the Committee of Ministers and the States Parties, which can contribute also to an enhanced dialogue with other stakeholders, such as the Court, national parliaments or National Human Rights Institutions

49. Action Plans and Action Reports are submitted to the Committee of Ministers within the stipulated deadlines.

B. 2. b) After the Court's judgments: in compliance with the domestic legal order, put in place in a timely manner effective remedies at domestic level to address violations of the Convention found by the Court

50. Judgments of the Court and an assessment of the steps required to implement them are done on a case by case basis. Ireland is committed to ensuring that judgments are implemented in a timely manner and that remedies are put in place to address the violations found by the Court.

B. 2. c) After the Court's judgments: develop and deploy sufficient resources at national level with a view to the full and effective execution of judgments, and afford appropriate means and authority to the government agents or other officials responsible for coordinating the execution of judgments

51. In its role as Agent for the Government before the European Court of Human Rights, the Department of Foreign Affairs and Trade liaises as necessary with the lead Departments as regards the implementation of judgments.

52. Following a finding of a violation by the Court the Government Agent will contact colleagues in the lead Department to explain the steps involved in the implementation of a

⁶⁴ See sections 1 and 3(1) of the European Convention on Human Rights Act 2003 as amended.

⁶⁵ See section 54 of the Irish Human Rights and Equality Commission Act 2014. This amendment was in response to a judgment of the European Court of Human Rights in *DG v Ireland*, application no. 39474/98, 16 May 2002. The Irish Human Rights and Equality Commission Act also amended the 2003 Act to reflect the coming in to force of Protocols No 13 and 14 since the enactment of the European Convention on Human Rights Act 2003 and ensure that the most up to date version of the European Convention on Human Rights and all additional protocols to which the State is a party are scheduled to the Act.

judgment e.g. the requirement of individual and general measures and the need to prepare an Action Plan to inform the Committee of Ministers of the steps being taken to implement a judgment. Substantive proposals for the implementation of a judgment are, in the first instance, a matter for the lead Department. Action Plans are first prepared by the lead Government Department with assistance and input from the Government Agent who will also ensure that Action Plans are submitted in a timely manner and that a date for the submission of the next Action Plan is agreed and communicated to the Committee of Ministers.

B. 2. d) After the Court's judgments: attach particular importance to ensuring full, effective and prompt follow-up to those judgments raising structural problems, which may furthermore prove relevant for other States Parties

53. As stated previously, Ireland is committed to ensuring that judgments are implemented in a timely manner and that remedies are put in place to address all violations found by the Court including those raising structural problems.

B. 2. e) After the Court's judgments: foster the exchange of information and best practices with other States Parties, particularly for the implementation of general measures

54. On a regular basis Government Agents exchange information on issues regarding the implementation of the Convention, including the implementation of judgments. These exchanges of information are done via e-mail and at specially convened Agents' meetings. Ireland engages in such exchanges and participates in the specially convened Agents' meetings to exchange information and best practices including for the implementation of general measures.

B. 2. f) After the Court's judgments: promote accessibility to the Court's judgments, action plans and reports as well as to the Committee of Ministers' decisions and resolutions, by:
- developing their publication and dissemination to the stakeholders concerned (in particular, the executive, parliaments and courts, and also, where appropriate, National Human Rights Institutions and representatives of civil society), so as to involve them further in the judgment execution process;
- translating or summarising relevant documents, including significant judgments of the Court, as required

55. Judgments of the Court against Ireland are published on the website of the Department of Foreign Affairs and Trade and on the website of the lead Department. As has been noted, all adverse judgments are laid before the national parliament. In relation to Action Plans, recent practice has included the publication of the Action Plan on the website of lead Department.⁶⁶

B. 2. g) After the Court's judgments: within this framework, maintain and develop the financial resources that have made it possible for the Council of Europe, since 2010, to translate a large number of judgments into national languages

56. No specific financial contributions have been made to support translation of judgments into national languages. However, in addition to the annual budget contribution to the Council of Europe, Ireland has funded the webcasting of hearings before the European Court of Human Rights since 2007. Further, in 2017, Ireland made contributions to a new info-graphics tool which has as its aim boosting support for the European Court of Human Rights by highlighting the positive impact of the European Court of Human Rights.

⁶⁶ For example, see: <https://www.education.ie/en/Learners/Information/Former-Residents-of-Industrial-Schools/ECHR-OKeeffe-v-Ireland/>

B. 2. h) After the Court's judgments: in particular, encourage the involvement of national parliaments in the judgment execution process, where appropriate, for instance, by transmitting to them annual or thematic reports or by holding debates with the executive authorities on the implementation of certain judgments

57. See the response at paragraph number three, above. In addition, through the system of parliamentary questions, parliamentarians are free to ask questions regarding the status of implementation of a judgment at any time. Such questions are for the lead Minister for a particular judgment to answer.

B. 2. i) After the Court's judgments: establish "contact points", wherever appropriate, for human rights matters within the relevant executive, judicial and legislative authorities, and create networks between them through meetings, information exchanges, hearings or the transmission of annual or thematic reports or newsletters

58. The Inter-Departmental Committee on Human Rights (see generally the response at paragraph number six, above) provides an opportunity for broader discussion among Government Departments on human rights issues.

B. 2. j) After the Court's judgments: consider, in conformity with the principle of subsidiarity, the holding of regular debates at national level on the execution of judgments involving executive and judicial authorities as well as members of parliament and associating, where appropriate, representatives of National Human Rights Institutions and civil society

59. To date, it has not proved necessary to hold debates at a national level on the execution of judgments. As stated at paragraph number three, above, in the past, certain of the judgments against Ireland have led to extensive parliamentary debates regarding the legislation proposed to implement the judgments.

LIECHTENSTEIN

1. Referring to the letter of the then Chair of the Minister's Deputies, Ambassador Katrin Kivi, of 2 August 2016 (SecCM/OUT(2016)90L) I am pleased to share with you the following information regarding the measures required under Chapter B of the Brussels Declaration:

2. The promotion and protection and protection of human rights, democracy and the rule of law are the core values of the Council of Europe and leitmotifs of Liechtenstein's foreign policy. Liechtenstein is therefore particularly committed to contributing to the promotion of these values in all member States of the Council and attaches greatest importance to the implementation of the European Convention on Human Rights (ECHR) at national level.

B. 1. a) Prior to and independently of the processing of cases by the Court: ensure that potential applicants have access to information on the Convention and the Court, particularly about the scope and limits of the Convention's protection, the jurisdiction of the Court and the admissibility criteria

3. Liechtenstein attaches great importance to the widest possible distribution of the admissibility criteria and therefore finances the German translation of the Practical guide on admissibility criteria and its revisions.

4. The ECHR and the Rules of the Court are published in the Legal Gazette in a German translation. Decisions of the Court regarding Liechtenstein are translated into German and published. Links to the homepage of the European Court of Human Rights (ECtHR) are included.

B. 1. b) Prior to and independently of the processing of cases by the Court: increase efforts at national level to raise awareness among members of parliament and improve the training of judges, prosecutors, lawyers and national officials on the Convention and its implementation, including as regards the execution of judgments, by ensuring that it constitutes an integrated part of their vocational and in-service training, where relevant, including by having recourse to the Human Rights Education for Legal Professionals (HELP) programme of the Council of Europe. As well as to the training programmes of the Court and to its publications

5. Through various concrete measures, Liechtenstein is increasing awareness of the national authorities of the ECHR standards and their application. All judgments pronounced against Liechtenstein are translated into the official language and included in the official Liechtenstein collection of court decisions. Even before the translations, judgements are immediately brought to the attention of the Presidents of the Courts for further dissemination among the judges. Also of note are the talks held in Liechtenstein by the judge in respect of Liechtenstein at the ECtHR, which have taken place regularly over the past years. Finally, the visits by Liechtenstein courts and members of parliament to Strasbourg are of note.

B. 1. c) Prior to and independently of the processing of cases by the Court: promote, in this regard, study visits and traineeships at the Court for judges, lawyers and national officials in order to increase their knowledge of the Convention system

6. See above

B. 1. d) Prior to and independently of the processing of cases by the Court: take appropriate action to improve the verification of the compatibility of draft laws, existing laws and internal administrative practice with the Convention, in the light of the Court's case law

7. In Liechtenstein, every report of the Government to the Parliament regarding new draft legislation contains a section devoted to the compatibility with the Constitution, national law and with international obligations. Particular attention is therefore also paid to the compatibility with the ECHR.

8. The Liechtenstein authorities, specifically the Permanent Representation to the Council of Europe in Strasbourg, the Office for Foreign Affairs and the Office of Justice, observe the development of the ECtHR's case-law. This happens in particular also with a view to the impact of judgments against other States and their potential impact on Liechtenstein or the Liechtenstein legal system. The competence and obligation in this regard arise from the general requirement on the courts and the authorities (articles 92(4) and 95(2) of the Liechtenstein Constitution) to observe the law (including treaty law).

9. The Liechtenstein courts and authorities have sufficient resources at their disposal to obtain the materials necessary to apply the ECHR. For instance, they may draw on current commentaries on the ECHR in their work. Furthermore, they may access the daily case-law of the ECtHR in the HUDOC database on the internet. A sample survey has shown that the Constitutional Court for instance, which is the national complaints body for violations of the ECHR, makes extensive use of these

possibilities (see, e.g., judgment StGH 2010/057 of 20 December 2010, available at www.gerichtsentseide.li). It may therefore be assumed that the case-law of the ECtHR is directly incorporated and considered in Liechtenstein case-law.

B. 1. e) Prior to and independently of the processing of cases by the Court: ensure the effective implementation of the Convention at national level, take effective measures to prevent violations and to provide effective domestic remedies to address alleged violations of the Convention

10. Office. They are bound only by law (article 95{2} of the Liechtenstein Constitution, article 2{2} of the Judicial Service Act and article 3{1} of the National Public Administration Act). They swear an oath to this effect. Likewise, public authorities are bound by law (including treaty law) (article 92{4} of the Liechtenstein Constitution). The ECHR is part of Liechtenstein law and, due to Liechtenstein's monist legal system, directly applicable. Consequently, authorities and courts are required to observe the principles under the ECHR and act accordingly.

11. The Liechtenstein Constitutional Court is the court of last instance for violations of the ECHR. The Constitutional Court decides on complaints to the extent the complainant claims to have been violated in his rights by a final decision or decree of a public authority, if such rights are guaranteed under the Constitution or an international treaty for which the legislative power has expressly recognised a right of individual complaint (article 15{1} of the Constitutional Court Act). The international treaties for which a right of individual complaint has been expressly recognised include the ECHR (article 15{2} of the Constitutional Court Act).

12. Accordingly, the Constitutional Court may- taking account of ECtHR case-law- serve as national court for autonomous and full consideration of any violations of the rights guaranteed under the ECHR. Where it finds a violation, it may void the final decision or decree of the public authority and remand the case to the court or authority from which the decision or decree was appealed. Where necessary, the Constitutional Court may issue a temporary injunction to secure the interests of the complainant for the duration of its own proceedings.

B. 1. f) Prior to and independently of the processing of cases by the Court: consider making voluntary contributions to the Human Rights Trust Fund and to the Court's special account to allow it to deal with the backlog of all well-founded cases, and continue to promote temporary secondments to the Registry of the Court

13. Liechtenstein regularly makes voluntary contribution to the human rights programmes of the Council of Europe. In 2014 and 2015 Liechtenstein contributed 210'000 Swiss francs in total.

14. Additionally, in 2012 and in 2013, Liechtenstein contributed 55'000 Swiss francs to the special account for the ECtHR, which was created as part of the follow-up to the High Level Conference in Brighton to deal with the ECtHR's backlog of cases.

B. 1. g) Prior to and independently of the processing of cases by the Court: consider the establishment of an independent National Human Rights Institution

15. The Liechtenstein Parliament (Landtag) decided on 4 November 2016 to establish an Independent National Human Rights Institution (NHRI) in Liechtenstein according to the Paris Principles and adopted the relevant Law on the Association for Human Rights in Liechtenstein. The law will enter into force on 1 January 2017. The Association

will have a broad mandate to protect and further human rights in Liechtenstein. It will be assigned to give advice to the authorities and the general public on human rights issues. And it will counsel and assist persons that seek support due to discrimination or other violations of their rights and it will report on the national situation with regard to human rights. In the public consultation process regarding the draft law on the NHRI the planned institution had been welcomed by the different stakeholders. With the new institution Liechtenstein also implements recommendations by various human rights bodies and mechanisms. The Government expects that the new institution will bring an added value for the people in Liechtenstein and that it will further strengthen human rights in Liechtenstein.

B. 2. a) After the Court's judgments: continue to increase their efforts to submit, within the stipulated deadlines, comprehensive action plans and reports, key tools in the dialogue between the Committee of Ministers and the States Parties, which can contribute also to an enhanced dialogue with other stakeholders, such as the Court, national parliaments or National Human Rights Institutions

16. The Liechtenstein Government attaches great importance to timely submit comprehensive action plans and report. These tools are indeed crucial for the dialogue between the Committee of Minister and the States Parties.

B. 2. b) After the Court's judgments: in compliance with the domestic legal order, put in place in a timely manner effective remedies at domestic level to address violations of the Convention found by the Court

B. 2. c) After the Court's judgments: develop and deploy sufficient resources at national level with a view to the full and effective execution of judgments, and afford appropriate means and authority to the government agents or other officials responsible for coordinating the execution of judgments

17. The Liechtenstein Government attaches the highest priority to rapid and effective implementation of the ECtHR's judgments. This goal has been successfully implemented in practice so far in Liechtenstein. To ensure full execution of the ECtHR's judgments, the existing procedure at the national level has been reviewed and checked for weaknesses. The current procedure is as follows:

- Competence for the consideration of complaints before the ECtHR, including execution of the resulting judgments, is determined in Liechtenstein by the distribution of Government business, called the "portfolio schedule". Liechtenstein has a system of collegial Government. Alongside the collegial Government, the Ministers act autonomously within their respective ministries (or portfolios) to the extent business has been assigned to them for independent execution.
- The collegial Government takes note of incoming complaints by way of a decision and forwards them to the competent ministry for treatment. As a rule, this delegation of treatment also includes measures for execution of ECtHR judgments. Execution may be carried out directly by the competent ministry, if no further measures are necessary that require consultation of a different ministry. The competent ministry considers whether the judgment requires execution, and if so, it presents the necessary steps to the collegial Government for decision, including any Government offices whose involvement may be required.

18. Synergies regularly arise thanks to the distribution of competences within the Government. For instance, the Ministry of Justice – which is responsible for procedural rights – is in continuous contact with the national courts. Questions concerning remedy of a violation of procedural rights under the ECHR may therefore be clarified quickly and unbureaucratically in consultation with familiar and permanent contact persons at the national courts. The competent ministry has various paths at its disposal in this connection. For instance, it may apply for a decision by the collegial Government requiring other public authorities to carry out specific actions. If legislative amendments are necessary, the competent ministry may initiate these amendments itself to apply to the Government for consideration by a different authority.

B. 2. d) After the Court's judgments: attach particular importance to ensuring full, effective and prompt follow-up to those judgments raising structural problems, which may furthermore prove relevant for other States Parties

19. As of now, there have been nine ECtHR judgments against Liechtenstein. One judgment did not find any violations of the ECHR. In six of the eight judgements which found a least one violation, execution of the judgment merely required payment of just satisfaction, reimbursement of costs and publication of the judgment.

20. In one case (Wille v. Liechtenstein, judgment of 28 October 1999L it turned out that Liechtenstein law did not provide an effective legal remedy against sovereign individual acts of any public authority which were claimed by individual citizens to have violated their rights guaranteed under the ECHR. This gap was closed by a total revision of the Constitutional Court Act.

21. In a further case (Frommelt v. Liechtenstein, judgment of 24 September 2004L it turned out that a legal provision and the application thereof were not in conformity with the ECHR, hence measures were necessary in addition to just satisfaction, costs and publication of the judgment. The problem (the law did not provide that a prisoner on remand had to be heard during the remand proceeding) was remedied in two stages. First, the courts concerned agreed to change their practice in applying the legal provision, which ensured that prisoners on remand would always be heard in future. In a further step, this practice was enshrined in a revision of the Code of Criminal Procedure. Cooperation with the Directorate General of Human Rights and the Committee of Ministers was smooth. For the final resolution, it was sufficient for the relevant courts to agree to a change in practice so that the judgment was declared executed and supervision discontinued.

22. Practice shows that execution of ECtHR judgments and the corresponding prevention of similar violations of the ECHR function well in Liechtenstein. Further specific measures of a general nature have therefore not been taken. The situation will however be reviewed within the context of any future judgments, and any necessary steps will then be taken.

B. 2. e) After the Court's judgments: foster the exchange of information and best practices with other States Parties, particularly for the implementation of general measures

24. An informal exchange of information and best practices with other States Parties takes place on a case by case basis. The network of experts sitting in the Steering Committee for Human Rights (CDDH) is very helpful that regard.

B. 2. f) After the Court's judgments: promote accessibility to the Court's judgments, action plans and reports as well as to the Committee of Ministers' decisions and resolutions, by:

- *developing their publication and dissemination to the stakeholders concerned (in particular, the executive, parliaments and courts, and also, where appropriate, National Human Rights Institutions and representatives of civil society), so as to involve them further in the judgment execution process;*

- *translating or summarising relevant documents, including significant judgments of the Court, as required*

25. All judgments pronounced against Liechtenstein are translated into the official language (German) and included in the official Liechtenstein collection of court decisions (Liechtensteinische Entscheidsammlung, LES), which is published as part of the Liechtenstein journal for legal professionals (Liechtensteinische Juristenzeitung, UZ). The UZ is standard reading for all legal professionals in Liechtenstein (judges, prosecutors, lawyers, corporate law departments, etc.), who subscribe to this publication on a permanent basis. The UZ is also available for anyone to read free of charge at the Liechtenstein National Library.

26. If a judgment concerns a specific court or a specific authority, the judgment is as a rule also communicated directly to that court or authority.

B. 2. g) After the Court's judgments: within this framework, maintain and develop the financial resources that have made it possible for the Council of Europe, since 2010, to translate a large number of judgments into national languages

27. Liechtenstein has supported translation of ECtHR judgments into German and has in particular contributed financially to the compilation of a German-language collection of ECtHR case-law by N. P. Engel publishers. These translated judgments can be accessed directly on the internet free of charge (<http://www.eugrz.info/html/egmr.html>).

B. 2. h) After the Court's judgments: in particular, encourage the involvement of national parliaments in the judgment execution process, where appropriate, for instance, by transmitting to them annual or thematic reports or by holding debates with the executive authorities on the implementation of certain judgments

B. 2. i) After the Court's judgments: establish "contact points", wherever appropriate, for human rights matters within the relevant executive, judicial and legislative authorities, and create networks between them through meetings, information exchanges, hearings or the transmission of annual or thematic reports or newsletters

B. 2. j) After the Court's judgments: consider, in conformity with the principle of subsidiarity, the holding of regular debates at national level on the execution of judgments involving executive and judicial authorities as well as members of parliament and associating, where appropriate, representatives of National Human Rights Institutions and civil society

LITHUANIA / LITUANIE

Preparation and structure of the Report

1. The implementation process of the Brussels Declaration was coordinated and the report on the implementation of the Brussels Declaration was prepared by the Ministry of Justice in co-operation with the Agent of the Government before the European Court of Human Rights (hereinafter referred to as "the Government Agent"). The Brussels Declaration has been translated into the Lithuanian language and published on the website of the Government Agent. The draft report has been discussed and received approval at the meeting of the Government on 21 December 2016. The comments of institutions implementing and enforcing human rights on relevant issues, including the representatives of judiciary, have been considered during the preparation of the report. The information below details the implementation of the measures provided for the States in the Brussels Declaration.

B. 1. a) Prior to and independently of the processing of cases by the Court: ensure that potential applicants have access to information on the Convention and the Court, particularly about the scope and limits of the Convention's protection, the jurisdiction of the Court and the admissibility criteria

2. The earlier practice is continued: the information relevant to potential applicants (consolidated text of the Convention, Practical Guide on Admissibility Criteria in Lithuanian, etc.) is available on the website of the Government Agent <http://lr-atstovas-eztt.lt/>. Moreover, the new search engine of the judgments and decisions of the Court in cases against Lithuania on the website of the Government Agent has been introduced in August 2015. Besides, the judgments and decisions of the Court in cases against Lithuania are also published in the largest private legal search engine in Lithuania "Infolex"⁶⁷.

3. In order to raise awareness as regards the Convention and the case-law of the Court all most significant judgments and decisions of the Convention are translated into Lithuanian in a centralised manner at the Office of the Government from 1 January 2016⁶⁸.

4. Moreover, in accordance with the action plan for the years 2015-2016 approved by the Minister of Justice and the Minister of Education and Science various project of legal education of the society are intensively carried out, including dissemination of information with regard to the Convention and the jurisprudence of the Court. For instance, the Ministry of Justice publishes special publications for interested persons which contain information about the possibilities to protect the rights by addressing the Court. The publications are disseminated in the locations convenient for the target groups: the premises of the Ministry of Justice, the Offices of the State Legal Aid, the premises of the national courts. Moreover, in 2014 and 2015 the Ministry of Justice organised the trainings on the basics of law in the Lithuanian secondary schools "I know my rights" (*As iinau savo teises*). The trainings were aimed at familiarisation of the younger generation with the fundamental human rights and freedoms as well as the legal system of Lithuania.

⁶⁷ At: <http://www.infolex.lt/tp/>

⁶⁸ In accordance with Point I.I. of the Order of the Government of 2 December 2015 No. 1254 "On the Amendment of the Order of the Government of the Republic of Lithuania No. 159 of 13 February 1999 "On the Order of the Translation and Verification of the Orders and Resolutions of the Government, Ordinances of the Prime Minister, International Agreements and Their Projects as well as Corrections of the Legal Acts of the European Union in Lithuanian Language" („*Del Lietuvos Respublikos Vyriausybės 1999 m. vasario 13 d. nutarimo Nr. 159 „Del Lietuvos Respublikos vyriausybės nutarimų, vyriausybės sprendimų ir Vyriausybės re::oliucijų, Ministro Pirmininko potvarkių, tarptautinių sutarčių, į/ projektų vertimo ir vertimo autentiškumo tvirtinimo, taip pat klaidų istaistymo Europos Sąjungos teisės aktuose lietuvių kalba tvarkos " pakeitimo "*).

The trainings included such topics as non-discrimination, protection of human rights and relevant remedies. Besides, in 2015 the Ministry of Justice implemented the project on free legal consultations. During this project the practising lawyers were visiting 15 Lithuanian cities and towns and providing information as regards possibilities to address the Court as well as other means to protect human rights.

B. 1. b) Prior to and independently of the processing of cases by the Court: increase efforts at national level to raise awareness among members of parliament and improve the training of judges, prosecutors, lawyers and national officials on the Convention and its implementation, including as regards the execution of judgments, by ensuring that it constitutes an integrated part of their vocational and in-service training, where relevant, including by having recourse to the Human Rights Education for Legal Professionals (HELP) programme of the Council of Europe. As well as to the training programmes of the Court and to its publications

and

B. 1. c) Prior to and independently of the processing of cases by the Court: promote, in this regard, study visits and traineeships at the Court for judges, lawyers and national officials in order to increase their knowledge of the Convention system

5. The earlier practice is continued: the topics related to the Convention are included into the training programmes of judges, prosecutors, lawyers and national officials. The possibility to participate in relevant trainings in foreign states is ensured. Moreover, the general and specifically oriented conferences and seminars on complex issues related to application and implementation of the Convention are constantly organised. The international conference "Implementation of the European Convention on Human Rights – Interplay between Subsidiarity and Supervision by the Strasbourg Court" was held on 2 September 2016 during which the judges of the Court also gave their contributions and participated in the discussion may be highlighted among other recent events.

6. The Lithuanian judges constantly improve their qualification by participating in trainings which are held in Lithuania and abroad. During the 2015-2016 the Lithuanian judges participated in trainings which included such topics as the right to a fair trial, the right to life, the prohibition of torture, the right to respect for private and family life, freedom of expression and other relevant issues with regard to application of the Convention. Importantly, the structure of the trainings of the Lithuanian judges is determined by the training programmes which are approved in advance and which include relevant issues on the protection of human rights including relevant cases of the Court against Lithuania. The training programmes such as "Ensuring Human Rights" (*Zmogaus teisitt uitikrinimas*) (in total 107 judges participated), "Equal Opportunities" (*Lygios galimybes*) (in total 44 judges participated) have been accomplished in 2016. The training programmes aimed at the judges who start their office with regard to the application of the Convention related problems are organised on permanent basis, e. g. an introductory programme for the district judges who are appointed for the first time. In addition, the national judges constantly improve their qualification by participating in trainings abroad. In 2015 the delegation of national judges visited the Court.

7. The Lithuanian Bar Association constantly organises trainings for the advocates. During the past two years the Lithuanian Bar Association by having recourse to the European Programme for Human Rights Education for Legal Professionals (HELP) organised the remote training on admissibility criteria "Improving Skills of Advocates to Apply Admissibility Criteria in Applications Submitted to the European Court of Human

Rights" (*Advokatlf gebejimZf: stiprinimas taikyti priimtinumo kriterijus, teikiant pareiskimus Europos Zmogaus TeisiZf: Teismui*). Moreover, by having recourse to the European Programme for Human Rights Education for Legal Professionals (HELP) the remote training "Data Protection and Privacy Related Rights" (*DuomenZf: apsauga irprivatumo teises*) was instituted in the end of 2016. Besides, the Ministry of Justice recently organised trainings aimed at lawyers who provide State guaranteed legal aid, including the advocates who provide such services.

B. 1. d) Prior to and independently of the processing of cases by the Court: take appropriate action to improve the verification of the compatibility of draft laws , existing laws and internal administrative practice with the Convention, in the light of the Court's case law

8. It is provided for in Article 9 § 4 of the Law on the Fundamentals of Law-Making (*Lietuvos Respublikos teisekuros pagrindZf: jstatymas*) which came into force in 2014 that assessment shall be made of the compliance of all legal acts with the Convention , including the case-law of the Court. This Law supplements the requirement previously provided for in Article 135 § 3(10) of the Statute of the Seimas (*Lietuvos Respublikos Seimo statutas*) to assess compliance with the Convention when drafting laws. Ensuring the compliance with the Convention and the case-law of the Court of the draft national legal acts and effective legal acts is one of the functions of the European Law Department under the Ministry of Justice of the Republic of Lithuania (Point 8.2 of the Regulation on the European Law Department).

9. Moreover, during the law-making process when the draft law is being submitted to the Seimas, the explanatory note which includes indication whether the draft law complies with the Convention is submitted together with the draft law.

B. 1. e) Prior to and independently of the processing of cases by the Court: ensure the effective implementation of the Convention at national level, take effective measures to prevent violations and to provide effective domestic remedies to address alleged violations of the Convention

10. In order to prevent violations of the rights and freedoms embedded in the Convention, following the interpretation of the Convention provided by the Court, the national authorities adopted measures both at the law-making level and in terms of application of law.

11. The willingness of Lithuania to enhance further the implementation of the Convention at the national level is shown by the fact that both Protocols to the Convention (No. 15 and No. 16) were ratified on 2 September 2015.

12. Next, from the law-making perspective it should be noted the new Code of Administrative Offences which will replace the old one will come into force on 1 January 2017. The provisions of the new code were adopted taking into account the standards set out in the Convention. The new code provides amendments on the provisions of the maximum size of administrative fine to be ordered to pay by natural persons; revocation of the administrative penalty consisting of administrative arrest which is available under the current code. The new code includes an additional imperative rule that in cases when the new circumstances arise in a case or new evidences are considered in a case, the case should be examined in oral proceedings if an appeal is submitted. Moreover, a person who is held liable for administrative offence, a victim or an institution (from which coming officer investigated the administrative offence) will have the right to request that a case is examined in oral proceedings.

13. In June 2016 the Seimas adopted the amendments of the Law on Administrative Proceedings and the Law on the Commissions of Administrative Disputes which are related to the amendments of the territorial jurisdiction, application of the written procedure while considering cases in a court, the composition of a court while considering certain cases, certain additional procedural tools. The amendments would enhance more speedy judicial deliberation and would better ensure uniform case-law of administrative courts.

14. Moreover, the amendments of the Code of Civil Procedure will come into force on 1 July 2017. The part of amendments is related to optimisation of judicial proceedings in civil cases by removing functions which are not typical for courts and specifying provisions as regards the right of a prosecutor, State or municipal institutions or other persons to submit a claim to protect public interest. The amendments would allow to speed up judicial proceedings and would ensure public authorities with more precisely defined possibilities to protect inter alia the rights of other persons entrenched in the Convention.

15. Meanwhile the Lithuanian courts, primarily the courts of final instance such as the Supreme Court of Lithuania (hereinafter referred to as "the SC") and the Supreme Administrative Court of Lithuania (hereinafter referred to as "the SACL"), constantly perform analysis and dissemination of the judgments and decisions of the Court by publishing the summaries of the case-law of the Court in their official websites. It should be highlighted that in 2016 the SC and the SACL joined the Superior Courts Network established by the Court and actively co-operate in the Network.

16. Due regard should be paid to the decisions of the Lithuanian courts of final instance by which the courts harmonise national legal requirements with the standards embedded in the Convention. The following cases should be distinguished: the decision of the SC in the civil case No. 3K-3-I 80-684/2016 in which the court examined the lawfulness of expropriation of private assets and the protection of interest of a person whose assets are being expropriated⁶⁹; the civil case No. 3K-3-321-687/2016 in which the SC applied the case-law of the Court in a paternity related dispute⁷⁰; Article 1 of Protocol No. 1 to the Convention (Protection of property) was directly applied in the criminal case No. 2K-7-130-699/2015 on proportionality of a penal sanction, namely the confiscation of money which were illegally transported over the State border⁷¹. Among other important examples of harmonisation of the national law and the Convention are cases No. 2K-276-976/2015 (on the usage by the prosecution of a testimony of a dead witness whom the defence did not have possibility to interrogate)⁷²; No. 2K-462-697/2015 (on the right to defence of a person whose possibility to participate effectively and on his/her own in the criminal proceedings are limited)⁷³; No. 2K-P-94-895/2015 (on recognition of the data obtained during the operative investigation (criminal intelligence) as evidence in the criminal proceedings)⁷⁴ and No. 2K-418-699/2015 (on the duty of a court to provide sufficient arguments in a decision)⁷⁵.

⁶⁹ See the decision of the Supreme Court of Lithuania of 8 April 2016 in the civil case No. 3K-3-180-684/2016.

⁷⁰ See the decision of the Supreme Court of Lithuania of 22 June 2016 in the civil case No. 3K-3-321-687/2016.

⁷¹ See the decision of the Supreme Court of Lithuania of 28 April 2015 in the criminal case No. 2K-7-130-699/2015.

⁷² See the decision of the Supreme Court of Lithuania of 26 May 2015 in the criminal case No. 2K-276-976/2015.

⁷³ See the decision of the Supreme Court of Lithuania of 3 November 2015 in the criminal case No. 2K-462-697/2015.

⁷⁴ See the decision of the Supreme Court of Lithuania of 1 June 2015 in the criminal case No. 2K-P-94-895/2015.

⁷⁵ See the decision of the Supreme Court of Lithuania of 27 October 2015 in the criminal case No. 2K-418-699/2015.

17. While the SACL by referring to the decisions of the Court (for instance, the judgment in the case *Pyraantiene v. Lithuania* (No. 45092/07)), on numerous occasions indicated that when errors of public authorities are being corrected during the process of restitution of ownership rights it is necessary to ensure that errors are not remedied disproportionately at the expense of the individual concerned. It is necessary to consider all the relevant circumstances of an individual case in order to ensure that persons who acquired the property in good faith are not excessively burdened⁷⁶. The SACL also considered many cases on compensation for damages in connection with inadequate conditions of detention or imprisonment. It appears from the recent case-law that the size of compensations increase in such cases, namely up to 4 times higher compensation if to compare the case law of the SACL from the years of 2013 and 2014 with the case-law from the years of 2012-2013⁷⁷. On this account the recent judgement of the Court in the case *Mironovas and Others v. Lithuania* (No. 40828/12, 29292112, 69598112, 40163/ 13, 6628113, 70048/13 and 70065/ 13) is of great importance for the case-law of the SACL, including the explicit reference to this judgment in the SACL's decisions⁷⁸.

18. One should mention the case-law of the Lithuanian courts as aiming towards the extension of possibilities of individuals to remedy alleged violation of their rights and freedoms guaranteed by the Convention. For instance, the SC was dealing with the possibility of a natural person to inherit the right to compensation for non-pecuniary damages related to allegedly unlawful detention in the civil case No. 3K-3-399-687/2016. In this case the SC took into consideration the case-law of the Court with regard to the status of a "victim" of a violation of the rights guaranteed by the Convention in ruling that the claim in the civil case was submitted by the direct victim of a violation and after his death the relatives were merely willing to continue the proceedings⁷⁹. In the criminal case No. 2K-211-489/2016 the SC invoked the case-law of the Court while ruling on possibility to ground the judgment on a testimony of a witness who did not participate in the hearing at the court⁸⁰.

19. Meanwhile, in accordance with the case-law of the SACL, the application of the right of access to the court prescribed in the Law on Administrative Proceedings which is a part of the right to a fair trial under Article 6 of the Convention is being expanded by enabling persons to challenge certain individual administrative acts in administrative courts which were not disputable before. For instance, the court approved the right to dispute the certificate of the State Territorial Planning and Construction Inspectorate on the construction of a building not deviating from essential solutions of the project of the building⁸¹; to dispute the requirements of the municipal institutions with regard to formation and rearrangement of land plots' projects⁸²; to dispute the resolution of the

⁷⁶ In this regard see the decision of the Supreme Administrative Court of Lithuania of 4 April 2016 in the administrative case No. A-2165-575/2016, the decision of the Supreme Administrative Court of Lithuania of 1 March 2016 in the administrative case No. A-2057-575/2016, the decision of the Supreme Administrative Court of Lithuania of 24 August 2015 in the administrative case No. A-1 161-146/2015 etc.

⁷⁷ See the decision of the Supreme Administrative Court of Lithuania of 10 March 2016 in the administrative case No. A-707- 662/2016, the decision of 19 January 2016 in the administrative case No. A-1805-858/2015, the decision of 10 December 2015 in the administrative case No. A-2199-662/2015, the decision of 30 September 2015 m. in the administrative case No. A-1 130858/2015 etc.

⁷⁸ See the decision of the Supreme Administrative Court of Lithuania of 19 January 2016 in the administrative case No. A- 1805-858/2015, the decision of 14 December 2015 in the administrative case No. A-2243-520/2015 etc.

⁷⁹ See the decision of the Supreme Court of Lithuania of 30 September 2016 in the civil case No. 3K-3-399-687/2016.

⁸⁰ See the decision of the Supreme Court of Lithuania of 31 May 2016 in the criminal case No. 2K-211-489/2016.

⁸¹ See the decision of the Supreme Administrative Court of Lithuania of 25 November 2015 in the administrative case No. eAS-1328-520/2015.

⁸² See the decision of the Supreme Administrative Court of Lithuania of 14 January 2015 in the administrative case No. AS-149- 624/2015, the decision of 5 June 2015 in the administrative case No. AS-917-492/2015.

Prosecutor General acknowledging that a prosecutor misconducted in office but not imposing a disciplinary sanction⁸³ etc. The principle of effective judicial protection was being developed not merely while applying procedural norms but also while applying substantive norms. In this regard the SACL took into consideration the approach of the Court and developed the standards of administrative liability by acknowledging that sanctions which were grounded on the norms vaguely prescribing the content of liability should not determine application of statutory liability⁸⁴.

B. 1. f) Prior to and independently of the processing of cases by the Court: consider making voluntary contributions to the Human Rights Trust Fund and to the Court's special account to allow it to deal with the backlog of all well-founded cases, and continue to promote temporary secondments to the Registry of the Court

20. Under consideration⁸⁵.

B. 1. g) Prior to and independently of the processing of cases by the Court: consider the establishment of an independent National Human Rights Institution

21. On 25 December 2015 the Seimas Ombudsmen's Office submitted the request to the United Nations Human Rights Committee to be recognised as the National Human Rights Institution which would comply with the requirements of United Nations Paris principles.

B. 2. a) After the Court's judgments: continue to increase their efforts to submit, within the stipulated deadlines, comprehensive action plans and reports, key tools in the dialogue between the Committee of Ministers and the States Parties, which can contribute also to an enhanced dialogue with other stakeholders, such as the Court, national parliaments or National Human Rights Institutions

22. The Government Agent has submitted timely and comprehensive action plans and reports as regards the execution of the Court's judgments in the cases against Lithuania. Relevant information as regards the execution of judgments has been continuously updated. Submission of information about the execution of judgments in the cases of *Paksas v. Lithuania* (No. 34932/04) and *L. v. Lithuania* (No. 27527/03) placed under enhanced supervision has to be pointed out. Information update has also been provided in other cases. It should be noted that taking into account the questions posed by the Department for the Execution of Judgments of the European Court of Human Rights of the Council of Europe, the Government Agent has submitted updated information in cases where the supervision of the execution had continued. Having regard to a successful dialogue between the Government Agent and the Department for the Execution of Judgments of the European Court of Human Rights of the Council of Europe, during the period from 2015 until 2016 the supervision of the execution was completed in 15 cases.

B. 2. b) After the Court's judgments: in compliance with the domestic legal order, put in place in a timely manner effective remedies at domestic level to address violations of the Convention found by the Court

⁸³ See the decision of the Supreme Administrative Court of Lithuania of 9 March 2016 in the administrative case No. AS-123- 143/2016, the decision of 24 November 2015 in the administrative case No. eAS-1348-556/2015.

⁸⁴ See the decision of the Supreme Administrative Court of Lithuania of 4 May 2016 in the administrative case No. P-13- 143/2016, the decision of the 5 April 2016 in the administrative case No. A-2479-261/2016.

⁸⁵ The secondment period of currently seconded lawyer to the Court's Registry expires on 3 May 2018. The possibility for some repeated secondment to the Court's Registry after 3 May 2018 is being under consideration.

23. The attention should be drawn to the actions aimed at identifying problems encountered when implementing the individual measure for the implementation of the Convention at the national level – the reopening of the proceedings in the individual case. In order to determine the specifics of the application of the institute of reopening of proceedings in Lithuanian courts, on 5-6 October 2015 a roundtable discussion "As regards reopening of proceedings after the Court's judgments" was held. It should be noted that since 1 July 2017 the amendment of Article 366 § 1 (1) of the Code on Civil Procedure of the Republic of Lithuania shall enter into force, which will expand the grounds for reopening of the civil proceedings as to the existing ground for reopening associated with the Court's judgment, by which the violation of the Convention has been acknowledged, the removal of the application from the list of cases on the basis of an agreement or a unilateral declaration shall be added, in cases when it has been acknowledged under a friendly settlement or unilateral declaration that by the judgments, decisions or resolutions of the courts of the Republic of Lithuania adopted in civil cases the rights of the applicants enshrined under the Convention and (or) its additional protocols have been violated.

24. The legislative actions should also be highlighted, especially the ones related to individual cases against Lithuania that had been examined or are still pending before the Court. Seeking to execute the judgment in the case *D.D. v. Lithuania* (No. 13469/06)⁸⁶, it was necessary to ensure the procedural rights of persons with mental disorders that were declared incapable and to eliminate the causes of violations of their rights related to the deficiencies of the incapacitation institute. The amendments of the Civil Code of the Republic of Lithuania and other laws that have entered into force since 1 January 2016 help to preclude the possibilities of abusing the limitations of person's capacity.

25. Aiming to execute the judgment in the case *Varnas v. Lithuania* (No. 42615/06), in which after the violation of the Convention was acknowledged because of discriminatory restriction of the right of the persons detained on remand to long-term visits compared to the convicted persons, it was necessary to eliminate the differentiated legislation established under the laws as regards the right to a long-term visits and to ensure an equal right to long-term visits of the detainees and the convicted persons. The execution of the said judgment shall be ensured by the amendments of the Code on the Execution of Sentences and the Law on the Enforcement of Pre-trial Detention that shall enter into force as from 1 January 2017 that provide the right to long-term visits also for detainees. Moreover, the amendments of the legal acts were adopted, including that of the Code on the Execution of Sentences, which allow to ensure visits for spouses who are both serving prison sentences without the presence of representatives of the correctional institution. The said change in legal regulation is also relevant in the case still pending before the Court *Gudauskas and Others v. Lithuania* (nos. 50387/ 13, 52927/ 13, 62564/ 13).

26. In order to execute the judgment in the case *Drakfas v. Lithuania* (no. 36662/04) it was necessary to establish a new legal regulation as regards the lawfulness and reasonableness of the measures of criminal intelligence, especially to the extent as concerns the cases of telephone tapping. The execution of the said judgment shall be ensured by enacting a legal regulation under the new Law on Criminal Intelligence as regards more effective legal remedies for protection of human rights, *inter alia*, providing a possibility to review the lawfulness and reasonableness of the measures of criminal intelligence (including telephone tapping) as well as the case-law of the Lithuanian courts as regards the measures of secret surveillance, that has been formed when applying the said law and that meets the requirements enshrined under Article 8 of the Convention (Right to Respect for Private and Family Life).

⁸⁶ In this regard the judgment in the case *A.N. v. Lithuania* (no. 17280/08) is also relevant.

27. The domestic courts have also actively contributed to redressing the acknowledged violations of the Convention. The attention should be drawn to the decision of the Supreme Court of Lithuania of 22 April 2015 adopted in a civil case no. 3K-3-227-219/2015, in which the domestic court reopened the proceedings under the request of the applicant V. Digryte-Klibaviciene after in the judgment of 21 October 2014 in the case *Digryte Klibaviciene v. Lithuania* (No. 34911/06) the Court has held that the Lithuanian courts violated the Article 1 of Protocol No. 1 to the Convention (Protection of Property). It is of utmost importance to observe that in the said decision of 22 April 2015 the Supreme Court of Lithuania, having regard to a unique situation at issue and, in particular – a long duration of the proceedings before the Court, renewed the time-limit set for submitting a request for reopening of civil proceedings that was missed, despite the fact that the non renewable 5-year time-limit provided under the Code on Civil Procedure for submitting a request for reopening of the proceedings had also expired.

28. Furthermore, on 27 October 2016 the Supreme Court of Lithuania has adopted a decision in the criminal case no. 2A-P-788/2016⁸⁷, which was reopened under the request of the successors of the convict V. Vasiliauskas after the Court in its Grand Chamber judgment of 20 October 2015 in the case *Vasiliauskas v. Lithuania* (No. 29056/15) had found a violation of Article 7 of the Convention (no punishment without law). The Supreme Court of Lithuania set aside the courts' judgments adopted in *V Vasiliauskas* case, due to which the violation of the Convention had been established, and discontinued the case due to the applicant's death.

B. 2. c) After the Court's judgments: develop and deploy sufficient resources at national level with a view to the full and effective execution of judgments, and afford appropriate means and authority to the government agents or other officials responsible for coordinating the execution of judgments

29. The Ministry of Justice provides the Government Agent, who is responsible for coordinating the execution of judgments, with technical and material support necessary to perform the functions. In carrying out its functions the Government Agent is assisted by the special unit of the Ministry of Justice – the Division of the Representation before the Court. During the period from 2015 to 2016 5 civil servants have been working in the respective division. The functions of the Government Agent are established under the Regulations, approved by the resolution of the Government of the Republic of Lithuania on 3 July 1995 no. 929 (the wording of the resolution of the Government of the Republic of Lithuania of 18 September no. 914) and the Law on the Compensation of Damage Caused by Unlawful Actions of Public Authorities and the Representation of the State and the Government of the Republic of Lithuania. The Government Agent is authorised to take an active role in coordinating the execution of judgments, including the obtainment of required information and documents from the State and municipal authorities, as well as a possibility to initiate the necessary measures to speed up the execution of the judgment of the Court.

B. 2. d) After the Court's judgments: attach particular importance to ensuring full, effective and prompt follow-up to those judgments raising structural problems, which may furthermore prove relevant for other States Parties

30. Regardless the fact that the Court has not yet adopted a judgment against Lithuania in which a structural problem is identified, in certain fields violations of the Convention are repetitive. Therefore, in such cases certain structural problems may be

⁸⁷ See the decision of the Supreme Court of Lithuania of 27 October 2016 in the criminal case no. 2A-P-788/2016.

identified, albeit of extent which does not imply the Court to apply the pilot-judgment procedure. Among those, the degrading conditions of detention from the point of view of Article 3 (Prohibition of Torture) of the Convention should be taken into consideration. In this respect the judgment in the case *Mironovas and Others v. Lithuania* (No. 40828/ 12, 29292/ 12, 69598/12, 40163/ 13, 6628/ 13, 70048/ 13 and 70065/ 13) in which the Court held that there has been a violation of Article 3 of the Convention in respect of four applications out of seven is particularly important. After the adoption of this judgment urgent actions have been taken, i.e. relevant public authorities (the Prison Department under the Ministry of Justice, the Ministry of Justice) have been immediately informed, the Government Agent participated in the meeting with the public servants of the Prison Department, relevant information with regard to the judgments of the Court against other States was disseminated on the website of the Government Agent⁸⁸, the Government Agent drew particular attention about this judgment in the annual report for the year of 2015. Moreover, the SACL which unifies the case-law in relevant cases on conditions of detention explicitly referred to above-mentioned judgment in its annual report and recent decisions⁸⁹.

31. Among other problems of structural nature the process of restitution of ownership rights may be highlighted, namely, the overall delays in completing the restitution process which may determine violation of Article I of Protocol No. I to the Convention (Protection of property). In this respect public authorities (primarily the National Land Service – the institution responsible for the administration of restitution process in Lithuania) are informed in detail about every relevant judgment of the Court in this regard together with the explanatory note in which important references to other relevant decisions of the Court are indicated. Moreover, important judgments of the Court are translated into Lithuanian.

B. 2. e) After the Court's judgments: foster the exchange of information and best practices with other States Parties, particularly for the implementation of general measures

32. Aiming to foster the exchange of information and best practices with other States Parties, the Government Agent constantly co-operates with authorities of other States Parties which perform similar functions to those of the Government Agent. Moreover, the visits of the representatives of other States in connection with implementation of specific general measures are constantly organised in Lithuania. For instance, the visits with regard to the reform of the places of deprivation of liberty which aims at implementation of general measures related to compliance of conditions of detention in Lithuania with Article 3 of the Convention (Prohibition of Torture) should be noted. The Lithuanian representatives are also participating in such visits to foreign countries. Moreover, informal cooperation and exchange of information occur during the constant international conferences, seminars and other events which include discussions on problems related to the general measures in this regard.

B. 2. f) After the Court's judgments: promote accessibility to the Court's judgments, action plans and reports as well as to the Committee of Ministers' decisions and resolutions, by:
- developing their publication and dissemination to the stakeholders concerned (in particular, the executive, parliaments and courts, and also, where appropriate, National Human Rights Institutions and representatives of civil society), so as to involve them further in the judgment execution process;
- translating or summarising relevant documents, including significant judgments of the Court, as required

⁸⁸ For instance, the information about the judgment in the case *Mursic v. Croatia* (No. 7334113) was published on the website of the Government Agent immediately after the publication of the judgment.

⁸⁹ See the decision of the Supreme Administrative Court of Lithuania of 19 January 2016 in the administrative case No. A- 1805-858/2015, the decision of 14 December 2015 in the administrative case No. A-2243-520/2015 etc.

33. The information about judgments and decisions delivered by the Court, action plans and reports as well as relevant decisions and resolutions of Committee of Ministers is published on the website of the Government Agent. Such information is specified in the annual reports of the Government Agent which are presented during the Government meetings in the beginning of every year. General measures which are related to necessary amendments of laws are discussed separately in extended meetings, which are held by the Law and Law Enforcement Committee of the Seimas since 2010 in order to discuss issues of implementation of the Convention in Lithuania. The Government Agent participates during the meetings. The Committee on Human Rights of the Seimas monitors actions of the authorities which tackle issues related to enforcement of human rights. Moreover, the Government Agent cooperates with interested persons, provides relevant specifying material, participates in the meetings by discussing problems related to the judgments and decisions of the Court and their execution. In this regard the Government Agent is also being interviewed by the representatives of media.

34. The information on significant judgments of the Court are summarised on the website of the Government Agent. All relevant information to this end is also summarised and specified in the annual report of the Government Agent. The Office of the Government is translating the most significant judgments of the Court in cases against Lithuania into Lithuanian. Public authorities, primarily national courts, performs the analysis of significant judgments of the Court and publishes summaries in this regard.

B. 2. g) After the Court's judgments: within this framework, maintain and develop the financial resources that have made it possible for the Council of Europe, since 2010, to translate a large number of judgments into national languages

35. Under consideration.

B. 2. h) After the Court's judgments: in particular, encourage the involvement of national parliaments in the judgment execution process, where appropriate, for instance, by transmitting to them annual or thematic reports or by holding debates with the executive authorities on the implementation of certain judgments

36. The Government Agent regularly informs the Law and Law Enforcement Committee of the Seimas with regard to new and continuing problems of implementation of the Convention in Lithuania, the decisions delivered by the Court against Lithuania, the issues arising while executing them and on other relevant issues since 2010. Importantly, according to the Statute of the Seimas one of the activities of the Law and Law Enforcement Committee of the Seimas from 24 December 2015 is to hear the Government Agent as regards execution of judgments of the Court and, if necessary to submit proposals as regards measures which are needed in order to execute them. In 2015-2016, the Government Agent provided such information in extended meetings of the Law and Law Enforcement Committee of the Seimas in which the representatives of other public authorities participated. During the meetings, the important role of the Seimas while ensuring effective implementation of the Convention in Lithuania was underlined. The importance of effective monitoring of compliance of the draft laws with the Conventions and the decisions of the Court were stressed.

B. 2. i) After the Court's judgments: establish "contact points", wherever appropriate, for human rights matters within the relevant executive, judicial and legislative authorities, and

create networks between them through meetings, information exchanges, hearings or the transmission of annual or thematic reports or newsletters

37. Turning to the judiciary, the role of the national courts of final instances, namely the SC and the SACL with respect to collection of information and dissemination of it to lower courts should be underlined. In this regard both courts have special units which constantly analyse problems related to implementation of the Convention and disseminate the results of such analysis to other courts and the society. The presentation of annual reports with regard to activities of the courts where relevant problems, including the protection of human rights are discussed is of particular importance.

38. As to the executive the important role is that of the Government Agent who is not merely informing interested public authorities as regards new decisions delivered by the Court in the cases against Lithuania but also provides information on newly communicated cases, the problems arising during the execution of the judgments by actively participating in order to solve them and by sharing important methodological material when necessary. Moreover, the role of the Ministry of Justice is also important within the context of executive authorities. The Ministry of Justice supervises different fields related to the protection of human rights. The representatives of distinct subdivisions of the Ministry analyse issues of ensuring human rights arising during the law making and law implementation processes and provide necessary information if needed.

39. As to the legislator the fundamental role is that of two permanent committees of the Seimas, namely the Law and Law Enforcement Committee and the Committee on Human Rights. While performing their functions related to parliamentary supervision both committees analyse the status of human rights protection in Lithuania. The Law and Law Enforcement Committee of the Seimas organises annual meeting aimed at discussion on the judgments of the Court against Lithuania, the problems arising while executing them and other relevant issues. Prevention of the violations of the Convention related issues, recent decisions of the Court and newly communicated cases are analysed. Importantly, the Government Agent participates during the meetings by ensuring sufficient communication on important problems regarding the protection of human rights.

B. 2. j) After the Court's judgments: consider, in conformity with the principle of subsidiarity, the holding of regular debates at national level on the execution of judgments involving executive and judicial authorities as well as members of parliament and associating, where appropriate, representatives of National Human Rights Institutions and civil society

40. In 2015-2016 the Government Agent was regularly providing information as regards adopted judgments of the Court to relevant public authorities. In this regard the authorities are provided with the translation of the judgment into Lithuanian in which violation of the Convention in the case against Lithuania is found. Moreover, the authorities are provided for with the explanatory note in which reasons of the violations are underlined and references to relevant case-law of the Court are indicated.

41. In this regard the meetings with representatives of different public authorities have been initiated in order to ensure smooth execution of the judgment of the Court. For instance, in 2016 the intensive cooperation with the representatives of the National Land Service aiming at ensuring smooth execution of the judgment of the Court in the case *Arbačiauskienė v. Lithuania* (No. 2971/08), namely, the obligation to execute the decision of the national court, was successfully ensured.

42. Furthermore, from 1 January 2014 the Law on the Fundamentals of Law-Making provided a special measure for the authorities participating in law-making process, namely

consultations with the society. This tool is important in cases when the judgment of the Court implies necessary changes of the legislation and the subject of the legal regulation determines repercussions in the society. This measure was applied in practice in order to execute the judgment of the Court in the case *L. v. Lithuania* (No. 27527/03). In 2016 aiming at clarification of the opinion of the society on the most acceptable way to execute the judgment as regards amendments of the legislation, the alternative proposals were published. In addition, the round-table discussion with the authorities and representatives of civil society was held in this regard.

LUXEMBOURG

1. Le rapport détaillé du 16 décembre 2014⁹⁰ dresse un tableau complet de toutes les mesures prises à titre national pour garantir l'application et la mise en œuvre effective de la Convention européenne des droits de l'homme au Luxembourg. Ce rapport reste pertinent et est repris en annexe. Plusieurs mises à jour peuvent néanmoins être rapportées afin de répondre à l'appel du 27 mars 2015, exprimé à l'occasion de la Conférence de haut niveau sur « la mise en œuvre de la Convention européenne des droits de l'homme, une responsabilité partagée ». Ces nouvelles mesures témoignent de la volonté continue des autorités luxembourgeoise à faire preuve de la plus grande exigence quant à la situation des droits de l'homme au plan interne.

1- Mise en place d'un Comité interministériel des droits de l'homme

2. Aux fins d'améliorer la coopération et la coordination interministérielle en matière de droits de l'homme et en vue de renforcer la cohérence entre les politiques interne et extérieure du Luxembourg en matière de droits de l'homme, le gouvernement a donné son feu vert, le 8 mai 2015, à la mise en place d'un Comité interministériel des droits de l'homme. Le comité est chargé de veiller à la mise en œuvre des obligations du Luxembourg en matière de droits de l'homme par les différents acteurs concernés, en consultation avec les institutions nationales des droits de l'homme et la société civile. Le comité est un organe additionnel qui tient des réunions trimestrielles et qui travaille en complémentarité avec des comités et groupes de travail interministériels existants. Chaque département ministériel est représenté au sein du comité. La coordination de ses travaux est assurée par le ministère des Affaires étrangères et européennes. Parmi les activités du Comité interministériel en 2015 et 2016 figuraient l'organisation de la visite d'une délégation de la Commission européenne contre le racisme et l'intolérance dans le cadre de la préparation du cinquième rapport périodique sur le Luxembourg, ainsi que des échanges sur la situation et la protection des droits de l'homme des demandeurs de protection internationale au Luxembourg.

2- Désignation d'un Ambassadeur itinérant pour les droits de l'homme

3. Depuis le 1er janvier 2016, un Ambassadeur itinérant pour les droits de l'homme est mandaté pour contribuer à la mise en œuvre d'une harmonisation et synchronisation adéquate des volets national et international de l'action du Luxembourg en matière de droits de l'homme. Cet Ambassadeur est rattaché au Secrétariat général du Ministère des Affaires étrangères et européennes. La fonction a été exercée par l'Ambassadeur Marc Bichler depuis le 1er septembre 2016, qui a pris le relais de Monsieur l'Ambassadeur Conrad Bruch. Parmi les activités principales de l'Ambassadeur itinérant pour les droits de l'homme, on peut citer les suivantes:

⁹⁰ En annexe

- la préparation et la présidence du Comité interministériel des droits de l'homme;
- le rôle d'interface interne à l'administration luxembourgeoise pour tout ce qui touche aux droits de l'homme, en particulier avec la Commission consultative des droits de l'homme ainsi qu'avec les points de contact en matière des droits de l'homme dans les Ministères techniques;
- la contribution à l'élaboration, la rédaction et la mise en œuvre de plans d'action nationaux pour différents aspects thématiques des droits de l'homme;
- le rôle de sensibilisation aux enjeux des droits de l'homme au sein de l'administration luxembourgeoise. A noter dans ce contexte que l'Institut national de l'administration publique (INAP) dispense déjà un certain nombre de cours en matière de droits de l'homme en général ou sur des sujets spécifiques (égalité des genres personnes handicapées etc.) - ces cours faisant partie de la formation des agents de la fonction publique - l'Ambassadeur se concerte avec l'INAP dans le choix des cours pertinents en matière de droits de l'homme ;
- la mise à jour d'un tableau de bord des instruments juridiques en matière de droits de l'homme auxquels le Luxembourg a souscrit. Pour les instruments signés mais non encore ratifiés, il accompagnera les processus de ratification respectifs. En même temps, à chaque fois que cela est indiqué et réaliste, il contribuera à donner des impulsions pour promouvoir l'adhésion de notre pays à des instruments juridiques additionnels en matière de droits de l'homme ;
- le rôle d'interface entre l'administration et la société civile ;
- la tenue d'un calendrier national regroupant toutes les manifestations publiques au Luxembourg en relation avec les droits de l'homme;
- l'effort de sensibilisation du public luxembourgeois à l'enjeu des droits de l'homme et d'amélioration de la communication du Ministère des Affaires étrangères et européennes, notamment en fournissant des contenus à la cellule de communication du Ministère pour le site web ainsi que les comptes Twitter et Facebook;
- la représentation du Ministère des Affaires étrangères et européennes dans les séminaires, colloques et conférences organisés au Luxembourg en liaison avec les droits de l'homme ou des questions connexes. L'Ambassadeur participe à des débats publics, notamment universitaires, sur le sujet des droits de l'homme.

- La participation à la Commission des Affaires étrangères de la Chambre des députés pour les questions relevant des droits de l'homme ;
- la contribution à l'identification des priorités de l'action luxembourgeoise en matière de droits de l'homme, notamment en vue de notre candidature du Luxembourg pour être élu comme membre du Conseil des droits de l'homme pour la période 2022 -2024.

3- Contribution volontaire au compte spécial de la Cour européenne des droits de l'homme pour traiter l'arrière des affaires

4. La contribution volontaire en 2016 s'est élevée à 35.036,6 €.

4- Nouvelles mesures de formation

5. En 2015 et 2016, les nouveaux attachés de justice ont visité la Cour européenne des droits de l'homme, soit au cours de leur formation à l'Ecole nationale de la magistrature à Bordeaux , soit lors de leur formation ultérieure à Luxembourg. Ils ont assisté à une audience et y ont rencontré le juge national ainsi que le greffe de la Cour. Ces personnes ont répondu à leurs questions en rapport avec les droits de l'homme et le fonctionnement de la Cour. En automne 2016 plus particulièrement, les attachés de justice avaient choisi comme thème de ces entretiens la jurisprudence relative à l'article 6 de la Convention européenne des droits de l'homme.

5- Activités récentes de la Commission consultative des droits de l'homme

6. Le rôle de la Commission consultative des droits de l'Homme (CCDH) reste très important dans la mise en œuvre de la Convention au niveau national. Pour rappel, cette institution indépendante chargée de la promotion et de la protection des droits de l'Homme, créée en 2000, a eu sa base légale par la loi du 21 novembre 2008. Elle continue d'être régulièrement saisie à l'initiative du gouvernement, ce qui témoigne de l'importance croissante acquise par la Commission. En 2015 et 2016, elle a publié 18 avis, dont 15 ont été élaborés suite à des saisines par le gouvernement.

7. Quelques exemples récents:

- a. en mars 2016 : avis sur le projet de loi concernant la menace terroriste;
- b. en avril 2016 : avis sur projet de loi relatif à la nationalité luxembourgeoise;
- c. en juin 2015 : avis sur le projet de loi portant réforme du droit de la filiation.

8. Quelques exemples récents d'auto-saisine de la CCDH :

- d. en novembre 2016 : avis sur le projet de loi relatif à l'Unité de sécurité pour mineurs ;
- e. en novembre 2015 : avis sur le projet de loi relatif à l'accueil des demandeurs de protection internationale.

9. Dans de nombreux avis, la CCDH fait référence à la Convention européenne des droits de l'homme ainsi qu'à la jurisprudence de la Cour européenne des droits de l'homme.

6- Exécution des arrêts

10. Un seul arrêt a été rendu contre le Luxembourg depuis la soumission du rapport 2014, dans l'affaire A.T.c. Luxembourg (requête n° 30460/13). Ledit arrêt, datant du 5 avril 2015, a constaté la violation de l'article 6 § 3 c) (droit à l'assistance d'un avocat) combine avec l'article 6 § 1 (droit à un procès équitable), en raison du défaut d'assistance d'un avocat lors de l'audition par la police, ainsi qu'en en raison de l'absence de communication entre le requérant et son avocat avant le premier interrogatoire devant le juge d'instruction. Un premier bilan d'action a été soumis au service de l'exécution des arrêts le 11 mars 2016, suivi par une version révisée transmise le 12 juillet 2016. Les deux documents témoignent de la volonté du gouvernement à exécuter rapidement les arrêts de la Cour.

11. Dans le cas d'espèce, en effet :

- Pour ce qui est des mesures de caractère individuel, la Cour de Cassation luxembourgeoise a - en date 9 juin 2016 - déclaré fondée la demande en révision soumise par le requérant. La Cour n'ayant pas alloué de satisfaction équitable au requérant, aucune autre mesure de caractère individuel n'est nécessaire pour mettre fin à la violation constatée.
- Pour ce qui est des mesures générale, plusieurs améliorations - dont la validité a été reconnue par la Cour elle-même (au § 70 de l'arrêt, qui regrette cependant que le requérant n'ait pas pu en bénéficier) sont intervenues entre-temps afin de rendre la procédure pénale luxembourgeoise Conforme à l'article 6 §§ 1 et 3 c) de la Convention. Elles résultent d'une note de service (n°49/2011, date du 20 juin) de la Police grand-ducale qui reprend deux circulaires du Procureur General des 13 mai et 15 juin 2011. En vertu de ces dernières, le Directeur General de la Police ordonna aux policiers de prendre toutes mesures nécessaires au respect du droit à l'assistance d'un avocat, pour tout individu prive de liberté, même en exécution d'un mandat d'arrêt européen. Ces évolutions positives ont d'ailleurs été saluées par le Comité européen pour la prévention de la torture (CPT) dans le rapport qui a suivi sa visite au Luxembourg du 28 janvier au 2 février 2015.

Ces circulaires seront entérinées par le projet de loi renforçant les garanties procédurales en matière pénale, qui a été déposé le 23 décembre 2014 devant la Chambre des députés du Grand-Duché de Luxembourg. Celui-ci vise à compléter le code d'instruction criminelle afin de consacrer le droit à l'assistance d'un avocat dans toute situation ou une personne privée de liberté est soumise à un interrogatoire, en transposition des Directives 2013/48/ UE, 2010/64/UE et 2012/13/UE. Les travaux se poursuivent à présent devant la Commission juridique de la Chambre des Députés. Cette nouvelle loi ne saurait tarder à être adoptée (rapporteur, M. Alex Bodry désigné le 7 octobre 2016; date prévisionnelle du rapport de commission: 11 janvier 2017).

Conformément à la décision de la Cour, ce texte introduira la « réglementation claire » en matière de droit d'accès à un avocat dès le premier entretien et entérinera les mesures générales nécessaires afin de mettre fin à la violation constatée par la Cour.

7- Mesures provisoires au titre de l'article 39 du Règlement de la Cour

12. Une mesure provisoire a été indiquée au gouvernement luxembourgeois dans l'affaire M.L. contre Luxembourg (requête n°24257/15, introduite le 12 mai 2015) en application de l'article 39 du règlement de la Cour, à savoir l'interdiction d'expulser le requérant vers l'Iran pour la dune de la procédure devant la Cour. La requête ayant été rayée du rôle suite à l'octroi au requérant du statut de réfugié (depuis le 25 février 2016), la mesure provisoire indiquée par la Cour a été levée.

13. En cas d'indication de mesures provisoires, le Greffe de la Cour contacte directement la Direction de l'Immigration du Ministère des Affaires étrangères et européennes (il dispose, en effet, de coordonnées régulièrement mises à jour, ainsi que de la ligne téléphonique directe de la permanence de ladite Direction).

14. **Annexe:** Rapport national du 16 décembre 2014.

MONACO

B. 1. a) En amont et indépendamment du traitement des affaires par la Cour : veiller à ce que les requérants potentiels aient accès à des informations sur la Convention et la Cour, en particulier sur la portée et les limites de la protection de la Convention, la compétence de la Cour et les critères de recevabilité

1. Dès le mois de février 2011, la Direction des Services Judiciaires a adressé à Monsieur le Bâtonnier de l'Ordre des avocats, pour information et aux fins de diffusion auprès des avocats, avocats défenseurs et avocats stagiaires de Monaco, le guide pratique sur la recevabilité des requêtes établi par la Cour Européenne des Droits de l'Homme à destination des avocats des Etats membres du Conseil de l'Europe.

2. Dans le même esprit, en 2010, avait été communiqué à la Direction de la Maison d'Arrêt de Monaco et à Monsieur le Bâtonnier le nouveau numéro de la ligne de télécopie de la Cour européenne spécialement consacrée aux demandes de mesures provisoires de l'article 39 du Règlement de la Cour.

B. 1. b) En amont et indépendamment du traitement des affaires par la Cour : redoubler les efforts nationaux pour sensibiliser les parlementaires et pour accroître la formation des juges, procureurs, avocats et agents publics à la Convention et à sa mise en œuvre, en ce compris le volet exécution des arrêts, en veillant à ce qu'elle fasse, le cas échéant, partie intégrante de leur formation professionnelle et continue, notamment par le recours au Programme européen de formation aux droits de l'homme pour les professionnels du droit (HELP) du Conseil de l'Europe ainsi qu'aux programmes de formation de la Cour et à ses publications

3. Il convient de rappeler que les magistrats en poste à Monaco, qu'ils soient de nationalité française ou monégasque, reçoivent la même formation initiale et continue, telle que dispensée par l'Ecole Nationale de la Magistrature (école française de formation des magistrats).

4. Au titre de leur formation continue, ils ont accès à un module de formation consacrée au fonctionnement de la Convention Européenne des Droits de l'Homme. Dans ce cadre, un nombre important de magistrats a suivi aux mains un des stages de formation organisés à la Cour Européenne des Droits de l'Homme.

5. Depuis l'adhésion de Monaco au Conseil de l'Europe, la Direction des Services Judiciaires organise périodiquement à Monaco des conférences, dont la plupart - publiques - visent à sensibiliser les acteurs du monde judiciaire (magistrats, avocats, etc.), les parlementaires, les agents de l'Etat et le Haut-Commissaire à la protection des droits, des libertés et à la médiation (INDH monégasque - cf infra point 7) à ces questions et à élargir le champ de leurs connaissances.

6. Voici la liste des conférences et séminaires de formation organisés par la Direction des Services Judiciaires depuis 2005:

- 30 mai 2005: présentation Générale de la Convention Européenne des Droits de l'Homme par la Cellule des droits de l'Homme et des Libertés Fondamentales (ouvert à tout le personnel judiciaire);
- 20 au 25 juin 2005: formation des magistrats de Monaco à Strasbourg, à la Cour Européenne des Droits de l'Homme;
- 4 au 7 octobre 2005 : formation des magistrats de Monaco à Strasbourg, à la Cour Européenne des Droits de l'Homme ;
- 21 octobre 2005 : venue de Monsieur Guy DE VEL, Directeur General des Affaires Juridiques du Conseil de l'Europe et de Monsieur Patrick TITIUN, Conseiller juridique - (ouvert à tout le personnel judiciaire);
- 30 janvier - 3 février 2006 formation des magistrats de Monaco à l'ENM (Paris) sur les droits de l'Homme;
- 10 février 2006 : présentation en Principauté par le Juge Corneliu BIRSA et de Monsieur Jean- François RENUCCI, Professeur des Facultés de Droit,- « *Le droit au procès équitable* » (ouvert à tout le personnel judiciaire);
- mars 2006: présentation en Principauté par Monsieur Vincent BERGER, Greffier de Section à la Cour Européenne des Droits de l'Homme - « *le rôle du Greffe* »;
- 29 mai 2006: séminaire de formation des magistrats sur « l'impartialité des juges »;
- 16 juin 2006: présentation en Principauté par le Président Jean-Paul COSTA - « *La liberté d'expression* » (ouvert à tout le personnel judiciaire);
- 7 juillet 2006: séminaire formation des magistrats, avocats et greffiers - « *la recevabilité des requêtes devant la Cour européenne des droits de l'homme* »;
- 1er octobre 2009 : à l'occasion de la Rentrée Solennelle des Cours et Tribunaux, une conférence sur les thèmes « La Cour européenne des droits de l'homme face à ses défis » et « La mise en œuvre de la

Convention européenne des droits de l'homme: une responsabilité partagée», animée par Monsieur Jean-Paul COSTA, Président de la Cour Européenne des Droits de l'Homme, et Madame Isabelle BERRO-LEFEVRE, Juge au titre de la Principauté de Monaco à la Cour Européenne des Droits de l'Homme;

- 15 mars 2013: conférence sur le thème « *Le droit à un procès équitable* »;
- avril 2013: conférence par le Commissaire aux Droits de l'Homme du Conseil de l'Europe, Monsieur Nils MUIZNIEKS, en collaboration avec Jean-Paul COSTA, Président de la Cour Européenne des Droits de l'Homme;
- 15 novembre 2013 : dans le cadre de la visite à Monaco de Monsieur Dean SPIELMANN, Président de la Cour Européenne des Droits de l'Homme, accompagnée de Madame Isabelle BERRO-LEFEVRE, Présidente de Section, juge élue à la Cour au titre de la Principauté de Monaco, et de Monsieur Michael O'BOYLE, Greffier adjoint de la Cour, dialogue informel avec les magistrats et les avocats. Cette rencontre informelle a permis un échange direct entre les hauts membres de la Cour et les hautes autorités judiciaires, les magistrats juges et procureurs) et les membres de l'Ordre des avocats de Monaco;
- 5 décembre 2014: conférence sur le thème "*L'interdiction des discriminations au sens de la Convention européenne des droits de l'Homme*" par Monsieur Jean-François RENUCCI, Professeur des Facultés de Droit, Conseiller à la Cour de Révision organisée par la Direction des Services Judiciaires;
- 29 avril 2016: conférence sur le thème « *Convention européenne Des droits de l'Homme et vie scolaire* » Par Monsieur Jean-François RENUCCI, Professeur des Facultés de Droit, Vice-Président à la Cour de Révision.

7. De plus, et de manière générale, la base de données jurisprudentielles HUDOC et les bulletins d'information sur la jurisprudence de la Cour sont disponibles, respectivement, sur CD-Roms et en version papier, à la bibliothèque du Palais de justice (équipée d'un ordinateur) et ainsi en accès libre pour tout magistrat intéressé.

8. En outre, chaque magistrat dispose d'un ordinateur individuel avec connexion Internet qui lui permet d'accéder à la jurisprudence de la Cour. Enfin, la Direction des Services Judiciaires accueillerait avec plaisir toute communication en ce sens qui lui permettrait d'étendre l'accès des magistrats de la Principauté aux évolutions jurisprudentielles en Europe.

B. 1. c) En amont et indépendamment du traitement des affaires par la Cour : promouvoir, à cet égard, les visites d'études et les stages à la Cour pour des juges, des juristes et des agents publics afin d'accroître leur connaissance du système de la Convention

9. Les séminaires et conférences listés au paragraphe précédent portant sur le système de protection européen des droits de l'Homme découlant de la Convention Européenne des Droits de l'Homme ont été, pour la plupart, ouverts à tout le personnel judiciaire, à savoir, magistrats, greffiers, avocats, huissiers, notaires, personnel administratif des services judiciaires ainsi qu'aux services de l'Administration et aux services qui en dépendent, (Départements de l'Intérieur, des Affaires Sociales et de la Santé, des Relations Extérieures, des Finances et de l'Economie ainsi que la Direction de la Sûreté Publique et la Direction de la Maison d'Arrêt, etc.).

10. Il est à noter que la formation des surveillants pénitentiaires contient des modules consacrés aux règles pénitentiaires européennes ainsi qu'à la déontologie qui intègre une sensibilisation sur les droits et devoirs des surveillants, le respect de la dignité humaine et des droits de l'homme.

B. 1. d) En amont et indépendamment du traitement des affaires par la Cour : prendre les mesures appropriées pour améliorer la vérification de la compatibilité des projets de loi, des législations existantes et des pratiques administratives internes avec la Convention, à la lumière de la jurisprudence de la Cour

11. Depuis l'adhésion de Monaco au Conseil de l'Europe, le Gouvernement Princier s'est continuellement attaché à prendre en considération la Convention Européenne des Droits de l'Homme dans le cadre de l'élaboration de nombreux textes législatifs de premier ordre. Tel est notamment le cas des lois ci-après:

- loi n° 1.299 du 15 juillet 2005 sur la liberté d'expression publique;
- loi n° 1.312 du 29 juin 2006 relative à la motivation des actes administratifs;
- loi n° 1.327 du 22 décembre 2006 relative à la procédure de révision en matière pénale;
- loi n° 1.334 du 12 juillet 2007 sur l'éducation;
- loi n° 1.336 du 12 juillet 2007 modifiant les dispositions du Code Civil relatives au divorce et à la séparation de corps;
- loi n° 1.341 du 3 décembre 2007 relative au contrat d'apprentissage;
- loi n° 1.343 du 26 décembre 2007 « *justice et liberté* » portant modification de certaines dispositions du Code de procédure pénale;
- loi n° 1.344 du 26 décembre 2007 relative au renforcement de la répression des crimes et délits contre l'enfant;

- loi n° 1.353 du 4 décembre 2008 modifiant la loi n° 1.165 du 23 décembre 1993 réglementant les traitements d'informations nominatives;
- loi n° 1.355 du 23 décembre 2008 concernant les associations -et les fédérations d'associations;
- loi n° 1.357 du 19 février 2009 définissant le contrat « *habitation-capitalisation* » dans le secteur domanial;
- loi n° 1.359 du 20 avril 2009 portant création d'un Centre de coordination prénatale et de soutien familial et modifiant les articles 248 du Code pénal et 323 du Code civil;
- loi n° 1.364 du 16 novembre 2009 portant statut de la magistrature ;
- loi n° 1.378 du 18 mai 2011 relative à l'assistance judiciaire et à l'indemnisation des avocats;
- loi n° 1.382 du 20 juillet 2011 relative à la prévention et a la répression des violences particulières;
- loi n° 1.399 du 25 juin 2013 portant réforme du Code de procédure pénale en matière de garde à vue;
- loi n° 1.421 du 1er décembre 2015 portant diverses mesures en matière de responsabilité de l'Etat et de voies de recours.

12. En outre, le Gouvernement Princier n'a cessé de veiller, dans le cadre de la préparation des projets de loi, à s'assurer de la compatibilité des dispositions projetées avec la Convention Européenne des Droits de l'Homme. A l'aune de cette préoccupation constante, des modifications structurelles ont été opérées au sein des services du Gouvernement Princier, à l'effet d'optimiser la qualité du processus normatif.

13. Il peut en effet être rappelé que l'Ordonnance Souveraine n° 117 du 19 juillet 2005 a instauré une Direction des Affaires Juridiques, directement placée sous l'autorité du Ministre d'Etat. Lors de sa création, cette Direction comprenait:

- Un Service des Affaires Législatives, dont les attributions consistent notamment en la préparation des textes réglementaires des textes des projets de loi (et le suivi des procédures législatives) et la préparation et toutes études s'y rapportant ;

- Un Service des Affaires Contentieuses, chargé de la coordination et du suivi de la représentation de l'Etat, en demande comme en défense, devant toutes les juridictions et toutes études s'y rapportant.

14. Parallèlement, le Département des Relations Extérieures comportait une « *Cellule des Droits de l'Homme* » – placée sous la responsabilité de l'Agent du Gouvernement Princier près la Cour Européenne des Droits de l'Homme –, ayant en charge la préparation des mémoires en défense de l'Etat devant la Cour et sa représentation devant cette juridiction. Cette même Cellule contribuait également, en collaboration avec la Direction des Affaires Juridiques précitée, aux différentes études juridiques, entreprises par le Gouvernement Princier et ayant notamment trait à la compatibilité avec la Convention des projets de loi de base proposées par le Gouvernement. Exerçant en outre une activité de veille jurisprudentielle, la Cellule attire l'attention des Autorités Monégasques concernées des lors qu'une jurisprudence européenne peut avoir des incidences en interne.

15. Poursuivant un objectif d'optimisation Constante des études de compatibilité entre la Convention européenne et les projets de loi proposés par le Gouvernement, l'Ordonnance Souveraine n° 4.025 du 9 novembre 2012 a instauré, au sein de la Direction des Affaires Juridiques, un « *Service du Droit International, des Droits de l'Homme et des Libertés Fondamentales* » qui en constitue dorénavant la troisième entité, aux côtés du Service des Affaires Législatives et du Service des Affaires Contentieuses, susmentionnés. La « *Cellule des Droits de l'Homme* », précitée, est intégrée à cette troisième entité.

16. Désormais, le Service du Droit International, des Droits de l'Homme et des Libertés Fondamentales est, d'une part, plus étroitement associé au Service Législatif dans le cadre de la préparation des différents projets, et, d'autre part, entretient une étroite collaboration avec le Service des Affaires Contentieuses, lorsque la représentation de l'Etat, en demande comme en défense, devant les juridictions internes met en lumière des problématiques ayant trait aux droits de l'homme.

B. 1. e) En amont et indépendamment du traitement des affaires par la Cour : assurer l'application effective de la Convention au niveau national, prendre les mesures effectives pour prévenir les violations et mettre en place des recours nationaux effectifs pour répondre aux violations alléguées de la Convention

17. L'ensemble des magistrats et du personnel judiciaire a, très tôt, été formé au fonctionnement du système européen des droits de l'homme. De fait, l'ensemble des juridictions a intégré les exigences de la Convention.

18. Les magistrats monégasques sont, depuis, l'adhésion de Monaco au Conseil de l'Europe, particulièrement sensibilisés à la thématique de la protection des droits de l'homme et à leur rôle de ((*premiers juges*)) de la Convention. Ils sont confrontés, dans leur activité quotidienne, tant au siège qu'au Parquet Général, à l'invocation directe par les justiciables des dispositions de la Convention et de la jurisprudence de la Cour.

19. Cette application effective de la Convention au niveau national, a souvent conduit les magistrats à prendre les mesures _effectives_ pour prévenir les violations de la Convention, par exemple, en palliant l'absence de textes OU de pratiques conformes à la C.E.D.H. , voire en écartant délibérément des textes internes qui pouvaient y être contraires, adaptant ainsi la jurisprudence monégasque aux obligations européennes et à leurs évolutions.

20. Ce phénomène a notamment été observe en ce qui concerne la garde à vue. Ainsi, malgré une réforme législative qui a eu lieu en 2007 notamment en cette matière, le régime monégasque de la garde à vue a connu des évolutions importantes ces dernières années. Ainsi, avant même la modification de la loi sur la garde à vue adoptée en 2013, les juridictions monégasques ont fait application de la jurisprudence de la Cour en cette matière. Par ailleurs, le Parquet General a donné des instructions aux officiers de police judiciaire afin de rendre dans la pratique, dans l'attente d'une réforme législative qui a eu lieu en 2013, le régime de la garde à vue conforme aux exigences qui découlent de la Convention Européenne des Droits de l'Homme et de la jurisprudence de la Cour.

21. A Monaco, La Convention est invoquée et appliquée quotidiennement devant les différentes instances judiciaires, les Parties pouvant librement alléguer de violations de la Convention devant lesdites juridictions et ce, à tout stade de la procédure.

22. Dans la Principauté, le Tribunal Suprême, s'il n'est pas juge de la conventionalité de la loi puisque l'article 90 de la Constitution ne lui permet, en matière constitutionnelle, de se prononcer que sur la méconnaissance éventuelle, par le législateur, de droits reconnus par le Titre III de la Constitution, considère en revanche normalement, lorsqu'il statue en matière administrative, que les actes du droit international conventionnel font partie du bloc de légalité des décisions administratives, y compris des actes réglementaires pris pour l'exécution des lois.

23. La Cour de révision quant à elle, plus haute juridiction de l'ordre judiciaire, a, dans un arrêt du 21 avril 1980, juge que les conventions internationales priment les lois internes, mêmes postérieures. Cette décision de principe a été confirmée a maintes reprises par la Cour d'Appel.

24. L'admission, le 5 octobre 2004, de la Principauté au Conseil de l'Europe et son adhésion consécutive à la Convention Européenne des Droits de l'Homme permettent aux parties aux instances d'y trouver une source substantielle de moyens, notamment au regard du droit au procès équitable garanti par l'article 6 de la convention.

25. Le considérant ci-après reproduit d'un arrêt d'appel rendu le 14 décembre 2005 est sans équivoque : « *Considérant que cette convention, désormais incorporée dans l'ordre juridique monégasque, impose ainsi aux juridictions de la Principauté d'assurer la sanction des droits qu'elle garantit, au moyen d'une application du droit interne fondée sur les stipulations qu'elle comporte* ».

26. Ce principe étant pose, il ne fait aucun doute que les juridictions internes veillent ainsi à assurer, dans l'hypothèse d'une non-conformité du

droit positif aux prescriptions conventionnelles, la primauté des stipulations de la Convention.

27. La loi n°1.421 portant diverses mesures en matière de responsabilité de l'Etat et de voies de recours a été votée le 26 novembre 2015 et publiée le 1er décembre 2015. Cette loi a institué un nouveau recours permettant aux justiciables de rechercher la responsabilité de la puissance publique du fait du fonctionnement défectueux de la justice.

28. L'Etat est responsable du dommage cause par le fonctionnement défectueux de la justice. Cette responsabilité ne peut être mise en cause qu'en cas de faute lourde de service en vue de l'allocation d'une indemnité, par une commission d'indemnisation.

2013 : 14.967,62€

2014 : 15.000€

2015 : 2.243,78€

2016 : 21.568, 61€, soit un total de 54.845,07€.

29. Le Gouvernement monégasque a, d'ores et déjà, prévu, dans le cadre du contrat triennal 2015-2017 de contributions volontaires conclu avec le Conseil de l'Europe, de verser 15.000€ a ce programme en 2017.

B. 1. g) En amont et indépendamment du traitement des affaires par la Cour : envisager la création d'une Institution nationale indépendante des droits de l'homme

30. L'Ordonnance Souveraine n° 4.524 du 30 octobre 2013 a institué un Haut-Commissariat a la protection des droits, des libertés et à la médiation. Dans le respect des garanties statutaires et procédurales qui lui sont propres, le Haut-Commissaire apparait comme le point focal du mécanisme de protection à l'adresse des sujets de droit clans leur ensemble.

31. En ce qui concerne la protection des droits et libertés de l'administre clans le cadre de ses relations avec l'Administration, toute personne physique ou morale qui estime que ses droits ou libertés ont été méconnus par le Ministre d'Etat, le Président du Conseil National, le Directeur des Services Judiciaires, le Maire, de même que les établissements publics, ou par le fonctionnement d'un service administratif relevant d'une de ces autorités ou d'un établissement public, peut saisir le Haut- Commissaire.

32. Le Haut-Commissaire peut être saisi de réclamations émanant de personnes physiques ou morales estimant avoir, clans la Principauté, été victimes de discriminations injustifiées.

33. Le Haut- Commissaire peut être saisi de demandes d'avis ou d'études sur toute question relevant de la protection des droits et libertés de l'administre dans le cadre de ses relations avec l'Administration, ainsi que de la lutte contre les discriminations injustifiées.

34. Le Haut-Commissaire accomplit les missions qui lui sont dévolues avec neutralité, impartialité et de manière indépendante. Le Haut-Commissaire ne reçoit en outre, clans le cadre de l'exercice de ses

missions, notamment de la part du Ministre d'Etat, du Président du Conseil National, du Directeur des Services Judiciaires et du Maire, aucun ordre, instruction ou directive de quelque nature que ce soit.

35. L'Etat garantit au Haut-Commissaire les moyens matériels d'exercice desdites missions. En outre, les crédits nécessaires à la rémunération du Haut-Commissaire, à celle des personnels mis à sa disposition ainsi que, de manière plus générale, au financement des moyens matériels d'exercice de ses missions font l'objet d'une inscription spécifique au budget de l'Etat.

36. Les fonctions de Haut-Commissaire sont incompatibles avec celles de Conseiller national, de Conseiller communal, de membre du Conseil économique et social ainsi qu'avec l'exercice, à Monaco ou à l'étranger, de tout mandat électif à caractère politique. Par ailleurs, l'exercice desdites fonctions est également incompatible avec l'exercice, à Monaco ou à l'étranger, de toutes autres fonctions publiques ou de toute activité lucrative, professionnelle ou salariée.

37. Le Haut-Commissaire ne peut avoir, par lui-même ou par personne interposée, sous quelque dénomination ou forme que ce soit, des intérêts de nature à compromettre son indépendance. Il s'abstient de toute démarche, activité ou manifestation incompatible avec la discrétion et la réserve qu'impliquent les missions qui lui sont dévolues, que ce soit pour son propre compte ou pour celui de toute autre personne physique ou morale.

38. L'administré bénéficie de différentes garanties durant la procédure d'instruction de la requête. Celles-ci consistent ainsi en l'application d'une procédure d'instruction de la requête intégrant une phase d'investigation et garantissant le respect du contradictoire, et l'information de l'administré.

39. Au bénéfice d'une relation directe avec l'administré, le Haut-Commissaire l'informe des suites susceptibles d'être réservées à sa saisine, et peut en outre lui communiquer toutes informations pertinentes au sujet de la médiation et notamment, s'il y a lieu, quant à l'échéance des délais de recours.

40. Le Haut-Commissaire dispose d'un réel pouvoir d'investigation : consultation et audition des services concernés, examen de dossiers, entretien avec le requérant. Ainsi, le Haut-Commissaire dispose de la faculté de requérir des services administratifs compétents tout document, information ou assistance nécessaire à l'accomplissement de sa mission.

41. Le Haut-Commissaire peut également demander verbalement à l'administré et aux services susmentionnés des éléments complémentaires propres à l'éclairer sur tout différend. Il veille au respect du principe du contradictoire en entendant en leurs explications, si nécessaire et sauf impossibilité, l'administré ou son représentant de même que l'autorité administrative concernée.

42. Par ailleurs, le Haut-Commissaire bénéficie, dans l'exercice de ses prérogatives, d'une protection fonctionnelle, au bénéfice de laquelle l'Etat lui assure, selon des instructions données par décision souveraine, la protection contre les menaces, outrages, injures, diffamations ou attaques

de toute nature dont il serait l'objet lors de l'accomplissement des missions qui lui sont dévolues.

43. Enfin, et à l'instar de ses homologues étrangers, indépendants comme institutionnels, le Haut-Commissaire possède un réel pouvoir de recommandation – c'est-à-dire de proposition – à l'adresse du Ministre d'Etat, du Président du Conseil National, du Directeur des Services Judiciaires et du Maire, fonde sur l'analyse des faits, du droit et de l'équité. Le Haut-Commissaire assure enfin, s'il y a lieu, le suivi de l'application de la décision ou de l'accord qui aura été pris sur la base de sa recommandation.

B. 2. a) En aval des arrêts de la Cour : continuer à accentuer leurs efforts pour produire, dans les délais impartis, des plans et bilans d'action complets, instruments-clés du dialogue entre le Comité des Ministres et les Etats parties, qui peuvent également contribuer à un dialogue renforcé avec d'autres acteurs, tels que la Cour, les parlements nationaux ou les institutions nationales des droits de l'homme

44. Conformément à l'article 46 de la Convention européenne des droits de l'homme, le Gouvernement Monégasque a toujours veillé à présenter au Service de l'exécution des arrêts de la Cour Européenne des Droits de l'Homme les plans/ bilans d'action appropriés, contenant, au cas par cas, les mesures individuelles, mesures Générales et mesures ayant trait à la satisfaction équitable.

B. 2. b) En aval des arrêts de la Cour : en conformité avec l'ordre juridique interne, mettre en place en temps opportun des recours effectifs au niveau national pour réparer les violations de la Convention constatées par la Cour

45. La loi n° 1.421 portant diverses mesures en matière de responsabilité de l'Etat et de voies de recours (votée le 26 novembre 2015 et publiée le 1er décembre 2015) a institué notamment une procédure de réexamen d'une décision juridictionnelle nationale suite à un arrêt de la Cour Européenne des Droits de l'Homme, comme l'y encourage le Comité des Ministres dans sa Recommandation n° R(2000)2, du 19 janvier 2000.

46. Ce texte a en effet rajouté, dans le cadre des demandes en reprise du procès, un chiffre 4° à l'article 508 du Code de procédure pénale rédigé comme suit :

« 4° lorsqu'il résulte d'un arrêt de la Cour européenne des droits de l'homme que la condamnation a été rendue en méconnaissance de la Convention de sauvegarde des droits de l'homme et des libertés fondamentales ou de ses protocoles additionnels applicables dans la Principauté, que ladite condamnation continue de produire ses effets et que seule la reprise du procès permettra d'obtenir la réparation du préjudice subi ».

47. Des lors que le fondement et l'objectif du réexamen sont de procéder à une « *restitutio in integrum* » en faveur du requérant pour effacer le préjudice effectivement subi, les effets de la décision de réexamen pourront consister en une suspension de l'exécution de la condamnation initiale ou une annulation rétroactive de la condamnation litigieuse (notamment pour les peines d'emprisonnement avec une suppression de l'inscription au casier judiciaire) ainsi que, le cas échéant, en un mécanisme pécuniaire d'indemnisation, lequel viendrait compléter le

montant de la satisfaction équitable prononcée par la Cour européenne. En pratique, le réexamen nécessitera :

1°) l'existence d'un arrêt de la Cour Européenne des Droits de l'Homme prononcé à l'encontre de l'Etat monégasque, concernant personnellement le requérant et constatant la méconnaissance d'un droit garanti par la Convention, ce au vu d'une décision définitive d'une juridiction monégasque rendue en matière pénale, à l'exclusion des contraventions ;

2°) la possibilité de réparer les conséquences dommageables qui continuent de produire leurs effets alors même qu'une réparation équitable ne peut être obtenue que par la reprise du procès;

3°) l'existence d'un lien de causalité entre le préjudice subi par le requérant et la méconnaissance de la Convention alléguée.

B. 2. c) développer et déployer les ressources suffisantes au niveau national en vue d'une exécution complète et effective de tous les arrêts, et donner les moyens et l'autorité appropriés aux agents du gouvernement ou autres agents publics chargés de la coordination de l'exécution des arrêts

48. De fait, force est de relever qu'à ce jour, les arrêts de condamnation prononcés à l'encontre de la Principauté sont très rares⁹¹.

49. Le Gouvernement Princier n'en demeure pas moins extrêmement attentif aux arrêts prononcés par la Cour européenne à son endroit, et s'emploie avec les plus grandes diligences à tirer, dans les meilleurs délais, toutes les conséquences – notamment normatives – de ces condamnations, voire à anticiper celles-ci en adoptant une démarche proactive.

50. En toute occurrence, la grande réactivité de l'Administration monégasque et l'étroitesse permanente des liens entre les diverses entités gouvernementales concernées (Direction des Affaires Juridiques, Direction des Services Judiciaires, Agent du Gouvernement près la Cour, etc.) constitue un moyen particulièrement efficient d'exécution rapide des arrêts de la Cour européenne.

51. Aussi, ces derniers n'ont, à ce jour, suscité aucune difficulté quant à leur exécution, qu'il s'agisse du traitement des mesures individuelles, de l'édiction de mesures générales, ou du règlement de la satisfaction équitable.

B. 2. d) En aval des arrêts de la Cour : accorder une importance particulière à un suivi complet, effectif et rapide des arrêts soulevant des problèmes structurels qui, par ailleurs, peut s'avérer pertinent pour d'autres Etats parties

52. Les mesures requises par les arrêts sont identifiées par l'Agent du Gouvernement, le cas échéant, en lien avec les Services Judiciaires de l'Etat, et sans *distinguo* ayant trait au type de l'arrêt C.E.D.H. devant être

⁹¹ NAVONE et autres c. Monaco, requêtes n°⁵ 62880/11, 62892/11 et 62899/11, 24 octobre 2013 ; PRENCIPE c. Monaco, requête n° 43376/06, 16 juillet 2009.

exécuté, qu'il s'agisse d'un jugement limite à des circonstances individuelles ou ayant trait à une problématique potentiellement systémique.

53. L'Agent du Gouvernement de Monaco - qui a pour mission la défense de la Principauté devant la Cour Européenne des Droits de l'Homme - est également en charge du suivi de l'exécution des arrêts de ladite Cour.

54. Une fois l'arrêt définitif, l'Agent du Gouvernement est donc à l'initiative du processus d'adoption de mesures générales. Il s'emploie alors, au besoin en assurant une coordination avec les différents services de l'administration, à tirer toutes les conséquences normatives d'un arrêt de condamnation de la Cour, clans les meilleurs délais, et veille à la bonne conformité de ces mesures avec le droit européen des droits de l'homme.

B. 2. e) En aval des arrêts de la Cour : privilégier l'échange d'informations et de bonnes pratiques avec d'autres Etats parties, en particulier pour la mise en œuvre des mesures générales

55. Lorsqu'il est sollicité à cette fin, l'Etat monégasque demeure toujours disposé à échanger toutes informations et bonnes pratiques avec d'autres Etats Parties, aux fins de mise en œuvre des mesures générales.

B. 2. f) En aval des arrêts de la Cour : favoriser l'accès aux arrêts de la Cour, aux plans et bilans d'action ainsi qu'aux décisions et résolutions du Comité des Ministres :
- en développant leur publication et leur diffusion aux acteurs concernés (en particulier, l'exécutif, les parlements, les juridictions, mais aussi, le cas échéant, les institutions nationales des droits de l'homme et des représentants de la société civile), en vue de leur implication accrue dans le processus d'exécution des arrêts ;
- en traduisant ou résumant les documents pertinents, y compris les arrêts significatifs de la Cour, autant que de besoin

56. En termes de traduction, la Principauté de Monaco n'a pas eu à prendre de mesures spécifiques à cet égard, clans la mesure où le français est la langue officielle (article 8 de la Constitution).

57. Une veille de la jurisprudence de la Cour Européenne des Droits de l'Homme est assurée, ses principaux arrêts étant diffusés de façon régulière, avec analyses et un commentaire, à chacun des magistrats.

58. En ce qui concerne la publication, *cf. supra* point 2.

B. 2. g) En aval des arrêts de la Cour : maintenir et développer, dans ce cadre, les ressources financières ayant permis au Conseil de l'Europe, depuis 2010, de traduire de nombreux arrêts dans les langues nationales

59. Le Gouvernement monégasque n'a pas contribué financièrement au programme visant à financer la traduction de nombreux arrêts clans les langues des Etats membres du Conseil de l'Europe.

60. En revanche, les Autorités monégasques ont financé, par le biais d'une contribution volontaire en 2011, un clip vidéo relatif aux conditions de recevabilité des requêtes, à hauteur de 10.000€, clans les langues officielles

de l'Organisation afin d'améliorer la connaissance des requérants en la matière.

B. 2. h) En aval des arrêts de la Cour : en particulier, encourager l'implication des parlements nationaux dans le processus d'exécution des arrêts, lorsque c'est approprié, par exemple, en leur transmettant des rapports annuels ou thématiques ou par la tenue de débats avec les autorités exécutives sur la mise en œuvre de certains arrêts

61. Outre le jeu naturel du dialogue interinstitutionnel (par exemple dans le cadre du dépôt, par le Gouvernement Princier, d'un projet de texte faisant suite à un arrêt de condamnation rendu par la C.E.D.H.), l'implication du parlement national dans le processus d'exécution des arrêts - notamment par transmission à leur endroit de rapports annuels, thématiques ou la tenue de débats - n'est jusqu'à présent pas apparu comme appropriée, compte tenu du très faible nombre d'arrêts concernant la Principauté, et en l'absence de difficulté particulière.

B. 2. i) En aval des arrêts de la Cour : mettre sur pied, dans la mesure où cela est approprié, des « points de contact » droits de l'homme au sein des autorités exécutives, judiciaires et législatives concernées, et créer des réseaux entre eux par le biais de réunions, d'échanges d'informations, d'auditions ou par la transmission de rapports annuels ou thématiques ou encore de courriers périodiques d'information

62. Compte tenu, d'une part, de l'étroitesse des structures administratives propres à Monaco et, d'autre part, de la qualité du dialogue interservices, l'opportunité de la mise en place d'un tel réseau ne se pose pas dans la Principauté (cf. supra. n° 4 et 11).

B. 2. j) En aval des arrêts de la Cour : envisager, en conformité avec le principe de subsidiarité, la tenue de débats réguliers au niveau national sur l'exécution des arrêts – impliquant les autorités exécutives et juridictionnelles ainsi que les membres des parlements et associant, lorsque c'est approprié, des représentants des institutions nationales des droits de l'homme et de la société civile

63. cf. supra n° 15 et 16.

MONTENEGRO

1. The report of Montenegro on the implementation of measures from Chapter B of the Brussels Declaration (Implementation of the Convention at national level) consists of information obtained from three different competent national institutions: a) The Ministry of Human and Minority Rights; b) The Supreme Court of Montenegro; c) The Office of the Representative of Montenegro before the European Court of Human Rights.

1- Translation and availability of the European Convention on Human Rights and Freedoms

2. Montenegro acceded to the European Convention on Human Rights and Freedoms and ratified it. The Law on Ratification of the European Convention for the Protection of Human Rights and Fundamental Freedoms with the changes in accordance with Protocol No. 11 to the Convention for the Protection of Human Rights and Fundamental Freedoms, of the Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms securing certain rights and freedoms not included in the Convention and the first Protocol thereto, of the Protocol No. 6 to the Convention for the Protection of Human Rights

and Fundamental Freedoms concerning the abolition of the death penalty, of the Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms, of the Protocol 12 (with Article 14) of the Convention for the Protection of Human Rights and Fundamental Freedoms and of the Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty in all circumstances, was adopted in 2003 (Official Gazette of Serbia and Montenegro International Agreements, no. 9/2003 and 5/2005).

3. The present Convention has been translated and is publicly available on the website of the Supreme Court of Montenegro: <http://sudovi.me/podaci/vrhs/dokumenta/625.pdf>

4. Since the judgments of ECHR represent the law source and since they provide guidelines for the judicial system of Montenegro, all translated decisions against Montenegro can be found at the special section of the web-page of the Supreme Court of Montenegro, as well as selected decisions of the ECHR taken against other countries. Equally, the publications which represent good guide in researching practice of the ECHR, can be found on web-site.

5. In accordance with Chapter B paragraph 2 Point d of Brussels Declaration, we also want to inform about the practice of the Office of State Representative concerning the publishing and dissemination of judgements and decisions of the European Court for Human Rights. Namely, after the final judgment of the European Court, on the day the decision is made, judgments are translated by the permanent court interpreters for English language. After which these judgments are being forwarded to the Official Gazette of Montenegro for publication as well as to the Supreme Court of Montenegro which publishes these decisions on its website. This way, decisions are made available to wider audience and public experts in Montenegro. Also, decisions are sent to all of the institutions which had bodies that were involved in procedures that led to the violations of the Convention and its Protocols.

2-Study visits and training aiming to strengthen capacities of the officials dealing with the European Court of Human Rights case law

6. The Ministry of Human and Minority Rights in cooperation with the OSCE Mission to Montenegro, continuously conducts activities in the field of education and promotion of anti-discriminatory behavior and practices, and, after implementation of the Education Plan and the Promotion Plan in 2011, 2012, 2013, 2014, 2015 and 2016, it is finishing the plans for 2017 with the training of a large number of those who are indirectly involved in implementing anti-discrimination legislation.

7. The training is designed primarily for professionals, and all those who in any way come into contact with cases of discrimination, while the promotion relates to the implementation of the media campaign and aims at raising awareness of the entire Montenegrin public, especially towards most vulnerable categories of the population, with the aim of respect for all human rights, the creation of a supportive and tolerant environment, and respect for differences. So far, training included representatives of the judiciary, prosecution, institution of the Protector for Human Rights and Freedoms, non-governmental organizations dealing with the protection of human rights, representatives of all regional units and branches of the police in Montenegro, representatives of local government (from all Montenegrin municipalities) that come into contact with discrimination, as well as representatives of all inspection services in Montenegro, representatives of misdemeanor bodies and social welfare centers. Training is organized in the form of 6 seminars and 6 accompanying workshops and is mandatory for all selected participants in that year. ("Education Plan").

8. The training also includes presentation of the provisions of the European Convention on Human Rights and Freedoms, as well as case law of the European Court of Human Rights, and is realized within the following topics:

- The general legal regime of non-discrimination and mechanisms of protection against discrimination
- Prohibition of discrimination based on gender identity
- Prohibition of discrimination against persons with disabilities
- Prohibition of discrimination based on health status (discrimination of addicts and those suffering from AIDS)
- Prohibition of discrimination on grounds of race and national origin
- Prohibition of discrimination based on sexual orientation

9. Within the Council of Europe project PREDIM - Support to national institutions in the prevention of discrimination in Montenegro, for representatives of the Ministry of Human and Minority Rights and the Institution of the Protector of Human Rights and Freedoms study visit to the institutions of the Council of Europe was organized, together with the attendance at the debate in the Grand Chamber of the European Court Human rights regarding the case of discrimination "Fabijan Vs. Hungary", in November this year. As part of the study visit, the representatives of the Ministry had the opportunity to learn about the responsibilities of certain bodies of the Council of Europe, about reviews of Montenegrin cases before the European Court of Human Rights, the role of case law of the European Court, as well as international documents of the Council of Europe in the field of anti-discrimination and human rights. The delegation was received by the judge of the European Court of Human Rights before Montenegro, Nebojsa Vucinic, who informed the Montenegrin delegation that on 1 October 2016 there are 188 cases, of which 145 are distributed, that before the Grand Chamber there are no cases from Montenegro. Cases from Montenegro are mostly related to the violation of Article 6 of the Convention of Human Rights relating to unfair and untimely acting from courts and failure to execute the judgment. Montenegrin delegation also had several thematic meetings with the representatives of the Council of Europe bodies responsible for various human rights. (General Secretariat for Roma, the European Commission against Racism and intolerance ECRI, the Secretariat of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment - CPT, Directorate for Human Rights and Rule of Law, Unit for sexual orientation and gender identity- SOGI, representatives of the Human Rights Commissioner of the Council of Europe, ...)

10. As regards the implementation of the Convention from the courts in Montenegro, we gave a big effort towards building and strengthening of the professional capacities of the representatives of the judiciary, for the judges as well as for the advisors. On one hand, there are trainings which are organized by the Supreme Court, and on other hand there are trainings which are implemented by the Center for education in judiciary and public prosecution office.

11. A project that the Supreme Court of Montenegro implements in cooperation with the AIRE Centre from London is of a great importance. Purpose of the project is to build the capacities of the Courts in Montenegro in order to make their practice in line with the European law in the field of human rights. This project has officially started in June 2016 and will last for three years. Four round tables have been organized so far, which were dedicated to the different convention rights: 1. Right of the person on freedom by the Article 5 and; 2. right to fair trial by the Article 6 of the Convention; 3. right to property form the Article 1 of the Protocol 1 on the Convention; 4. The Articles 4 and 11 of the Convention, the right on the freedom of assembly and the right on respect of private and family life.

12. Round tables are interactive events where the participants exchange information and identify the most usual problems judges are facing in their efforts to fulfill the commitments related to the Convention and its implementation. The fact that the lecturers at these events are also from the ECHR gives special importance, which is optimal way for overcoming some problems judges are facing in their work.

13. Summary reports will be forwarded to all courts in Montenegro with a purpose of informing a largest possible number of participants of judiciary about a content of lectures and stands taken on during these round tables.

14. It is of a special importance to emphasize that a dialog with judges of ECHR has been ongoing for several consecutive years. Judge from Montenegro is assigned to work at the Register of the Court in Strasbourg. This practice is very positive and has a great contribution for the improvement of implementation of the Convention by the Montenegro's judges.

15. On the other hand, the Center for education in Judiciary and Public Prosecution Office has organized a significant number of round tables, workshops and seminars, in order to inform the representatives of the judiciary with the Convention and practice of the European Court of Human Rights. The lecturers on these events were domestic, as well as international renowned experts. In 2015 and 2016, over 200 representatives of judiciary, judges and advisors in courts have participated.

16. More specific topics which were discussed were: Introduction to the European Convention; introduction to the Article 2: the nature, significance and the scope of the right to life: When does life start? The right to die? Hypothetical case 1; Exemptions- when deprivation of liberty is not contrary to Article 2. a); Exemptions – when deprivation of liberty is not contrary to Article 2. b) and c); The procedural obligations of the state- investigation of suspicious death cases; hypothetical subject 2; Content of the Article 3 and the judiciary practice of the European Court: torture, inhuman treatment or punishment; Judgments of the ECHR against Serbia, Montenegro, Bosnia and Herzegovina and Macedonia- Article 3 violation found; display of national legislation and the implementation of Article 3; Introduction to the Article 4; analysis of the paragraph 1 of the Article 4; analysis of paragraphs 2 and 3 of the Article 4. Introduction to the Article 5; Legal deprivation of liberty; Informing about reasons for the deprivation of liberty and appearing before court without delay; Explanation of the decision of detention and questioning the legality of the deprivation of liberty; The right to trial within a reasonable time and release on bail; Hypothetical subject- working in groups; Introduction to the Article 6 of the European Convention on Human Rights; Presumption of innocence; Equality of arms; Notification about the nature and reasons of the charges, as well as adequate time for the preparation of defense; The right to effective defense; The right to trial within a reasonable time; The reasoned judgment and credible evidence; Hypothetical subject- working in groups; Procedures of the ECHR; Article 7: Punishing only on legal grounds. Legal framework of the freedom of expression in national legislation; The practice of the ECHR regarding the Article 10 of the Convention; The practice of Montenegrin courts regarding to the Article 10 of the Convention.

17. With a purpose of implementation of the Chapter B of Brussels Declaration, Representative of Montenegro before the European Court of Human Rights participated at conferences and seminars which were organized by the Center for training in judiciary and state prosecution service as well as Permanent Mission of the OSCE at the national level. The Representative of Montenegro gave lectures to national judges, prosecutors and journalists.

7- The establishment of an independent national human rights institution

18. The Institution of the Protector of Human Rights and Freedoms of Montenegro is an independent and autonomous institution whose task is to take measures to protect human rights and freedoms when they are violated by an act, action or inaction of state authorities, state administration, local authorities and local government, public services and other holders of public power, as well as measures to prevent torture and other forms of inhuman or degrading treatment and punishment, and measures to protect against discrimination. This Institution was established by a special Law on the Protector of Human Rights and Freedoms, adopted by the Montenegrin Parliament on 10 July 2003. By the new Law on the Protector of Human Rights and Freedoms (Official Gazette of Montenegro no. 042/11 of 15.08.2011, 032/14 of 30.07.2014), jurisdiction and authorizations of the Protector are established in details, particularly in the area of protection against discrimination and NPM.

http://www.ombudsman.co.me/O_instituciji.html#sthash.GbXuHRdu.dpuf

19. According to Article 21 of the Law on Prohibition of Discrimination (Official Gazette of Montenegro no. 046/10 of 06.08.2010, 040/11 of 08.08.2011, 018/14 of 11.04.2014), the Protector of Human Rights and Freedoms of Montenegro have the following duties in the area of protection from discrimination:*

- 19.1. It acts upon complaints about discriminatory treatment by authorities, business companies, other legal persons, entrepreneurs and natural persons, and takes measures and actions to eliminate discrimination and protect the rights of a discriminated person, if the court proceedings is not initiated;
- 19.2. It gives to the complainant who believes that was discriminated against by the authorities, business companies, other legal persons, entrepreneurs and natural persons, the necessary information about his/her rights and obligations, and possibilities of judicial and other protection;
- 19.3. conducts mediation proceeding involving person who considers to be discriminated, with his consent, and the authority, business company, other legal person, entrepreneur and natural person referred to in the complaint about discrimination;
- 19.4. initiates proceeding for protection against discrimination before the court or in that proceeding appears as an intervener, when the party proves the discrimination probable, and Protector assesses that the conduct of the defendant was discriminatory on the same basis towards the group of persons with the same personal characteristics;
- 19.5. warns the public on the occurrences of severe forms of discrimination;
- 19.6. keeps separate records of submitted complaints related to discrimination;
- 19.7. collects and analyzes data on discrimination cases;
- 19.8. undertakes activities to promote equality;
- 19.9. submits to the Parliament of Montenegro, within the annual report, a special section on conducted activities to protect against discrimination and promote equality;
- 19.10. performs other tasks related to protection against discrimination stipulated by special law regulating the competence, authority, operation and acting of the Protector.

20. The rule on the burden of proof stipulated in this Law applies also in acting for protection against discrimination at the Protector of Human Rights and Freedoms.

8- Further implementation of the Convention

21. The Supreme Court, as the highest court in the country, in a previous period, has put a lot of effort to create legal space based on the respect of human rights and freedoms guaranteed by the Convention.

22. Since the practice of Montenegrin courts has to be in line with a practice of the ECHR, thus our courts in their judgments refer on the provisions of the positive national legislation, as well as on the judgment of the ECHR. Accordingly, and based on the judicial information system of the courts, we obtained data on number of judgments in which Montenegrin courts referred on the practice of ECHR. These data shows that in 2016 courts have referred to this practice in 147 judgments, specially emphasizing stands of the ECHR presented in cases which were relevant for a specific Convention right or its article. By analyzing of these data, a conclusion can be drawn that Supreme Court of Montenegro and Higher courts refer to the practice of ECHR in most of these cases, while the lower instance courts do that in a lesser extent. Also, when it comes to basic courts, Basic Court in Podgorica in its judgments mostly emphasize stands of the ECHR which are important for a specific case, while other courts do that in very little number of subjects, or almost don't.

23. Very useful tool for getting familiar with the practice of the ECHR is Database of the court practice of the ECHR on Montenegrin language, which was developed by AIRE center through cooperation with representatives of Montenegro and other countries of Southeast Europe before the Court in Strasbourg. This Database is a unique portal which provides access to the practice of ECHR and contains presentation of subjects and expert comments relevant for Southeast Europe countries and it is primarily intended to national judges with a purpose to enable them to incorporate and apply practice of the ECHR in their judgments, as well as to encourage taking this practice into account when it comes to legal analyses.

24. As it is suggested in Chapter B Paragraph 1 Point d and Point 2 Paragraph b of the Brussels Declaration the Office of Representative of Montenegro before the European Court of Human Rights made its contribution in proclamation of effectiveness of some remedies at national level by writing observations, through which we have promoted decisions of the national courts, especially the decisions of the Supreme Court of Montenegro and the Constitutional Court of Montenegro. As a result of it, along with great contribution and work of the Constitutional and the Supreme Court of Montenegro, the European Court for Human Rights in its judgment from 2015 No. 1451/10, No. 7260/10 and No. 7382/10 "Sinistaj and others v. Montenegro" has taken a stand that the Constitutional appeal is an effective remedy from 20.03.2015. In the next decision No. 59129/15 "Vuceljic v. Montenegro" from 17 November 2016 European Court has taken a stand that the just satisfaction claim which is submitted before the Supreme Court can be regarded as an efficient domestic remedy.

25. Further on, as it is envisaged by the Brussels Declaration, specifically Chapter B, Paragraph 2, Point a, we especially want to emphasize the excellent cooperation with the Directorate for human rights and rule of law of the Council of Europe, as a body responsible for executing judgments of the European Court for Human Rights. As a result of that cooperation we are pleased to point out that one case in 2015 has been closed through delivering of the Action reports and plans ("AB v. Montenegro"), while in 2016 6 cases have been closed so far on the Committee of Ministers of the Council of Europe ("Bijelic v. Montenegro", "Mijuskovic v. Montenegro", "Sabanovic v. Montenegro", "Koprivica v. Montenegro", "Boucke v. Montenegro", "Milic v. Montenegro and Serbia"). We were also informed by the Directorate General for the execution of judgments of the ECHR that 6 more Action reports, or cases ("Milic and Nikezic v. Montenegro", "Zivaljevic v. Montenegro", "Velimirovic v. Montenegro", "Mijanovic v. Montenegro", "Vukelic v. Montenegro" and "Stacic

v. Montenegro“). All this implies that the Office of the State Representative submitted high-quality Action plans and reports to the Directorate General for the execution of judgments on time. We would also like to emphasize excellent cooperation with State bodies and national courts during the execution of the decisions of the European Court of Human Rights.

9- Publications promoting the European Court of Human Rights

26. The Ministry of Human and Minority Rights, in cooperation with the Council of Europe in the framework of the project PREDIM, had also contributed to the development of the following educational publications:

- Prohibition of discrimination on grounds of disability in Montenegro in the light of the case law of the European Court of Human Rights and the Court of Justice of the European Union;
- Prohibition of discrimination based on sexual orientation in Montenegro in the light of the case law of the European Court of Human Rights and the Court of Justice of the European Union;
- Prohibition of discrimination based on gender in Montenegro in the light of the case law of the European Court of Human Rights and the Court of Justice of the European Union.

27. Publications are comparative studies of case law of the European Court of Human Rights and the Court of Justice of the European Union and their impact in the interaction with national courts in Montenegro. The structure of these studies focus primarily on the European case law, and then on national case law, which is further elaborated in the context of these publications.

28. Publication: Practical introduction to European standards against discrimination (promotion of the provisions of the European Convention on Human Rights and Freedoms and the case law of the European Court of Human Rights). Within the project "Implementation of the European anti-discrimination standards in Montenegro and other countries of the region", which was funded by the German Ministry of Foreign Affairs, and which was jointly initiated by the German Foundation for International Legal Cooperation (IRZ) and advisor to the Prime Minister of Montenegro on Human Rights and Protection from Discrimination, was prepared the publication "Practical introduction to the European standards against discrimination".

29. This publication is an amendment of the "Handbook of European Anti-discrimination Law", which is published by the European Union Agency for Fundamental Rights (FRA), which can be found on the Internet (in the languages of the region). The aim of this publication was to give a brief, concise introduction to the most important jurisdiction of the European Court of Human Rights (ECtHR) on the protection against discrimination, and to provide practical advice for persons and groups affected by discrimination and their legal consultants.

30. The starting point for the introduction to the case law has been "Information on the Case Law", of the European Court of Human Rights (fact sheets), which can be found on the website of the ECtHR. <http://www.echr.coe.int/Pages/home.aspx?p=press/factsheets&c>, in English and other languages.

31. The publication contains a short presentation of the judgments, presented in accordance with the protected ground, supplemented by explanatory comments. Comments separately contain reference to the significance of certain judgments for the region.

32. Enclosed to the publication is the information which will enable persons affected by this issue to take action against discrimination in practice: starting with experts from the European Convention on Human Rights, through schemes for checking references for further reading and online resources on the subject, the publication also contains the addresses of state institutions and NGOs from the countries of the region that deal with protection from discrimination.

33. The publication also contains additional information on the submission of applications to the European Court of Human Rights:

33.1. Instructions for persons who want to apply to the European Court of Human Rights

33.2. The European Court of Human Rights - the application form

33.3. The European Court of Human Rights - the form of power of attorney

33.4. General scheme to check the individual application according to the European Convention for the Protection of Human Rights and Fundamental Freedoms

33.5. Remarks on the preparation of the application to be submitted to the European Court of Human Rights

33.6. Remarks on the course of the proceedings at individual application

33.7. Legal consequences of the decision of the European Court of Human Rights

33.8. Introduction to the work by using the HUDOC database of the European Court of Human Rights

34. The publication was presented at the conference "Implementation of the European Anti-discrimination Standards in Montenegro and other Countries of the Region", open to all interested parties, held in the Parliament on 1 October 2013. The publication was distributed in hard copy and/or electronically to all state institutions and other interested parties, and is publicly available.

NETHERLANDS / PAYS-BAS

B. 1. a) Prior to and independently of the processing of cases by the Court: ensure that potential applicants have access to information on the Convention and the Court, particularly about the scope and limits of the Convention's protection, the jurisdiction of the Court and the admissibility criteria

1. As for information concerning the procedural aspects of filing a complaint before the Court (and its admissibility criteria), it is worth mentioning that applicants in the Netherlands in need of help in the submission of their applications have easy access to professional and subsidised legal aid. Practice shows that besides the availability of (free) legal aid and the information provided by the Court itself in all national languages, no real need exists for any official information from the Government.

B. 1. b) Prior to and independently of the processing of cases by the Court: increase efforts at national level to raise awareness among members of parliament and improve the training of judges, prosecutors, lawyers and national officials on the Convention and its implementation, including as regards the execution of judgments, by ensuring that it

constitutes an integrated part of their vocational and in-service training, where relevant, including by having recourse to the Human Rights Education for Legal Professionals (HELP) programme of the Council of Europe. As well as to the training programmes of the Court and to its publications

2. Awareness raising activities are *inter alia* organized by the Netherlands Institute for Human Rights. There are various academic and legal journals that pay attention to the Convention and the Court case law. Human rights education is permanently incorporated, for instance in universities, post-graduate seminars, the judiciary training institute (initial and permanent training for judges, prosecutors and their legal staff members), the curriculum of the Bar Association. In particular the following training programmes should be mentioned.

3. Basic knowledge about the Convention is included as part of the core and mandatory law curriculum in all Dutch law Schools. Key relevant case-law is integrated in amongst other compulsory courses on criminal, constitutional, administrative, and European law. A number of universities also offer specialised, elective course dedicated entirely to the Convention. Some courses are open to practicing lawyers and others, the so-called post-academic education. Several training centers organize on a regular basis classes in the Convention.

4. The Academy for Legislation and the Academy for Government Lawyers organise classes in human rights, which include an in-depth insight into Convention matters.

5. For several decades now, the Training and Study Centre for the Judiciary (*Studiecentrum Rechtspleging*), which trains prospective prosecutors, judges and support staff, has been organising advanced courses on the Convention. This includes so-called continuous training. In recent years attendance has been compulsory.

6. Police training includes a prisoner care module, an important part of which concerns the treatment of prisoners. There is also a module on the legal context of police work and the mandate of police officers. Respect for human rights, including the prohibition of torture, is an important part of that module. Much of the training takes the form of coaching and learning on the job in the police force.

7. As police training involves combined study and work experience, the actual knowledge and skills are gained both at the Police College and through practical work in the police force itself. A manual on the treatment of prisoners in police cells serves as an important guideline for day-to-day police practice.

8. To ensure that due effect is given to the provisions of Dutch criminal procedure protecting the rights of suspects and witnesses, interview training courses have been developed for the Dutch police force. These courses are given by the Police Academy of the Netherlands and focus on the interviewing of particular target groups such as vulnerable suspects, child witnesses aged between 4 and 12 years and mentally disabled witnesses. An audio or video recording is made of interviews of children and vulnerable people. In this way all parties to the proceedings can check how the interview has been conducted. During their training, police officers learn to adjust their examination to the vulnerability and level of development of the persons they are interviewing. The training courses for prison staff include a module on criminal law and legislation. An important element is the ethical behaviour protocol, which includes detailed instructions on how and when force may be used against prisoners.

9. The Knowledge and Learning Centre (*Kennis- en Leer Centrum*, KLC) provides classes on Articles 3 and 8 of the Convention for employees of the Immigration and

Naturalisation Service (*Jmmigratie- en Naturalisatiedienst*, IND), in addition to comprehensive courses concerning the Convention.

10. In addition, more and more courts are organising specific human rights trainings for their staff on a de-centralised level. And various law firms organise in company trainings on Convention related issues.

11. Finally, mention should be made of the coordinators for European Law ('GCE') within each specific court who are responsible for keeping their colleagues informed about relevant developments in the case law of the European courts. Especially, the newsletter of the court of appeal of Amsterdam is distributed widely (and won 2nd prize on 17 October 2014 at the 2014 Crystal Scales of Justice Prize awarding of the Council of Europe).

B. 1. c) Prior to and independently of the processing of cases by the Court: promote, in this regard, study visits and traineeships at the Court for judges, lawyers and national officials in order to increase their knowledge of the Convention system

12. The Training and Study Centre for the Judiciary (*Studiecentrum Rechtspleging*) has been organising an annual visit to the European Court of Human Rights for over 20 years now. Trainees can also apply for internships at the Court's registry (see also paragraph 1f below).

B. 1. d) Prior to and independently of the processing of cases by the Court: take appropriate action to improve the verification of the compatibility of draft laws, existing laws and internal administrative practice with the Convention, in the light of the Court's case law

13. When drafting legislation, the ministries concerned check the quality of draft legislation and their conformity with the constitution and relevant provisions of international law. The Convention is of great significance in this process. Drafters assess the legislation in the light of the Convention in the manner laid down in policy on legislative quality and the Instructions on legislation, in particular instructions 18, 212g and 254. Instruction 18 reads: 'During the drafting of legislation, it must be ascertained which rules of higher law have limited the freedom to regulate in relation to the issue concerned.' Instruction 212g states that the Explanatory Memorandum should contain a justification of the legislation in question. This will include, in any event, the relationship of the Act being drafted to other legislation and to existing and forthcoming international and EU legislation. One of the checks carried out is an investigation by the Legislation and Legal Affairs Department at the Ministry of Security and Justice in consultation with the Ministry of Foreign Affairs into whether the draft legislation is compatible with obligations arising from international and European law (see Instruction 254). Although the Ministry of Security and Justice bears primary responsibility for monitoring legislation for compliance with the principles of good governance and the rule of law, this does not detract from the responsibility resting on the other ministries to ensure that the legislation they draft is of the highest quality.

14. In the drafting phase new statutory measures are submitted to external parties for consultation, including representatives from the legal profession, the judiciary and the independent supervisory body in the area of data protection. In addition, the Netherlands Institute for Human Rights, the Dutch section of the International Commission of Jurists (NJCM) and other institutions frequently render an opinion on the human rights compatibility of draft legislation. The advice of these persons and agencies is always dealt with in a substantiated manner in Explanatory Memorandums with legislative proposals. After the Dutch Council of Ministers has given its approval, the proposed regulations are submitted to the Council of State, which advises the

government on legislation and administration. The Council of State applies a policy analysis evaluation, a legal evaluation and a statutory evaluation and assesses whether a proposed regulation complies with internationally recognised human rights standards. If there is any lack of clarity on this issue, the Council will make a recommendation.

15. The moment that parliamentary debate starts on a certain draft bill, there is therefore already a substantial amount of information available on the issue of compatibility with Convention standards. Parliament is then able to request additional information from the Government in a more focused manner.

16. In accordance with article 81 of the Constitution, Acts of Parliament are enacted jointly by the Government and the States General, consisting of the House of Representatives and the Senate. Each House has its own permanent justice committee and a legal service, both of which place considerable emphasis on compliance with human rights instruments like the Convention when examining draft legislation. The Netherlands - like most other member states of the Council of Europe - does not however have a specific parliamentary procedure for the verification of compatibility of draft laws with the Convention.

17. In conclusion, the Instructions on legislation which oblige the legislator to include a paragraph in the explanatory memorandum to a bill explaining why the draft legislation is deemed compatible with the requirements of international human rights standards are an essential tool to promote parliamentary debate on the issue.

B. 1. e) Prior to and independently of the processing of cases by the Court: ensure the effective implementation of the Convention at national level, take effective measures to prevent violations and to provide effective domestic remedies to address alleged violations of the Convention

18. The Convention has a strong status in the legal order of the Netherlands. Articles 93 and 94 of the Dutch Constitution provide for direct applicability of international legal norms. Moreover, these norms have a higher standing than domestic legal norms, including the Constitution. So, the Convention plays a quasi-constitutional role in the Dutch legal order and for well-developed individual legal protection.

19. Pursuant to Articles 93 and 94 of the Constitution, everybody under Dutch jurisdiction may invoke the Convention – as it has been interpreted by the European Court of Human Rights in its case-law — before any domestic judge. There is a great variety of specific legal avenues open to parties in order to put forward a Convention based complaint. In addition, there is one general remedy. The State can always be sued by any private party alleging, on the basis of Article 6:162 of the Civil Code that the State has committed a tort, and be held liable for financial compensation.

20. To date, the European Court of Human Rights has twice found a violation by the Netherlands of the right to an effective remedy laid down in Article 13 of the Convention. In 2002 in the case of A.B. (application number 37328/97) due to the lack of adequate implementation by the Netherlands Antilles authorities of judicial orders to repair the unacceptable shortcomings of penitentiary facilities. The effectiveness of the remedy was subsequently improved. The other violation was found in 2012 in the case of G.R. (application number 22251/07) due to administrative charge that was set in a procedure for obtaining a residence permit. By letter of 13 April 2012, the responsible minister informed Parliament about the general measures in order to ensure the effectiveness of the remedy in question.

21. Lastly, the Netherlands aims to fully execute the Court's judgments against it as soon as possible. Judgments are immediately brought to the attention of the responsible Minister(s) (including of course all relevant departments of the ministry or ministries), and other relevant public offices (such as the Immigration Service or the Prison Service), and the judiciary. Individual measures are taken without delay and general measures are always introduced where a bona fide implementation of a judgment so dictates. Either by adopting new policy guidelines (for example, issued by the Public Prosecutor's Office in criminal cases or the Immigration and Naturalisation Service in asylum- and immigration cases) or by amending the existing legislation. Likewise, one should be mindful of the fact that the status of the Convention in the Dutch legal order leads to an immediate application of the new *acquis* in pending proceedings before domestic judges.

B. 1. f) Prior to and independently of the processing of cases by the Court: consider making voluntary contributions to the Human Rights Trust Fund and to the Court's special account to allow it to deal with the backlog of all well-founded cases, and continue to promote temporary secondments to the Registry of the Court

22. In June a fund was established to assist the Court in dealing with the current backlog. The Netherlands contributed EUR 50 000 in 2012 and again 50 000 in 2013. In addition, the Netherlands contributes annually EUR 225 000 to the Human Rights Trust Fund (HRTF) since 2008. In 2012, the contribution to the HRTF occasionally was EUR 350 000.

23. Furthermore, the Netherlands has, for many years, been sending young judges to spend one year at the Registry, as part of their training before being appointed to a court in the Netherlands.

B. 1. g) Prior to and independently of the processing of cases by the Court: consider the establishment of an independent National Human Rights Institution

24. The Netherlands set up the Netherlands Institute for Human Rights (www.mensenrechten.nl), which became operational on 1 October 2012.

B. 2. a) After the Court's judgments: continue to increase their efforts to submit, within the stipulated deadlines, comprehensive action plans and reports, key tools in the dialogue between the Committee of Ministers and the States Parties, which can contribute also to an enhanced dialogue with other stakeholders, such as the Court, national parliaments or National Human Rights Institutions

25. Responsibility for submitting action plans and reports falls to the office of the Government Agent, while providing the substantive information on the measures to be taken including the timetable is a matter for the authority that is competent with regard to the subject matter. Usually the Government Agent has no difficulty in getting the relevant information in time and action plans and reports are submitted within the specified period.

26. The Government Agent's office is in direct contact with the department for the Execution of Judgments of the Court. The advice and suggestions by the Department regarding the drawing up and updating of action plans/reports are highly appreciated.

27. Afterwards the relevant authorities often notify the office of the Government Agent on their own accord of relevant developments. In any case the Government Agent's

office keeps its own records and contacts the relevant authority at regular intervals with a view to updating the action plan.

B. 2. b) After the Court's judgments: in compliance with the domestic legal order, put in place in a timely manner effective remedies at domestic level to address violations of the Convention found by the Court

Criminal law

28. The Code of Criminal Procedure was amended in September 2002 (which amendment entered into force in January 2003) so as to allow applications for the review of final judgments following judgments of the Strasbourg court. Pursuant to Article 457 § 1 (b) of the Code of Criminal Procedure, an application for review can be lodged before the Supreme Court on the grounds that the Court has ruled that the Convention was violated in proceedings that led to the applicant's conviction or to a conviction for the same offence, and based on the same evidence, if such review is necessary in order to provide just satisfaction within the meaning of Article 41 of the Convention. Pursuant to Article 465 § 2, in cases as referred to in Article 457 § 1 (b) such an application must be lodged within three months after the convicted person has become aware of the Court judgment. Pending the decision on the application for review, the Supreme Court may at any time suspend the execution of the judgment (Article 473 § 4). Pursuant to article 472 § 1, if the Supreme Court considers that an application concerning a case as referred to in article 457 § 1 (b) is well founded, it can either decide the case itself or it can order the suspension or interruption of the execution of the final judgment and the referral of the case under Article 471, in order either to uphold the said judgment or to overturn it and render judgment, having regard to the judgment of the Supreme Court.

Civil law

29. The Dutch Code of Civil Procedure contains a chapter on revocation (*herroeping*), Articles 382-391, according to which it is possible to overturn a judgment with a view to reinstating the positions in which the parties found themselves before the proceedings as accurately as possible. This procedure can be applied in the following cases, none of which seems to provide grounds for reopening a case following a finding of the Court:

- 29.1. if after the judgment it appears that the other party cheated or lied during the proceedings;
- 29.2. if a decision was taken which was based on documents which have subsequently been recognised or declared as false; or
- 29.3. if, after the judgment, documents with decisive content are obtained which the other party had withheld.

30. By letter of 12 August 2005 the Minister of Justice notified the House of Representatives of the States General that the possibility of reopening civil-law proceedings following a Court judgment that had found a breach of the Convention would not be added to this list. For civil law, what matters particularly in this connection is the position of the other party and any third parties. If provision were made for overturning judgments in cases in which judgments of the Court have found a breach of the Convention, the effect would be to produce a lack of legal certainty for the parties to proceedings and any third parties until the moment at which the court decides whether or not to overturn the judgment. It should not be possible to reopen a case after a final and conclusive judgment has been given other than in highly exceptional circumstances. Provision should be made, in such cases, for the protection of the legitimate interests of the other party and any third parties.

31. Furthermore, there are other ways of providing for a judicial remedy. For instance, the State can be sued for tort (unlawful dispensation of justice). It is dear from the Supreme Court's case law that stringent criteria are applied when deciding whether a party to proceedings is eligible for compensation on grounds of unlawful dispensation of justice. The State is held liable only if no legal remedies remain open and the fundamental principles of law were so badly neglected when preparing the decision that the parties can no longer be said to have had their case heard in a fair and impartial manner. A breach of Article 6, para. of the Convention could mean that this condition is fulfilled.

Administrative law

32. Section 8:119 (1) of the General Administrative Law Act (Aigemene Wet Bestuursrecht; AWB) reads as follows:

33. At the request of a party the court may review a final judgment on the ground of facts or circumstances:

- (a) which took place before the judgment;
- (b) of which the applicant had no knowledge and could not reasonably have had any knowledge before the judgment;
- (c) which, had they been known to the court previously, might have led to a different judgment.

34. A finding by the Court could not be considered an unknown "fact or circumstance" as this would have had to have taken place before the judgment of the administrative courts. By letter of 12 August 2005, the Minister of Justice notified the House of Representatives of the States General that no statutory provision would be made for review under administrative law after a Court ruling that the Convention had been breached, because section 4:6 of the AWB generally gives administrative authorities the scope to incorporate Court judgments fully into their own decisions, if appropriate in combination with awards of compensation for loss resulting from administrative acts or other forms of compensation.

B. 2. c) After the Court's judgments: develop and deploy sufficient resources at national level with a view to the full and effective execution of judgments, and afford appropriate means and authority to the government agents or other officials responsible for coordinating the execution of judgments

35. The mechanism the Netherlands has in place to ensure timely and effective execution of Court judgments is a result of working arrangements between the ministries that developed over time. In the Netherlands co-ordination of execution of judgments lies with the Agent of the Government of the Kingdom of the Netherlands to the ECHR, whose office is part of the International Law Division of the Ministry of Foreign Affairs. The (office of the) Government Agent has close contacts with all relevant ministries, in particular with the Legislation and Legal Affairs Department of the Ministry of Security and Justice. The Government Agent ensures acquaintance of all relevant actors with the execution process, while for the more substantive issues the actors can also rely on the three contact points: the International Law Division of the Ministry of Foreign Affairs (which also comprises the office of the Government Agent), the Legislation and Legal Affairs Department of the Ministry of Security and Justice and the Constitutional Affairs and Legislation Department of the Ministry of the Interior and Kingdom Relations.

36. There is no specific *inter-ministerial* body responsible for the execution of judgments of the Court. The interaction between the Government Agent (national coordinator) and other state actors is effective and efficient. The Government Agent generally has no difficulties in contacting the relevant persons within other authorities and drawing their attention to issues concerning the execution process.

37. In relation to national legislation, policy and practice the Human Rights Section of the Legislation and Legal Affairs Department of the Ministry of Security and Justice is primarily responsible for advising on human rights issues in general and following judgments of the Court, in particular. In this context the Human Rights Section functions as a coordinator within the Ministry of Security and Justice for the identification and adoption of measures following a judgment in which the violation found concerns a subject matter within that ministry's competence. To that end the Section initiates communication and meetings with all relevant actors within the ministry and public offices such as the Immigration office, Public Prosecution's office, Prison Service and Judiciary.

B. 2. d) After the Court's judgments: attach particular importance to ensuring full, effective and prompt follow-up to those judgments raising structural problems, which may furthermore prove relevant for other States Parties

38. The Netherlands has so far not been confronted with judgments revealing structural problems. As regards general measures, sometimes a legislative amendment is necessary, but due to the lengthiness of the legislative process a modification of decrees, policies or jurisprudence is preferred when possible.

B. 2. e) After the Court's judgments: foster the exchange of information and best practices with other States Parties, particularly for the implementation of general measures

39. The Netherlands has regularly provided bilateral technical assistance to fellow member states upon request and will continue to do so. In the course of many years, numerous exchanges between Government Agents have taken place, aimed *inter alia* at exchanging good practices in respect of execution of judgments and domestic remedies.

B. 2. f) After the Court's judgments: promote accessibility to the Court's judgments, action plans and reports as well as to the Committee of Ministers' decisions and resolutions, by:
- developing their publication and dissemination to the stakeholders concerned (in particular, the executive, parliaments and courts, and also, where appropriate, National Human Rights Institutions and representatives of civil society), so as to involve them further in the judgment execution process;
- translating or summarising relevant documents, including significant judgments of the Court, as required

40. Accessibility within the Netherlands to the Court's case law has been very satisfactory for many years now, as a result, notably, of the added efforts of the Court and Registry, the Government and public initiative, including the press. In particular, accessibility is ensured by:

40.1. the HUDOC search system on the Court's website, which has been greatly improved over the years and which is well-known to users of the Convention system such as lawyers, judges and prosecutors;

40.2. the legal press, which ensures a wide coverage of all important Court judgments and decisions (i.e. including the case-law against third countries), frequently by drawing up summaries in Dutch and annotations;

40.3. newsletters and other periodic information sheets distributed within organisations frequently dealing with human rights related issues, such as the Immigration and Naturalisation Service (Immigratie- en Naturalisatiedienst, IND);

40.4. coordinators for European law within each court (*Gerechtscoördinatoren Europees Recht*, 'GCE') who are responsible for keeping their colleagues informed about relevant developments in the case law of the European courts; especially, the newsletter of the court of appeal of Amsterdam is widely distributed;

40.5. the annual report of the Government to parliament containing summaries of all judgments and decisions against the Netherlands by the Court (and other international human rights organs), which is published on the internet and widely distributed to other interested parties, including courts, advocates, ministries, universities and non-governmental organisations.

41. The Netherlands does not intend to translate relevant documents in Dutch; experience demonstrates that all actors are able to read the relevant documents in English and to a lesser extent in French.

B. 2. g) After the Court's judgments: within this framework, maintain and develop the financial resources that have made it possible for the Council of Europe, since 2010, to translate a large number of judgments into national languages

42. The Netherlands already contributes to the Human Rights Trust Fund.

B. 2. h) After the Court's judgments: in particular, encourage the involvement of national parliaments in the judgment execution process, where appropriate, for instance, by transmitting to them annual or thematic reports or by holding debates with the executive authorities on the implementation of certain judgments

43. Court judgments against the Netherlands in which a violation is found will as a rule lead to a letter sent to Parliament explaining the legislative and/or policy consequences the government envisages. In addition, as a rule parliamentary questions are put to the Government by one or more political parties. Usually, the questions require the Government to provide information about how it intends to implement the Court judgment and how similar cases may be prevented in future. These parliamentary questions necessitate a speedy reaction by the Government as to what actions are foreseen in the implementation process of a Court judgment (within three weeks). In that manner, Parliament can (and in fact does) play an effective role in the implementation process.

44. In addition, there is a more general instrument to assist Parliament in its supervisory role. The Minister of Foreign Affairs, also on behalf of the Minister of Security and Justice, sends an annual report by the Government Agent before the ECtHR to Parliament concerning the Court judgments (and decisions by other international human rights organs) delivered against the Netherlands. These annual reports have been submitted to Parliament since 1996. Following a request from the Senate in 2006, the report also includes information concerning measures adopted to implement adverse Court judgments. Since 2009, the annual report contains where appropriate references to judgments against other States Parties which have had a direct or indirect effect on the Dutch legal system. And since 2010, the annual report also mentions reasoned decisions of the Court in which a complaint has been declared inadmissible or has been struck out of the list of cases. It also provides statistics on pending cases and to which areas of law these cases relate (e.g. criminal law and alien law).

B. 2. i) After the Court's judgments: establish "contact points", wherever appropriate, for human rights matters within the relevant executive, judicial and legislative authorities, and create networks between them through meetings, information exchanges, hearings or the transmission of annual or thematic reports or newsletters

45. There are three contact points with overall expertise on the Convention and with a more general role of informing, advising and facilitating other authorities regarding issues concerning the Convention, including the implementation of judgments of the Court. These contact points are: the International Law Division of the Ministry of Foreign Affairs (which also comprises the office of the Government Agent), the Legislation and Legal Affairs Department of the Ministry of Security and Justice and the Constitutional Affairs and Legislation Department of the Ministry of the Interior and Kingdom Relations. And within each court there are coordinators for European law (*Gerechtscoördinatoren Europees Recht*, 'GCE') who are responsible for keeping their colleagues informed about relevant developments in the case law of the European courts.

B. 2. j) After the Court's judgments: consider, in conformity with the principle of subsidiarity, the holding of regular debates at national level on the execution of judgments involving executive and judicial authorities as well as members of parliament and associating, where appropriate, representatives of National Human Rights Institutions and civil society

46. In addition to the information provided under 2g of the report, the annual reporting mechanism may prove a useful tool, facilitating parliamentary debate on Convention-related matters.

NORWAY / NORVÈGE

B. 1. a) Prior to and independently of the processing of cases by the Court: ensure that potential applicants have access to information on the Convention and the Court, particularly about the scope and limits of the Convention's protection, the jurisdiction of the Court and the admissibility criteria

1. Giving information and guidance on both national and international complaint mechanisms is part of the mandate of the new Norwegian National Human Rights Institution (cf. our answer below concerning 1g). The institution offers guidance to individuals concerning which international bodies can be relevant for human rights complaints. This includes information about the Convention and the Court. The institution also has an information page on its website that contains, inter alia, links to the Convention and the Court's website. This information page also offers information on the most important admissibility criteria of the international complaint mechanisms.

B. 1. b) Prior to and independently of the processing of cases by the Court: increase efforts at national level to raise awareness among members of parliament and improve the training of judges, prosecutors, lawyers and national officials on the Convention and its implementation, including as regards the execution of judgments, by ensuring that it constitutes an integrated part of their vocational and in-service training, where relevant, including by having recourse to the Human Rights Education for Legal Professionals (HELP) programme of the Council of Europe. As well as to the training programmes of the Court and

to its publications

2. Training on the Convention and on other human rights instruments is an integrated part of the Norwegian law degree at the faculties of law and at the institutions responsible for the education of police officers and prison staff. Human rights is also part of the follow-up training of civil servants. Concerning judges, the training is based on an initial training module and continuous training by way of newly introduced seminars. One of the gatherings (of four days' duration) in the initial training includes and emphasizes human rights, with special focus on the Court. The training has a practical approach with emphasis on how to deal with human rights issues in both civil and criminal cases.

3. The members of Parliament are generally well-informed on the Convention and its implementation in Norway. As mentioned in our answer concerning 1g below, the new Norwegian National Human Rights Institution is organized under the Parliament. The institution delivers annual reports to the Parliament on the human rights situation in Norway, and it makes recommendations to the Parliament to ensure that Norway's human rights obligations are fulfilled. This may contribute to further raising the awareness on the Convention among members of Parliament.

B. 1. c) Prior to and independently of the processing of cases by the Court: promote, in this regard, study visits and traineeships at the Court for judges, lawyers and national officials in order to increase their knowledge of the Convention system

4. The Norwegian Courts Administration organizes annual visits to the Court for approximately 20 judges. A preparatory seminar for these participants is arranged in collaboration with the University of Oslo.

B. 1. d) Prior to and independently of the processing of cases by the Court: take appropriate action to improve the verification of the compatibility of draft laws, existing laws and internal administrative practice with the Convention, in the light of the Court's case law

5. The Convention was incorporated into Norwegian law by the Act on the Strengthening of the Position of Human Rights in Norwegian Law (Human Rights Act). The act ensures that the Convention is given a strong position within the Norwegian legal system, and public bodies at all levels are obliged to take the Convention into account in their daily work. Interpretation and application of any statutory provisions must be done in coherence with the Convention provisions.

6. According to the Norwegian "Instructions for the preparation of central government measures", all issues raised by a proposed government measure that concern "fundamental questions" must be considered systematically and comprehensively. According to the guidance to the instruction, this includes an assessment and description of relevant international obligations that are binding on Norway. The guidance states the following with regard to the assessment of the compatibility with international human rights:

7. “Limitations on the formulation of measures will often emanate from the human rights obligations Norway has assumed through international treaties. Consequently, a study of fundamental questions will often comprise a systematic review of such obligations, through which one clarifies the scope of said obligations and what freedom of action is available.”

8. Where the Convention is relevant for draft legislation, considerations concerning the compatibility with the Convention are included in the Government’s proposition to the Parliament.

B. 1. e) Prior to and independently of the processing of cases by the Court: ensure the effective implementation of the Convention at national level, take effective measures to prevent violations and to provide effective domestic remedies to address alleged violations of the Convention

9. Norway considers the existing measures to prevent violations of the Convention and the remedies available to address violations to be satisfactory.

10. As mentioned above, the Convention is incorporated into Norwegian law by the Human Rights Act. Section 3 of this Act states that if national legislation is in conflict with provisions in the human rights conventions incorporated by the act, the human rights provisions shall prevail. The Human Rights Act thus ensures that the provisions of the Convention are given a strong position in Norwegian law. The provisions of the Convention are directly applicable. Any alleged violation of the Convention may be invoked in administrative proceedings and before the ordinary courts.

11. Under the Dispute Act section 1-3, a plaintiff can request a declaratory judgment stating that an act or omission by the authorities constitutes a violation of the Convention. Such a claim may be invoked when there is a genuine need for legal clarification, i.e. when it is of importance to the parties’ legal situation to receive a judgment that explicitly considers the compatibility with the Convention.

12. Both the Dispute Act and the Criminal Procedure Act contain general provisions on Compensation for damages, which may be applicable in situations of violations of the Convention. According to the Criminal Procedure Act section 444, a person charged is entitled to compensation for any financial loss that the prosecution has caused him, insofar as he has been arrested or detained in custody contrary to Article 5 of the Convention. The Criminal Procedure Act also contains a general rule in section 445 stating that the accused may be awarded compensation for special or disproportionate damage resulting from a criminal prosecution whenever this appears to be reasonable under the circumstances. According to section 20-12 of the Dispute Act, a party to civil proceeding is entitled to compensation for pecuniary damage caused by errors made by the courts in the course of the trial provided that the court is substantially to blame for the said error.

13. The Act relating to the Courts of Justice 1915 sections 200 and 201 and the Act relating to compensation in certain circumstances 1969 section 2-1 may also be the basis of a claim for compensation.

14. There are also specific remedies in respect of excessive length of proceedings and in respect of violations of Article 5. For a detailed description of

these, we refer to our reports on Recommendation 2004 (6) on the improvement of domestic remedies.

B. 1. f) Prior to and independently of the processing of cases by the Court: consider making voluntary contributions to the Human Rights Trust Fund and to the Court's special account to allow it to deal with the backlog of all well-founded cases, and continue to promote temporary secondments to the Registry of the Court

15. Norway has contributed a total amount of 4,55 million euros to the Human Rights Trust Fund in the period 2008–2014. This has also included contributions to the translation of judgments. In addition to contributions made until 2014, Norway has made a new contribution of 2 mill. NOK, approx. 200.000 Euros, to the HRTF in 2017. Norway is the largest contributor to the Court's special account, with a total amount of 1,556 590 euros in the period 2012–2016. Norway recruited two Norwegian lawyers in 2016, one to the Court and one to the Department for Execution of Judgments. So far this amounts to approximately NOK 4,77 million.

B. 1. g) Prior to and independently of the processing of cases by the Court: consider the establishment of an independent National Human Rights Institution

16. A New Norwegian National Human Rights Institution was established on 1 July 2015. The new institution was established to replace the former human rights institution, which was part of the Norwegian Centre for Human Rights at the University of Oslo. The new institution is organized under the Parliament but is otherwise independent. The institution was established with a view to fulfilling the requirements of the Paris Principles for, inter alia, legislative enshrinement, mandate and areas of responsibility, composition, independence and diversity. In June 2017, the institution was informed by the Global Alliance of National Human Rights Institutions (GANHRI) that it had been granted 'A' status accreditation. The institution has been given a broad mandate to promote and protect human rights in accordance with the Constitution, the Human Rights Act and other legislation, and with international treaties and international law.

B. 2. a) After the Court's judgments: continue to increase their efforts to submit, within the stipulated deadlines, comprehensive action plans and reports, key tools in the dialogue between the Committee of Ministers and the States Parties, which can contribute also to an enhanced dialogue with other stakeholders, such as the Court, national parliaments or National Human Rights Institutions

17. Norway attaches great importance to the timely submission of our action plans and reports.

B. 2. b) After the Court's judgments: in compliance with the domestic legal order, put in place in a timely manner effective remedies at domestic level to address violations of the Convention found by the Court

18. Violations of the Convention found by the Court are generally dealt with in a satisfactory manner by the relevant ministries, in line with the procedures described in our answer below concerning 2c, without any need for the applicant to have recourse to the courts.

19. However, both the Dispute Act and the Criminal Procedure Act allow, subject to certain conditions, for the reopening of a case if the Court has determined that Norway has violated the Convention. In civil cases, a petition to reopen a case may be made if the Court has determined that the procedure in the case violated the Convention or if a ruling from the Court in respect of the same subject matter suggests that the ruling of the national court was based on an incorrect application of the Convention. In criminal cases, a petition for reopening may be made if the Court has determined that the decision conflicts with a provision of the Convention and it must be assumed that a new hearing would lead to a different result. In addition, a criminal case may be reopened if the Court has determined that the procedure in the case has violated the Convention, and there is reason to assume that the procedural error has influenced the substance of the decision and that a reopening of the case is necessary to remedy the harm that the error has caused.

B. 2. c) After the Court's judgments: develop and deploy sufficient resources at national level with a view to the full and effective execution of judgments, and afford appropriate means and authority to the government agents or other officials responsible for coordinating the execution of judgments

20. The Norwegian government seeks to take all necessary steps to ensure the full and effective execution of all judgments by the Court.

21. The Legislation Department in the Norwegian Ministry of Justice has been designated as co-ordinator for the execution of judgments of the Court, while the ministry responsible for the subject matter of a particular judgment has the main responsibility for its execution. The Legislation Department informs the relevant ministries about the requirements that arise from Article 46 of the Convention 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. This procedure ensures effective co-ordination amongst all state actors concerned and appropriate mechanisms for effective dialogue and transmission of relevant documents.

B. 2. d) After the Court's judgments: attach particular importance to ensuring full, effective and prompt follow-up to those judgments raising structural problems, which may furthermore prove relevant for other States Parties

22. Norway attaches great importance to the full and effective follow-up to the Court's judgments and has executed all of the judgments against Norway. However, Norway receives relatively few judgments finding a violation of the Convention, and even fewer raising structural problems requiring general measures. The procedures described in our answer above concerning 2c are considered appropriate and effective for the implementation of all of the judgments against Norway.

B. 2. e) After the Court's judgments: foster the exchange of information and best practices with other States Parties, particularly for the implementation of general measures

23. Although no specific procedures for contact with other states concerning general measures have been implemented, Norway welcomes any exchange of information and best practice with other states. Enquiries from other states concerning human rights matters are responded to promptly and to the best of our ability.

B. 2. f) After the Court's judgments: promote accessibility to the Court's judgments, action plans and reports as well as to the Committee of Ministers' decisions and resolutions, by:
- developing their publication and dissemination to the stakeholders concerned (in particular, the executive, parliaments and courts, and also, where appropriate, National Human Rights Institutions and representatives of civil society), so as to involve them further in the judgment execution process;
- translating or summarising relevant documents, including significant judgments of the Court, as required

24. All category 1 judgments and all judgments and decisions against Norway are being summarized in Norwegian and published at Lovdata on the following website: <http://www.lovdata.no>. Lovdata is the principal internet source for legal information in Norway and is widely used by all law practitioners, including lawyers, civil servants and judges. The rationale behind producing the summaries is to provide users with enough information for them to do the necessary legal research on their own. By being presented with the facts of the case and the relevant provisions of the Convention, the user has enough information to go to the Court's own HUDOC database. The summaries are available for anyone the first year, and after this, for paying customers. Normally all law practitioners (e.g. lawyers, judges, civil servants) have the necessary access. The summaries are produced by the Norwegian Centre for Human Rights at the University of Oslo.

25. In addition, The Norwegian Centre of Human Rights publishes a monthly electronic newsletter on important judgments from the Court, including a reference to all category.

26. 1 judgments and judgments against Norway. The bulletin contains a link to the more comprehensive summary of the case on Lovdata and a link to the original decision on HUDOC. In the newsletter there is also a "selection of the month" case, which elaborates in more detail on a recent case of more general interest.

27. The action plans and reports fall within the categories of documents that are available to the public on request through the Freedom of Information Act. As Norway receives relatively few judgments finding a violation of the Convention, and even fewer raising structural problems requiring general measures, it has not been considered necessary to publish action plans and reports systematically.

B. 2. g) After the Court's judgments: within this framework, maintain and develop the financial resources that have made it possible for the Council of Europe, since 2010, to translate a large number of judgments into national languages

28. As mentioned in our answer above concerning 1f, Norway has contributed a total amount of 4,55 million euros to the Human Rights Trust Fund, which has also included contributions to the translation of judgments.

B. 2. h) After the Court's judgments: in particular, encourage the involvement of national parliaments in the judgment execution process, where appropriate, for instance, by transmitting to them annual or thematic reports or by holding debates with the executive authorities on the implementation of certain judgments

29. No specific procedures for involving the Parliament in the judgment execution process have been implemented in Norway. As mentioned above, Norway receives relatively few judgments from the Court, and even fewer raising structural problems that requires legislative measures. If the implementation of judgments from the Court requires involvement of the legislative authorities, this is dealt with on a case-by-case basis. Norway considers the current system for the implementation of judgments, as described in our answer above concerning 2c, to be satisfactory. However, as mentioned above, the new Norwegian National Human Rights Institution is organized under the Parliament and delivers annual reports to the Parliament on the human rights situation in Norway. It also makes recommendations to the Parliament and the Government to ensure that Norway's human rights obligations are fulfilled. Through this function, the institution may contribute to the involvement of the Parliament in the judgment execution process if this is necessary for the full implementation of future judgments.

B. 2. i) After the Court's judgments: establish "contact points", wherever appropriate, for human rights matters within the relevant executive, judicial and legislative authorities, and create networks between them through meetings, information exchanges, hearings or the transmission of annual or thematic reports or newsletters

30. Norway has not found it necessary to establish specific contact points for human rights matters within the executive, judicial or legislative authorities. The different authorities in Norway communicate well on human rights matters, and it is generally not difficult to make contact with the relevant actors when it is necessary to discuss human rights matters across different authorities.

B. 2. j) After the Court's judgments: consider, in conformity with the principle of subsidiarity, the holding of regular debates at national level on the execution of judgments involving executive and judicial authorities as well as members of parliament and associating, where appropriate, representatives of National Human Rights Institutions and civil society

31. As Norway receives relatively few judgments finding a violation of the Convention, it has not been considered necessary to hold regular debates on the execution of judgments. The existing procedures for the execution of judgments provides for the necessary dialogue between the relevant actors.

POLAND / POLOGNE

1. The information presented below includes data on new actions and initiatives undertaken in 2015-2016. The purpose of this information is to supplement or update earlier information provided in:

- *Information on the follow-up given by Poland to recommendations included in the Declaration adopted at the High Level Conference on the Future of the European Court of Human Rights* (Brighton, 17-18 April 2014)) (hereinafter referred to as “*Information by Poland on the follow-up to the Brighton Declaration*”);
- *Contribution of the delegation of Poland to the 1st meeting of the DH-SYSC-REC* (23-25 May 2016).

General information on the Brussels Declaration follow-up by Poland

2. The Declaration adopted at the high-level Conference of the Council of Europe on the “*Implementation of the European Convention on Human Rights, our shared responsibility*” (Brussels, 26-27 March 2015) (hereinafter referred to as the “*Brussels Declaration*”) was translated into Polish and widely disseminated.

The Ministry of Foreign Affairs sent the text of *the Brussels Declaration* to more than 90 institutions, including all ministers, the Chancelleries of the President, of the Sejm and of the Senate of the Republic of Poland, the Supreme Audit Office, the National Prosecutor’s Office, the Police, the Border Guard, the Prison Service, and many other central administration organs.

The Brussels Declaration was also widely disseminated among the judiciary (the Supreme Court, the Constitutional Court, the Supreme Administrative Court, the National Council of the Judiciary, all administrative courts and all the common courts of appeal (which in many cases sent it out to lower-instance common courts)). It was also sent to legal professions (advocates, legal advisors and court enforcement officers).

Finally, the *Declaration* was disseminated at the local level – among all Voivodes.

3. The Ministry of Foreign Affairs encouraged all the institutions to take additional steps so as to implement the recommendations presented in *the Brussels Declaration*. It also put forwards many ideas in this regard. The Ministry drafted two comprehensive documents: one written from the point of view of the administration and its role, and the other – from the point of view of the courts, both containing a list of selected recommendations of *the Brussels Declaration* and comments, a detailed questionnaire and suggested actions.

4. The Ministry of Foreign Affairs also transmitted to the above-mentioned institutions additional relevant Council of Europe documents, such as (translated into Polish):

- the conclusions concerning the implementation of the Convention at the national level included in the Council of Europe *Report on the longer-term future of the system of the European Convention on Human Rights* (the latter hereinafter referred to also as “the Convention”);
- compilation of the Council of Europe recommendations concerning the observance of the European Convention on Human Rights;
- *the Guide to good practice in respect of domestic remedies* adopted by the Council of Europe.

The Ministry of Foreign Affairs also sent out the most relevant regulations adopted in Poland and the Council of Europe that govern the process of the execution of the Court judgments, together with a study on the *Role of a national judge in the process of execution of the European Court of Human Rights rulings* written by Professor Lech Garlicki.

5. Recommendations of *the Brussels Declaration*, as well as the reform process of the European Court of Human Rights (hereinafter referred to also as “the Court” or “the ECtHR”) and the latest Council of Europe *Report on the longer-term future of the system of the European Convention on Human Rights* were discussed in detail at meetings of the Inter-ministerial Committee for Matters of the European Court of Human Rights.

6. At each meeting of the Inter-ministerial Committee two institutions share information on actions taken by them to disseminate the Convention standards in their area of competence. The aim of such presentations is to exchange good practices inside government administration and to inspire other bodies to engage in new initiatives.

7. The present report was drawn up on the basis of selected information on actions undertaken by 50 or so entities. The examples included therein are not exhaustive.

Information on follow-up actions to the respective recommendations of the Brussels Declaration

Paragraph 9 of the Brussels Declaration – to give priority to alternative procedures to litigation such as friendly settlements and unilateral declarations;

8. The Agent of the Polish Government before the European Court of Human Rights (hereinafter referred to as the “Government Agent”) in consultation with the competent ministers, specifically the Minister of Justice, whenever appropriate and possible, makes use of alternative procedures before the ECtHR, such as friendly settlement or unilateral declarations. In 2015-2016, the Court adopted more than 175⁹² decisions approving friendly settlement or unilateral declarations in Polish cases.

Paragraph 14 of the Brussels Declaration – to sign and ratify Protocol No. 15 amending the Convention as soon as possible and to consider signing and ratifying Protocol No. 16;

9. Poland ratified Protocol no. 15 on 10 September 2015.

10. Consultations are currently underway with the judiciary, legal professions and others regarding the possible signature and ratification of Protocol no. 16. These consultations also aim to assess the extent of the required adjustments in the domestic law and to determine which courts would be competent to submit applications for advisory opinions to the Court.

Paragraph B.1.a) of the Brussels Declaration – ensure that potential applicants have access to information on the Convention and the Court, particularly about the scope and limits of the Convention’s protection, the jurisdiction of the Court and the admissibility criteria

11. In 2016, the Ministry of Foreign Affairs translated into Polish the updated version of the *Practical Guide on Admissibility Criteria* (3rd edition) prepared by the Court.

12. On 1 January 2016, the *Act on Free Legal Aid and Legal Education* of 5 August 2015 entered into force. It extended access to free legal aid for citizens, in particular for those that are in a difficult financial situation. It also specified the obligations of organs of the public administration to undertake legal education actions, also in the area of human rights:

“Article 14. Organs of the public administration, in fulfilling the tasks of legal education within their competence, shall undertake educational actions aimed at increasing the society’s legal awareness, in particular concerning the dissemination of knowledge about: (...)

2) civic rights and obligations;

3) activity of national and international legal protection organs;”.

13. The Ministry of Foreign Affairs addressed a letter to legal professions (advocates, legal advisors and court enforcement officers) on the basis of *the Brussels Declaration* recommendations. The aim of the letter was to draw their attention to the vitally important role of legal professionals in reliably informing applicants about human rights and the

⁹² Information as at 13 December 2016.

Convention in the framework of proceedings conducted by them both at the national level and before the ECtHR.

14. Information about important ECtHR judgments, including those concerning activity of lawyers, is published on the Polish Bar Council website and in the *Palestra* journal. Also studies concerning the Court case-law are found there, dealing with, for instance, detained persons' right to defence. The "ECtHR" section contains a list of advocates who declared their readiness to represent clients before the Court. Relevant training for advocates is also conducted (see answer to paragraph B.1.b) below).

15. Information, analyses and studies concerning the ECtHR case-law are included in the bimonthly *Legal Advisor* published on the website of the Polish Council of Legal Advisors. A Polish version of the guide for lawyers appearing before the ECtHR was prepared by the Polish Council of Legal Advisors in the framework of the CCBE. Work is in progress to establish a list of legal advisors declaring their readiness to represent citizens before the Court. National and international training in this subject is also provided for legal advisors.

16. As communicated earlier (and below – see answer to paragraph B.2.f)), the Ministry of Justice and the Ministry of Foreign Affairs publish detailed and varied information on the Convention and the Court case-law on their websites. The text of, and information about, the Convention, the texts or summaries of the Court rulings and links to the relevant Court, MoJ and MFA websites are also published by some other ministries, courts and organs. In the reporting period, new authorities⁹³ communicated the publication of such information or adding links on their websites.

Paragraph B.1.b) of the Brussels Declaration – increase efforts at national level to raise awareness among members of parliament and improve the training of judges, prosecutors, lawyers and national officials on the Convention and its implementation, including as regards the execution of judgments, by ensuring that it constitutes an integral part of their vocational and in-service training, where relevant, including by having recourse to the Human Rights Education for Legal Professionals (HELP) programme of the Council of Europe, as well as to the training programmes of the Court and to its publications;

a) training of judges and prosecutors

17. Human rights issues, the Convention and the Court case-law have been taken into account in a systematic way in the curricula of both vocational and in-service training courses organised by the National School of Judiciary and Public Prosecution, also in cooperation with the Ministry of Justice (see the comprehensive information submitted in 2014⁹⁴).

i. vocational (initial) training of future judges and prosecutors

18. The curriculum for general as well as judiciary and prosecution traineeship offered by the National School of Judiciary and Public Prosecution includes general classes on the Convention and the Court case-law, as well as classes presenting specific legal issues concerning the Convention provisions and the ECtHR rulings, using state-of-the-art teaching methods, including the case method.

ii. in-service training of judges and prosecutors

⁹³ For example: the Warsaw-Praga Regional Court in Warsaw, the Białystok Voivodship Administrative Court, the National Public Prosecutor's Office, the Ministry of Finance, the Ministry of Sports and Tourism, the Ministry of Health, the Central Board of the Prison Service and the Polish Bar Council. Other entities, e.g. the Police, the Ministry of Justice, the Ministry of Foreign Affairs, the Constitutional Tribunal, the Supreme Administrative Court developed their websites dedicated to the Convention and the Court case-law.

⁹⁴ See pp. 17-20, *Information by Poland on the follow-up to the Brighton Declaration*.

19. With regard to the in-service training of judges and prosecutors, the National School engages in triple-track activities concerning the ECtHR case-law: systemic training, international training and training co-organised with other entities. All are monitored and analysed, with follow-up reports duly published.

20. Since 2012, the National School has been continuing with systemic training in order to provide all judges and prosecutors with knowledge concerning the most frequent violations of the Conventions in cases against Poland. Approximately 600-700 persons, both prosecutors and judges, are trained annually. In the 2015-2016, a total of 4 systemic training cycles were held in the field of human rights protection (two each for civil division judges and criminal division judges and prosecutors, respectively).

21. The Ministry of Justice organises training sessions on site at common courts; these are delivered in workshop format and take into account the specific needs identified for individual appellate/regional jurisdictions on the basis of the ministry's day-to-day analyses of the Court case-law and the so-called map of violations⁹⁵. In 2015, the National School joined forces with the Ministry of Justice to deliver a total of 17 training sessions in human rights protection at 9 courts (regional courts and/or courts of appeal); two training cycles were held at each court, for the criminal and civil divisions, respectively. In 2016, approximately 120 persons attended workshops organised by the Ministry of Justice on site at 4 courts.

22. In 2016, additionally, the National School held 4 training sessions on selected aspects of the Convention and human rights.

23. Since 2015, the National School has also been cooperating with the Public Prosecution in delivering the *Prosecutors and Hate Crime Training* (PAHCT) programme (4 training cycles have been held to date).

24. In 2015-2016, National School students attended over 20 international training events concerning various aspects of the Convention, co-organised with foreign partners (the EU, Norway). Furthermore, the National School has been cooperating with the HELP Programme (most recently – since October 2016 – for e-learning training in bioethics).

25. Individual courts have also confirmed that their judges have attended human rights-related training sessions organised by the Ministry of Justice and the National School, among others.

Examples:

- the Szczecin Court of Appeal declared that a total of 56 of their judges had attended training events concerning various human rights-related aspects organised in 2015-2016 by the Ministry of Justice, the National School of Judiciary and Public Prosecution, and other entities;

- the Warsaw Court of Appeal and two regional courts in Warsaw provided information on having taken also their own Strasbourg standards-related training initiatives for judges.

26. During the annual 2015 and 2016 conferences of the Supreme Court Chambers, Professor Lech Garlicki, former European Court of Human Rights judge, addressed Supreme Court judges with lectures on the Convention-related issues.

27. Supreme Administrative Court and voivodship administrative court judges have also attended regularly training conferences, in the course of which topics such as the judiciary's application of the Convention and the ECtHR case-law were addressed.

Examples:

⁹⁵ For more information about the creation of the so-called map of violations – see p. 18, *Information by Poland on the follow-up to the Brighton Declaration*.

- Voivodship Administrative Courts in Gliwice, Lublin, Rzeszów and Szczecin notified that in 2015-2016, the topic of human rights had been taken into account in training organised for their judges;
- in 2015 and 2016, judges and employees of the Supreme Administrative Court presented issues concerning the Convention standards and the Court case-law at training conferences organised for administrative courts, including events held on site at individual voivodship administrative courts.

a) training of legal professions

28. Minimum curriculum standards approved for the European Law section mandatory for third-year advocate trainees by the Presidium of the Polish Bar Council in December 2015 include *“proceedings before the ECtHR”*. The section includes knowledge of rules for drafting an application to be filed with the ECtHR, and responsibilities of plenipotentiaries at the stage of drafting alleged violations of the Convention.

29. Themes of human rights and the ECtHR case-law, including admissibility criteria and formal requirements for an application, are also recognised by individual bar councils – both as part of advocate traineeships and the in-service training of advocates. The Commission on Human Rights and the Group for Women of the Polish Bar Council have been both organising conferences on human rights-related issues for the purpose of disseminating knowledge about the Convention standards amongst representatives of legal professions and the general public: in 2015-2016, a total of 4 conferences were held to discuss various aspects of human rights.

30. Practical training in drafting pleadings (applications) in proceedings before the Court is provided in the framework curriculum of legal advisor traineeship.

31. Both the Polish Council of Legal Advisors and its regional councils organise conferences and training concerning human rights and the Council of Europe system for legal advisors and trainees. In 2015-2016, four conferences and seminars dedicated to this subject were held. In addition, classes in 250 schools throughout Poland were organised in the framework of European Lawyers Day and activities of the regional councils, and the functioning of the ECtHR was discussed on this occasion. Moreover, the Legal Education Centre of the National Council of Legal Advisors is engaged in organising a cycle of school classes in cooperation with the Ministry of Justice and the Ministry of the National Education (see below paragraph 42, last *tiret*).

32. The Polish Bar Council and the Polish Council of Legal Advisors have also been cooperating with the HELP Programme and a number of advocates and legal advisors, among others, have been certified as Polish HELP Programme trainers.

b) training of public officials

33. With regard to training of public official candidates, the Convention-related issues are part of the intramural curriculum of the National School of Public Administration – including classes concerning human rights protection, handling proceedings before international human rights protection authorities, and representing the Government of the Republic of Poland in proceedings before the ECtHR (practical classes, case-study analysis).

34. Individual authorities have also been engaged in training initiatives relating to the Convention as part of their in-service training efforts.

Examples:

- in 2012-2015, the Government Legislation Centre carried out the project titled *Improving Legislation Techniques at Entities in Service to Public Authorities* – 23 legislation

workshop sessions were organised to disseminate knowledge of the Convention-related issues and the ECtHR case-law; 237 officials participated in the training. Since 2015, the issue of international human rights standards has also been an integral part of legislative traineeship (see also answer to paragraph B.1.d));

- in 2015, the Ministry of Culture and National Heritage organised a Convention-related training session for 16 of its employees (one per each organisational unit);
- the Office for Foreigners has also delivered numerous training activities in the field of human rights protection. The Convention and the current Court case-law were recognised as part of training sessions on granting foreigners protection under the Geneva Convention relating to the Status of Refugees, and on the process of legalising the stay of foreign nationals in Poland. Furthermore, Office for Foreigners personnel delivered training sessions on foreigner-related issues for Voivodship Office staff and Border Guard officers and discussed issues including human rights, the application of the Convention and the Court rulings.

c) training of uniformed service officers

35. During the reporting period, action was taken to improve the quality and efficiency of training offered to Police and Border Guard officers.

- Police

36. Human rights protection issues, including the Court judgments, are addressed at all levels of training in the Police and especially in the in-service training organised locally.

In 2016, a document was approved to specify *the Main Areas of Education and Information Activities in the Protection of Human Rights and Freedoms and the Equal Opportunities Strategy in the Police Force for 2016-2018*. The paper outlines the process of systematising work by the Police Force to foster human rights protection. This includes *“improving in-house education and information activities impacting the professionalisation of all action taken by the Police Force regarding aspects of respecting human rights and freedoms, professional ethics, and equal treatment (area I).”* The main tasks described include:

“educational activities in the area of fostering recommendations and suggestions by international organisations and national institutions protecting human rights and freedoms, and educational activities based on European Court of Human Rights case-law, mainly with regard to non-executed rulings (Task 1).”

The performance of the task in 2016 shall be assessed by the end of February 2017.

- Border Guard

37. Efforts to foster human rights standards are present throughout the process of training of Border Guard officers. In 2015, human rights issues were included as a fixed and mandatory part of the training in all qualified training (this training is one of the requirements for employment and professional promotion for posts of non-commissioned officers, warrant officers and first-rank officers) and senior management training curricula. In order to standardise the training, sets of teaching materials dealing with human rights were created; they include standards as specified in the Convention and the Court case-law.

38. In-service training run by Border Guard training centres (at the central level) and by Border Guard units locally supplements the above courses. A significant part thereof focuses on human rights protection issues.

39. A new training section was added to the *Superior Officer's Manual – Introducing New Officers to Service*, titled *Introduction to Human Rights*. All new officers in the service are to attend obligatory meetings with the plenipotentiary for human rights protection and equal

treatment in order to be presented with key issues concerning respect for equal treatment in the Border Guard. Work is in progress to design auxiliary teaching aids (basing on the Convention provisions and the Court case-law) to be used in the process of introducing new Border Guard officers to human rights.

40. As part of the process of establishing a group of trainers responsible for delivering human rights training at local level, in-service training sessions were also held for plenipotentiaries for human rights themselves: they attended a Court case-law workshop organised by the Helsinki Foundation for Human Rights and a preparatory teaching course in February and September 2016, respectively.

- Prison Service

41. The treatment of prison and remand inmates has been the subject of training courses provided to Prison Service staff at individual organisational units, and – in particular – at Prison Service training centres, as part of introductory, vocational, and specialist training. Providing Prison Service officers and employees with knowledge of fundamental rules concerning the treatment of inmates as laid out in international documents and in the ECtHR case-law is recognised as an activity of special importance.

e) Human Rights Education at schools and teacher training

42. As communicated earlier⁹⁶, the Convention and human rights are widely recognised in schools' core curricula. Schools and other education entities in Poland are based on respect for human rights and foster them in educational activities. Human rights protection has been guaranteed by provisions of the *Education System Act* of 7 September 1991, which refers to the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child directly.

43. In 2015-2016, the Centre for Education Development run a number of activities to develop human rights teachers' competencies, including those listed below:

- the *21 Ways to Prevent Hate Speech* seminar (April 2015) for representatives of teacher training centres, education boards, advisors and consultants assisting schools in activities in human rights and combating discrimination;
- the *Preventing Hate Speech at School* programme implemented top-down throughout Poland (December 2015 – April 2016); a total of 2,520 teachers were trained, enabling them to share newly learned forms of preventing hate speech with their pupils;
- the *Compass – Education about and for Human Rights* programme (March-June 2015) for regional co-ordinators and teacher boards for teaching human rights and civic education: training was offered throughout Poland for 16 teacher boards and 251 teachers in total;
- the *School of Democracy – School of Self-Governance. Civic Education and Education for Human Rights as a Task for All Teachers* project – in the 2014/2015 school year (until June 2015) 65 teacher boards were organised throughout Poland; 1,590 teachers were trained. The teacher board training programme was continued in the 2015/2016 school year throughout Poland;
- the *Legal Education at School* (2015) project has been operating since 2011 in cooperation with the Legal Education Centre of the Polish Council of Legal Advisors to provide civic education teachers with practical knowledge and skills in the field of legal education, human rights included. The project's detailed aims included the preparation of a methodology textbook for teachers, and to provide them with topical and methodological

⁹⁶ See pp. 3-5, *Information by Poland on the follow-up to the Brighton Declaration*.

support in delivering legal education classes, human rights classes included (school year 2015/2016).

Paragraph B.1.c) of the Brussels Declaration – promote, in this regard, study visits and traineeships at the Court for judges, lawyers and national officials in order to increase their knowledge of the Convention system;

44. In 2015-2016 the Ministry of Foreign Affairs organised two study visits to the Council of Europe and the Court in cooperation with the Council of Europe HELP Programme:

- in May 2015 – for presidents of courts of appeal;
- in November 2016 – for penitentiary judges (one from each appellate jurisdiction and from the Ministry of Justice) and for a representative of the Prison Service.

The visit programmes included meetings with representatives of the Court's Registry and the Department for the Execution of the ECtHR Judgments, the Polish judge of the ECtHR, participation in a hearing before the Court as well as meetings with the CoE Secretariat, among them the Secretariat of the monitoring bodies.

45. In December 2016, the Ministry of Justice organised a study visit for presidents of Polish regional courts and representatives of the Norwegian justice system. A second visit of this kind for presidents of the remaining regional courts was scheduled for January 2017.

The programme of both visits included: meetings of the Polish and Norwegian judges with the Court's judges sitting in respect of Poland and Norway, participation in a Grand Chamber hearing, discussions and exchanges of experiences regarding the application of the Convention standards by the domestic courts, and meetings with representatives of: CEPEJ, CPT and the Department for the Execution of the ECtHR Judgments.

Reports from the visits will be drafted and disseminated among all the interested staff of the justice system.

46. Students of the National School of Judiciary and Public Prosecution also participated in the traineeships and study visits:

In 2015

- a one-year traineeship for two persons at the ECtHR, organised in the framework of the Exchange Programme of the European Judicial Training Network (hereinafter: "EJTN"; September 2015 – August 2016);
- 3-day study visits to the ECtHR organised in the framework of the EJTN Exchange Programme (I-V editions);

In 2016

- a one-year traineeship for one person at the ECtHR, organised in the framework of the EJTN Exchange Programme (September 2016 – August 2017);;
- study visits to the ECtHR, the European Union Court of Justice and the Eurojust, organised in the framework of the EJTN Exchange Programme.

47. Since 2015 traineeships at the Court have been organised by the National School of Public Administration (for one person in 2015 and for one person in 2016).

48. Some courts and other institutions also took the initiative to organise traineeships or study visits to the Court.

Paragraph B.1.d) of the Brussels Declaration – take appropriate action to improve the verification of the compatibility of draft laws, existing laws and internal administrative practice with the Convention, in the light of the Court's case law;

The following new initiatives have been taken following the adoption of *the Brussels Declaration*:

49. On 1 March 2016, an explicit reference to international human rights standards was incorporated into *Legislative Drafting Rules* adopted by Ordinance of the Prime Minister⁹⁷. Provision § 1 of the amended *Rules* reads as follows :

“§ 1(1). *The decision to draft a statute shall be preceded by, in particular: (...)*

*2) an analysis of the current legal situation taking into account European Union law, international treaties that bind Poland, including **human rights protection treaties**, as well as the legislation of international organisations and organs that include Poland as a member;*

50. In 2015, the topic of international obligations of Poland in the area of human rights became a subject taught to legislators as part of their legislative traineeship. The new *Ordinance of the Prime Minister on Legislative Traineeship* of 28 April 2015 provides that:

“§ 4(1). *The subjects of lectures shall be as follows: ...*

4) selected problems of international law, including the impact of the Republic of Poland’s international legal obligations in the area of human rights on the law-making process;”.

51. On 27 October 2015, *the Work Rules of the Council of Ministers* were amended by resolution of the Council of Ministers. A new provision was added to seek the opinion of the Minister of Foreign Affairs in the process of preparing the Government’s position in the proceedings before the Constitutional Tribunal, if such opinion is justified by the subject matter examined by the Constitutional Tribunal as regards the compatibility of a legal act with international human rights regulations, in particular the Convention, among others.

“§ 156a. *The Council of Ministers or the Prime Minister shall present a position on the case examined by the Constitutional Tribunal, hereinafter referred to as the “position”, after the delivery of notification that an application, legal question or a constitutional complaint has been lodged with the Constitutional Tribunal.*

§ 156b(1). *The draft position shall be prepared by the Government Legislation Centre. (...)*

3. If warranted by the subject matter examined by the Constitutional Tribunal, in preparing a draft position, the Government Legislation Centre shall seek the opinion of: (...)

2) the Minister of Foreign Affairs in respect of the compatibility of provisions of a legal act with international human rights regulations, in particular with the Convention for the Protection of Human Rights and Fundamental Freedoms, done at Rome on 4 November 1950 (...).”.

52. A new provision concerning the execution of the ECtHR judgments requiring legislative changes was added to the *Order of the Minister of Justice of 10 September 2015 on Legislative Work in the Ministry of Justice*. It reads:

“§ 4(1). *The Legislative Department shall institute legislative works: (...)*

3) upon its own initiative, especially if it is necessary to implement a statutory authorisation, a ruling of the Constitutional Tribunal, the Court of Justice of the European Union, the European Court of Human Rights, to implement European Union legislation or an international treaty, to fulfil the submission by the Prosecutor General, the Human Rights Defender, the Commissioner for Children’s Rights, the Codification Commission or by an organisational unit subordinate to, or supervised by

⁹⁷ Ordinance of the Prime Minister on Legislative Drafting Rules of 20 June 2002, as further amended.

the Minister of Justice, or to implement a decision of a relevant committee of the Council of Ministers or a decision of the Council of Ministers.”

53. Several entities, among them, the Government Legislation Centre, the Legislative Council of the Prime Minister, the Ministry of Culture and National Heritage, the Ministry of the Interior and Administration, the Ministry of Justice, the Ministry of Sports and Tourism, the National Council of the Judiciary, the Supreme Court, the National Prosecutor's Office, the Polish Bar Council, the Office for Foreigners, the Government Plenipotentiary for Civil Society and Equal Treatment, Plenipotentiaries for Human Rights appointed at the Border Guard and at the Prison Service, reaffirmed the fact that they take the Convention into account when preparing and giving opinion on draft legal acts.

54. Several organs communicated additional initiatives the aim of which is to ensure that the compatibility with human rights standards is taken into account in domestic law.

Examples:

- in July 2016, the Director General of the Ministry of Culture and National Heritage sent out a reminder to the ministry's organisational units about the need to verify the compatibility of draft legal acts with the Convention;
- in August 2016, the Ministry of the Environment sent out a letter to all its organisational units and its subordinate or supervised entities informing them about the Convention and its implementation and emphasising the need to analyse Poland's international human rights obligations when drafting legal acts and to include information on their compatibility with the Convention in explanatory memoranda to draft legal acts;
- the Convention standards are taken into account in the work of the Committee for setting standards of genetic testing and biobanks, appointed by Order of the Minister of Health of 15 September 2016;
- a Committee evaluating the implementation of the European Union *acquis* falling within the competence of the Border Guard, which operates pursuant to Border Guard Commander in Chief's decision of 11 April 2013, assesses Polish law and the Border Guard's internal regulations from the perspective of EU law and the case-law of the Court of Justice of the EU, but it also takes into account the Convention and the ECtHR case-law in its analyses. As a result of the Committee's work, many legal acts dealing with the Border Guard were amended to ensure their conformity with human rights.

55. In warranted cases the Polish courts performed an assessment or interpretation of the domestic law from the point of view of human rights standards laid down in the Constitution or the Convention. They also referred legal questions in this respect to the Constitutional Court. Upon the MFA's request, the Supreme Court, the Supreme Administrative Court and several courts of lower instance submitted examples of their rulings delivered in 2015-2016 that dealt with the following issues: pro-constitutional interpretation of statutes, admissibility of disregarding unconstitutional norms in the process of delivering justice, or instances when domestic law was interpreted with reference to standards laid down in the Convention and the Court case-law or other international treaties binding on Poland. They also submitted examples of rulings in which trial courts had assessed executive acts in reference to the Convention, among others. The Supreme Court and the Supreme Administrative Court also submitted examples of their resolutions aimed at clarifying legal provisions whose application had resulted in discrepancies found in the courts' case-law or aimed at resolving legal issues that had raised serious doubts, and in which those courts invoked the Convention or the Court case-law.

Paragraph B.1.e) of the Brussels Declaration – ensure the effective implementation of the Convention at national level, take effective measures to prevent violations and to provide effective domestic remedies to address alleged violations of the Convention

a) available domestic remedies

56. As communicated earlier, in accordance with *the Polish Constitution*, the Convention constitutes part of the domestic legal order and is directly applicable. It takes precedence over statutes if they cannot be reconciled with the Convention.

57. The Polish law offers many remedies for the applicants to seek protection of their rights at the national level. Among them remedies of general character are guaranteed, for instance:

- a constitutional complaint whereby everyone whose constitutional freedoms or rights have been infringed shall have the right to appeal to the Constitutional Tribunal for its judgment on the conformity to *the Constitution* of a normative act upon which basis a court or organ has made a final decision on that person's freedoms or rights or on his/her obligations;
- claims asserted under *the Civil Code* for compensation against the State Treasury on the basis of tort liability for damage caused in the exercise of public authority;
- claims for just satisfaction asserted under provisions of *the Civil Code* that govern the protection of personal rights – in light of the Polish courts' jurisprudence, these provisions are applied also as a compensatory remedy for some forms of human rights breaches, e.g. inappropriate detention conditions in penitentiary units, discrimination, etc.

58. Remedies of special character are also envisaged, for instance:

- remedies in case of breach of the right to have a case examined in reasonable time that allow allegations about excessive duration of civil, criminal, administrative and administrative court proceedings to be assessed and a sum of money, just satisfaction or compensation to be awarded⁹⁸;
- the possibility to seek compensation and just satisfaction in case of unjustified conviction or obviously unjustified detention on remand or deprivation of liberty (on the basis of *the Code of Criminal Procedure*).

59. The statutes that govern proceedings concerning foreigners refer directly to the Convention, namely: *the Act on Granting Protection to Aliens within the Territory of the Republic of Poland* of 13 June 2003, *the Act on Entry into, Residence in and Exit from the Republic of Poland of Nationals of the European Union Member States and their Family Members* of 14 July 2006, and *the Act on Aliens* of 12 December 2013.

60. Direct reference to the Convention was now added to *the Act on Complaint about Breach of the Party's Right to Have a Case Examined in an Investigation Conducted or Supervised by a Prosecutor and in Judicial Proceedings without Undue Delay* of 17 June 2004 (for more information: see answer to paragraph B.2.d)).

b) examples of actions taken in order to ensure that the Convention is applied by courts and other authorities

61. In 2015, at the request of the Ministry of Foreign Affairs, Professor Lech Garlicki, a former judge of the European Court of Human Rights in respect of Poland, prepared a concise study on the *Role of National Judge in the Process of Execution of the European Court of Human Rights Rulings*. In it Garlicki suggested ways how under Polish law domestic courts should handle cases in view of the Convention and the Court judgments. The study was distributed to the Supreme Court, the Constitutional Court, the Supreme Administrative

⁹⁸ These remedies are provided in: *the Act on complaint about breach of the party's right to have a case examined in an investigation conducted or supervised by a prosecutor and in judicial proceedings without undue delay* of 17 June 2004; *the Code of Administrative Proceedings* and in the *Act of 30 August 2002 – the Law on proceedings before administrative courts*.

Court, and all administrative courts and common courts of appeal that were asked to distribute it among judges.

62. On 16 October 2016 the Ministry of Foreign Affairs together with the National School of Judiciary and Public Prosecution organised the IX Warsaw Seminar to discuss the dysfunctions of Polish law and proposals for improvement of the system of legal remedies in light of the Convention and the ECtHR case-law. Again, Professor Lech Garlicki proposed a model of application of the Convention and the Court case-law by domestic courts and discussed the role of the domestic judge in the process of the execution of judgments. Students of the National School of Judiciary and Public Prosecution were among the participants of the Seminar.

63. In 2016, the Ministry of Foreign Affairs issued a publication from the IX Warsaw Seminar. It contains articles and speeches of representatives of the Polish judiciary, organs in charge of the protection of rights, academia, non-governmental organisations and practitioners who addressed issues of how to fulfil the Strasbourg standards of human rights protection. The publication also discusses the role of the law-maker, the Constitutional Court, common and administrative courts and the prosecution in ensuring effective remedies for breaches of rights guaranteed under the Convention. The publication was sent to a wide range of recipients (including representatives of the judiciary, public administration, NGOs, some libraries and Law Faculties). It is also available on the MFA website⁹⁹.

64. Steps to improve the application of the Convention by civil servants were also taken by some ministries.

Examples:

- in the Ministry of Economic Development, a recommendation was sent to all organisational units to promote and apply the principles of the Convention and the Court case-law. Organs subordinate to the Minister of Economic Development and Finance (such as the Public Procurement Office and the Patent Office) were also asked to perform analyses of cases they handle from the point of view of possible interference into the human rights sphere and were informed about the Court case-law database;
- in the Ministry of Culture and National Heritage, in July 2016, the Director General reminded all organisational units of the need to verify the conformity of decisions in individual cases with the Convention.

65. The Polish courts invoke the Convention and the Court case-law when resolving cases submitted to them. In preparing the present communication on the follow-up of the *Brussels Declaration*, some courts (the Supreme Court, the Supreme Administrative Court, the Gdańsk, Gliwice, Lublin Voivodship Administrative Courts, common courts of the Lublin appellate jurisdiction) submitted examples of such rulings. Some of the courts also communicated that the issue of guaranteeing the conformity of the judicial practice with requirements arising from the Court judgments in Polish cases was the subject of supervisory actions by court presidents or heads of the relevant court divisions.

66. In the process of planning the audits of the functioning of the public authorities, the Supreme Audit Office pays particular attention to the issue of strengthening the mechanisms of the Convention implementation. The Supreme Audit Office often relies on the provisions of the Convention and the Charter of Fundamental Rights of the European Union and examines the Court case-law when it prepares pre-audit analyses. Several audits performed by the Supreme Audit Office dealt with issues related to the observance of individual rights, including the rights of particularly vulnerable groups, and in some cases they were performed as a result of cooperation with the Ombudsman.

⁹⁹ http://www.msz.gov.pl/en/foreign_policy/human_rights/european_court_of_human_rights/news/two_new_mfa_publications_devoted_to_the_improvement_of_human_rights_protection_remedies_in

67. In the areas where in the past the Court found the Convention violations of a recurring nature and where the Committee of Ministers already closed its supervision of the execution of the respective groups of cases by Poland, particular attention is still paid – including in the works of the Inter-ministerial Committee for Matters of the ECtHR – to the conduct of the authorities and courts so as to prevent similar violations in the future.

c) examples of actions taken in order to ensure respect of the Convention by uniformed services officers

68. On 11 March 2015 *the Strategy of Activities Aimed at the Prevention of Human Rights Violations by Police Officers*, drawn up by the Ministry of the Interior, was adopted. It addresses prevention of cases of inhuman or degrading treatment in the Police in a comprehensive manner. It contains 10 lines of action in those thematic areas that are crucial for ensuring respect for human right in the Police. A team for the implementation of some provisions of the *Strategy* was appointed in August 2015 by Order of the Minister of the Interior.

69. The *Guidelines of the Prosecutor General regarding the conduct by prosecutors of proceedings into crimes linked with deprivation of life or inhuman or degrading treatment or punishment committed by the Police officers or other public officials*, adopted in June 2014, are implemented. A co-ordinator for crimes committed by Police officers was appointed in each district and regional prosecution office and their task is to supervise and monitor this type of cases.

70. The National Public Prosecutor's Office monitors investigations into crimes involving violence or unlawful threat or harassment or crimes related to deprivation of life committed by public officials during or in connection with the exercise of public duties. Regional prosecutor's offices are obligated to submit, on an ongoing basis, specific information concerning the above cases to the National Public Prosecutor's Office, after an investigation is instituted. Regular examination of the case-files (performed every six months) is conducted in order to verify the properness of the ongoing proceedings and the merits of decisions taken. Public prosecutor's offices were also obligated to submit official memoranda with conclusions stemming from the examination of the case-files (by 15 February and 15 August each year). On the basis of all the data received, the National Public Prosecutor's Office identifies and communicates to the entities concerned the most frequently recurring shortcomings during the conducted proceedings.

71. The Public Prosecution also cooperates with the Police in organising training on these issues. Training dedicated to the methodology of conducting investigations against Police officers and other staff is organised for prosecutors and officers from the Police Central Headquarters. A representative of the National Public Prosecutor's Office presents and discusses conclusions from the examination of the case-files. In 2015 three training sessions were organised for prosecutors of all instances who conduct or supervise proceedings in the aforementioned cases.

72. In an effort to disseminate the Convention standards regarding detainee rights among the Prison Service and penitentiary judges, the Ministry of Foreign Affairs in cooperation with the Prison Service Central Board organised the X Warsaw Seminar dedicated to *Positive and Negative State Obligations Towards Persons Deprived of Liberty – Current Challenges of the Polish Penitentiary System* (14 October 2016, Warsaw). Its participants discussed problems of the Polish penitentiary system arising from complaints lodged with the Human Rights Defender (Ombudsman) and the Strasbourg Court.

73. As communicated above, in November 2016, the MFA organised a study visit for 13 penitentiary judges from all appellate jurisdictions and from the Ministry of Justice and a Prison Service representative in cooperation with the Council of Europe HELP Programme. The Court case-law in penitentiary cases, CPT recommendations for Poland and the CoE's penological cooperation, among others, were presented during the visit programme.

74. The Border Guard took measures to increase the effectiveness of disciplinary proceedings in cases of alleged human rights breaches by Border Guard officers. A group of officers specialising in such proceedings was selected and trained how to conduct such proceedings focusing on human rights breaches by officers. A shared database on classification of misconduct involving human rights violations punished in disciplinary proceedings is now being developed. The database is intended as a guide to legislative provisions that could be used to classify the respective acts for the purpose of disciplinary proceedings. It will take into account the Court case-law, among others. A new database of disciplinary proceedings is also being developed.

Paragraph B.1.f) of the Brussels Declaration – consider making voluntary contributions to the Human Rights Trust Fund and to the Court’s special account to allow it to deal with the backlog of all well-founded cases, and continue to promote temporary secondments to the Registry of the Court;

75. In 2015-2016 Poland seconded one judge to the Court and one judge to the Department for the Execution of the ECtHR Judgments at the CoE Secretariat.

Paragraph B.1.g) of the Brussels Declaration – consider the establishment of an independent National Human Rights Institution.

76. As communicated earlier¹⁰⁰, an independent National Human Rights Institution has already been established in Poland. The requirements set out in *the Paris Principles* are fulfilled by the institution of the Polish Human Rights Defender (Ombudsman) who was accredited with the “A” status in 1999.

Paragraph B.2.a) of the Brussels Declaration – continue to increase their efforts to submit, within the stipulated deadlines, comprehensive action plans and reports, key tools in the dialogue between the Committee of Ministers and the States Parties, which can contribute also to enhanced dialogue with other stakeholders, such as the Court, national parliaments

a) initiatives taken in order to streamline the execution of the Court judgments and preparation of action plans and reports

or National Human Rights Institutions

77. In order to ensure that action plans and reports are submitted within the stipulated deadlines, on 23 January 2015 the Prime Minister amended *the Order Establishing the Committee for Matters of the European Court of Human Rights* of 19 July 2007 (the text of the *Order* as amended is attached below). On 23 April 2015, new §§ 4a and 4b entered into force, providing specifically which documents and in what time-limits should be submitted by the competent ministers.

78. Notably a new § 4a(1) of the *Order* provides that the minister competent with respect to the substance of the violation found by the Court shall submit the following documents and information:

“1) translation of a judgment into Polish;

2) information on the actions aimed to disseminate a judgment among the entities to whose actions or omissions the violation of the Convention for the Protection of Human Rights and Fundamental Freedoms found by the Court applies or may apply;

3) an action plan for the execution of a final judgment of the Court, hereinafter referred to as “action plan”, containing information on required and planned:

¹⁰⁰ See p. 5, *Information by Poland on the follow-up to the Brighton Declaration*.

a) individual measures that is measures intended to ensure that the violation of the Convention for the Protection of Human Rights and Fundamental Freedoms found by the Court in respect of the applicant ceases and that the applicant is put in the same situation, as far as possible, which he or she enjoyed before the violation of the Convention, hereinafter referred to as “individual measures,”

b) general measures that is measures concerning the applicable law or the practice of its application, which are intended to terminate the state of violation of the Convention for the Protection of Human Rights and Fundamental Freedoms and prevent similar new violations of the Convention from happening in the future, hereinafter referred to as “general measures”

- together with deadlines of the implementation thereof;

4) updated information on the state of the implementation of an action plan;

5) report on the actions taken in order to execute a final judgment of the Court, hereinafter referred to as “action report” containing information on the implemented individual and general measures indispensable for the judgment to be fully executed.”.

79. In turn, § 4b of the *Order* prescribes detailed time-limits for the submission of draft and final action plans and reports, and also time-limits for the translation of judgments and their dissemination. All these deadlines were calculated consistently with the deadlines binding in the proceedings before the Council of Europe’s Committee of Ministers:

- a draft action plan (or alternatively: a draft action report) should be submitted to the Chairman of the Inter-ministerial Committee (the Government Agent) by competent ministers no later than two months after the date on which the judgment becomes final. The ministers are also responsible for consulting, if necessary, with subordinate or supervised institutions in order to identify the execution measures needed to be taken by such bodies;

- the Chairman of the Committee (the Government Agent) (and other bodies) is authorised to submit proposals or comments concerning the manner of execution of a judgment within a month. The competent minister should also reply within a month;

- an agreed action plan (or alternatively: an agreed action report) should be submitted by the competent minister no later than 4 months after the date on which the judgment becomes final;

- the Government Agent should then translate it and submit it to the CoE Committee of Ministers. On the basis of the data submitted by the competent ministries the Government Agent also provides assistance in the drafting of agreed action plans and reports in compliance with the CoE requirements.

80. Pursuant to the *Order*, an action plan should indicate deadlines for actions to be taken. A competent minister should also submit information about the state of implementation of an action plan every six months and every time the Committee of Ministers so requests.

81. A draft action report should be submitted without delay after all the actions outlined in the action plan have been implemented or if all the required individual or general measures have been implemented on other grounds.

82. On 18 October 2015, legislative changes were made to enhance the protection of the sums awarded by the Court, and thus to prevent any possible problems with the full realisation of individual measures required by the Court rulings:

- the seizure of sums awarded by a Court’s ruling was precluded, if the State Treasury is a creditor – by the following new legal provisions:
in the Code of the Civil Procedure:

“Article 831(1). The following shall be exempt from enforcement: (...)

8) amounts awarded by a ruling of the European Court of Human Rights, if the enforced claim is owed to the State Treasury;”.

in the Act on Enforcement Proceedings in Administration of 17 June 1966:

“Article 8(1). The following shall be exempt from administrative enforcement: (...)

18) amounts awarded by a ruling of the European Court of Human Rights, if the enforced claim is owed to the State Treasury.”;

- new Article 121a was added to *the Act on Court Fees in Civil Cases* of 28 July 2005, which provides:

“Article 121a. Court receivables shall be cancelled upon a debtor’s request in the event the European Court of Human Rights finds that in the proceedings in which they were awarded the Convention for the Protection of Human Rights and Fundamental Freedoms, done at Rome on 4 November 1950 (...) or additional Protocols thereto were violated with respect to the debtor.”

b) effects of the above measures

83. Over the last few years Poland has markedly accelerated the execution of the Court judgments (see also the information below) and is submitting promptly appropriate action plans or reports to the Committee of Ministers:

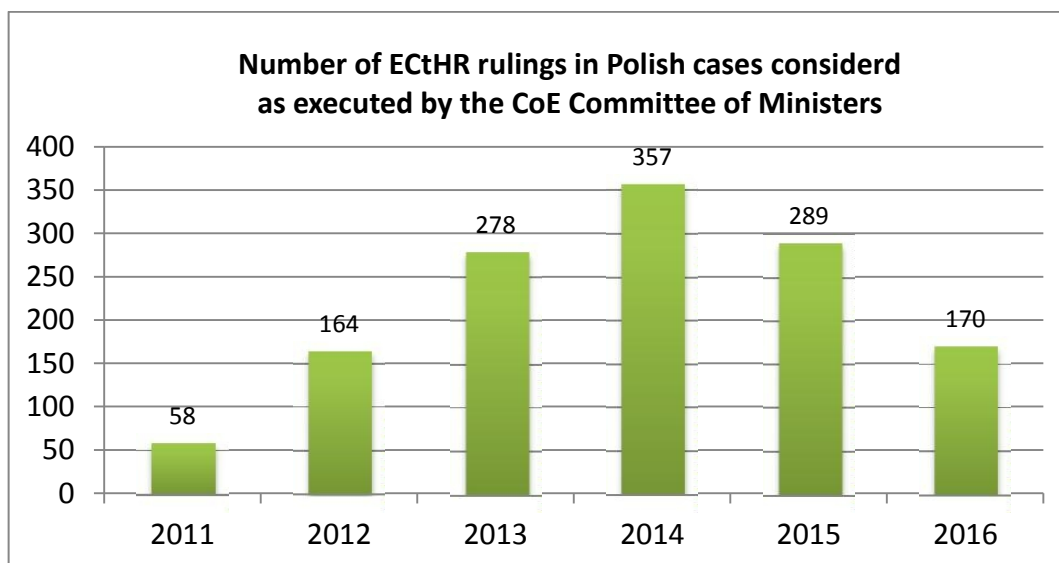
- in 2016 it submitted a total of 34 action plans or reports in 29 cases/group of cases (in some cases an action plan/report could be submitted more than once), plus 4 documents with additional information in 3 cases (e.g. regarding only individual or general measures);
- in 2015 it submitted 25 action plans or reports in 22 cases/groups of cases (in some cases more than once).

Paragraph B.2.b) of the Brussels Declaration – in compliance with the domestic legal order, put in place in a timely manner effective remedies at domestic level to address violations of the Convention found by the Court

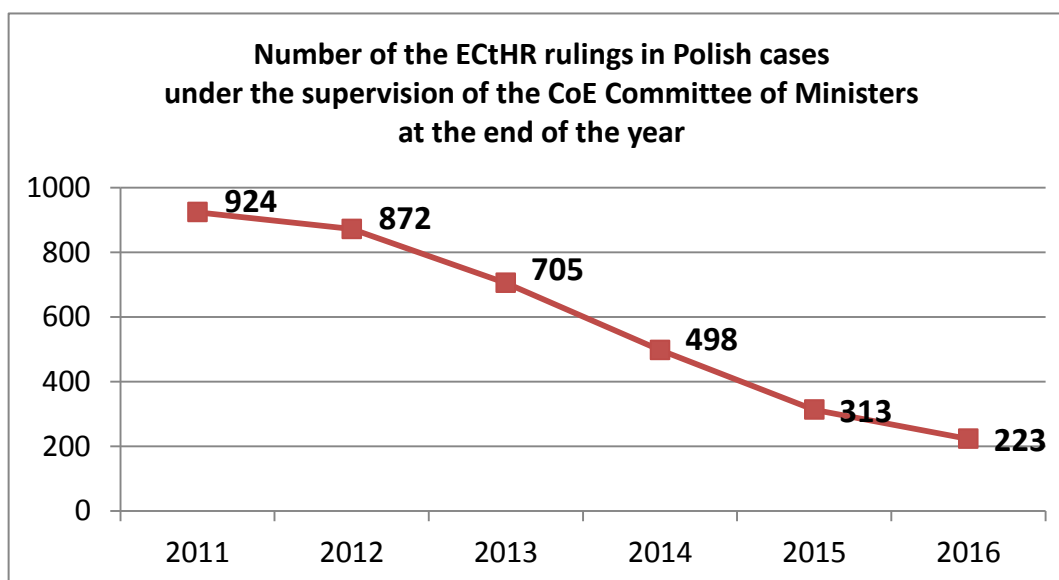
84. In 2015-2016 the Council of Europe’s Committee of Ministers considered as executed 459 ECtHR rulings in Polish cases, of which 300 were judgments.

85. The following statistics illustrate the progress made by Poland in the execution of the Court judgments over the last five years:

- in the years 2011-2016, the CoE Committee of Ministers closed the supervision of execution of a total of **1,316** Court rulings (judgments or decisions) in Polish cases:



- the number of the Court rulings in Polish cases remaining under the supervision of the CoE Committee of Ministers **decreased fourfold** (from more than 920 at the end of 2011 down to 223 at the end of 2016):



86. See also answer to paragraph B.2.d) for further information.

Paragraph B.2.c) of the Brussels Declaration – develop and deploy sufficient resources at national level with a view to the full and effective execution of all judgments, and afford appropriate means and authority to the government agents or other officials responsible for co-ordinating the execution of judgments;

87. In Poland, the obligations of the respective ministers as regards the execution of the Court judgments have their legal basis in the aforementioned *Order of the Prime Minister Establishing the Committee for Matters of the European Court of Human Rights* (see above answer to paragraph B.2.a)).

88. The authority of the Government Agent who co-ordinates the execution of judgments and the tasks of the Inter-Ministerial Committee for Matters of the ECtHR which monitors the

execution of judgments also have their explicit legal basis in the above-mentioned *Order of the Prime Minister*.

- the means and authority of the Government Agent (who acts in the capacity of the Chairman of the Committee for Matters of the ECtHR) were specified and strengthened in 2015 and are as follows:

“§ 4a(6). The chairman of the Committee shall support and co-ordinate the implementation of the Committee’s task referred to in § 2(1)(3), including in particular:

1) shall inform without undue delay the Committee’s members about the adoption by the Court of a judgment or decision and in justified cases shall explain their contents or final nature;

2) may submit proposals or comments concerning the manner of execution of judgments and decisions of the Court by the competent ministers or other entities;

3) shall ensure the co-ordination of work by the Committee’s members, in particular in cases referred to in § 4a(4);

4) shall inform the Committee’s members about the positions of the Committee of Ministers of the Council of Europe as regards the execution of judgments and decisions of the Court by Poland;

5) shall inform the Committee about the execution of judgments and decisions of the Court by Poland and about possible problems related to their execution.”;

- the tasks of the Committee for Matters of the ECtHR include:

“§ 2(1). The Committee shall have the following tasks: (...)

3) to monitor the execution of judgments and decisions of the Court with respect to Poland on the basis of documents and information concerning the execution of judgments and decisions submitted by the competent ministers, on their own initiative or at the request of the minister competent for foreign affairs, and to analyse possible problems related to their execution;

4) to draft annual reports on the state of the execution of judgments of the Court to be submitted by 31 March of the year following the reporting year, through the office of the minister competent for foreign affairs, to the Council of Ministers for adoption.”;

89. The Prime Minister’s *Order* also sets out the obligations of the Committee’s members, which include submitting to the Chairman (the Government Agent) of documents related to the execution of judgments (specifically action plans and reports):

“§ 3a. Members of the Committee:

1) shall participate in all of the Committee’s meetings and in warranted cases ensure the representation of the entity by other authorised persons;

2) shall be responsible for elaborating and presenting positions in the field of competence of the entity they represent as regards all issues dealt with by the Committee;

3) shall be responsible for the submission to the chairman of information, documents and positions indicated in §§ 4a – 4c.”.

Paragraph B.2.d) of the Brussels Declaration – attach particular importance to ensuring full, effective and prompt follow-up to those judgments raising structural problems, which may furthermore prove relevant for other States Parties

90. In 2015-2016 the Council of Europe’s Committee of Ministers closed the supervision of the execution of judgments in groups of Polish cases of a recurring nature, including:

- the so-called old cases concerning the excessive length of judicial proceedings and the lack of a domestic remedy under Polish law to complain about the length of proceedings (*Kudła* and *Podbielski* group of cases)¹⁰¹;
- cases concerning some aspects of the excessive length of administrative and administrative court proceedings (*Fuchs* group of cases);
- cases concerning detention conditions (*Orchowski* and *Sikorski* group of cases);
- cases concerning the manner of application of the so-called “dangerous detainee” regime (*Horych* and *Piechowicz* group of cases);
- cases concerning access to adequate healthcare in penitentiary units (*Kaprykowski* group of cases);
- the pilot case concerning excessive restrictions imposed on flat owners (pilot judgment in the case of *Hutten-Czapska v. Poland*);
- cases concerning improper conduct by the Police officers (*Dzwonkowski* group of cases).

91. At present, a special priority is attached to the execution of the remaining Court judgments concerning excessive length of proceedings, representing the main group of Polish cases under the supervision of the Committee of Ministers.

92. Action has been taken to prevent undue delays in the proceedings on the one hand, and to improve the effectiveness of domestic remedies in cases of excessive length of proceedings on the other.

i. action taken in order to increase the effectiveness of the domestic complaint about excessive length of criminal and civil proceedings

93. On 6 January 2017, an amendment of the *Act on Complaint about Breach of the Party's Right to Have a Case Examined in an Investigation Conducted or Supervised by a Prosecutor and in Judicial Proceedings without Undue Delay* of 17 June 2004 (hereinafter also referred to as “the 2004 Act on Complaint about Breach of the Party's Right to Have a Case Examined without Undue Delay”) entered into force.

94. The purpose of the amendment is to execute the Court judgment in the case of *Rutkowski and Others v. Poland*. It seeks to ensure application by domestic courts of the domestic complaint about excessive length of proceedings in conformity with the Convention standards. A direct reference to the Convention was incorporated into the Act:

“Article 1(3). Provisions of the Act shall be applied in accordance with the standards arising from the Convention for the Protection of Human Rights and Fundamental Freedoms, done at Rome this 4th day of November 1950 (....).”

95. The amendment also clarified provisions whose application gave rise to doubts in judicial practice. The amendment also explicitly states that the entire length of proceedings should be assessed from the moment of their institution (with the aim to eliminate the practice of the so-called fragmentation of proceedings that some courts apply when they assess their duration). The rules for calculating sums of money awarded to successful applicants were set out more precisely. One should also note that all the issues that should be taken into account by courts in assessing possible excessive length of proceedings are set out in detail. These issues are stated *expressis verbis* and consistently in line with the Court case-law standards and criteria.

¹⁰¹ The Committee of Ministers acknowledged the introduction of the complaint about excessive length of proceedings into Polish law in 2004 and decided to leave under its supervision only those cases that pointed to the need to improve some aspects of the complaint's application (the execution of the judgement in the case *Rutkowski and Others v. Poland*).

96. The Ministry of Justice engages in day-to-day monitoring of national court adjudication relating to complaints concerning the excessive length of proceedings. In 2016, a further survey of national court adjudication was carried out with regard to the application of *the 2004 Act on Complaint about Breach of the Party's Right to Have a Case Examined without Undue Delay* in 2015. All information collected was used in the course of legislative work, among others.

ii. action taken in order to improve the efficiency of criminal and civil proceedings

97. Under *the Ordinance of the Minister of Justice of 23 December 2015 – Rules and Regulations of Common Court Operation*, the catalogue of urgent cases was expanded in § 2(5)(k), to include the following:

- cases in which a complaint filed under the *2004 Act on Complaint about Breach of the Party's Right to Have a Case Examined without Undue Delay* was allowed, or
- cases wherein it was found by virtue of a European Court of Human Rights ruling that the right to have a case examined without undue delay has been violated.

98. In consequence of such cases having been classified as urgent, they are referred for specified trial dates, regardless of the sequence of case notification with a court (§ 56(2) of the *Ordinance*).

99. The National Public Prosecutor's Office has been monitoring cases where a party filed a complaint under *the 2004 Act on Complaint about Breach of the Party's Right to Have a Case Examined without Undue Delay*. Regional prosecutors are obliged to submit information twice a year (no later than by 31 July and 31 January, respectively) concerning complaints relating to violations of the right to have a case examined in preparatory proceedings without undue delay, filed under the above-mentioned *Act*. Follow-up analysis conclusions are forwarded to subordinate organisational units of the Public Prosecution.

100. In order to eliminate undue delays and improve the efficiency of criminal and civil proceedings, action has also been taken in other areas, such as:

- adjusting civil and criminal procedures in a manner conducive to greater efficiency (a number of related reforms were implemented in 2015-2016 – such as activities of continued introduction of IT solutions to legal proceedings and their digitisation);
- monitoring (as part of administrative supervision) the course of legal proceedings concerning all “old” cases;
- increasing continuously judiciary-related investment spending;
- taking action aimed at ensuring proper placement of judiciary personnel;
- taking action aimed at reducing judges' caseload by employing court assistants and referendaries;
- taking action aimed at swifter nomination proceedings by making the process fully computerised.

101. Detailed information on general measures was provided to the Council of Europe's Committee of Ministers as part of the procedure to supervise the process of the execution of the Court judgments¹⁰².

iii. action taken in order to improve the efficiency of administrative and administrative court proceedings, and to establish effective domestic remedies in case of undue delay

¹⁰² See in particular: Communication from Poland concerning the Kudła and Podbielski groups of cases against Poland (Applications No. 30210/96, 27916/95) (DH-DD(2015)1146)
<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804abacd>

102. As of 15 August 2015, system changes were introduced to the Proceedings Before Administrative Courts Act (hereinafter referred to as “PBACA”) in order to improve efficiency and simplify and ensure swift proceedings of administrative courts. Detailed information on general measures implemented was provided to the Committee of Ministers¹⁰³.

103. Of all activities taken to design effective domestic remedies to prevent and act upon undue delay, the following merit special mention here: providing administrative courts with the power to order an authority to award a sum of money to an applicant as a form of just satisfaction for a failure to act on a judgement that recognises a complaint about inactivity or excessive length of administrative proceedings (new Article 154(7) of the PBACA), to impose a fine in case of an authority failing to act on orders of the chairperson (Article 112 of the PBACA), and to impose a fine on an authority in case of a failure to examine a decision by a panel of judges, said decision comprising information to the effect of the authority’s infringement in the course of examining the case and a failure to duly notify the court of the position taken (new Article 155(3) of the PBACA).

104. Individual administrative courts have further informed that their supervisory activities include scrutinising cases where the time of awaiting examination exceeds the average time of court trial, specifically of cases remaining untried despite the lapse of 12 months as of the date of filing.

Paragraph B.2.f) of the Brussels Declaration – promote accessibility to the Court’s judgments, action plans and reports as well as to the Committee of Ministers’ decisions and resolutions, by:

- developing their publication and dissemination to the stakeholders concerned (in particular, the executive, parliaments and courts, and also, where appropriate, National Human Rights Institutions and representatives of civil society), so as to involve them further in the judgment execution process;*
- translating or summarising relevant documents, including significant judgments of the Court, as required;*

c) translation

105. In 2015, the Prime Minister obligated all ministers to translate the Court judgments in which violations of the Convention by Poland were found in the areas of their competence. The obligation stems from new § 4a(1) of the *Order of the Prime Minister Establishing the Committee for Matters of the European Court of Human Rights*:

“§ 4a(1). The Committee shall perform the task (...) with respect to the monitoring of the execution of judgments of the Court on the basis, in particular, of documents and information submitted by the minister competent with respect to the substance of the violation found by the Court:

1) translation of a judgment into Polish;”.

106. The translation of a judgment should be prepared no later than within 2 months from the date of its delivery. All Court rulings translated into Polish are published in the Internet database run by the Ministry of Justice (it contains more than 560 rulings at present).

¹⁰³ See in particular: Communication from Poland concerning the Fuchs group of cases against Poland (Application No. 33870/96)) DH-DD(2016)1160

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806b1762>

107. In 2015-2016, the Ministry of Justice translated 43 Court rulings in Polish cases.

108. The Court judgments in cases concerning other States are also translated into Polish. Since 2014 a special agreement between the Minister of Justice, the Minister of Foreign Affairs, the Constitutional Tribunal and the Supreme Administrative Court has been in place to that effect¹⁰⁴ and was acceded to by the Prosecutor General in 2015.

109. Based on this cooperation mechanism, the Supreme Administrative Court, the Constitutional Tribunal, the Ministry of Justice and the National Public Prosecutor's Office have so far translated a total of 93 Court judgments or decisions¹⁰⁵ concerning other States (additional translations are in the process of being finalised). The partners jointly select the Court rulings issued in respect of other States taking into account the needs of the Polish legal system. To facilitate the selection, the Government Agent, who co-ordinates and supports the realisation of the agreement, prepares an overview of the most interesting judgments and decisions adopted by the Court in the preceding year.

110. All action plans and reports as well as the Committee of Ministers' decisions concerning the execution of judgments by Poland are also translated into Polish. Translations are done by the Ministry of Foreign Affairs for the purpose of annual reports on the state of execution and are attached thereto. Following their adoption by the Council of Ministers, the reports are published on the MFA and MoJ websites and published in print.

111. In 2015-2016, the Ministry of Justice translated 17 new factsheets of the Court. Overall it has translated 49 factsheets¹⁰⁶.

112. In 2015-2016 the Ministry of Foreign Affairs also translated into Polish the following documents:

- 3rd edition (updated version) of the *Practical Guide on Admissibility Criteria*,
- *the Brussels Declaration*,
- conclusions on the implementation of the Convention at the national level, included in the *Report on the longer-term future of the system of the European Convention on Human Rights*,
- *The Recommendation of the Committee of Ministers CM/Rec(2016)3 to member states on human rights and business*.

113. The Ministry of the Interior translated the CoE publication: *The European Convention on Human Rights and Policing. A Handbook for Police Officers and other Law Enforcement Officials*.

d) summarising the Court rulings

114. All the Court judgments in Polish cases and (starting from 2015) decisions approving friendly settlements or unilateral declarations are described on the Ministry of Justice's website. So far, **196** communications about the Court case-law have been published there.

115. The Ministry of Justice also publishes up-to-date information on the Court's current case-law in the *Newsletter* which has more than 2,500 subscribers, mostly persons who deal with the Convention on a daily basis: judges, prosecutors, courts' staff, the National School of Judiciary and Public Prosecution, the Prison Service, regional inspectorates of the Prison Service, penitentiary units. The Ministry of Justice prepared:

¹⁰⁴ *Agreement on Translation and Dissemination of the ECtHR Judgments* of 24 March 2014 – see pp. 20-21, *Information by Poland on the follow-up to the Brighton Declaration*.

¹⁰⁵ Of which 20 extensive excerpts from judgments.

¹⁰⁶ More information on the translation activity of the Ministry of Justice – translations of the CM recommendations, the Court case-law guides, etc. – see *inter alia* pp. 11-12, *Information by Poland on the follow-up to the Brighton Declaration*.

- in 2016 – 7 *Newsletters* summarising 68 Court rulings (27 judgments and 41 decisions),
- in 2015 r. – 8 *Newsletters* summarising 126 Court rulings (23 judgments and 103 decisions).

116. In 2015-2016, the Ministry of Foreign Affairs prepared and disseminated summaries of 110 Court rulings adopted in 2014-2016 in cases concerning other State Parties:

- summaries of 58 judgments or decisions considered by the Court as leading ones in 2014 and 2015 – these summaries were published as annexes to the annual reports on the execution of the Court judgments by Poland for 2014 and 2015, respectively;
- 63 Court rulings in cases concerning other States were described in the overviews of the Court case-law (and distributed by the MFA).

117. In 2015-2016, the Supreme Administrative Court prepared summaries of 55 Court rulings that were relevant for administrative courts. They were published in the online version of the *European Bulletin* and in the internal Central Database of Rulings and Information. In addition, 12 Court rulings were discussed in the bimonthly *Research Bulletins of the Administrative Judiciary*.

118. The Supreme Court also prepares overviews of the Court case-law – both on a regular basis (e.g. *the Overview of the European Case-law in Criminal Matters*) and *ad hoc* (in connection with cases decided by the Supreme Court).

e) studies and publications about the Convention and the Court case-law

119. The Ministry of Justice also prepares and disseminates its own analyses of the Court case-law. In 2015-2016 it drafted and published on its website an analysis concerning the Court's standards in relation to the application of the 1980 Hague Convention on the civil aspects of international child abduction (so far the Ministry of Justice has prepared 18 thematic analyses concerning the Court case-law)¹⁰⁷.

120. In 2015-2016, the Ministry of Foreign Affairs prepared the following, bilingual publications devoted to the Convention and the Court case-law:

- *The Katyń Crime before the European Court of Human Rights – documents submitted by the Government of the Republic of Poland in the case Janowiec and Others v. Russia*¹⁰⁸;
- publication summing up the IX Warsaw Seminar: *Dysfunctions of Polish Law - How to Improve the System of Legal Remedies in Poland?*¹⁰⁹;
- publication summing up the VIII Warsaw Seminar: *Equal Access to Rights Guaranteed under the System of the Convention for the Protection of Human Rights and Fundamental Freedoms – Current State of Affairs and Challenges*¹¹⁰.

121. The publications were made available on-line in a new section on the MFA website¹¹¹. Containing all its publications devoted to the Court. They were also widely distributed in a printed form to representatives of the public administration, the judiciary, NGOs and some libraries.

¹⁰⁷ More information – see p. 12, *Information by Poland on the follow-up to the Brighton Declaration*.

¹⁰⁸ https://issuu.com/msz.gov.pl/docs/zbrodnia_katy_ska_z_ok_adk_pl/1?e=4228181/34185275

¹⁰⁹ <http://www.msz.gov.pl/resource/6f64dfe5-2a4e-4709-b4c6-b0b55a60285e:JCR>

¹¹⁰ <http://www.msz.gov.pl/resource/79cc67b7-9933-4c91-a796-991df8a64f61:JCR>

¹¹¹ https://www.msz.gov.pl/en/p/msz_en/foreign_policy/human_rights/european_court_of_human_rights/publications_mfa/

122. In 2015 and 2016 the Ministry of Foreign Affairs prepared two new reports on the execution of the Court judgments by Poland – for 2014¹¹² and 2015¹¹³ respectively. The obligation to prepare such reports was laid down in the Prime Minister's *Order Establishing the Committee for Matters of the European Court of Human Rights*. The reports were adopted by the Council of Ministers, printed and widely distributed. Apart from information on all the actions taken by Poland in a reporting year to disseminate and implement the Court judgments, the reports also contained a list of measures concerning both the law and the practice of its application that were considered necessary to execute and to observe the Court judgments in Polish cases going forward.

123. In 2015, within the framework of its editorial series the *Supreme Court's Studies and Analyses*, the Supreme Court published a study on *Efficiency of the Complaint about the Length of Proceedings from the Perspective of the ECtHR Pilot Judgment in the Case of Rutkowski and Others v. Poland* which contained an analysis of the functioning of the aforementioned domestic remedy.

124. The Supreme Administrative Court has prepared:

- a study on *Application of the Convention for the Protection of Human Rights and Fundamental Freedoms and the Charter of Fundamental Rights of the European Union by Administrative Courts* (2016) which presents ways in which administrative courts refer to the Convention, on the basis of the Supreme Administrative Court's and voivodship administrative courts' rulings;
- a study on *Standards Arising from the European Convention on Human Rights and the ECtHR Case-law Concerning Trial in Reasonable Time* prepared in April 2015 for a conference attended by presidents of administrative courts devoted to supervision over voivodship administrative courts. The publication deals with the Convention standard and the Court case-law concerning the length of judicial proceedings and the obligation to introduce remedies to prevent the protraction of proceedings.

125. In the context of actions taken to disseminate the ECtHR standards with respect to effective investigation, the National Public Prosecutor's Office prepared in 2015 the following studies:

- a study on *Obligation to Criminalise and Conduct Effective Investigation to Clarify the Circumstances of Committing Crimes Constituting Serious Human Rights Violations* which was distributed to all prosecution units of appeal to be further disseminated among the subordinate prosecution units;
- a study on *The Case-law in Cases Concerning Excessive Use of Force by the Police and the Lack of Effective Criminal Proceedings (Article 3 violation)* – this publication pointed to the prosecutorial shortcomings in the *Dzwonkowski* group of cases and was published on the National Public Prosecutor's Office website.

126. In 2016 the Plenipotentiary of the Commander in Chief of Border Guard for Human Rights Protection and Equal Treatment prepared an analysis (summary) of about 100 Court rulings selected from the point of view of the tasks carried out by Border Guard officers. The study was prepared as a tool in disciplinary proceedings to help to qualify disciplinary acts from the point of view of human rights breaches. It may also be used for the purpose of training and conducting administrative proceedings. It was disseminated within the Border Guard.

f) dissemination

¹¹² <http://www.msz.gov.pl/resource/29b6584b-d229-4d99-abba-cdc24caaea20:JCR> (vol. 1)

<http://www.msz.gov.pl/resource/64b05806-4ce8-4d76-aab8-00c9ba1f0b6b:JCR> (vol. 2)

¹¹³ <http://www.msz.gov.pl/resource/0bb35514-09b4-41fa-9c69-3738b1fd2443:JCR>

127. In 2015, the Prime Minister obligated all ministers to disseminate the Court judgments concerning the Convention violations by Poland in the areas of their competence. The obligation stems from new § 4a(1) of the *Order of the Prime Minister Establishing the Committee for Matters of the European Court of Human Rights*:

“§ 4a(1). The Committee shall perform the task ... with respect to the monitoring of the execution of judgments of the Court on the basis, in particular, of documents and information submitted by the minister competent with respect to the substance of the violation found by the Court: (...)

2) information on the actions aimed to disseminate a judgment among the entities to whose actions or omissions the violation of the Convention for the Protection of Human Rights and Fundamental Freedoms found by the Court applies or may apply;”

128. The ministers should submit information confirming that a judgment was disseminated no later than 2 months after the date on which the judgment becomes final.

129. Moreover, ministers are obligated to disseminate the Court's decisions approving friendly settlement and unilateral declarations. Namely, the ministers are required to convey to the relevant national entities (*i.e.* those whose actions or omissions were at stake in the application) information that the Court delivered a decision. They should also convey information about the applicable Convention standard. They should do so within three months from the date on which the decision was published in the HUDOC database.

130. This obligation is provided by new § 4a(2) of the *Order of the Prime Minister Establishing the Committee for Matters of the European Court of Human Rights*:

“§ 4a(2). The Committee shall perform the task [...] with respect to the monitoring of the execution of decisions of the Court on the basis, in particular, of information provided by the minister competent with respect to the subject of the decision on disseminating information about the substance of a friendly settlement or unilateral declaration together with information on the applicable Convention standard as determined in the case-law of the Court among the authorities whose action or omission was the subject of the application to the Court.”

131. As of 1 January 2016, on the Ministry of Justice's initiative, the presidents of common courts are now required to disseminate the Court rulings among judges and other court staff. Depending on the case, the president familiarises those persons who adjudicated a case in which a violation of the Convention was found, or all the judges, assessors and court referendaries in a given sector with the Court ruling. A new provision of § 34(4) was added to the *Rules and Regulations of Common Court Operation*¹¹⁴ to that effect:

“§ 34(4). Once information is received about a ruling of the European Court of Human Rights or other international body finding a violation of the Convention for the Protection of Human Rights and Fundamental Freedoms or other international treaty, or about a ruling of the Court of Justice of the European Union in Luxembourg delivered in the case examined on the basis of a preliminary question from a Polish court, a court president shall acquaint himself or herself with the ruling and shall order that judges, court assessors and referendaries who had adjudicated the case in which a violation was found should acquaint themselves with the relevant ruling, and if the ruling concerns a legal question where the case-law was not uniform, the court present shall order all judges, court assessors and referendaries in a given sector to acquaint themselves with such ruling.”

¹¹⁴ Ordinance of the Minister of Justice of 23 December 2015 – Rules and Regulations of Common Court Operation.

132. The Ministry of Justice notifies every unit of the administration of justice whose action or omission led to the Court finding a violation of the Convention and to the authorities that oversee them.

- in 2015 the Ministry of Justice sent out a total of **584** letters to common courts and prosecution units, among others, informing them about violations of the Convention;
- in 2016 – the figure amounted to **311** information letters (the smaller number results from fewer Court rulings against Poland).

133. Information about a violation, indicating also the ECtHR standards applicable in a given area, is sent without delay, usually within 2 weeks. In addition, the Ministry of Justice conveys to the Prison Service Central Board the aggregated data on the Court rulings in penitentiary cases.

134. All ECtHR judgments of particular significance for the Polish justice system are discussed in detail during training workshops run by the Ministry of Justice. Such workshops are attended by judges of a given appellate or regional jurisdiction who are presented with typical errors and instances of inappropriate application of the Convention and with the Court case-law standards. The training is organised on the basis of the so-called map of violations¹¹⁵, prepared (and updated) by the Ministry of Justice.

135. Also the respective courts and ministries took actions to ensure proper flow of information about the Court judgments.

Examples:

- the Rzeszów, Szczecin and Warsaw Courts of Appeal and Warsaw regional courts confirmed they had introduced a system of distribution of information to convey the Court rulings and the Ministry of Justice information to all judges and other staff members concerned. Where relevant, information is also transmitted to the courts of lower instances (regional or district levels) or to visiting judges and persons responsible for training;
- also the Constitutional Court, the Supreme Court, the Supreme Administrative Court, the Białystok, Gliwice, Olsztyn and Szczecin Voivodship Administrative Courts confirmed that they disseminate the Court case-law among judges by distributing the relevant rulings or bulletins, case-law overviews, etc.;
- the Ministry of Culture and National Heritage, the Ministry of Family, Labour and Social Policy or the Ministry of Justice distribute relevant overviews of the Court case-law to the departments dealing with the subject matter.

136. The problems related to the observance of the Convention are addressed during meetings and discussions organised by different courts and also in the framework of their supervisory tasks.

Examples:

- in the Warsaw-Praga Regional Court in Warsaw the contents of the Court judgements were communicated at meetings of the respective divisions and problems stemming from those judgments were discussed with judges; the Court judgments were also the subject of regular judges' training; the observance of the Court judgments was the subject of supervisory measures of the President of the Regional Court that took into account the need to ensure conformity of the judicial practice with the Court's standards;
- in 2016, a study prepared by the Supreme Administrative Court concerning the application of the Convention and the EU Charter of Fundamental Rights was discussed at meetings of the relevant Gliwice Voivodship Administrative Court divisions.

¹¹⁵ For more information go to p. 18, *Information by Poland on the follow-up to the Brighton Declaration*.

137. All Court rulings in Polish cases related to the functioning of the Public Prosecution are communicated by the National Public Prosecutor's Office to the relevant prosecution units.

138. In the Police, once the information on the Court judgment is received, the Plenipotentiary of the Commander in Chief of the Police for Human Rights Protection, instructs one of the Police schools to prepare a summary thereof adjusted to the needs of the Police (often with teaching materials). This summary is then distributed to all Police units. Once they receive the summaries, the plenipotentiaries for human rights disseminate the judgments in the Police community in the framework of local in-service training. The contents of judgments are also published on Police internet websites.

139. In order to make it easier to find information about the Convention and the Court case-law, the Ministry of Foreign Affairs made a short presentation of the Court's, MFA and MoJ websites at one of the meetings of the Inter-ministerial Committee. The MFA also prepared a comprehensive list of links which was sent out to members of the Committee.

g) publication

140. The Ministry of Justice and the Ministry of Foreign Affairs run comprehensive and constantly developed websites devoted to the Convention and the Court case-law. Information about the Convention, procedure of lodging of applications, information about the Court case-law, studies and analyses of the Convention standards, the CoE recommendations concerning the Convention, as well as publications (prepared by the ministries themselves or by the CoE and the Court) can be found there. The Ministry of Justice runs a generally accessible database of all the translated judgments and decisions with search options, while the Ministry of Foreign Affairs publishes data related to the execution of judgments and the work of the Inter-ministerial Committee for Matters of the ECtHR (detailed information on this subject was communicated in previous reports). The Ministry of Foreign Affairs regularly encourages other entities to develop thematic Internet website sections dealing with the Court case-law in their areas of competence (see also the answer to paragraph B.1.a)).

141. Several entities use Internet or Intranet websites or internal databases to disseminate information about the Convention and the Court case-law to judges/staff.

Examples:

- a team tasked with collecting and publishing the case-law of European courts operates in the Supreme Administrative Court. So far, 223 ECtHR rulings of relevance for administrative court proceedings have been published in the internal database available to judges and the staff of administrative courts. Numerous publications and translated judgments are also made available on its website section called *European Law*;
- the Ministry of Culture and National Heritage, the National Public Prosecutor's Office and the Police run websites devoted to the Court case-law in the areas of their competence;
- the Border Guard uses its intranet section *Human Rights*, which is generally accessible to its officers and staff, to disseminate human rights standards stemming from the Court case-law. It contains newsletters prepared by the MFA, the CoE handbooks dealing with the Convention standards, manuals, reports, studies and other material for training purpose, among them the Frontex *Trainer's Manual – Fundamental rights training for Border Guards*;
- also the Supreme Court's judges and other staff have access to the ECtHR case-law by means of the IT system functioning in the Supreme Court. Every judge and other employees are informed about the possibilities to familiarise themselves with information on Court case-law and human rights.

142. In 2015 the Police took special steps in order to improve human rights sections in the websites run by the respective Police units.

143. The Police document *Main Areas of Education and Information Activities in the Protection of Human Rights and Freedoms and Equal Opportunities Strategy in the Police Force for 2016-2018*¹¹⁶ contains the following line of action:

“Cooperation in running and updating a website devoted to human rights on the web portal run by a Police unit, taking into account in particular the educational nature of the webpage in respect of human rights, professional ethics and equal treatment.”

144. The Plenipotentiary of the Police Commander in Chief for Human Rights Protection carried out a survey of the human rights sections of the websites run by respective Police garrisons and training units. In July 2016 he asked them to update such sections regularly and to modernise those sections that are not up to standard by taking into account the Court case-law in the Police cases, among others. The Police units were tasked with implementing the above recommendations by the end of February 2017.

Paragraph B.2.g) of the Brussels Declaration – within this framework, maintain and develop the financial resources that have made it possible for the Council of Europe, since 2010, to translate a large number of judgments into national languages;

145. Translation of the Court rulings into Polish is prepared by the Polish authorities and is entirely funded by them.

146. Financial resources have been increased (as of 31 August 2015) as a result of the Prosecutor General's accession to the 2014 *Agreement on Translation and Dissemination of the ECtHR Judgments*. As a result, the Ministry of Justice committed itself to financing the translation of 10 Court's rulings per year in cases concerning other State Parties that are selected in the areas of competence of the Public Prosecution.

147. In addition, going beyond the formal obligations under that *Agreement*, the Ministry of Justice tries to ensure if possible the translation of the Court judgments concerning other State Parties dealing with other topics of relevance for the administration of justice.

Paragraph B.2.h) of the Brussels Declaration – in particular, encourage the involvement of national parliaments in the judgment execution process, where appropriate, for instance, by transmitting to them annual or thematic reports or by holding debates with the executive authorities on the implementation of certain judgments;

148. Annual reports on the execution of the Court judgments by Poland for 2014 and 2015, adopted by the Council of Ministers, were conveyed to the competent parliamentary committees: the Subcommittee on Execution of the European Court of Human Rights' Judgments of the Polish Sejm (during its previous term) (the report for 2014), to the Justice and Human Rights Committee of the Polish Sejm, and the Human Rights, the Rule of Law and Petitions Committee of the Polish Senate (the report for 2015).

149. The reports were examined at the meetings of:

- the Human Rights, the Rule of Law and Petitions Committee of the Polish Senate (the report for 2015);
- the Subcommittee on Execution of the European Court of Human Rights' judgments of the Polish Sejm and the Human Rights, the Rule of Law and Petitions Committee of the Polish Senate (the report for 2014).

¹¹⁶ See also p. 6 above – answer to paragraph B.1.b) – Training for Uniformed Service Officers.

150. Deputy Ministers of Foreign Affairs, the Government Agent and representatives of other competent ministries participated in the above meetings. They were also open to the NGOs and representatives of the legal professions.

151. The appointed representatives of the Chancelleries of the Polish Sejm and Senate regularly participate in the meetings of the Inter-ministerial Committee for Matters of the ECtHR, and receive information about the Court case-law, newsletters, *etc.* Some of the Inter-ministerial Committee's meetings were also attended by parliamentarians.

152. On 12 May 2015, the Human Rights, the Rule of Law and Petitions Committee of the Polish Senate in cooperation with the Helsinki Foundation for Human Rights, the Nuffield Foundation, and the Middlesex University in London organized a conference on *Democracy and Human Rights. Parliaments and the European Court of Human Rights*. The purpose of the conference was to take stock and evaluate the effectiveness of parliamentary mechanisms of supervision of the execution of the Court judgments functioning in various Council of Europe Member States.

Paragraph B.2.i) of the Brussels Declaration – establish “contact points”, wherever appropriate, for human rights matters within the relevant executive, judicial and legislative authorities, and create networks between them through meetings, information exchange, hearings or the transmission of annual or thematic reports or newsletters;

153. Members of the Inter-ministerial Committee for Matters of the European Court of Human Rights serve as “contact points” for issues concerning the Convention and ECtHR case-law.

- Such “contact point” persons were appointed in the ministries, Chancelleries of the President, Prime Minister, the Sejm and the Senate of the Republic of Poland, the National Council of the Judiciary, the Constitutional Tribunal, the Supreme Court, the Supreme Administrative Court, the Offices of the Human Rights Defender (Ombudsman), the Commissioner for Children's Rights and the Commissioner for Patients' Rights, the Supreme Audit Office, the National Public Prosecutor's Office, the Legislative Council, the Government Legislation Centre, the Office of the General Solicitor of the State Treasury, the Central Board of the Prison Service, the Police Central Headquarters, the Border Guard Central Headquarters, the Council for Refugees, the Office for Foreigners and the National School of Judiciary and Public Prosecution.

The responsibilities of these persons have been specified in the *Order of the Prime Minister establishing the Committee for Matters of the ECtHR*. As a rule, these duties relate to cooperation for performing the Committee's tasks. In practice, they usually concern the process of drafting positions and documents of the institution represented with regard to the execution of the Court judgments.

154. The Government Agent handles a mailing list for the Committee's members and for numerous other contact persons representing individual institutions – persons on the mailing list are provided with information on the Court case-law.

155. Plenipotentiaries for human rights with more extensive duties who carry out comprehensive activities fostering respect for human rights have been duly appointed at the Police and the Border Guard:

- Police

156. As communicated earlier¹¹⁷, the Police Force have a network of police plenipotentiaries for human rights protection, comprising plenipotentiaries for human rights protection appointed with voivodship Police Commanders (including the Capital City of Warsaw), the Commander of the Police Central Investigation Bureau and the Commander in

¹¹⁷ See p. 2, *Information by Poland on the follow-up to the Brighton Declaration*.

Chief of the Police, and supernumerary plenipotentiaries for human rights protection appointed with Commanders of Police Academies.

157. Supernumerary leaders for human rights protection were also appointed at the majority of city/county police stations and the Police Central Investigation Bureau's field offices.

158. On 27 September 2016, the Commander in Chief of the Police approved the *Operational Model for Police Plenipotentiaries for Human Rights Protection Appointed with Voivodship Police Commanders (including the Capital City of Warsaw) and the Commander of the Police Central Investigation Bureau*. The document contains a standard file of duties performed by police plenipotentiaries for human rights protection and/or by human rights protection teams at Voivodship Police Headquarters/ Police Headquarters of the Capital City of Warsaw/ Police Central Investigation Bureau. The model is to be implemented by the end of January 2017.

- Border Guard

159. In order to prevent human rights violations, a supernumerary Plenipotentiary of the Commander in Chief of the Border Guard for Human Rights Protection was appointed mid-2008, alongside plenipotentiaries of commanders of Border Guard units and training centres (one person per entity) for human rights protection. Their detailed duties have been described in information provided earlier¹¹⁸.

160. Consultants for human rights protection have been appointed at every court of appeal recently.

161. In 2015-2016, the National School of Judiciary and Public Prosecution held training courses in human rights protection and the Convention system for prosecutors and judges who are to offer consultation to other prosecutors and judges in the field of conforming to Council of Europe standards, and to take action to disseminate Convention and Court case-law standards amongst practitioners. A total of 64 judges and prosecutors have been trained.

162. Other institutions have taken initiatives as well to appoint individuals or teams charged with duties concerning the Convention or specific human rights aspects.

Examples:

- various organisational units of the Ministry of Culture and National Heritage have appointed employees responsible for daily reviews of the ECtHR rulings database. They have been duly trained in knowledge concerning the Convention;

- the Ministry of Sports and Tourism has appointed employees of the Legal Department and the Minister's Office responsible for co-ordinating activities at the ministry as concerns their conformity to the Convention and ECtHR case-law. Appointed individuals subscribe to case-law reviews and attend Convention-related training events, e.g. legislative workshops. They disseminate knowledge during in-house training concerning the Convention-related matters and the Court case-law. The Convention is also discussed in contact with Ministry of Sports and Tourism stakeholders, such as Polish sports associations;

- employees of the Department of Analyses and Migration Policy of the Ministry of Internal Affairs and Administration engage in activities including securing appropriate human rights protection by the Police and Border Guard when discharging their official duties. They are responsible in particular for the process of drafting and co-ordinating the implementation of the provisions of documents targeting system-level elimination of inappropriate and unprofessional behaviour of officers, specifically in contact with external clients: the *Strategy of Activities Aimed at the Prevention of Human Rights Violations by Police Officers*, and

¹¹⁸ See p. 2, *Information by Poland on the follow-up to the Brighton Declaration*.

Strategy of Activities Aimed at the Prevention of Human Rights Violations by Border Guard Officers;

- the Office for Foreigners has a separate position of co-ordinator for human rights issues at the Office. This person cooperates with the Office's individual organisational units to draft the Office's responses or interventions in the field of human rights; moreover, he/she attends related meetings (as part of a delegation) organised by other institutions;
- an Advisory Team for human rights protection in the context of the development of biological and medical sciences of the Minister of Science and Higher Education was established in October 2016. The Team's tasks include the identification of current issues concerning human rights protection in connection with the development of biology and medicine, including comprehensive analysis of procedures and technologies that could become sources of special ethical, medical, social, and legal controversies in the near future. The analysis will be turned into reports submitted to the Minister of Science and Higher Education concerning topical issues and will include draft assumptions of bills;
- every regional and district prosecutor's office has a co-ordinator for crimes committed by Police officers; that person is responsible for supervising and monitoring such cases;
- all Border Guard units and the Specialist Border Guard Training Centre in Lubań have appointed (in April 2014) co-ordinators for protection against the deportation of foreigners from the Republic of Poland; furthermore, a national co-ordinator for protection against deportation was appointed at the Central Border Guard Headquarters. Co-ordinators' responsibilities include continuous expansion of knowledge of how to apply Convention provisions and Court case-law in practice, in a scope sufficient to handle proceedings potentially yielding protection against deportation offered to a foreign national. Local co-ordinators act as advisors in the process of identifying premises for such protection to be offered to foreign nationals, and handling administrative proceedings concerning cases of protection offered to foreigners; they can also assist in the process of gathering and verifying information concerning the country of origin of foreign nationals, taking into account in particular the social and political situation of and respect for human rights in countries of origin;
- a Plenipotentiary of the Director General of the Prison Service for Human Rights Protection and Equal Treatment has been appointed at the Prison Service, charged with taking action to secure human rights protection of Prison Service officers and employees, and to prevent discrimination.

Paragraph B.2.j) of the Brussels Declaration – consider, in conformity with the principle of subsidiarity, the holding of regular debates at national level on the execution of judgments involving executive and judicial authorities as well as members of parliament and associating, where appropriate, representatives of National Human Rights Institutions and civil society.

163. In 2015 and 2016 regular (quarterly) meetings of the Inter-ministerial Committee for Matters of the ECtHR were held, providing a platform for debates on the execution of the Court judgments by Poland. They involved representatives of the relevant ministries, the judiciary (the Supreme Court, the Supreme Administrative Court, the National Council of the Judiciary), the Public Prosecution, the Chancelleries of both Chambers of the Polish Parliament, and the Office of the Polish Ombudsman, who all participated regularly.

164. In December 2015 and December 2016 special meetings of the Inter-ministerial Committee for Matters of the ECtHR were held with the participation of legal professions (advocates, legal advisors) and NGOs. For instance, in December 2016 the following NGOs attended: Amnesty International Polska, Helsinki Foundation for Human Rights, the Ordo Iuris Institute for Legal Culture, the Rule of Law Institute Foundation, the Federation for

Women and Family Planning. Those meetings provided an opportunity to discuss the execution of judgments in the cases on the agenda, but also to present more general ideas going forward concerning the execution of the Court judgments and the implementation of the Convention.

165. The Polish Bar presents proposals of this kind also in writing, as it actively contributes to the debates on the execution of the Court judgments in Poland. For example, in 2016, the Polish Bar Council (with its Human Rights Commission) formulated its position on the execution by Poland of the Court judgments in cases dealing with: excessive length of court proceedings, the right to fair trial and defense (aspects of: access to a lawyer at the pre-trial stage of criminal proceedings and proceedings concerning minors, respectively), the freedom of assembly, excessive length of the pre-trial detention and the quality of judicial review in cases of detention on remand, the law and practice in respect of the so-called “dangerous detainee” status, and reproductive issues. The reports were communicated to the Council of Europe’s Committee of Ministers, the Government Agent, the Human Rights Defender and the President of the Helsinki Foundation for Human Rights and were published on the website of the Polish Bar Council¹¹⁹.

166. In 2015 and 2016 the Human Rights, the Rule of Law and Petitions Committee of the Polish Senate organised meetings devoted to the reports on the execution of the Court judgments by Poland, presented by the government. Those meetings were attended not only by senators and representatives of the government (Deputy Ministers of Foreign Affairs, the Government Agent) but also by representatives of the Helsinki Foundation for Human Rights, the Polish Bar Council, the Polish Council of Legal Advisors and the Office of the Human Rights Defender (Ombudsman). In 2015 a similar meeting was organised by the Subcommittee on Execution of the European Court of Human Rights judgments appointed in the Polish Sejm during its previous term.

167. In March 2015 the National Council of the Judiciary organised a third meeting devoted to the execution of the ECtHR judgments (similar meetings were organised in 2011 and 2013).

168. The purpose of the meeting, which involved representatives of the judiciary, public authorities, the Court’s Registry and the CoE Secretariat¹²⁰, was:

- to take stock of the activities undertaken by the participating institutions during the two preceding years in respect of translation, publication and dissemination of the Court judgments and in respect of training courses dedicated to this subject for the staff of the justice system;
- to present solutions that other countries apply and to table proposals for new actions;
- and to discuss possible cooperation between the respective institutions in order to complement their efforts and avoid duplication.

169. In 2016 *The Programme of cooperation in 2016 and 2017 of the Minister of Foreign Affairs with non-governmental organisations and entities enumerated in Article 3(3) of the Public Benefit and Volunteer Work Act* was adopted. The *Programme* was introduced by an order of the Minister of Foreign Affairs of 27 June 2016. The execution of the Court

¹¹⁹ <http://www.adwokatura.pl/z-zycia-nra/raport-nra-ws-wykonywania-przez-wladze-polskie-wyrokow-etpcz>

¹²⁰ The meeting was attended by representatives of the Constitutional Tribunal, the Supreme Court, the Supreme Administrative Court, presidents of selected appellate, regional and district courts, representatives of the MFA, the MoJ, the Polish Sejm, the National School of Judiciary and Public Prosecution, the Council of Europe Office in Warsaw, the “Iustitia” Association of Polish Judges, the “Themis” Association of Judges, the Helsinki Foundation for Human Rights, the Human Rights Defender’s Office, the National Public Prosecutor’s Office, the Polish Bar Council and the Polish Council of Legal Advisors, as well as by an appointed team of members of the National Council of the Judiciary. The meeting was also attended by Head of the Polish Section at the ECHR’s Registry and a representative of the Department for the Execution of ECtHR Judgments at the CoE Secretariat.

judgments and improving the implementation of the Convention at the national level are one of the areas of cooperation referred to in the Programme, whereas the Inter-ministerial Committee for matters of the ECtHR is one of the platforms for cooperation.

170. The Warsaw Seminars, organised annually by the Ministry of Foreign Affairs in cooperation with other institutions, are also intended as a debate forum between public authorities and representatives of Polish NHRIs, legal professions and NGOs, among others¹²¹.

RUSSIAN FEDERATION / FEDERATION DE RUSSIE

First of all, the Russian Federation confirms commitment to its obligations under the Convention for the Protection of Human Rights and Fundamental Freedoms (the "Convention"), including ensuring the right for submission of an individual complaint at the European Court of Human Rights ("the European Court", "the ECHR"), and to implementation of the Convention provisions into the legal system of the country.

In accordance with part 4 of Art. 15 of the Constitution of the Russian Federation, the universally recognised principles of international law and international treaties of the Russian Federation shall be a component of its legal system. Consequently, provisions of international treaties, including the Convention, apply directly in the territory of the Russian Federation.

In furtherance of actions taken in accordance with the decisions of the Interlaken Conference, the Izmir Conference and the Brighton Conference, the Russian authorities took the following important steps to implement the Declaration and the Plan of Actions adopted upon results of the Brussels Conference "Implementation of the European Convention for the Protection of Human Rights and Fundamental Freedoms, our shared responsibility".¹

As to items i., iii. of the Preamble, items (3)¹ (5), (6), (7), (8), (9), (11), (12), (14)¹²² {16} of the operative part of the Brussels Declaration; para a) of Item 1., para b), c) of Item 2. of section A. of the Action Plan

1. In 2011-2015 a joint project of the Ministry of Justice of Russia and the European Court was implemented successfully with participation of the All-Russian Public Organization "Association of Russian Lawyers", in which framework 20 Russian lawyers were seconded to the ECHR. They rendered real assistance in dealing with the "backlog" of applications. Upon the materials prepared by Russian lawyers, more than 37,5 thousand complaints were declared unacceptable and struck from the list of cases for examination.

2. The Russian authorities also made considerable efforts within cooperative work on consideration by the European Court of the cases that fall within the scope of "pilot" judgments "Burdov", "Ananyev" and "Gerasimov", as related to settlement by the authorities on their own accord of the issues of compensation for the aggrieved persons, by transferring unilateral declarations and friendly settlement proposals to the ECHR. In terms of the "pilots", about 2,5 thousand Russian cases were settled within relatively fast corresponding procedures. Presently the possibilities for applications' settlement are actively used in other Russian cases.

¹²¹ See also p. 13, *Information by Poland on the follow-up to the Brighton Declaration*.

¹²² Information on the measures taken is presented with regard to specific items of the Brussels Declaration and the Action Plan (relevant items of this Declaration are reflected in the Report).

The work of the Russian authorities was publicly highly praised by the senior officials of the European Court, in different formats, including the speech of the President of the ECHR Mr. G. Raimondi on the solemn hearing for the opening of the Judicial year in January, 2017.

The Russian Federation authorities appreciate this positive assessment and confirm their aim at further close and constructive cooperation with the European Court.

3. Along with that, the Russian authorities believe that it is necessary to highlight some areas of concern related to application by the European Court of Human Rights of simplified and expedite procedures that appear to be of great importance for successful promotion of the ECHR reforms.

3.1. Active participation of the Russian authorities in the corresponding work should not be accompanied by simultaneous large-scale communication of new cases by the European Court to the authorities, with unreasonably short terms for submission of information, or refusals to prolong corresponding terms.

Even when the ECHR applies simplified procedures, the authorities, in any case, should have a real possibility to request information from the competent state bodies, to process it (including by establishing and assessing the adherence to admissibility criteria by the applicant, actual circumstances of the case, whether there was any infringement and whether any remedial measures were taken), as well as to submit their comments to the European Court and, if eligible, suggestions for resolution of the situation by peaceful settlement, or reasoned objections in relation to the applicant's arguments.

Unfortunately, the number of communications recently sent to the Russian authorities, establishing by the ECHR of unreasonable time-limits in a number of cases and refusal to prolong them hinders this work, and as a result the authorities, being a party to the process, not always have reasonable possibilities to develop and submit their position.

The constructive cooperation with the European Court, as the Russian authorities believe, should allow for a successful combination of the task of acceleration of the procedure before the ECHR and providing a real possibility for the authorities to examine communications received and to prepare the necessary procedural documents. The dialogue in this regard between the authorities and the European Court continues.

3.2. In connection with the adoption of the Protocol No. 14 to the Convention, a simplified a simplified procedure of consideration by the ECHR (by the Committees composed of three judges) was introduced and is successfully used for applications based upon the issues related to Convention provisions being subject of the European Court's well-established case-law. The Russian authorities have experience of successful interaction with the European Court also in this regard.

However, unfortunately, recently the judgments delivered by the Committee in cases against Russia do not contain even brief description of factual circumstances and grounds for the judgments delivered (including the cases where the Russian authorities categorically disagreed with the applicants' position and presented strong arguments). Such situation violates the provisions of the Convention and the Rules of the Court. Texts of the corresponding ECHR judgments also give wrong impression that the authorities remained idle during the proceedings before the European Court. This also does not facilitate proper execution of the judgments delivered.

Application of the simplified procedures concerned does not relieve the European Court (even represented by the Committee) of the obligation to examine the issue thoroughly every time, and establish whether an actual violation had taken place, as well as to give reasons for the judgments delivered (as it directly follows from the Article 45 of the Convention).

4. The Russian Federation continues to consistently and actively contribute to promotion of the reform of the European Court and of the supervision mechanism of execution of its judgments, aiming at elimination of risks for stability of the Convention mechanism.

- The Russian representatives actively participate in the work of the Committee of Experts on the system of the Convention (DH-SYSC) and the groups acting under the aegis of the latter. These Committee and groups develop proposals on implementation of certain provisions of the Report of the Steering Committee on Human Rights "On the long-term future of the Convention system".

- On 19 September 2016 the Russian Federation signed the Protocol No. 15 to the Convention which adds important provision to this international instrument, including those about subsidiarity and discretion of the countries. As we expect, this will contribute to a more consistent, foreseeable and stable case law of the ECHR.

A draft Federal law "On Ratification of the Protocol No.15 amending the Convention for the Protection of Human Rights and Fundamental Freedoms" has developed and agreed upon. It has been sent to the President of the Russian Federation for subsequent introduction to the State Duma of the Federal Assembly of the Russian Federation (the "State Duma").

- The Russian authorities reiterate adherence to the position about necessity of elaboration and adoption of the ECHR Statute that, as it appears, would be an efficient measure for implementation of the decisions of the Brussels Conference.

Unfortunately, this position has not yet found deserved support.

At the same time, the ECHR Statute would help to eliminate problems related to artificial expansion of the competence of the European Court with the use of provisions of its Rules (adopted and amended by the ECHR without taking into account the positions of States), as well as would contribute to elaborating of a proper balance between the competence of the European Court and the margin of discretion which should be possessed by national authorities (governments, courts and parliaments) to ensure and protect the Human Rights on the national level.

- In terms of reform of the Convention supervision system of execution of the ECHR judgments, the Russian authorities consistently uphold the principle of subsidiarity (as the procedure and methods of execution of the judgments of the European Court are determined primarily by the authorities of the respondent state) and equality (as only an equal approach to the countries on all stages of the process, including the execution stage, allows ensuring to the full extent the stability of the Convention system).

- Successful implementation of the Convention provisions into the national legal systems is not always connected exclusively with efficiency of national mechanisms.

Unfortunately, in some cases (not only in relation to the Russian Federation) the European Court, while delivering judgments, went beyond its subsidiary role and jurisdiction.

In particular, with regard to several cases against Russia, the European Court in its judgments gave such an interpretation of the Convention provisions which came into conflict with the Constitution of the Russian Federation that has the superior legal force in the territory of the country.

In such circumstances, the States, including the Russian Federation, strive to find reasonable solutions of the existing situation.

To this end in the Russian Federation the Constitutional Court of the Russian Federation ("the Constitutional Court") delivered the judgment No. 21-P of 14 July 2015, and subsequently on its basis a Federal Constitutional Law No. 7-FKZ of 14 December 2015 "On introduction of amendments in the Federal Constitutional Act 'On the Constitutional Court of the Russian Federation'" was drafted and adopted.

These acts created a constitutional law mechanism in Russia, which allows the Constitutional Court to examine issues of possibility of execution of the judgments issued by an intergovernmental Human Rights protection body in applications against Russia, from the perspective of principles of supremacy and superior legal force of the Constitution of the Russian Federation.

Attention is drawn to the fact that the creation of this mechanism does not mean refusal by the Russian Federation from international agreements, including the Convention. Its purpose is to resolve by the Constitutional Court of contradictions arising in connection with delivering of decisions by an international Human Rights protection body (including the European Court) based on provisions of international agreements in interpretation leading to divergence between them and the Constitution of Russia. The mechanism, based on the principle of subsidiarity of supranational law enforcement, is capable of making decisive contribution to constructive overcoming of collisions occurring between such law enforcement and national public policy.

The relevant mechanism has been successfully put into practice. Thus, when reviewing the issue of the possibility of execution of the judgment of the European Court in the case *Anchugov and Gladkov v. Russia*, the Constitutional Court considered that it is not possible to execute this judgment by way of modification of the Constitution of the Russian Federation or its' interpretation in the context of legal positions of the ECHR as regards constitutional prohibition on voting for individuals serving their' sentence in correctional facilities. At the same time the Constitutional Court noted that the federal law- maker has the right to optimize the penal sanction system, including by means of transformation of certain regimes of serving sentence in the form of deprivation of liberty into alternative types of punishment. Presently in terms of implementation of the Decree of the President of the Russian Federation N!! 657 of 20 May 2011 "On monitoring of the law enforcement in the Russian Federation", the Ministry of Justice of Russia, in cooperation with the competent state authorities, is continuing elaboration on the issue of introduction of corresponding amendments into the legislation.

As to para a) of item 1. of Section B of the Action Plan "Implementation of the Convention at national level" (regarding ensuring that potential applicants have access to information on the Convention and the Court, particularly about the scope and limits of the Convention's protection, the jurisdiction of the Court and admissibility criteria).

5. The Ministry of Justice of the Russian Federation (the "Ministry of Justice"), published the text of Convention (with the Protocols thereto) in Russian, as well as the answers on frequently asked questions in connection with preparation of applications to the European Court and their consideration by this Court on its' official website in the section "Representation of Interests of the Russian Federation in the European Court of Human Rights". The materials also contain the link to official web-site of the European Court with explanations that there are available: the form of complaint for submission to the ECHR, instructions for filling up it, Guidelines on the criteria of acceptability and other documents of the European Court.

6. On 13 October 2016 the Judicial Department at the Supreme Court of the Russian Federation ("the Judicial Department") gave recommendations to federal courts of general jurisdiction and to commercial courts to post the link to the official web-site of the European Court of Human Rights (<http://www.echr.coe.int>) on their official web-sites.

In accordance with this recommendation most courts have posted the relevant link on their official web-sites.

7. Comprehensive information on the Convention (its' text, protocols, Rules of the European Court, application form in Russian language for submission to the ECHR) is presented on the official web-site of the High Commissioner for Human Rights in the Russian Federation, in the section "Human Rights in the World".

According to the High Commissioner for Human Rights, upon requests or appeals of citizens, the text of the Convention and the application form for submission to the ECHR are regularly provided.

8. Similarly, texts of the Convention and Protocols, as well as reference materials about the Convention and the ECHR in Russian language are published on the official web-site of the Federal Bailiffs Service ("the FSSP of Russia"), in the section "International Cooperation"¹²³.

9. According to the Federal Penitentiary Service ("the FSIN of Russia"), this Service ensures realisation of convicted and detained persons' rights for appeal to various public authorities and organizations, including the European Court.

In particular, the administration of penitentiary system institutions ensures (if necessary) providing suspected, accused and convicted persons with up-to-date examples of the application forms to the ECHR, as well as instructions for filling up it.

Along with that, presently the admission to the correctional system institutions has been ensured according to the established procedure for the representatives of applicants in the European Court, as well as the individuals providing legal assistance at the stage of preparation of complaints to the ECHR.

Enforcement of rights of suspected, accused and convicted persons in this regard is obligatory controlled during inspections of the local departments of the FSIN of Russia, with taking, if applicable, necessary measures for elimination of violations identified.

10. The text of the Convention and the Protocols, the Rules of the European Court, the application form for submission to the ECHR in Russian, and other reference materials are publicly available in reference legal systems "Consultant-Plus" and "Garant".

Therefore to date every person in the Russian Federation, including those detained in correctional facilities, have a real possibility to get acquainted with the translated in Russian texts of the Convention, the application form, the Rules of the European Court, and to use these documents to submit an application to the ECHR.

Along with that, presently the problem of ensuring possibility to appeal without hindrance to the European Court has been resolved almost completely, including for the persons detained in the penitentiary system institutions (for the period after adoption of the Brussels Declaration only one judgment was delivered in respect of Russia, where corresponding violations were identified, but they concerned the events of 2005).

As to para g) of Item 1. of the Section B of the Action Plan "Application of Implementation of the Convention at national level" (regarding establishment of an independent National Human Rights Institution)

11. In recent years, creation in the Russian Federation of important human rights became one of the most important elements of the constitutional mechanism for the protection of

¹²³ http://fssprus.ru/evropa/jjski/jj_sud_po_pravam_cheloveka

human and Russian nationals' rights and freedoms. The work of these institutions actively contributes to implementation of the Brussels Conference decisions.

11.1. In particular, the following institutions were created and work successfully:

- the High Commissioner for Human Rights in the Russian Federation ("the High Commissioner"), which was created in accordance with the Constitution of the Russian Federation (Article 103) and the special Federal Constitutional Law "On the High Commissioner for Human Rights in the Russian Federation".
- Commissioners for Human Rights in the constituent entities of the Russian Federation that have been created based on the laws of the constituent entities of the Russian Federation.

11.1.1. The High Commissioner has been granted the highest accreditation status "A" (assigned by the Global Alliance of the National Human Rights Institutions) which confirms full compliance of his activity with the Paris Principles regarding the status of national institutions approved by the UN General Assembly Resolution No. 48/134 of 20 December 1993.

11.1.2. The legal status of the High Commissioner for Human Rights in the Russian Federation, procedure of his assignment and dismissal, his competence and rights are set forth in the mentioned Federal Constitutional Law.

In accordance with this Law, the High Commissioner contributes to redress of violated rights, improvement of the Russian Federation laws on Human Rights and bringing them to conformity with generally recognized principles and standards of international law, development of international cooperation in the area of human rights, law education in the human rights and freedoms field, forms and methods of their protection. This work effectively supplements the national legal remedies.

When exercising his powers, the High Commissioner is independent and does not report to any public authorities or officials. In his activity he is guided by Constitution, laws, generally recognized principles and standards of international law and international treaties of the Russian Federation.

According to the law, the High Commissioner is entitled to make requests to competent public authorities and officials, as well as to make requests to the Commissioners for Human Rights in constituent entities of the Russian Federation.

11.1.3. The High Commissioner for Human Rights in the Russian Federation and Commissioners for Human Rights in constituent entities of the Russian Federation widely use their rights and powers for protection of Human Rights and Freedoms. Their activity and its results are published on the corresponding official web-sites. The High Commissioner prepares the annual report in accordance with the law, which is sent to all competent public authorities and is published and publicly available.

11.1.4. Attention should be drawn to the right of the High Commissioner to apply to courts for protection of rights of concrete citizens, as a positive practice of the High Commissioner.

It is recalled that the Russian High Commissioner, when conducting inspections into the complaints, is entitled to familiarise with criminal, civil and administrative cases, as well as (in connection with adoption of the Code of Administrative Procedure) to submit administrative claims for protection of citizens' rights, such claims not being subject to any taxes and duties.

Pursuant to implementation of these rights, a number of applications (subsequently granted by courts) were sent by the High Commissioner, resulting in ensuring real protection of citizens' rights.

Thus, the ruling of the Supreme Court of the Russian Federation dated 22 March 2016 granted the claim of the High Commissioner for reversal of rulings of Moscow courts (courts of the first instance and courts of appeal) in the case related to rescission of the contract of purchase and sale of the living premises, reclamation of these premises from bona fide buyers and returning them to ownership of Moscow city. The case was sent for a fresh consideration, and following its results a new judgment has been delivered restoring the violated housing rights of persons, including those under age.

Similarly, submitting of application to the Supreme Court of the Russian Federation ("the Supreme Court"), the High Commissioner has contributed to restoration of housing rights of M.Sh., who was unreasonably refused by the Moscow authorities for provision of a living premise due to him being an under-age person without parental care (earlier judicial decisions of the first and appeal instance courts which unreasonably dismissed the applications of M.Sh. have been quashed by the Ruling of the Supreme Court of the Russian Federation of 8 December 2015).

The ruling of the Supreme Court of 22 June 2016 granted the appeal of the High Commissioner for Human Rights against the decision of Moscow courts of the first and appeal instances, which dismissed the application of K. contesting omission of Moscow public authorities, who failed to provide a child with a place in a pre-school educational institution. The case was remitted for a fresh examination.

In connection with the claim of the High Commissioner, the judgment of 10 April 2015 of the Supreme Court quashed the judgments of the first and appeal instances' courts of the Oryol Region in the case bringing the local religious organization "Jehovah's Witnesses 'Oryol'" to administrative liability in connection with conducting by the mentioned organization of a public worship in the Palace of Culture of the All-Russian Society of the Deaf. With reference to the Russian laws in force and to the practice of the European Court, the judgment to terminate the proceedings was delivered in connection with the absence of the corpus delicti of administrative violation in actions of the religious organization.

In a similar way, following the claim of the High Commissioner in 2016 the Supreme Court had quashed the judgments on instituting administrative action against V. Gudgment of the Supreme Court of 1 August 2016 No. 44-AD16-22), M. Gudgment of the Supreme Court of 21 April 21 2016 No. 5-AD16-23), Sh. Gudgment of the Supreme Court of 1 August 2016 No. 49-AD16-7), etc..

11.1.5. The expert legal department functions in the Office of the High Commissioner, including the division of legal expertise and improvement of legislation, the analytics division, the division for prognosis and report preparation, the division of provision of legal information. This Department in the staff structure of the High Commissioner Office is the recommended "contact point" for executive, judicial and legislative authorities in the matters of human rights.

11.1.6. The High Commissioner is engaged in interaction with public authorities and officials ensuring protection of rights and freedoms of national in constituent entities of the Russian Federation.

Pursuant to implementation of this function, the High Commissioner for Human Rights in the Russian Federation within the scope of his powers renders organizational, legal, information and other assistance to Commissioners for Human Rights in constituent entities of the Russian Federation.

In 2015 the High Commissioner created the Board of Commissioners for Human Rights as an advisory and consultative body, which its membership including a representative from each federal district from among Commissioners for Human Rights in the constituent entities of the Russian Federation.

Sessions of this Board are held on a regular basis, the most topical issues are discussed during them. In particular, on the Session held in December two topics were addressed: the protection of the citizen's rights during execution of judicial decisions and the results of monitoring of observance of citizens' electoral rights during the elections. Apart from the Commissioners, representatives of the Central Electoral Commission and competent public authorities participated in the Session of the Board, as well as the Secretary General of the Council of Europe T. Jagland.

11.1.7. The High Commissioner for Human Rights in the Russian Federation regularly participates in different round-table discussions, scientific and practical conferences, where he holds comprehensive and constructive discussion, following which resolutions are developed.

For example, on 16-17 November 2016, in the context of the Program of Priority Areas of Cooperation of the Russian Federation and the Council of Europe, the Commissioner for Human Rights in Vladimir Region held a round-table discussion on the topic: "Application of international standards in the area of Human Rights by regional officials in the Russian Federation".

More than 60 persons participated in the round-table discussion: Commissioners for Human Rights in constituent entities of the Russian Federation of Privolzhsky, North Caucasian and Central Federal Districts, High Commissioner for Human Rights in the Russian Federation, members of the Office of the High Commissioner, Governor of the Vladimir Region, Director General for Human Rights and Rule of Law of the Council of Europe Ph. Boillat, Head of the Council of Europe Program Office in Moscow, representatives of the Ministry of Foreign Affairs of the Russian Federation, the Federation Council of the Russian Federation, the Constitutional Court of the Russian Federation, the Council of Europe, scientific community and the media.

11.1.8. On 13 October 2016, the Expert Board was established at the High Commissioner for Human Rights in the Russian Federation. Its main tasks are drawing up recommendations on realisation of key directions of the High Commissioner's work, consulting the High Commissioner on the issues regarding his competence, informing the High Commissioner about the situation in the area of observance and protection of human rights, as well as assisting him in organization and implementation of interaction with public authorities and civil society institutions that ensure protection of rights and freedoms.

The Regulations on the Expert Board were approved, that regulate in detail the organization and procedure of its work, as well as the rights of the Expert Board members.

11.1.9. The High Commissioner for Human Rights in the Russian Federation supports and participates in the European Program of Human Rights Education for Legal Professionals (HELP) intended to improve the professional education of judges, prosecutors and lawyers in terms of application of the European Convention for the Protection of Human Rights and Fundamental Freedoms on the national level, including the issues of execution of decisions of the ECHR.

In October 2015, members of the Office of the Commissioner for Human Rights participated in the work of several expert sessions on practical aspects of work with the European Court. On 8 October 2015, on the basis of the European Studies Institute of the Moscow State Institute of International Relations of the Ministry of Foreign Affairs of the Russian Federation

("the MGIMO University"), a presentation took place of the first in Russia remote course of the HELP Program of the Council of Europe "The European Convention for Human Rights and the Asylum". Members of the High Commissioner's Office participated in the presentation of the course. Following its results, a working group was created for adaptation of the course to Russian legal and law-enforcement environment.

In furtherance of the above on 30 October 2015 the expert event "Difficulties of application of ECHR decisions: the dialogue dedicated to the issues of the voting right of the prison population" took place.

11.1.10. The High Commissioner for Human Rights in the Russian Federation implements cooperation with respect to enforcement of the decisions of the Brussels Declaration also by means of projects of priority areas of interaction of the Russian Federation with the Council of Europe in terms of established structure of cooperation of the Council of Europe with the Russia (it is determined during consultations between the Secretariat of the Council of Europe and the Russian authorities during the sessions of the Steering Committee in Moscow and in Strasbourg). Cooperation programs are implemented by three-year cycles and take into account the needs of the country and priority areas of cooperation, the joint assessment of existing cooperation, results of bilateral consultations between the Secretariat of the Council of Europe and concerned Russian state bodies as well as Recommendations of the Committee of Ministers of the Council of Europe ("the CMCE"), PACE, Council of Europe Commissioner for Human Rights and other Council of Europe regulatory bodies.

11.1.11. In January 2017 the High Commissioner for Human Rights of the Russian Federation T.N. Moskalkova visited Strasbourg, where her meetings took place with the General Secretary of the Council of Europe T. Jagland and his Deputy G. Battaini-Dracconi, the Commissioner of the Council of Europe for Human Rights N. Muimieks, the President of the ECHR G. Raimondi, the Director General of the Council of Europe for Human Rights and Rule of Law Ph. Boillat.

The meetings, held in the constructive spirit, were highly praised by their participants and are expected to influence positively on development of the all-European dialogue and implementation of international standards into the area of protection of Human Rights in the Russian Federation.

11.2. Specialized commissioners also have been created in the Russian Federation. They work successfully in order to ensure protection of rights of persons of certain categories, including:

- The Children's Rights Commissioner at the President of the Russian Federation that has been created based on the special Decree of the President of the Russian Federation;
- Children's Rights Commissioners in the constituent entities of the Russian Federation established by public authorities of constituent entities of the Federation;
- the Commissioner at the President of the Russian Federation for Business Rights ("the Business Ombudsman") that has been created based on the special Federal Law;
- Commissioners for Business Rights in constituent entities of the Russian Federation that have been created based on the laws of the constituent entities of the Russian Federation.

11.3. The Civic Chamber of the Russian Federation is an important civil society institution created and working based on the special Federal Law. The Civic Chamber ensures interaction between the citizens of the Russian Federation, public associations, professional and creative unions, non-profit organizations, federal public authorities and local government

authorities, in order to carry out public scrutiny over the activity of state and local government authorities in different areas of activity.

11.4. In order to improve state policy in the area of enforcement and protection of human rights and freedoms, as well as to contribute to development of the civil society institutes, the Council on Civil Society and Human Rights at the President of Russia was created by the Decree of the President.

The mentioned Council is a Russian Federation Presidential advisory body created in order to help the Head of the State in exercising his constitutional powers in the area of enforcement and protection of human rights and freedoms, to inform the President of the Russian Federation about the situation in this area, to contribute to development of the civil society institutes, to prepare proposals for the Head of the State on the issues covered by the competence of the Council.

12. The National Institutions for Human Rights created in the Russian Federation work in close cooperation to achieve objectives and tasks raised before them.

In the course of execution of corresponding powers, joint events are held (public discussions, conferences, joint inspections, etc.), including those on the issues specified by the Brussels Declaration.

For example, on 8-10 December 2015 the seminar meeting took place with Commissioners for Human Rights, for Children's Rights, for Business Rights on the topic "Contemporary Condition of International Relations and Foreign Policy of Russia", in the framework of which, with participation of the Representative of the Russian Federation at the European Court, the issues of implementation of provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms into the legal system of the Russian Federation were discussed.

On 19 December 2016 a round-table discussion took place on the topic "National Institutions for the Protection of Human Rights: Development Experience and Prospects in the context of the 50th Anniversary of Adoption of International Agreements on Human Rights". The event was arranged by the Federation Council in cooperation with the High Commissioner for Human Rights in the Russian Federation. Along with the High Commissioner and the members of the Federation Council, the event was joined by Commissioners for Human Rights in constituent entities of the Russian Federation, members of the Council on Civil Society and Human Rights at the President of the Russian Federation, representatives of the Supreme Court, the Ministry of foreign affairs, the Ministry of Justice and others. The members of the round-table discussion focused on the topical issues of development and improvement of National Institutions for the Protection of Human Rights taking into account the existing law-enforcement practice and international standards.

13. National human rights institutions created in the Russian Federation function in close cooperation with government agencies to achieve common goals and purposes, including ensuring conventional rights of citizens.

13.1. For instance, in the material period of time, constructive interaction was organized and successfully implemented between Commissioners for Human Rights in the Russian Federation and in constituent entities with the Federal Bailiffs Service.

Thus, in order to establish "contact points" in the context of provision and protection of human rights in the area of judgment enforcement, the Agreement on Order of Interaction drawn between the High Commissioner for Human Rights in the Russian Federation and the Federal Bailiffs Service on 8 November 2016.

The purposes of this interaction are to eliminate any violations of human rights and fundamental freedoms in the work of the FSSP of Russia; to create an effective

mechanism of interaction between the High Commissioner for Human Rights, his Office members and the staff of the FSSP of Russia, including with the aim to inspections based on citizens' applications.

Within this interaction since the beginning of 2016, task meetings and meetings with commissioners for human rights in the constituent entities of the Russian Federation were conducted at the premises of local agencies of the Russian Federal Bailiff Service. On these meetings primary areas of interaction were discussed, key goals were established and cooperative activities were planned for the year 2016.

As a result of these meetings, more detailed agreements between the agencies of the Federal Bailiffs Service and commissioners for human rights were drawn in 62 subjects of the Russian Federation which specify primary tasks and areas of interaction. These tasks include:

- exclusion in the work of regional departments of the FSSP of Russia of any violations of human rights and fundamental freedoms;

creation of effective mechanism of interaction between staff members of regional departments of the Federal Bailiffs Service and staff of commissioners for human rights in constituent subjects of the Russian Federation;

- holding joint reception of citizens, joint provision of legal aid and consultation on questions of enforcement proceedings;
- holding of coordination meetings with evaluation of effectiveness of the work done;
- informing the commissioners of problems affecting the judgment enforcement and measures to solve these problems;
- assisting the commissioners in conducting inspections of circumstances surrounding cases when considering the applicants' claims.

13.2. The Russian Federal Penitentiary Service has developed constructive interaction with civil society institutions.

For a number of years the Public Monitoring Commissions ("the ONK") function in every constituent entity of the Russian Federation and systematically inspect the work of penitentiary system institutions agencies situated in the relevant region.

On average, members of ONK make over 3900 visits to penitentiary system institutions during which they conduct individual talks with convicted and detainees, accept applications, including those related to conditions of detention and health support in places of detention.

In 2015 total number of ONK members amounted to over 1100 persons, mostly representatives of various civil society organizations, including the Russian Red Cross.

ONK members operate as a public service. This guarantees their independence from federal and regional government authorities, the impartiality and objectivity of their evaluation and conclusions, and allows them to effectively implement their powers to protect human rights.

The results of ONK work are recommendations which are submitted to senior staff of regional state departments and directly to the FSIN of Russia, and become subjects of thorough analysis, and sometimes - the alarming calls that allow detection of arising problems, and provision of timely solutions.

The Federal Penitentiary Service and its regional departments are also in constant cooperation with the High Commissioner for Human Rights in the Russian Federation, the Children's Rights Commissioner at the President of the Russian Federation, commissioners for human rights in constituent entities of the Russian Federation, children's rights commissioners in constituent entities of the Russian Federation, the Civic Chamber of the Russian Federation, the Council on Civil Society and Human Rights at the President of Russia, the Civic Council at the Federal Penitentiary Service of Russia for the Issues of Penitentiary System Activity and Civic Councils at the regional departments of the Federal Penitentiary Service and supervisory boards of the Penitentiary System.

Use of the instruments of interaction between the Federal Penitentiary Service of Russia and the civil society institutions is an effective mechanism for solution of problems of enforcement of rights and legal interests of individuals in penitentiary facilities.

13.3. In order to protect rights of patients and in accordance with the federal law "On Fundamentals of Protection of Public Health in the Russian Federation" the Ministry of Healthcare of the Russian Federation cooperates with non-governmental organizations, including non-governmental associations for protection of rights of citizens in the field of public health.

For instance, the Ministry of Healthcare has developed close relations with the Russian Patients Association.

The Ministry of Healthcare of the Russian Federation also cooperates with professional non-profit healthcare organizations, health workers and pharmacy workers which, in accordance with the aforementioned federal law (Article 76) participate in development of norms and regulations related to healthcare and solution of problems connected with the violations of law in this area, and also in development of procedures and standards of medical treatment, training and career advancement programs for health workers and pharmacy workers, as well as qualification grading of health workers and pharmacy workers and accreditation of specialists.

As to item (13) of the operative part of the Brussels Declaration, paras a), b) of item 1. of Section A. of the Action Plan "Interpretation and Application of the Convention by the Court", paras b), c), e) of item 1., paras c), e), t), h), i), j) of item 2. of Section B of the Action Plan "Implementation of the Convention at national level".

14. After the Brussels Conference consistent work was continued on distribution and organization of studying the ECHR judgments, acts and recommendations of international treaty bodies on the issues related to protection of human rights and fundamental freedoms and execution by the countries of obligations under the Convention. 14.1. In the relevant period, the Ministry of Justice of the Russian Federation (the

"the Ministry of Justice") translated into Russian language and transferred to all competent authorities, as well as to the Constitutional and Supreme Courts all the judgments of the European Court in the cases against Russia, the decisions of the CMCE related to execution of corresponding ECHR judgments and the decisions on general topics of the relevant sphere, as well as landmark judgments of the ECHR in cases against other countries and key instruments of international bodies.

From their part, the competent public authorities transferred the translations of corresponding ECHR judgments and decisions of the CMCE to their divisions, territorial departments, subordinate bodies and services, along with the necessary instructions and explanations of necessity to take into account the legal positions of the European Court in the practice. Corresponding translations or information messages prepared on their basis are also

published on the official web-sites of the Office of the Prosecutor General of the Russian Federation ("the Office of the Prosecutor General"), the Ministry of Justice, the Ministry of Internal Affairs of the Russian Federation ("the MVD of Russia") and the Investigative Committee of the Russian Federation ("the Investigative Committee") and the FSSP of Russia.

Besides, a number of competent public authorities (the Investigative Committee, the MVD of Russia, the FSIN of Russia and other) arranged publishing of texts of the ECHR judgments, the CMCE decisions and other documents of the Council of Europe in Russian language in the internal agency-level information networks available to all employees of corresponding authorities, their territorial departments and divisions.

14.2. In 2016 on the official web-site of the Constitutional Court the information and reference system was setup of advanced search of the Constitutional Court decisions, one of the search criteria is the usage of European Court legal positions in the Constitutional Court decisions, and a number of such legal positions are also provided.

Along with this the Secretariat of the Constitutional Court, ensures comparative legal elaboration of issues under consideration of the Constitutional Court, in its' course reviews of decisions of the European countries' superior courts are prepared, including those on Convention topics, and reviews of the European Court judgments.

14.3. The Supreme Court of the Russian Federation ("the Supreme Court") carried out significant work on increasing awareness about the judgments of the European Court and operation of Convention mechanisms.

14.3.1. Thus, the Supreme Court disseminated all ECHR judgments and CMCE decisions received from the Ministry of Justice to courts of all constituent entities of the Russian Federation ("the regional courts").

According to the regional courts the ECHR judgments received from the Representative of the Russian Federation at the European Court of Human Rights ("the Representative at the ECHR") became the topic of discussion with judges and staff of the corresponding courts', as well as have been brought to the notice of lower courts.

The ECHR judgments texts in Russian are also published in the internal web-site of the Supreme Court, in the Section "Departmental Affairs" ("Vedomstvenniy kontur") (the folder "International Law") available to all the judges.

14.3.2. The Supreme Court arranged on a regular basis the introduction to the Section "Departmental Affairs" (the folder "International Law") of publications (reviews) published on the official web-site of the European Court in Russian on the issues of protection of Human Rights and Freedoms.

Thus, in the period after adoption of the Brussels Declaration, the following documents were published in the folder "International Law":

- Guide on Article 4 of the European Convention on Human Rights¹²⁴;
- Guide on Article 5 of the Convention¹²⁵;
- Guide on Article 6 of the European Convention on Human Rights (criminal limb)¹²⁶;
- Guide on Article 6 of the European Convention on Human Rights(civil limb)¹²⁷;

¹²⁴ http://www.echr.coe.int/Documents/Guide_Art_4_RUS.pdf

¹²⁵ http://www.echr.coe.int/Documents/Guide_Art_5_RUS.pdf

¹²⁶ http://www.echr.coe.int/Documents/Guide_Art_6_criminal_RUS.pdf

- Overview of the Court's case-law on the freedom of religion¹²⁸;
- Overview: "The Role of Public prosecutor outside the criminal law field in the case-law of the European Court of Human Rights"¹²⁹
- Reports of the ECHR Research Department "Bioethics and the case-law of the Court"¹³⁰, "Cultural rights in the case-law of the European Court of Human Rights"¹³¹, "Internet: the case-law of the European Court of Human Rights"¹³², "National security and the case-law of the European Court of Human Rights"¹³³, "Positive obligations on Member States under Article 10 to protect journalists and prevent impunity"¹³⁴;
- Thematic factsheets prepared by the Press Service of the European Court¹³⁵

Information on these publications has also been communicated to the judges and officials of the Supreme Court of the Russian Federation.

14.3.3. The Supreme Court systematically provides thematic reviews of case-law and legal positions of the European Court and international human rights treaty bodies, as well as reviews of the Supreme Court's practice taking into account the respective legal positions of the ECHR and international human rights treaty bodies.

The texts of the relevant generalizations (reviews) are communicated to judges and officials of the Supreme Court of the Russian Federation, the lower courts, as well as made available under "Departmental Affairs" Section ("International Law" folder).

Thus, as of the end of 2016 the Supreme Court prepared the following generalizations:

- Review of case-law and legal positions of international human rights treaty bodies on the protection of the person's right not to be subjected to torture or other ill-treatment;
- Review of case-law and legal positions of international human rights treaty bodies on matters related to the protection of the person's right not to be subjected to torture or other forms of ill-treatment in the State, under which jurisdiction the administrative expulsion is expected, and such person's right for family life;
- Review of case-law and legal positions of the European Court for 2011 - 2015 with regard to cases against the Russian Federation in connection with violation of the right to trial within a reasonable time and the right to execution of a judgment within reasonable time;
- Review of legal positions of the international human rights treaty bodies on issues of enforcement of the right of the accused to the participation of defender (lawyer);
- Review of practice and legal positions of the European Court in connection with the protection of the person's right to a prompt examination of appeal against the court order on the measure of restraint in the form of detention (or its extension), as well as the request for release from detention (§ 4 of Article 5 of the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950);

¹²⁷ http://www.echr.coe.int/Documents/Guide_Art_6_RUS.pdf

¹²⁸ http://www.echr.coe.int/Documents/Research_report_religion_RUS.pdf

¹²⁹ http://www.echr.coe.int/Documents/Research_report_Internet_RUS.pdf

¹³⁰ http://www.echr.coe.int/Documents/Research_report_bioethics_RUS.pdf

¹³¹ http://www.echr.coe.int/Documents/Research_report_cultural_rights_RUS.pdf

¹³² http://www.echr.coe.int/Documents/Research_report_Internet_RUS.pdf

¹³³ http://www.echr.coe.int/Documents/Research_report_national_security_RUS.pdf

¹³⁴ http://www.echr.coe.int/Documents/Research_report_article_10_RUS.pdf

¹³⁵ <http://www.echr.coe.int/Pages/home.aspx?o=press/factsheets/russian>

- Review of practice and legal positions of the international human rights treaty bodies on matters related to protection of the right of the person, in respect of which extradition is requested, not to be subjected to torture or other abusive treatment (punishment) in the requesting state;
- Review of legal positions of the European Court with regard to cases on which the violation of § 1 Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 was found in connection with commission of crimes by the applicant as a result of incitement by law-enforcement officials;
- Review of case-law and legal positions of the European Court concerning the application of § 3 of Article 5 of the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 (as regards enforcement of the right of the accused to a reasonable time of detention) (2008-2015);
- Review of legal positions of the international human rights treaty bodies on the issues of enforcement of the right of the accused to defence in the assessment of evidence in criminal proceedings;
- A list of reports adopted in terms of the international intergovernmental organizations, on observance of human rights and freedoms in individual states.

14.3.4. The Supreme Court of the Russian Federation participates in the Superior Courts Network that works within the framework of the European Court. According to the information available, as of the beginning of 2017 this network includes highest judicial bodies from 18 countries of the Council of Europe.

As of the end of 2016 the Supreme Court of the Russian Federation prepared 1 expert opinion for the European Court and received 40 messages from the ECHR Legal Adviser on the current practice of this treaty body.

Information on the ECHR practice was communicated to the judges and officials of the Supreme Court of the Russian Federation.

14.3.5. With the adoption of new regulations (considerations) by the European Court, the United Nations international human rights treaty bodies, the necessary amendments have been made to some of the above reviews. For example, such amendments were made to:

- Review of case-law and legal positions of the international human rights treaty bodies on the protection of the person's right not to be subjected to torture or ill-treatment;
- Review of case-law and legal positions of the European Court concerning the application of § 3 Article 5 of the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950;
- Review of case-law and legal positions of the European Court for 2011 - 2015 with regard to cases against the Russian Federation in connection with the violation of the right to a trial within a reasonable time and the right to execution of a judgment within reasonable time;
- A list of reports adopted in terms of the international intergovernmental organizations, on observance of human rights and freedoms in individual states.

14.3.6. Periodic reviews of the Supreme Court regularly include excerpts from the European Court judgments with regard to cases against the Russian Federation, as well as from the

international UN treaty bodies considerations (on reports in respect of Russia as well as other states)¹³⁶.

14.3.7. The Judicial Department provides practical access in the necessary scope to "International Legal Instruments" section in legal reference systems designed for use in all federal courts of general jurisdiction and commercial courts.

Along with this the Judicial Department provides courts with periodical publications ("Human Rights. Case-Law of the European Court of Human Rights.", "European Court of Human Rights Case-law Bulletin") which facilitate the access for every judge to the European Court's practice and publications on actual topics of operation of the conventional mechanism and the ECHR practice.

14.4. The Investigative Committee on the basis of previously adopted Instructions No. 5/206 «On Measures to Ensure Adequate Preliminary Investigation with Regard to the Principles and Norms of International Law" continued proactive efforts to ensure access by investigators and other Investigative Committee's officials to the case-law of the European Court and study of the practice of the Convention interpretation and application.

As part of these efforts, the central office of the Investigative Committee, its territorial bodies and educational institutions subscribed (with subsequent familiarising of their officials) to the relevant periodicals publishing case law of the European Court and analytical materials on implementation of the requirements of the Convention and the indicated practice in the daily activities of investigative authorities.

In addition, subject to the above Instructions the central office of the Investigative Committee has arranged the work to generalize the practice of the European Court in the criminal proceedings. In connection with the ECHR's judgments ascertaining a violation of the Convention by the bodies and officials of the Investigative Committee, informational communications with the necessary comments and explanations are sent to regional investigative bodies and educational institutions of the Investigative Committee.

14.5. The Ministry of Healthcare transfers copies of judgments of the ECHR regarding the issues related to rights of persons in the area of healthcare and medical service received from the office of the Representative at the ECHR to executive bodies of the constituent entities of the Russian Federation in the area of healthcare, to the Federal Bio-Medical Agency, to federal state institutions and state unitary enterprises (those subordinate to the Ministry of Healthcare), and also to the Federal Compulsory Medical Insurance Fund for consideration in practice and taking necessary measures to prevent violations of the Convention by the Russian authorities identified in the judgments of the ECHR.

15. In the material period great value with a view to implementing the provisions of the Convention and the practice of the European Court was attached to training and professional development of judges and officials of other competent state bodies in accordance with the international standards and the ECHR practice.

¹³⁶ For example, ref. reviews of the judicial practice of the Supreme Court of the Russian Federation No. 1 (2015), approved by the Presidium of the Supreme Court on March 4, 2015 (<http://www.vsr.ru/Show pdf.php?Id 9865>); No. 2 (2015), approved by the Presidium of the Supreme Court on June 26, 2015 (<http://supcourt.ru/Show pdf.php?Id= 10135>); N2 3 (2015). Approved by the Presidium of the Supreme Court on November 25, 2015 (<http://supcourt.ru/Show pdf.php?Id=10512>); No.4 (2015), approved by the Presidium of the Supreme Court of the Russian Federation on December 23, 2015; No. 3 (2016), approved by the Presidium of the Supreme Court on October 19, 2016 (<http://www.vsr.ru/Show pdf.php?Id=11066>); No. 4 (2016), approved by the Presidium of the Supreme Court on December 20, 2016 (<http://www.vsr.ru/Show pdf.php?Id=1 1201>); No.1 (2017), approved by the Presidium of the Supreme Court on February 16, 2017 (<http://www.vsr.ru/Show pdf.php?Id=1 1275>).

15.1. The Constitutional Court arranged regular training of the Secretariat staff as part of the advanced training organized on the basis of the Diplomatic Academy and the MGIMO University. The training focused on various aspects of the Convention's issues and the European Court case-law.

15.2. The program of advanced training of Russian judges in the federal budgetary educational institution of higher education "Russian State University of Justice" was supplemented by the issues of the Convention, as well as the case-law of the European Court and its implementation in judicial practice of the Russian Federation.

The appropriate training was organized with assistance of the judges, officials of the Supreme Court and the Office of the Representative at the ECHR. In 2015-2016

D. I. Dedov, the Judge of the European Court elected from the Russian Federation gave speeches before the students.

Since 2001 the Judicial Department has constantly been interacting with the European Court regarding the review by judges of the practice of application of the Convention for the Protection of Human Rights and Fundamental Freedoms. As of 31 December 2016 secondment to the French Republic (Strasbourg, Paris) was ensured for 1086 Russian judges for familiarising with activities of the European Court.

15.3. The bodies of the penitentiary system also gave considerable attention to the training of the penitentiary system staff regarding the human rights protection.

The appropriate training is carried out in several ways: the initial training program, higher education programs and continuing professional education of staff in educational institutions under the jurisdiction of the FSIN of Russia and as part of in-service training of staff in the penal system institutions and bodies.

The basic educational programs of specializations and areas of training of higher education implemented in the educational organizations of the FSIN of Russia included educational disciplines and topics on the protection of human and civil rights in the Russian Federation, the legal status of convicts and persons in custody.

All persons first employed by the penitentiary system take training courses required to be allowed to independent performance of their official duties.

As part of the initial training of the penal system officials, the subject of human rights protection is included in the discipline "Legal and organizational basis of the penitentiary system activities". Training participants learn the peculiarities of the legal status of convicts, conditions and procedures for the detention of suspects and those accused of committing crimes, international standards of treatment of prisoners and persons in custody.

The medical staff of correctional institutions pertains to documentation and investigation of complaints of torture and abuse, upon taking office obtains the necessary information on the normative legal basis in terms of the order of inspections, examinations of prisoners for injuries, documentation of the identified injuries and participation in the investigation of complaints of torture and abuse.

Programs of the employees' professional retraining and advanced training implemented in educational institutions of the FSIN of Russia provide for updating and improving the participants' knowledge on the application of the Russian and international legislation in the correctional system institutions and bodies, while ensuring the rights of convicts and persons in custody.

The corresponding training programs are regularly updated. Thus, in 2014 following the meeting of the representatives of the Federal Penitentiary Service with R. Komenda, Senior Human Rights Adviser within the UN system in the Russian Federation, the training package "Human Rights and Custodial Facilities" prepared by the UN staff was sent to the educational institutions of the FSIN of Russia to be used in the training of trainees and participants.

During the inspection of the institutions and bodies of the FSIN of Russia the inspecting officials check the employees' knowledge of their functional responsibilities and regulatory legal acts prescribing the penal system activities, as well as their level of training and skills.

15.4. Significant efforts to improve the employees' awareness were carried out by the prosecution authorities.

Thus, regular training of the officials of the prosecution bodies has been organised within the advanced training in the European Studies Institute of the MGIMO University on the subject of "Implementation of constitutional and international human rights guarantees in the Russian law and enforcement practice".

The Office of the Prosecutor General has also arranged a regular seminar for prosecutors, during which various aspects of the most important ECHR judgments are discussed.

Advanced training, professional training of prosecutors including on the issues under consideration is regularly conducted by the Academy of the Office of the Prosecutor General.

Currently, as noted above (item 11.1.9. of the present Report), the program of cooperation of the Russian Federation and the Council of Europe on implementation of the program of Human Rights Education for Legal Professionals (HELP program) is carried out in Russia. The Academy of the Prosecutor General's Office is included in the co-participants of the project "European Program of Human Rights Training of Lawyers, Judges, Prosecutors and Attorneys (HELP Program, Phase II), provided for in the List of Priorities of Cooperation between the Russian Federation and the Council of Europe for 2013 - 2017.

The officials of the Academy of the Prosecutor General's Office of the Russian Federation participated in the training sessions on the said program (Moscow, 8 October 2015; Skolkovo, 3-6 February 2016). A representative of the Academy of the Prosecutor General's Office of the Russian Federation took part in the regional conference on the subject of "Professional Training of Judges and Prosecutors: the Council of Europe's Approach" (HELPR), held in Minsk on 28-29 April 2016.

15.5. The Investigative Committee arranged the adoption of successive steps on staff training, with regard to the provisions of the Convention and of the European Court.

Thus, based on the training centres of the North-West, Volga, Siberian, Far East, South and Ural Federal Districts, studies on the following subjects were systematically organized and conducted: "Basic Human Rights Standards" and "Preparation, Forwarding, Execution of Requests for Legal Assistance", etc.

As part of ongoing additional professional programs - advanced training programs at the Advanced Training Institute of Federal State Budgetary Educational Institution of Higher Education "Academy of the Prosecutor General's Office of the Russian Federation", training sessions are regularly held on the subject: "European Legal Standards", including those focusing on the European Court's practice and procedure.

15.6. In order to raise awareness of the employees of the Ministry of Internal Affairs of the Russian Federation have organised the discussion of issues of territorial, personal and temporal jurisdiction of the European Court, including the recommendations of the Brussels

Conference in respect of the implementation of the Convention and the European Court's decisions based on its provisions in the Russian legal system.

The relevant discussions in the period under review took place during the in-service training, seminar and international research and science conference with the participation of heads and employees of departments of the central bodies of the MVD of Russia, the territorial departments of the MVD of Russia, educational and research organizations of the system of the Ministry of Internal Affairs of the Russian Federation.

16. Great importance to implement the Convention's provisions, the practice of the European Court and international standards in the legal system of the Russian Federation in the period under review was attached to international contacts and joint events with the Council of Europe or activities involving the ECHR judges, representatives of the Human Rights and Rule of Law Directorate General, and other Council of Europe's bodies and institutions.

16.1. A number of measures in this area were carried out by the Constitutional Court of the Russian Federation.

16.1.1. The Constitutional Court and the bodies of the constitutional control of the Member States to the Convention in the period under review cooperated on a bilateral and collective basis, including the exchange of delegations and discussion on issues of mutual interest (including on the pages of professional periodicals), official and academic events. The relevant activities on the interaction contributed to a review of best practices of the judicial protection of the subjective rights, including those protected by the Convention.

16.1.2. Under the auspices of the Constitutional Court, a number of forums on the problems of interaction between the national and supranational justice took place. The objectives of these activities were expansion and optimization of cooperation between the Council of Europe's bodies, monitoring compliance with the Convention, and the states- parties to this agreement, including the ECHR's dialogue with the higher national courts, as well as cooperation between public authorities at national level.

Thus, on 22-23 October 2015, in the Constitutional Court the international high- level conference "Improvement of National Mechanisms for the Effective Implementation of the European Convention on Human Rights" was held, organized by the Constitutional Court and the Council of Europe.

The conference on the Russian part was attended by judges of the Constitutional and Supreme courts, members of the Federation Council, heads and other representatives of the competent public authorities and representatives of the legal community, etc., on the part of the Council of Europe it was attended by the Secretary General, judges of the ECHR and officials of the European Court Secretariat, representatives and experts of the Council of Europe working bodies (the Council of Europe Steering Committee for Human Rights, groups on the European Court reform, on legal cooperation, etc.) In addition, the representatives of the Court of the Eurasian Economic Community, as well as prominent Russian and foreign scientists, etc. were actively involved in the conference.

During the said conference a productive exchange of views on the full range of issues set out in the Brussels Declaration took place. Currently, the preparation of the conference proceedings materials is being finalised.

16.1.3. On 17 May 2016 as part of the VI St. Petersburg International Legal Forum, the International Conference "Contemporary Constitutional Justice: Challenges and Prospects" was held.

The Conference was attended by more than 100 prominent scientists and experts from more than 30 countries. Among them there were the chairmen and judges of the Constitutional and Supreme Courts of Austria, Albania, Algeria, Azerbaijan, Armenia, Belarus, Belgium, Bulgaria, Bosnia and Herzegovina, Germany, India, Indonesia, Spain, Kazakhstan, Kyrgyzstan, Korea, Macedonia, Mongolia, Morocco, Peru, Portugal, Romania, Serbia, Tajikistan, Thailand, Uzbekistan, Finland, France, Montenegro, Switzerland, Estonia, as well as the judges of the European Court of Human Rights and the President of the Venice Commission of the Council of Europe.

Russian and foreign experts discussed topical issues of the constitutional review, the role of constitutional courts in protecting the rights and freedoms of citizens, including in relation to the ECHR's practice, as well as issues of judicial independence.

16.2. Serious attention to the international contacts issues is paid by the Supreme Court of the Russian Federation.

16.2.1. As it was mentioned above, since the adoption of the Brussels Declaration the practice of secondment of the judges of the Russian Federation and employees of the Judicial Department to the Republic of France (Strasbourg, Paris) has continued. As of 31 December 2016, 1086 Russian judges were seconded to the European Court.

During these secondments the judges of the Russian Federation were present during the hearings of cases by the Grand Chamber of the European Court, got acquainted with the ECHR's structure and operation, participated in meetings and discussions with the European Court's judges and lawyers.

16.2.2. On 30-31 March 2016, V.M. Lebedev, President of the Supreme Court of the Russian Federation, visited Strasbourg and met G. Raimondi, President of the European Court, and T. Jagland, Secretary General of the Council of Europe to discuss issues of mutual interest, in context of the role of Russian courts in the implementation of the international standards and the Convention's provisions in the legal system of the Russian Federation and respect for human rights.

16.2.3. In December 2016, G. Raimondi, the President of the European Court,

T. Jagland, the Secretary General of the Council of Europe, and Ph. Boillat, the Director General of the Human Rights and Rule of Law of the Council of Europe visited the Russian Federation.

The visit of T. Jagland included meetings with the President of the Russian Federation V.V. Putin, Chairman of the State Duma V.V. Volodin, Chairman of the Federation Council V.I. Matviyenko, the Prosecutor General Yu.Ya. Chayka, the Minister of International Affairs S.V. Lavrov and the Minister of Justice A.V. Kononov.

The President of the European Court G. Raimondi and the Director General of the Human Rights and Rule of Law Ph. Boillat during the visit met with the President of the Constitutional Court V.D. Zorkin, the President of the Supreme Court V.M. Lebedev and the Prosecutor General Yu.Ya. Chayka.

During the visits the dialogue on topical issues of cooperation, including those identified in the Brussels Declaration, was continued.

16.2.4. G. Raimondi and Ph. Boillat in the framework of the above December visit participated as guests in the IX All-Russian Congress of Judges opened by the President of the Russian Federation and attended by 750 delegates from the higher, commercial, federal courts of general jurisdiction, military courts, magistrates' courts, and constitutional (charter) courts of the Russian Federation. Among the guests of the All-Russian Congress of Judges

also were representatives of the Constitutional Court, public authorities and the bodies of judiciary systems of European and CIS countries.

G. Raimondi addressed the participants of the event. He pointed out, among other issues, that Russia is not anymore on the first place among the countries with the highest number of complaints pending before the European Court. He also emphasised the perceptiveness with which the higher courts of the Russian Federation respond to the European Court's decisions, highlighting the practice of the Supreme Court regarding this matter.

16.2.5. On 5-6 October 2015, the Supreme Court representative participated in the Round Table of the Council of Europe organized in Strasbourg on the problems of the national practice of renewal of trial in civil and criminal proceedings. The Supreme Court representative presented the positive practice of Russian courts on the discussed issues (this positive practice will be described below in item 19 of the present Report).

16.3. On 2 June 2016, Conference "Integration Processes in Europe and Eurasia: Role of the Council of Europe's Conventions" was held in Moscow, organized by the Institute of Legislation and Comparative Law at the Government of the Russian Federation, and the Council of Europe.

The conference was attended by representatives of the European Court, the Council of Europe bodies, the Federal Assembly of the Russian Federation, the Supreme Court, the Ministry of Foreign Affairs, judges of the Eurasian Economic Union, representatives of the scientific community of Russia, France, Portugal, etc.

During the event substantive debate took place on the complexities of integration processes in Europe and Eurasia, including the role of the Council of Europe and the European Court in these processes.

16.4. On 15-16 September 2016 the delegation of the Federation Council of the Federal Assembly of the Russian Federation headed by V.I. Matvienko, Chairman of the Federation Council, visited Strasbourg to participate in the Conference of Presidents of Parliaments of the Council of Europe's Member States.

V.I. Matvienko spoke at the conference on the subject of "National Parliaments and the Council of Europe: Joint Efforts to Promote Democracy, Human Rights and the Rule of Law."

During the conference the meeting took place between V.I. Matvienko and T. Jagland, Secretary General of the Council of Europe, during which topical issues of cooperation between the national parliament and the Council of Europe were discussed.

16.5. On 20-21 January 2016 in Moscow the Round Table on the subject of "Protection of Asylum-seekers and Refugees in the Challenging Security Context " took place, organized by the MFIMO University in cooperation with the UN Office of the High Commissioner for Refugees in Russia and the Council of Europe's Rule of Law and Refugees Rights Directorate General.

The event was attended by B. Wak-Woya, Representative of the UN High Commissioner for Refugees, C. Giakoumopoulos, Director of the Directorate for Human Rights, Migration Coordinator of the Council of Europe, lawyers of the European Court and the Committee of Ministers, representatives of the competent public authorities: the Supreme Court, the FSSP of Russia, the MVD of Russia, the Federal Migration Service of Russia, the Office of the Prosecutor General, the Office of the Representative at the ECHR etc.

The subjects of discussion included topical issues related to increase of migratory flows, protection of refugees and internally displaced persons and enforcement of their rights in relation to the international standards and the ECHR's practice.

16.6. In April 2016 the Ministry of Justice in cooperation with Tomsk State University (in Tomsk, Russia) held a conference on law enforcement monitoring on the subject of "Implementation of Judgments of the Constitutional Court of the Russian Federation and the European Court of Human Rights in the Criminal Procedure Legislation and Legal Proceedings of Russia." The representatives of scientific community discussed, among other things, the possible ways to improve the Russian criminal procedure legislation in terms of the ECHR case-law.

16.7. On 27-28 April 2016 the rapporteurs of the Venice Commission visited Moscow. During the visit, the rapporteurs of the Venice Commission held a substantive discussion with the Representative of the Russian Federation in the Venice Commission, the judges of the Constitutional Court, the State Duma deputies, the management of the Institute of Legislation and Comparative Law at the Government of the Russian Federation, the officials of the Ministry of Foreign Affairs of the Russian Federation, Office of the Representative at the ECHR.

The subject of the discussion included the use in the Russian Federation of the constitutional law mechanism in connection with the judgment of the European Court in the case *Anchugov and Gladkov v. Russia* to resolve the contradiction between the interpretation of the Convention's provisions of the ECHR in the said judgment and the Constitution of the Russian Federation.

16.8. The activities of the High Commissioner for Human Rights in the Russian Federation in respect of international cooperation are set out above (items 11.1.7., 11.1.10,

11.1.11. of the present Report).

16.9. Development of international cooperation of the Russian Federal Penitentiary Service with the penitentiary systems of foreign countries, international and non- governmental organizations is provided for by Concept of Development of the penal system of the Russian Federation until 2020 approved by the order of the Government of the Russian Federation No. 1772-r of 14 October 2010 ("the Concept").

In 2015 this cooperation was conducted with prison services of 26 States (Austria, Denmark, Germany, Italy, the Netherlands, Norway, Poland, Finland, Switzerland, Azerbaijan, Armenia, Belarus, Kazakhstan, Moldova, Mongolia, Kyrgyzstan, Ukraine, Israel, China, Korea, Turkey, Nicaragua, etc.)

Among other measures in order to implement the Concept, including with a view to exchange best practices of functioning of the penitentiary system institutions, 97 international events were held, including 48 receptions of foreign delegations and 49 business trips of the penal system officials to other countries.

A number of bilateral international acts were signed with prison services of foreign states: the Prison Service of the Czech Republic, the German Foundation for International Legal Cooperation, the Criminal Sanctions Agency of Finland, the Prison Service of the Swiss Confederation, the General Directorate of Execution of Judgments of Mongolia, Korea Correctional Service.

The management of the Russian Federal Penitentiary Service, including the Director of the FSIN of Russia, actively participate in the events held by the international organizations (the Council of Europe, the International Corrections and Prisons Association, the European Organization of Prison and Correctional Services, etc.)

16.10. The Russian Federal Bailiffs Service in the period under review actively cooperated with the enforcement authorities of foreign countries in order to exchange information and positive practice on the enforcement issues.

16.10.1. Thus, pursuant to order of the Government of Russian Federation No. 2077-r of 17 October 2015, the FSSP of Russia on 26 November 2015 signed the Memorandum on cooperation and full membership ("the Memorandum") of this service in the Union International of Judicial Officers ("the UIHJ").

Full membership of the FSSP of Russia in the UIHJ demonstrates the Russian Federation openness to discuss enforcement issues which have repeatedly been the subject of consideration by the European Court. It also promotes the implementation of international standards in the area of enforcement of judicial decisions in Russia and in the end promotes the status of Russian judiciary.

·Having become a full member of UIHJ, the FSSP of Russia got an opportunity to present at a new level the Russian enforcement model, demonstrating its positive aspects at the international level.

Participation in the UIHJ has also allowed to expand the geography of contacts with the representatives of the enforcement authorities of foreign countries, as well as created additional opportunities for the exchange of experience in the enforcement proceeding and its subsequent practical use, including for the purpose of improving the legislation of the Russian Federation on enforcement proceeding and solving problems of delayed enforcement of judgments identified by the European Court.

Currently the UIHJ cooperates with the UN Council for Economic and Social Affairs, the Council of Europe, the Hague Conference on Private International Law, the European Commission for the Efficiency of Justice, the European Commission, the European Law Institute, the World Bank, Max Planck Institute, etc.

16.10.2. With the direct participation of the UIHJ from 6 to 10 June 2016 in Ufa (Republic of Bashkortostan, Russia) the Russian Federal Service for the Execution of Sentences held VII International Research and Science Conference on the subject of "The Order of Enforcement of Non-Property Demands Contained in the Enforcement Documents: Problematic Issues and the Ways of their Solution".

This event is particularly relevant in respect of the ongoing work of the Russian authorities to solve the identified by the UIHJ problem of delayed enforcement of court decisions on the obligations and of non-property nature.

16.10.3. For the year 2017 organization and conduct by the UIHJ of VIII International Research and Science Conference on the subject of "Information Technologies in respect of Compulsory Enforcement" is scheduled.

The UIHJ accepted the proposal of the FSSP of Russia to hold the next meeting of the Permanent Council of the International Union of Judicial Officers on the sidelines of St. Petersburg International Legal Forum in May 2017.

16.10.4. Direct interaction of the FSSP of Russia with court bailiffs services of foreign countries which are the members of UIHJ is consistently expanding.

Thus, on 1 November 2016 the Memorandum was signed on Cooperation between the Russian Federal Service for the Execution of Sentences and the National Chamber of Judicial Officers of the French Republic. According to this Memorandum, the cooperation will be implemented through the exchange of scientific, practical information and documents, organization of joint publications and activities (seminars, conferences), organization, coordination of visits for training and exchange of experience.

Item ii. of the Preamble, items (2), (3), (8), (10), of the operative part of the Brussels Declaration, paras d), e) of item 1., paras a), b), c), d), e), f), h), i), j) of item

2. of Section B of the Action Plan "Implementation of the Convention at national level"

17. Since the adoption of the Brussels Declaration and pursuant to the Action Plan approved by it, the Russian authorities have taken a number of complex coordinated measures to implement the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms and the ECHR case-law in the legal system of the Russian Federation. First of all, this includes strengthening and enhancing the efficiency of the execution of the European Court's judgments, taking measures aimed at eliminating and preventing further violations identified by it. More details about these efforts are set out below (item 19 of the present Report).

The measures taken have already led to some positive results, as evidenced by the statistics reflecting a steady trend of reduction in the number of pending complaints under consideration of ECHR against the Russian Federation.

Thus, for the past four years, their number has decreased by more than 3.5 times and as of January 2017 it amounts to less than 8 thousand complaints. In respect of the number of complaints filed with the ECHR based on the population, out of 47 countries of the Council of Europe, in recent years Russia has consistently roughly ranked 20th, and by the end of the past year it moved to the 28th place.

18. It is recalled that in order to comply with the international obligations under the Convention, the implementation of its provisions and the European Court's practice in the legal system of the Russian Federation effective national mechanisms have been established¹³⁷ and improved.

18.1. In particular, the coordination of relevant activities is carried out by the Representative of the Russian Federation at the European Court for Human Rights, who has his own Office.

Logistical and other support of the activities of the Representative at the ECHR and its Office is performed by the Ministry of Justice of Russia. For these purposes annual target budget allocations are provided and have been supplied after the Brussels Conference.

Activities of the Representative are clearly regulated by law, and he it is the Deputy Minister of Justice of the Russian Federation and has sufficient competence. In particular, the Representative performs the following functions on the implementation of the provisions of the Convention in the legal system of the Russian Federation:

- analysis of legal consequence of the European Court judgments (in respect of Russia and other Member States of the Council of Europe) and preparation, taking into account the practice of the ECHR and the Committee of Ministers, of recommendations on improvement of the Russian legislation and law enforcement practices, as well as Russia participation in international contracts and on development of international law meeting the interests of the country;
- ensuring cooperation between state authorities and municipal authorities in the execution of the ECHR judgments and CMCE decisions, including the restoration of violated rights of the applicants, payment of compensation awarded by the Court and the adoption of general measures aimed at eliminating and (or) preventing further violations identified by the European Court.

¹³⁷ Decree of the President of the Russian Federation No. 310 of 29 March 1998 "On the Representative of the Russian Federation at the European Court of Human Rights - deputy Minister of Justice of the Russian Federation".

To implement these functions, the Representative has broad powers, including the following: to request the necessary information from the heads of the state bodies and municipal authorities which is to be provided by the relevant authorities in a timely manner; to create, if necessary, working groups of representatives of the relevant authorities, as well as to initiate and provide, in cooperation with them, the preparation of draft laws or other regulatory legal acts, etc.

18.2. Following the Brussels Conference the said powers were used extensively and effectively.

In particular, the translations into Russian¹³⁸ of all the judgments of the ECHR with requests (with a brief summary of the ECHR legal position) for the provision of information on measures taken to eliminate and prevent further violations identified by the European Court were promptly sent to the competent public bodies. Copies of the translations of the European Court's judgments are necessarily sent to the Constitutional Court of the Russian Federation.

Besides, close coordination and cooperation with the relevant competent public bodies has been organized in the preparation of the action plans and reports on execution of the ECHR judgments and implementation of the Convention provisions in the legal system of the Russian Federation.

In turn, these authorities have appointed responsible persons to communicate with the Representative and more efficiently solve the problems identified by the Court. In the Supreme Court the issues of analysing legal implications of the European Court's judgments and the implementation of the Convention's provision in practice of the Russian courts and practical cooperation with the Representative (among other issues) are addressed by the International law division. The Constitutional Court established the Division of International Relations and Generalization of the Constitutional Control Practice which provides information and analytical support for the proceedings in the Constitutional Court on the international law issues including the European Court practice.

18.3. In order to implement the powers granted and strengthen coordination to ensure more effective implementation of the Convention provisions and the ECHR case-law in the legal system of the Russian Federation upon the proposal of the Representative, inter-ministerial working groups have been set up and operate for the purpose of execution of the ECHR judgments in cases raising complex and/or structural problems. For example, such groups are created in the context of the execution of the "pilot" judgments *Ananyev and others v. Russia*, *Gerasimov and others v. Russia*, regulations on the interstate complaint of *Georgia v. Russia (I)*, group of cases *Garabayev*. Previously created working groups for the implementation of judgments on groups of cases *Mikheyev*, *Khashiyev* and *Akayeva*, etc. continue their work.

18.4. Besides, the practice has emerged of permanent operative cooperation

between the competent public authorities in the execution of ECHR judgments requiring such cooperation. For example, effective interaction has been arranged between the Russian Federal Penitentiary Service, the Office of the Prosecutor General and the Ministry of Defence of the Russian Federation in addressing the issue identified by the ECHR of delayed enforcement of judicial decisions on the housing provision to military servicemen and persons equated to them.

¹³⁸ It is noted that from the budget of the Russian Federation special provisions are annually allocated for the organization of translation of the European Court judgments and other documents concerning the activities of the Representative.

18.5. Based on the information on the measures taken and planned to implement the European Court judgments, presented by the competent public authorities at the Representative's request, the action plans or reports of the Russian authorities are being prepared.

If necessary, the relevant plans and reports are additionally approved by the competent public authorities and/or discussed at the meetings of the inter-agency working groups.

18.6. Following the consideration of the relevant action plans or reports at the meeting of the Committee of Ministers, copies of all the CMCE decisions and recommendations, as well as letters and recommendations of its working bodies are translated into Russian, and are promptly sent to the concerned public authorities for practical implementation of the relevant decisions and recommendations. At the same time the information is requested on the results of the relevant activities to be further communicated to the Committee of Ministers.

18.7. A clear algorithm has been developed in respect of compensation awarded under ECHR judgments and decisions, including the provision (if necessary) of advisory assistance to applicants in the preparation of the necessary documents for payment.

The budget funds for compensation are annually provided for by the Federal Law on Budget for the relevant year.

18.8. Information on measures taken to execute judgements of the European Court relevant to certain cases and groups of cases and to implement the Convention provisions on particular issues (in accordance with topics outlined in the Brussels Declaration) is given below in other paragraphs of the report.

18.9. Minister of Justice of the Russian Federation addresses members of the parliament every year as part of the "question hour", giving information on issues that include, among other things, ECHR practice and its implementation into the legal system of the Russian Federation. Representatives of the Ministry of Justice and the Office of the Representative participate in meetings of committees and house committees of the Federal Assembly the Russian Federation, as well as in drafting bills and other legislative instruments.

19. In the period after adoption of the Brussels Declaration, the authorities of the Russian Federation have done consistent work to execute judgements of the ECHR and implement the provisions of the Convention into the Russian legal system.

19.1. Information on measures taken to implement the legal positions of the European Court, detailed in its judgements, is partially given above (items 13-15 of the present Report).

19.2. In order to increase effectiveness of the measures to execute judgements of the ECHR, judgements on cases against the Russian Federation have been analyzed.

As a result of the analysis, in the context of the ECHR practice, the following tasks have been prioritized:

addressing problems identified by the Court as recurring or systematic for Russia; creating of effective legal remedies within the country in order to transfer the responsibility of protecting Russian citizens to the national level.

19.3. In the context of executing the ECHR judgements, including "pilot" ones, the authorities conducted fundamental legal and organizational reforms, and updated existing legal remedies which are recognized to be effective by the European Court.

At this moment, the three serious systemic issues in the Russian legal system that were the cause of a large number of applications to the ECHR are practically solved.

19.3.1. In this vein, in the context of executing the ECHR judgements in Timofeev group of cases and the "pilot" judgement of the European Court in Burdov v Russia (II), the authorities have created an effective legal remedy against violations connected with exceedingly long court procedures (including pre-trial) and execution of judgements of national courts. This task was achieved by way of passing the Federal Laws no. 68-FZ "On compensation for the violation of right to the trial within a reasonable time or the right to judgement enforcement within a reasonable time" and no. 69-FZ "On introduction of amendments to certain legislative acts of the Russian Federation in connection with the adoption of the federal law on Compensation for the violation of the right to trial within a reasonable time or the right to judgement enforcement within a reasonable time" ("the Compensation Law").

This legal remedy has been recognized as effective by the European Court¹³⁹ and was positively evaluated in a Committee of Ministers resolution (see CM/Res(2011)293 of 3 December 2011).

In addition, the following special rulings have been adopted:

By the Plenum of the Supreme and Supreme Arbitration Court - no. 30/64 of 23 December 2010 "On some questions arising during consideration of cases on compensation for violation of the right to trial within a reasonable time or the right to judgement enforcement within a reasonable time", which instructs the courts on the most relevant issues of applying the Compensation Law in the context of the ECHR practice, Convention provisions and international standards;

By the Plenum of the Supreme Court - no. 11 of 29 March 2016, "On some questions arising during consideration of cases on awarding compensation for violation of the right to trial within a reasonable time or the right to judgement enforcement within a reasonable time", which gives up-to-date objective recommendations to the courts in the relevant area of regulations with consideration of existing legal practice, legal opinion of the European Court and the actual reforms of the judicial system.

These instructions positively affect the operation of the relevant legal remedy.

In the period after adoption of the Brussels Declaration, the Compensation law has seen successfully and actively applied in practice, which was facilitated by the instructions given by higher courts, organizational measures, and supporting the implementation with the necessary budgetary guarantees.

Proper and timely execution of the "pilot" judgement and creation of effective national legal remedies in the Russian Federation allowed to transfer the responsibility to protect Russian citizens against the violation of the right to trial within a reasonable time and the right to judgement enforcement within a reasonable time to the national level, and also to considerably improve the status of execution of the relevant category of judgements in the Russian Federation itself.

On 21 September 2016, the Committee of Ministers, taking into consideration positive results of the Russian authorities work, has passed a final resolution (CMResDH(2016)268) on the issue of lengthy non-enforcement of the judgements on monetary obligations of the state and municipal enterprises and discontinued supervision of 235 cases against the Russian Federation.

19.3.2. Passing of the Compensation law and undertaking of a complex of consistent measures to improve the legal system and legal practices have also allowed to solve the

¹³⁹ Decision of the European Court of 23 September 2010 on inadmissibility of applications nos. 27451109 and 60650109 "Nagovitsyn and Nalgiyev v. Russia"

issue of excessively long trial on some civil and criminal cases (Kormacheva and Smirnova groups).

In particular, in order to solve the issue of excessively long trial, a set of measures

was designed and consistently executed (see the Russian authorities report submitted to the Committee of Ministers, document DH-DD(2016)469): on improvement of material- technical support of the judicial system (including in the framework of State programs); on information support of court proceedings, including through creation and introduction of the state automated system "Justice" ("Pravosudiye"); on creation of a system of digital legal proceedings in courts of general jurisdiction before 2020; on improvement of court proceedings (including through legislative acts aimed at optimizing court activities); on disciplining of members of judicial proceedings; on increasing awareness and qualification of court officials; and on creating the new effective national legal remedy (the aforementioned Compensation law).

This complex of measures taken by the Russian authorities allowed to minimize the number of civil and criminal cases that were not considered within a time-limit set by the law and ensured that hearings of such cases are done, in general, within a reasonable time. In view of this, the Russian authorities asked the Committee of Ministers to discontinue supervision over execution of judgements in Kormacheva and Smirnova groups.

19.3.3. As part of executing the "pilot" judgement of the ECHR Gerasimov and others v. Russia in order to create an effective legal remedy, the Federal Law no. 450-FZ was drafted and passed on 19 December 2016 "On amending the federal law on compensation for violating the right to judicial proceedings within a reasonable time" regarding award of compensation for the violation of the right to execution within a reasonable time of a judgement providing for the State to execute obligations of non- monetary (pecuniary or non-pecuniary) nature.

This Federal Law extends the area of the Compensation law to cases of violation of execution within a reasonable time of judgements that provide for the State to execute obligations in natural form (providing housing or benefits, performance of certain actions and others).

Given that before the Compensation law (in the context of instructions given by the Plenum of the Supreme Court of the Russian Federation and in consideration of the existing application practice thereof) has been recognized as an effective legal remedy, the extension of its area of applicability to judgements that provide for the State to execute obligations in natural form directly corresponds to recommendations of the ECHR.

Presently the Russian authorities are focused on practical implementation of this law by the competent authorities, as well as other planned measures in the context of improving law-enforcement procedures.

19.3.4. As part of reforming the national judicial system and in the context of executing the judgements of the European Court in Ryabykh group of cases (violation of the principle of legal certainty due to quashing, as part of a supervision procedure, of final judgements of national courts in civil cases), prior to the Brussels conference the Russian authorities have passed the Constitutional Law "On courts of general jurisdiction in the Russian Federation" and the Federal Law no. 353-FZ "On amendments to the Civil Procedure Code of the Russian Federation".

These laws have considerably changed the working procedure of courts of general jurisdiction and rules that govern their proceedings in civil causes. Appeal instances for all types of cases have been created in regional courts and courts equal to them, and also in the Supreme Court. Large changes are made to the courts of cassation which now examines

final judicial acts. Examination of final judicial acts under the supervision procedure is preserved as an extraordinary stage of proceedings in civil cases and is aimed at correcting fundamental errors made by courts.

Following that, as part of the judicial reform, the Plenum of the Supreme Court has passed a set of rulings which give objective instructions to courts on the order of rules of Russian law, including the aforementioned federal laws. Among those are the ruling no. 13 of 19 June 2012 "On application by the courts of the civil procedure laws regulating procedure in the court of appeal", no. 29 of 11 December 2012 "On application by the courts of the civil procedure laws regulating procedure in the court of cassation".

The relevant judicial reforms, taking into consideration the detailed clarifications of the Plenum of the Supreme Court, have allowed progress in the solution of problems identified by the European Court. This is indicated, for example, by the decision of the ECHR in applications nos. 38951/13 and 59611/13 *Abramyan and Yakubosvkie v. Russia*. In this decision the European Court, having considered various aspects of the new cassation procedure provided by the Civil Procedure Code (as amended), has concluded that this procedure complies with regulations of the appeal procedure, set by the other Member States to the Convention. The procedure of cassation appeal in the Russian Civil Procedure Code is recognized by the European Court as an effective legal remedy that must be exhausted before recourse to the European Court.

In view of the passed reforms of the legislation and legal practice, as well as the fact that these reforms achieved positive practical results, the point of discontinuing of supervision of the issue of violation of the principle of legal certainty in the courts of Russia related to handling of civil cases, was included in the Order of Business of the CMCE meeting on 7-9 March 2017.

19.3.5. Major progress was made in solving the problem of unlawful and unreasonably lengthy detention identified by the ECHR (*Klyakhin* group of cases).

The Russian authorities took a complex of consistent measures that include improving laws, clarification of its application procedure by the Constitutional Court and the Supreme Court, and improving of legal practice by the competent national authorities. Detailed information on those measures taken by the Russian authorities is presented in the document DH-DD(2015)1171.

These measures were positively evaluated by the Committee of Ministers resolution of 9 December 2015 and the final resolution CMResDH(2015)249, which discontinue the supervision of several aspects of the problem identified by the ECHR and certain cases of this type.

19.3.6. As part of implementation of the Concept for developing the penal system of the Russian Federation before 2020 and executing the "pilot" judgement of the European Court in the case *Ananyev and Others v. Russia*, the authorities have developed and are currently implementing a complex action plan on solving the problem of poor conditions at pretrial detention facilities.

The action plan is based on comprehensive long-term strategy. It provides not only for improvement of conditions at pretrial detention facilities to modern standards, but also for more reasonable approach to choosing and extending measure of restraint in the form of detention, wider application of alternative measures of restraint and improvement of domestic legal remedies.

In the course of implementation of the plan of action the authorities have already conducted a set of coordinated measures to reform the current legislation and legal practice.

Preparation of the draft Federal Laws that provide for an effective legal remedy in the aforementioned area of regulation, is at final stages.

These draft Federal Laws provide for additions to the Federal Law of 15 July 1995 no. 103-FZ "On custody of persons suspected and accused of committing a crime" and the Correctional Code of the Russian Federation by the right for compensation by court of law for harm, caused by poor detention conditions at the expense of the Russian Federation budget regardless of guilt of governmental authorities and their officials. These projects also provide for such additions to the Court of Administrative Procedure, Fiscal and Tax Codes of the Russian Federation for the purposes of legal regulation, with due regard of the European Court legal position, the procedure of handling compensation cases (with due regard to specifics of submitting and handling such claims), and also execution of relevant judgements, including provision of necessary budgetary guarantees.

At the same time, the authorities continue the work to provide proper conditions in detention facilities, including through provision of necessary budgetary guarantees.

As part of the execution of the "pilot" judgment *Ananyev and others v. Russia* and implementation of federal programs, new detention centers and penitentiary facilities were built, and existing ones were reconstructed (including 13 new detention facilities built in compliance with international standards), tens of thousands of new spaces for suspects, accused and convicts were created. According to the FSIN of Russia, the measures taken resulted in increase of the average space per capita in detention facilities from 3.9 square meters in 2007 to 4.3 square meters in 2016.

Currently the federal policy project is developed "Improvement of the Correctional System (2017-2025)" which provides for designing, reconstruction and building of 829 objects is being implemented.

In addition to this, the authorities actively carry out the work aimed at reducing the number of people in detention. Close cooperation was formed between administrations of detention facilities and courts on the topics of timely receipt of judicial decisions to transfer convicts to serve sentences, to free them from detention, to extend detention period. Prosecution authorities receive notices of lengthy periods of detention of suspects and accused in detention. Courts participate in joint meetings during which possibilities of measures of restraint alternative to detention are discussed for accused of committing minor crimes, detention centre management informs judges about occupancy rates etc.

Similar approach is practiced by the Russian authorities in addressing other systemic or consistently recurring problems identified by the European Court.

19.4. A positive practice that continued after the adoption of Brussels Declaration is particularly noted of monitoring of law enforcement activities in the Russian Federation in the light of analysis of judgements of the Constitutional Court and the European Court in accordance with Decree of the President of Russia no. 657 (edited on 25 July 2014) "On monitoring of law enforcement activities in the Russian Federation".

In compliance with this Decree, the Ministry of Justice, together with other competent state bodies, conducts analysis of judgements of the Constitutional Court and the European Court in order to provide suggestions on reforming the current legislation and further implementation of such reforms.

The authorities have developed a clear procedure that allows, in the course of such work, to develop coordinated suggestions to amend the current legislation. Such suggestions are submitted to the President of the Russian Federation and become the basis for the future schedule of legislative activity of the Russian Government, execution of which is constantly supervised. Relevant documents are published every year and are accessible for the public.

As part of law enforcement monitoring, as detailed above, the authorities have created effective domestic legal remedies which allowed solving a range of systematic problems in the Russian legal system identified by the Court (Timofeyev, Ryabykh, Kormacheva, Smirnova groups of cases) or advance considerably in solving such problems (Klyakhin, Gerasimov, Kalashnikov, Garabayev case groups, etc.).

Additionally, as part of execution of judgements on the above and other groups of cases, other legal reforms were carried out, which also led to considerable advancement of law enforcement practice in the Russian Federation.

For instance, within the scope of the execution of the "pilot" judgement of the Court in *Ananyev and Others v. Russia*, 9 federal laws have been passed, along with a decree of the Government of the Russian Federation and a set of departmental regulatory acts (list and contents of these laws and acts are given in the government's plans of action and reports on execution of this ECHR judgment: documents DH-DD(2012)1009E, DH- DD(2013)936E, DH-DD(2014)580E, DH-DD(2015)862E, which are published on the Committee of Ministers' website.)

As part of law enforcement monitoring in the Russian Federation, a number of additions and amendments were introduced to the current Russian legislation in the context of certain judgements of the Court.

For instance, in connection with the judgment of the Court in application no. 76836/01 *Kimlya and Others v. Russia*, on 13 July 2015 the Federal Law no. 261-FZ was passed "On Introduction of Amendments to the Federal Law On Freedom of Religion and Religious Associations" . This law abolishes the requirement to prove that a religious organization has existed for at least 15 years in order to register it as a religious organization, which was identified by the Court as violating provisions of the Convention.

As part of executing the judgment of the Court in application no. 36703/04 *Oleynikov v. Russia* (the Court has identified a violation of Article 6 of the Convention in connection to violation of the claimant's right of access to court with reference to the defendant having immunity from legal process and regulations of civil procedure law), the Federal Law no. 297-FZ was passed on 3 November 2015 "On Jurisdictional Immunity of a Foreign State and a Foreign State's Property in the Russian Federation". This law provides, among other things, that a foreign state does not have judicial immunity in the Russian Federation as regards disputes connected with participation of a foreign state in civil contracts with natural persons, or legal entities, or other entities that do not have the status of a legal entities of another state if such disputes, in accordance with the applicable law, are subject to the jurisdiction of the Russian Federation courts and such contracts are not connected with the execution of its sovereign authority by the foreign state.

A set of legislative acts has been passed with due consideration of the legal opinion of the Court in the judgment in application no. 33498/04 *Putintseva v. Russia* (the Court held that the Russian authorities did not comply with its obligations to ensure the right to life of the claimant's son in usage of firearms against the person attempting to escape while being in military detention under armed guard and draw attention to the necessity of creation of proper legal mechanisms which would ensure existence of effective measures of protection against abuse of force and prevention of accidents). In particular, Decree of the President of the Russian Federation no. 161 of 25 March 2015 "On Adoption of the Russian Federation Armed Forces Military Police Regulations and Amendments to Certain Acts of the President of the Russian Federation" provides for exclusion of the army regulations for garrison and guard duty of the Armed Forces of the Russian Federation, adopted by Decree of the President no. 1495 of 10 November 2007, that allow using firearms against military personnel in military detention to prevent their escape without adequate and effective measures of protection against abuse of force. Simultaneously, new regulations have been

introduced to Armed Forces Military Police Regulations of the Russian Federation governing this area. The aforementioned amendments to the legislation in general correspond to the judgment of the Court.

A set of consistent legislative reforms have been carried out as part of the execution of judgment of the Court of 27 March 2014 in application no. 58428/10 *Matytsyna v. Russia*, in which the Court found the Russian authorities to be in breach of Article 6 of the Convention in connection with the failure to ensure the contentiousness and equality of parties to hearing of the criminal case of the claimant with reference to failure to provide the defendant with sufficient rights in questions of expert examination commissioning and carrying out (both during procedural inspections and directly during the trial), as well as in consideration of their motions and requests.

Already at the stage of the proceedings in *Matytsyna v. Russia* before the Court, the following Federal laws were passed: no. 23-FZ of 4 March 2014 "On Introduction of Amendments to Articles 62 and 303 of the Criminal Code of the Russian Federation and the Criminal Procedure Code of the Russian Federation", no. 432-FZ of 28 December 2013 "On Introduction of Amendments to Individual Legislative Acts of the Russian Federation to Improve the Rights of Victims in Criminal Proceedings", which provide for the possibility of carrying out expert examination at the stage of verification of a crime report prior to initiation of a criminal case, and also for the binding obligation to uphold the motion of the defendant or the victim after the initiation of a criminal case for additional or repeated expert examination.

Additionally, the Federal Law no. 160-FZ was passed of 2 June 2016 "On Introduction of Amendments to Articles 5.39 and 13.14 of the Administrative Violations Code of the Russian Federation and the Federal Law "On Lawyer Activities and Practice of Law in the Russian Federation", in accordance with which agencies and organizations which receive an attorney's request must respond to it in writing within the period strictly defined by law.

Legislation improvement activity in the context of law enforcement monitoring with due consideration of the legal opinion of the Constitutional Court and the Supreme Court in other cases is organized and under way.

19.5. The most important role in the process of execution of judgments of the Court is played by the Russian courts, including higher courts -the Constitutional Court and the Supreme Court.

Measures taken by the Constitutional Court to distribute the information about the Convention and judgments of the European Court, to study and introduce into judicial practice those legal opinions and international standards are presented above (items 13.2 and 15.1 of the present Report). Present item describes other areas of activity of the Constitutional Court in the context of taking general measures to make corrections according to resolutions of the ECHR.

During the period after adoption of the Brussels Declaration, the Constitutional Court while performing in constitutional supervision followed the line to take into account comprehensively the ECHR practice.

The primary attention during the constitutional proceedings was given to judgments in respect of the Russian Federation. In addition, the legal power of the judgments of the ECHR with regard to interpretation of the Convention was not limited by the Constitutional Court only to cases to which Russia was one of the parties. When referencing the judgments of the Court on violations of the Convention by other countries in substantiation of its opinion, the Constitutional Court proceeded from the position that such judgments are subject to consideration by the national bodies even if they were passed in relation to other countries

(providing their compliance with the Constitution, as well as established principles and provisions of international law).

During this period, as of the end of 2016, the reasoning part of 56 judgments of the Constitutional Court contained references to judgments of the ECHR passed in relation to both Russia and other countries. For instance, the conclusions of the Constitutional Court were based, among other things, on the legal opinion of the Court expressed in judgments of 10 February 2017 no. 2-P19¹⁴⁰, 17 November 2016 no. 25-P¹⁴¹, 15 November 2016 no. 24-P¹⁴², 20 July 2016 no. 17-P¹⁴³, 10 March 2016 no. 7-P¹⁴⁴, 17 February 2016 no. 5-P¹⁴⁵, 15 February 2016 no. 3-P¹⁴⁶, of 14 January 2016 no. 1-P¹⁴⁷, of 12 March 2015 no 4-P¹⁴⁸ etc.

In some of those, and also in other judgments, the Constitutional Court indicated the necessity of development of legislative acts, or making amendments and additions to legislative acts. In all such cases, as part of the execution of the Decree of the President of the Russian Federation "On Monitoring of Law Enforcement Activities in the Russian Federation", such laws or other legal acts were passed, or prepared to be passed. More details on the law enforcement monitoring work in the Russian Federation in consideration with the judgments of the Constitutional Court and the European court are given above (item 19.4 of the present Report).

19.6. Operation of Russian courts of general jurisdiction holds the largest importance for the implementation of the Convention provisions and ECHR practice into the legal system of the Russian Federation.

Measures taken by courts and the Judicial Department to distribute the information about the Convention and judgments of the European Court, to study and implement into judicial practice those legal opinions and international standards are given above (items 6,

¹⁴⁰ With regard to the case of verification of constitutionality of article 2121 of the Criminal Code upon application of I.I. Dadin.

¹⁴¹ With regard to the case of verification of constitutionality of part 4 article 27.5 of the Code of Administrative Offences of the Russian Federation upon the claim of E.S. Sizikov.

¹⁴² With regard to the case of verification of constitutionality of paragraph "b" part 3 article 125 and part 3 article 127 of the Criminal Proceedings Code of the Russian Federation on the grounds of the inquiry of Vologda Regional Court and the applications of N.V. Korolev and V.V. Koroleva.

¹⁴³ With regard to the case of verification of constitutionality of provisions of parts 2 and 8 article 56, part 2 article 278 and chapter 40.1 of the Criminal Proceedings Code of the Russian Federation upon application of D.V. Usenko.

¹⁴⁴ With regard to the case of verification of constitutionality of part 1 article 21, part 2 article 22 and part 4 article 46 of the federal law "On Enforcement Proceedings" upon application of M.L. Rostovtsev.

¹⁴⁵ With regard to the case of verification of constitutionality of provisions of paragraph 6 article 8 of the Federal Law "On Legal Status of Foreign Citizens in the Russian Federation", parts 1 and 3 article 18.8 of the Administrative Violations Code of the Russian Federation and subparagraph 2 part 1 article 27 of the federal law "On the Exit Procedure from the Russian Federation and the Entry Procedure to the Russian Federation" upon application of the national of the Republic of Moldova M. Tsurkan.

¹⁴⁶ With regard to the case of verification of constitutionality of provisions of part 9 article 3 of Federal law "On Introduction of Amendments to Subparagraphs 4 and 5 Paragraph I Part 1 and Article 1153 Part 3 of the Civil Code of the Russian Federation" upon application of E.V. Pototsky.

¹⁴⁷ With regard to the case of verification of constitutionality of part 1 paragraph 13 of the Russian Federation law "On Pension Provision to the Individuals Who Did Military Service, Service in the Law Enforcement Bodies, State Fire-Fighting Service, Drug and Psychotropic Substances Trafficking Controlling Bodies, Institutions and Bodies of Correctional System and Their Families" upon application of S.V. Ivanov.

¹⁴⁸ With regard to the case of verification of constitutionality of provisions of part 4 article 25.10 of the federal law "On the Exit Procedure from the Russian Federation and the Entry Procedure to the Russian Federation", subparagraph 13 paragraph 1 article 7 of the federal law "On Legal Status of Foreign citizens in the Russian Federation" and paragraph 2 article 11 of the federal law "On the Prevention of the Spread in the Russian Federation of Disease Caused by the HIV-Infection" upon application of several citizens.

14.3 and 16.2 of the present Report). Items 19.6.1 - 19.6.4 below present the information on other areas of activity of courts of general jurisdiction in the context of individual and general measures to implement the judgments of the ECHR.

19.6.1. It is recalled that the Ruling of the Plenum of the Supreme Court of the Russian Federation no. 21 "On Application by the Courts of General Jurisdiction of the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 and its Protocols" was adopted earlier (on 27 June 2013).

This Ruling contains important clarifications to the courts for the purpose of uniform application of the Convention and its Protocols ratified by the Russian Federation. In particular it is noted, that the Convention and its Protocols constitute international treaties of the Russian Federation, and courts of general jurisdiction, when applying them, need to take note of the previously given explanations in the Ruling of the Plenum of the Supreme Court of the Russian Federation no. 5 of 10 October 2003 "On Application by the Courts of General Jurisdiction Established Principles and Norms of International Law and International Treaties of the Russian Federation".

It is noted that the legal provisions given in final judgments of the European Court in relation to Russia are mandatory for Russian courts, and also that the courts must take note of legal positions given in the judgments in relation to other State Parties to the Convention.

It is explained that the contents of rights and freedoms in the Russian legislation must be determined in consideration of the contents of similar rights and freedoms employed by the European Court in application of the Convention and its Protocols. It is emphasized that the provisions of the Convention and its Protocols must be interpreted systematically and in such a way that enforcement of individual rights does not contradict other individual rights. It is also stressed that if the Russian legislation provides higher level of defense than the Convention does, Russian legislation is used.

There are recommendations given on what is to be considered to be a restriction of rights and freedoms and also that every restriction of rights must be based on a federal law, pursue a legitimate purpose and be proportionate to that purpose. It is also pointed out that it is necessary to comprehensively consider the appeals related to restrictions of rights and to base court judgments on the aforementioned criteria and factual circumstances. In addition, there are concrete explanations given in regard to various aspects of this range of issues with reference to the European Court practice in application to certain legal situations.

The Ruling also contains recommendations to fresh examinations and resuming of legal proceedings in regard to the judgments of the European Court in the light of Recommendation of the Committee of Ministers NR (2000)2, and also to examination of claims for appeals of compensation and regress action for the guilty party in regard to violations of the Convention and its Protocols identified by the European Court.

The passing of this resolution of the Plenum of the Supreme Court was an important milestone in improvement of the Russian legislative system with due regard to Convention provisions and the European Court practice.

19.6.2. After the adoption of the Brussels Declaration the Plenum of the Supreme Court has also given important instructions to courts in the light of the European Court practice.

In particular, the Plenum of the Supreme Court has adopted the Ruling no. 36 of 27 September 2016 "On Certain Issues of the Application by Courts of the Code of Administrative Proceedings of Russian Federation" which gives objective instructions to courts in regard to application of the new national legal remedy - the Code of Administrative Proceedings.

The following rulings have also been adopted:

Ruling of the Plenum of the Supreme Court no. 11 of 29.03.2016 "On Certain Issues Arising Upon Consideration of the Cases on Awarding Compensation for Violation of the Right to Trial Within a Reasonable Time or the Right to Judgment Enforcement Within a Reasonable Time".

Ruling of the Plenum of the Supreme Court no. 29 of 30.06.2015 "On Practice of Application by the Courts of Laws Securing Defense in Criminal Proceedings".

Ruling of the Plenum of the Supreme Court no. 14 of 15.06.2006 (revised on 30.06.2015) "On Judicial Practice For Criminal Cases Related to Narcotic Drugs, Psychotropic, Dangerous and Poisonous Substances."

Ruling of the Plenum of the Supreme Court no. 25 of 23.06.2015 "On Application by the Courts of Individual Provisions of paragraph I part 1 of the Civil Code of the Russian Federation".

The explanations given in the aforementioned Rulings of the Plenum of the Supreme Court are based on, among other things, legal positions of the European Court detailed in judgments regarding excessive length of enforcement of judgments of national courts (Timofeyev group of cases), violations of the Convention provisions in conduction of investigative and search operations in the form of purchase of narcotic drugs (entrapment) and use of the results of such operations in courts as evidence in criminal cases (Vanyan group of cases), violations of rights of bona fide buyers to respect of the residence and deprivation of property via annulment of the residential ownership transfer agreement (Gladysheva group of cases), and also in connection with judgments related to violations of citizens' rights in the criminal procedure.

19.6.3. It is recalled that in accordance with articles 392 of the Code of Civil Procedure of the Russian Federation and 413 of the Code of Criminal Procedure of the Russian Federation, proceedings for civil and criminal cases can be reopened for applicants, in whose respect the European Court found violations of the Convention provisions and the Ruling of the Plenum of the Supreme Court no. 21 of 27 June 2013 (more details on which can be found in item 19.6.I of the present Report) gives detailed explanations in regard to such reopening.

Based on legal norms and explanations of the Supreme Court in the period after the adoption of the Brussels Declaration, the Russian courts, as part of taking individual measures, provided reopening and re-examination of judicial acts in accordance with judgments of the European Court.

For instance, in the period between 1 January 2006 and 1 November 2016, the Presidium of the Supreme Court, in accordance with the European Court identifying violations of the Convention in the area of criminal proceedings, considered 321 presentations of the President of the Supreme Court in respect of to 383 persons.

Upon the results of the consideration by the Presidium of the Supreme Court, among others things:

- judicial decisions have been annulled (including partially) with case referral for a fresh examination to the original jurisdiction court, court of appeal or court of cassation for 111 criminal cases;
- judicial decisions have been annulled (including partially) without case referral for a fresh examination for 15 criminal cases;

- judicial decisions have been amended without case referral for a fresh examination for 2 criminal cases;
- judicial decisions for the measure of restraint in the form of detention (or extension of such measures) have been quashed for 140 criminal cases;
- judicial decisions passed following the consideration of appeals against decisions of extradition have been annulled for 44 criminal cases;
- judicial decisions passed under Article 125 of the Russian Federation Code of Criminal Procedure have been annulled for 35 criminal cases.

For civil cases, judicial acts are reviewed, in connection with judgments of the European Court, not by the Supreme Court (as with judicial acts for criminal cases), but, generally, by lower courts. Statistics of annulment of judicial acts in connection with judgments of the ECHR for civil cases is not provided for by the Russian legislation, therefore such statistics are not submitted.

That being said, the Russian courts as part of taking individual measures for execution of judgments of the ECHR carried out re-examinations of the relevant judicial acts. The Russian authorities have been informing the Committee of Ministers about all such cases in action plans and reports, which are subsequently published.

19.6.4. The analysis shows that in accordance with the current Russian legislation and explanations given by high courts of the Russian Federation, national courts of all authorities refer directly in their judgments to provisions of the Convention and the European Court case-law when considering individual cases (including those that weren't subjects of examination of the European Court).

Specific examples of this are given by the Russian authorities in reports and plans of action relevant to specific individual cases and groups of cases, submitted to the Committee of Ministers and openly published.

The Russian authorities, in the context of provisions of the Brussels Declaration, will continue the implementation of its strategy of executing its Convention obligations, constructive interaction with the European Court and other departments of the Council of Europe, which are involved in the process of reform of the ECHR and the Conventional mechanism of supervision over execution of its judgments.

The Russian authorities proceed from the premise that cooperative efforts and active exchange of experience between the national legislative system and European mechanisms of protection of human rights guarantee further improvement of not only the legal system of the Russian Federation, but the development of the ECHR case-law in the objective manner.

SLOVAKIA / SLOVAQUIE

B. 1. a) Prior to and independently of the processing of cases by the Court: ensure that potential applicants have access to information on the Convention and the Court, particularly about the scope and limits of the Convention's protection, the jurisdiction of the Court and the admissibility criteria

1. As to information concerning the rights and freedoms under the Convention, the proceedings before the Court and lodging of applications, the potential applicants may find basic relevant information on the website of the Ministry of Justice of the Slovak Republic, under section concerning the Agent of the Government of the Slovak Republic before the Court (hereafter „the Agent“) (<http://www.justice.gov.sk/Stranky/Ministerstvo/Zastupovanie->

[SR/Zastupca-SR-pred-ESLP/Zakladne-informacie-o-konani-pred-ESLP.aspx](#)). Further, there is a link to the website of the Court, where the extensive information for the applicants is available also in Slovak language, on the website of the Ministry of Justice of the Slovak Republic.

2. The Agent cooperates with the Slovak Bar Association and regularly, in the framework of the obligatory education for the advocate pupils, provides training concerning the functioning of the Court, possibilities of lodging an application and admissibility criteria of an application. Moreover, the Agent publishes the articles concerning the case-law of the Court and regularly takes part in different conferences and other seminars, organised by the domestic authorities and non-governmental organisations, to increase the awareness of rights and freedoms guaranteed by the Convention.

B. 1. b) Prior to and independently of the processing of cases by the Court: increase efforts at national level to raise awareness among members of parliament and improve the training of judges, prosecutors, lawyers and national officials on the Convention and its implementation, including as regards the execution of judgments, by ensuring that it constitutes an integrated part of their vocational and in-service training, where relevant, including by having recourse to the Human Rights Education for Legal Professionals (HELP) programme of the Council of Europe. As well as to the training programmes of the Court and to its publications

3. In Slovakia, the organisation responsible for the education of judges and prosecutors, as well as for the judicial and prosecutor trainees, is the Judicial Academy of the Slovak Republic, which has been found in September 2004. It is an educational institution with nation-wide coverage, an independent legal entity and non-profit budgetary organisation under the Ministry of Justice of the Slovak Republic. It manages funds specifically allocated in the state budget for the purpose of education of judges, prosecutors and court officials.

4. The case-law of the Court is an integral part of the obligatory education of the judicial and prosecutor trainees. The Judicial Academy further regularly organizes seminars and workshops for the judges and prosecutors concerning the application of the judgments of the Court, focusing on problems specifically highlighted in the most recent judgments of the Court. The lecturer is the Agent, alternatively the Co-Agent. For the last ten years, for example, the Agent has set up training projects in conjunction with the Judicial Academy, the Slovak Bar Association and NGOs, funded by allocations from the European Social Fund. The Government Agent 570-page volume entitled Comments on Selected Articles of the Convention for the Protection of Human Rights and Fundamental Freedoms was published and distributed to seminar participants free of charge. The interpretation and selection of the Convention articles included in this volume are geared to the topics addressed during the seminars; it also highlights those decisions of the Court that are of significance to the Slovakian legal system. The comments on each article, which include interpretations of major principles and legal reasoning, are based on the Court's decisions and supplemented with the relevant case-law of national courts, particularly the Constitutional Court. Also the volume Human Rights – Selected Decisions of the European Court of Human Rights and European Union Courts was published and distributed to the participants of seminars.

5. As far as advocates and advocate pupils are concerned, see also point 1. a) above.

B. 1. c) Prior to and independently of the processing of cases by the Court: promote, in this regard, study visits and traineeships at the Court for judges, lawyers and national officials in order to increase their knowledge of the Convention system

6. The Judicial Academy of the Slovak Republic is directly responsible for the promoting of study visits and traineeships of the judges. In the framework of its international activities,

the Judicial Academy of the Slovak Republic has become a member of the international associations of judicial schools i.e. the Lisbon Network within the Council of Europe and the European judicial training network (EJTN) - acting in the European Union. External relations of the Academy are built on the basis of intensive cooperation with national and foreign partners in the particular field of training of judges and prosecutors as well as project activities related to the development of Judicial Academy. To the framework of the successful collaboration belong also contacts with the Court of Justice of the European Communities, the Council of Europe and the European Court of Human Rights, particularly in the implementation of number of visits, study visits and internships of the Slovak judges and prosecutors in these institutions. In order to create relations with the international partners the Judicial Academy of the Slovak Republic particularly uses business trips within the European Union and on the other hand receives visits from different countries, whereas the primary goal is mutual cooperation and exchange of knowledge, that help to develop the mission of the Academy. The offers concerning study visits and traineeships for the judges and prosecutors are published on the website of the Judicial Academy, which promotes and encourages judges and prosecutors take advantage of these options, however, they are subject to approval of their superior.

B. 1. d) Prior to and independently of the processing of cases by the Court: take appropriate action to improve the verification of the compatibility of draft laws , existing laws and internal administrative practice with the Convention, in the light of the Court's case law

7. Verification of draft law material compliance with Convention runs throughout the whole legislative process in the National Council of the Slovak Republic. A draft law shall include a statement on the draft law's compliance with the Constitution, its relation to other laws and international treaties and on the draft law's compliance with the EU law elaborated by means of a clause on compatibility of the respective draft law with the EU law (compatibility clause). The Legislation and Law Approximation Department of the Office of the National Council performs a legal analysis of law drafts. Its role is to point out, inter alia, to an eventual contradiction with the international treaties which bound the Slovak Republic, thus it has an opportunity to initiate an alternation of the draft law also in the case when such a draft law is not in compliance with the Convention.

8. In scope of the second reading the draft law shall be deliberated by those committees of the National Council, which it was allotted to in the first reading. The most important role from the aspect of verification of draft law compatibility with the Convention in the National Council is played by the Constitutional Law Committee that deliberates all the draft laws, also from the aspect of their compatibility with international agreements, and the Committee of Human Rights and Minorities that deliberates on the draft laws in view of their compatibility with human rights anchored in the Constitution of the Slovak Republic, and which result from the international obligations of the Slovak Republic.

9. In the case of government draft laws, before filing a draft law of the National Council, the Legislative Rules of the Government of the Slovak Republic must be adhered to. Those stipulate the rules for making the generally binding legal regulations. In accordance with Article 17 § of the Legislative Rules of the Government the so-called Compatibility Clause aiming to ensure and transparently verify and justify compatibility of the draft legislation with Law of the EU is an integral part of the General Part of the Explanatory Report to the submitted draft regulation/act. The Legislative Council of the Slovak Republic, as an advisory body of the Government of the Slovak Republic, gives its opinions on the draft laws from the view of their compatibility with conventions of the Council of Europe, in the same manner as it gives its opinions on compliance with other international treaties binding for the Slovak Republic, while the Institute for Approximation of Law under the Office of the Government of the Slovak Republic elaborates written opinion on the draft laws also from the viewpoint of

their compliance with the EU law and conventions of the Council of Europe. Should the draft law is not in compliance with the Legislative Rules of the Government the chairman of the Legislative Council can remand the draft law to its presenter for completing it.

10. A compliance of the laws in force with the Convention is ensured by means of constitutional conformity review. Article 125 of the Constitution provides that the Constitutional Court shall decide on the conformity of laws with the Constitution, constitutional laws and international treaties to which the National Council has expressed its assent and which have been ratified and promulgated in the manner laid down by law. The Constitutional Court shall open such proceedings on an application by no less than one fifth of the deputies of the National Council, the President, the Government, a court of law and the Prosecutor General. If the Constitutional Court finds a lack of conformity between legal instruments, the relevant instruments, parts of them or certain of their provisions shall lose their effect. The bodies that issued these legal regulations shall be obliged to harmonise them with the Constitution, with constitutional laws and with international treaties promulgated in the manner laid down by a law, and also, in the case of Instruments, with other laws, and in the case of instruments, with government regulations and with generally binding legal regulations issued by ministries and other central State administrative bodies within six months from the promulgation of the decision of the Constitutional Court. If they fail to do so, these instruments, parts of them or their provisions shall lose their effect six months after the promulgation of the decision.

11. In the Slovak Republic the domestic bodies are under a constitutional obligation to apply the Convention directly. If the Convention provides for a larger scope of constitutional rights and freedoms it has precedence over national legislation. For this reason, the litigants regularly rely on and the courts of all levels regularly apply the Convention and relevant case-law of the European Court of Human Rights. Moreover, a compliance of the administrative practice with the Convention is ensured by means of the individual constitutional complaint under Article 127 § 1 of the Constitution. If the Constitutional Court finds that the fundamental rights and freedoms have been violated by a final decision, specific measure or other act, it shall quash such decision, measure or act. If the violation that has been found is the result of a failure to act, the Constitutional Court may order the authority which has violated the rights or freedoms to take the necessary action. At the same time it may remit the case to the authority concerned for further proceedings, order such authority to refrain from violating the fundamental rights and freedoms or, where appropriate, order those who have violated the rights or freedoms to restore the situation to that existing prior to the violation,. In its decision on a complaint the Constitutional Court may grant appropriate financial compensation to the person whose rights have been violated.

B. 1. e) Prior to and independently of the processing of cases by the Court: ensure the effective implementation of the Convention at national level, take effective measures to prevent violations and to provide effective domestic remedies to address alleged violations of the Convention

12. For the purposes of publication and dissemination, every Court's judgment against the Slovakia is translated into Slovak language and published in the *Judicial Revue*. Depending on the nature of the violation of the Convention, the judgments are further disseminated to domestic courts with the circular letter of the Minister of Justice of the Slovak Republic, as well as to Constitutional Court, different Ministries or Public Prosecution Service. Other general measures (legislative changes etc.) also depend on circumstances of each case and the issues raised by the judgment.

13. For example, as a result of number of violations found by the Court in the judgments against Slovakia, on 1 January 2002 the Slovak Republic introduced new domestic remedy –

constitutional complaint. According to Article 127 of the Constitution of the Slovak Republic, this remedy enables individuals to complain to the Constitutional Court on the violation of their rights guaranteed under the Convention in proceedings before the domestic authorities. If the Constitutional Court finds violation of a person's rights or freedoms, it may among others quash the final decision, measure or act of the authority concerned in order to take the necessary action and grant appropriate financial compensation to this person. This complaint to the Constitutional Court has been accepted by the Court as a remedy that, in general, has to be exhausted for the purposes of Article 35 § 1 of the Convention in respect of alleged excessive length of proceedings and other alleged procedural or substantive violations of the Convention.

14. Some examples of ensuring of the effective implementation of the Convention shall be mentioned.

15. In the judgment *Urbárska Obec Trenčianske Biskupice v. Slovakia* of 27 November 2007 the Court, under Article 46, concluded that the violation arose from the state of the Slovakian legislation, which has affected a number of landowners whose land comes under the regime of Act 64/1997 Coll. It noted that this case is the first of a number that are pending before the Court and identified a systematic violation. It therefore suggested that Slovak Republic should take action to address the violation. Therefore two legislative amendments were adopted at national level. On 8 February 2011, the Parliament adopted the amendment of the Act No. 64/1997 Coll. and the Ministry of Justice of the Slovak Republic adopted the amendment of its Regulation No. 492/2004 Coll. on Determining the General Value of Property. As a result of these general measures, the rental terms for the letting of land in garden allotments is able to take into account the actual value of the land and the current market conditions and compensation for the transfer of ownership of land has a reasonable relation to the market value of the property at the time of the transfer. Before those legislative changes became effective, the Supreme Court of the Slovak Republic, considering the obligation of domestic authorities under Article 154c of the Constitution to preferentially apply the Convention as interpreted by the judgment *Urbárska Obec Trenčianske Biskupice v. Slovakia*, considered the obligation to determinate of the amount of rent taking in account the real price of the land and the current market conditions in the given location. In its decision file No. 6Sžo/400/2009 of 26 October 2010 the Supreme Court quashed the relevant judgment of the Prešov Regional Court on a matter concerning the approval of a project of land arrangements for the settlement of ownership of land in garden allotments. The Supreme Court pointed to the judgment of the Court in the case of *Urbárska Obec Trenčianske Biskupice v. Slovakia* and the direct effect of the Convention in the Slovak legislation. The Supreme Court indicated to the Regional Court that when examining the matter it failed to take into account the relevant case law of Court, pointing out that no requirements of general interests were strong enough to excuse the low amount of compensation for land; including the low rate of rent.

16. In the judgment *Soltész v. Slovakia* the Court stated that, in defence of its substantive rights under Article 10 of the Convention, the applicant lodged a complaint under Article 127 of the Constitution. However, the Constitutional Court rejected that complaint on the basis of a premise, stemming from no more than its own decision-making practice, that no such remedy was available because no violation of the applicable rules of procedure had been established. In this regard, following the dissemination of the present judgments, the Constitutional Court changed its case-law and in present, the Constitutional Court assess the complaints concerning the freedom of speech in accordance with the case-law of the Court.

B. 1. f) Prior to and independently of the processing of cases by the Court: consider making voluntary contributions to the Human Rights Trust Fund and to the Court's special account to allow it to deal with the backlog of all well-founded cases, and continue to promote temporary secondments to the Registry of the Court

B. 1. g) Prior to and independently of the processing of cases by the Court: consider the establishment of an independent National Human Rights Institution

17. In the Slovak Republic, the role of an independent National Human Rights Institution executes the Centre for Human Rights (hereafter "the Centre") was established by the Act No. 308/1993 Coll. on the Establishment of the Slovak National Centre for Human Rights (hereafter "the Act. 308/1993 Coll."), with effect from 1 January 1994, following an international agreement (Agreement between the Government of the Slovak Republic and the United Nations on the establishment of the Slovak National Centre for Human Rights). According to the Act, the Centre is an independent legal entity that is not registered in the Commercial Register. It is a non-profit organization. Its main role is a complex functioning in the area of human rights and fundamental freedoms, including the rights of the child. To meet the basic requirements, the Centre monitors and evaluates the observance of human rights, gathers and upon request provides information on racism, xenophobia and anti-Semitism in the Slovak Republic, conducts researches and surveys to provide data in the area of human rights, gathers and distributes information in this area, provides library services, and provides services in the area of human rights. The Centre as a national human rights institution is a member of the European Network of National Human Rights Institutions, which consists of 41 national human rights institutions from all over Europe. The members of ENNHRI operate as independent actors between state and civil society. They have knowledge of International and European law concerning human rights and their role is to monitor compliance with commitments in the human rights area at the national level. They also provide advice on implementation of human rights into national, European and international policies.

18. Further, in Slovakia, in addition to the Public Defender of Rights (Ombudsman) as an independent body of the protection of the fundamental rights and freedoms of natural persons and legal entities with respect to the activities, decision-making or inactivity of public administration bodies, if such activities, decision-making or inactivity is in conflict with the legal order or the principles of the democratic state and the rule of law, other specific authorities have also been set up by the Act no 176/2015 with effects from 1 September 2015: the Commissioner for Children (Ombudsman for Children) and the Commissioner for Disable Persons (Disability Ombudsman).

B. 2. a) After the Court's judgments: continue to increase their efforts to submit, within the stipulated deadlines, comprehensive action plans and reports, key tools in the dialogue between the Committee of Ministers and the States Parties, which can contribute also to an enhanced dialogue with other stakeholders, such as the Court, national parliaments or National Human Rights Institutions

19. The procedure for the execution of the judgment of the Court in the Slovak Republic is not governed by special legal regulation. The authority charged with the coordination of execution of the Court judgments is the Agent who acts according to his Statute. Once the Court judgment becomes final the Office of the Agent has to appreciate the question of measures to be adopted and contact other domestic authorities (ministries, courts etc.) depending of concrete measures the Office of the Agent consider necessary and appropriate in order to execute the judgment. There is no fixed procedure or methods for identification of measures required by the judgment. In practice, for purposes of publication and dissemination of the judgment, every Court judgment against the Slovak Republic is translated into Slovak and published in the Judicial Revue, law magazine published by the Ministry of Justice of the Slovak Republic and distributed to all courts in the Slovak Republic and other bodies – subscribers. The judgment is further disseminated to domestic courts with

the circular letter of the Minister of Justice of the Slovak Republic. Other concrete general measures (legislative changes etc.) depend on circumstances of each case and the issues raised by the judgment. The Office of the Agent searches for appropriate measures making use experiences of its staff and consulting other authorities concerned by the judgment and the Department of Execution of Judgments of Court of Secretariat General of Council of Europe. Specific indication by the Court about general measures is helpful for definition of such measures.

20. The general/individual measures in order to execute the judgment are proposed and action plan or report is drafted by the Office of the Agent after consultation with relevant authorities. The Office of the Agent consults the necessity of adoption of concrete individual/general measures in the case with the Department of Execution of Judgments of Court of Secretariat General of Council of Europe.

21. The state of execution of judgments is also subject matter of the Annual Report of the Agent of the Government of the Slovak Republic before Court, submitted to the Government, where the general measures to be adopted in respect to individual judgments (legislative changes, changes in Constitutional Court or Supreme Court practice, etc.) are specified.

B. 2. b) After the Court's judgments: in compliance with the domestic legal order, put in place in a timely manner effective remedies at domestic level to address violations of the Convention found by the Court

22. Immediately after the judgment of the Court become final, the Office of the Agent consults the necessity of adoption of concrete general and individual measures in the case with the Department of Execution of Judgments of the Court. Consequently, the action plan/report is drafted and the measures proposed are put into practice (or in some cases, the measures are already taken).

23. For examples, see point 1.e) above.

B. 2. c) After the Court's judgments: develop and deploy sufficient resources at national level with a view to the full and effective execution of judgments, and afford appropriate means and authority to the government agents or other officials responsible for coordinating the execution of judgments

24. As to the swift and effective execution of the judgments of the Court, it is important to highlight that sums of satisfaction awarded by the Court are paid without any delay and other individual measures are proposed accordingly. The Slovak legal order provides for the possibility of civil, criminal and more recently constitutional proceedings being reopened where the Court concludes in a judgment that a previous court decision or proceedings were in breach of the fundamental human rights or freedoms of the party.

B. 2. d) After the Court's judgments: attach particular importance to ensuring full, effective and prompt follow-up to those judgments raising structural problems, which may furthermore prove relevant for other States Parties

25. The Slovak Republic attaches particular importance the judgments raising structural problems. As an example, the case concerning the application of rent-control scheme to the flats in residential houses can be mentioned (judgment *Bittó and others v. Slovakia* of 28 January 2014). In this case the Court found in its judgment a violation of Article 1 of Protocol No. 1 (right to property) due to the fact that the amount of controlled rent which the applicants were entitled to charge to tenants of the concerned flats has remained considerably lower than the rent for similar housing in respect to which the rent-control does not apply. Apart

from the payment of the just satisfaction awarded to the applicants, the Ministry of Transport, Building and Regional Development of the Slovak Republic (responsible for the legislation in the field of housing) and the Ministry of Finance of the Slovak Republic were informed about the Court's judgment and the necessity to provide legislative solution immediately after the delivery of the judgment. As the criteria for calculation of redress and the relevant period to be compensated were not clearly defined in the judgment on just satisfaction, the Government recommended the Agent to request for cooperation the Department of the Execution of Judgments of the Court and to propose the organisation of a round table of international experts for those issues. The response of the Department of the Execution of Judgments of the European Court of Human Right is expected.

B. 2. e) After the Court's judgments: foster the exchange of information and best practices with other States Parties, particularly for the implementation of general measures

B. 2. f) After the Court's judgments: promote accessibility to the Court's judgments, action plans and reports as well as to the Committee of Ministers' decisions and resolutions, by:

- developing their publication and dissemination to the stakeholders concerned (in particular, the executive, parliaments and courts, and also, where appropriate, National Human Rights Institutions and representatives of civil society), so as to involve them further in the judgment execution process;

- translating or summarising relevant documents, including significant judgments of the Court, as required

B. 2. g) After the Court's judgments: within this framework, maintain and develop the financial resources that have made it possible for the Council of Europe, since 2010, to translate a large number of judgments into national languages

26. The judgments and the decisions of the Court against the Slovak Republic are translated into Slovak language and published in the *Judicial Revue*, law magazine published by the Ministry of Justice of the Slovak Republic and distributed to the domestic courts and legal professionals in Slovakia. The Judicial Revue also publishes the translation of selected judgments against other Member States.

B. 2. h) After the Court's judgments: in particular, encourage the involvement of national parliaments in the judgment execution process, where appropriate, for instance, by transmitting to them annual or thematic reports or by holding debates with the executive authorities on the implementation of certain judgments

27. In this context it is important to note, that by the end of March each year, the Agent drafts an activity report, which the Minister of Justice submits to the Government. In addition to outlining her activities during the previous year and providing statistical data on applications filed against the Slovak Republic, in the report reference is made to important decisions of the Court and the situation with regard to the execution of judgments and also suggests possible solutions at national level. The report is subsequently published on the Government Office and Ministry of Justice websites, featuring among others brief descriptions of judgments against the Slovak Republic delivered by the Court in the previous year. It also gives the Agent an opportunity to point out problematic issues highlighting shortcomings in terms of respect for human rights at national level.

B. 2. i) After the Court's judgments: establish "contact points", wherever appropriate, for human rights matters within the relevant executive, judicial and legislative authorities, and create networks between them through meetings, information exchanges, hearings or the transmission of annual or thematic reports or newsletters

B. 2. j) After the Court's judgments: consider, in conformity with the principle of subsidiarity, the holding of regular debates at national level on the execution of judgments involving executive and judicial authorities as well as members of parliament and associating, where appropriate, representatives of National Human Rights Institutions and civil society

28. The process of the execution of the judgments against Slovakia may be considered as efficient and fruitful thanks to all authorities involved. In 2015, fourteen cases have been closed by the Resolution of the Committee of Ministers. Till today, thirty-nine cases have been closed by the Resolution in year 2016. Therefore, the Slovak Republic does not consider establishing "contact points" as recently, there are no problems with communication or cooperation among the authorities involved. The debates concerning specific problems stemming from the judgments of the ECtHR are held ad hoc (in case of necessity). As of 1 January 2002 Slovakia introduced a constitutional remedy enabling individuals to complain to the Constitutional Court on the violation of their rights guaranteed under the Convention in proceedings before the domestic authorities. If it finds a violation of a person's rights or freedoms, it may, among other actions, quash the final decision, measure or act of the authority concerned, order to take the necessary action and grant appropriate financial compensation to this person. Due to the fact that the ECtHR identified in the Constitutional Court's practice certain insufficiencies, the government agent also has intensive contact with the Constitutional Court with a view to harmonising the case-law thereof with that of the Court. The positive result of such co-operation was obtained by harmonising the Constitutional Court's practise with that of the Court in many problematic domains, which was approved by the Committee of Ministers in the execution process.

SWEDEN / SUEDE

B. 1. a) Prior to and independently of the processing of cases by the Court: ensure that potential applicants have access to information on the Convention and the Court, particularly about the scope and limits of the Convention's protection , the jurisdiction of the Court and the admissibility criteria

1. The Swedish Government's human rights website (www.manskligarattigheter.se) contains information about the Convention as well as the Court and its jurisprudence. There is currently work in progress to transfer this information to another, more technically advanced platform.

2. Information about the Court, including a link to the Court's website, is also available on the website of the National Courts Administration (*Domstolsverket*). Furthermore, from 2014 to 2016 the National Courts Administration was commissioned by the Government to translate certain decisions and judgments of the Court into Swedish.

3. A majority of the Court's judgments and decisions against Sweden concern immigration matters. Thus, the Government finds it relevant to briefly explain how information on the Convention is given to potential applicants and their public legal counsels in that area. All asylum applicants whose applications are examined in Sweden have, as a general rule, the right to a public legal counsel. This right ensures that asylum applicants receive comprehensive and objective information regarding the Convention and the Court's case-law. All public counsels have access to the Court's case-law via the links published on the Swedish Migration Agency's website. The public counsels can also provide information specifically on the application procedure and admissibility criteria. The Swedish Migration Agency also provides information to asylum applicants about the procedure before the Court when applicants require this information.

B. 1. b) Prior to and independently of the processing of cases by the Court: increase efforts at national level to raise awareness among members of parliament and improve the training of judges, prosecutors, lawyers and national officials on the Convention and its implementation, including as regards the execution of judgments, by ensuring that it constitutes an integrated part of their vocational and in-service training, where relevant, including by having recourse to the Human Rights Education for Legal Professionals (HELP) programme of the Council of Europe. As well as to the training programmes of the Court and to its publications

4. The Government has instructed Uppsala University to develop and carry out a general training programme on human rights for public service employees. The aim of the programme is to raise the employees' level of knowledge about human rights, for example the Convention, to enable them to recognise rights-related issues in their area of practice. The programme is available to employees at various levels in relevant authorities.

5. Additionally, introductory staff training in human rights in general, follow-up lectures and seminars are offered by many authorities, including the Government Offices, several county administrative boards (*länsstyrelser*), the Swedish Social Insurance Agency (*Försäkringskassan*) and the Swedish Migration Agency (*Migrationsverket*).

6. Training in human rights, including the Convention, is part of the curriculum for the police education and training programme at the National Police Academy (*Polishögskolan*).

7. Further, in the Swedish Prison and Probation Service training in human rights begins in the introductory course for all employees and continues throughout their later training. The focus in basic training is the judicial perspective on human rights and how the legislation governing the correctional system is influenced by, *inter alia*, the Convention.

8. As mentioned earlier, the Swedish Migration Agency publishes links to relevant case-law from the Court on its website (<http://lifos.migrationsverket.se>). Lifos is the Agency's database for legal and country-of-origin information and most of its content is public. A review (*referat*) is published of all judgments concerning Swedish asylum and migration matters and of many of the judgments concerning other countries, if deemed to be of interest to Swedish case officers. Links to the judgments are published with a comment from the Legal Department. In addition, most legal comments and guidance notes issued by the Swedish Migration Agency, as well as relevant chapters of the Agency's 'Handbook for case officers', refer to jurisprudence from the Court and the Convention standards. The legal comments and guidance notes are published on the Migration Agency's website and are used in internal seminars and discussions.

9. The Judicial Training Academy (*Domstolsakademin*), which was set up by the National Courts Administration in 2009, offers training to all permanent judges. The Judicial Training Academy also has the primary responsibility for training non-tenured Swedish judges and other lawyers in the court system. Since 2013 the Judicial Training Academy has also been responsible for training law clerks. The overall aim of the training programme is to give each judge the knowledge and skills needed to meet high demands in the exercise of their judicial capacity. Education on the Convention is part of the curriculum in the initial courses offered to newly appointed judges and also of the continued education programme offered to all judges in both the administrative and the general courts. In the training programme for newly appointed judges, the Judicial Training Academy has integrated the courses on fundamental rights and freedoms with the different subject areas, for example family law, asylum law, etc. The Judicial Training Academy also offers advanced courses at several levels for judges who need in-depth knowledge. The training is individualised and based on each newly appointed judge's background and knowledge base. Training on the

Convention and EU Law (including the Charter of Fundamental Rights) is mandatory for non-tenured Swedish judges and is integrated into the training sessions. In the same way, training on the Convention and EU Law (including the Charter of Fundamental Rights) is mandatory for law clerks that function as judges in certain minor cases such as summary offenses. In addition, the Judicial Training Academy organises study visits for non-tenured Swedish judges to the Court and the Council of Europe. Furthermore, two Swedish judges per year are given the opportunity to work within the Court's registry for a one-year period. This is a possibility that is actively promoted and financially supported by the Judicial Training Academy.

10. Human rights issues, including the Convention, are part of the basic training also for prosecutors. Over a period of several years, the Swedish Prosecution Authority (*Aklagarmyndigheten*) has spent large sums on developing further training in the prosecution service and increasing the skills of Swedish prosecutors. Training on human rights has therefore been improved and is a mandatory part of the training of prosecutors.

11. Under Swedish law, only members of the Swedish Bar Association may use the professional title '*advokat*'. To become a member of the Swedish Bar Association, the applicant must, *inter alia*, pass the Swedish Bar Examination after completing the mandatory training courses. Education on the Convention is part of the curriculum in one of the mandatory training courses.

12. Finally, every eighteen months, the Government submits a report to the Parliament which includes an account of the Court's judgments in cases against Sweden. Furthermore, an annual report describing judgments against Sweden is submitted to the Riksdag delegation to the Parliamentary Assembly of the Council of Europe, the Parliamentary Committee on the Constitution, the Parliamentary Committee on Foreign Affairs and the Parliamentary Ombudsmen.

B. 1. c) Prior to and independently of the processing of cases by the Court: promote, in this regard, study visits and traineeships at the Court for judges, lawyers and national officials in order to increase their knowledge of the Convention system

13. The Judicial Training Academy offers a series of courses on the role of the judge. As part of this series, judges can participate in study visits to the Court. In addition, the Judicial Training Academy organises study visits for non-tenured Swedish judges *inter alia* to the Court and the Council of Europe. Furthermore, as mentioned earlier, Sweden regularly sends lawyers to the Court.

B. 1. d) Prior to and independently of the processing of cases by the Court: take appropriate action to improve the verification of the compatibility of draft laws, existing laws and internal administrative practice with the Convention, in the light of the Court's case law

14. The Swedish Instrument of Government states that no act of law or other provision may be adopted which contravenes Sweden's undertakings under the Convention. Accordingly, Swedish legislators are bound by constitutional law to ensure that Swedish legislation is in conformity with the Convention. It is thus an obligation incumbent upon all relevant actors within the legislative process to have due regard to the Convention in their work. Such actors are: the inquiry committees, which have the task of studying a certain issue or set of issues and putting forward proposals for new and amended legislation; the Government Offices (*Regeringskansliet*), which has the task of preparing government decisions *inter alia* regarding proposals for new and amended legislation; - the parliamentary committees, which have the task of preparing parliamentary decisions; - the Council on

Legislation (Lagrådet); - the Government; and - the Riksdag (parliament) (Chapter 2, Section 19 of the Instrument of Government).

15. With certain exceptions, the Government or a parliamentary committee is required to refer draft legislation to the Council on Legislation. This is a body whose members are former or current justices of the Supreme Court and the Supreme Administrative Court. One of their tasks is to ensure the constitutionality of draft bills, which, as set out above, includes their compatibility with the Convention. Although the Council's pronouncements are not binding, they are usually adhered to.

16. The government bill submitted to parliament will, if relevant, include a discussion of the proposed new legislation's compatibility with the Convention, thereby ensuring that the parliament is informed in this respect. Moreover, if a national court finds that a provision conflicts with a rule of fundamental law or other superior statute, the provision shall not be applied. The same applies if a procedure laid down in law has been disregarded in any important respect when the provision was made. In the case of review of an act of law, particular attention shall be paid to the fact that the Riksdag (parliament) is the foremost representative of the people and that fundamental law takes precedence over other law (Chapter 11, Section 14 of the Instrument of Government).

B. 1. e) Prior to and independently of the processing of cases by the Court: ensure the effective implementation of the Convention at national level, take effective measures to prevent violations and to provide effective domestic remedies to address alleged violations of the Convention

17. The Convention is incorporated into Swedish law through the Act on the European Convention on Human Rights (SFS 1994:1219) stating that the Convention shall be valid as law in Sweden. Furthermore, as mentioned above, the Swedish Constitution ensures that Swedish laws are in conformity with the Convention.

18. Swedish legislation provides several mechanisms to prevent violations of the Convention. For example, under the Act on Declaration of Precedence in Court, if a party considers that a case has not been decided within a reasonable period of time, he or she may request that the court make a declaration of precedence. If such a request is granted, the case is given priority over other cases. According to the preparatory works, where there is a risk of a violation of the Convention, such priority should be given. Moreover, under the Judicial Review Act, an individual can apply for judicial review of decisions by the Government that involve a determination of the individual's civil rights or obligations within the meaning of Article 6 of the Convention. The purpose of judicial review is to ensure a fair court hearing for decisions that should be subject to judicial review under the Convention, but where Swedish national law does not provide such a right beyond the possibility to apply for relief for substantive defects.

19. Additionally, on the basis of developments in the case-law of the Swedish Supreme Court, Swedish law provides a remedy in the form of compensation for pecuniary and non-pecuniary damage in respect of any violation of the Convention.

20. Hence, anyone that has been the victim of a violation of his or her rights under the Convention can claim damages from the state (or the municipality), if the violation has not been addressed and compensated in any other way. The Chancellor of Justice (*Justitiekanslern*) has the power to receive complaints and claims for damages directed at the Swedish State and decide on financial compensation for such damage. The Chancellor regularly awards compensation to individuals in such cases, for example on account of excessive length of civil proceedings in courts and administrative authorities. The process

before the Chancellor is uncomplicated and cost-free for the claimant. If the Chancellor does not award the claimant damages, he or she can turn to the courts. If the claimant wishes he or she may instead turn to the courts directly.

21. It may also be noted that in November 2010 an Inquiry entitled "Damages and the European Convention" (SOU 2010:87) concerning state liability under the European Convention proposed the introduction of a new regulation allowing natural and legal persons to obtain damages from the State or a municipality for violations of the European Convention. The inquiry proposes that the new statutory regulation should be complementary to existing mechanisms in order to meet the requirements regarding the right to effective remedy stated in Article 13 of the Convention. Compensation for damages shall be provided if it is "necessary" that redress is provided for the infringement through financial compensation in the form of damages. The report has been circulated to relevant authorities and organisations for comments and opinions and the proposals are currently being analysed at the Government Offices.

B. 1. f) Prior to and independently of the processing of cases by the Court: consider making voluntary contributions to the Human Rights Trust Fund and to the Court's special account to allow it to deal with the backlog of all well-founded cases, and continue to promote temporary secondments to the Registry of the Court

22. In 2013, Sweden made a substantial voluntary contribution of SEK 2 million to an account opened by the Secretary General for the specific purpose of supporting the funding of a temporary increase in the Court's staff, as a means of dealing with the high number of pending cases before the Court.

23. As mentioned earlier, Sweden regularly sends lawyers to the Court and Sweden bears the cost.

B. 1. g) Prior to and independently of the processing of cases by the Court: consider the establishment of an independent National Human Rights Institution.

24. In October 2016, the Government delivered to the Swedish Parliament (Riksdagen) a Strategy for the national implementation of human rights (Govt Communication 2016/17:29). In the strategy the Government concludes that an independent national human rights institution in accordance with the Paris principles should be established in Sweden. The Government believes that such an institution should be under the authority of the Riksdag and that, consequently, it is up to the Riksdag to consider the establishment of such an institution.

B. 2. a) After the Court's judgments: continue to increase their efforts to submit, within the stipulated deadlines, comprehensive action plans and reports, key tools in the dialogue between the Committee of Ministers and the States Parties, which can contribute also to an enhanced dialogue with other stakeholders, such as the Court, national parliaments or National Human Rights Institutions

25. The execution of judgments of the Court against Sweden is monitored and coordinated by the Government Agent at the Ministry of Foreign Affairs, who is also responsible for drafting relevant action plans and reports. The drafting of action plans and reports is a prioritised task to which the Government Agents affords significant time and effort.

B. 2. b) and c) After the Court's judgments: in compliance with the domestic legal order, put in place in a timely manner effective remedies at domestic level to address violations of the

Convention found by the Court.

Develop and deploy sufficient resources at national level with a view to the full and effective execution of judgments, and afford appropriate means and authority to the government agents or other officials responsible for coordinating the execution of judgments

26. When the Government Agent receives the Court's judgment, he or she will immediately forward it to the other ministries involved in the case. An analysis is then undertaken to identify measures required to ensure the execution of the judgment, such as securing payment of just satisfaction and dissemination and publication of the judgment, or, when necessary, amendments of Swedish legislation. If a judgment by the Court should require such amendments, it is the task of the ministry responsible for the legislation in question to initiate and pursue the amendment. This will be done in accordance with the normal procedures for amending Swedish legislation.

27. It may also be mentioned that recent case-law from the Supreme Court and the Supreme Administrative Court has confirmed that re-opening a case is possible to remedy a violation of the principle of *ne bis in idem*, as enshrined in Article 4 of Protocol no. 7 to the Convention (see NJA 2013 s. 746 and HFD 2014 ref. 35 respectively).

28. As mentioned above, the execution of judgments of the Court against Sweden is monitored and coordinated by the Government Agent. Measures to ensure execution are taken in close cooperation with government officials at the ministries responsible for the area of law relating to the subject-matter of the case.

29. 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.

30. In addition, cases against Sweden have required the granting of residence permits where the Court has found that it would be contrary to the Convention to expel an individual to his or her country of origin. It may be observed that a provision in the Swedish Aliens Act (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 a 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).

31. Should the execution process require information to be obtained from another State actor, the actor will normally be contacted by the ministry responsible for the relevant area of law. Thus, for instance, in cases concerning refusal-of-entry or expulsion orders, the Ministry of Justice will make contact with the Swedish Migration Agency.

32. Lastly, an important part of the execution process is the publication and dissemination of the Court's judgment. The Government Agent regularly forwards copies of the Court's judgments, together with explanatory reports in Swedish, to 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.

B. 2. d) After the Court's judgments: attach particular importance to ensuring full, effective and prompt follow-up to those judgments raising structural problems, which may furthermore prove relevant for other States Parties

33. If the Court were to issue a judgment raising structural problems in Sweden, the Government would naturally give the matter high priority.

B. 2. e) After the Court's judgments: foster the exchange of information and best practices with other States Parties, particularly for the implementation of general measures

34. Through its representation in Strasbourg, Sweden is taking active part in the human rights meetings for supervision of execution of the Court's judgments and decisions ('DH-meetings'). Information sharing is welcomed and Sweden is ready to contribute in this.

35. In general terms, Sweden is an active partner in development cooperation and technical assistance related to strengthening human rights and the rule of law, at both bilateral and multilateral levels.

B. 2. f) After the Court's judgments: promote accessibility to the Court's judgments, action plans and reports as well as to the Committee of Ministers' decisions and resolutions, by:
- *developing their publication and dissemination to the stakeholders concerned (in particular, the executive, parliaments and courts, and also, where appropriate, National Human Rights Institutions and representatives of civil society), so as to involve them further in the judgment execution process;*
- *translating or summarising relevant documents, including significant judgments of the Court, as required*

36. As mentioned earlier, the Government regularly forwards copies of the Court's judgments against Sweden to courts that have been involved in a particular case, as well as to all courts of appeal.

37. Further, summaries of the judgments are published in Swedish on the Government's human rights website (www.manskligarattigheter.se), from where there are links to the judgments on the Court's website. The translations are also made available on the website of the National Courts Administration.

38. In addition, the Swedish Migration Agency publishes reviews of all judgments in asylum cases concerning Sweden and of many of the judgments concerning other countries on its website (<http://lifos.migrationsverket.se>).

B. 2. g) After the Court's judgments: within this framework, maintain and develop the financial resources that have made it possible for the Council of Europe, since 2010, to translate a large number of judgments into national languages;

39. As mentioned earlier, in 2013 Sweden made a voluntary contribution of SEK 2 million to an account opened by the Secretary General. In addition, the Court has been provided with translations into Swedish of certain decisions and judgments of the Court (cf [B1a] above).

B. 2. h) After the Court's judgments: in particular, encourage the involvement of national parliaments in the judgment execution process, where appropriate, for instance, by transmitting to them annual or thematic reports or by holding debates with the executive authorities on the implementation of certain judgments

40. Every eighteen months, the Government produces a report on the work of the Committee of Ministers of the Council of Europe, which includes an account of the Court's judgments in cases against Sweden. The report is submitted to the Parliamentary Committee

on Foreign Affairs, where it is subject to debate. This gives the Parliamentary Committee the opportunity, if it so wishes, to further investigate the implementation of a judgment and the effectiveness thereof.

41. Furthermore, an annual report describing judgments against Sweden is submitted to the *Riksdag* delegation to the Council of Europe, the Parliamentary Committee on the Constitution, the Parliamentary Committee on Foreign Affairs and the Parliamentary Ombudsmen.

B. 2. i) After the Court's judgments: establish "contact points", wherever appropriate, for human rights matters within the relevant executive, judicial and legislative authorities, and create networks between them through meetings, information exchanges, hearings or the transmission of annual or thematic reports or newsletters

42. Sweden has not deemed it necessary to establish such contact points. There is, however, an interministerial working group on human rights at the Government offices. The working group is a forum for collaboration between general or cross-sectorial policies. It is also responsible for following up the Government's Strategy on the National Implementation of Human Rights. Moreover, as a part of efforts to implement human rights at local and regional level, the Government has tasked the county boards with establishing a human rights network.

43. The Government also regularly invites civil society representatives to discussions on relevant human rights issues, and ways of deepening the dialogue are being explored.

B. 2. j) After the Court's judgments: consider, in conformity with the principle of subsidiarity, the holding of regular debates at national level on the execution of judgments involving executive and judicial authorities as well as members of parliament and associating, where appropriate, representatives of National Human Rights Institutions and civil society

43. The Government considers that the prompt execution of judgments is of great importance. At the same time, the execution of judgments has not been an issue of concern for Sweden. For that reason, it has not been deemed necessary or relevant to hold regular debates on this issue. However, if such concerns arose, the Government would take all relevant measures to remedy any shortcomings, including debates.

UNITED KINGDOM / ROYAUME-UNI

B. 1. a) Prior to and independently of the processing of cases by the Court: ensure that potential applicants have access to information on the Convention and the Court, particularly about the scope and limits of the Convention's protection, the jurisdiction of the Court and the admissibility criteria

1. Information on the Convention and the Court is available through the United Kingdom's three National Human Rights Institutions (NHRI), namely the Equality and Human Rights Commission (EHRC), the Northern Ireland Human Rights Commission (NIHRC) and the Scottish Human Rights Commission (SHRC). All have statutory responsibilities to promote awareness and understanding in relation to human rights. They maintain websites which provide information and guidance to members of the public in relation to the scope and limits of the Convention's rights and protection. The EHRC website, for example, provides guidance to individuals on the steps they can take if they believe their human rights have been breached. It includes an overview of the obligations on public authorities, including the

courts, as well as information on the time limits within which cases must be brought, and links to the Court's website, where information on application procedures and the admissibility criteria can be found.

B. 1. b) Prior to and independently of the processing of cases by the Court: increase efforts at national level to raise awareness among members of parliament and improve the training of judges, prosecutors, lawyers and national officials on the Convention and its implementation, including as regards the execution of judgments, by ensuring that it constitutes an integrated part of their vocational and in-service training, where relevant, including by having recourse to the Human Rights Education for Legal Professionals (HELP) programme of the Council of Europe. As well as to the training programmes of the Court and to its publications

2. In England and Wales, all lawyers are required to complete an academic study in the field of law. Schedule 2 to the Joint Statement on Qualifying Law Degrees, prepared jointly by the Law Society and Bar Council, and approved by the Lord Chancellor, indicates that human rights is a key element which must be covered. It is a requirement for students undertaking legal vocational training to demonstrate a thorough understanding of the Human Rights Act 1998, which reflects the Convention in domestic law.

3. Training of the judiciary of England and Wales is the responsibility of the Lord Chief Justice and is delivered through the Judicial College. Where there are major changes brought about by new legislation the College will consider whether specific and designated judicial training is required. The introduction of the Human Rights Act 1998 was considered to be just such an occasion as it had the potential to bring significant changes across all the different jurisdictions. Accordingly the Judicial Studies Board (as it was then called) undertook a comprehensive training exercise for all levels of judiciary during 1999/2000. Now that human rights are embedded in United Kingdom law, the subject does not feature as a stand-alone topic for training but of course aspects may arise within training courses across all jurisdictions as part of a wider topic.

4. The Lord President is the Head of the Scottish Judiciary and delegates responsibility for judicial training to the Judicial Institute, of which he is President. The Judicial Institute is responsible for all aspects of training judicial office-holders including promoting and identifying the needs of the Scottish Judiciary. The Judicial Institute also provides a contact point with government and other interested parties.

5. In Northern Ireland, the Judicial Studies Board (JSB), led by the Northern Ireland judiciary, provides programmes of practical studies and disseminates information to the judiciary. The JSB facilitates a variety of training events designed to meet the needs of judiciary at all levels. Members of the judiciary are also invited to attend courses organised and run by the Judicial College in England and Wales and the Judicial Institute in Scotland.

6. The United Kingdom currently has a member on the Consultative Board of HELP, Simon O'Toole, a senior legal professional. He is the United Kingdom Information contact point and the United Kingdom national trainer for the Business and Human Rights, and Data Protection and Privacy Rights courses. He recently helped to launch the HELP Business and Human Rights Course in the United Kingdom at a high level event on 29 September 2016, which was open to lawyers, prosecutors and judges.

B. 1. c) Prior to and independently of the processing of cases by the Court: promote, in this regard, study visits and traineeships at the Court for judges, lawyers and national officials in order to increase their knowledge of the Convention system

7. The Judicial College, Judicial Institute and the Judicial Studies Board play active roles in the European Judicial Training Network (EJTN) which allows judges, prosecutors and national officials to familiarise themselves with the work of the courts or judicial training institute of a European country other than their own. The EJTN also has programmes in which they all participate that include study visits to the European Court of Human Rights and the Court of Justice of the European Union. These visits are designed to increase their knowledge of the Convention system.

8. The Convention, or human rights standards more generally, may be dealt with as appropriate in other forms of professional training. For example, the basic principles of human rights relating to all of those in custody are dealt with on the entry-level course for prison service staff, and the Prison Service receives ad hoc training on human rights issues both from Government legal advisers and officials which again help to increase knowledge of the Convention.

B. 1. d) Prior to and independently of the processing of cases by the Court: take appropriate action to improve the verification of the compatibility of draft laws , existing laws and internal administrative practice with the Convention, in the light of the Court's case law

9. The compatibility and compliance of existing laws and practices with Convention standards is ensured through the mechanisms and obligations set out in the Human Rights Act 1998. In the United Kingdom Parliament, the Joint Committee on Human Rights (JCHR) is charged with considering human rights issues in the United Kingdom. The JCHR carries out a rigorous process of legislative scrutiny, regularly reporting to Parliament on human rights issues which it believes require the Government's attention as draft legislation progresses. Draft legislation in the United Kingdom Parliament is subjected to close scrutiny by the JCHR during its passage through Parliament. The department responsible for the draft legislation (the 'Bill') prepares a memorandum which sets out the Government's position on the Bill's compliance with Convention standards before it is introduced to Parliament. This memorandum is updated as necessary throughout the Bill's Parliamentary passage. The Minister responsible for the Bill is also required, under section 19 of the Human Rights Act, to sign a statement on compatibility with the Convention.

10. In Scotland, scrutiny is conducted through section 29(1) of the Scotland Act 1998, which provides that an Act of the Scottish Parliament is not law so far as any provision of the Act is outside the legislative competence of the Parliament. A provision is outside legislative competence for several reasons, but one of those is that it is incompatible with any of the Convention rights (s29(2)(d)). Section 31 of the Act requires a member of the Scottish Executive, on or before a Bill is introduced, to state that in his view the provisions of the Bill would be within the legislative competence of the Scottish Parliament and, separately, the Presiding Officer of the Scottish Parliament must also decide whether or not in his view the provisions of the Bill would be within legislative competence and must state his view. Section 33 gives power to the Advocate General, the Lord Advocate or the Attorney General to challenge the legislative competence of a Bill or any provision of a Bill.

11. A similar provision regarding legislative competence exists under section 6 of the Northern Ireland Act 1998.

B. 1. e) Prior to and independently of the processing of cases by the Court: ensure the effective implementation of the Convention at national level, take effective measures to prevent violations and to provide effective domestic remedies to address alleged violations of

<i>the Convention</i>

12. A general domestic remedy in all legal jurisdictions of the United Kingdom is provided by the Human Rights Act 1998 (HRA), which gives effect in the law of the United Kingdom to the rights contained in the Convention and provides remedies for their violation. Section 6 of the HRA provides that it is unlawful for a public authority to act in a manner that is incompatible with the Convention rights, save in two specific circumstances where the action is mandated by Parliament. Section 7 provides that where a public authority is alleged to have breached this duty, any person who is, or would be a victim, of the unlawful act may bring proceedings, or rely on the Convention rights in proceedings, before any court or tribunal. The conditions for bringing the challenge, including the fee payable, and the specific remedies available depend on the court in which the proceedings are brought. However, the guiding principles (set out in section 8 HRA) are that the court or tribunal may grant any remedy which is within their powers and which is just and appropriate. Specific remedies might include an award of damages, annulling the original decision, annulling a conviction, or ordering a public authority not to take proposed action which, if taken, would be unlawful. In considering whether to award damages and the amount of any such award, the domestic court or tribunal must take into account the principles applied by the Strasbourg Court in relation to the award of just satisfaction.

<i>B. 1. f) Prior to and independently of the processing of cases by the Court: consider making voluntary contributions to the Human Rights Trust Fund and to the Court's special account to allow it to deal with the backlog of all well-founded cases, and continue to promote temporary secondments to the Registry of the Court</i>
--

13. The United Kingdom's most recent voluntary contribution to the Human Rights Trust Fund was in 2014 to the sum of approximately 100,000 Euro.

14. At present, the United Kingdom has not seconded national judges or other senior lawyers to the Registry of the Court. This is largely because of the career structure of the judiciary in the United Kingdom, and specifically the absence of a career judiciary.

<i>B. 1. g) Prior to and independently of the processing of cases by the Court: consider the establishment of an independent National Human Rights Institution</i>
--

15. The United Kingdom has three national human rights institutions (NHRIs), each with specific jurisdiction and functions: the Equality and Human Rights Commission (for England and Wales), the Northern Ireland Human Rights Commission and the Scottish Human Rights Commission. All three are accredited with 'A' status by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), and all participate in the European Group of NHRIs. They are mandated with promoting and raising awareness of human rights.

<i>B. 2. a) After the Court's judgments: continue to increase their efforts to submit, within the stipulated deadlines, comprehensive action plans and reports, key tools in the dialogue between the Committee of Ministers and the States Parties, which can contribute also to an enhanced dialogue with other stakeholders, such as the Court, national parliaments or National Human Rights Institutions</i>

16. There are domestic mechanisms in place to ensure that judgments are executed quickly and effectively. The Ministry of Justice (MoJ) performs a coordination role for the implementation of adverse judgments of the Court. This involves responsibility for the domestic co-ordination of information from the Government departments leading on

particular cases and its onward transmission to the Foreign and Commonwealth Office (FCO), and the United Kingdom Delegation to the Council of Europe (UKDel). Lead responsibility for the implementation of a particular judgment continues to rest with the relevant Government department, whilst the UKDel continues to represent the United Kingdom at the Committee of Ministers' meetings on the execution of judgments. These mechanisms contribute to the dialogue with the JCHR in their role of scrutinising the Government's performance on executing human rights judgments.

B. 2. b) After the Court's judgments: in compliance with the domestic legal order, put in place in a timely manner effective remedies at domestic level to address violations of the Convention found by the Court

17. The United Kingdom's overall record on the rapid implementation of judgments continues to be a strong one. There are domestic mechanisms in place to ensure that judgments are executed quickly and effectively; including the role MoJ plays as a cross-Government coordinator for the execution of judgments. In addition, section 10 of the Human Rights Act 1998 provides a special Parliamentary procedure which can be used to amend incompatible domestic legislation following an adverse judgment from the Court. At the same time, the Government recognises that there will always be some particularly sensitive and difficult areas in which progress towards implementation will not be as rapid as in other cases. This is a consequence of the complexity of the issues raised in such cases.

B. 2. c) After the Court's judgments: develop and deploy sufficient resources at national level with a view to the full and effective execution of judgments, and afford appropriate means and authority to the government agents or other officials responsible for coordinating the execution of judgments

18. A core component of the cross-Government coordination mechanism is a specifically-designed 'implementation form', which is issued to lead Government departments to assist them in responding to adverse Court judgments. The form includes advice on the completion of the Action Plan for implementation which is required by the Committee of Ministers, and helps ensure that all the information needed for the effective oversight of the implementation process is provided to the MoJ and FCO. This enables MoJ and FCO to ensure that the required information can be submitted to the Committee of Ministers on time.

B. 2. d) After the Court's judgments: attach particular importance to ensuring full, effective and prompt follow-up to those judgments raising structural problems, which may furthermore prove relevant for other States Parties

19. All judgments are equally important to the United Kingdom and vigorous efforts are made to ensure prompt and effective follow-up of judgments. UKDel work closely with the Secretariat to organise technical missions to the United Kingdom and inward visits to Strasbourg to enable dialogue on implementation of the more complicated United Kingdom cases. In addition, UKDel coordinate the United Kingdom contribution to the supervision of cases against other State Parties.

B. 2. e) After the Court's judgments: foster the exchange of information and best practices with other States Parties, particularly for the implementation of general measures

20. The United Kingdom is of course always ready to participate in sharing our best practice with other States Parties, particularly through programmes as arranged by the Council of Europe. Within the United Kingdom, the MoJ facilitates the process by which information and best practice is shared with State Parties as required.

B. 2. f) After the Court's judgments: promote accessibility to the Court's judgments, action plans and reports as well as to the Committee of Ministers' decisions and resolutions, by:

- developing their publication and dissemination to the stakeholders concerned (in particular, the executive, parliaments and courts, and also, where appropriate, National Human Rights Institutions and representatives of civil society), so as to involve them further in the judgment execution process;*
- translating or summarising relevant documents, including significant judgments of the Court, as required*

21. The United Kingdom's annual report on the Court's judgments is laid in Parliament, where it can be easily accessed by Members of Parliament. It is also published on the Government website, making it available to the general public. More generally, the Court's judgments are formally published in United Kingdom law reports and also often reported in the United Kingdom media. This ensures they are brought to the attention of practitioners and other interested parties outside government. The FCO also ensures that Action Plans are sent to the Committee of Ministers and the MoJ ensures that these are shared with the JCHR.

22. The translation of judgments is not an issue for the United Kingdom as the vast majority of the Court's judgments are available in English.

B. 2. g) After the Court's judgments: within this framework, maintain and develop the financial resources that have made it possible for the Council of Europe, since 2010, to translate a large number of judgments into national languages

23. Whilst the vast majority of the Court's judgments are available in English, the United Kingdom has nonetheless contributed financial resources to the translation of judgments into national languages.

B. 2. h) After the Court's judgments: in particular, encourage the involvement of national parliaments in the judgment execution process, where appropriate, for instance, by transmitting to them annual or thematic reports or by holding debates with the executive authorities on the implementation of certain judgments

24. The United Kingdom's annual report contains information on the execution of judgments. The report is laid in Parliament and allows the JCHR to hold oral evidence sessions with Government Ministers and others during which it can ask questions relating to the implementation of certain judgments. A link to the most recent report can be found [here](#).

B. 2. i) After the Court's judgments: establish "contact points", wherever appropriate, for human rights matters within the relevant executive, judicial and legislative authorities, and create networks between them through meetings, information exchanges, hearings or the transmission of annual or thematic reports or newsletters

25. The MoJ has lead responsibility for domestic human rights policy issues and is the contact point for human rights matters. The MoJ works closely with other government departments and the devolved administrations to oversee and support the delivery of the various strands of work which form part of the Action Plan, ranging from the rapid and effective execution of judgments of the Court, to awareness raising and education on human rights issues. MoJ Legal Advisers supports this by co-ordinating a working group for departmental lawyers to update them on developments in law and practice and allow information and experience to be shared. The group meets regularly but also communicates

in writing between meetings. This helps to ensure effective communication between departments.

B. 2. j) After the Court's judgments: consider, in conformity with the principle of subsidiarity, the holding of regular debates at national level on the execution of judgments involving executive and judicial authorities as well as members of parliament and associating, where appropriate, representatives of National Human Rights Institutions and civil society

26. Following publication of the annual reports on progress on the implementation of judgments, Ministers are usually invited to attend an oral evidence session with the JCHR. These sessions generally focus on the content of the report but can consider any matter relating to human rights.

27. On the proposal of draft legislation, the JCHR will produce a report on the human rights issues raised, having examined carefully the arguments put forward by the relevant department to justify any interference with a Convention right, or any other international human rights standards. The Government is expected to indicate its response to this report, either during Parliamentary debates or in writing. The United Kingdom Government and the devolved administrations also work closely with the three NHRIs.

28. Furthermore, the Government and the EHRC have together been working closely with the United Kingdom's inspectorates, regulatory bodies and ombudsmen to provide leadership for the implementation of a human rights approach within these bodies. Inspectorates, regulators and ombudsmen play a crucial role in promoting human rights within public services; both directly through ensuring that public authorities respect human rights, and also disseminating best practice and involving service users in monitoring standards. The United Kingdom welcomes the involvement of the JCHR and the EHRC in the implementation process.