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**INTERNATIONAL CONFERENCE
ON PATIENTS' RIGHTS**

The execution of the ECtHR judgments as a mechanisms to promote the autonomy of persons with mental health issues

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Who deals with the execution of the ECtHR judgments?



Committee of Ministers

- the executive/decision-making body of the CoE;
- composed of Ministers for Foreign Affairs of the 46 member States
- the principal body responsible for the execution of judgements; supervises the execution by member states; holds HR meetings (since 1995);

Execution Department

- expert body, which provides legal assistance to the Committee of Ministers in supervising the measures taken by the Respondent States;
- assists the States in their execution efforts, when requested;
- promotes the strengthening of synergies with other actors of the Council of Europe in their areas of competence, notably the Court, the Parliamentary Assembly and the Commissioner for Human Rights.



Legal obligation of the respondent State to take measures



➤ Individual measures

- Ceasing the breach
- Making reparation

➤ General measures

- Ensuring non-repetition



Supervision mechanism





Nikolyan v. Armenia: violations found by the European Court

- a blanket ban on those declared incapable to directly access the courts
 - The applicant's son was appointed his legal guardian despite their conflictual relationship
- deprivation of legal capacity based on a single, outdated psychiatric report
- failure to establish the degree of the applicant's mental disorder



Nikolyan v. Armenia: pending issues (Action Report of 16.11.2020)

➤ **Conflict-free guardianship**

- Whether the guardianship authority takes into account the concerned person's opinion on the potential guardian

➤ **Outdates and unclear psychiatric reports**

- Whether courts rely on sufficiently recent reports

➤ **Intermediate form of limitation of legal capacity**

- Whether the legal framework provides for differentiation between different degrees of incapacity

➤ **Restoration of legal capacity**

- Whether the judicial review of requests for restoration of capacity is implemented at reasonable intervals