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Committee on Legal Affairs and Human Rights

Implementation of judgments of the European Court of Human Rights – 12th Report

Report*

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A. Draft resolution

1. 2025 will mark the 75th anniversary of the adoption of the European Convention on Human Rights (ETS No.5, "the Convention"). The Assembly celebrates the history and extraordinary impact of the system established by this unique instrument. The Convention and the European Court of Human Rights ("the Court") have helped promote peace across the continent, leading to the Court being awarded the Dresden Peace Prize in January 2025. The Convention and the Court have also helped entrench democracy and the rule of law on our continent and create a vast legal space in which everyone can be protected from and find redress against human rights violations. To date, it represents the most advanced supranational system for the protection of human rights worldwide.

2. The Assembly recalls the unequivocal obligation for the States Parties to the Convention to implement judgments of the Court in a timely and effective manner. It further emphasises that State Parties are bound to comply with interim measures indicated by the Court, as they are essential to ensuring further effective implementation of judgments.

3. In the Reykjavik Declaration adopted at the 4th Summit of Heads of State and Government of the Council of Europe (16-17 May 2023), States underlined the fundamental importance of the execution of the Court's judgments. They reaffirmed their unwavering commitment to the Convention system, agreed to redouble their efforts to ensure the full, effective, and rapid implementation of the Court's judgments, and set out a series of specific steps to help achieve this. The Heads of State and Government, recalling that national parliaments bear responsibility for complying with the judgments of the Court, invited the President of the Assembly to strengthen the political dialogue with national interlocutors in this area.

4. The Assembly welcomes the commitments made at the Reykjavik Summit, as well as the extensive work done to date to carry out the steps requested by the Heads of State and Government.

5. Although the vast majority of the Court's judgments are implemented, the Assembly is concerned by the failure of some States to remedy the underlying causes of human rights violations identified in certain judgments, reflected in cases pending implementation which have been classified by the Committee of Ministers as 'leading'. Leading cases usually highlight a wider human rights problem affecting many people. If reforms are not carried out to implement such cases, the underlying problem can persist, causing harm to more individuals. The failure to implement such judgments can also lead to repetitive applications to the Court, increasing its workload and harming the efficiency and effectiveness of the

* Draft resolution and draft recommendation adopted by the committee on 3 March 2025, the latter unanimously

entire Convention system. Looking at the overall number of cases pending implementation for a State is of only limited use for understanding the State's compliance with the Convention and the Court's case law, as the number of such cases can be reduced often simply by paying just satisfaction. The number and type of leading cases pending implementation are an important indicator, because leading cases can often only be implemented by taking the general measures necessary to resolve underlying human rights problems.

6. Nine States have over 40 leading cases pending implementation: Azerbaijan, Bulgaria, Hungary, Italy, the Republic of Moldova, Poland, Romania, Türkiye, and Ukraine. These States also have the highest numbers of leading cases which have been pending implementation for more than five years, indicating that human rights issues are not being resolved in a reasonable period of time. The Assembly urges these countries in particular to undertake urgent measures to systematically improve their implementation of the Court's judgments.

7. The Assembly realises that the situation in Ukraine is complex in comparison with other countries due to the Russian war of aggression and that the implementation of judgments of the European Court of Human Rights faces specific challenges in light of the war. The Assembly welcomes the fact that, even in such difficult circumstances, the Ukrainian authorities have acknowledged, stayed firm and continue to demonstrate their commitment to full compliance with the Convention and to undertake a number of measures to solve the structural problems identified by the European Court.

8. The "Reykjavik Principles for Democracy" set out in Appendix III to the 2023 Reykjavik Declaration reiterate that democracy is the "only means to ensure that everyone can live in a peaceful, prosperous and free society". Council of Europe States resolved to "prevent and resist democratic back-sliding on our continent". A key way in which this can be done is through the implementation of judgments of the Court, notably those concerning the protection of freedom of expression, freedom of assembly, freedom of association, the right to free and fair elections, and the independence of the judiciary, as well as judgments highlighting an abusive limitation of rights and freedoms involving a violation of Article 18 of the Convention. The Assembly urges States Parties to the Convention to implement such judgments as a matter of priority.

9. The Assembly considers it absolutely unacceptable that the case of *Kavala v. Turkey*, which was the subject of infringement proceedings under Article 46, paragraph 4, of the Convention, has not yet been implemented and that Mr Kavala is still imprisoned. The Assembly recalls Resolution 2518 (2023), including its conclusion that the case merits the initiation of the complementary joint procedure foreseen in Resolution 2319 (2020). It reiterates its call on Türkiye to immediately release Mr Kavala, in line with its obligations under the Convention and the Statute of the Council of Europe (ETS No. 1).

10. The implementation of interstate cases and cases with interstate features is also a matter of considerable concern. The Assembly calls on current and former States Parties to the Convention that are the subject of such judgments to comply with their international obligations. The Assembly further calls on the member States and other stakeholders in the Convention system to demonstrate the necessary political will and commitment to make progress in the execution of these cases.

11. In order to urgently strengthen the implementation of the Court's judgments, the Assembly calls on States Parties to the Convention to carry out the measures set out in paragraph 7 of Resolution 2494(2023).

12. In particular, the Assembly urges States Parties to the Convention to ensure that effective national co-ordination mechanisms are in place, with sufficient authority, resources, and participation from across government to enable the timely and effective implementation of the Court's judgments. The Council of Europe has carried out a multi-country study to identify best practices of domestic capacity for rapid execution of the judgments and decisions of the Court (carried out under the project, 'Support to efficient domestic capacity for the execution of European Court of Human Rights judgments'). The Assembly urges States Parties to use the findings of this study to inform any changes needed to their own national arrangements, in order to ensure full and timely implementation of the Court's judgments. The Assembly welcomes the establishment of the Execution Coordinators Network in June 2024, resolving to carry out any joint activities that the Network and the Assembly regard to be constructive.

13. The Assembly also invites national parliaments to play their role in the execution of judgments of the Court, by implementing the "Basic principles for parliamentary supervision of international human rights standards" set out by the Assembly in Resolution 1823 (2011). These require the establishment of appropriate parliamentary structures to ensure rigorous and regular monitoring of compliance with and supervision of international human rights obligations, such as a dedicated human rights committee or an analogous structure. The remit of such structures should include; regular examination of the implementation of judgments of the Court by the State concerned; the initiation of legislative changes to ensure compliance with the Convention and implementation of the Court's judgments; and the systematic verification of the compatibility of any draft legislation with international human rights obligations. It is essential that such parliamentary structures are provided with sufficient and specialised staff as well as resources to carry out these tasks effectively.

14. The Assembly welcomes the contribution that the EU Commission has made in its Rule of Law Reports to highlighting problems with the implementation of the Court's judgments. The Assembly invites the European Commission to more frequently include the implementation of the Court's judgments in its lists of Recommendations in the Rule of Law Report Country Chapters, through (a) recommending to States to implement particular judgment(s) which are significant to ensuring the protection of the rule of law, and/or (b) recommending to States to improve their overall record of implementing leading ECHR cases, for countries that have a significant problem with the execution of leading cases of the Court.

15. The Assembly underlines the continuing obligation of the Russian Federation to implement the Court's judgments and welcomes the measures taken by the Committee of Ministers to continue its supervision of cases concerning Russia, in particular via its contacts with other international organisations, notably the United Nations. The Assembly resolves to further examine whether additional steps could be taken to ensure the payment of outstanding just satisfaction awarded by the Court in these cases, including in particular interstate cases.

16. The Assembly also resolves to continue and enhance its role in promoting the full, effective, and rapid implementation of the judgments of the Court, in accordance with the Reykjavik Declaration and subsequent decisions of the Committee of Ministers. Additional work initiated since the Reykjavik Declaration includes greater support for the President of the Assembly to raise the implementation of the Court's judgments in high-level meetings, as well as briefings for national delegations on the implementation of the Court's judgments in their State. Subject to adequate funds, the Assembly resolves to create a Network of Parliamentarians to Promote the Implementation of ECHR judgments. Members of the Network would share best practices on the implementation of judgments within the Assembly, and at the same time promote the implementation of judgments domestically in their own countries, for instance by engaging with relevant national interlocutors or encouraging legislative and structural reforms.

17. In view of the need to improve implementation of the Court's judgments, the Assembly resolves to remain seized of this matter and to continue to give it priority.

B. Draft recommendation

1. Referring to its Resolution number … (2025) 'Implementation of Judgments of the European Court of Human Rights ("the Court"), the Parliamentary Assembly welcomes the measures taken by the Committee of Ministers and the wider Organisation to implement sections of the Reykjavik Declaration relating to the implementation of the Court's judgments. This includes steps taken to increase the resources of the Department for the Execution of Judgments, increase the synergy between the Department for the Execution of Judgments and Council of Europe co-operation programmes, increase the transparency of the judgment supervision process, establish a network of national co-ordinators for the implementation of judgments, strengthen the institutional dialogue between the Court and the Committee of Ministers, carry out joint activities with the Parliamentary Assembly and the Congress of Local and Regional Authorities, and set out predictable, gradual steps to be taken by the Committee of Ministers prior to initiating the infringement procedure under Article 46 of the European Convention on Human Rights (ETS No. 5, "the Convention").

2. The vast majority of the Court's judgments are implemented. Nevertheless, and despite the work done to carry out the steps requested by the Heads of State and Government in the Reykjavik Declaration, the number of leading cases pending implementation remains high. The Assembly therefore recommends that the Committee of Ministers further strengthen its work to implement the measures set out in the Reykjavik Declaration to improve the implementation of the Court's judgments.

3. The Assembly recalls the pivotal role that the implementation of the Court's judgments plays in the Convention system and the workload of the Court. Given the high proportion of cases from the Court which are classified as repetitive, funding additional work to promote the implementation of the Court's judgments, particularly with regard to leading cases, is an investment in the system which will ensure its long-term sustainability. The Assembly therefore calls for:

   3.1 a further increase to the resources available to the Department for the Execution of Judgments;

   3.2 an increase in funding for technical co-operation projects to promote the implementation of judgments of the Court, with a particular focus on leading cases revealing structural or complex problems;

   3.3 continued funding and State engagement for the project 'Support to efficient domestic capacity for the execution of European Court of Human Rights judgments' in particular, given its critical role in building national capacities for judgment implementation.

4. The Assembly also notes that the Reykjavik Declaration called for a strengthening of political dialogue in the event of difficulties in the implementation of judgments and encouraged the participation of high-level representatives from respondent States. The Assembly calls on the Committee of Ministers to redouble its efforts to ensure high-level engagement in discussions on the implementation of the Court's judgments, in order to facilitate dialogue at the political level. The Assembly will enhance its own activities to promote political dialogue in difficult cases.

5. Further in regard to the activities of the Assembly, the Assembly welcomes the recognition in the Reykjavik Declaration of the importance of involving national parliaments in the execution of judgments, as well as the invitation to the President of the Parliamentary Assembly to strengthen his political dialogue with national interlocutors on the implementation of judgments. The Assembly further welcomes the Committee of Ministers' Decision of 7-8 February 2024 to invite the Parliamentary Assembly and the Congress of Local and Regional Authorities to strengthen their dialogue with their respective national interlocutors on the implementation of judgments, at both the political and technical levels, and its instruction to the Department for the Execution of Judgments to assist.

6. The Assembly notes the steps it has taken to enhance the work of parliamentarians to promote the implementation of the Court's judgments in accordance with the Reykjavik Declaration, including strengthening support for the President of the Assembly to raise the implementation of judgments in high-level meetings, and the organisation of briefings by the Department for the Execution of Judgments to national delegations on the implementation of the Court's judgments in member States. The Assembly notes its intention to further enhance its activities in this area.

C. Explanatory memorandum by Mr Constantinos Efstathiou, rapporteur[2]

1. Introduction

1. One of my clients before the European Court of Human Rights was only a child. He was 17 when he was accused of serious crimes. The trial in Cyprus was a travesty of justice, but the boy was somehow convicted and sentenced to 14 years in jail. We brought the case to the European Court of Human Rights ("the Court", "the ECHR") and won. The Court found that there had been multiple violations of the right to a fair trial and that my client never should have been convicted as a result of such proceedings. The next step should naturally have been for him to be released and for there to be a retrial. However, that did not happen. The reason is because there had been such a long delay between the application being made to the European Court of Human Rights and the Court's judgment, that my client had already been released after over six years' imprisonment, as a result of good behaviour.

2. Unfortunately, this story does not have a happy ending. After years in jail at such a young age, the boy had developed mental health issues. He married, then divorced; and could not get a job to pay alimony for his children, due to his criminal record.

3. I do not refer to this story to in some way blame the European Court for what happened to my client. I refer to it in order to highlight the impact of the non-implementation of the Court's judgments on the whole European Convention on Human Rights ("the Convention") system. The Court is becoming more efficient every year, but there is a limit to how many applications it can process with finite resources – it dealt with the case as fast as it could at the time. If the system were to work efficiently, after the Court finds a violation of the Convention, States would promptly ensure that the same problem does not happen again to others – to prevent more human rights violations and to ensure the Court is not overloaded with applications. However, 84% of ECHR judgments from the last five years which found a violation were subsequently classified by the Committee of Ministers as "repetitive" cases, on the grounds that the type of violation concerned had already been the subject of a judgment of the European Court of Human Rights. In other words, five in every six judgments of the Court that find a violation are about a wider human rights problem that the Court has already identified in the State concerned.[3]

4. Over 79% of the Court's rulings have been implemented. In the year of the 75th anniversary of the European Convention on Human Rights, it is important to recall just how important these judgments have been. Judgments have led to the release of political prisoners;[4] protections of speech, assembly, and association that are the bedrock of democratic life;[5] the decriminalisation of homosexuality;[6] the development of fairer trials;[7] an end to impunity for torture and ill-treatment in many States;[8] laws to protect the judiciary and

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[2] This report is based on a reference from the Assembly's Bureau dated 28 April 2023. The Committee on Legal Affairs and Human Rights appointed me as rapporteur at its meeting in Strasbourg on 20 June 2023.

[3] 2023 Annual Report on the Supervision of the Execution of Judgments and Decisions of the European Court of Human Rights, page 112, Figure B.2. and page 146, Figure B.1 [2023 – 183 leading, 1074 repetitive; 2022 – 188 leading, 1271 repetitive; 2021 – 216 leading, 1163 repetitive; 2020 -195 leading, 788 repetitive; 2019 – 178 leading, 982 repetitive; Total: 960 leading, 5278 repetitive (6238 cases overall)].

[4] e.g. Ilgar Mammadov v. Azerbaijan (Application No. 15172/13), judgment of 22 May 2014; Rasul Jafarov v. Azerbaijan (Application No. 69981), judgment of 17 March 2016.

[5] e.g. Lepojić v. Serbia (Application no. 13909/05), judgment of 6 November 2007; Falzon v. Malta (Application No. 45791/13), judgment of 20 March 2018; Koprivica v. Montenegro (Application no. 41158/09), judgment of 22 November 2011; Thorgeir Thorgeirson v. Iceland (Application no. 13778/88), judgment of 25 June 1992; Bączkowski and Others v. Poland (Application no. 1543/06), judgment of 3 May 2007; Hyde Park and Others v. Moldova (Application no. 33482/06), judgment of 31 March 2009; Vyerentsov v. Ukraine (Application No. 20372/11), judgment of 11 April 2013.

[6] e.g. Dudgeon v. the United Kingdom (Application no. 7525/76), judgment of 22 October 1981; Norris v. Ireland (Application no. 10581/83), judgment of 26 October 1988; Modinos v. Cyprus (Application no. 15070/89), judgment of 22 April 1993.

[7] e.g. Ajdarić v. Croatia (Application no. 20883/09), judgment of 13 December 2011; Igual Coll v. Spain (Application No. 37496/04), judgment of 10 March 2009); DMD Group, a.s. v. Slovakia (Application no. 19334/03), judgment of 5 October 2010.

[8] e.g. Kaçiu and Kotorri v. Albania (Applications nos. 33192/07 and 33194/07), judgment of 25 June 2013; Kummer v. the Czech Republic (Application no. 32133/11), judgment of 25 July 2013; Mihhailov v. Estonia (Application no. 64418/10), judgment of 30 August 2016.

prosecutors from government control;[9] measures to tackle slavery and human trafficking;[10] and countless other achievements. These are just a handful of the 26,379 rulings which have been implemented. [11] I urge readers to look at the website 'Impact of the European Convention on Human Rights' at www.coe.int/echr, for examples of how the Court's judgments have led to improvements in their member State.

5. The Convention and the Court are therefore monumental achievements in the history of our continent. Yet despite the successes, the failure by some states to remedy the underlying causes of human rights violations identified in a minority of judgments has a very negative impact on the Convention system as a whole, as the Court is overloaded with repetitive applications. In our interconnected world, the fate of a boy in Cyprus can be linked to the ineffective implementation of judgments across the rest of Europe.

6. At the May 2023 Reykjavik Summit, the Heads of State and Government of the Council of Europe adopted the Reykjavik Declaration.[12] Appendix IV, relating to the Convention system, underlines "the fundamental importance of the execution of the Court's judgments and the effective supervision of that process to ensure the long-term sustainability, integrity and credibility of the Convention system" and the States recommitted to "resolving the systemic and structural human rights problems identified by the Court and to ensure the full, effective and prompt execution of the final judgments of the Court, taking into account their binding nature […] while also recalling the importance of involving national parliaments in the execution of judgments". The Reykjavik Declaration also included the "Reykjavik Principles for Democracy" in its Appendix III.

7. In formulating the focus of this 12th report I have sought to incorporate this renewed focus on respect for the Convention system, for timely and effective implementation of ECHR judgments, and for strengthened support for democratic principles. The Report therefore focuses on the following:

7.1 the importance of addressing leading cases (section 3);

7.2 the implementation of judgments protecting democratic principles, including those relating to the freedom of expression, the freedom of assembly and association, the right to free and fair elections, the misuse of the law to violate human rights, and the independence of the judiciary (section 4);

7.3 the challenges in implementing inter-State cases (section 5);

7.4 the implementation of judgments concerning the Russian Federation (section 6);

7.5 the implementation of measures set out in the Reykjavik Declaration to promote the implementation of ECHR judgments (section 7); and

7.6 the role of PACE and national parliamentarians in the implementation of ECHR judgments (section 8).

8. A large number of meetings and hearings have been carried out during the preparation of this report. These include hearings focused on the implementation of judgments by three particular states (Albania,

[9] e.g. Oleksandr Volkov v. Ukraine (Application No. 21722/11), judgment of 9 January 2013; Kövesi v. Romania (Application No. 3594/19), judgment of 5 May 2020.
[10] e.g. Rantsev v. Cyprus and Russia (Application No. 25965/04), judgment of 7 January 2010; Siliadin v. France (Application no. 73316/01), judgment of 26 July 2005; L.E. v. Greece (Application No. 71545/12), judgment of 21 January 2016.
[11] Data taken from HUDOC-EXEC, 12 February 2025: 33,207 rulings of the Court, including 26,379 for which supervision of implementation has been closed and 6,828 for which it remains pending.
[12] Reykjavik Declaration – Uniting around our values.

Armenia, and Türkiye);[13] fact-finding missions to Armenia and Poland;[14] participation in a roundtable discussion in Brussels with the Council of Bars and Law Societies of Europe;[15] and meetings with officials from the Committee of Ministers, the Council of Europe's Directorate General of Human Rights and Rule of Law, the European Court of Human Rights, and the European Union's Directorate-General of Justice and Consumers.[16]

2. Overall statistics

9. The most recent Annual Report on the Supervision of the Execution of Judgments and Decisions of the European Court of Human Rights is the 2023 edition.[17] This stated that there were 3,819 judgments of the Court pending execution concerning member States, with the following ten member States having the largest number of cases awaiting full implementation (from the highest to the lowest number): Ukraine (766), Romania (476), Türkiye (446), Azerbaijan (337), Italy (249), Bulgaria (166), Hungary (165), Moldova (162), Poland (131) and Georgia (78).[18]

3. The importance of addressing leading cases

10. Of the 3,819 cases pending execution concerning member States in the 2023 Annual report, 1088 were classified as "leading" cases. Leading cases are those that disclose a problem in law or practice, often requiring general measures to be adopted to prevent a recurrence of the human rights violation.[19] Addressing leading cases is fundamental to any meaningful implementation of judgments of the Court, as this is what resolves the underlying causes of the violation and prevents similar problems from occurring. Implementing leading cases is also crucial to preventing an increased backlog of cases at the Court, as the failure to resolve human rights issues leads to more violations and more applications. By way of example, the case of *Levinta v. the Republic of Moldova* concerns a case of ill-treatment in police custody. Since the judgment in 2008, there have been numerous subsequent applications to the Court about the same issue, after which the Court found a violation in ten 'repetitive' cases. While important general measures have been taken by the authorities, the implementation of *Levinta* is still being supervised by the Committee of Ministers, meaning the underlying problem has still not been fully resolved 16 years after the Court's judgment and more repetitive cases are likely to find their way to the European Court of Human Rights.

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[13] The dates and participation in the hearings regarding each State were as follows. A hearing on the implementation of judgments by Albania was held by the Sub-Committee on the Implementation of Judgments of the European Court of Human Rights in Tirana on 4 July 2024, with the participation of Ms Etilda Gjonaj, member of the Albanian Delegation to the Parliamentary Assembly of the Council of Europe and former Minister of Justice, and Ms Erida Skëndaj, Executive Director of the Albanian Helsinki Committee. A hearing on the implementation of judgments by Armenia was held in Yerevan on 9 December 2024 by the Committee on Legal Affairs and Human Rights, with the participation of Mr Yeghishe Kirakosyan, Representative of the Republic of Armenia to the European Court of Human Rights; Ms Arpi Harutyunyan, Justice and Human Rights Portfolios Manager, Democracy Development Foundation; and Ms Araks Melkonyan, President, "The Protection of Rights without Borders" Non-Governmental Organisation. A hearing on the implementation of judgments by Türkiye was held in Strasbourg on 29 January 2025 by the Committee on Legal Affairs and Human Rights, with the participation of Mr. Alper Hakkı Yazıcı, Vice Chairman of Human Rights Department of Ministry of Justice, and Mr. Yıldırım Tuğrul Türkeş, Chair of the Turkish delegation to the Parliamentary Assembly.

[14] Fact finding visits were carried out to Poland on 18-19 September 2024 and to Armenia on 11 December 2024.

[15] The roundtable took place on 23 April 2024, at the offices of the Council of Bars and Law Societies of Europe. The roundtable was also attended by the then Chair of the Sub-Committee on the Implementation of Judgments of the European Court of Human Rights, Givi Mikanadze (Georgia, NR).

[16] The meetings were as follows: Ambassador Seland, in his capacity as Chair of the "GR-H" human rights working group of the Committee of Ministers (29 January 2025); Claire Ovey, Director of Human Rights and Frederic Dolt, Head of the Department for the Execution of Judgments of the Council of Europe (29 January 2025); Anna Ramade, Senior Legal Advisor, Zoe Bryanston-Cross, Deputy Head of the ECHR President's Private Office, and Klaudiusz Ryngielewicz, Deputy to the Registrar, Directorate of Filtering and Support Services Working Methods Department at the ECHR (on 10 February 2025); and Julien Mousnier, Director of Fundamental Rights and Democracy at the EU's DG JUST, as well as Policy Officers Christina Karakosta and Sara Vassalo Amorim (on 11 February 2025).

[17] The Annual Report 2023.

[18] The Annual Report 2023, Table C.4, page 119.

[19] "Leading case" is defined in the glossary to the 2023 Annual Report (p. 167) as a "case which has been identified as disclosing a problem, in law and/or practice, at national level, often requiring the adoption by the respondent state of new or additional general measures to prevent recurrence of similar violations. If this new problem proves to be of an isolated nature, the adoption of general measures, in addition to the publication and dissemination of the judgment, is not in principle required. A leading case may also reveal structural/systemic problems, identified by the Court in its judgment or by the Committee of Ministers in the course of its supervision of execution, requiring the adoption by the respondent state of new general measures to prevent recurrence of similar violations.".

11. Meanwhile, when States carry out reforms to successfully implement leading judgments, this can have a very positive impact on the caseload of the Court. For example, the Court's pilot judgment in *Varga and Others v. Hungary* highlighted widespread issues with conditions of detention and the lack of remedy for violations at national level. In 2017 the authorities introduced a preventive and a compensatory remedy for these violations. The scheme was considered by both the Committee of Ministers and the Court to comply with the Convention, resulting in the rejection by the Court of more than 8000 pending applications.[20]

12. As outlined in the introduction, 84% of ECHR judgments from the last five years which found a violation were subsequently classified by the Committee of Ministers as "repetitive", on the grounds that the type of violation concerned has already been the subject of a judgment of the Court.[21] The systemic and prolonged failure of States to implement leading cases therefore not only means that human rights are left unprotected in the country which has been the subject of the judgment. It also means that citizens across Europe are delayed in ensuring the protection of their rights too, as applications to the ECHR are slowed down by a significant backlog caused by States failing to resolve issues that have already been identified in previous judgments of the Court. Due to the high number of applications being made to the Court, applicants can generally expect to wait for many years before receiving a judgment.

13. The following member States have over 40 leading cases pending implementation (from the highest to the lowest number): Türkiye (124), Romania (115), Ukraine (103), Bulgaria (89), Italy (66), Azerbaijan (50), Moldova (46), Poland (46), and Hungary (45).[22] These States also have the highest number of leading cases pending execution for over 5 years – which is particularly significant as it indicates not only where there are issues, but also where those issues are not being resolved within a reasonable period of time. The data for leading cases pending for over five years in these States is as follows (from the highest to the lowest number): Türkiye (72), Ukraine (69), Romania (53), Bulgaria (49), Italy (33); Azerbaijan (29), Moldova (27), Hungary (22), Poland (19).[23] It must be recalled though that Ukraine has been fighting a full-scale war for its survival for over three years, which is rightly the subject of the full capacity of the State. Meanwhile it must be underlined that, other than derogations invoked under Article 15, no conditions of war or state of emergency can absolve a State from its human rights obligations under the Convention.

14. The importance of the implementation of leading cases is reflected also in the EU Rule of Law Reports. Since 2022, these have included an assessment of the implementation of leading ECHR cases by EU Member States within its country chapters.[24] The Commission describes the implementation of leading cases of the ECHR as "*an important indicator for the functioning of the rule of law in a country*."[25]

15. In the country chapters, the Commission highlighted particular judgments of the Court pending implementation which are relevant to the rule of law. The country chapters also included data for each member State as of 1 January 2024, on: the number of leading ECHR cases pending implementation; the percentage of leading judgments pending implementation from the last ten years; and the average time that leading cases have been pending implementation. The data for Bulgaria, Hungary, Italy, Poland and Romania were particularly concerning:

15.1 Bulgaria had 89 leading cases pending implementation, which had been pending for an average of 6 years and 9 months. Of the leading cases from the last 10 years, 53% were still pending execution;

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[20] Committee of Ministers' Decision of 6-7 June 2017, CM/Del/Dec(2017)1288/H46-16; see also CM Notes for *Varga and Others* and *István Gábor Kovács group v. Hungary*, for the meeting of 12-14 March 2024, CM/Notes/1492/H46-18.
[21] 2023 Annual Report on the Supervision of the Execution of Judgments and Decisions of the European Court of Human Rights, page 112, Figure B.2. and page 146, Figure B.1 [2023 – 183 leading, 1074 repetitive; 2022 – 188 leading, 1271 repetitive; 2021 – 216 leading, 1163 repetitive; 2020 -195 leading, 788 repetitive; 2019 – 178 leading, 982 repetitive; Total: 960 leading, 5278 repetitive (6238 cases overall)].
[22] 2023 Annual Report on the Supervision of the Execution of Judgments and Decisions of the European Court of Human Rights, page 119, Table C.4.
[23] 2023 Annual Report on the Supervision of the Execution of Judgments and Decisions of the European Court of Human Rights, page 123.
[24] EU Rule of Law report 2022.
[25] European Commission, Communication on the 2024 Rule of Law Report, COM(2024) 800, 24 July 2024, page 33. The country chapter for Belgium included a specific recommendation that the State "Take measures to ensure compliance by public authorities with final rulings of national courts and the European Court of Human Rights.".

15.2 Hungary had 45 leading cases pending implementation, which had been pending for an average of 6 years and 2 months. Of the leading cases from the last 10 years, 76% were still pending execution;

15.3 Italy had 66 leading cases pending implementation, which had been pending for an average of 6 years and 7 months. Of the leading cases from the last 10 years, 65% were still pending execution;

15.4 Poland had 46 leading cases pending implementation, which had been pending for an average of 5 years and 5 months. Of the leading cases from the last 10 years, 51% were still pending execution;

15.5 Romania had 115 leading cases pending implementation, which had been pending for an average of 5 years and 5 months. Of the leading cases from the last 10 years, 59% were still pending execution.[26]

16. In light of the importance of leading cases, the Assembly should therefore highlight in its Resolution the States listed in paragraph 13 and call on them to rapidly improve their implementation of leading ECHR cases. The Assembly should also welcome the contribution that the EU Commission has made to highlighting the problem of leading ECHR cases in its Rule of Law Reports and call on it to make specific recommendations for States to implement ECHR judgments in serious cases.

17. During the three hearings carried out in the course of preparing this report (regarding Albania, Armenia, and Türkiye) and two country visits (to Armenia and Poland) I used the opportunity to encourage the authorities to improve their implementation of leading ECHR cases. I am very grateful for the participation of all of the member States authorities in these discussions. My overall conclusions from these exchanges were as follows:

17.1 Albania: significant steps forward have been taken in relation to a number of important leading cases, with notable reforms carried out. Examples include improvements to the fairness of criminal trials, measures to prevent and punish the abduction of children, and the strengthening of individual constitutional complaints, so that the Strasbourg Court now considers them to be effective in principle in respect of all complaints alleging any breach of rights under the Convention. Nevertheless, important shortcomings and challenges remain, and the overall number of leading cases pending implementation remains of concern, particularly in relation to the *Sharxhi* group (concerning deprivation of property) and the *Strazimiri* group (concerning detention conditions). It was unfortunate that a representative of the office of the Government Agent did not attend the scheduled hearing;

17.2 Armenia: I was impressed by the genuine commitment of the authorities to improving judgment execution, reflected by the significantly increased engagement with the implementation monitoring process that has been carried out in recent years. I also recognised the significant reforms carried out to date, in areas such as freedom of assembly (explored further below). Meanwhile, it is also important to recall the notable number of leading cases still pending implementation and the need for the strong work to continue;

17.3 Poland: the current government inherits a considerable challenge in regard to the implementation of ECHR judgments. There has not yet been progress in lowering the number of leading cases pending implementation, but I noted the authorities' plans to bring forward legislation aimed at improving ECHR implementation systematically and the clear commitment of the government to make progress on this issue. My visit concentrated on the implementation of judgments concerning judicial independence – this issue is dealt with in more detail in the section below;

17.4 Türkiye: the representatives of the Turkish authorities had a difficult task in the hearing held in our Committee, jointly with the Monitoring Committee, in January 2025, with the need to cover in detail a very wide number of cases in a short period of time. In my view, they attempted to paint an unrealistically positive picture of the overall implementation of ECHR judgments by Türkiye. The Committee members' questions focused on the interstate case *Cyprus v. Turkey,* the case

[26] EU Rule of Law report 2024, country chapters for Bulgaria, Hungary, Italy, Poland, and Romania. Other than these five countries, no other EU member States had over 40 leading cases pending implementation.

of *Kavala v. Türkiye*, imprisoned politicians, and those concerning violations of the right to freedom of expression. I regret that the responses did not demonstrate a concrete plan or intention to implement these judgments. Meanwhile, information provided about progress in the implementation of *Opuz v. Türkiye*, concerning domestic violence, is an example of how some progress is being made in Türkiye to carry out reforms to address judgments that do not concern political or democratic rights.

18. On the issue of the statistics, it is important to note that focusing on the overall number of cases pending implementation, rather than the number and type of leading cases, can be very unhelpful. When the Russian Federation was a member of the Council of Europe, it claimed that it 'implemented' the vast majority of cases from the European Court. However, this was done not necessarily by improving human rights protections, but largely by paying money to applicants in order to close supervision of repetitive cases. In reality, most of the underlying human rights issues were not dealt with. The more useful way to assess the implementation of the Court's judgments by Russia would be by assessing its implementation of leading cases. The fact that three-quarters of leading cases concerning Russia still remain pending – 238 overall – reflects the fact that human rights protections in the country have worsened.

19. In the same way, not much clarity is gained through the claim by the Turkish authorities that the country has a good implementation record, because the Committee of Ministers has ended supervision of over 90% of cases finding a violation. Closure of a high number of repetitive cases was mostly achieved by paying compensation, not by resolving the underlying human rights issues – a fact reflected by Türkiye having 124 leading cases pending at the end of 2023 (the highest of any member State), a great many of which represent ongoing and systematic human rights violations affecting a very large number of people. Similar claims about strong ECHR compliance relying on data about implementation of overall cases have been made by representatives of the Turkish government in other fora.[27] I am concerned by this approach and urge stakeholders in the ECHR system to be sceptical about these kinds of claims.

4. Protecting democratic principles

20. The "Reykjavik Principles for Democracy", Appendix III to the 2023 Reykjavik Summit Declaration[28], reiterate that democracy is the "only means to ensure that everyone can live in a peaceful, prosperous and free society", and that Council of Europe States endeavour to "prevent and resist democratic back-sliding on our continent". The principles include a renewed focus on democratic participation through free and fair elections, with elections being "grounded in respect for relevant human rights standards, especially freedom of expression, freedom of assembly and association". This expressly includes having free and pluralistic media, as well as an environment in which "civil society, as well as human rights defenders, can operate free from hindrance". The principles also highlighted the importance of the separation of powers, and "independent, impartial and effective judiciaries" for a healthy, functioning democracy. In order to further the Council of Europe priorities agreed in Reykjavik, I therefore include a specific focus for this 12th Report on protecting democratic principles through the timely and efficient implementation of relevant ECHR judgments, specifically relating to:

20.1 the freedom of expression (Article 10);

20.2 the freedom of assembly and association (Article 11);

20.3 the right to free elections (Article 3 of Protocol 1);

20.4 abusive limitations of rights and freedoms (Article 18); and

20.5 the independence of the judiciary.

[27] Hürriyet Daily News, ''Türkiye ranks highest in compliance with ECHR decisions' – Türkiye News', 10 August 2022.
[28] Reykjavik Declaration – Uniting around our values.

4.1. Cases relating to the freedom of expression (Article 10 ECHR)

21. As highlighted in the "Reykjavik Principles for Democracy", free and fair elections are grounded in respect for freedom of expression. Moreover, "free, independent, plural and diverse media constitutes one of the cornerstones of a democratic society and journalists and other media workers should be afforded full protection under the law."[29]

22. In my 11th Report, I mentioned the judgment *Selhattin Demirtas v. Turkey (no.2)* as a case that was typical of a situation of a politically motivated violation of rights, which cannot coincide with democratic principles. The case concerned the politically motivated arrest and detention of Selhattin Demirtas, one of the leaders of the People's Democratic Party (HDP). The Court considered, amongst other violations, that his pre-trial detention violated his rights to freedom of expression protected by Article 10 of the Convention.

23. Similarly, Assembly Resolution 2381(2021) "Should politicians be prosecuted for statements made in the exercise of their mandate?"[30] raises concerns about the prosecution of politicians for exercising free speech in the exercise of their political mandates, in particular in Spain and Türkiye. The Assembly stressed "the crucial importance, in a living democracy, of politicians being able to freely exercise their mandates. This requires a particularly high level of protection of politicians' freedom of speech and freedom of assembly, both in parliament and when speaking to their constituents in public meetings or through the media, including social media." I regret to observe that this case is still awaiting implementation.

24. Freedom of expression cases concerning the protection of democratic principles include those relating to the safety of journalists,[31] restriction of access to the internet and blocking of internet sites,[32] a lack of media pluralism,[33] and the application of excessive defamation laws.[34] Leading cases involving a violation of Article 10 of the ECHR still remain pending in relation to Azerbaijan, Bulgaria, France, Georgia, Greece, Hungary, Italy, Lithuania, Poland, Portugal, the Republic of Moldova, Romania, Russia, Slovakia, Spain, Türkiye, and Ukraine.

25. A number of ECHR cases, or groups of cases, concern unjustified and disproportionate interferences with freedom of expression on account of criminal proceedings for having expressed opinions that do not incite hatred or violence. The chilling effect on society as a whole of such proceedings and on the freedom of expression in general is of grave concern. There are a significant number of groups of cases relating to the state of freedom of expression in Türkiye,[35] and legislative changes are urgently necessary to clarify that the exercise of the right to freedom of expression does not constitute an offence.

4.2. Cases relating to freedom of assembly and association (Article 11 ECHR)

26. The right to assembly, and the related right to peaceful protest, is crucial for a functioning democracy.[36] The treatment of anti-war protesters in Russia has shone a particular light on the vital importance of the right to protest and the nefarious effects that a clamp down on such rights can have on a democracy. Of similar

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[29] Ibid., at principles 2 and 7.
[30] Resolution 2381(2021).
[31] Cases include *Gongadze v Ukraine,* Application No. 34056/02, judgment of 8 November 2005. Cases may also relate to ineffective investigations in response to criminal offences committed against journalists, which impacts on the ability of journalists to do their jobs and thus freedom of the press. Such cases include, for example, *Khadija Ismayilova v Azerbaijan group,* Application No. 65286/13 and 57270/14, judgment of 10 January 2019; Application No.30778/15, judgment of 27 February 2020; Application No. 35283/14, judgment of 7 May 2020; *Dink* v. *Turkey* No 2668/07, judgment of 14 December 2010; and the *Nedim Şener v Turkey* group, Application No. 38270/11, judgment of 8 July 2014.
[32] *RFE/RL and Others v. Azerbaijan*, Application No. 56138/18, judgment of 13 June 2024.
[33] Such as *Manole and Others v Republic of Moldova*, Application No. 13936/02, judgment of 17 September 2009.
[34] Such as the groups of *Ghiulfer Predescu v. Romania*, Application No. 29751/09 and others, judgment of 27 June 2017, *Belpietro v. Italy*, Application No. 43612/10, judgment of 24 September 2013, and *Kurlowicz v. Poland*, Application No. 41029/06, judgment of 22 June 2010; *Artun and Güvener v Turkey* group, Application No. 75510/01, judgment of 26 June 2007.
[35] In addition to the above-mentioned cases, this includes the *Öner and Türk v Turkey* group, Application No. 51962/12, judgment of 31 March 2015, the *Işıkırık v Turkey* group, Application No. 41226/09, judgment of 14 November 2017, the *Altuğ Taner Akçam v Turkey* group, Application No. 27520/07, judgment of 25 October 2011.
[36] As highlighted in the "Reykjavik Principles for Democracy", "civil society is a prerequisite for a functioning democracy" and States committed to "supporting and maintaining a safe and enabling environment in which civil society, as well as human rights defenders, can operate free from hindrance, insecurity and violence". Reykjavik Declaration – Uniting around our values, at principles 2 and 9.

importance is the freedom of association, and the Court has underlined its direct relationship with democracy and pluralism, noting that the state of democracy in a country can be measured by the way in which this freedom is secured under national legislation and in which the authorities apply it in practice.[37]

27. Article 11 cases that are significant for protecting democratic principles include those relating to holding and policing peaceful demonstrations and protests; the freedom to create and participate in associations (including civil society) and the freedom to create and participate in political parties. However, significant ECHR leading cases finding a violation of the freedom of peaceful assembly have yet to be implemented, including cases relating to Armenia, Azerbaijan, Georgia, Hungary, Romania, Russia, Türkiye and Ukraine.[38]

28. Cases relating to the right to peaceful political protest include, for example, *Mushegh Saghatelyan v Armenia*, which concerns the disproportionate and unnecessary dispersal of peaceful political protests. This was one of the main subjects of my fact-finding meetings in Armenia in December 2024. In Yerevan I met with the Minister of Internal Affairs, Arpine Sargsyan; the government agent, Yegishe Kirakosyan; the Deputy Minister of Justice Tigran Dadunts; a group of Armenian civil society organisations (the Democracy Development Foundation, PINK Armenia, Protection of Rights without Borders, Helsinki Foundation Vanadzor, and the Law Development and Protection Foundation); and a group of Armenian parliamentarians (Mr Vladimir Vardanyan, Ms Arusyak Julhakyan, Ms Maria Karapetyan and Mr Sargis Khandanyan). My visit made clear that significant steps forward have been taken to implement the cases, including legislative changes to ensure that the use force by police is more proportionate, as well as the start of trainings for police offices to ensure the standards are put into practice. At the same time, civil society emphasised that these measures have yet to result in positive practical effects, alleging the continuation of human rights violations during peaceful assemblies, including violence by State agents. Noting that the case is still under the supervision of the Committee of Ministers, I hope that the positive steps taken so far can be built upon to ensure concrete protections for the right to freedom of assembly in Armenia.

29. Other important freedom of assembly cases pending implementation include *Gafgaz Mammadov v Azerbaijan*, which concerns the dispersal of unauthorised peaceful demonstrations posing no threat to public order, the *Oya Ataman v Turkey* group concerning the prosecution of participants in peaceful protest as well as the use of excessive force to disperse peaceful demonstrations, and the *Lashmankin and others v Russia* group relating to the prohibition on participating in public gatherings and protests.

30. Notably, the judgment of the European Court of Human Rights in *Ecodefence and Others v. Russia* remains unimplemented. The ruling concerned the violation of 73 NGOs' right to freedom of association arising from the Law on Foreign Agents Act, which had resulted in administrative fines, criminal proceedings, and the dissolution of some organisations. In October 2024 the judgment was followed by *Kobaliya and Others* v. Russia, where the Court found a similar violation for another 107 applicants. In order to protect civil society, member States must ensure that their NGO legislation is consistent with these rulings, and expeditiously implement any similar rulings provided by the Court.

31. There has been a long-standing failure to implement certain cases relating to the registration of certain associations in violation of Article 11 ECHR. This has included the routine refusal for over 18 years to register associations with "goals aiming at the recognition of the Macedonian minority in Bulgaria" *(UMO Ilinden and Others v Bulgaria)*, in which, notwithstanding various steps taken, the Registration Agency and the Courts still fail to comply with the requirements of the Convention. Similarly, the Greek Courts, including the Court of

[37] Department of Execution of Judgments thematic factsheet on Freedom of Assembly and Association.
[38] HUDOC website. *Patyi and Others v Hungary,* Application No. 5529/05, judgment of 7 October 2008*; Lashmankin and Other v Russia*, Application No. 57818/09, judgment of 7 February 2017; *Karpyuk and Lyakhovych v Ukraine,* Application No30582/04 and 32152/04, judgment of 6 October 2015; *Association Accept and others v Romania,* Application No. 19237/16, judgment of 1 June 2021; *Identoba and Others v Georgia,* Application No. 73235/12, judgment of 12 May 2015; *Emin Huseynov v Azerbaijan,* Application No. 59135/09 and 1/16, judgments of 7 May 2015 and 13 July 2023; *Shmorgunov and Others v Ukraine,* Application No. 15367/14 and 13 others, judgment of 21 January 2021; *Oya Ataman v Turkey,* Application No. 74552/01, judgment of 5 December 2006; *Navalnyy v Russia,* Application No. 29580/12 and 4 others, judgment of 2 February 2017; Application No. 29580/12 and 4 others, judgment of 15 November 2018, Application No. 43734/14, judgment of 9 April 2019; *Alekseyev v Russia,* Application No. 4916/07 and 14599/09, judgment of 21 October 2010; *Gafgaz Mammadov v Azerbaijan,* Application No. 60259/11, judgment of 15 October 2015; *Vyerentsov v Ukraine,* Application No. 20372/11, judgment of 11 April 2013; *Laurijsen and Others v. the Netherlands*, Application No. 56896/17, judgment of 21 November 2023; *Geylani and Others v. Türkiye*, Application No. 10443/12, judgment of 12 September 2023; *Makarashvili and Others v. Georgia*, Application No. 23158/20, judgment of 1 September 2022.

Cassation, have consistently and repeatedly failed to uphold the right of association of the organisations in the *Bekir Ousta v Greece* group of judgments, contravening the rulings of the ECHR and the Convention and these remain unimplemented for 17 years. Despite the legislative amendment adopted by Greece in 2017, the organisations have still not received *restitutio in integrum*, largely due to the judgments of the Greek Court of Cassation in 2021 and 2022 which considered the violations to be lawful on grounds most of which were expressly impugned by the ECHR. Similarly, the Russian Courts' decisions have also proved to be an obstacle to the right to freedom of association in relation to the dissolution of Jehovah's witness organisations, and their refusal to comply with the ECHR's judgments in the group *Taganrog LRO and Others v Russia* (concerning the dissolution of Jehovah's Witness associations in Russia, a ban on all their activities and detention of some of their members).[39]

4.3. Cases relating to the right to free elections (Article 3 of Protocol 1 ECHR and related cases)

32. The right to free and fair elections is obviously central to a functioning democracy.[40] As set out in the Department for the Execution of Judgments' (DEJ) thematic factsheet on the Right to Free Elections, "the European Court has underlined that democracy constitutes a fundamental element of the 'European public order'. The right to free elections guaranteed under Article 3 of Protocol No. 1… is crucial to establishing and maintaining the foundations of an effective and meaningful democracy governed by the rule of law and is accordingly of prime importance to the Convention system. The Convention does not lay down an obligation of abstention or non-interference, as with most civil and political rights, but one of adoption by the state, as the ultimate guarantor of pluralism, of positive measures to guarantee democratic legislative elections. The Court has established that the right to free elections also implies individual rights, including the right to vote and to stand for election." [41] Moreover, in order to guarantee these rights, there should be effective remedies for the regulation of electoral disputes. However, many leading cases finding a violation of the right to free elections are yet to be implemented, including cases relating to Belgium, Bosnia and Herzegovina, Bulgaria, Hungary, Türkiye and Ukraine.[42]

33. Relevant cases include the *Namat Aliyev v Azerbaijan* group, which concerns the arbitrary application of electoral legislation and the absence of procedures affording adequate safeguards against arbitrariness, including the arbitrary rejection of complaints regarding irregularities or breaches of electoral law, the arbitrary cancelation of registration of candidates and the erroneous application of electoral law. Other cases of note include *Mugemangango v Belgium* which concerns procedural guarantees in post-election disputes and the right to an effective remedy, and *Cegolea v Romania*, which relates to an arbitrary eligibility requirement which disadvantages national minority organisations not yet represented in Parliament.

34. Whilst Article 3 of Protocol 1 only applies to elections relating to the "choice of the legislature", other provisions can also be applicable to, for example, discriminatory provisions in other elections, such as presidential elections. In this way, Article 1 of Protocol 12 (the principle of non-discrimination) has also been found to apply and to have been violated in discriminatory provisions of electoral law relating to, for example, presidential elections in Bosnia and Herzegovina. The judgments in the *Sejdić and Finci v. Bosnia and*

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[39] I am also concerned by the pending implementation of series of other judgments concerning Jehovah's Witnesses, including those concerning conscientious objection in the group *Ulke v. Turkey*, Application No. 39437/98, judgment of 24 January 2006, and Teliatnikov v. Lithuania, Application No. 51914/19, judgment of 7 June 2022. I met with representatives of the European Association of Jehovah's Witnesses in October 2024, who clearly explained to me the importance of these cases and the challenges in their implementation.

[40] As highlighted in the "Reykjavik Principles for Democracy", the States committed to "actively enable and encourage democratic participation at national, regional and local levels through free and fair elections" and to "hold elections and referenda in accordance with international standards and take all appropriate measures against any interference in electoral systems and processes". Reykjavik Declaration – Uniting around our values, at principles 1 and 2.

[41] Department of Execution of Judgments thematic factsheet on Right to Free Elections.

[42] HUDOC website. *Bilotserkivska v Ukraine,* Application No. 17313/13, judgment of 3 February 2022*, Markov v Ukraine,* Application No. 66811/13, judgment of 3 February 2022*, Davydov and Others v Russia,* Application No. 75947/11, judgment of 30 May 2017, *Yabloko Russian United Democratic Party and Others v Russia,* Application No. 18860/07, judgment of 8 November 2016*, Riza and Others v Bulgaria,* Application No. 48555/10 and 48377/10, judgment of 13 October 2015*, G.K. v Belgium,* Application No. 58302/10, judgment of 21 May 2019*, Dicle and Sadak v Turkey*, Application No. 4862/07, judgment of 16 June 2015*, Mugemangango v Belgium,* Application No. 310/15, judgment of 10 July 2020*, Cegolea v. Romania*, Application No. 25560/13, judgment of 24 March 2020, *Bakirdzi and E.C. v. Hungary*, Application No. 49636/14, judgment of 10 November 2022, *Ekoglasnost v. Bulgaria*, Application No. 30386/05, judgment of 6 November 2012, *Party for a Democratic Society (DTP) and Others v. Turkey*, Application No. 3840/10, judgment of 12 January 2016.

Herzegovina[43] group concern discrimination against persons belonging to groups other than the "constituent peoples" of Bosnia and Herzegovina (i.e. Bosniaks, Croats and Serbs) as regards their right to stand for election to the House of Peoples and the Presidency of Bosnia and Herzegovina. Notwithstanding the Committee of Ministers' interventions and the extensive support offered to the national authorities by both the Council of Europe and the European Union[44], the elections of 2010, 2014, 2018 and 2022 were based on what has been described as a "discriminatory electoral system in clear violation of the requirements" of the Convention.[45] The Venice Commission has produced numerous Opinions on the subject, notably calling on the people and politicians of Bosnia and Herzegovina to gradually replace ethnic representation mechanisms with representation based on the citizenship system.[46] The inherently discriminatory requirements for voting in certain elections under the constitution of Bosnia and Herzegovina continue to be a significant concern, reminding us how politics can effectively undermine human rights.

4.4. Cases relating to abusive limitation of rights and freedoms (Article 18 ECHR)

35. I am concerned by the public's toleration of the authorities in certain member States violating the Convention for political purposes – without thinking about the long-term consequences. It makes me recall the story of the Hunter, Horse, and Stag in Aesop's fables. The Horse agreed for the Hunter to put a bridle and saddle on him, so that together they could catch the Stag. After the Stag was overcome, the Horse asked the Hunter to get off and release him. "Not so fast, friend," said the Hunter. "I have now got you under bit and spur and prefer to keep you as you are at present".

36. Article 18 violations have a very specific nature in that these are human rights violations in pursuit of an unlawful ulterior purpose involving a misuse of power. They concern primarily the arrest, detention, and/or conviction of government critics, civil society activists, human-rights defenders and politicians – in many cases involving criminal prosecutions for charges unsupported by evidence and where the ulterior motive is to silence of punish the applicant and discourage others. As I highlighted in the 2023 11th Report, "violations of Article 18 of the Convention deny *par excellence* the very gist of democracy and are regarded as particularly serious given that they relate to the purposive misuse of power".[47] They often indicate pervasive and systemic malfunctioning within a constitutional system, such that the separation of powers is eroded and thus the system is open to the misuse and abuse of power for ulterior motives. As highlighted in the "Reykjavik Principles for Democracy", the States committed to "uphold the separation of powers with appropriate checks and balances between different State institutions, at all levels, to prevent any excessive concentration of power", as well as to fight corruption, "including through prevention and by holding accountable those exercising public power".[48] However, leading ECHR cases finding a violation of Article 18 have yet to be implemented for cases concerning Azerbaijan, Bulgaria, Georgia, Poland, Russia, Türkiye and Ukraine.[49]

37. The most prominent of these is the case of *Osman Kavala v Turkey*. Mr Kavala is a human rights defender and civil activist in Türkiye. A 2019 ECHR judgment found that the arrest and pre-trial detention of Mr Kavala in 2017 (within the context of Gezi Park events of 2013 and the attempted coup of 2016) violated his human rights and took place in the absence of evidence to support a reasonable suspicion that he had committed an offence. Moreover, in the absence of sufficient evidence to support a reasonable suspicion that Mr Kavala had committed an offence, there was obviously insufficient evidence to convict him of any such an

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[43] Application No. 27996/06, judgment of 22 December 2009 (Grand Chamber), and three other judgments: *Zornić v. Bosnia and Herzegovina,* application No. 3681/06*,* judgment of 15 July 2014; *Šlaku v. Bosnia and Herzegovina,* application No. 56666/12, judgment of 26 May 2016 and *Pilav v. Bosnia and Herzegovina,* application No. 41939/07, judgment of 9 June 2016.

[44] Addressing the judgment is one of the 14 priorities for the accession of Bosnia and Herzegovina to the European Union – European Commission, Commission Opinion on Bosnia and Herzegovina's membership of the European Union, SWD(2019)222, 29 May 2019.

[45] Decision adopted at 1324th (DH) meeting, 20 September 2018, CM/Del/Dec(2018)1324/4, paragraph 1.

[46] CDL-AD(2005)004-e Opinion on the Constitutional Situation in Bosnia and Herzegovina and the Powers of the High Representative adopted by the Venice Commission at its 62nd plenary session (Venice, 11-12 March 2005).

[47] Implementation of the judgments of the European Court of Human Rights: 11th report, at paragraph 44.

[48] Reykjavik Declaration – Uniting around our values, at principles 4 and 6.

[49] HUDOC website. *Miroslava Todorova v Bulgaria,* Application No. 40072/13, judgment of 19 October 2021*, Navalnyy v Russia,* Application No. 29580/12 and 4 others, judgment of 15 November 2018*, Merabishvili v Georgia,* Application No. 72508/13, judgment of 28 November 2017, *Juszczyszyn v Poland,* Application No. 35599/20, judgment of 6 October 2022, *Mammadli v Azerbaijan,* Application No. 47145/14, judgment of 19 April 2018, *Lutsenko v Ukraine,* Application No. 6492/11, judgment of 3 July 2012, *Kogan and Others v. Russia*, Application No. 54003/20, judgment of 7 March 2023.

offence. Notwithstanding this, Mr Kavala has continued to be detained since 2017 in breach of the ECHR's judgment. Given Türkiye's persistent refusal to implement the Court's judgment in this case, the Committee of Ministers referred the matter to the Court under Article 46(4). The ensuing 2022 ECHR Article 46(4) judgment found that Türkiye had failed to fulfil its obligation to comply with final judgment of the ECHR, including through failing and refusing to release Mr Kavala. Nevertheless, Mr Kavala remains in prison.

38. This is only the second time that the ECHR has made such a significant finding. The continued, flagrant, persistent, and incomprehensible refusal of Türkiye to release Mr Kavala, as ordered by the Strasbourg Court, presents a clear risk to the rule of law and the Convention system as a whole and is therefore a grave concern to all actors within the Council of Europe system. This will necessarily continue to be a stark focus and area of concern to the credibility of the Council of Europe and the Convention system for so long as Mr Kavala continues to be arbitrarily detained in Türkiye. In October 2023 the Assembly adopted Resolution 2518, in which it called unequivocally for the release of Osman Kavala, noting that "This truly exceptional case is undermining the basis of the Convention system as a whole". The Assembly noted that the time had come to take steps to initiate the complementary joint procedure and recalled its ability to challenge Türkiye's credentials.[50] However, neither of these steps have yet been taken.

39. Other notable cases relating to Article 18 include the politically motivated arbitrary detention of Mr Selahattin Demirtaş, the former leader of the People's Democratic Party (HDP), a pro-Kurdish opposition party and a member of the Turkish National Assembly (see paragraph 22). In *Selahattin Demirtaş v Turkey,* the ECHR found that the domestic courts had failed to indicate specific facts or information that could give rise to a reasonable suspicion that the applicant had committed the offences such that this would justify his arrest and pre-trial detention. Similarly, in *Yüksekdağ Şenoğlu and others* v. *Turkey*, Ms Figen Yüksekdağ Şenoğlu continues to be imprisoned , despite the ECHR finding that she had been detained and charged in the absence of a reasonable suspicion that she had committed an offence. 11 other members of the Turkish National Assembly in the same case are released but awaiting trial on charges that the ECHR found were not supported by reasonable suspicion and pursued an ulterior purpose.[51]

40. I am very concerned about the impact that the failure to implement these cases has on Türkiye. If the government can have undue influence over the prosecutorial services and the judiciary, and elected representatives can be detained and imprisoned arbitrarily, democracy is at great risk. One example of great concern is that Istanbul Mayor Ekrem Imamoğlu, a leading figure in Türkiye's main opposition the Republican People's Party (CHP), who is considered to be a potential presidential candidate in 2028. Three criminal indictments have now been issued against him, which would seek to imprison him and ban him from Turkish politics. Given the failure of the Turkish authorities to implement reforms made necessary by the cases set out above to ensure the independence of the judiciary and prevent the arbitrary prosecution of politicians, serious questions naturally arise as to whether the charges against Mr Imamoğlu are politically motivated. Similarly, 10 mayors have been removed since Türkiye's local elections in 2024. Most recently in Van the democratically elected mayor from the Democratic Party was removed from office, thus in effect discarding the votes of 1 million people. Following the March 2019 local elections, only 6 out of 65 municipalities won by the HDP were able to continue operating without a trustee appointment until 2024.

41. The *Mammadli v Azerbaijan* group similarly concerns politically motivated arrests and prosecutions of human rights defenders, civil society activists and a journalist. All in this group have been pardoned, released, and/or had criminal proceedings against them discontinued. However, seven applicants who had been convicted have yet to have their convictions quashed by the Supreme Court and have their criminal records erased, which is required for *restitutio in integrum*. The applicant in the leading case, Václav Havel prize winner Anar Mammadli, was re-arrested on 29 April 2024 and placed in pre-trial detention.

42. Finally, regarding the case of *Öcalan v. Turkey (No.2)* I am concerned by the continued absence in Türkiye of a mechanism that would allow the review of aggravated life sentences after a certain minimum term with a possibility of release, in cases where the requirements of punishment and deterrence have been entirely fulfilled and the person no longer poses a danger to society.

4.5. Cases relating to the independence of the judiciary

[50] Resolution 2518, 'Call for the immediate release of Osman Kavala', 12 October 2023.
[51] *Selahattin Demirtas (No.2) v. Türkiye* group (14305/17). See CM/Del/Dec(2024)1514/H46-38 of 3-5 December 2024.

43. Cases relating to the independence of the judiciary and other oversight mechanisms are crucial to avoiding an abuse or misuse of power and to upholding a functioning democracy.[52] This includes cases relating to the adequacy of procedural safeguards around the removal or appointment of judges, or other measures to sanction or discipline judges, especially where the abuse of such sanctions might constitute a restriction on a judge's freedom of expression.[53] It also includes cases concerning the adequacy and independence of procedures for appointing judges.[54]

44. Poland has been the subject of ECHR judgments concerning all of these issues. These rulings were the main focus of my fact-finding visit to Warsaw, carried out in September 2024. I was grateful for a wide range of high-level meetings, including with the Chairman of the Standing Committee of the Council of Ministers Mr Maciej Berek, the Minister for Equality Ms Katarzyna Kotula, the Minister of Justice Adam Bodnar, Undersecretary of State at the Ministry of Foreign Affairs Ms Henryka Mościcka-Dendys, the Deputy Commissioner for Human Rights Mr Valeri Vachev, the President of the National Council of the Judiciary Ms. Dagmara Pawelczyk-Woicka, the First President of the Supreme Court Dr Małgorzata Manowska, the Chief of the Chancellery of the President of Poland Ms Małgorzata Paprocka, the head of the Polish parliamentary delegation to the Parliamentary Assembly Ms Agnieszka Pomaska, as well as Mr Patryk Jaskulski and other distinguished parliamentarians, and a diverse group of civil society organisations (including representatives of Helsinki Foundation for Human Rights, Iustitia ,Forum Obywatelskiego Rozwoju, and Votum Association of Judges). We discussed the important and complex issues raised by the judgments of the ECHR, concerning the composition of the Constitutional Court,[55] the independence of the National Council of the Judiciary,[56] appointments to the Supreme and lower-level courts,[57] and disciplinary proceedings against judges.[58]

45. I welcomed the clear desire of the government to carry out reforms on these significant issues, which they regarded as extremely pressing and which are indeed necessary to comply with judgments of the ECHR. This is highly welcome, particularly given the opposition to implementation indicated by the previous administration and certain judicial organs which the former governing majority had appointed.[59] Meanwhile, I

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[52] As highlighted in the "Reykjavik Principles for Democracy", the States committed to "ensure independent, impartial and effective judiciaries. Judges must be independent and impartial in the exercise of their functions and free from external interference, including from the executive". Reykjavik Declaration – Uniting around our values, at principle 5.

[53] This includes the cases of *Miroslava Todorova v Bulgaria,* Application No. 40072/13, judgment of 19 October 2021, *Baka v Hungary,* Application No. 2026/12, judgment of 23 June 2016, *Broda and Bojara v Poland,* Application No. 26691/18 and 27367/18, judgment of 29 June 2021*, Grzeda v Poland,* Application No. 43572/18, judgment of 15 March 2022*; Zurek v. Poland*, Application No. 39650/18, judgment of 16 June 2022; *Juszczyszyn v. Poland*, Application No. 35599/20, judgment of 6 October 2022; *Tuleya v. Poland*, Application No. 21181/19, judgment of 6 July 2023; *Brisc v Romania,* Application No. 26238/10, judgment of 11 December 2018; *Bilgen* v. *Turkey*, 1571/07, judgment of 9 June 2021.

[54] In *Xero Flor v. Poland,* Application No. 4907/18 judgment of 7 August 2021, the ECHR found a violation of Article 6 of the Convention due to the composition of the Polish Constitutional Tribunal. The ECHR found that the election of certain judges to the Constitutional Tribunal was irregular as it was not in conformity with the Polish constitutional provisions relating to the election of judges to the Constitutional Court. Judges had already been elected by the previous Sejm (but not approved by the President) therefore it was inappropriate for the new Sejm to seek to re-elect different judges in their place. These irregularities infringed the applicant company's right to a tribunal established by law, contrary to Article 6 ECHR, given the participation in judicial deliberations of irregularly appointed judges. In the Reczkowicz v Poland, group of cases, the ECHR found violations of the right to a tribunal established by law, contrary to Article 6 ECHR, due to the participation in domestic proceedings of the Polish Supreme Court judges that were appointed in an inherently deficient procedure on the motion of the National Council of the Judiciary, lacking independence from the legislature and the executive, and noting the wider context of reforms aimed at weakening judicial independence. The cases in this group include the 2021 judgments of *Reczkowicz v. Poland,* Application No. 43447/19, judgment of 22 July 2021 and *Dolińska-Ficek and Ozimek v. Poland,* Application No. 49868/19 and 57511/19, judgment of 8 November 2021*,* as well as the 2022 judgment *Advance Pharma Sp. z o.o.* The same issue is also present in the pilot-judgment of *Wałęsa v. Poland*, Application No. 50849/21, judgment of 23 November 2023.

[55] *Xero Flor v. Poland,* Application No. 4907/18 judgment of 7 August 2021.

[56] *Reczkowicz v. Poland*, 43447/19, judgment of 22 July 2021; *Grzeda v. Poland*, Application No. 43572/18, judgment of 15 March 2022; *Wałęsa v. Poland*, Application No. 50849/21, judgment of 23 November 2023.

[57] *Reczkowicz v. Poland*, 43447/19, judgment of 22 July 2021; *Dolińska-Ficek and Ozimek v. Poland,* Application No. 49868/19 and 57511/19, judgment of 8 November 2021*, Advance Pharma sp. z o.o v. Poland*, Application no. 1469/20, judgment of 3 February 2022; *Broda and Bojara v. Poland,* Application No. 26691/18 and 27367/18, judgment of 29 June 2021.

[58] *Zurek v. Poland*, Application No. 39650/18, judgment of 16 June 2022; *Juszczyszyn v. Poland*, Application No. 35599/20, judgment of 6 October 2022; *Tuleya v. Poland*, Application No. 21181/19, judgment of 6 July 2023.

[59] In response to the ECHR judgments, the Polish Constitutional Tribunal delivered two judgments declaring that Article 6(1) of the Convention was incompatible with the constitution. Moreover, the previous Polish government informed the

was concerned by the fact that the constitutional crisis in Poland has created a wide range of factions in the legal community, who are deeply divided about whether the current judicial order should be maintained or reformed (and, if it should be reformed, the form those reforms should take). These divisions of opinion about the core legal institutions are dangerous to the rule of law and unsustainable.

46. The current stalemate constitutes significant barriers to reforms taking place. The principal barrier is the fact that the current President of Poland – who can refuse to sign new legislation under the Polish Constitution[60] – has publicly declared his opposition to the judicial reforms proposed by the government (this was confirmed during my meeting with the Chief of his Chancellery). I concluded that the different factions in Poland's Constitutional crisis are waiting until the Presidential elections of Spring 2025, in the hope that the election will help protect the current judicial order or facilitate its transformation (depending on their point of view). My hope is that the constitutional crisis in Poland can be resolved as swiftly as possible, with reforms beginning this year which will ultimately serve to bring the legal profession in Poland together and fully implement judgments of the ECHR, in compliance with the relevant opinions of the Venice Commission and in line with the indications provided by the Committee of Ministers.

47. Returning to the *Osman Kavala v. Turkey* case, the Committee of Ministers has "strongly urg[ed] the Turkish authorities to take all legislative and other measures to ensure independence of the judiciary, in particular by securing the structural independence of the Council of Judges and Prosecutors from the executive, and deeply regretted once again the absence of any progress on this issue."[61]

5. Inter-State cases and individual cases with inter-State features

48. Many of the inter-State cases and individual cases related to inter-state issues pending implementation are linked to bitter post-conflict situations or unresolved or frozen conflicts. Key examples are *Cyprus v. Turkey*; *Georgia v. Russia (I), (II) and (IV)*; individual cases relating to the situation in the Transnistrian region of the Republic of Moldova;[62] and cases relating to the situation in Karabakh.

49. Such cases are likely to pose a challenge for years to come given the number of inter-State applications currently pending before the ECHR. There are currently 12 interstate applications pending before the Court concerning conflicts: one brought by Ukraine and the Netherlands against Russia; three brought by Ukraine against Russia; four brought by Armenia against Azerbaijan; one brought by Armenia against Türkiye; two brought by Azerbaijan against Armenia; and one brought by Georgia against Russia. In addition, there are also around 10,500 individual applications which stem from the same conflicts.[63] Whilst pending applications will not necessarily result in judgments requiring implementation by a State, or supervision by the Committee of Ministers, one can nevertheless surmise that given the growth in such cases it would be prudent for the Council of Europe to develop tools for dealing with interstate cases and for facilitating the implementation of relevant judgments. In this context, it is worth highlighting the proposals adopted by the Parliamentary Assembly in Resolution 2559, "Reparation and reconciliation processes to overcome conflicts and build a common peaceful future – the question of just and equal redress".

50. Since the 11th report, the Committee held useful exchanges during its meeting in Larnaca on 22-23 May 2023, focussing notably on the *Cyprus v Turkey* interstate case as well as the individual applications relating to the consequences of the Turkish military invasion in Cyprus of 1974. Speakers included Ms Anna Koukkides-Procopiou, Minister of Justice and Public Order of the Republic of Cyprus; Dr Costas Paraskeva, Associate Professor of Public and Human Rights Law, University of Cyprus, Advocate and former member of the Committee for the Prevention of Torture; Mr Polyvios G. Polyviou, Lawyer; and Mr Achilleas Demetriades, Lawyer. The hearing also focussed on the Georgia v Russia inter-State case with the participation of Mr Levan Meskhoradze, Georgia and Azerbaijan Unit, Directorate General Human Rights and Rule of Law, Council of Europe. Speakers highlighted the need for there to be consequences for aggression – to do otherwise would merely encourage tolerance for further war and aggression in Europe. The speakers acknowledged the role

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ECHR Court Registry that it will not comply with an interim measure issued under Rule 39 of the Rules of Court in cases relating to judicial reform.

[60] Should the President refuse to sign a bill into law, his veto can be overturned by parliament only with a three-fifths majority. However, the current Polish government does not have such a majority and the President is closely aligned with the main opposition party.

[61] Decision of the Committee of Ministers, CM/Del/Dec(2024)1507/H46-37, 17-19 September 2024

[62] For example, *Catan and Others v. Russia group* Application No. 43370/04 and 18454/06, judgment of 19 October 2012; *Mozer v. Russia* group, Application No. 11138/10, judgment of 23 February 2016.

[63] European Court of Human Rights, Annual Report 2024, page 32.

that politics played in seeking to enforce inter-State judgments, but also highlighted the role of accountability and the rule of law (and not only power politics) in securing a peaceful and safe European continent.

51. The exchange fully highlighted the challenges in securing the timely and effective implementation of the Court's judgments in inter-State cases, as well as the frustration felt by the individuals whose rights are ignored and seriously affected through the continued and I could say deliberate delays in implementing the judgments of the Court due to politics and extrajudicial reasons. Interstate cases involve by their own nature, some very sensitive issues (like the question of the effective investigation of missing persons in Cyprus since 1974) and other basic human rights considerations (e.g. property rights of Greek Cypriot owners in the occupied part of Cyprus or the right to education of the enclaved persons). The importance of political will to resolving such cases was underlined, as well as the complex interplay between the political solutions necessary to reconciliation and to resolving complex post-conflict situations, and the individual rights upheld by a given ECHR judgment. Notwithstanding the award of just satisfaction in 2014 in the 4th *Cyprus v Turkey* interstate case, this has still not been paid over 10 years later, seriously questioning the right to an effective remedy for human rights violations.[64]

52. The three *Georgia v. Russia* judgments involve (i) the deportation of Georgians from Russia in 2006, (ii) the violation of the right to life, freedom from torture, arbitrary detentions, right to property and others during the invasion of Abkhazia and South Ossetia in 2008, and (iii) various violations stemming from the subsequent "borderisation" process. The Court awarded just satisfaction claims of €10 million in the first case and €130 million in the second case, but these have still not been paid (the Court is yet to decide on just satisfaction in *Georgia v. Russia (IV)*). Just satisfaction (compensation), however, is just one of many measures required from the Russian authorities in order to implement these cases – for example, thousands of internally displaced persons in Georgia want to return home, but Russia continues to create obstacles for internally displaced persons. Fundamentally this requires political will and effective measures to ensure judgment implementation. One proposal discussed has been the seizing of state assets held in third countries – this is explored in more detail in the context of the Russian Federation below.

6. The implementation of judgments by the Russian Federation

6.1. Overview

53. The Russian Federation ceased to be a member of the Council of Europe on 16 March 2022 and ceased to be a party to the European Convention on Human Rights six months after this, on 16 September 2022. Russia has a continuing obligation to implement judgments of the Strasbourg Court relating to violations of the Convention up until 16 September 2022.

54. According to the Annual report 2023, the Russian Federation has the largest number of cases pending implementation, at 2,566 – meaning that over 40% of all cases pending execution relate to Russia. Moreover, Russia has the largest number of leading cases pending implementation, with 238 recorded in the Annual Report 2023.

55. Even before Russia' expulsion from the Organisation, it had a poor record of implementation of ECHR judgments. With some notable exceptions, it generally paid the just satisfaction awarded by the Court. However, it's record of carrying out general measures in response to leading cases was extremely poor. This was reflected by a severe degradation of human rights in the country and its descent into authoritarianism.

56. On 11 June 2022 a new law entered into force in the Russian Federation regarding the execution of judgments. It stated that judgments of the European Court which became final after 15 March 2022 shall not be enforced, nor shall they serve as a ground for the reopening of proceedings. Just satisfaction awarded would be paid until 1 January 2023 for judgments which became final before 15 March 2022. However, payment will be made in roubles and only to bank accounts in Russia. The Russian authorities have now

[64] *Cyprus v Turkey* (just satisfaction) judgment of 2014, which followed on from the merits judgment of 2001. In the just satisfaction judgment, the ECHR awarded 30 million euros for non-pecuniary damage suffered by the relatives of missing persons, and 60 million euros in respect of non-pecuniary damage suffered by enclaved Greek-Cypriot residents of the Karpasia-Karpas peninsula (to be distributed by the Cypriot Government to individual victims).

ceased payment of just satisfaction in all cases and ceased communication with the Committee of Ministers' implementation supervision process.[65]

57. The Committee of Ministers has published a number of strategy papers regarding the supervision of the execution of cases pending against the Russian Federation. In December 2022, in the absence of engagement from the Russian authorities, the Committee of Ministers resolved to enhance its engagement with Russian civil society, as well as relevant United Nations' bodies, and create an online public register of outstanding just satisfaction awards concerning the Russian Federation. [66]

58. In its most recent Decision on the issue of December 2024, the Committee of Ministers instructed the secretariat to continue its co-operation with other international organisations to highlight the pending judgments, explore further avenues to reinforce co-operation with Russian civil society on this issue, further enhance work on visibility and communication as regards the CM's supervision of ECHR judgments concerning Russia; and prepare a document prior to each quarterly CM/DH meeting offering an overview of the execution measures required in all leading Russian cases pending implementation. The Committee of Ministers also agreed to continue to review the implementation of interstate cases concerning Russia, and cases with interstate elements, at regular intervals; invited the Secretary General to send a letter once per year to the Russian Minister of Foreign Affairs, informing him of the decisions and resolutions adopted during the year by the Committee of Ministers concerning cases where the Russian Federation is the respondent State; and agreed to review the strategy in December 2025 at the latest.[67]

6.2. Analysis

59. Unfortunately, the Committee of Ministers has very limited tools at its disposal to ensure the effective implementation of ECHR judgments against Russia. The strategy adopted largely focuses on co-operating with the UN, liaising with Russian civil society, sending symbolic messages to the Russian authorities, enhancing the visibility of the judgment supervision process, and keeping the supervision of the cases under review. These measures may help to raise the profile of the judgments and keep them 'alive' but are highly unlikely to lead to implementation.

60. Implementation will realistically happen in only one of two possible ways. First, if the Russian Federation undergoes fundamental political change and seeks to rejoin the Council of Europe or otherwise reintegrate the European legal order. Second, partial implementation of the judgments might be achieved through obtaining the payment of just satisfaction through some creative means. The Assembly should focus on the second of these options for the time being.

6.3. Ensuring the payment of just satisfaction due in judgments of the European Court of Human Rights concerning the Russian Federation.

61. As of 15 January 2025, over three billion euros is owed to applicants by the Russian Federation, as just satisfaction in judgments of the ECHR (a total of 3,011,965,800.80 EUR including default interest). This includes 156,754,832.80 EUR relating to interstate cases (of which there are two: 12,723,315.07 EUR for *Georgia v. Russia (I)*, and 144,031,517.73 EUR for *Georgia v. Russia (II)*). The amount due for individual cases is 2,855,210,968 EUR (including default interest). A significant portion of this arises from the 'Yukos' case of *OAO Neftyanaya Kompaniya Yukos v. Russia*, which requires the payment of 2,621,185,130.80 EUR.[68]

62. We still have not had any judgments yet from the Strasbourg Court concerning violations resulting from the downing of flight MH17 or the full-scale invasion of Ukraine in February 2022. In June 2024, the Court delivered an important judgment in *Ukraine v. Russia (re Crimea),* an inter-state case mainly related to violations in Crimea since 2014. The issue of just satisfaction for the violations found will be decided in a future judgment. When the Court determines the amount of damage for these and other violations that it may find in the future relating to the war in Ukraine, it will be important that the claimants are paid the compensation that is owed to them. The amounts involved may be strategically important.

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[65] Committee of Ministers, 'Strategy paper regarding the supervision of the execution of cases pending against the Russian Federation', CM/Inf/DH(2022)25, 8 December 2022.
[66] *Ibid.*
[67] Committee of Ministers Decision, 'Cases pending against the Russian Federation', CM/Del/Dec(2024)1514/A3, 3-5 December 2025.
[68] Council of Europe webpage, 'Register of just satisfaction concerning the Russian Federation'.

63. In February 2024 the Committee of Ministers invited the Committee of Legal Advisers on Public International Law (CAHDI) to provide an indicative overview of possible avenues consistent with international law aimed at securing the payment by the Russian Federation of just satisfaction awarded by the European Court of Human Rights, while respecting the immunities of States and their property.[69] This report was provided to the Committee of Ministers in January 2025, but it is not public. At the time of writing, the Committee of Ministers is yet to discuss the possible implications of the report.

64. In public debate, a number of interesting proposals have been raised in regard to securing payment of the outstanding sums. The two main proposals are enforcement in domestic courts (for example by treating ECHR judgments as *res judicata* and not enforcing state immunity); and the establishment of an ad hoc funding mechanism, such as a trust fund, or a partial agreement at the Council of Europe. Potential sources of the funds could include assets of the Russian state (notably the frozen Russian Central bank assets of over 300 billion euros held by Euroclear) and the assets of Russian state-owned commercial entities.[70]

65. Such measures involve legal and political complexities. These include: very significant legal issues related to sovereign immunity and whether enforcement at national level is compliant with the Convention; the question of how new measures to enforce implementation of ECHR judgments would co-exist with the Register of Damage for Ukraine (and perhaps compete for the same funds as an eventual compensation commission); moral and political issues about the use of seized Russian assets for the payment of just satisfaction to Russian citizens whilst such sums might (possibly) otherwise be used for compensation to Ukraine; financial risks related to the seizure of foreign central bank assets; and questions over exactly who would be able to receive the payment of just satisfaction, given the restrictions on Russian residents interacting with international organisations from within Russia.

66. In the Reykjavik Declaration, leaders of the Council of Europe's member states affirmed "the need to make every effort to ensure the execution of the Court's judgments by the Russian Federation".[71] Due to the complexities surrounding this issue and its importance, this issue should be examined in a separate report.

7. The implementation of measures set out in the Reykjavik Declaration to promote the implementation of ECHR judgments

67. The aims and priorities of the Council of Europe were reformulated in the Reykjavik Declaration by the Heads of State and Government of May 2023. The implementation of judgments of the European Court of Human Rights formed an important part of the text, including both general commitments and specific plans. In order to assess how the Declaration has been implemented by Council of Europe entities, I carried out a number of meetings with key stakeholders, as outlined in paragraph 8 above. Below I set out a list of the most important measures foreseen in Appendix IV of the Reykjavik Declaration relating to the implementation of ECHR judgments by Council of Europe entities, as well as the steps taken to implement them to date.

68. Member states undertook to:

68.1 "*…continue to enhance the efficiency of the process of supervision of the execution of the Court's judgments, particularly its Human Rights meetings …* [and] *continue improving the effectiveness of the supervision mechanism of the execution of judgments*." In November 2023, the Committee of Ministers decided to make public the indicative annual planning document approved by the

[69] Committee of Ministers, 'Options under international law aimed at securing the payment by the Russian Federation of just satisfaction awarded by the European Court of Human Rights', CM/Del/Dec(2024)1488/10.5, 7-8 February 2024.
[70] For discussion of this issue, see the following: Professor Phillipa Webb, 'Legal options for confiscation of Russian state assets to support the reconstruction of Ukraine', study for the European Parliamentary Research Service, February 2024; David Carden, 'Utilizing the European Convention on Human Rights to Transfer Frozen Russian Assets to Ukraine', the SAIS Review of International Affairs, 13 March 2024; Kirill Koroteev, 'Moving on in Strasbourg', Verfassungsblog, 12 December 2022; Grigory Vaypan, 'Russia Can Be Forced to Pay for Its Crimes: A Proposal', Center for European Policy Analysis, 11 June 2024; Philipp Kehl, 'Seizing Russia's Frozen Assets: Quis iudicabit?', Blog of the European Journal of International Law, 24 January 2024. I am also grateful to the insightful presentations by Professor Veronika Fikfak and Mr Achilleas Demetriades on this subject during a meeting of the Sub-Committee on the Implementation of Judgments of the European Court of Human Rights, held in Tirana on 5th July 2024.
[71] Reykjavik Declaration, Appendix IV, page 18.

Committee of Ministers at its December Human Rights meetings.[72] Apart from this welcome but limited transparency measure, no further steps have been taken to enhance the efficiency or effectiveness of the process of supervision of the execution of the Court's judgments, other than those set out below. The Committee of Ministers did decide to keep the issue under future review;[73]

68.2 "…*ensure that the Department for the Execution of Judgments has the necessary resources to assist member States and the Committee of Ministers in this task*". The Department for the Execution of Judgments' (DEJ) budget rose from 6,734,000 EUR in 2024 to 8,099,800 EUR in 2025. This will allow the department to increase the number of staff from 53 to 66, which is highly welcome.[74] At the same time, it is worth noting that the workload of the DEJ has also increased in recent years. The European Court has carried out notable efficiency measures, which have led a higher number of applications being dealt with in a single judgment. This has meant that, when the DEJ would normally be working on ensuring implementation for one or a few applicants in a single judgment, they are now more regularly tasked with tracking implementation for tens or hundreds of applicants. It is also worth re-emphasising the importance of the DEJ's work for ensuring that cases never come to the Court at all. Ensuring the full and timely implementation of the Court's judgments would help prevent the majority of violations from happening – and the cases from coming before the Court in the first place. It is therefore open to question why the Court has an ordinary budget that is ten times higher than that of the DEJ,[75] given that the work of the DEJ can ensure that the Court's workload is decreased, bringing efficiencies to the entire Convention system. Given this and the extensive issues with ECHR implementation set out in this report, it is therefore recommended that the DEJ's resources be further re-enforced;

68.3 "*Scale up co-operation programmes to assist member States in the implementation of judgments, which may involve, as appropriate, States facing the same or similar issues in implementation, and increase synergy between the Department for the Execution of Judgments and the Council of Europe co-operation programmes*". Over 70% of current co-operation projects are related to ECHR judgment implementation. Co-operation between secretariats of technical co-operation projects and the DEJ has been strengthened, with particular staff members in the relevant departments responsible for liaising between the two. Meanwhile, it is not clear that the number of co-operation projects relating to ECHR implementation has been increased. It is essential that additional resources are made available by member States for this purpose – particularly for projects in EU member states, which presently receive very little support;

68.4 "*underline the importance of holding an annual meeting with national co-ordinators for the execution of judgments and the Department for the Execution of Judgments*". It is highly welcome that the Execution Co-Ordinators' Network was created in June 2024. On 30 January 2025 I participated in a meeting of the Network, during which I presented a list of possible synergies and co-operation activities with the Parliamentary Assembly. I am confident that this dialogue will continue and that productive exchanges will be carried out in due course;

68.5 "*Call for a strengthening of the institutional dialogue between the Court and the Committee of Ministers on general issues related to the execution of judgments*". There is currently a biannual exchange between the Committee of Ministers and the President of the Court. There is also now an annual meeting between the Presidency of the Court, the Secretary General of the Council of Europe and the Chairmanship of the Committee of Ministers. The DEJ and the Registry have continued to enhance their cooperation with the official launch of a "Dialogue Project" in 2024 bringing together lawyers from both entities to promote a holistic approach to the Convention. Both thematic and country meetings take place to identify and align priorities particularly in relation to cases stemming from structural problems. Regular exchanges of information and common trainings are ongoing and a joint project is underway to create targeted HELP modules in transversal areas of interest to enhance domestic capacity to address certain structural problems, strengthen general measures and prevent repetitive cases arriving at the Court;

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[72] Decision of the Committee of Ministers, 'Securing the long-term effectiveness of the system of the European Convention on Human Rights', 29 November 2023, CM/Del/Dec(2023)1482/4.5.
[73] Decision of the Committee of Ministers, 'Securing the long-term effectiveness of the Convention', 7 February 2024, CM/Del/Dec(2024)1488/4.4.
[74] Council of Europe Programme and Budget 2024-2027, 19 December 2023, CM(2024)1, page 55.
[75] *Ibid.*, page 52 and 55.

68.6 *Call for a strengthening of political dialogue in the event of difficulties in the implementation of judgments and encourage the participation of high-level representatives from the respondent State*". In a Decision of February 2024, the Committee of Ministers agreed to strengthen the dialogue at political level in the event of difficulties in the implementation of judgments and re-iterated the invitation to high-level representatives to participate in CM/DH meetings.[76] It is not clear that there has been a subsequent increase in the participation of high-level representatives in CM/DH; but it is also not clear that the Committee of Ministers has the means to achieve such an increase, beyond making such requests;

68.7 "*Call on the Committee of Ministers to continue its work enhancing the tools available in the supervision of the execution of judgments with clear and predictable, gradual steps in the event of non-execution or persistent refusal to execute the final judgments of the Court, in an appropriate and flexible way, which takes into account the specificities of each case.*" Following a Decision of February 2024, the Committee of Ministers' document on the means at the disposal of the Committee in the context of its supervision of the execution of judgments of the Court has been updated to out the steps to be taken prior to infringement proceedings being initiated.[77] This document is not public.

69. Following from this analysis, I have included a number of suggestions for further measures in the draft Resolution and Recommendation, for issues where it is important to make additional progress and where it is feasible to do so.

70. The steps already taken in the list above are very much welcomed – as are the significant efforts by those involved. The most notable shortcoming of these additional measures is in the first point in the list: steps to improve the efficiency and effectiveness of the implementation supervision process, notably CM/DH meetings. Immediately before and after the Reykjavik Declaration, there has been a healthy public discourse about possible ways in which this could be done, among academic commentators, civil society organisations, and the high-level reflection group of the Council of Europe.

71. In my view, one effective measure to promote ECHR judgment implementation would be financial sanctions for widespread non-execution. It is important to recall that in the year 2000 the Parliamentary Assembly proposed to the CM that it should introduce daily fines for non-implementation of the Court's judgments. The CM asked the CDDH to look into it. The CDDH concluded that fines were not necessary to help promote implementation and would not increase pressure on states in any case. The following year, the Venice Commission issued an opinion saying that the issue could benefit from a feasibility study. Nevertheless, the CM did not commission one and took no further action. I believe that there is currently insufficient political support for such a measure in the Committee of Ministers. Nevertheless, the Assembly should not abandon this proposal and keep reminding the Committee of Ministers of the need to apply more pressure if need be.[78]

72. Notable other proposals include increasing the number, length, and transparency of CM/DH meetings, establishing a clear criterion for using Article 46(4), a special representative on the implementation of ECHR judgments, and financial sanctions for non-implementation.[79] It is unfortunate that none of these proposals

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[76] Committee of Ministers Decision, 'Securing the long-term effectiveness of the Convention', 7 February 2024, CM/Del/Dec(2024)1488/4.4.

[77] *Ibid.*

[78] Assembly Recommendation 1477 (2000) on 'Execution of judgments of the European Court of Human Rights', 28 September 2000; Committee of Ministers' Reply, Doc. 9311, 14 January 2002; Venice Commission Opinion on the Implementation of Judgments of the European Court of Human Rights (No. 209/2002), 18 December 2002.

[79] List of proposals drawn from the following: Council of Bars and Law Societies of Europe, 'CCBE Proposals for reform of the ECHR machinery', 28 June 2019; Professor Philip Leach, presentation to the Sub-Committee on the Implementation of Judgments of the European Court of Human Rights, 5th July 2024; Helen Keller and Viktoriya Gurash, ""Upping the ante": rethinking the execution of judgments of the European Court of Human Rights", European Human Rights Law Review, E.H.R.L.R. 2023, 2, 149-155; European Implementation Network, 'Fourth Summit Briefing: On the Need for Reforms to Improve the Implementation of Judgments of the European Court of Human Rights', February 2022; Council of Europe, 'Report of the High-Level Reflection Group of the Council of Europe', October 2022; the Campaign to Uphold Rights in Europe and the Conference of International Non-Governmental Organisations of the Council of Europe, 'The Hague Civil Society Declaration on Council of Europe Reform', March 2023.

have been taken up the Committee of Ministers. The Assembly should request that the Committee of Ministers keep the matter of such reforms under review.

73. As the Committee of Ministers is the authority designated to supervise the execution of the Court's judgments by its very nature, certain decisions are politically motivated, causing much damage, frustration and disappointment at the national level, especially when decisions are unsubstantiated or hasty. That is why in the 11th Report I insisted on the transparency of the supervision mechanism and a detailed justification procedure of measures taken.

8. The role of PACE in the implementation of judgments

74. In the Reykjavik Declaration, the Heads of State and Government invited the President of the Parliamentary Assembly, alongside other senior figures in the Council of Europe, "to strengthen their political dialogue with their respective national interlocutors on the implementation of judgments". The States specifically recalled "the importance of involving national parliaments in the execution of judgments".[80] The Committee of Ministers has since invited the Parliamentary Assembly and the Congress of Local and Regional Authorities to strengthen their dialogue with national interlocutors on the implementation of ECHR judgments, and asked the DEJ to assist.[81] In June 2024, the DEJ conducted its first-ever joint mission with the Congress of Local and Regional Authorities to support the execution of the Court's judgments by the Bulgarian authorities at the local level, in the case of *Yordanova and Others v. Bulgaria*. Finally, in his speech before the Assembly in January 2025, the President of the ECHR, Marko Bošnjak, noted the "powerful role" that the Parliamentary Assembly can have in promoting the implementation of ECHR judgments, recalling the relevant aspects of the Reykjavik Declaration.

75. The Assembly is therefore called upon to do its part in promoting ECHR implementation. I am glad to report that we are answering this call. Following discussions in the Sub-Committee on the Implementation of ECHR Judgments in Zagreb in November 2023, in December 2023 the Committee on Legal Affairs and Human Rights adopted a set of proposals to enhance the activities of the Parliamentary Assembly in promoting execution of the Court's judgments.[82]

76. Some of these proposals have already been put into action in 2024. Prior to each high-level meeting of the President of the Assembly with Presidents, Prime Ministers and Ministers of Foreign Affairs, the President is now provided with briefing papers on the implementation of ECHR judgments in the state concerned, so that the judgments may be raised in these exchanges. Briefings are also now regularly provided to the parliamentarians themselves. Since January 2024, in each part-session of the Assembly, the Department for the Execution of Judgments has provided briefings to national delegations of parliamentarians on the implementation of European Court judgments in their state. Such briefings have been organised for the members of the Armenian, Bulgarian, Croatian, Greek, Hungarian, Italian, Moldovan, Romanian, Portuguese, and Ukrainian delegations. One of the most productive aspects of my meeting with senior staff from the Council of Europe's Directorate of Human Rights was a discussion about expanding such briefings. I hope that we can move towards annual briefings for national delegations, accompanied with detailed information about how parliamentarians can best promote the implementation of ECHR judgments in their state.

77. Meanwhile, the Assembly should go further. The most ambitious proposal of our Committee was to create a network of parliamentarians to promote the implementation of ECHR judgments. This would see the creation of a group of parliamentarians from across Europe, which would meet around twice a year to provide parliamentarians with more information about how the implementation of European Court judgments operates, and how they can work to advance execution. This would be done by members of the network sharing best practices about how they have helped to promote the implementation of ECHR judgments at national level and the best structures to promote judgment implementation at national level, such as parliamentary committees that are very effective in particular states in monitoring the implementation of European Court judgments. Finally, a parliamentarian could be appointed for each state as the "Assembly representative" for the country concerned, who could take a leading role in pushing forward ECHR implementation in the parliament.

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[80] Reykjavik Declaration, United Around Our Values, Page 18-19.
[81] Decision of the Committee of Ministers, 'Securing the long-term effectiveness of the system of the European Convention on Human Rights', 29 November 2023, CM/Del/Dec(2023)1482/4.5.
[82] Committee on Legal Affairs and Human Rights, 'Reykjavik Follow-Up: The Role of PACE and National Parliamentarians in Improving the Timely and Effective Implementation of Judgments of the European Court of Human Rights', AS/Jur (2023) 37, 23 November 2023.

78. I have proposed the creation of such a network in the draft Resolution. If this proposal is adopted by the Assembly, it will most likely need additional resources to make it into a reality. This may require specific voluntary contributions from member States. My hope is that both the Assembly and member States will see the value in a group of parliamentarians dedicated to promoting the implementation of rulings of the Strasbourg Court.

9. Conclusion

79. I will not tire to say that 75 years after the adoption of the Convention we are still talking about the very basics of what we have all agreed to establish; the respect and implementation of Court judgments. The implementation of ECHR judgments reflects the effectiveness of the entire ECHR system but also the current state of play. Judgments of the Court can only help protect human rights if they are properly implemented. The Court can only issue new judgments in a timely manner, if States implement the old ones. The Reykjavik Declaration has provided an unequivocal commitment to the need to implement the Court's judgments, from every member State of the Council of Europe. It has also given us a path forward to do this. It is time for all of us – governments, parliamentarians, courts, and civil society – to take that path and move ahead. As I set out in the introduction, the life of a child in one corner of Europe can be determined by the willingness of States to implement judgments across our continent. We should all approach the implementation of ECHR judgments with a seriousness that reflects this fact.