



PRÉSIDENCE DU / PRESIDENCY OF  
**LUXEMBOURG**  
CONSEIL DE L'EUROPE / COUNCIL OF EUROPE  
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## CONCEPT NOTE

### CONFERENCE

## BETTER ENFORCEMENT OF NATIONAL JUDICIAL DECISIONS: A HUMAN RIGHTS AND RULE OF LAW REQUIREMENT

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Council of Europe, Strasbourg

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The European Court of Human Rights (the Court) has developed rich case-law on Article 6 of the European Convention on Human Rights (the Convention) with respect to the enforcement of judicial decisions. It emphasises that enforcement of judicial decisions is a constituent element of the rule of law and of access to justice.

The judgements issued by the Court reveal challenges to the national systems of domestic judgments' enforcement. This is the case for a broad range of Council of Europe member States, including States seeking accession to the European Union, but also extending to the European Union member States. The scale of the cases examined by the Court concerning this issue is striking, indicating that the systemic and structural problems identified in the judgments of the Court remain at least partly unresolved. Many judgments, relating to numerous individual applications, concerning this issue, are pending implementation before the Committee of Ministers of the Council of Europe.

The issues arising from enforcement proceedings are numerous. They are both of a substantive legal nature and of a procedural nature. These include:

- division of duties between the courts and bailiffs in the enforcement process,
- significant discrepancies in the powers of public enforcement officers,
- differences in the systems of enforcement of judgments by private and public enforcement officers,
- lack of efficiency in enforcement by various public debtors,
- lack of allocated funds for enforcement of judgments especially concerning various social payments,
- enforcement against insolvent public enterprises and entities,
- forecasting budgets for enforcement of judgments and anticipating state debts for enforcement of future debts, creating state responsibility cushions, etc.

Both the case-law of the Court and the *acquis* of the Committee of Ministers on the execution of its judgments define the standards relating to the obligation to comply with the national courts' judgments, to the principle of *res judicata*, and to the need to ensure fast, full and efficient enforcement of judicial rulings.

The conference's aim is twofold. *Firstly*, on the basis of most up-to-date information on the Court's jurisprudence in this field, to explore the main systemic and structural problems concerning the non-execution of national judicial decisions, which must be resolved by the States where such problems persist. *Secondly*, based in particular on the expertise of the European Commission for the Efficiency of Justice (CEPEJ), it is to look into the best practices of organising the systems of implementation of domestic judicial decisions and the existing soft law aimed at supporting member States to set up quality enforcement procedures, before exploring the relevance of new tools or principles to enhance the performance of all Member States' enforcement procedures.

This is fully in line with the Reykjavik Declaration's call for a co-operative and inclusive approach, based on dialogue, in the supervision process to assist States in the execution of the Court's judgments, as well as for greater synergy between Council of Europe advisory bodies - such as CEPEJ - and the Execution of Judgments, to facilitate the exchange of good practice and expertise among member States.

The Conference is organised by the Council of Europe jointly with the Ministry of Justice of Luxembourg, under the auspices of the Luxembourg Presidency of the Committee of Ministers of the Council of Europe.