



**COUNCIL
OF EUROPE
CO-OPERATION
ACTIVITIES IN
SOUTH EAST
EUROPE AND
TURKEY**

2014 – 2019

Human Rights National
Implementation Division

Human Rights Policy and
Co-operation Department

Directorate of Human Rights

Directorate General Human
Rights and Rule of Law

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Member states can rely on the support of the Council of Europe in implementing the European human rights standards. Over the years the Council of Europe has developed a unique working methodology employing an interactive combination of setting international standards, monitoring their national implementation and various co-operation activities.

Partnerships

Co-operation activities are based on partnerships with member states' authorities, national human rights institutions, experts and civil society organisations

Advantages of the Council of Europe

- 70 years of experience in human rights protection, rule of law and democracy
- Wide ranging and relevant expertise
- Tested tools and methodology
- Dialogue with high level decision makers
- Regional presence through the Council of Europe's offices
- Comprehensive understanding of the issues based on standard setting and monitoring activities
- Synergies and coordination with other international partners (EU, OSCE, UN)
- Vast pool of good practices
- Well-established co-operation with the member states

Legal Instruments

Our work is based on human rights standards developed by the European Court of Human Rights, recommendations of monitoring bodies like the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the Special Representative of the Secretary General on Migration and Refugees, the Human Rights Commissioner and the Steering Committee for Human Rights.

Actions

Co-operation takes place via various working methods and the Council of Europe employs diverse methodology to achieve change: research activities, collection and dissemination of good practices, assisting in drafting and amending of laws and regulations, facilitating partnerships between various stakeholders, providing training to judges, prosecutors and other legal professionals, and facilitating high level political discussions.

Areas of work

All activities are devoted to strengthen democracy, the rule of law and human rights. Some examples of specific themes include combatting ill-treatment and impunity, ensuring effective domestic judicial remedies, harmonisation of national case law and judicial practice, and supporting Ombudspersons and other national human rights institutions.

Funding

Co-operation programmes are funded by member states, other countries, the European Union and the Council of Europe itself.

HIGHLIGHTS/KEY PRIORITIES

Action for Legal Certainty - Harmonisation of Judicial Practice

WHY IS THIS IMPORTANT? Legal certainty constitutes one of the basic elements of the rule of law. It guarantees stability of legal situations and contributes to public confidence in the courts. Conflicting solutions and contradictory judgments diminish legal certainty and the overall protection of human rights. The European Court of Human Rights highlighted that states have a responsibility to organise their legal systems in such a way as to avoid conflicting case law by putting mechanisms in place to ensure consistency in court practice and uniformity of the courts' case law.

Several projects have been implemented in South East Europe in consultation with national authorities and international actors, determining steps:

- to reduce conflicting practice within the judicial authority;
- to ensure the courts are a source of legal certainty;
- to strengthen public confidence in the judicial system.

Harmonisation of judicial practice between various judicial levels was identified as a key priority for the region.

Impact of projects implemented in 2014-2019

New judicial instruments such as harmonisation panels have been introduced in Bosnia and Herzegovina which triggered amendments to the criminal code and ensured a greater consistency in sentencing within specific groups of crimes.

In Montenegro a **case law department within the Constitutional Court** has been created together with a network of similar case law departments within the regular courts. Additionally, guidelines on the application of the ECtHR case law at national level were developed in cooperation with the Supreme Court.

Judicial dialogue between the Appeal Courts and Supreme Court in North Macedonia has been strengthened with the aim to ensure harmonised application of human rights standards at the national level.

The national **legal framework has been reviewed** in Serbia to ensure the general harmonisation of national case law throughout the Serbian judicial system.

HIGHLIGHTS/KEY PRIORITIES

Addressing Human Rights Violations at the National Level via Effective Domestic Remedy

WHAT IS AN EFFECTIVE REMEDY? Article 13 of the European Convention on Human Rights states that those whose rights and freedoms are violated shall have an effective remedy before a national authority. This right is an essential component of access to justice and it allows individuals to seek redress for violations of their rights at the national level. It is important to guarantee that victims of human rights violations have an effective remedy available in a timely and effective manner before national courts because the protection established by the Convention is subsidiary to the national systems. The national courts are normally better placed to address the issues raised in their domestic legal systems. Different types of remedies may redress different types of violations. The European Convention does not define 'remedy'. The only requirement is that a remedy has to be 'effective' in practice and in law. To be considered effective the remedy has to be accessible, be capable of providing redress in respect of the applicant's complaints and offer reasonable prospects of success.

In 2014–2019 the Council of Europe has been working in South East Europe and Turkey to strengthen domestic legal systems and ensure effective judicial remedies at the national level.

CoE Monitoring Bodies or ECtHR case law reveal a problem

National authorities agree on the need for action

Strategy is introduced to address the problem with tailor made solutions

Funding is secured for the operation

Implementation of the activities

Evaluation of the results and process



Montenegro (2014 – 2018): (i) The individual complaint before the Constitutional Court was recognised as an effective remedy by the European Court of Human Rights (ECtHR); (ii) Increased numbers of decisions made by Constitutional Courts referring to ECtHR case law, and a qualitative improvement of their internal regulations and management systems; (iii) Decreased number of inadmissibility decisions of the Constitutional Court;



Serbia (2013–2015): (i) Amended legislation ensuring the effectiveness of newly adopted remedies for the length of proceedings; (ii) Enhanced capacity of the Supreme Court of Cassation to properly address case proceedings of unreasonable length; (iii) Reduced number of applications and adjudicated cases against Serbia before the ECtHR;



Turkey (2013–2018): (i) Individual constitutional complaint mechanism introduced in line with the ECtHR standards; (ii) Significant human rights case law developed by the Constitutional Court, covering issues such as: lengthy detention periods, the right to property, freedom of expression, the right to a fair trial; (iii) Reduced number of applications and decisions against Turkey before the ECtHR (only five violation judgements in cases reviewed by the Constitutional Court of Turkey since 2012);

HIGHLIGHTS/KEY PRIORITIES

Protection of Human rights of Asylum Seekers and Migrants - training via the Human Rights Education for Legal Professionals Programme (HELP)



WHY IS THIS IMPORTANT? South East Europe and Turkey face an unprecedented increase in the number of asylum seekers and migrants crossing their borders, many of them trying to reach the European Union. This irregular and undocumented flow of persons raises issues around the external borders of the European Union in countries like Croatia, Hungary, Bosnia and Herzegovina and North Macedonia. At the same time many of the asylum seekers and migrants end their journeys in Turkey, Bosnia and Herzegovina, Albania or Serbia. The Council of Europe undertakes co-operation activities to support its member states in their efforts to secure the human rights of asylum seekers and migrants. Several HELP courses have been prepared and launched in Turkey and the Western Balkan countries to address the human rights of asylum seekers, trafficking in human beings and protection of migrant children.

Specific HELP courses tailored for legal professionals and government authorities were successfully launched in Albania, Serbia, North Macedonia and Turkey.

Combating Trafficking in Human Beings



This course is designed to equip practitioners with the ability to effectively apply the standards developed under the Council of Europe Convention on Action against Trafficking in Human Beings in their daily work. It explores topics in a practical way through presentations, interactive screens, knowledge tests and reflective exercises.

The course helps legal professionals to develop a better understanding of the rights afforded to asylum seekers and migrants in general; it increases their capacity to propose changes to legislation and to implement existing rules and procedures in line with international human rights principles and best practice developed by international bodies.



Asylum and the ECHR

Refugee & Migrant Children



The course implements the Council of Europe Action Plan on protecting Refugee and Migrant Children in Europe (2017-2019). It provides an overview of the relevant case law of the European Court of Human Rights. It allows legal and other professionals to improve their knowledge and skills for working with migrant children.

HIGHLIGHTS/KEY PRIORITIES

Prevention of Ill-Treatment via the National Preventive Mechanisms

WHY IS THIS IMPORTANT? There are more than 10 million people in detention worldwide and even more deprived of liberty in institutions such as police stations, juvenile detention centres, immigration detention centres, psychiatric hospitals or social care homes. Violations often occur behind closed doors and go unreported.

Between 2014 and 2019 the Council of Europe has been active in South East Europe and Turkey to align national legislative frameworks with European and international standards, including the European Convention on Human Rights and the Optional Protocol to the Convention against Torture. Their national capacities have been established and strengthened to prevent, monitor and fight against ill-treatment and impunity through National Preventive Mechanisms. Legal professionals have started to apply the above-mentioned standards in their daily work.

National Preventive Mechanisms are intended to publicly monitor places of detention in order to reduce the instances of ill-treatment. This leads to better implementation of the recommendations made by the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment and reduces the number of human rights violations, as evidenced by the decreasing number of cases brought before the European Court of Human Rights.

At the moment the majority of activities in the South East Europe Region are focused on Albania, Bosnia and Herzegovina, Kosovo*, Montenegro, North Macedonia, Serbia and Turkey.

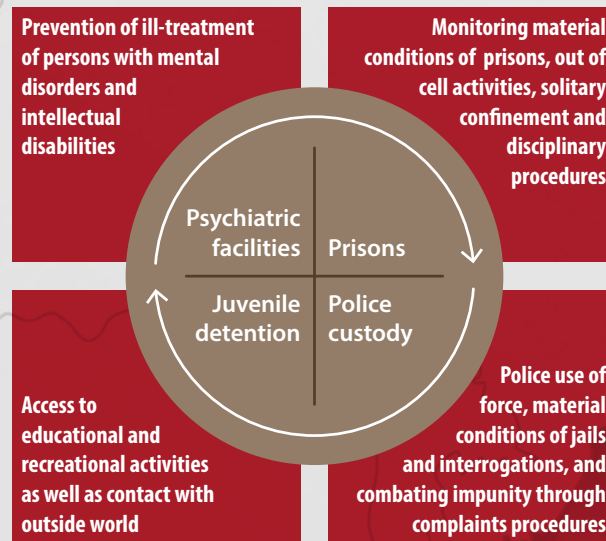
Bosnia and Herzegovina – The challenge of discrimination is one that requires a multidisciplinary approach and the Council of Europe has been fostering co-operation between the Ombudsperson and other public institutions and civil society organisations.

Montenegro – The fight against discrimination, ill-treatment and impunity is supported through training judges, prosecutors and other legal professionals on European Court of Human Rights case law, as well as capacity-building activities for the Ombudsperson's Office, the Ministry of Human and Minority Rights and the penitentiary administration.

North Macedonia – The Council of Europe supports judges and prosecutors and the Constitutional Court to strengthen the application of European human rights standards.

Turkey – Implementation of European human rights standards is promoted by strengthening the system of individual applications to the Constitutional Court, including by fostering judicial dialogue among higher courts, and training first and second instance judges, prosecutors and lawyers.

Strengthening the National Preventive Mechanism in Kosovo*



Serbia – Preventing systemic human rights violations and facilitating effective remedies is done through supporting co-operation and coordination between authorities and legal professionals.

Kosovo* – The Council of Europe aids the combating of ill-treatment through strengthening the National Preventive Mechanism.

Albania – The Council of Europe has been tackling the longstanding structural problem of the right to property in Albania, supporting national authorities by providing expertise and good practices.

*"All reference to Kosovo, whether the territory, institutions or population, in this text shall be understood in full compliance with United Nation's Security Council Resolution 1244 and without prejudice to the status of Kosovo."



MORE INFORMATION

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The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

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