



Government of the Republic of Croatia
Office of the Representative of the Republic of Croatia
before the European Court of Human Rights

Execution of the ECtHR judgments and national dissemination of the ECtHR case law

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CoE Conference

Subsidiarity Principle: National Implementation of the European Convention of Human Rights

4 May 2023, Strasbourg

Representative before the ECtHR

- **coordinates** the execution process cooperating with domestic authorities and the CM Department for Execution
- Expert Council for the Execution of the judgments and decisions of the ECtHR
- **follows** the development of the ECtHR case-law and familiarises all branches of power with it as well as with the development of the case law of EU courts and other international human rights bodies

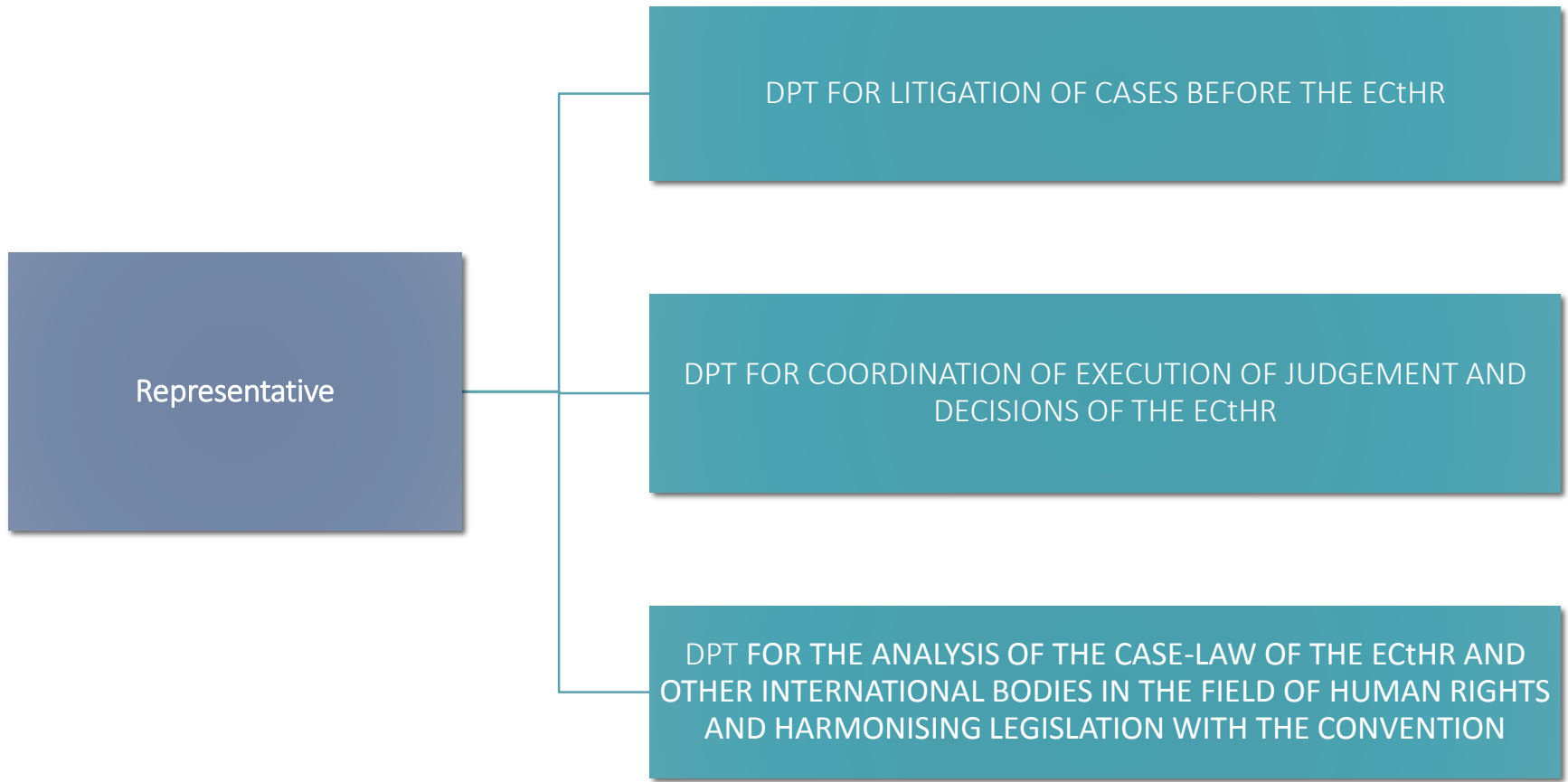
GOAL

TO CONTRIBUTE TO BETTER UNDERSTANDING AND
EFFECTIVE IMPLEMENTATION OF THE CONVENTION AT NATIONAL LEVEL

Legal bases

- *The Convention on Human Rights and Fundamental Freedoms (Art 46 and 39)*
- *The Regulation on the Office of the Representative of the RoC before the ECtHR (Official Gazette no. 18/2012, 84/2018)*
- *Rules of Procedure of the Expert's Council for the Execution of Judgments and Decisions of the ECtHR (<https://uredzastupnika.gov.hr/izvršenje-presuda-europskog-suda-za-ljudska-prava/strucni-savjet-za-izvršenje-presuda-i-odluka-europskog-suda-za-ljudska-prava/173>)*
- *Recommendation CM/Rec (2008)2 of the CM to Member States on efficient capacity for rapid execution of the ECtHR judgments*
- *Recommendation CM/Rec(2021)4 of the CM to Member States on the publication and dissemination of the ECHR, the case law of the ECtHR and other relevant texts*

The Office of the Representative



Expert's Council for the Execution of Judgments and decisions of the ECtHR at the Representative's Office

ESTABLISHMENT

- Goal – effective execution of the ECtHR judgments
- Purpose – to enhance cooperation with and coordination of the domestic authorities
- 2012 - Regulation on the Office of the Representative of the Republic of Croatia before the ECtHR adopted by the Government
- Inter-ministerial and inter-institutional expert body with the task of determining the measures for execution of judgments and decisions of the ECtHR and monitoring their implementation (member – official, deputy member – senior civil servant)
- members „*focal points*” for execution of the ECtHR judgments in their respective authorities
- also a „*communication link*” between the Office and the competent authorities
- *Collective responsibility* of all stakeholders for execution

Expert's Council for the Execution of Judgments and decisions of the ECtHR

COMPOSITION

- members – representatives of the domestic authorities of all branches of power, (35 currently):
 - *Constitutional Court, Supreme Court, High Misdemeanour Court, High Commercial Court, High Administrative Court, High Criminal Court, General State Attorney's Office, ministries, Government's Office for Human Rights and Rights of National Minorities, Government's Office for Gender Equality, Judicial Academy, Ombudsperson, Ombudsperson for Children, representative of the Croatian Parliament (monitoring role)*
- appointed directly from the heads of the authorities (courts' presidents, ministers, State Prosecutor...)
- NGOs – may be involved in the execution process if they wish so
- Chairperson – National Coordinator (Representative of the Republic of Croatia before the ECtHR)
- Rules of Procedure (adopted by the members)

DECISIONS

- consensus, vote

The role of Council members (authorities)

- receive translation, analysis of judgment & questioner from the Representative's Office
- coordinate measures to be taken to execute ECtHR judgment
- return questioner filled up with proposals & signed by minister/president of court to the Office
- check draft AP/AR prepared by the Office – authorise the text
- inform regularly the Office on the progress made regarding measures planned and deadlines of their implementation - every 6 months

CLASS:
REG. NO:
Date and place

PRELIMINARY QUESTIONNAIRE

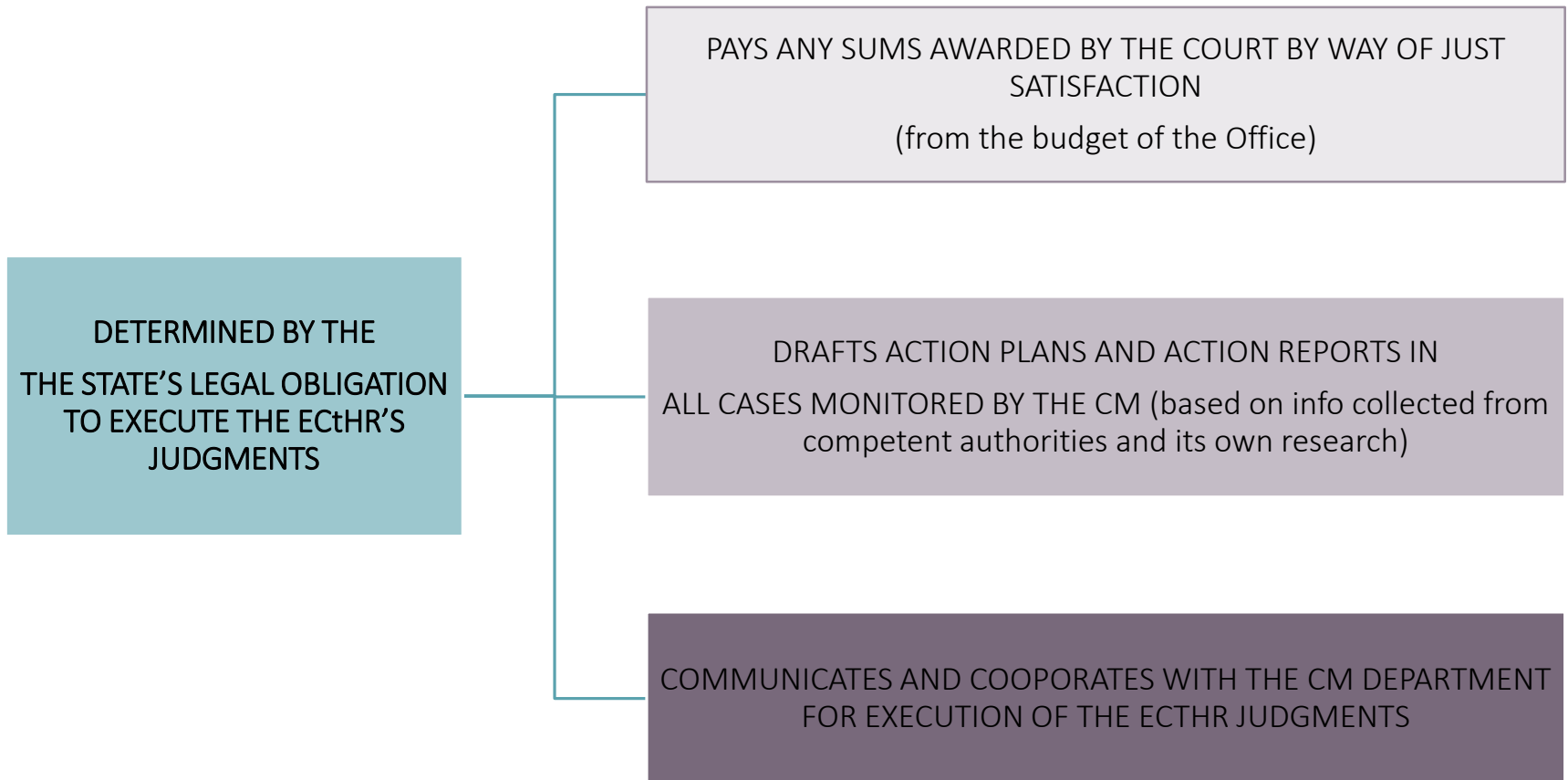
PART 1: CASE DESCRIPTION (To be filled out by the Office of the Representative)

| | |
|---|-----------------------------|
| CASE TITLE: | |
| JUDGMENT DATE: | FINAL JUDGMENT DATE: |
| CASE DESCRIPTION: | |
| <ul style="list-style-type: none"> - <i>sententia</i>, a short summary of the general principle referred to by the Court (e.g. "When deciding on the enforcement debtor's request for stay of the proceedings alleging probability of occurrence of irreparable harm or harm that would be very difficult to repair, the enforcement court shall examine the financial situation of the enforcement creditor. However, the criteria of "harm that would be very difficult to repair" is not applicable when the enforcement is to be conducted against the state budget" (example from <i>Marinić v. Croatia</i>). | |
| FACTS OF THE CASE: | |
| <ul style="list-style-type: none"> - short summary of the most relevant facts necessary for understanding the background of the case | |
| TIME FRAME OF THE VIOLATION(S): | |
| <ul style="list-style-type: none"> - in order to identify the timeline of measures already taken or necessary in order to ensure execution | |
| CAUSE OF THE VIOLATION(S) AS FOUND BY THE COURT: | |
| <ul style="list-style-type: none"> - contains information on the Court's main findings and the principles on which those findings are based | |
| CONTACT WITHIN THE OFFICE OF THE REPRESENTATIVE: | |
| <ul style="list-style-type: none"> - contact details of the person handling the case at the Office of the representative in order to allow direct communication (shorten the communication channels) | |

PART 2: MEASURES ADDRESSING THE VIOLATION(S) (To be filled out by the competent authority)

| | |
|--|----|
| NAME OF THE AUTHORITY: CLASS: REG. NO: | |
| 1. Do any of the causes of the violation(s) found by the Court fall within the competence of your authority: | |
| YES | NO |
| 2. INDIVIDUAL MEASURES | |
| <p>a. Are there any individual measures available (apart from paying just satisfaction awarded by the Court) which would provide <i>restitutio in integrum</i> to the applicant, i.e. ensuring that the applicant is restored, as far as possible, to the situation prior to the violation(s) of the Convention, for example reopening of proceedings, taking other actions, etc.?</p> <p>b. Has the applicant requested reopening of <i>proceedings</i> or taken other actions aimed at his/her <i>restitutio in integrum</i> and if so, which actions?</p> | |
| 3. GENERAL MEASURES | |
| <p>a. What general measures in particular does your authority plan to implement in order to prevent further violation(s) similar to those found (please describe in detail the general measures envisaged, including the time frame for their implementation)?</p> <p>b. Have any general measures already been taken after the facts of this case but prior to the Court's judgment, which have already eliminated the cause of the violation(s) as found by the Court in this judgment (for example legislative changes, changes of other legal acts, changes of case law, etc.)? If so, please explain these measures in details, as well as in what manner have they eliminated the cause of the violation(s).</p> | |

The role of the Representative's Office in the process of the execution of judgments and decisions of the ECtHR



Expert's Council model – PROS & CONS

POSITIVE

- Time-effective (swift communication, exchange of info & data)
- Comprehensive approach
- Synergies
- Development of human right experts in the authorities

NEGATIVE

- Partial change of members-appointed officials cease to be members after parliamentary elections (cca every 4 years)

However, the knowledge gained contributes to better understanding of execution process

CHALLENGES

- Sustainability (need for adequate legal base)
- Insufficient human & financial resources in the Office of Representative to administrate work of the Expert Council

Implementation of the ECHR

TRANSLATION, PUBLICATION & DISSEMINATION OF MATERIALS

Office of the Representative

EFFECTIVE IMPLEMENTATION & ENFORCEMENT OF THE CONVENTION
improve accessibility to and understanding of key Convention principles
and standards

TRANSLATION & DISSEMINATION OF THE COURT'S CASE-LAW, RELEVANT MATERIALS

IN HOUSE E-PUBLICATIONS, SUMMARIES OF THE ECtHR JUDGMENTS & DECISIONS

PROFESSIONAL TRAINING

Translation of the Court's/CoE materials

01

Judgments and decisions

ensures Croatian translation of all judgments and selected decisions against Croatia

Translations are available in the public case-law database on the Representative's webpage.

02

Judgments and decisions against other states

- relevant for the Croatian legal system
- dealing with similar factual and legal issues as pending cases against Croatia or cases in the execution process
- relevant for the development of the Court's case law

03

Other materials

- ECtHR Factsheets
- ECtHR case-law guides
- Court's annual report
- Country profile (Croatia)
- Thematic factsheets – Department for Execution of the ECtHR judgments

In house e-publications in Croatian language

Periodical reviews

- legal summaries of important judgments and decisions of the Court in the period of four months
- valuable insight to the evolution of the Court's case law general principles and new findings.
- judgments and decisions selection criteria:
 - ❑ key cases, Grand Chamber judgement and decisions
 - ❑ similar legal and factual issues
 - ❑ current socio-political issues
 - ❑ countries with a similar legal system
 - ❑ important questions of interpretation and application of the Convention.
- dissemination to relevant national authorities
- publication on the website

PUBLICATIONS OF THE OFFICE

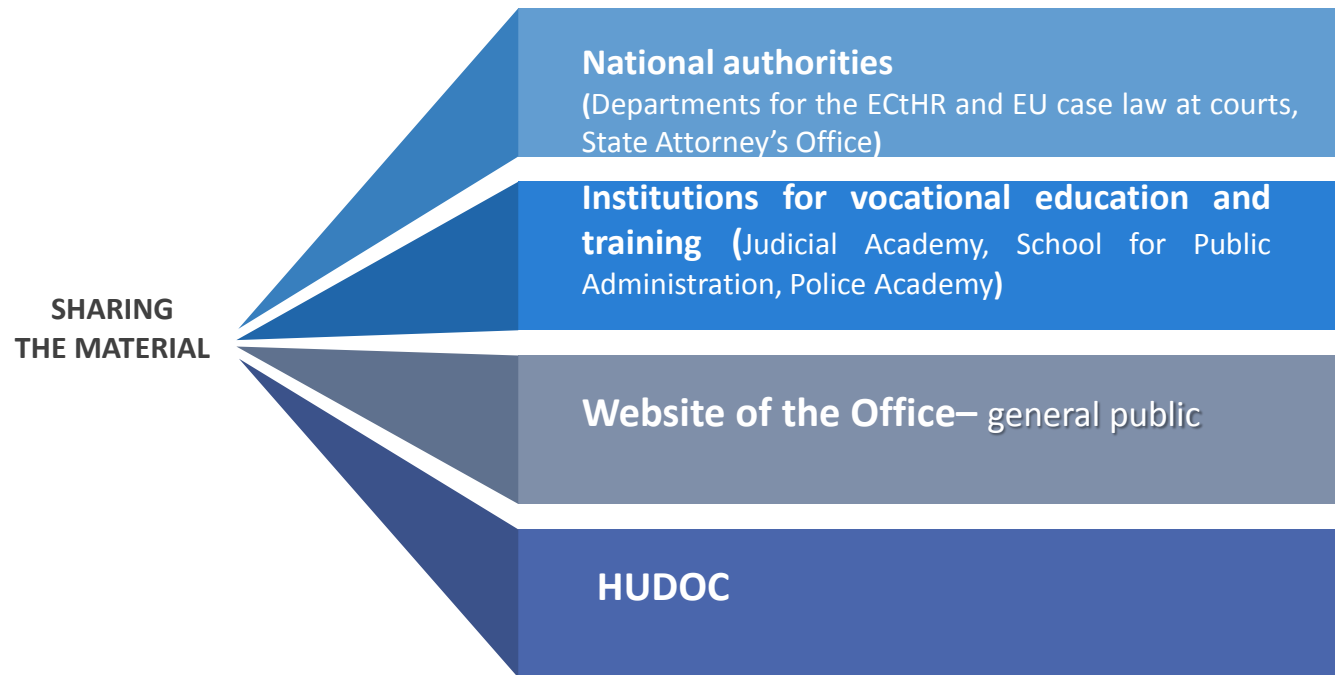
Other publications

- Positive findings of the Court in Croatian cases - judgments and decisions finding no violation of the Convention
- Overview of the *ne bis in idem* principle in the Court's case law
- The Court's principles in detention cases
- The right to a home and the principle of proportionality in the Court's case law
- Protection of migrants in the Court's case law (*NEW*)

Analysis of judgments

brief presentation of facts, principles and tests developed with references to the relevant Court's case-law (hyperlinks), causes of violation

Dissemination of the Court's case-law





Sudska praksa



Praksa Europskog suda za ljudska prava - Republika Hrvatska



Praksa Europskog suda za ljudska prava - druge države



Analize presuda i odluka



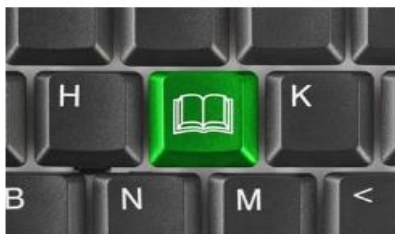
Pregledi prakse Europskog suda za ljudska prava



Vodiči



Informativni letci



Ostale publikacije Ureda

Professional training

COOPERATION WITH NATIONAL BODIES

Developing knowledge and expertise with regard to the application of the Convention at the national level.

INSTITUTIONS FOR VOCATIONAL EDUCATION

Judicial Academy, National School of Public Administration, Police Academy etc.

THE ROLE OF THE REPRESENTATIVE AND SENIOR LAWYERS IN THE OFFICE

seminars and lectures for students, public servants, judges, prosecutors

THANK YOU

<https://uredzastupnika.gov.hr/>

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