

**Roundtable: Effective national co-ordination: a key factor in reinforcing the domestic capacity for rapid execution of judgments of the European Court of Human Rights**

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**Coordinator's contribution to maintain an effective dialog  
with the Committee of Ministers, through timely transmissions of relevant information  
on the execution process**

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At the outset, allow me to present to you the experiences gained as Representative of Croatia before the Court and national coordinator for execution of the European Court of Human Rights judgments since 2012.

In that year, the Croatian Government adopted a new Regulation on the Office of the Representative of the Republic of Croatia before the European Court of Human Rights. By that Regulation it established:

- a) the Department for Coordination of Judgments and Decisions of the ECtHR,
- b) the Council of Experts for Execution of Judgments and Decision of the ECtHR within the Representative's Office.

Until then, the role of the Office or any other administrative or judicial authority tasked with the coordination of domestic authorities in the process of execution was not clearly defined. Communication with the authorities competent for execution of a judgment or a group of ECtHR judgments took place on an *ad hoc* basis. Lawyers working in the Representative's Office tasked with drafting submissions and litigation before the Court were those who ensured that the judgements are executed, when their workload allowed it.

In the same year, the Office ceased to be a unit of the Ministry of Justice and became a Government Office under the auspices of Prime Minister. That allowed for a more autonomous status and eased communication with and coordination of governmental authorities, courts and the State Attorney's Office in the execution process.

The above described structure was a result of a careful consideration on how to implement the reform documents, particularly the declarations adopted during the Brighton and Bruxelles High Level Conferences on the Future of the European Court of Human Rights, the Committee of Ministers recommendations, in particular Recommendation 2008 (2) and the Committee's working methods from 2011 presenting action plans and action reports as a main tool in execution, into the domestic system based on statutory law and strong division of powers among executive, legislative and judicial branches. At the same time, we were very much aware that most judgments of the Court have required execution in the form of changes of case law and administrative practices in a Convention compliant manner, rather than changes of laws. Therefore, it was important to have the judiciary on board.

**The Department for Coordination** preforms the following tasks on a daily basis:

- communicates with domestic authorities and coordinates all domestic efforts in the process of execution of the ECtHR judgments,
- communicates with the CM Department for Execution of the ECtHR judgments,
- follows the work of CM related to the development of working methods in supervision of execution as well as its practice related to the execution of judgments of other states,
- draws up draft action plans and action reports of the Republic of Croatia on the execution of individual judgments or groups of judgments of the ECtHR, and
- collects the necessary documents and cooperates with the competent bodies to ensure regular and timely payments based on judgments and decisions of the European Court of Human Rights and informs the Committee of Ministers of the Council of Europe about payments made.

**The Council of Experts for Execution of Judgments and Decision of the ECtHR** is an interdepartmental and inter-institutional expert body tasked with defining the appropriate measures for execution and monitoring their implementation. It consists of two experts from every ministry and other governmental bodies, one member and one deputy. One expert is an official or a senior public servant, while the deputy is a public servant (most of them are also contact points for preparation of submissions in the cases before the Court in their respective body. Further, the members are also representatives of the Constitutional Court (a judge - currently the Vice President of the Constitutional Court and a legal adviser as the deputy representative) because the constitutional complaint is a general domestic remedy for violations of human rights in Croatia and their active involvement may contribute to prompt execution of the ECtHR judgments).

The Supreme court also has two representatives in the Expert Council (a judge and a legal adviser) as it is the highest court of general jurisdiction that unifies the case law of domestic courts. Two representatives from the highest specialised courts, namely the High Commercial Court, the High Administrative Court and the High Misdemeanour Court also participate in the work of the Expert Council (one judge, one legal adviser). The State Attorney's Office, which is also an independent judicial authority, has two representatives in the Expert Council, one Deputy State Attorney and a legal adviser as the deputy). Representatives from the Ombudsperson's Office are also the members of the Council.

The Representative before the Court/national coordinator for execution of the ECtHR judgments presides over the meetings of the Council and may invite representatives of other state/or local bodies to participate in its work if needed for the purpose of execution of the ECtHR judgments.

Mostly the Council works in a narrowed composition depending on the nature of the measures that need to be undertaken for the execution of particular judgment or group of judgments. Once a year it meets in full composition to consider what has been done in the previous year and to define the priorities for the next year.

The Council may also adopt decisions urging the competent authorities to take steps to accelerate the execution and may inform the structures within the Prime Minister's Office of the problems encountered in the execution process.

If I were to describe execution in three words from the coordinator's point of view I would say: dialogue, coordination and synergies. These three ways of cooperation intertwine with domestic authorities and the Committee of Ministers, that is, the Department for Execution of Judgments of the ECtHR, and are equally important.

Namely, these are the only means of cooperation at my disposal as national coordinator because me or my colleagues from the Department do not have the power to order any authority how and when it should execute a judgment or a group of judgments of the Court.

However, we can provide support with a view to enhance the understanding of the judgements (translate judgments, make judgment summaries and analyses, structure the questions in a questionnaire sent to the authorities in a way that would assist them in recognising or creating measures for execution that address the causes of violation), provide them with good examples of execution from other states and be in contact with them on every issue which concerns them regarding the execution.

Secondly, when execution of judgments requires undertaking of measures that fall under the competence of two or more ministries or a ministry and the courts, or when a complex problem arises, it is of utmost importance to include all concerned stakeholders possible through their coordination and the work of the Council.

Thirdly, synergies created within the Council enable Action Plans/Reports of better quality as the members of the Council propose measures for execution, the ministers/court presidents or the State Attorney approve these measures and monitor their implementation.

Equally important is the cooperation and communication with the CM, Department for Execution of judgments of the Court. Over the years, this communication and dialog has developed greatly.

In this respect, I would especially commend:

- Close cooperation with the lawyers in the CM Department in preparation of Action Plans/Action Reports;
- Bilateral cooperation in the form of missions of the representatives of the Department to the states. Such missions enable meetings of representatives of department with public servants and officials who are involved in the execution process (members of Council), enable consideration of issues that may slow down the execution process, and make it possible to identify any problems and resolve them, and
- Secondment of lawyers from the Office to the Department.

The challenges ahead for the Office are to draft a law that would enhance cooperation, in particular with the judicial and legislative authorities, as the Regulation on the Office of the Representative adopted by the Government (a bylaw) is not binding on those authorities *stricto sensu* because their competencies and scope of work is prescribed by laws or even by a

constitutional law. Secondly, to ensure that appropriate funds from the State budget are allocated to the Office for additional staff and for timely payments of the amounts awarded by the Court to the applicants, as those payments are made directly from the Office budget.

I thank you for your attention!