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## Committee on Legal Affairs and Human Rights

# Implementation of judgments of the European Court of Human Rights – 12<sup>th</sup> Report

## 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

### Revised information note

Rapporteur: Constantinos EFSTATHIOU, Cyprus, Socialists, Democrats and Greens Group

#### 1. Introduction

1. For over twenty years the Parliamentary Assembly has taken a close interest in the implementation of the judgments of the European Court of Human Rights (hereinafter “the Court” or “ECtHR”).<sup>1</sup> In its latest [Resolution 2494 \(2023\)](#), the Assembly decided to remain seized of this matter and to continue to give it priority.<sup>2</sup>

2. At the May 2023 Reykjavik Summit, the Heads of State and Government of the Council of Europe, adopted the Reykjavik Declaration.<sup>3</sup> This included the Appendix IV “Recommitting to the Convention system as the cornerstone of the Council of Europe’s protection of human rights”, which 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”. The States specifically recalled “the importance of involving national parliaments in the execution of judgments”.<sup>4</sup>

3. In my introductory memorandum to the 12<sup>th</sup> Report, I sought to incorporate this renewed focus on respect for the Convention system, and for timely and effective implementation of ECtHR judgments. One of my priority areas for the forthcoming report is thus on “the role of PACE and national parliamentarians in the implementation of ECtHR judgments”.<sup>5</sup> In this information note I have set out possible ways for the Assembly and national parliamentarians to become more actively engaged in promoting the timely and effective implementation of ECHR judgments. My objective is to encourage a fruitful discussion on this topic, with a view to promoting changes so that we can better use the links we have between our roles as national parliamentarians and our roles as Assembly members, in order to further the effective implementation of judgments at the national level. I have further updated this note following a very useful discussion on this topic during the meeting of the Sub-Committee on the Implementation of ECHR Judgments in Zagreb on 13-14 November 2023.

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<sup>1</sup> The first report was approved by the Committee on Legal Affairs and Human Rights on 27 June 2000; [Doc. 8808](#), rapporteur Mr Erik Jurgens. Since 2000, the Assembly has adopted eleven reports and resolutions and ten recommendations relating to the implementation of the judgments of the European Court of Human Rights.

<sup>2</sup> Paragraph 9 of [Resolution 2949 \(2023\)](#).

<sup>3</sup> [Reykjavik Declaration – Uniting around our values](#)

<sup>4</sup> Reykjavik Declaration, [United Around Our Values](#), Appendix IV, page 18.

<sup>5</sup> [Introductory Memorandum](#), see paragraph 3(d), and paragraphs 38-41.

## **2. The Reykjavik Summit Declaration “United around our values” and the need for greater priority to be given to the full, effective and rapid execution of judgments of the Court**

4. The “full, effective and rapid execution of judgments” of the European Court of Human Rights is a Summit undertaking and continues to be a key priority for the Council of Europe as a whole and for PACE, including “through developing a more co-operative, inclusive and political approach based on dialogue”.<sup>6</sup> At the 4<sup>th</sup> Summit of Heads of State and Government of the Council of Europe on 16-17 May 2023, the member States reaffirmed their “deep and abiding commitment to the European Convention on Human rights and the European Court of Human Rights as the ultimate guarantors of human rights across our continent, alongside our domestic democratic and judicial systems” and they reaffirmed their “unconditional obligation to abide by the final judgments of the European Court of Human rights” in any case to which they are parties.<sup>7</sup> They specifically 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 and the obligations of the High Contracting Parties under the Convention”.<sup>8</sup>

5. In Appendix IV “Recommitting to the Convention system as the cornerstone of the Council of Europe’s protection of human rights”, the Declaration specifically recalled “that executive, national and local authorities, national courts and national parliaments bear responsibility for implementing the Convention and complying with the judgments of the Court”, thus underlining the role that national parliaments and parliamentarians have to play in the execution process.<sup>9</sup> It specifically recalled “the importance of involving national parliaments in the execution of judgments”<sup>10</sup> and sought improved synergies between the different bodies of the Council of Europe in ensuring the timely and effective execution of ECtHR judgments.

6. In Appendix IV to the Summit Declaration, the heads of state 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”, as well as calling for a “strengthening of political dialogue in the event of difficulties in the implementation of judgments”.<sup>11</sup> Flowing from the Reykjavik Summit, there is thus a clear call on us as members of the Assembly, and as national parliamentarians, to play a more significant role in the timely and effective execution of judgments of the ECtHR.

## **3. The role of PACE and national parliamentarians in the implementation of judgments**

7. PACE and national parliamentarians are already involved in the execution of ECtHR judgments. There is a regular Report by the Assembly on the implementation of ECtHR judgments, in principle every 2 years, with the most recent Resolution and Recommendation adopted earlier this year.<sup>12</sup> I have been the rapporteur for the previous two such reports. The Sub-Committee on the implementation of ECtHR judgments also has a role to play.

8. In relation to national parliaments, there are specific recommendations and guides for how national parliaments can support the implementation of ECtHR judgments, including by improving their oversight of the process of implementation, by holding Governments to account to respecting human rights and executing ECtHR judgments, by proposing legislative amendments to help to implement ECtHR judgments and by undertaking legislative scrutiny to ensure that legislation complies with the Convention and the caselaw of the ECtHR.<sup>13</sup> Any new proposals should build on and develop these existing initiatives although there is perhaps more that could be done to support and coordinate the work of national parliamentarians in this field:

- a. To hold the Government to account for timely and effective implementation of ECtHR judgments.
- b. To insist that transparency is improved, for example by asking for an annual report from the Government to Parliament on the execution of ECtHR judgments relating to that State.
- c. To hold the Government to account to ensuring adequate mechanisms are in place at the national level to execute ECtHR judgments – including a strong coordination body or mechanism, ideally involving parliamentarians and NGOs in an expert council to help advance work towards the timely execution of ECtHR judgments.

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<sup>6</sup> Reykjavik Declaration, [United Around Our Values](#), Page 6.

<sup>7</sup> *Ibid*, page 4. See also Appendix IV (page 17).

<sup>8</sup> *Ibid*, Appendix IV, page 18

<sup>9</sup> *Ibid*, Appendix IV, page 17.

<sup>10</sup> *Ibid*, Appendix IV, page 18.

<sup>11</sup> *Ibid*, Appendix IV, page 19.

<sup>12</sup> [Resolution 2494 \(2023\)](#) and [Recommendation 2252 \(2023\)](#).

<sup>13</sup> [Handbook](#) on “National parliaments as guarantors of human rights in Europe”.

- d. To propose legislative reforms that might be required to address the general measures required to implement a given judgment.
- e. To establish caucuses on issues of specific interest where extra effort is needed to support the reforms needed to execute a judgment – this could be through round tables involving parliamentarians and civil society, for example through all party parliamentary groups as in North Macedonia or the UK, or through other forms of engagement to mobilise support and political will to execute a given judgment.
- f. To undertake legislative scrutiny of legislation before Parliament to ensure that it is compatible with Convention standards and the case-law of the Court.

9. Most recently, Assembly Resolution 2494 (2023) highlighted the role to be played by national parliaments in supervising international human rights standards – in particular, “to monitor compliance with international human rights obligations and to ensure that democratically elected representatives are in a position to effectively encourage and facilitate the timely and complete implementation of ECtHR judgments”.<sup>14</sup> The Resolution also committed the Assembly to remaining seized of the matter and giving it priority, and suggested work that the Assembly would undertake through targeted events, conferences, dialogue and thematic reports.<sup>15</sup> Recommendation 2252 (2023) set out specific actions for the Committee of Ministers to ensure better communications with, and involvement of, the Assembly in the implementation of ECtHR judgments.<sup>16</sup> We are still waiting for the reply from the Committee of Ministers to this recommendation.

10. In my introductory memorandum, I said that I would “look for opportunities to improve the contribution of the Assembly, and its parliamentarians, to the implementation of judgments” and would “develop improved tools for facilitating the implementation of ECtHR judgments, including through exploring the idea of a Network of National Representatives”.<sup>17</sup> I noted my hope that the Sub-Committee would be able to develop thinking as to how the Assembly might best implement the Summit conclusions and support the full, effective and rapid implementation of ECtHR judgments. Such work and thinking might result in actions for the Assembly to facilitate the “involvement of national parliaments in the execution of judgments”, and to strengthen the “political dialogue” in relation to the implementation of ECtHR judgments.<sup>18</sup>

11. In particular, more might be done to look at synergies for improving the Assembly’s impact on the implementation of judgments and in particular in encouraging national parliaments and their Members to encourage compliance with the ECHR and the Court’s judgments. A number of different tools could be used to this end, depending on the country context and specific challenges. Such ideas include:

- a. better use of the Sub-Committee on the implementation of ECtHR judgments;
- b. better links between the work of the Monitoring Committee and the Legal Affairs Committee relating to the implementation of ECtHR judgments;
- c. rapporteur visits;
- d. compatibility studies;
- e. collaboration with national parliamentarians and their staff through briefings, training and conferences;
- f. establishing improved links with the Committee of Ministers, perhaps through an annual debate on the implementation of judgments;
- g. liaison group visits,
- h. reforming the role of the Rapporteur to additionally cover a more coordinating role;
- i. or the appointment of Assembly representatives for the implementation of judgments in respect of a given country who could champion the implementation of ECtHR judgments both nationally and within the Assembly, perhaps as part of a network.

<sup>14</sup> Paragraph 8 of [Resolution 2494 \(2023\)](#).

<sup>15</sup> Paragraphs 9 - 11 of [Resolution 2494 \(2023\)](#).

<sup>16</sup> Paragraph 2 of [Recommendation 2252 \(2023\)](#).

<sup>17</sup> [Introductory Memorandum](#), paragraph 40.

<sup>18</sup> Reykjavik Summit [Declaration](#).

#### **4. Options for enhancing the role of the Assembly in the implementation of judgments**

##### **4.1. *Assembly Representatives for the implementation of judgments: The case for a renewed mechanism to improve the involvement of national parliamentarians in the implementation of ECtHR judgments using PACE's unique position***

12. Members of PACE could be appointed as “Assembly Representative for the implementation of judgments” for a given country. Unlike typical rapporteur roles, these would be representatives from their own countries. The idea being that they would, in their own national parliaments, champion the implementation of ECtHR judgments nationally, including by improving transparency and knowledge-sharing in relation to judgments pending execution, sharing best practice for structures and approaches to execution, as well as ideas for helping to contribute to the timely execution of judgments. Depending on what is feasible within their own national structures, they could also encourage relevant legislative and structural reforms. The “Assembly representative” would be recognised as having a specific role in pursuing this important work at the domestic level. This could be a real added value in establishing effective working practices between the Assembly and national parliaments to further the important Summit priority of improving the timely and effective implementation of judgments. Such an initiative would also respond to the specific reference in Appendix IV of the Reykjavik Summit Declaration about the importance of “involving national parliaments in the execution of judgments”.

13. This mechanism could be used to facilitate and further promote other types of potential engagement (set out below), including briefings, training, and the work of the Sub-Committee (or Network). It will be important to make clear that there is not an unrealistic expectation upon the representative to achieve execution, but rather a focus on a role to disseminate best practice, to help to improve democratic engagement in the implementation of judgments and to champion the execution of judgments from a democratic perspective. In discussions within the Sub-Committee some members highlighted that it will also be important to ensure that representatives are not unduly criticised for seeking to champion the execution of ECHR judgments and to improve knowledge-sharing and effective implementation practices. Thought may need to be given to the political party and chamber to which a given Assembly representative might belong. It might, for example, be prudent to appoint two representatives (one from the Government party, one from opposition) for countries where there are a substantial number of judgments pending implementation, with only one for countries with fewer judgments. Consideration should also be given to adequate resourcing to ensure that Assembly representatives can be given appropriate support in their roles.

14. Groups of Assembly representatives could exchange ideas in tackling shared challenges. Given the shared challenges element, this could be perceived as a more constructive endeavour to promote dialogue and ideas for implementing judgments. They could be part of a Network of such representatives within PACE who could then exchange ideas and best practices in areas of common concern. Their roles should dock-in coherently with the work of the Sub-Committee or Network (they should ideally be members of such Network) and the Rapporteur of the Committee on Legal Affairs and Human Rights. In order to ensure an appropriate membership it might be necessary to change the Sub-Committee into a Network in order to enable a wider membership, which would include one or two members for each country, ideally (but not necessarily) from the Committee on Legal Affairs and Human Rights. It might also be sensible to consider whether the rapporteur for the Implementation of ECtHR Judgments should additionally be responsible for coordinating the network of Assembly Representatives, thus enhancing that role.

##### **4.2. *Regular meetings of the Sub-Committee on the implementation of judgments or Network***

15. This would involve organising a meeting of the Sub-Committee on the implementation of judgments in a given country (likely only once per year). The focus could be a mixture of (1) bringing together parliamentarians with an interest in the implementation of judgments to discuss how best to progress this work; (2) encouraging robust domestic processes for coordinating the execution of judgments; (3) encouraging robust processes within the national parliament for supervising the execution of judgments and the compatibility of draft laws with the ECHR, and (3) a specific focus on the legislative changes needed to implement particular judgments, to enable parliamentarians to then take forward work to support and to drive through the necessary reforms. Part of this could include a focus on particular themes faced by a group of countries, or it might be linked with a seminar of relevance to the host country. If a Network of Assembly Representatives for the implementation of ECtHR judgments is developed (see above), these Sub-Committee meetings in a given country could be undertaken in a Network format.

##### **4.3. *Rapporteur country visits***

16. The Rapporteur usually undertakes 2-3 country visits every 2 years (in the framework of the preparation of the regular reports). Some thought could be given to how to make the most of the unique parliamentary

angle to these visits, including whether to have a specific focus on how parliamentarians can hold the Government to account for the implementation of ECtHR judgments and to analyse the compatibility of draft laws with the ECHR. Further thought might be given to encouraging the development of effective national coordination mechanisms for the implementation for ECtHR judgments and for specifically focussing on the legislative changes needed to implement particular judgments, to enable MPs to then take forward work to support and to drive through the necessary reforms.

#### **4.4. The role of the Rapporteur and Rapporteur statements**

17. Thought could be given to the Rapporteur making statements more regularly on the implementation of ECtHR judgments – in a similar way to the statement made by the General Rapporteurs. There are some precedents for this but thought might be given to increasing the use of this tool.

18. The role of the rapporteur might also be enhanced by making him or her responsible for the report, coordinating the Network, and chairing any relevant Sub-Committee or Network meetings. Thought might also be given to establishing a presumption that the rapporteur would ordinarily stay in place for two mandates so as to encourage the accumulation of expertise and experience in this role.

#### **4.5. President of the Assembly**

19. As was called for in the Reykjavik Summit Declaration, further work could be done to ensure that the President of the Assembly strengthens his political dialogue with national interlocutors on the implementation of judgments<sup>19</sup>. Thought might also be given to whether the Rapporteur should do the same in specific instances. The Secretariat could facilitate this by providing relevant information in advance of such meetings.

#### **4.6. Briefings for PACE delegations**

20. The Secretariat and the Rapporteur could assist with organising briefings by the Department for the execution of Judgments (DEJ) of the Council of Europe for PACE national delegations in the margins of part-sessions. The objective would be to familiarise national parliamentarians with the key judgments pending implementation in their country and what legislative measures might need support in order to implement these judgments. This would be relatively low cost to deliver, could ensure that parliamentarians are given the information they need to encourage necessary legislation reforms, and could be a forerunner to further cooperation. It would depend on interest from members of the Assembly. There could be a specific coordinating role for the Assembly representative for the implementation of judgments for that country in facilitating such briefings.

#### **4.7. Role for PACE Delegations**

21. An enhanced role for the PACE delegations in the implementation of ECtHR judgments could perhaps be foreseen in some cases and was discussed by the Sub-Committee, although given the Government majorities in the delegations, it was highlighted by a number of speakers that there is a risk that this simply becomes a way of reiterating the already-known government position, so some caution might be used in terms of seeking a more formal role for the PACE delegation or its head. The PACE delegations could be involved in sharing best-practice and knowledge sharing through briefings (as above). The head of the delegation could also be involved in any hearings organised to focus on a particular country (as has been done previously, most recently with Türkiye, Ukraine, and Hungary in January of 2023). Thought could also be given to working more closely with the Monitoring Committee and its relevant co-rapporteurs for any such hearings.

#### **4.8. Coordination with the Monitoring Committee**

22. There is scope for better coordination with the Monitoring Committee. Firstly, by seeking to involve that Committee or the relevant co-rapporteurs in any events relating to the execution of judgments concerning a particular country under monitoring. For example, when a hearing is foreseen on the implementation of judgments by a particular country that is under monitoring, this could either be organised jointly with the Monitoring Committee, or the relevant co-rapporteurs could be invited to attend.

23. Secondly, the Chair of the Committee on Legal Affairs and Human Rights is also a member *ex officio* of the Monitoring Committee and either he or she – or the rapporteur for the implementation of judgments – could seek to make a statement or ask questions (with the support of the secretariat) at meetings of the Monitoring Committee on issues relevant to the execution of judgments in respect to the items on the agenda of a given

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<sup>19</sup> The Secretariat provides the President of the Assembly with briefings for such meetings. Recent examples include meeting with Ministers from Ireland and Romania, or his attendance at the Crimea Conference relating to inter-State cases.

Monitoring Committee meeting. This would require some coordination to ensure any relevant questions/points relevant to the agenda of the Monitoring Committee were highlighted and prepared in advance. However it could greatly improve the synergies between the roles of the Monitoring Committee and the Legal Affairs Committee in this area.

24. Thirdly, the Chair or the Legal Affairs Committee (or the Rapporteur for the implementation of judgments) could write to the Monitoring Committee to highlight potential priority countries in respect of the implementation of judgments that are not under regular monitoring. This could be of assistance to the Monitoring Committee when choosing the next countries for periodic review monitoring.

#### **4.9. Annual Report to PACE on the execution of judgments and potential PACE motions in respect of particular judgments**

25. PACE Recommendation 2252(2023), linked to my last Report, called for better reporting from the Committee of Ministers on the execution of judgments as well as improved transparency and improved exchanges between the Assembly and the Committee of Ministers on this topic. In particular, the Assembly called on the Committee of Ministers to “develop structured processes to regularly inform the Assembly about judgments of the Court, the implementation of which reveals complex or structural problems and requires legislative action”,<sup>20</sup> to “engage in a process of dialogue with the Assembly”<sup>21</sup>, and as part of this process of dialogue with the Assembly, asked for the Committee of Ministers to “establish a yearly communication of the Committee of Ministers to the Assembly during a part-session, to set out the progress achieved in the implementation of leading and other important cases; this could be similar to the addresses of the Commissioner for Human Rights to the Assembly when presenting his/her annual report”.<sup>22</sup>

26. Such an annual report followed by a structured exchange between the Committee of Ministers and the Assembly could be useful. This could possibly be undertaken in one of the meetings of the Joint Committee during a part-session.

27. Connected to this, in those cases meriting further political encouragement, the Assembly could consider adopting a “motion of censure” – this need not be anything indicating steps towards suspension or expulsion but would be a clear signal that priority needed to be given to the timely execution of a particular judgment. This could either be part of an urgent debate report or part of the regular report on the implementation of judgments.

#### **4.10. Training**

28. The Secretariat and the inter-parliamentary cooperation division within PACE could facilitate the organisation of training programmes to train the staff and members of national parliaments to check for the human rights compatibility of draft legislation and to be better able to encourage the implementation of ECtHR judgments. This could help to ensure that laws passed by national parliaments are analysed to ensure that they comply with the Convention, thus avoiding future violations of human rights (and in particular unintentional violations) and thus reducing the backlog of cases pending before the Court as well as those pending implementation.

#### **4.11. Conferences**

29. Conferences could be organised involving parliamentarians in a given country to focus on (1) encouraging robust coordination processes domestically to coordinate the implementation of ECtHR judgments, including consideration of the development of processes within the national parliament for supervising the execution of judgments and the compatibility of draft laws with the ECHR, and/or (2) a specific focus on the legislative changes needed to implement particular judgments, to enable MPs to then take forward work to support and to drive through the necessary reforms. This could involve seeking to develop a coalition or caucus of parliamentarians willing to drive through necessary reforms needed to address a particular group of judgments.

#### **4.12. Liaison Group visits**

30. Some thought might be given to a small group of PACE members (of different political groups and delegations) visiting a country to help to overcome resistance and to encourage the necessary steps to be taken to implement a specific judgment or group of judgments. This could be used for exceptional cases of

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<sup>20</sup> Recommendation 2.13.

<sup>21</sup> Recommendation 2.14.

<sup>22</sup> Recommendation 2.15

most concern. This would be in addition to visits by the co-rapporteurs following Country Monitoring within the Monitoring Committee.

#### **4.13. Compatibility studies visits**

31. A project could be run by the inter-parliamentary co-operation and supported by the Council of Europe but with in-country experts to help assess what is needed for a given country to effectively implement ECtHR judgments. This could be deployed as an exceptional measure where there were systemic or structural issues with the implementation of general measures in a given country.

### **5. Conclusions**

32. Some of these ideas fit within normal Rapporteur or Sub-Committee work (for example 4.2,4.3, 4.4 and 4.5) and others are better for bespoke action, perhaps involving cooperation projects (4.10, 4.11, 4.12 and 4.13), however it is good to assess them as a whole, given they are all tools working towards a similar objective.

33. Ideas set out in my Recommendation 2252 (2023) seeking improved exchanges between the Assembly and the Committee of Ministers in relation to the execution of judgments could also help to improve these synergies and some are highlighted at 4.9.

34. The Rapporteur on the implementation of judgments, relevant PACE Monitoring Committee administrators and country co-rapporteurs (where relevant) and the DEJ should ideally be involved in this work to encourage better synergies between the different Council of Europe actors with an interest in this topic. It is important that this work is collaborative with the work of the Monitoring Committee, and I am convinced that more can be done to be mutually supportive of the mandates of both Committee on this subject-area.

35. These workstreams can evolve and be refined depending on what works well in a given context and the needs of different countries or judgments. Thought should be given to securing buy-in from the given country and a tailored approach where possible. Further types of engagement could be developed or refined depending on what works well and what might work well. The ideal outcome would be an agreed number of actions for the Assembly to take to help to improve the “full, effective and rapid execution of ECtHR judgments”, to facilitate the “involvement of national parliaments in the execution of judgments”, and to help to improve the “political dialogue” in relation to the implementation of ECtHR judgments.<sup>23</sup>

36. In my opinion, the most ambitious and potentially effective idea would be to develop a Network of Assembly representatives for the implementation of ECtHR judgments. This could be a practical way that members of the Assembly could maximise their dual role of national legislators and members of PACE. We would need to manage expectations somewhat and acknowledge that what might be feasible would vary significantly depending on the country and constitution in question. However, there is scope for such representatives to share best practice in executing ECtHR judgments – in terms of general structures as well as on specific issues. They could also help to improve knowledge-sharing and transparency and to encourage creative thinking to promote the necessary reforms needed to implement ECtHR judgments – especially where there were common challenges in multiple member States. Importantly, this would be a different voice to simply the Government majority voice (the Government should already have the relevant information). For this reason, there is perhaps a more limited value in going solely through the Government (or head of the PACE delegation).

37. However, the options listed above are not mutually exclusive, some can be undertaken as part of the regular cycle of Assembly work (Rapporteur country visits, briefing for the President of the Assembly). Others might be one-off or occasional events depending on demand (e.g. training sessions, briefings, conferences). Others could be of a more exceptional nature to be deployed only in exceptional cases (e.g. liaison group visits, compatibility studies). Some relate more to cooperation between Committees (e.g. enhanced cooperation with the Monitoring Committee). I would therefore recommend that we consider exploring all of these options as part of a renewed engagement by the Assembly in ensuring appropriate democratic participation in the protection and effective functioning of the Convention system. We as members of PACE and national legislators have primary responsibility in this context. I am also aware of other suggestions, such as creating the post of Commissioner for the Execution of ECtHR Judgments and will bear this in mind for my regular report (acknowledging that such a potential mandate goes beyond this work focussing of the Assembly and national parliamentarians).

38. Depending on the outcome of discussions, this note will be declassified and work taken forward to give effect to the ideas that seem most likely to yield a positive contribution from the Assembly.

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<sup>23</sup> Reykjavik Summit [Declaration](#).