Good practice in human rights implementation

Multi-country study on domestic capacity for rapid execution of the judgments and decisions of the European Court of Human Rights

HUMAN RIGHTS TRUST FUND
FONDS FIDUCIAIRE POUR LES DROITS DE L'HOMME

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Good practice in human rights implementation

Multi-country study on domestic capacity for rapid execution of the judgments and decisions of the European Court of Human Rights

Alice Donald and Philip Leach, with Ioulietta Bisiouli, Kanstantsin Dzehtsiarou, Ioana Iliescu, Maria-Andriani Kostopoulou, Vincent Lefebvre, Jeremy McBride

November 2024

Council of Europe

All other correspondence concerning this document should be addressed to the Directorate of Human Rights
Transversal Challenges and Multilateral Project Division
Council of Europe,
F-67075 Strasbourg Cedex,
E-mail: dgi-coordination@coe.int

Cover design and layout:
Documents and Publications Production Department (DPDP), Council of Europe

Cover photo: Shutterstock

This publication has not been copy-edited by the DPDP Editorial Unit to correct typographical and grammatical errors.

Printed at the Council of Europe

The action is funded by the Project "Support to efficient domestic capacity for the execution of ECtHR judgments (Phase 1)", which is implemented by the Council of Europe and funded by the Human Rights Trust Funds (HRTF).

Contents

Glossary and abbreviations

CDDH	Steering Committee for Human Rights
CM	Committee of Ministers
DEJ	Department for the Execution of Judgments of the European Court of Human Rights
DH Meetings	Quarterly meetings of the Committee of Ministers on the implementation of European Court judgments
Convention	European Convention on Human Rights and Fundamental Freedoms
Court	European Court of Human Rights
Guide for Recommendation (2008)2	Guide to good practice on the implementation of Recommendation (2008)2 of the Committee of Ministers on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights (CM(2017)92-add3final)
HELP Programme	Human Rights Education for Legal Professionals Programme (of the Council of Europe).
HUDOC	A database providing access to the case-law of the European Court of Human Rights as well as resolutions and decisions of the Committee of Ministers in English and French.
NGOs	Non-governmental organisations
NHRI	National Human Rights Institution
Recommendation (2008)2	Recommendation CM/Rec(2008)2 of the Committee of Ministers to member states on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights

Executive Summary

INTRODUCTION

This Multi-Country Study aims to identify "good practice" for co-ordination authorities to ensure efficient domestic capacity for the rapid execution of judgments of the European Court of Human Rights ("the Court"). Good practice is described by the Steering Committee on Human Rights (known as the CDDH) in its 2017 Guide[1] as a measure or an action, which, in a particular context:

- strengthens the authority of the actors in charge of the execution
- enables the enhanced involvement of all relevant actors in the execution process at national level
- ensures the visibility of, and promotes sufficient acquaintance with, the execution process
- promotes co-operation with the Committee of Ministers and the Department for the Execution of Judgments (DEJ)
- helps to overcome a difficulty in the execution process at national level (para. 11).

This study is based on national studies undertaken between April and July 2024 in 27 Council of Europe member states of different sizes and with varying records in terms of applications pending before the Court and cases pending execution. Unless otherwise stated, our discussion of practice in the 27 states is drawn directly from these national studies covering the evidence relating to the period from January 2013 to December 2023.

1. Steering Committee for Human Rights (CDDH), Guide to good practice on the implementation of Recommendation (2008)2 of the Committee of Ministers on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights (CM(2017)92-add3final).

The 2017 CDDH Guide focuses attention on the importance of having a suitably empowered and resourced co-ordination authority within the executive, which can facilitate and galvanise the actions not only of government ministries and agencies but also other actors, including courts, legislatures and administrative bodies. Attention is also drawn to the importance of the co-ordination authority maintaining dialogue with National Human Rights Institutions (NHRIs) and civil society organisations. The guidance also points to the necessity for the co-ordination authority to develop effective cooperation with the CM and the DEJ, including timely submission of comprehensive action plans and action reports, and the strategic involvement of the DEJ as a source of external pressure where execution of a judgment is obstructed by unwilling domestic actors.

This Multi-Country Study reviews the development of good practice since the publication of the CDDH Guide. It highlights, where relevant, institutionalised good practices, such as the establishment of committees and working groups bringing together different domestic actors on a permanent or case-by-case basis; standing parliamentary committees; enabling legislation, and direct enforcement of judgments through national court systems.

It also includes examples of good practice which are more granular, such as the proactive use by a co-ordination authority of the Information Technology (IT) to track execution measures; secondments from the co-ordination authority to the DEJ or other Council of Europe bodies; working groups to strengthen execution of complex or intractable cases; and initiatives to translate and disseminate not only judgments against the state but also friendly settlements, unilateral declarations, Committee of Ministers decisions, action plans and action reports, and pertinent judgments against other states.

NATIONAL CO-ORDINATION AUTHORITIES

Legal basis

Around a quarter of the co-ordination authorities surveyed have a legislative basis. Around half of co-ordination authorities are established on the basis of an executive act (such as a presidential decree, regulation or government ordinance). **Establishing an express legal basis (whether legislative or executive) in order to formalise and strengthen the execution mechanism may be particularly beneficial for states with high or increasing numbers of judgments requiring execution.**

Status

Around half of the co-ordination authorities are a unit or office within the Ministry of Justice, which has the **clear advantage of encompassing legal expertise and knowledge and understanding of the domestic judicial and legal systems**. Others are located variously in the Ministry of Foreign Affairs, the Attorney General's office, the Presidential Administration, the Prime Minister's Office or the General Secretariat of the government or operate as autonomous units.

Wherever it is located, it is good practice to ensure that the co-ordination authority is well integrated into the state apparatus and has sufficient status to ensure its authority vis-a-vis other arms of government and domestic interlocutors. Moreover, it should avoid duplication of roles in ways that overburden the officeholder or disturb the separation of powers. Finally, it is important for the co-ordination authority not only to *have* sufficient status and powers but also to *use* them proactively to increase its visibility and galvanise other actors.

Litigation and execution – overlapping responsibilities?

In almost all states, the same authority which coordinates the implementation of judgments is also the government agent before the Court. This is potentially advantageous in ensuring a holistic understanding of the issues underlying the litigation. However, there could be perceived tensions between the duty of government agents to defend certain state practices during the litigation phase and their role in persuading other state bodies to change certain practices when the state is found to be in violation of the Convention. Where the same authority has responsibilities both for litigation and implementation, questions also arise about the sufficiency of human resources, as workloads can become excessive.

The question of human resources comes into play when the co-ordination authority has responsibility not only for litigating before the European Court of Human Rights and implementation of its judgments, but also represents the state before other Council of Europe bodies and UN treaty bodies and for implementation of their decisions and recommendations. **There are advantages to having one unit covering all human rights systems, which should result in a more coherent and consistent human rights policy, but it will be especially important to ensure that there are sufficient suitably qualified personnel to fulfil these multiple roles and tasks.**

The risks highlighted above, of tensions between competing priorities, may be to some extent unavoidable. However, these risks point to the need for good practice in terms of sufficient allocation of resources and robust domestic scrutiny of the performance of the co-ordination authority.

Appointment, duration and dismissal

Good practice regarding the appointment of the head of the co-ordination authority involves the publication of criteria requiring a suitable legal qualification and legal experience (to a sufficiently senior level), experience of working in the field of human rights, and an active working knowledge of at least one of the official languages of the Council of Europe (English and French).

Good practice identified in several states entails ensuring a degree of stability in the leadership of the co-ordination authority, formulating transparent criteria for their appointment, tenure and removal, and establishing safeguards against politicisation of the role. Whatever the specific conditions, there are benefits to ensuring that the head of the co-ordination authority has, (i) a degree of independence from the rest of the executive (meaning that they can promote measures independent of political priorities of individual government institutions), and (ii) sufficient longevity in office to ensure the development of institutional memory and relationships with other domestic stakeholders and with the DEJ.

Resources

Training

All 27 states surveyed lacked a legal requirement or process for the training of staff working on execution, in almost all states there is no initial or regular in-service training offered specifically for such staff. However, some states have undertaken *ad hoc* training of staff, e.g. in cooperation with Council of Europe offices. **It would be good practice for co-ordination authorities to establish a structured training programme for**

staff working on implementation. Such programmes could draw on materials available under the Council of Europe HELP (Human Rights Education for Legal Professionals) programme.

Secondments

Secondments from co-ordination authorities to the DEJ have a two-fold value: they sensitise staff from the co-ordination authority to the DEJ's work and improve their skills to, *inter alia*, draft action plans and reports, and provide the DEJ with insights into the domestic context for execution. Yet, most states surveyed had never made any such secondments to the DEJ or other Council of Europe bodies or had made only short-term secondments. **Experience of states that have made such secondments demonstrates their usefulness, particularly for states with high or increasing caseloads. Staff of co-ordination authorities returning from secondments can become effective champions for implementation domestically, while longer-term secondments may yield even greater benefits.**

Financial resources

On the question of how budgets are set for co-ordination authorities, evidence shows that in many states, the co-ordination authority may submit proposals or information and participate in the planning of the budget, but without a decisive role. Further, in some states there do not appear to be any predefined criteria for the determination of the budget for the co-ordination authority commensurate to estimated workload and activities. **A few states take a different approach by linking the budget for the co-ordination authority to criteria and/or by permitting the co-ordination authority to assess its own needs and make its own budgetary requests. This good practice has the benefit of ensuring that the allocation of resources is transparent and responsive to the needs of the authority.**

For around one-third of the 27 states, interlocutors reported that the salary levels for staff of the co-ordination authority are not adequate for recruitment purposes, due to the high qualifications required for these positions and the – sometimes demanding – process for appointments (such as exams or competitions). As to the question regarding the adequacy of budgets to cover the needs of co-ordination authorities, interlocutors for this study in around a quarter of the 27 states reported that the budget is inadequate or is only partially adequate. **To fill these gaps, some co-ordination authorities display good practice in actively eliciting extrabudgetary resources for their operation and to build their capacity**.

Case management systems

In most of the states surveyed, co-ordination authorities have not installed a case management system. However, this is a dynamic area in which some states were innovating during the research period. **Co-ordination authorities, especially in states with relatively high or increasing caseloads, are likely to benefit from having a digital case management system. Such a system typically includes specialised information and communication tools, such as case management software, and a central location for accessing, storing and handling documentation as cases pass through the execution process. Case management systems are also good practice because they support efficient record-keeping, thereby ensuring the creation of institutional memory.**

Websites

Co-ordination authorities adopt various approaches to the creation and maintenance of websites. A few have no web presence, while some have a web page which is part of the website of their 'parent' ministry or department. Content varies from brief information about the role and legal basis of the co-ordination authority, to much more detailed information about pending and closed cases.

While not all co-ordination authorities will have sufficient resources to maintain websites with multiple functions and languages, such websites have the potential to create a public record of their existing work and thereby increase their visibility both to other public authorities and the wider public. Where a website is created, good practice dictates that it should be regularly updated, and hence the sustainability of a web presence for a co-ordination authority should be built in from the start of any such initiative.

Competences and responsibilities of the co-ordination authorities

All the co-ordination authorities surveyed have the competence to **request information from the relevant national authorities about matters of execution**. In a few states, national authorities have a legal obligation to provide the requested information.

In almost all the states, the co-ordination authority alone is responsible for arranging the **translation and dissemination of judgments and decisions that should be executed,** while the arrangements regarding the entities carrying out the actual translation vary from state to state.

Almost all the co-ordination authorities are responsible for **preparing action plans and action reports** for submission to the DEJ, while others provide guidance to relevant ministries to do so, and act as a quality check on action plans or reports before submission.

In around three-quarters of the 27 states, the co-ordination authority has the competence to **set deadlines** for the relevant authorities to propose measures that are required for execution, while in others the co-ordination authority simply informs public authorities about deadlines set by the DEJ.

In around three-quarters of the states, the co-ordination authority has the competence to **propose legislative initiatives** to remedy violations identified by the Court (but not to initiate the legislative process of its own motion or *ex officio*).

Around two-thirds of the co-ordination authorities have the competence, either formally or *ad hoc*, to **discuss issues of execution with the applicant, the NHRI and NGOs**. In practice, contact with applicants may be limited to the payment of just satisfaction.

Around half of co-ordination authorities have the competence to **propose budgetary changes for measures required for the execution**. In others, the co-ordination authority may be consulted on budgetary matters, or the issue rests with the ministry in which the authority is based or the ministry responsible for the original breach.

Around half of co-ordination authorities are responsible for **disbursing money for the awards of just satisfaction**. In the rest of the states, another government entity is responsible for making payments, sometimes prompted by the co-ordination authority.

In just over half of the states surveyed, the co-ordination authority is committed to **providing the legislature with a periodic (usually annual) report on execution. The presentation of an annual report is** either part of its formal mandate or has become an established practice.

Co-ordination with other public authorities

In addition to the competences and responsibilities above, in almost all the states surveyed, the co-ordination authority has the competence to define and implement the steps that are necessary for execution, and to convene meetings with or between public authorities (sometimes including the legislature) for that purpose.

There are various models for such co-ordination meetings to take place, ranging from a formalised committee comprising multiple stakeholders, to ad hoc working groups or one-off meetings focused on specific cases.

Standing committees for execution

In a few states, a standing committee has been convened by the co-ordination authority or its 'parent' ministry, including representatives of other public authorities such as ministries, the legislature and the judiciary, and sometimes also including NHRIs, NGOs and/or other members of civil society, such as academics.

Standing bodies constitute good practice for several reasons: they provide continuity and build expertise on matters of execution; increase the sense of responsibility for execution across different arms of the state; facilitate contact with multiple state and non-state bodies; and develop a preventive as well as remedial function for the co-ordination authority. These advantages are especially pronounced in complex and intractable cases where it is essential to have representatives from different entities so as to identify and overcome points of obstruction and facilitate the design of feasible and sustainable legal and policy reform. Such a multistakeholder forum also provides a useful interlocutor for the DEJ when it visits a state to monitor the implementation of judgments, enabling the DEJ to become familiar with the positions of all relevant stakeholders.

However, states that have adopted this good practice have had to address several practical obstacles. Inter-institutional bodies can become cumbersome and difficult to convene regularly. Moreover, some have encountered problems of poor participation in practice from ministries and parliaments, or participation of officials whose seniority may not be sufficient to support efficient decision-making. It should also be noted that several of the states surveyed had set up an inter-institutional body later became defunct, demonstrating the need for sustained leadership and commitment to their effective functioning.

Ad hoc meetings or working groups on specific cases or issues

In some states, with or without a standing committee for execution, the co-ordination authority holds irregular meetings with other state authorities or convenes *ad hoc* meetings or working groups on particularly complex cases. **This approach has obvious benefits of galvanising the necessary actors to focus attention on intractable issues. This is the case in states without a standing inter-institutional committee. In states which already have a standing inter-institutional committee, *ad hoc* meetings for specific cases constitute an additional co-ordination mechanism.**

EXECUTION PROCEDURES

Legal framework

In most states surveyed, there is no special legislation governing the process of execution. Some type of specific legislation underpinning the execution

process exists in just under one third of the states surveyed. **Where such legislation exists, it is good practice to review it periodically to ensure it keeps pace with procedural changes by the Court or the CM, so that the Court's judgments are effectively implemented. It would also be a good practice for such special legislation to specify short deadlines for the accomplishment of different stages in the execution process.**

Status of the Convention and the Court's judgments

In the vast majority of the 27 states surveyed, the Convention, as a ratified treaty, has a status higher than domestic law, but not the constitution. In addition, judgments and decisions of the Court will be treated as providing authoritative guidance as to the obligations arising under the Convention. Judgments of the Court are directly enforceable in domestic courts in just over half of the states. **In some of the states where Court's judgments are not directly enforceable, it is good practice that the domestic law either recognises them as affording a basis for the re-opening of certain types of proceedings (variously administrative, civil or criminal) or allows a prosecutor to take action pursuant to them (such as re-opening an investigation).**

A clear majority of states recognise friendly settlements or unilateral declarations as titles for execution but the effect of such recognition varies. **In many states, whether recognised as titles for execution or not, it is good practice that friendly settlements and unilateral declarations are executed in the same way as judgments.**

Implementation of individual measures

The payment of 'just satisfaction' (damages awards)

The procedure followed by states relating to the payment of just satisfaction is broadly similar, whether this is a matter of practice or the subject of specific legal provisions. **Describing the procedures for awarding damage in legal provisions could be a good practice if it specifies clear deadlines for implementing payment. A further good practice identified is to start seeking the necessary information (such as bank details) before a judgment becomes final.**

In all the states surveyed, it is welcome that there is no difference as to the procedure to be followed according to whether payment of just satisfaction is to be made pursuant to a judgment, friendly settlement or unilateral declaration.

The re-opening of cases

In almost all the states surveyed, it is welcome that the law provides the possibility of judicial re-opening of administrative, civil, disciplinary cases, and in many states, criminal cases. In most cases, the co-ordination authority cannot initiate the re-opening of cases, notwithstanding that the CM has repeatedly encouraged national authorities to put in place a system where re-opening of investigations is considered at an early stage of the Convention process, for example, at the point when the Court communicates an application.

A further good practice identified is for the co-ordination authority to provide information to a higher domestic court on issues relating to the execution of European Court judgments, thereby facilitating its assessment of their impact on final domestic judicial decisions. This practice can also secure the prompt and comprehensive communication to the CM of information on measures relevant for the execution of a case.

Implementation of general measures

Translation and dissemination of judgments, decisions and resolutions

Most states adopt the good practice of ensuring the translation of judgments which are relevant to them. Undoubtedly, dissemination of translated judgments and decisions should be seen as a good practice where it is undertaken on a regular basis. The translation and publication of friendly settlement decisions and unilateral declarations would also be good practice, as, like judgments, they may result in important changes to law or policy.

In general, judgments are disseminated specifically to the relevant actors in the execution process but, in many instances, they are sent to courts even when they are not directly implicated in execution. **In addition, it is good practice that translations are usually published in the official gazette and/or the website of the co-ordination authority or the relevant ministry. Some states go further by including summaries in the annual reports of the co-ordination authority, newsletters and even the use of podcasts and social media. Further, it is good practice to selectively translate and disseminate information about judgments against *other* states on a regular basis, together with some indication of the relevance for the state concerned.**

In most states, resolutions and decisions of the CM concerning execution are disseminated to the relevant actors in the execution process. However, this may only be in summary form or limited to resolutions and decisions concerning cases that are under

the enhanced procedure or are otherwise seen as important. **It would be good practice for coordination authorities to arrange for the translation, and publish the full text, of CM decisions and resolutions and disseminate them to relevant actors. Further, the CDDH recommends drafting action plans and reports in the national language and making them as widely accessible as possible, enabling applicants, civil society organisations, NHRIs and parliamentarians to comment on the information being submitted and contribute evidence and ideas with regards to the execution of judgments.**

Changes in legislation and practice

Judgments and decisions of the Court in respect of all the states have led to changes in legislation and, in many states, they have also led to changes to some or all of the following: investigative, prosecutorial and other practices and the case law of courts, including constitutional courts. The role of the co-ordination authority varies from one of taking a lead in stating what is needed to one of providing information or of exercising informal forms of pressure on the relevant bodies. **A potential good practice is for the co-ordination authority to have more than one formal route for galvanising either the executive or legislature to ensure that laws are amended as required following a judgment of the Court.**

In terms of ensuring the effectiveness of remedies, t**he co-ordination authorities in several states clearly play an important role in collaborating with other institutions and exerting pressure or informal influence, with due respect to the separation of powers, as well as pushing where needed to overcome delays. In addition to this good practice, the authority will assist by explaining and interpreting a judgment so as to identify what measures are required by it. In a few of the states surveyed, the co-ordination authority actually prepares draft legislation or is requested by the legislature to comment on draft laws in the light of the Court's case law and Council of Europe standards.**

In addition, many states aim to follow the good practice of distinguishing and prioritising judgments or decisions for special execution procedures, e.g. those under the enhanced supervision procedure.

OVERSIGHT OF EXECUTION DOMESTICALLY

Scrutiny within the executive

The process of domestic scrutiny will involve the co-ordination authority gathering and collating information from relevant authorities. In a few states, those authorities have a legal obligation to provide it. **Especially in states with high caseloads, it is good practice to ensure that the co-ordination authority is sufficiently empowered to acquire timely information from the authorities implicated in the judgment.**

In some states, national bodies produce annual reports which cover a range of issues, including execution, while others produce reports that focus only or predominantly on matters of implementation and the activities of the co-ordination authority. In some states, other institutions (such as independent auditing bodies) are involved in domestic scrutiny of implementation.

Transparency of reporting within the executive is also an important consideration. **Some states exhibit good practice in taking a transparent and proactive approach to disseminating information about the implementation of judgments, ensuring that different branches of the government, and the wider public, are made aware of the state of the execution of judgments.**

Reporting to the legislature

In just over half of the 27 states surveyed, the co-ordination authority (or its parent ministry) is committed to providing the legislature with a periodic (usually annual) report on execution, either under its formal mandate, or as a matter of practice. **Reporting on the status of execution to the national parliament is widely considered a good practice. By these means, executives may involve parliaments in a transparent dialogue about implementation, reflecting their shared responsibility to protect and realise human rights. Regular reporting by the executive also creates a public record of the state's response to human rights judgments, which informs not only the parliament but also other bodies such as NHRIs and civil society. Where reporting mechanisms exist, it is important that they are not merely formalistic, and that the executive is actively scrutinised by parliamentarians.**

Having a specialised parliamentary structure which also oversees the execution of the Court's judgments is generally considered a good practice, as it underscores the importance of this task and can serve as a focal point for implementation (which may be especially important for states with a high volume of more complex cases). Whatever form parliamentary scrutiny takes, it is good practice for governments to facilitate it through regular reporting and other means such as the involvement of parliamentarians in cross-institutional bodies overseeing execution.

Further, it would be good practice for the executive to share action plans and action reports with specialised human rights committees to ensure that

parliamentarians may both scrutinise and contribute to submissions to the DEJ.

Other domestic mechanisms scrutinising the effectiveness of implementation

In some states, a form of independent oversight is built into the system and this can provide constructive scrutiny. For example, this may be carried out by a National Human Rights Institution or Ombudsperson.

In some states, NGOs have a formal role to play in the execution process and this can be considered good practice since it ensures that the expertise of NGOs is drawn on systematically in the execution process.

There are notable examples of collaboration between states and civil society on specific cases and such dialogue can prove effective in the absence of (or in addition to) standing bodies on execution.

The role of the co-ordination authority in effecting legislative change

In around three-quarters of the states surveyed, the co-ordination authority has the competence to propose legislative initiatives to remedy violations identified by the Court (but generally not to initiate the legislative process of its own motion). Some states provide for a more proactive role for the co-ordination authority in this regard, including mechanisms to fast-track remedial measures.

Overall, the suitable level of domestic oversight depends on various factors, including the number of pending cases, the complexity of the violations, and governance arrangements in a particular state. **However, the involvement of high level decision-makers in the execution of challenging cases may help facilitate a smoother and more effective implementation process. In general, it is also good practice to have several forms of oversight of executive action (or inaction) and, as recommended by the Council of Europe, this should include regular executive reporting to parliament and facilitation of parliamentary scrutiny of the execution of judgments.**

COOPERATION ON EXECUTION BETWEEN STATES AND THE COUNCIL OF EUROPE

Lawyers from the DEJ regularly conduct country visits and meet with key decision-makers, for example to discuss the preparation of action plans. It is certainly a good practice for co-ordination authorities to be proactive in facilitating such meetings.

Interaction between national co-ordinators and Council of Europe bodies also takes place in the context of Council of Europe projects, e.g. in the form of workshops and round-table discussions, meetings with key decision-makers, and educational activities for lawyers, judges, and other relevant stakeholders.

National co-ordinators have also underlined the potential of the Execution Coordinators' Network (ExCN), launched by the Council of Europe in Helsinki in June 2024, to facilitate the exchange of expertise and experience between co-ordination authorities.

Smooth and effective collaboration between the DEJ and national co-ordination authorities, especially through country visits, are examples of good practice. The flexibility and variety in forms of cooperation, including bilateral and multilateral projects, also stand out as a good practice, as they enable a swift and strategic response to specific challenges in implementing judgments.

Participation in DH meetings

States' permanent representatives in Strasbourg usually take part in DH meetings (the Committee of Ministers' meetings held quarterly to discuss the implementation of European Court judgments). Although state practice varies, the co-ordination authority usually only takes part in DH meetings when cases from their state are subject to oral debate. However, some co-ordination authorities frequently take part in DH meetings (either in person or by way of written submissions), even when only cases against other states are under consideration. On some occasions, officials other than the co-ordination authority participate in DH meetings, including ministers.

The participation of the co-ordination authority and other key decision-makers in DH meetings is an example of good practice. This is especially the case when co-ordination authorities take part in meetings covering other states. Such engagement provides them with first-hand experience and information about the execution process (how execution of a particular case has been received and what are the expectations of the CM) and enables them to learn from the experience of other countries how to execute Court judgments more effectively.

The effects of CM decisions and interim resolutions

The impact of the CM decisions and interim resolutions adopted in individual cases varies significantly depending on the subject matter of the case at issue and the state in relation to which it was made. In many instances, such decisions help to mobilise the efforts in implementing particular cases and specify or clarify the steps that need to be taken.

It is good practice for co-ordination authorities to translate and disseminate decisions issued by the CM, as they provide significant information about the implementation process, and their dissemination could help galvanise further action.

CONCLUSION

The implementation of Court judgments requires sustained focus and commitment and the involvement of multiple bodies, both state and non-state. Most of the states surveyed in this study face challenges regarding leading cases pending implementation for more than five years. Even states with relatively few cases pending execution are not immune from the challenges arising from a few complex or intractable cases. Accordingly, as recommended by the Guide for Recommendation (2008)2, all states should have, as a matter of either law, regulation or established practice, a suitably empowered and resourced co-ordination authority within the executive. This study has highlighted numerous instances of good practice that states could adopt or adapt, such as the creation of standing committees and working groups bringing together different domestic actors on a permanent or case-by-case basis and secondments from the co-ordination authority to the DEJ. On the basis of surveyed state practices, we conclude that no single practice is sufficient to ensure full and timely execution of judgments. Rather, it is the combination of mutually reinforcing measures, suitably adapted to the particular national context, that will enable states to fulfil the recommendations set out by the CDDH.

1. Introduction

1.1. BACKGROUND

This study has been prepared within the framework of the co-operation Project on "Support to efficient domestic capacity for the execution of ECtHR judgments (Phase 1)", which is implemented by the Council of Europe and funded by the Human Rights Trust Funds (HRTF). The Project's purpose is to provide institutional support regarding the designation and the work of coordinators of the execution of judgments at the national level, both to steer the national execution process and maintain an effective dialogue with the Committee of Ministers. In addition to this study, the Project has involved the establishment of an "Execution Co-ordinators Network" to enable national co-ordination authorities to exchange experience and good practices and to support each other in the process of executing judgments of the European Court of Human Rights ("Court"). The Network was launched at a meeting of authorities organised by the Directorate General of Human Rights and Rule of Law of the Council of Europe on 24 June 2024, in Helsinki, Finland.

Council of Europe member states have repeatedly acknowledged that rapid and effective execution of the Court's judgments is vital to enhance the protection of human rights at the national level and to ensure the long-term effectiveness of the European human rights protection system. To the same ends, the Committee of Ministers ("CM") has urged member states to ensure that its Recommendation CM/Rec(2008)2 on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights ("Recommendation (2008)2") be fully implemented.

Recommendation (2008)2 recommends that member states:

1. designate a co-ordinator – individual or body – of execution of judgments at the national level, with reference contacts in the relevant national authorities involved in the execution process. This co-ordinator should have the necessary powers and authority to:
   - acquire relevant information
   - liaise with persons or bodies responsible at the national level for deciding on the measures necessary to execute the judgment;
   - and if need be, take or initiate relevant measures to accelerate the execution process.
2. ensure, whether through their Permanent Representation or otherwise, the existence of appropriate mechanisms for effective dialogue and transmission of relevant information between the co-ordinator and the Committee of Ministers;
3. take the necessary steps to ensure that all judgments to be executed, as well as all relevant decisions and resolutions of the Committee of Ministers related to those judgments, are duly and rapidly disseminated, where necessary in translation, to relevant actors in the execution process;
4. identify as early as possible the measures which may be required in order to ensure rapid execution;
5. facilitate the adoption of any useful measures to develop effective synergies between relevant actors in the execution process at the national level either generally or in response to a specific judgment, and to identify their respective competences;
6. rapidly prepare, where appropriate, action plans on the measures envisaged to execute judgments, if possible including an indicative timetable;
7. take the necessary steps to ensure that relevant actors in the execution process are sufficiently acquainted with the Court's case law as well as with the relevant Committee of Ministers' recommendations and practice;
8. disseminate the vademecum[2] prepared by the Council of Europe on the execution process to relevant actors and encourage its use, as well as that of the database of the Council of Europe with information on the state of execution in all cases pending before the Committee of Ministers;
9. as appropriate, keep their parliaments informed of the situation concerning execution of judgments and the measures being taken in this regard;
10. where required by a significant persistent problem in the execution process, ensure that all necessary remedial action be taken at high level, political if need be.

2. Department for the Execution of Judgments of the European Court of Human Rights, *Guide for the drafting of action plans and reports for the execution of judgments of the European Court of Human Rights* (undated), https://rm.coe.int/guide-drafting-action-plans-reports-en/1680592206.

1.2. METHODOLOGY

This study is based on national studies undertaken between April and July 2024 in 27 Council of Europe member states. The states and the authors of the national studies are listed at the Annex at the end of this report. The 27 states include some with high numbers of applications pending before the Court and high numbers of cases, including leading cases, pending execution, and others with low counts. The states vary, too, in respect of population size, their location in different regions of Europe, and the length of time for which they have been parties to the European Convention on Human Rights ("the Convention"). Thus, although the 27 states may not be wholly representative of the 46 member states of the Council of Europe, they reflect the diversity of challenges, and of practices at national level, which this study seeks to highlight.

To ensure comparability between the national studies as far as possible, the authors used a common questionnaire,[3] combined with desk research and semi-structured interviews with key actors or experts in the area of supervision of judgments. Interviewees variously included current or former national coordinators or staff within the designated co-ordination authority, and representatives of the national parliament, office of the prosecutor, judiciary, ombudsperson, national human rights institution ("NHRI") and civil society organisations. The goal was to provide an up-to-date overview not only of the structures and procedures that exist at domestic level to execute judgments, but also how they function in practice.

The research covered the 11 years from January 2013 to December 2023. This timeframe was determined with reference to (i) the entry into force of Protocol No 14 to the Convention, which strengthened the means available to the CM to supervise execution,[4] and (ii) the adoption of new working methods by the CM for the supervision of the execution of judgments, such as the twin-track supervision system and the introduction of action plans and action reports.

Unless otherwise stated, for the purpose of this Multi Country Study, the discussion of practice in the 27 states is drawn directly from evidence in the national studies. The authors of this study would like to pay tribute to the authors of the national studies, both for their diligent gathering of data and their astute evaluation of that data, which has greatly facilitated the task of compiling this comparative study. We are also thankful to the numerous interviewees in the 27 states surveyed for so generously sharing their time and insights.

3. Council of Europe, Methodology for a Study on the existing mechanisms for execution of the judgments and decisions of the European Court of Human Rights in the member states in the light of CM Recommendation (2008)2, March 2024, https://rm.coe.int/methodology-multi-country-study/native/1680af74dd.
4. Information document DGHL-Exec/Inf (2010)1 18 May 2010, prepared by the DEJ – DG-HL. Entry into force of Protocol No. 14: consequences for the supervision of the execution of judgments of the European Court by the Committee of Ministers, https://rm.coe.int/168059ac93.

1.3. AIM OF THIS STUDY: IDENTIFYING "GOOD PRACTICE"

This Multi-Country Study analyses how co-ordination authorities function in the states surveyed. In particular, we identify effective national execution mechanisms and practices that fulfil Recommendation CM/Rec(2008)2. As a shorthand, and following the terminology used by the Steering Committee for Human Rights (CDDH), which reports to the CM on human rights matters, we refer to these as "good practice".

The CDDH, composed of government experts on human rights and observers, including civil society organisations, has reported in its Guide for Recommendation (2008)2 that, "Due to the diversity of legal, constitutional and political systems, what is considered as a good practice in a specific State may not be applicable to another State" (para. 12). Indeed, the effectiveness of domestic structures and practices is, by its nature, dependent on the context in which they operate. For example, formal, multi-layered structures (as sometimes set out in domestic legislation) may be appropriate for larger states and/or those with a high case count, but inappropriate for smaller states or those with few judgments requiring execution. Further, the mere existence of institutionalised mechanisms, regulations or laws does not by itself guarantee full and timely execution of judgments, which is also dependent on the requisite capacity and political will of key actors to cooperate (with each other and the Department for the Execution of Judgments (DEJ)) and encourage effective implementation in practice.

The CDDH Guide for Recommendation (2008)2 provides guidance as to how to classify a measure as "good practice". One criterion is whether the measure has been endorsed by the Court, the CM and/or the Parliamentary Assembly of the Council of Europe (para. 11). The other criteria ask whether, in a particular context, the measure:

- strengthens the authority of the actors in charge of the execution
- enables the enhanced involvement of all relevant actors in the execution process at national level
- ensures the visibility of, and promotes sufficient acquaintance with, the execution process
- promotes co-operation with the CM and the DEJ
- helps to overcome a difficulty in the execution process at national level (para. 11).

The CDDH Guide focuses attention on the importance of having a suitably empowered and resourced co-ordination authority within the executive, which can facilitate and galvanise the actions not only of government ministries and agencies but also other actors, including courts, legislatures and administrative bodies. Attention is also paid to the importance of the co-ordination authority maintaining dialogue with NHRIs and civil society organisations. In addition, the guidance points to the necessity for the co-ordination authority to develop effective cooperation with the CM and the DEJ, including timely submission of comprehensive action plans and action reports, and the strategic involvement of the DEJ as a source of external pressure where execution of a judgment is obstructed by unwilling domestic actors.

Seven years after the publication of the CDDH Guide in 2017, on the basis of a series of national reports compiled in 2024, this study reviews the domestic systems and practices designed to ensure the implementation of judgments of the Court in 27 Council of Europe states, incorporating more recent developments and highlighting examples of good practice (both pre-existing and novel).

This study highlights, where relevant, institutionalised good practices, such as committees and working groups that bring together different domestic actors on a permanent or case-by-case basis; standing parliamentary committees; enabling legislation, and direct enforcement of judgments through national court systems.

We also include examples of good practice which are more granular, such as the proactive use by a co-ordination authority of Information Technology to track execution measures; secondments from the co-ordination authority to the DEJ; working groups to strengthen execution of complex or intractable cases; and initiatives to translate and disseminate not only judgments against the state but also friendly settlements, unilateral declarations, as well as pertinent judgments against other states.

Instances of good practice – or potential good practice, depending upon the context – are highlighted in bold throughout the study. These examples are based on the authors' assessment of evidence from the national reports and other data and research (see, for example, Murray and De Vos 2020), as well as guidance about good practice issued by the CM and other Council of Europe bodies. Please note that the examples of good practice indicated are indicative rather than exhaustive.

1.4. GUIDE TO THIS STUDY

Section 2 analyses statistical data relating to the implementation of Court judgments in the 27 states surveyed, providing contextual background for this Multi-Country Study. Section 3 focuses on national co-ordination authorities, examining their legal bases, resources, competencies and responsibilities, as well as the various approaches taken to co-ordinating the state and non-state actors involved in implementation. Section 4 examines the process for execution in the states surveyed, including the legal framework (if any) that underpins it, the status of the Convention and the Court's judgments in the national legal order, and processes for implementing individual and general measures. Section 5 analyses the various arrangements for overseeing the execution process, both by domestic bodies and the Council of Europe. Section 6 concludes the study drawing from comparative state practices.

2. Statistical context

This section offers a brief overview of an analysis of statistical data relevant to the implementation of Court judgments. It provides what we consider to be important contextual background for this report.

We note that it is very challenging to link statistical data to individual states' good practices, or to use statistics to establish how or why there may have been an improvement in a state's implementation record. It is also important to acknowledge that many different factors may impact on effective implementation, and therefore a holistic understanding of each state's context is needed. For example, the size of the country's population may have a bearing on its overall implementation record. However, it is also possible for countries with comparable sizes of population to present a diametrically different overall implementation record. Furthermore, some countries record high numbers of cases pending implementation which are clearly disproportionate to the size of their population.

It should also be recognised that case statistics have been affected by changes in practice adopted by the Court and the CM during the survey period. For example, the Court's introduction of a simplified procedure allowing it to declare individual applications admissible and decide on their merits in a joint decision (under Article 28(1)(b) of the Convention) resulted in an increase in the number of applications communicated to several states (especially in the second half of the survey period). For some states, this development was mirrored by a concomitant increase in judgments finding a Convention violation. Furthermore, the rate of transfer of new Court judgments to the CM for supervision has fluctuated, because of new rules and working methods introduced by the Court with a view to tackling its backlog of pending applications.

Having set out these provisos, the section below summarises the most relevant findings in terms of the statistical analysis.

- Most states face a pressing problem in relation to **leading cases pending for more than five years** (accordingly, states should have an execution system as a matter of practice, as none is immune from implementation problems). In 15 out of the 27 countries, this challenge relates primarily to leading cases pending implementation between five and 10 years. A group of seven states are struggling with delays in cases which have been pending implementation for more than 10 years. Although half of the countries reportedly prioritise cases older than five years, none was found to have developed particular tools for their closer scrutiny, despite the magnitude of the problem (see further below at 4.5.4).
- In many countries, there were **more judgments finding at least one violation in the second half of the decade researched** (2018-2023) than in the first half (2013-2017), with all the implications this might have had for the effectiveness of the respective coordination authorities. In a few countries, the inverse tendency was recorded.
- In several states, there has been a **steady – at times sharp – increase in the numbers of friendly settlements and/or unilateral declarations concluded**.
- Several states showed an overall increase in the number of leading cases closed in the second half of the reference period. However, in many of these countries, the **overall numbers of closed leading cases remained very low compared to the magnitude of the backlog of the pending cases**.
- By the end of the survey period, for 15 out of the 27 countries there was a **decrease in the overall number of cases pending implementation** (ranging from one-third to five-sixths of the state's prior backlog). In some states, this was the result of the closure of large numbers of repetitive cases. Moreover, in other states, **the capacity to close leading cases remained very limited, and many such countries were recording an increase in the overall number of cases pending in the last few years of the survey period**.
- Several states achieved the closure of all the judgments with Article 46 indications issued against them. However, across all the states, the **average time required to implement such judgments varies significantly (between one and 12 years)**.
- A significant majority of states **succeeded in paying just satisfaction awards within the deadline stipulated by the Court** (see further at 4.4.1 below). One means of avoiding delays is for the payment to be made directly from the coordination authority's budget. A small number of states have increasing numbers of cases in which they do not meet the deadline for the payment of just satisfaction (which is sometimes due to inadequate budgetary planning).

- **Only a very small number of states submitted their initial action plans or action reports within the six-month deadline; a significant majority of states did so outside the deadline (in some cases routinely)** (see also the discussion at section 5 below). This was often attributed to a lack of staff. Other explanations included the complexity of cases, the lack of coordination between the national institutions involved in the implementation process, or the absence of oversight of the national implementation mechanisms. **However, the establishment of cross-institutional bodies in support of the work of the coordination authorities appears to have been a key factor in reversing these negative trends in some states** (see further the discussion of such bodies at 3.7.1 below). Improvements have also been attributed to the **secondment of staff from the coordination authority to the DEJ** (see 3.5.3 below), coupled with the establishment of an unofficial working plan for the submission of action plans or reports, agreed between the coordination authority and the DEJ.
- In most states, **statistical data** relating to the implementation of judgments is published by national bodies (including by way of reports of the coordination authorities to parliaments and executive authorities, annual reports of NHRIs and national statistical databases). Six states do not appear to collect or publish such statistical data, and in two states, although certain data is collected , it is not made publicly available (see also section 3.5.5 below). In addition to the information made available by the DEJ, **it would be good practice for national authorities also to collect and publish relevant statistics concerning the implementation of judgments.**

3. National co-ordination authorities

This section focuses on national co-ordination authorities, including their legal basis (3.1) and status within the government apparatus (3.2), with attention to the dual role that most co-ordination authorities play as both agent before the European Court and the individual or office tasked with co-ordinating the implementation of judgments (3.3). We explain the process of appointment and dismissal of national coordinators (3.4) and the resources (human, financial, technical and material) allocated to them (3.5). We also analyse the competences and responsibilities of co-ordination authorities (3.6) and the various institutional forms that have been developed in some states to coordinate the different state and non-state actors involved in implementation, from standing committees for execution through to *ad hoc* working groups created to accelerate execution of specific judgments (3.7).

3.1. LEGAL BASIS

Around a quarter of the co-ordination authorities surveyed have a legislative basis (**Albania, Armenia, Republic of Moldova, Republic of North Macedonia, Romania, Slovakia** and **Ukraine**). In around half of the state surveyed, the co-ordinating authorities operate on the basis of an executive act (such as a presidential decree, regulation or government ordinance), including **Croatia** and **Czechia**. New proposed legislation on the execution of European Court judgments was announced in Poland in February 2024.

Especially for states with high or increasing numbers of judgments requiring execution, it may be beneficial to establish an express legal basis (whether legislative or executive) in order to formalise and strengthen the execution mechanism.

- For example, in **Armenia**, the 2019 Law on Representative on International Legal Matters provided a legislative basis for the first time for the country's representation before the European Court, defining their status and appointment procedures, as well as outlining their powers and responsibilities, including the authority to implement European human rights standards and preventive measures, and facilitate cooperation with various bodies of the Council of Europe, including the CM. This shift from governmental decisions to legislation may, over time, led to greater stability, consistency, and transparency in the execution process.

There are a few states, such as the **Netherlands** and the **United Kingdom**, which have no specific legal basis for their co-ordination authorities, and yet have a record of implementation that is comparable to, or even stronger than, some states which have enacted legislation or introduced executive measures. For states like the UK and Netherlands, there is likely to be a greater degree of flexibility in their approach to implementation matters, which is appropriate for their caseload. Nevertheless, these states commonly have systems for execution that are rooted in established practice rather than law or regulation, and this is important given that no state is immune from challenges that may arise in respect of even a single complex or intractable case.

3.2. STATUS

Around half of the co-ordination authorities surveyed have been established as a unit or office within the Ministry of Justice, which has the **clear advantage of encompassing legal expertise and knowledge and understanding of the domestic judicial and legal systems**. Some authorities are situated in other ministries or entities, including the Ministry of Foreign Affairs (**Poland**) and the Attorney General's office (**Portugal** and **Spain**).

In a small number of states, the co-ordination authority is part of the Presidential Administration **(Azerbaijan**), Prime Minister's Office (**Albania, Armenia**) or the General Secretariat of the government, independent of any ministry (**Montenegro**). This might be advantageous because of the potential for more centralised co-ordination. However, there is potentially an increased risk of politicisation of the execution process where judgments are controversial domestically, or of execution being displaced by other priorities.

In a few states, the co-ordination authority is an autonomous agency (in other words, it is not part of a ministry, government department or office). This may mean a higher level of autonomy and visibility, but with the potential downside that the co-ordination authority may be less well-connected with other parts of the government apparatus or have fewer resources than a unit within a larger ministry.

The nature of the structural arrangements is likely to have a considerable bearing on the ability of the co-ordination authority to act effectively in practice, as its status may impact upon its ability to engage effectively with representatives of other state bodies whose cooperation and compliance is required to implement judgments. Units or authorities that are perceived as having a low status within government, or that are poorly integrated in the government infrastructure, may struggle to gain access to information or get measures adopted.

A closely related issue is whether co-ordination authorities possess a sufficient level of seniority (whether *de jure* or *de facto*) within their respective ministries to ensure that proposals, or even directions, are well-received and acted upon by other officials. It is likely to be the case that the co-ordination authority will carry more influence and authority the higher up in the hierarchy it is positioned. The relatively low status of co-ordination authorities was raised as an issue by interlocutors within several states. In some, recent reforms have strengthened the position of the co-ordination authority; for example, in **Czechia, where** a government statute in 2023 established the head of the co-ordination authority as departmental director within the Ministry of Justice setting out a clear mandate for the authority.

In a small number of states, the individual appointed to coordinate the implementation of judgments is also a judge or a prosecutor. Such arrangements carry the obvious risk that the individual will not have sufficient capacity to carry out both roles. In cases where the lead coordinator is also a judge, questions arise about a lack of compliance with the principle of the separation of powers.

In summary, there are pros and cons to having the co-ordination authority located in particular ministries, and these should be considered, and where necessary mitigated, when decisions are taken about the status of the authority, or its performance is evaluated.

In any event, it is good practice to ensure that the co-ordination authority is well integrated into the state apparatus and has sufficient status to ensure its authority vis-a-vis other arms of government and domestic interlocutors. Moreover, states should avoid duplication of roles in ways that overburden the officeholder or disturb the separation of powers. Finally, it is important for the co-ordination authority not only to *have* sufficient status and powers but to *use* them proactively to increase its visibility and galvanise other actors. These practices are exemplified by the co-ordination authority in Czechia: as noted above, it has the status of a department within the Ministry of Justice and has convened a standing committee of state and non-state actors to ensure effective coordination (see 3.7 below).

3.3. LITIGATION AND EXECUTION – OVERLAPPING RESPONSIBILITIES?

It is overwhelmingly the case that the same authority which coordinates the implementation of judgments is also the government agent before the European Court (one exception being the **United Kingdom**). However, some co-ordination authorities have separate sub-units or teams for handling litigation from those dealing with matters of execution (for example, **Armenia**, **Poland** and **Serbia**).

There are pros and cons to having the same authority performing both roles. Advantages include the holistic understanding of the issues raised which are the subject of litigation and then the target of implementation, and of the context and intricacies of particular cases. However, there could be perceived tensions, where government agents who were defending certain policies or practices during litigation before national courts and/or the European Court then have to persuade other state bodies to change those practices when the state is later found to be in violation of the Convention. Having to 'pivot' quite so dramatically in this way, could impact on the perceptions or conduct of the co-ordination authority and/or their interlocutors. Tensions may be more pronounced where the violation highlighted in the judgment is attributable to the same ministry or agency that is responsible for coordinating the implementation of the judgment.

Where the same authority has responsibilities both for litigation and implementation, concerns have been raised about the sufficiency of human resources, as workloads can become excessive. In addition, in some instances the litigation (with Court deadlines that must be met) is given precedence over matters of implementation.

The question of human resources also comes into play when the co-ordination authority has responsibility not only for litigation before the European Court and implementation of its judgments, but also represents the state before other Council of Europe bodies (such as the European Committee of Social Rights) and UN treaty bodies (such as the Human Rights Committee) and implements their decisions and recommendations (see also 3.5.1). This happens, for example, in **Belgium**, **Spain** and the **United Kingdom**. **There are advantages to having one unit covering all human rights systems, which should result in a more coherent and consistent human rights policy, but it will be especially important to ensure that there are sufficient suitably qualified personnel to fulfil these multiple roles and tasks.**

The risks highlighted above of tensions between competing priorities may be to some extent unavoidable. However, these risks point to the need for good practice in terms of sufficient allocation of resources, discussed at section 3.5, and robust domestic scrutiny of the performance of the co-ordination authority, discussed at section 5.1.

3.4. APPOINTMENT, DURATION AND DISMISSAL

Good practice regarding the appointment of the head of the co-ordination authority involves the publication of criteria requiring a suitable legal qualification and legal experience (to a sufficiently

senior level), experience of working in the field of human rights, and an active working knowledge of at least one of the official languages of the Council of Europe (English and French).

Other requirements in some states include the following:

- an excellent knowledge of the international protection of human rights;
- knowledge of public international law;
- experience of working with international organisations and local NGOs; and
- knowledge of the Convention and case law of the Court.

In a significant number of states, there is no specified duration for the mandate of the co-ordination authority. In a few states, there is a fixed period (for example, seven years in the **Republic of Moldova**). In others, shorter periods of four years (**Serbia**) or five years (**Bosnia and Herzegovina**) are laid down, with the possibility of re-appointment. **A potentially good practice to ensure stability in execution arrangements and avoid politicisation of the role is to ensure that the term of service of the head of the co-ordination authority is a period of years which exceeds the mandate of the government appointing them.**

In respect of the criteria (if any) for removing the person who heads the co-ordination authority, many states have no such conditions, although usually the general protections afforded to civil servants will apply – and these can be rigorous. The absence of conditions, or only weak protections, may lead to peremptory dismissals where the length of the appointment is not stipulated. In more than one member state recently there has been uncertainty about the legal position and attempts to politicise the role, which has led to the dismissal of the heads of co-ordination authorities, and/or the prolonged use of interim or acting officials, resulting in instability in the execution arrangements.

Good practice seen in several states (e.g. Croatia, Czechia) entails ensuring a degree of stability in the leadership of the co-ordination authority, with transparent criteria for their appointment, tenure and removal, and avoidance of interventions which politicise the role. Whatever the specific conditions, there are benefits to ensuring that the head of the co-ordination authority has, (i) a degree of independence from the rest of the executive (meaning that they can promote measures independent of political priorities of individual government institutions), and (ii) sufficient longevity in office to ensure the development of institutional memory and relationships with other domestic stakeholders and with the DEJ.

3.5. RESOURCES

3.5.1. Human resources

In most of the states surveyed, staff within the co-ordination authority do not work solely on the execution of the Court's judgments and friendly settlements, but also have other duties. As noted at section 3.3, these include representation of the state before the Court or before other bodies of the Council of Europe or UN treaty bodies, and implementation of their recommendations. Sometimes, responsibilities also include litigation before constitutional courts (for example, in **Türkiye**). In a few states, the co-ordination authority may also be requested to provide assessments of the human rights compatibility of draft legislation, including measures which are not related to the execution of judgments (see 4.5.2). **It is potentially good practice for the co-ordination authority to have such an integrated and coherent approach to a state's full range of international human rights obligations; however, we reiterate that, in order to secure these advantages, it is necessary to have enough suitably qualified staff to perform these multiple functions.**

Co-ordination authorities have varying numbers of full-or part-time staff, and a small number also appear to rely on the work of interns and trainees. In most of the states surveyed, vacancies in the co-ordination authority are filled reasonably quickly. In a few cases, however, there are problems with recruitment and retention of staff. Problems include: uncompetitive salaries; complex and lengthy recruitment procedures; a high turnover of staff; and poorly qualified applicants. In some states, this has led to disparities between the number of people working in a co-ordination authority and the number foreseen under domestic regulations or civil service personnel plans. For example, in one state, as of July 2024, only four in-house positions out of the designated 29 within the co-ordination authority were filled.

A prerequisite for the effective functioning of co-ordination authorities is support from a secretariat. Most co-ordination authorities have their own secretariat, which is mainly allocated by the government entity to which it belongs. Co-ordination authorities that are autonomous agencies are also generally supported by their own secretariat.

In terms of recruitment of staff to co-ordination authorities, this is usually decided by the government entity to which it belongs (if any) and covered by the general provisions concerning the employment of state employees (for example, recruitment according to the code for civil servants). Appointments to the co-ordination authority variously result from external competitive processes or internal mobility schemes. Criteria for appointments are similar to (although may be less exacting than) those for the appointment of

the head of the authority (see 3.4), including a legal qualification, human rights knowledge or experience, and proficiency in English or French.

3.5.2. Training

Training and other forms of capacity-building for staff in co-ordination authorities on matters of execution and the supervision mechanism are an important means of building specialised knowledge and leadership on execution matters. Yet, all 27 states surveyed lacked a legal requirement or process for the training of staff working on execution, and in almost all states there is no initial or regular in-service training specifically for such staff. Several *ad hoc* training initiatives have been implemented, for example in cooperation with Council of Europe offices, but they had mainly a broader scope and were not specific to execution of the Court's judgments.

Thus, it would be good practice for co-ordination authorities to establish a structured training programme for staff working on implementation. Such programmes could draw on materials available under the Council of Europe HELP (Human Rights Education for Legal Professionals) programme. Moreover, it should be mentioned that in **Germany** the co-ordination authority has elaborated a Guide to the execution of judgments which contains relevant information, based on the practical experiences of the authority. **This is good practice in ensuring that institutional memory is captured and passed on over time.**

In some instances, staff from co-ordination authorities have made study visits to the DEJ, or the DEJ has provided training to them, and this was viewed by our interlocutors as highly beneficial and a practice to be emulated. These and other forms of interactions may take place in the wider context of cooperation activities between the DEJ and national authorities, which is addressed in Section 5.2.

3.5.3. Secondments

Another type of beneficial interaction is the secondment of staff of the co-ordination authority to the DEJ. Secondments have a two-fold value: they sensitise staff from the co-ordination authority to the DEJ's work and improve their skills to, *inter alia*, draft action plans and reports, while also providing the DEJ with insights into the domestic context for execution. Yet, most states surveyed had never made any such secondments, in part due to their already stretched resources, or had made only short-term secondments. There are, however, exceptions to this pattern, including:

- The **Croatian** co-ordination authority has since 2017, made three secondments to the DEJ, including two of more than two years, and one involving the current head of the co-ordination authority. Interlocutors in Croatia attributed the improved performance in terms of execution partly to this initiative, **suggesting that longer secondments to the DEJ may be highly beneficial where resources are available.**
- The co-ordination authority in the **Republic of Moldova** has, since April 2023, with the support of the Council of Europe's Human Rights Trust Fund, seconded one staff member to the DEJ after a competitive selection and with an obligation to return to their former role after the secondment. In addition, three other staff are on three-month secondments.
- A number of **Turkish** judges and prosecutors have been seconded to the DEJ over the last decade.

Other types of secondment from co-ordination authorities can also be envisaged, for example to (i) the state's permanent representation before the Council of Europe in Strasbourg, (ii) human rights bodies/entities within the Council of Europe (such as the Court, the Commissioner for Human Rights and the Committee for the Prevention of Torture), or (iii) other international human rights bodies (such as the Organisation for Security and Cooperation in Europe or its Office for Democratic Institutions and Human Rights, or the UN High Commissioner for Human Rights). Yet these, too, are exceptional. By way of example:

- From 2015-19, **Lithuania** seconded a member of staff from the Department of International Law, a subdivision of the Ministry of Justice, to the Court. Upon their return in 2019, they were transferred to the Division of Representation before the Court.
- In **Romania**, a government co-agent is attached to the Permanent Representation of Romania before the Council of Europe, while an official from the Ministry of Foreign Affairs (though currently not from the co-ordination unit itself) is on a long-term secondment to the DEJ.
- In **Türkiye**, three staff members have been seconded at various times to the Council of Europe HELP programme.

These practices are worthy of emulation and support, particularly for states with high or increasing caseloads. Staff of co-ordination authorities returning from secondments may become effective champion for implementation domestically, while longer-term secondments may yield even greater benefits, as the Croatian experience shows.

3.5.4. Financial resources

Financial resources are critical for the proper functioning of a co-ordination authority. The budget allocated to the co-ordination authority may include staff

salaries, and expenses for accommodation, travel and other costs. As to who decides on the annual budget for the co-ordination authority, this is closely linked to the legal status that the authority has in the state concerned. Thus, in most states, where the co-ordination authority forms a unit or an office of a ministry, its operational costs form part of the overall annual budget of that ministry and are set in the usual process for budgeting followed in each country. Similarly, when the co-ordination authority is a separate governmental department or office, the government will decide the overall budget that should be allocated to that entity.

Regarding whether the co-ordination authority participates in the financial planning of its budget, there is a mixed picture. In many states, the co-ordination authority may submit proposals or information and participate in the planning of the budget, but without a decisive role. Further, in some states there do not appear to be any predefined criteria for the determination of the budget for the co-ordination authority in relation to estimated workload and activities. **A few states take a different approach by linking the budget for the co-ordination authority to criteria and/or by permitting the co-ordination authority to assess its own needs and make its own budgetary requests. This good practice has the benefit of ensuring that the allocation of resources is transparent and responsive to the needs of the authority.**

- In **Croatia,** the budget for the co-ordination authority is proposed pursuant to criteria such as the number of communicated cases, the number of cases pending just satisfaction, the number of staff members, and planned activities – and budgetary requests made by the co-ordination authority are generally respected.
- In **Cyprus**, the Attorney General – who is an independent official of the Republic and Head of the Law Office of the Republic, which co-ordinates execution – presents their budget directly to the House of Representatives for approval. This approach has the advantage that the head of the co-ordination authority is not just proposing a budget to a government body, but also assesses their own budgetary needs and submits their proposal directly to parliament.
- In **Lithuania**, the budget for the co-ordination authority is determined by criteria such as the backlog of judgments and decisions to be translated, planned events, and judgments whose execution may require the contracting of expert services. Flexibility is also built in: every quarter, consultations are held with the heads of the subdivisions of the Ministry of Justice (of which the co-ordination authority is one) and allocations may be redistributed in accordance with their needs.

On the question regarding the budget adequacy to cover the needs of co-ordination authorities, interlocutors for this study in around a quarter of the 27 states reported that the budget is inadequate or is only partially adequate. For example, shortfalls occur where budgeting does not envisage, as part of standardised annual planning, any expenses related to regular training of the staff of the co-ordination authority, possibilities for secondments or other activities that would contribute to increasing the skills and capacity of the staff.

In addition, for around one-third of the 27 states, interlocutors reported that the salary levels for staff of the co-ordination authority are not adequate for recruitment purposes, considering the high qualifications required for these positions and the – sometimes demanding – process for appointments (such as exams or competitions). In some cases, it was reported that salaries are not competitive compared to the private sector, exacerbating the problems of recruitment and retention referred to at section 3.5.1.

To compensate for inadequate resources, some co-ordination authorities display good practice in actively eliciting extrabudgetary resources for their operation and to build their capacity. These can include support from Council of Europe cooperation projects, EU development projects, and sponsorship from embassies based in the country, such as IT equipment. In around one-third of the 27 states, co-ordination authorities have benefited from support given through Council of Europe projects, such as funding for training and capacity-building activities or publications, or via the Norway Grants mechanism (a form of foreign aid).

3.5.5. Technical resources

Case management systems

Co-ordination authorities, especially in states with relatively high or increasing caseloads, are likely to benefit from having a digital case management system. Such a system typically includes specialised information and communication tools, such as case management software, and a central location for accessing, storing and handling documentation as cases pass through the execution process. Case management systems are also good practice because they support efficient record-keeping, thereby ensuring the creation of institutional memory.

In most of the states surveyed, co-ordination authorities have not installed a case management system. While almost all states have made some shift towards digitalisation, this mostly concerns the archiving and storage of files relating to execution (sometimes combined with physical files). The computer systems used for archiving and storage are commonly installed in

the relevant ministry for more general use and are not adapted to the specificities of the execution process. Methods such as Excel spreadsheets or e-Office applications are also adopted, and these may be sufficient for states with low caseloads.

This is a dynamic area in which some states were innovating during the research period. For example:

- With the support of a Council of Europe co-operation project, the co-ordination authority in **Armenia** is developing an integrated office management system that will support the automation of processes relating to cases lodged with the Court against Armenia and cases under the supervision process. The system will serve several purposes, including facilitating document processing within the co-ordination authority, maintaining a comprehensive database of all case documents, and ensuring traceability of information for each case.
- Elsewhere, with the support of a Council of Europe co-operation project, the co-ordination authority in **Türkiye** has developed a digital case-file management system.
- The co-ordination authority in the **Republic of Moldova** has created a Register of Court judgments and decisions, which functions as a searchable public database. It also connects various government entities, including the Ministry of Justice, Legal Information Centre, General Directorate of the Government Agent, and the Court.[5]

Websites

Co-ordination authorities adopt various approaches to the creation and maintenance of websites. A few have no web presence, while some have a web page which is part of the website of their 'parent' ministry or department. In each state, responsibility for maintenance generally lies with the co-ordination authority. Content varies from brief information about the role and legal basis of the co-ordination authority, to much more detailed information about pending and closed cases.

While not all co-ordination authorities will have sufficient resources to maintain websites with multiple functions and languages, the examples below demonstrate the potential for them to create a public record of their existing work and thereby increase their visibility both to other public authorities and the wider public. Where a website is created, good practice dictates that it should be regularly updated, and hence the sustainability of a web presence for a co-ordination authority should be built in from the start of any such initiative.

- The co-ordination authority in **Bulgaria** maintains web pages in Bulgarian (with some parts available in English) as part of the Ministry of Justice website.[6] Resources include a database of judgments translated into Bulgarian, and copies of the co-ordination authority's newsletter and annual reports of the Ministry on the implementation of judgments.
- The co-ordination authority in **Czechia** has created webpages with translated versions of the Court's factsheets,[7] case summaries,[8] a database of all cases concerning Czechia in translation,[9] and a digital newsletter.[10] The Czech authority uses social media and podcasts.[11] In addition, it has produced a manual of the Court's case law especially for legislative and educational purposes.[12]
- The co-ordination authority in the **Republic of Moldova** has operated its own web portal since 2015. In 2023, the portal was enhanced and now provides information in Romanian, English, and Russian about the mandate and activities of the Government Agent, relevant national laws and international treaties, the execution process, statistics relating to the Republic of Moldova, guides and thematic materials and a searchable case law archive in translation.[13]
- A similar range of resources to those in the Republic of Moldova is made available on the dedicated websites of the co-ordination authorities in **Armenia** (in Armenian and English)**,**[14] **Croatia** (in Croatian only),[15] and **Serbia** (in Serbian, English and Russian).[16]

Other forms of technical support

Some co-ordination authorities use IT tools and/or external agencies to support the translation of judgments and decisions (see also 4.5.1).

- In **Türkiye,** the Translation Office within the co-ordination authority (part of the Ministry of Justice) uses a translation application to accelerate the process.

5. https://www.agentguvernamental.md/jurisprudenta-curtii-europene/
6. https://mjs.bg/home/index/1228e52f-b6d8-42f3-9eee-39d0ba163701
7. https://mezisoudy.cz/tematicke-prirucky#cld=2
8. https://mezisoudy.cz/tematicke-prirucky
9. https://mezisoudy.cz/databaze-judikatury
10. https://mezisoudy.cz/zpravodaj-kvz
11. https://x.com/mezisoudy?ref_src=twsrc%5Etfw%7Ctwcamp%5Eembeddedtimeline%7Ctwterm%5Escreen-name%3Amezisoudy%7Ctwcon%5Es2
12. https://mezisoudy.cz/pro-legislativce#areaOfLawTiles
13. https://www.agentguvernamental.md/
14. https://rilm.am/en/homepage/
15. https://uredzastupnika.gov.hr/sudska-praksa-729/729
16. https://www.zastupnik.gov.rs/sr

- In **Lithuania**, the co-ordination authority has specific arrangements to support its work, such as translations contracted directly from the private sector; an agreement with the National Courts' Administration on unlimited access to the Lithuanian courts' information system, and agreement for the use of a commercial legal database on legislation and jurisprudence.

3.5.6 Material conditions

All co-ordination authorities covered by this study are located in government buildings, usually within (and allocated by) their 'parent' ministry. Interlocutors for this study mostly reported that their accommodation meets the needs of existing staff; for example, avoiding problems such as inflexible or overcrowded offices, dispersal of staff in different buildings, or locations that are remote and that impede co-ordination with other bodies.

3.6. COMPETENCES AND RESPONSIBILITIES OF THE CO-ORDINATION AUTHORITIES

This section provides an overview of the competences and responsibilities of the 27 co-ordination authorities surveyed. Some of these are analysed in greater detail later in this study, and cross-references are provided accordingly.

Requesting information from the relevant authorities

All the co-ordination authorities have the competence to request information from relevant national authorities about matters of execution. In a few states, those authorities have a legal obligation to provide the requested information to the co-ordination authorities (**Bosnia and Herzegovina, Montenegro, Republic of North Macedonia, Romania, Ukraine**). In others, however, the provision of information to the co-ordination authority is discretionary and would benefit from a more institutionalised and systematic approach (see 5.1.1).

Arranging the translation and dissemination of judgments and decisions

In almost all the states, the co-ordination authority alone is responsible for arranging the translation and dissemination of judgments and decisions that should be executed. Arrangements regarding the entities carrying out the actual translation vary from state to state (see section 4.5.1).

Preparing action plans and reports for submission to the DEJ

Almost all the co-ordination authorities are responsible for preparing action plans and action reports for submission to the DEJ (see also sections 4 and 5.2). In a few states where this is not the case, , the co-ordination authority provides support and guidance to the relevant ministry to do so, and acts as a quality check on the action plan or report before submission.

Setting deadlines for the authorities to propose measures required for execution

In around three-quarters of the states, the co-ordination authority has the competence to set deadlines for the relevant authorities to propose measures that are required for execution (see also section 4.4.1). However, it is not clear how often this happens in practice or whether such deadlines are met. In a minority of states, the authority to set deadlines is vested in the ministry within which the co-ordination authority is located. In a few others, a "light touch" approach is preferred whereby the co-ordination authority simply informs public authorities about deadlines set by the DEJ.

Proposing legislative amendments

In around three-quarters of the states, the co-ordination authority has the competence to propose legislative initiatives to remedy violations identified by the Court (but not to initiate the legislative process of its own motion or *ex officio*). In a few states, the authority can advise competent ministries or signal the need for legislative remedies, but not propose legislative amendments, which may be made by the ministry within which the authority resides, or by members of Parliament (see also section 4.5.2).

Discussing issues in respect of execution with the applicant, NHRIs and/or NGOs

Around two-thirds of the co-ordination authorities have the competence, either formally or *ad hoc*, to discuss issues of execution with the applicant, the NHRI and NGOs (see also section 5.1.6). In practice, contact with applicants may be limited to the payment of just satisfaction. In a few states, the co-ordination authority has no mandate to discuss execution with applicants, the NHRI or NGOs, which appears unnecessarily restrictive. One reason given by co-ordination authorities for not discussing execution with NGOs is that they are, or might become, involved in litigation at the Court and are consequently viewed as "adversaries". This also seems to be an unduly restrictive approach given the important role that NGOs can play in understanding the root cause of violations and helping to identify remedies, especially in complex cases.

Proposing budgetary changes for measures required for execution

Around half of co-ordination authorities have the competence to propose budgetary changes for measures required for execution (such as **Bulgaria, Lithuania, Montenegro**). In other states, the co-ordination authority may be consulted on budgetary matters, or the issue rests with the ministry in which the authority is based or the ministry responsible for the original breach (see section 4.4.1).

Disbursing money for awards of just satisfaction

Around half of co-ordination authorities are responsible for disbursing money for the awards of just satisfaction (see also section 4.4.1). In the rest, another government entity is responsible for making payments, sometimes triggered by the co-ordination authority. Most commonly, this is the Ministry of Finance, but elsewhere it is the cabinet of ministers, Ministry of Justice, Ministry of Foreign Affairs, the Treasury or the ministry responsible for the original violation. In one state (**Albania**), the co-ordination authority can initiate payments of up to €10,000.

Providing the legislature with a periodic report on execution

In just over half of the states surveyed, the co-ordination authority is committed to providing the legislature with a periodic (usually annual) report on execution (either as part of its formal mandate, as in **Albania** and **Bulgaria**, or as a matter of established practice, as in **Belgium** and the **United Kingdom**). In some states that do not envisage periodic reporting, an activity report is instead provided to the government or Prime Minister and may then be transmitted to the relevant parliamentary committee. In several states, there is no reporting mechanism, or a previous mechanism has fallen into disuse (see further, section 5.1.3).

Other functions and responsibilities

Around one-third of states have one or more additional competences and responsibilities. Some of these are specifically related to the execution process, including:

- Representing the state during quarterly DH meetings of the CM (such as **Serbia**) (see section 5.2.1)
- Ordering the re-opening of cases or the re-opening of an inquest (in cases of unnatural deaths) in cases in which the Court decides that the initial investigation of a criminal case was not effective or compatible with Articles 2 or 3 (or other provisions) of the Convention (as is possible in **Cyprus**) (see also section 4.4.2).
- Initiating or intervening in the re-examination of cases in civil or criminal judicial proceedings, either *ex proprio motu* (of its own motion) or at the initiative of the applicant, or jointly in co-ordination with the applicant (**Republic of Moldova**). In **Spain** the co-ordination authority can intervene in the re–examination of cases as an *amicus curiae* (see further section 4.4.2).

Another competence of the co-ordination authority in a small number of states is to undertake scrutiny of draft legislation to determine its compatibility with Convention rights, whether routinely (**Bulgaria)** or on request (**Republic of Moldova**) (see section 4.5.2).

3.7. CO-ORDINATION WITH OTHER PUBLIC AUTHORITIES

In addition to the competences and responsibilities above, in almost all the states surveyed, the co-ordination authority has the competence to define and implement the steps that are necessary for execution, and to convene meetings with or between public authorities (sometimes including the legislature) for that purpose.

There are various models for such co-ordination meetings to take place, ranging from a formalised committee comprising multiple stakeholders, to *ad hoc* working groups or one-off meetings focused on specific cases.

3.7.1. Standing committees for execution

In a few states, a standing committee has been convened by the co-ordination authority or its 'parent' ministry, including representatives of other public authorities such as ministries, the legislature and the judiciary, and sometimes also including NHRIs, NGOs and/or other members of civil society, such as academics.

The CDDH, in its Guide for Recommendation (2008)2, states (para. 79) that such inter-institutional bodies have "significant potential to achieve their involvement and co-ordination with a view not only to the swift execution of judgments but to the implementation of the Convention in general". While, as noted at section 2, it is difficult to link statistical data to individual states' good practices, the introduction of cross-institutional bodies in some states is positively correlated with improvements in, for example, co-ordination authorities submitting action plans on time to the DEJ and an increased capacity to achieve closure of leading cases.

Standing bodies constitute good practice for several reasons: they provide continuity and build

expertise on matters of execution; increase the sense of responsibility for execution across different arms of the state; facilitate contact with multiple state and non-state bodies; and develop a preventive as well as remedial function for the co-ordination authority. These advantages are especially pronounced in complex and intractable cases where it is essential to have representatives from different entities so as to identify and overcome points of obstruction and facilitate the design of feasible and sustainable legal and policy reform. Such a multistakeholder forum also provides a useful interlocutor for the DEJ when it visits a state to monitor the implementation of judgments, enabling the DEJ to become familiar with the positions of all relevant stakeholders.

However, as some of the following examples show, states that have adopted this good practice have had to address several practical obstacles. Inter-institutional bodies can become cumbersome and difficult to convene regularly. Moreover, some have encountered problems of poor participation in practice from ministries and parliaments, or participation of officials whose seniority may not be sufficient to support efficient decision-making. These problems have sometimes been mitigated by having smaller working groups on particular cases drawn from the wider membership of the standing body. It should also be noted that several of the states surveyed had set up an inter-institutional body which later became defunct, demonstrating the need for sustained leadership and commitment to their effective functioning.

In **the Republic of Armenia**, an Inter-Agency Committee for the execution of judgments was established in December 2021 by prime ministerial decree. It comprises various ministers (including Justice, Defence and Social Affairs), the Prosecutor General and the Human Rights Defender (the NHRI). Chaired by the Deputy Prime Minister, it reportedly meets at least once a year and emphasises the need for a unified and coordinated effort from all stakeholders to uphold international human rights standards. Its proceedings are minuted but not made publicly available. If necessary, the Committee can create working groups and invite experts, including those from other state bodies, partner states, international organisations, and other relevant entities.

To fulfil its tasks, the Committee develops recommendations for the state administration system and other competent bodies. In February 2024, the Committee decided to organise its work into subgroups, each focusing on specific human rights violations arising in cases against Armenia, including safeguarding human rights in the armed forces; preventive detention; addressing medical negligence; health care in penitentiary institutions; preventing discrimination, and enforcing domestic judicial decisions.

In **Croatia**, an Experts' Council was established in 2012, convened by the co-ordination authority and comprising around 30 representatives from the highest courts in Croatia, the State Attorney's General Office, all ministries, and other national state bodies. The Council was established as an inter-institutional expert body with the task of defining appropriate measures for execution and monitoring their implementation. One proposal is to include parliamentarians, but this has not yet been acted upon. Representatives of NHRIs (the Ombudsperson, Ombudsperson for Children, Ombudsperson for gender equality, Ombudsperson for persons with disabilities) are also entitled to participate in the Council's work. In addition, since 2022, the Rules of Procedure have allowed the co-ordination authority to invite representatives of NGOs to participate in the work of the Council regarding specific execution issues; however, one interlocutor from a national NGO notes that this has not happened in practice. The NHRI and NGOs do not have voting rights in the Experts' Council, but reform is under way to create a platform for NGO involvement by the end of 2025.

The Experts' Council has the competence, inter alia, to propose measures to execute the Court's judgments and decisions; ensure their timely implementation; submit opinions on draft action plans and action reports prepared by the co-ordination authority and facilitate and attend meetings during missions carried out by the Council of Europe related to execution. According to the Council's rules of procedure, after a final judgment of the Court, the co-ordination authority prepares a preliminary questionnaire which is sent to all Council members to elicit proposals for remedial measures. These responses inform the co-ordination authority's drafting of the action plan or report, which is in turn sent to all members for approval before submission to the CM.

Plenary meetings of the Council are expected to be convened annually (post-pandemic, two plenary meetings were held in 2022 and one in 2023). In between, communication occurs in limited composition between the co-ordination authority and the authorities responsible for the execution of specific judgments.

In **Czechia**, in 2015, a Committee of Experts on the implementation of decisions of international human rights bodies (known as the *Kolegium*) was established as an advisory body of the co-ordination authority (Government Agent). It is composed of representatives of all ministries, both chambers of

Parliament, higher courts, the Bar Association, State Prosecutor's Office, Ombudsman's Office, academia and civil society. It can also address broader issues of compliance with national legislation and practice with the Court's case law. Its wider goals are to raise awareness among Czech public authorities about their obligations under the Convention and to embed Convention standards and the Court's case law into day-to-day decision making.[17] Its members, particularly those who represent ministries, usually hold senior positions and act as human rights focal points within their respective institutions. Its membership and minutes of its proceedings are publicly available.[18]

The Committee has encountered some challenges. Being a large body, it has tended to meet only annually (it was originally intended to meet twice a year, and the intention to revert to biannual meetings was agreed at a meeting of the Committee in May 2024). Further, not all ministries are always represented, and parliamentary involvement is sporadic, in part because the specialised human rights subcommittee in the Chamber of Deputies ceased to exist after elections in 2017. Presently, only two members of the lower chamber of Parliament and one member of the upper chamber are members of the *Kolegium*.

The Committee sometimes forms smaller working groups. Notably, in January 2020, it established an expert forum on the execution of the judgment in *D.H. and Others v Czech Republic*.[19] It analysed the causes of the persistent overrepresentation of Roma pupils in programmes for pupils with mild intellectual disabilities and made recommendations to ensure equal access to education for Roma pupils, which were shared with the DEJ.[20] This working group was put on a statutory basis in June 2024 and includes the NHRI and representatives of NGOs.

In the **Republic of Moldova**, an Advisory Council has been functioning since 2023, which includes the General Prosecutor's Office, the Supreme Court of Justice, and the Public Advocate's Office, in addition to relevant ministries, the Superior Council of Prosecutors and Superior Council of the Magistracy, the former Government Agent, and civil society representatives, including an academic. It does not, however, include representatives of Parliament. Its remit covers proceedings before the Court and execution of judgments. It is convened by the co-ordination authority as needed (four times since its expansion in 2023). It can bring in specialists and experts when needed in respect of particular cases.

At its meeting in May 2024, the Advisory Council discussed, among other things, groups of cases that were under enhanced supervision by the CM, including cases regarding detention conditions; health care in places of detention; and the prevention and effective investigation of ill-treatment in police custody.[21] In addition, the Advisory Council exchanged opinions with representatives of the DEJ, the Moldovan Parliament, the Ministry of Health, and the Ministry of Labour and Social Protection regarding general measures that must be implemented in respect of the case of *VI v. Republic of Moldova*[22] aimed at reforming the system of involuntary hospitalisation in psychiatric hospitals and the involuntary psychiatric treatment of people with intellectual disabilities, especially children.

In **Poland**, the co-ordination authority (the Plenipotentiary) convenes an Inter-Ministerial Committee and may invite participation (in an advisory capacity) from representatives of the *Sejm* and the Senate, the Chancellery of the President, the Supreme Chamber of Control (which audits the activities of the organs of government administration), the three Ombudsmen for Civil Rights, Children's Rights and Patients' Rights, the Constitutional Tribunal, the Supreme Court, the Supreme Administrative Court, the National Judicial Council, representatives of common and administrative courts, the Prosecutor General, the Chief of Police, the Director General of the Prison Service, the Legislative Council, the Government Legislation Center, as well as representatives of other relevant governmental and local government administrative bodies, and representatives of the legal profession and NGOs.

In addition to four regular meetings held annually, there are ad hoc meetings with representatives of different ministries to discuss the implementation of particular cases. For example, a meeting of several ministries in 2019 discussed the problem of the length of administrative and judicial-administrative proceedings (*Wcisło and Cabaj v. Poland*[23] and the *Beller* group of cases[24]).

17. https://justice.cz/web/msp/kolegium-expertu-pro-vykon-rozsudku-eslp
18. https://justice.cz/web/msp/kolegium-expertu-pro-vykon-rozsudku-eslp
19. No. 57325/00, 13 November 2007.
20. Communication from the authorities (03/06/2022) in the case of *D.H. AND OTHERS v. the Czech Republic* (Application No. 57325/00), DH-DD(2022)606, 1436th meeting (June 2022) (DH), 3 June 2022.
21. https://www.agentguvernamental.md/comunicate-de-presa/a-treia-reuniune-a-consiliului-consultativ-pe-langa-agentul-guvernamental/
22. No. 38963/18, 26 March 2024.
23. Nos. 49725/11 and 79950/13, 8 November 2018.
24. No. 6992/11, 26 March 2019.

Regular, extended meetings, with the participation of civil society and other stakeholders are organised in December each year. In addition, in early 2024, two ad hoc meetings were organised by the co-ordination authority with various stakeholders – one concerning the issue of pre-trial detention, and the second concerning the re-establishment of the rule of law. Results of the meetings are included in the annual report on the implementation of Court judgments prepared by the Plenipotentiary, which are available online.

3.7.2. Ad hoc meetings or working groups on specific cases or issues

In some states, the co-ordination authority holds irregular meetings with other state authorities or convenes *ad hoc* meetings or working groups on particularly complex cases. **This approach has obvious benefits of galvanising the necessary actors to focus attention on intractable issues. This is the case in states without a standing inter-institutional committee. In states which already have a standing inter-institutional committee, *ad hoc* meetings for specific cases constitute an additional co-ordination mechanism.**

- In **Bulgaria**, there is a legal basis for the creation of case-specific working groups, especially for intractable cases and those whose execution falls within the competence of several state agencies. These sometimes involve the Ombudsman and NGOs. For example, the Ombudsman and NGOs were involved in a working group examining legislative proposals for the execution of the pilot judgment *Neshkov and Others v Bulgaria*[25] concerning inhuman and degrading prison conditions (which was closed by the CM in June 2024).
- In **Czechia**, in addition to the work of the *Kolegium* (discussed above), separate working groups have yielded tangible results on some occasions (such as adjustments in 2018 of the domestic remedy relating to the excessive length of proceedings, in the wake of the *Žirovnický* case).[26] However, working groups may not always be effective in cases where consensus cannot be obtained, as was the case when a working group failed to reach agreement on the need to change the Czech legal order as a result of the Grand Chamber judgment in *Blokhin v. Russia,*[27] concerning otherwise acts committed by juveniles below the age of criminal responsibility.
- In **Lithuania**, various state institutions met to discuss execution of *Matiošaitis and Others v Lithuania,*[28] which concerned the absence of effective review of life sentences. Subsequently, NGOs and academia were involved in consultations on a new draft law.
- In **Romania**, in 2023, an Office for the execution of European Court of Human Rights judgments was established at the level of the General Secretariat of the Government, tasked with supervising the longstanding problem of the non-enforcement of judgments concerning non-implementation or delayed implementation of final domestic court decisions or arbitral awards delivered against the state or state-controlled companies. The co-ordination authority remains involved, but the specific unit was created at a higher political level to ensure effective co-ordination of the execution process.

  Other inter-institutional meetings have been held, sometimes involving the Romanian NHRI and NGOs, covering most of the leading cases or groups of cases pending against Romania. These were mostly, but not all, convened by the co-ordination authority. These include cases concerning prison conditions; restitution of nationalised properties; issues related to the rights of mental health patients and those with intellectual disabilities, LGBTQ+ rights; measures related to seizure and non-restitution of genetic material from a fertility clinic; excessive use of force by the law enforcement agencies, including deadly use of firearms and racial profiling of Roma suspects in police actions.

In addition to case-specific meetings or working groups, some coordinating authorities have other *ad hoc* arrangements for coordinating the efforts of different state entities.

- In **Hungary**, the co-ordination authority, the National Judicial Office, the Office of the Public Prosecutor (and occasionally the Constitutional Court) meet annually on an ad hoc basis when the DEJ carries out a mission to Hungary (see also section 5.2).
- In the **United Kingdom**, the Ministry of Justice coordinates a 'monthly review' of judgments pending supervision. The relevant government department is invited to review a shared case tracking system (with cases listed on a spreadsheet) with any relevant updates or plans for the execution of specific judgments. This is described by the Ministry of Justice as a "pragmatic, light touch" approach suitable for the UK's small caseload. It also enables the Ministry

25. Nos. 36925/10, 21487/12 and 72893/12, 27 January 2015.
26. No. 23661/03, 30 September 2010.
27. No. 47152/06, 23 March 2016 (GC).
28. Nos. 22662/13, 51059/13 and 58823/13, 23 May 2017.

to keep abreast of personnel changes across other departments and ensures that cases do not fall 'off the radar'.

3.7.3. Meetings with federal or devolved entities

In federal states, or those with devolved entities, it is good practice to ensure that such bodies are involved in, and are consulted about, implementation matters (where this is relevant). For example:

- In **Germany** there is continuous cooperation with the ministries of justice of the *Länder*. An annual meeting on execution is convened by the co-ordination authority with *Länder* ministries, judges from the highest courts in Germany, and sometimes the DEJ.
- In the **United Kingdom**, the Ministry of Justice coordinates and supervises cases concerning Scotland, Wales and Northern Ireland. In cases where the actions or omissions of a devolved authority causes a violation to be found against the United Kingdom, the Ministry of Justice as the co-ordination authority has a responsibility to consider what steps the devolved administrations must take to implement the judgment. Moreover, where a case is lost in respect of England and Wales, Scotland and Northern Ireland may be required to make reforms if they have legislation similar to that which led to the violation.

4. Execution procedures

This section covers the process for execution in the states surveyed, including the legal framework (if any) that underpins it (4.1); the status of the Convention and the Court's judgments in the national legal order (4.2) and recent or ongoing reforms of the execution process (4.3). The section analyses the process for executing individual measures, including payment of just satisfaction, re-examination of cases, and other forms of individual relief (4.4). It concludes by setting out the process for implementing general measures, including translation and dissemination of judgments and decisions, changes in law and practice, ensuring the effectiveness of remedies and execution of special cases, such as those under enhanced supervision (4.5).

4.1. LEGAL FRAMEWORK

In most states surveyed, there is no special legislation governing the process of execution, with reliance sometimes being placed on the more general legal framework, which may or may not have some specific adaptations to cover the enforcement of judgments of the Court and which will not cover all aspects of the execution process. In other instances, reliance is placed either on the status of the Convention pursuant to its ratification or the giving of legal effect to its provisions (which will be significant at most for the enforcement of individual measures) or on established practice.

However, in just under one-third of the states, there is specific legislation underpinning the execution process (**Armenia**, **Bulgaria**, **Lithuania**, **Republic of Moldova**, **Republic of North Macedonia**, **Romania**, **Slovakia** and **Ukraine**). Legislation may be of a primary or secondary nature, may not be limited to a single instrument, may involve the introduction of new provisions into existing laws, and may not be solely concerned with the execution process. **Where such legislation exists, it is good practice to periodically review it to ensure it keeps pace with procedural changes by the Court or the CM, so that the Court's judgments are effectively implemented.**

Such legislation tends to deal with some or all of the following matters: the translation and publication of judgments and/or summaries of them; their transmission to courts and public institutions; the making of proposals for law reform; reporting to the co-ordination authority on measures taken for execution and/or difficulties encountered; the submissions of proposals regarding execution to the CM; and reporting on execution to a parliamentary committee. However, in a few states the scope of such legislation is quite limited, dealing only with a few aspects of the execution process.

It would be a good practice for such special legislation to specify short deadlines for the accomplishment of different stages in the execution process (as is the case, for example, in Albania), but this may be less important in states with only a few cases to process.

4.2. STATUS OF THE CONVENTION AND THE COURT'S JUDGMENTS

In the vast majority of states, the Convention, as a ratified treaty, has a status higher than domestic law, but not the constitution. In addition, judgments and decisions of the Court will be treated as providing authoritative guidance as to the obligations arising under the Convention.

In just over half of the 27 states, it is good practice that judgments of the Court are directly enforceable, either through proceedings brought by the applicant (generally limited to the just satisfaction award) or because they are legally binding on the administration so there is a basis for taking measures to implement the judgment concerned.

In some of the states where Court's judgments are not directly enforceable, it is good practice that the domestic law either recognises them as affording a basis for the re-opening of certain types of proceedings (variously administrative, civil or criminal) or allows a prosecutor to take action pursuant to them (such as re-opening an investigation).

A clear majority of states recognise friendly settlements or unilateral declarations as titles for execution but the effect of such recognition varies. In some states, this means that friendly settlements or unilateral declarations are equated with judgments and, insofar as the latter are directly enforceable or could lead to re-examination (generally they are also enforceable). Only in **Ukraine** is there legislation specifically providing for the enforcement of friendly settlements and unilateral declarations. **In many states, whether recognised as titles for execution or not, it is good practice that friendly settlements and unilateral declarations are executed in the same way as judgments.** This is especially so for unilateral declarations since strike-out decisions by the Court following the acceptance of a unilateral declaration are not transmitted to the Committee of Ministers for supervision, unlike those taking note of a friendly settlement.

In a small number of states, criminal responsibility for non-execution could be imposed (**Bosnia and Herzegovina** and **Ukraine**), or disciplinary liability imposed on judges or officials (**Albania** and the **Republic of North Macedonia**) or on the heads of co-ordination authorities (**Czechia**). It should be noted that such possibilities are entirely hypothetical, as this study has not identified instances of liability actually being imposed. In most states, there is no such provision for sanctions for non-compliance with the judgments or decisions of the Court. Indeed, the effectiveness of such sanctions is questionable – and they could even be counter-productive if they punish individual officials for what may be wider institutional failings.

4.3. REFORMS OF THE IMPLEMENTATION PROCESS

In only a few states have there been any reforms during the research period other than those concerning the co-ordination authority. These reforms have variously concerned matters such as: the formalisation of standing committees of relevant actors for execution (**Czechia**); the adoption of general measures (**Albania** and **Armenia**); the re-opening of proceedings (**Croatia** – in connection with friendly settlements and unilateral declarations, and **Spain** – in respect of reopening criminal proceedings following a judgment of the Court and the possibility for the co-ordination authority to intervene in the re–examination of cases as an *amicus curiae*; the payment of just satisfaction (**Albania**); the translation of judgments (**Lithuania**); the reporting on execution (**Albania**); and parliamentary oversight (**Albania** and **Georgia**).

In most states, there are no proposals for reform under consideration other than those regarding the co-ordination authority. However, at the time of writing there are proposals under consideration in a few states concerning matters such as: the proposal for a new law on execution of the Court's judgments (**Poland**); the adoption of a national execution strategy and action plan (**Georgia**); the establishment of focal points within relevant authorities (**Republic of North Macedonia**); payment of compensation (**Ukraine**); arrangements for adopting general measures (**Bulgaria**); designating competent authorities (**Bulgaria** and **Republic of North Macedonia**).

4.4. IMPLEMENTATION OF INDIVIDUAL MEASURES

4.4.1. The payment of 'just satisfaction' (damages awards)

The procedure followed by states relating to the payment of just satisfaction is broadly similar, whether this is a matter of practice or the subject of specific legal provisions. **The latter could be a good practice if, as in Albania, it specifies clear deadlines for implementing payment. In addition, in Albania, the co-ordination authority is empowered to accelerate payments of just satisfaction up to 10,000 euros, which is a good practice to ensure timely payments.**

The procedure for payment of just satisfaction essentially turns on obtaining the bank details of the applicant and sometimes also getting approval for payment. There can occasionally be difficulties in obtaining the applicants' bank details and, in order to avoid incurring interest, payment can then be made to a special account, whether in a bank or in a ministry, or into a court, which the applicant can access after providing the details required.

A potential good practice could be, as in the United Kingdom, starting to seek the necessary information (such as bank details) before a judgment becomes final.

There is generally no time limit for applicants to provide the required details, but in the **Republic of North Macedonia** they must be provided within five years and, if this does not occur, the amount set aside for award of damages reverts to the state. Several states use e-banking for the transfer of just satisfaction awards. One state uses a transfer to an account in the applicant's name in a state bank, although the applicant can specify another bank and will then be responsible for any fees payable (**Republic of Moldova**).

However, the source of the payment can vary, generally coming from a single entity in all cases (whether that is the co-ordination authority, the Ministry of Justice or Ministry of Finance) or from the relevant institution considered responsible for the violation in the specific case. In some instances, payment may need approval from a different ministry or at a higher level, such as the cabinet or council of ministers, particularly if the amount is above a certain level.

If problems with making payments arise, most states do not have specific complaints mechanisms, but, in some cases, the regular procedure for challenging administrative decision-making can be used (see also section 5.1.4).

In all states, it is welcome that there is no difference as to the procedure to be followed according to whether payment of just satisfaction is to be made pursuant to a judgment, friendly settlement or unilateral declaration.

Many states plan budget allocations based on the payments made in the previous year but some base it over a longer prior period or make estimates by reference to the pending cases likely to be determined in the coming year. In some instances, the rigidity of the allocation leads to delays in the ability to make payments

(as noted in section 2 above). However, **several states display good practice in allowing the possibility of adjusting the amount allocated or drawing upon funds held under other budget headings.**

4.4.2. The re-opening of cases

In almost all the states surveyed, it is welcome that the law provides the possibility of judicial re-opening of administrative, civil, disciplinary cases, and in many states, criminal cases.

While the possibility of the re-opening of criminal cases is available in many states, in some this would require a court order, and in **Hungary** there is no legal provision, but it is possible in practice. The re-opening of administrative or disciplinary cases is only possible in a few states (**Albania**, **Bulgaria**, **Georgia, Germany**, **Lithuania, Spain** and **Ukraine** as regards both forms of cases and **Azerbaijan** as regards only disciplinary ones).

The role of the co-ordination authority

In most states, the co-ordination authority is not able to intervene in the process of re-opening of cases. In **Belgium**, the possibility of intervention is only direct (that is, as a party) but in the **Republic of Moldova** it can be either direct or as a third party and in others (**Azerbaijan**, **Poland** and **Spain**) it can only occur by acting as *amicus curiae*.

In Spain, the possibility of such intervention either by the initiative of the Government Agent's Office or at the request of the Supreme Court has recently been introduced, whereby the co-ordination authority can provide information or submit written observations on issues relating to the execution of European Court judgments. Such intervention gives the Supreme Court an additional perspective, thereby facilitating its assessment of their impact on final domestic judicial decisions. **This could potentially be good practice. Such participation can also secure the prompt and comprehensive communication to the CM of information on measures relevant for the execution of a case.**

In most cases, the co-ordination authority cannot initiate the re-opening of cases, notwithstanding that the CM has repeatedly encouraged national authorities to put in place a system where re-opening of investigations is considered at an early stage of the Convention process, for example, at the point when the Court communicates an application.[29] However, it is possible in those states where the co-ordination authority can act as a party in this regard, including **Belgium** (although it has never done so), **Cyprus** and **Republic of Moldova**. This is possible where: the Court decides that the investigation of a criminal case was not effective or compatible with Articles 2 or 3 of the Convention (**Cyprus**); a friendly settlement in a pending case has been initiated or a violation of a right is acknowledged by either a judgment of the European Court or a government statement that can be partially remedied by overturning a court's decision (**Republic of Moldova**); or the European Court's judgment concerns administrative cases (**Germany**).

Where re-opening can be initiated by the co-ordination authority, this can be for both the applicant or on its own motion in **Belgium** and the **Republic of Moldova**, but only on its own motion in **Cyprus**.

Where the initiation of re-opening is possible, no time frame is laid down in **Cyprus**, while in **Belgium** and the **Republic of Moldova**, the time limit is six months from the date of the Court's judgment or decision.

4.4.3. Other measures to ensure *restitutio in integrum* (restoration to original condition)

The authorities in almost all the states surveyed have implemented forms of individual relief other than paying just satisfaction and instigating the re-opening of cases. These have taken a wide range of forms, relating to rights such as: fair trial (amnesties and pardons, early release from prison, enforcement of judgments, erasure of criminal records, revoking costs of proceedings); family life (amendment of birth certificate, contact with children, establishment of paternity, restoration of custody, search for abducted children); prohibition of inhuman treatment (diplomatic assurances, issue of wanted notice, revocation of deportation orders, provision of dietary-compliant meals and medical treatment, public apologies); private life (destruction of secret surveillance material, erasure of data, grant of permanent residence, reinstatement, revocation of deportation orders); and property (demolition of illegal constructions, extension of building permits, removal of occupiers and of restrictions in registry, restoration of confiscated items, sale or transfer of land).

4.5. IMPLEMENTATION OF GENERAL MEASURES

4.5.1. Translation and dissemination of judgments, decisions and resolutions

Most states adopt the good practice of ensuring the translation of judgments involving them. However, this does not generally extend to friendly settlements and unilateral declarations. States that do not tend to translate judgments against them are states where the official languages of the Council of Europe are either the official language or are widely understood. In one

29. See, for example, Committee of Ministers Annual Report 2023, p. 58, https://rm.coe.int/annual-report-2023/1680af6e81.

of the former examples (**Belgium**), where there is more than one official language, summaries are prepared in the other such languages, and in one of the latter examples (the **Netherlands**) translations are made by legal journals.

The preparation of the translations is either carried out by the co-ordination authority itself (with or without the assistance of external translators), an official translation service or the ministry with jurisdiction over execution. These translations tend to be the entirety of the judgments, which, in practice means also any concurring and dissenting opinions. In some instances, translations are also be prepared by other institutions, such as courts, for their own use. In **Norway**, a university is paid to translate summaries.

The Council of Europe has supported HUDOC language versions in Georgian, Armenian and Romanian, while HUDOC interfaces also exist in Bulgarian, Spanish, Russian and Ukrainian. Translation of HUDOC, and of the Court's Knowledge Sharing Platform,[30] in non-official languages is supported by the Project *Enhancing Subsidiarity: Support to the ECHR Knowledge-sharing and Superior Courts Dialogue*.[31]

Undoubtedly, dissemination of translated judgments and decisions should be seen as a good practice where it is undertaken on a regular basis. The translation and publication of friendly settlement decisions and unilateral declarations would also be good practice, as, like judgments, they can include important changes to law or policy.

In general, the judgments are disseminated specifically to the relevant actors in the execution process but, in many instances, they are sent to courts (whether those of a higher level or more generally) even when they are not directly implicated in execution. **In addition, it is good practice that translations are usually published in the official gazette and/or the website of the co-ordination authority or of a ministry** (for example, in **Armenia, Bulgaria, Croatia, Czechia, Republic of Moldova, Serbia).** Some reliance is additionally placed on publication on HUDOC. Also, in a few instances, there is specific dissemination to academics, lawyers and NGOs.

Efforts to disseminate judgments sometimes take the form of summaries included in the annual reports of the co-ordination authority, newsletters and even the use of podcasts and social media (the latter two are used by **Czechia**; see 3.5.5). **Such efforts to ensure wider appreciation of the content of judgments constitute a good practice. They are likely to promote greater understanding of the requirements arising under the Convention and could contribute to facilitating execution of the rulings concerned.**

Translation and dissemination of judgments against other states

Most states undertake some dissemination of judgments against other states, for example because the same problem exists in their own legal order. The approach varies from full translation of the selected judgments to summaries of them, whether specially prepared or in the form of translations of material prepared by others (such as by the Court). The dissemination sometimes involves publication on a website but in some instances it is directed specifically to at least some of the following: courts and judges; lawyers; a parliamentary human rights committee; prosecutors; and students. **It is good practice to selectively disseminate information about judgments against other states on a regular basis, together with some indication of the relevance for the state concerned.**

Translation and dissemination of CM resolutions and decisions

In most states, resolutions and decisions of the CM concerning execution are disseminated to the relevant actors in the execution process. This dissemination may take the form of just a summary in the state's official language. In some instances, dissemination is limited to resolutions and decisions concerning cases that are under the enhanced procedure or cases that are otherwise seen as important. Dissemination does not generally extend to the public.

However, some states seem to rely purely on dissemination through the ability to access HUDOC-EXEC and others only include details in the annual reports of the co-ordination authority or only publish final resolutions. **It would be good practice for coordination authorities to arrange for the translation of and publish the full text of CM decisions and resolutions and disseminate them to relevant actors.**

Translation and dissemination of action plans and reports

The CDDH Guide for Recommendation (2008)2 (at p. 15) notes that sometimes, action plans and reports are drafted in the national language and then translated into English or French for submission to the DEJ. **It notes that this is good practice because it facilitates compliance with the recommendation in the Brighton Declaration that action plans or action reports should be made as widely accessible as possible, including through their publication in national languages. Moreover, this practice would enable applicants, civil society organisations, NHRIs and parliamentarians (see 5.1.3) to comment on the information being submitted and contribute evidence and ideas with regards to the execution of judgments.**

30. https://ks.echr.coe.int/web/echr-ks/
31. See the Project's page at: https://www.coe.int/en/web/implementation/enhancing-subsidiarity-support-to-the-echr-knowledge-sharing-and-superior-courts-dialogue.

4.5.2. Changes in legislation and practice

Judgments and decisions of the Court in respect of all the states have led to changes in legislation and in many instances they have also led to changes to some or all of the following: investigative, prosecutorial and other practices and the case law of courts, including constitutional courts. The nature of the changes varies according to the State concerned, however, taken globally, these changes cover a very wide range of issues affecting many of the provisions of the Convention.

The initiation of these changes is carried out by the relevant institutions for the measures concerned, that is, the legislature, ministries, prosecution authorities and the courts. However, at least to some extent, the co-ordination authority has a contributory role in bringing them about. This role varies from one of taking a lead in saying what is needed to one of providing information or of exercising informal forms of pressure on the relevant bodies. In some states, the co-ordination authority identifies changes in legislation, practice and case law that are required because of the development of the Court's case law in general.

A potential good practice is for the co-ordination authority to have more than one formal route for galvanising either the executive or legislature to ensure that laws are amended as required following a judgment of the Court (see also sections 3.6 and 5.1).

- For example, in **Lithuania**, the co-ordination authority may approach a competent ministry to propose a legislative amendment, or it may propose that the Government or Prime Minister either instructs the competent ministry to do so, or convenes a working group for this purpose. A third option, especially for complex cases, is for the co-ordination authority to alert the Committee of Legal Affairs of the *Seimas* and request permission to address the Board of the *Seimas*, in order to transmit the relevant instructions.

In a few states, the co-ordination authority undertakes scrutiny of draft legislation to assess its compatibility with the Convention – a preventive role that extends beyond laws introduced in response to judgments of the Court.

- In **Bulgaria,** the co-ordination authority prepares a report, attached to all bills introduced into parliament on behalf of the Council of Ministers, on whether the bill complies with the Convention. This pre-legislative scrutiny function is stipulated in the law which regulates the procedure for drafting legislation.
- The co-ordination authority in the **Republic of Moldova** may similarly be requested to provide opinions on or propose amendments to draft legislation, even if these are not directly related to the execution of a judgment, although this happens rarely in practice.

Less than half of the co-ordination authorities undertake any analysis of the *impact* of changes being introduced in response to judgments, and when they do, this is primarily for the purpose of action plans and reports to be submitted to the CM rather than over the longer term, after a case has been closed by the CM. In the case of certain co-ordination authorities, workload or a lack of sufficient staff are factors which preclude any assessment of impact. Assessment of impact by a co-ordination authority, other than that included in action plans and reports, does not seem to be published.

Insofar as possible, assessing the impact of changes being made for the purpose of execution is clearly a good practice as it will help ensure that what is being proposed will really address the problem identified by the Court and help obviate the risk of further applications to it.

In many states, the analysis of changes in legislation, practices and case law is undertaken by authorities other than the co-ordination authority. These tend to be ministries (as in **Czechia**) where the change being considered is one in response to a judgment of the Court. A broader approach, extending to changes that might be required following developments in the case law of the Court in general, is undertaken in some states by the higher courts and ombudspersons. The latter, as well as bar associations, NGOs, NHRIs and academics, at least in some states, also review the actual impact of changes after their adoption (which has happened in **Cyprus**, **Czechia**, the **Netherlands** and **Poland**).

In some circumstances, it may be good practice for states to seek the opinion of the Venice Commission in order for the state to evaluate the Convention-compatibility of legal or constitutional reform following a judgment of the Court. For example, **Bulgaria** did so in respect of constitutional amendments following a judgment concerning the lack of guarantees in Bulgarian law for the independence of criminal investigations concerning the Chief Prosecutor, with the resulting amendments being decisively impacted by the Venice Commission's conclusions.[32]

32. Venice Commission, Bulgaria: Opinion on Draft Amendments to the Constitution, CDL-AD(2023)039, 6-7 October 2023. Note, however, that in July 2024, Bulgaria's Constitutional Court declared some of the constitutional amendments enacted in December 2023 unconstitutional since they do not comply with key recommendations by the Venice Commission.

4.5.3. Ensuring the effectiveness of remedies

A particularly frequent remedy introduced following pilot and 'Article 46' judgments[33] has been a mechanism to accelerate judicial proceedings and/or provide compensation where proceedings have already exceeded a reasonable time. In some instances, this has been limited to particular types of proceedings (such as civil or criminal ones) but in **Slovakia** the remedy extended to administrative, civil and criminal proceedings.

Other remedies frequently introduced have been the possibilities of (a) seeking the re-opening of civil and/or criminal proceedings following the finding by the Court of a violation of Article 6 of the Convention and (b) preventing, and compensating for, conditions of detention contrary to Article 3.

Other forms of redress introduced pursuant to pilot judgments or Article 46 judgments include: access to compensation for victims of Soviet-era repression; the ability to elect a city's local government; the ability to obtain appropriate rent from tenants; compensation mechanisms for property previously expropriated; facilitating contact between a parent and child that was compatible with the former's work schedule; and screening for disease in prisons.

Additional remedies introduced following other cases in which violations of the Convention were established have included the possibility of: a special compensation mechanism; access to information about a death of a child in hospital; challenging detention and deportation of asylum-seekers; challenging government decrees; claims for non-pecuniary damage in respect of unlawful detention; independent monitoring of bodies and police misconduct; investigations into unnatural deaths; prisoners making complaints; reduction of sentence after detention in inadequate conditions; restitution of nationalised properties; review of the continuation of life imprisonment; sharing a respondent's observations with the appellant in constitutional court proceedings; and victims in criminal proceedings having access to the case file.

The co-ordination authority in several states clearly plays an important role in collaborating with other institutions and exerting pressure or informal influence, with due respect to the separation of powers, as well as pushing where needed to overcome delays. In addition to this good practice, co-ordination authorities may assist and facilitate by explaining and interpreting a judgment so as to identify what measures are required by it. In a few instances, it actually prepares draft legislation or is requested by the legislature to comment on draft laws in the light of the Court's case law and Council of Europe standards (for example, Cyprus as to the former and Ukraine as to the latter) (see further, section 5.1.7).

4.5.4. The execution of special cases

Many states aim to follow the good practice of distinguishing and prioritising judgments or decisions for special execution procedures. In most instances, this is in respect of cases classified under enhanced supervision by the CM but, in some others, this is done in respect of pilot judgments (**Bulgaria**), or because of the nature of the issue involved (**Albania, Armenia**). However, in some states no distinction or prioritisation is made as there are few cases requiring execution.

About half the states seek to prioritise cases older than five years, but none had any specific tools for closer scrutiny of such cases.

33. See, for example: European Court of Human Rights, Guide on Article 46 of the European Convention on Human Rights, https://ks.echr.coe.int/documents/d/echr-ks/guide_art_46_eng.

5. Oversight of execution

This section covers oversight of the execution process both by domestic bodies (5.1) and by the Council of Europe (5.2). We refer to the former as the domestic scrutiny of execution, while the latter covers the forms of cooperation between the Council of Europe and national authorities during the supervision of the execution of the Court's judgments.

5.1. DOMESTIC SCRUTINY OF EXECUTION

This section identifies good practice in the scrutiny of the implementation of judgments at the national level. **In some states, a dedicated body or a set of bodies take responsibility for this role, and it is likely to be the case that having an effective and well-defined national infrastructure can improve the speed and quality of implementation.** State practices vary considerably: structures range from highly formalised with clear responsibilities (for example, **Lithuania** and **Ukraine**) to more *ad hoc* arrangements with some light touch supervision (for example, **Germany**, **Norway** and the **United Kingdom**).

In some states, the network of scrutinising bodies is extensive. For instance, in **Bulgaria**, the Ministry of Justice oversees the execution of judgments and reports directly to Parliament. Additionally, the Ombudsperson includes information on the progress of execution in their annual reports. As discussed at section 3.7.1, in several states, including **Armenia, Croatia, Czechia, the Republic of Moldova and Poland**, the infrastructure carrying out domestic scrutiny includes a standing body, usually convened by the co-ordination authority, and involving other public authorities, and sometimes also NHRIs and civil society representatives.

5.1.1. Scrutiny of, and by, the co-ordination authority

As noted at 3.6 above, co-ordination authorities are almost invariably involved in coordinating the legal and administrative response to the Court's judgments and preparing action plans and action reports for submission to the DEJ. At the same time, they report back to the CM and by doing that, in effect, scrutinise the execution of judgments. Hence, in many states, the co-ordination authority plays a 'bridging' role: it provides the primary scrutiny of execution and it is also itself the subject of scrutiny, whether from elsewhere in the executive, or from parliament, courts, NHRIs, or civil society.

As also noted in section 3.6, the process of domestic scrutiny will involve the co-ordination authority gathering and collating information from relevant authorities. In a few states, those authorities have a legal obligation to provide it (for example, **Bosnia and Herzegovina, Montenegro, Romania, Ukraine**). **Especially in states with high caseloads, it is good practice to ensure that the co-ordination authority is sufficiently empowered to acquire timely information from the authorities implicated in the judgment.**

- For example, in **Ukraine**, the co-ordination authority is vested with the general power to send information requests to different actors (state bodies and institutions, private legal entities and NGOs) which must, by law, provide the requested materials. Specifically, the law gives the co-ordination authority powers to acquire information from the authorities responsible for the implementation of just satisfaction, individual and general measures in a timely manner. Within 10 days of a final judgment, the co-ordination authority notifies the applicant and the relevant state body as regards the payment of just satisfaction and individual measures, and the state body is then under a legal obligation to provide information to the co-ordination authority on the execution of individual measures without delay.

Often the co-ordination authority requests updates on the progress of execution and the status of execution is then reported to the government and/or legislature. This reporting occurs either through informal channels or via a dedicated process specifically established for tracking the implementation of judgments. In some other states, domestic scrutiny of the implementation of Court judgments follows the standard procedure which is envisaged for all other governmental actions. **Especially for states with high caseloads, having a specific channel can create an increased focus on the execution of Court judgments. Moreover, placing execution primarily within the remit of the co-ordination authority can make the process of execution more straightforward and predictable.**

5.1.2. Reporting and scrutiny within the executive

States have adopted two broad types of reporting within the executive, ranging from the generic to the specific.

In some states, national bodies produce reports which cover a range of issues and include some information about the implementation of Court judgments.

- For instance, in **Spain** annual reports published by the State Attorney General's Office, the General Council of the Judiciary and the Ombudsman can include issues concerning the execution of judgments.

In others, more specific reports are produced which focus only or predominantly on matters of implementation and the activities of the co-ordination authority. Such internal periodic reporting varies in content and frequency, but the Government is thereby made aware of the state of execution of judgments. For example:

- in **Albania**, the General State Advocate reports to the Prime Minister about the activities of the State Advocate Office (not less than once a month), pointing out the possible legal gaps and any need for amendments to the law, and the State Audit Office submits an annual report to the Government. However, these reports are not published.
- In some states, such reporting is carried out annually (**Croatia, Czechia**), and in others the frequency is between one and six months.
- In the **Republic of Moldova**, the relevant state authorities are required to submit reports on the steps which they have taken to implement judgments to the co-ordination authority and in turn, the co-ordination authority reports to the government.

In some states, other institutions (such as independent auditing bodies) are involved in domestic scrutiny of implementation. For example:

- in **Albania** the High State Audit regularly publishes reports which include an analysis of the state of implementation of the Court's judgments, noting the amount of damages paid or still to be paid. These reports also provide some assessment of the performance of the State Advocate Office, including the need for the Office to closely monitor the progress of the implementation of particular judgments. High State Audit reports have also been critical of the failure to implement judgments within the relevant time limits and the failure of the state institutions to sufficiently analyse judgments in order to be able to discern any underlying causes of the violations in question. The High State Audit has also criticized the failure to establish the 'Consultative Council for European Court of Human Rights issues' and to ensure that it is operational.
- In **Norway**, the Office of the Auditor General (*Riksrevisjonen*) is empowered to review lack of progress in the implementation of judgments but has not yet done so in practice.

Transparency of reporting within the executive is also an important consideration. In some states, the reports are considered internal documents which are not made publicly available. Although this might be justified in some cases, their availability adds to the transparency of the execution process and would encourage other stakeholders to engage with the process. **Some states exhibit good practice in taking a transparent and proactive approach to disseminating information about the implementation of judgments, ensuring that different branches of the government, and the wider public, are made aware of the state of execution of judgments.**

- In **Czechia**, the head of the co-ordination authority reports annually to the government, through the Minister of Justice (and this practice was placed on a statutory footing in 2023). These reports are very detailed and since 2005 have been published online. Moreover, since 2013, the co-ordination authority has published a newsletter on the Court's jurisprudence (see also section 3.5.5).
- Reports are also made publicly available in other states, including **Lithuania, the Republic of North Macedonia** and **Ukraine**.

5.1.3. Reporting to the legislature

The Council of Europe has recommended that executives report regularly to parliament on the implementation of human rights judgments.[34] In just over half of the states surveyed, the co-ordination authority (or its parent ministry) is committed to providing the legislature with a periodic (usually annual) report on execution, either under its formal mandate, as in **Albania** and **Bulgaria**, or as a matter of established practice, as in **Belgium** and the **United Kingdom**. In some states where the co-ordination authority does not report to the legislature, an activity report is instead provided to the government or Prime Minister and may then be transmitted to the relevant parliamentary committee. In several states, there is no reporting mechanism, or a previous mechanism has fallen into disuse.

34. See High-level conference: "Implementation of the European Convention on Human Rights, our shared responsibility", Brussels Declaration, 27 March 2015, paragraphs B.2.a, B.2.h, B.2.f, B.2.j; PACE Resolution 1823 (2011) (note 4), Appendix, paragraph 1.

Reporting on the status of execution to the national parliament is widely considered a good practice. By these means, executives may involve parliaments in a transparent dialogue about implementation, reflecting their shared responsibility to protect and realise human rights. Regular reporting by the executive also creates a public record of the state's response to human rights judgments, which informs not only parliament but also other bodies such as NHRIs and civil society.[35] Where reporting mechanisms exist, it is important that they are not merely formalistic, and that the executive is actively scrutinised by parliamentarians.

- in **Albania**, the General State Advocate submits reports to the parliament's Committee on Legal Affairs, Public Administration and Human Rights (which are publicly available on the parliamentary website). These reports include relevant data and describe the individual measures adopted and general measures proposed, along with an assessment of their level of implementation. They also consider the financial impact of the Court's judgments.
- In **Bulgaria**, since 2012 the Minister of Justice has been required to submit an annual report on execution of judgments to parliament and the head of the co-ordination authority gives an oral presentation annually to the Senate.
- In **Georgia**, reports by the Ministry of Justice are submitted to a specialist parliamentary committee: the Human Rights and Civil Integration Committee. These reports include details about all pending and executed cases, enclosing action plans and reports, as well as relevant CM documents. The Human Rights Committee invites other parliamentary committees, political factions, and the parliamentary majority and minority to provide their comments on the report.
- In **Lithuania**, the Government Agent submits a report and makes an annual presentation on the execution of judgments (which may include specific proposals) to the Government and to the Legal Affairs Committee of the *Seimas* (the parliament).
- In the **United Kingdom**, officials within the Ministry of Justice responsible for execution give evidence to the parliamentary Joint Committee on Human Rights when requested to do so. In addition, parliamentary oversight of execution is supported by the Ministry of Justice's annual report on execution of human rights judgments (which sets out the response both to judgments of the European Court and domestic courts).[36]

In some states, there is additional *ad hoc* reporting to parliamentary committees. For example, in May 2024, the head of the co-ordination authority in **Czechia** made a presentation to the Constitutional Committee of the lower chamber of the Czech Parliament on the current state of execution of judgments (including the *D.H.* judgment on discrimination against Roma children).

In some states, implementation can be the subject of parliamentary questions. For example, in **Germany**, during the reference period (2013-2023) three questions were raised, including queries about the implementation of the 2015 *Kuppinger* judgment[37] concerning the lack of a legal remedy to speed up overlong proceedings in contact matters in German family law, and about the execution of the 2022 *Basu* judgment[38] concerning alleged racial profiling. **The involvement of members of parliament in this way in the implementation of judgments can be regarded as a good practice, especially in countries where there are few cases pending execution and there is a political culture of the involvement of members of parliament in matters of execution. In states with a high number of cases and/or a range of human rights problems that give rise to both repetitive and non-repetitive cases, a more specialised form of scrutiny is likely to be more appropriate. In other words, a more specialised body or mechanism (within the parliament) may be needed, because members of parliament are unlikely to be able to effectively monitor large numbers of cases.**

Existence of national parliamentary structures

Only rarely do national parliamentary structures exist that are dedicated specifically and exclusively to overseeing the execution of the Court's judgments. Normally, these functions are fulfilled by parliamentary committees dealing with human rights, legal affairs or related matters (such as in **Albania, Belgium,** and **Croatia**).

- In **Poland**, a standing subcommittee of the parliament (*Sejm*) is tasked with overseeing the implementation of judgments of the European Court of Human Rights (and the Court of Justice of the EU).
- In **Ukraine**, a subcommittee of the parliament (*Verkhovna Rada*) is mandated to monitor the execution of European Court judgments.

35. See further: Alice Donald and Philip Leach, *Parliaments and the European Court of Human Rights* (Oxford University Press, 2016), Chapter 3: National Implementation and the Role of Parliaments.

36. See, for example, Ministry of Justice, Responding to human rights judgments Report to the Joint Committee on Human Rights on the Government's response to human rights judgments 2022–2023, November 2023.

37. No. 62198/11, 15 January 2015.

38. No. 215/19, 18 October 2022.

- In the **United Kingdom**, the parliamentary Joint Committee on Human Rights has previously issued periodic reports on the implementation of the Court's judgments against the United Kingdom, as well as the government's response to 'declarations of incompatibility' by higher courts under the Human Rights Act 1998.[39] The Committee's scrutiny of the execution of judgments has in recent years been integrated into its wider mandate, for example by scrutinising the government's response to certain judgments in the context of its systematic legislative scrutiny work (for example, its scrutiny of the Northern Ireland (Legacy and Reconciliation) Bill related to the *McKerr* group of cases concerning investigations into deaths in Northern Ireland during security force operations or in circumstances giving rise to suspicion of collusion with security forces).[40]

In **Czechia**, there is no specialised parliamentary committee, but members of both the lower and upper chambers are among the members of the *Kolegium* – the consultative body supporting the implementation of judgments (see section 3.7.1 above).

Having a specialised parliamentary structure which also oversees the execution of the Court's judgments is generally considered a good practice, as it underscores the importance of this task and can serve as a focal point for implementation (which may be especially important for states with a high volume of more complex cases). Whatever form parliamentary scrutiny takes, it is good practice for governments to facilitate it through regular reporting and other means such as the involvement of parliamentarians in cross-institutional bodies overseeing execution.

A useful resource in this regard is the PACE Handbook on 'National parliaments as guarantors of human rights in Europe' which describes a range of possible parliamentary structures.[41] **It also states that it would be good practice for the executive to share action plans and action reports with specialised human rights committees to ensure that parliamentarians may both scrutinise and contribute to submissions to the DEJ.** However, such a practice was not identified in the states surveyed.

5.1.4. The role of national courts in reviewing implementation

If a state fails to implement a judgment of the European Court, there are only limited possibilities to seek judicial review by national courts.

In some states, a lack of progress in implementation can be reviewed by the courts in ordinary proceedings; very exceptionally, the national law provides a specific form of judicial review. For example, in **Germany**, in principle any unlawful inactivity by a public authority can be challenged before the administrative courts if it violates citizens' rights (*Untätigkeitsklage*), although there have been no such cases in practice. Similarly in the **Netherlands**, the civil courts can directly assess whether the actions of the state authorities comply with their human rights treaty obligations. In **Türkiye**, issues arising from the failure to execute Court judgments can be appealed to the Constitutional Court.

In many states, judicial review of the actions (or inactions) of the state authorities in implementing judgments is not possible at all.

European Court judgments are of course binding on all state parties to the Convention, and therefore additional domestic litigation should not be necessary in order to achieve their execution. However, providing such a judicial avenue may be important in some circumstances.

The potential drawbacks of such litigation should be acknowledged. If there is partial execution (as may often be the case) and/or the applicant is dissatisfied with the measures taken, the national courts would in effect be asked to interpret the Court's judgment and thus replicate the function of the CM (creating the risk of competing interpretations of the same judgment). Furthermore, aside from the execution of individual measures (which may be the applicant's principal focus), the implementation of general measures is likely to be considerably more challenging, as they often necessitate complex, multi-layered reforms.

5.1.5. Other domestic mechanisms scrutinising implementation

In some states, a form of independent oversight is built into the system and this can provide constructive scrutiny. For example:

- In **Belgium**, in most cases, National Human Rights Institutions such as FIRM/IFDH (the Federal Institute for the Protection and Promotion of Human Rights) will provide an independent evaluation of the progress (or lack thereof) made by the authorities in implementing judgments.
- In **Croatia**, the Ombudsperson has the remit to make recommendations regarding the

39. Joint Committee on Human Rights, Seventh Report of Session 2014–15, *Human Rights Judgments* (2015), https://publications.parliament.uk/pa/jt201415/jtselect/jtrights/130/130.pdf.
40. Joint Committee on Human Rights, Legislative Scrutiny: Northern Ireland (Legacy and Reconciliation) Bill, Sixth Report of Session 2022-23, 19 October 2022.
41. Available in several languages here: https://pace.coe.int/en/pages/jur-handbook.

effectiveness of the national execution mechanism, but these powers have not yet been exercised.

- In **Cyprus**, scrutiny is carried out by the Ombudsperson (as part of a duty to investigate complaints and potential human rights violations). For example, the Ombudsperson carried out a series of unannounced inspections of prisons, as part of the post-judgment monitoring of the case of *Danilczuk*[42] which concerned poor detention conditions.
- In **Norway**, domestic scrutiny is carried out by the Norwegian Human Rights Institution (*Norges Institusjon for Menneskerettigheter*), as well as several other bodies.

In some cases, in order to deal with a particular problem identified in a judgment, a specific body has been created for this purpose (see also section 3.7.2). **Having a discrete monitoring body for the purposes of strengthening effective execution is an example of good practice as it creates an element of independent internal oversight.**

- For example, in **Cyprus** an *ad hoc* police committee was established to assess the measures carried out in respect of the implementation of the case of *Khani Kabbara*[43] concerning the ill-treatment of detainees. It found the measures adopted, including those to improve the independence, promptness and quality of investigations of complaints, to be sufficient for the purposes of strengthening safeguards against ill-treatment.

5.1.6. The role of civil society in scrutinising the implementation of judgments

This section looks specifically at the role of civil society in the facilitation of execution of judgments at the national level. It does not consider their role at the international level, which includes, for example, making 'rule 9 submissions' to the CM.

In some states, NGOs have a formal role to play in the execution process and this can be considered good practice since it ensures that the expertise of NGOs is drawn on systematically in the execution process (see also 3.7.1). For example:

- in **Czechia,** NGO representatives are included as members in the *Kolegium*, the standing consultative body supporting execution. Currently, four NGOs are members of this organ.
- In the **Republic of Moldova**, several NGOs likewise form a part of the Advisory Council to the co-ordination authority.

In several states, no formal role is envisaged for NGOs at the national level in the execution of the Court's judgments, and in some states NGOs' lack of participation is due to their limited capacities, rather than legal obstacles. **Nonetheless, there are notable examples of collaboration between states and civil society on specific cases and such dialogue can prove effective in the absence of (or in addition to) standing bodies on execution**. For example:

- in **Bulgaria**, NGOs have participated in working groups organised by the Ministry of Justice whose purpose was to consider amendments required to legislation for the purposes of implementing judgments (including reviewing the Ministry of Interior Act pending implementation of the *Nachova and Others* judgment on the obligation to investigate racially-motivated crimes,[44] and participating in a working group considering amendments to penitentiary legislation following the *Neshkov* pilot judgment[45]).
- in **Lithuania**, as regards the implementation of a judgment[46] concerning the rights of transgender people to have gender reassignment surgery, several NGOs (including the National LGBT Rights Association and the Human Rights Monitoring Institute) actively participated in a series of working groups, conferences and round table discussions.

5.1.7. The role of the co-ordination authority in effecting legislative change

As noted at section 3.6, in around three-quarters of the states, the co-ordination authority has the competence to propose legislative initiatives to remedy violations identified by the Court (but generally not to initiate the legislative process of its own motion or *ex officio*). Some states provide for a more proactive role for the co-ordination authority in this regard, including mechanisms to fast-track remedial measures. For example:

- in **Czechia**, the Government has an obligation to submit a petition to the Constitutional Court to repeal a legal regulation if an international court has ruled that a public authority has breached a human right and the violation is based on a valid legal regulation that the Government cannot repeal or amend in any other way.
- in **Ukraine**, the co-ordination authority has an active role in the legislative process, as the

42. No. 21318/12, 3 April 2018.
43. No. 24459/12, 5 June 2018.
44. Nos. 43577/98 and 43579/98, 6 July 2005.
45. No. 36925/10, 27 January 2015.
46. *L. v. Lithuania* No. 27527/03, 11 September 2007.

Governmental Agent sends quarterly submissions to the Cabinet of Ministers of Ukraine about general measures, which include proposals to address systemic problems identified in European Court judgments and eliminate their root causes. These reports may include analysis of the circumstances that led to the violation of the Convention and proposals to amend the current legislation or administrative practice.

- in the **United Kingdom**, the Human Rights Act 1998 provides for the possibility for ministers to issue remedial orders to amend primary legislation or to amend or revoke subordinate legislation where a judgment of the European Court (or a domestic judgment) has found a legislative provision to be incompatible with the Convention.

In federal states, legislative change may be required at the federal level, or, more rarely, where a case requires legislation by federated entities, their respective parliaments will be responsible for implementing the Court's decision (as is sometimes the case in **Belgium**).

In summary on the matter of domestic scrutiny of execution, there is no consensus across Europe regarding the most appropriate level or means of domestic scrutiny of the implementation of the Court's judgments: a variety of mechanisms has been adopted. The suitable level of oversight depends on various factors, including the number of pending cases, the complexity of the violations, and the governance arrangements in a particular state. **However, involving high level decision-makers in the execution of challenging cases may help facilitate a smoother and more effective implementation process. In general, it is also good practice to have several forms of oversight of executive action or inaction and, as recommended by the Council of Europe, this should include regular executive reporting to parliament and facilitation of parliamentary scrutiny of the execution of judgments**

5.2. COOPERATION ON EXECUTION BETWEEN STATES AND THE COUNCIL OF EUROPE

This section highlights the forms and methods of cooperation between the Council of Europe and states while executing the Court's judgments. The practice shows that the DEJ has established good relations with co-ordination authorities throughout Europe.

There are two main types of cooperation between domestic bodies responsible for execution and the Council of Europe: (i) interaction between national organs, particularly co-ordination authorities, and the DEJ, and (ii) interaction that is facilitated through Council of Europe projects.

This first type of interaction typically occurs informally and on an as-needed basis (including by study visits and by email exchanges). For example, a roundtable was held in July 2023 at the request of the **Belgian** authorities concerning effective preventive remedies to ameliorate prison overcrowding and poor conditions of detention (with the participation of experts from **Poland, Italy, Croatia, France, Greece and Portugal**).[47] These interactions, sometimes involving national bodies other than the co-ordination authority, were considered by our interlocutors to be open, collaborative and effective. In addition, this type of engagement routinely takes place in the preparation of action plans for the implementation of judgments.

Lawyers from the DEJ regularly conduct country visits and meet with the key decision-makers: it is certainly good practice for co-ordination authorities to be proactive in facilitating such meetings with the DEJ.

In some cases, other parts of the Council of Europe get involved in execution of judgments.

- For example, the Sexual Orientation, Gender Identity and Expression, and Sex Characteristics (SOGIESC) Unit of the Council of Europe[48] advised on legislative reform in **Lithuania**[49] and the **Republic of North Macedonia**[50] following judgments concerning the absence of implementing legislation to regulate the conditions and procedure for gender reassignment.

The second type of interaction is facilitated through the Council of Europe projects that are conducted in relevant states. Some projects focus predominantly on execution whereas others do not exclusively cover execution but include it as a part of its remit. Collaboration often takes the form of workshops and round-table discussions, meetings with key decision-makers, and educational activities for lawyers, judges, and other relevant stakeholders.

- For example, the Council of Europe has been conducting a project in respect of the implementation of judgments in **Armenia**.[51]

47. The roundtable was organised at the request of the Belgian authorities, with a view to supporting their efforts to execute the ECHR's judgment in the *Vasilescu* case, No. 64682/12, 25 November 2014.
48. https://www.coe.int/en/web/sogi.
49. Communication from Lithuania concerning the case of *L. v. Lithuania* (Application No. 27527/03, 1377th meeting (June 2020) (DH), Action Plan (20/03/2020).
50. See, for example, SOGI Newsroom, Roundtable on Legal gender recognition in North Macedonia, 16 November 2021, https://www.coe.int/en/web/sogi/-/roundtable-on-legal-gender-recognition-in-north-macedonia-17-november-2021.
51. A project entitled 'Support to the Effective Execution of the Judgments of the European Court of Human Rights in Armenia'.

- cooperation between the Council of Europe and co-ordination authorities takes place within the framework of the Horizontal Facility programme for the Western Balkans and Turkey.[52]

National co-ordinators have also underlined the potential of the Execution Coordinators' Network (ExCN),[53] launched by the Council of Europe in Helsinki in June 2024, to facilitate the exchange of expertise and experience between co-ordination authorities. In the states surveyed, no coordination authority has previously had regular cooperation or exchanges with its counterparts elsewhere. Several referred to *ad hoc* exchanges, mostly by email but occasionally through study visits; for example, staff of the **Armenian** coordination authority made a study visit to the **Netherlands** in 2024.

Smooth and effective collaboration between the DEJ and national co-ordination authorities – and peer-to-peer contact between national co-ordinators – are examples of good practice. In particular, co-ordination authorities should actively facilitate and engage with the DEJ's country visits, which aim to provide guidance and encourage implementation where possible. The flexibility and variety in forms of cooperation, including bilateral and multilateral projects, also stand out as a good practice, as they enable a swift and strategic response to specific challenges in implementing judgments.

5.2.1. Participation in DH meetings

States' permanent representatives in Strasbourg usually take part in DH meetings (the Committee of Ministers' meetings held quarterly to discuss the implementation of European Court judgments). Although state practice varies somewhat in this regard, the co-ordination authority usually only takes part in the DH meetings when cases from their state are subject to oral debate.

There is sparse participation in these meetings by either co-ordination authorities or high-ranking officials, which appears to be due to a range of factors, including workload, high turnover, lack of staff and issues of funding. However, some co-ordination authorities frequently take part in DH meetings (either in person or by way of written submissions), even when only cases against other states are under consideration (for example, **Serbia**, **Georgia**, **Hungary**, and **Ukraine**, among others).

On some occasions, officials other than the co-ordination authority participate in DH meetings, notably when an especially sensitive case is being discussed or when certain expertise is required. Thus, officials from various departments and offices, including ministers, may attend, depending on the subject matter of the case. For instance:

- the Minister of Foreign Affairs of **Bosnia and Herzegovina** attended a DH meeting held in March 2020 to exchange views about the *Sejdić and Finci*[54] group of cases, concerning constitutionally entrenched racial discrimination in relation to the right to vote and the right to stand for election.
- The Deputy Minister of Justice of **Bulgaria** attended a DH meeting in June 2023 on the *S.Z. and Kolevi* group of cases, which concerns mainly the systemic problem of ineffective criminal investigations, including the lack of independence of criminal investigations concerning the chief prosecutor.[55]
- in June 2023, the Deputy Prime Minister represented **Croatia** during the examination of a group of cases dating back to 2014 concerning shortcomings in housing legislation which failed to strike a fair balance between the interests of landlords and the wider community. The Deputy Prime Minister gave an assurance that legislation would be tabled before parliament within months. The law was subsequently adopted by the Croatian Parliament and was considered by the CM (at its March 2024 meeting) to address the main shortcomings identified by the Court.[56] According to our interlocutors, the involvement of the Deputy Prime Minister, and the ministry he heads (Physical Planning Construction and State Assets) had revived the execution of this stagnant case.
- in relation to the execution of *D.H. and Others v the Czech Republic*, high-level representatives of the Ministry of Education in **Czechia** have participated in several CM-DH meetings during the examination of this case, including in March 2024, when the Undersecretary of State in the Ministry presented the position of the Government.

The participation of the co-ordination authority and other key decision-makers in DH meetings is an example of good practice, especially when it extends to meetings covering other states. Such engagement provides them with first-hand experience and information about the execution process (how execution of a particular case has been received and

52. See: Horizontal Facility for the Western Balkans and Turkey II – Council of Europe Programme Office in Ankara (coe.int).
53. See the ExCN website.
54. Nos. 27996/06 and 34836/06, 22 December 2009 (GC).
55. Council of Europe, Bulgaria adopts landmark reform to ensure effective investigations including against a Chief Prosecutor, 8 June 2023, https://www.coe.int/en/web/execution/-/bulgaria-adopts-landmark-reform-to-ensure-effective-investigations-including-against-a-chief-prosecutor.
56. *Statileo group v. Croatia* (Application No. 12027/10), CM/Del/Dec(2024)1492/H46-8, 1492nd meeting (12-14 March 2024).

what are the expectations of the CM) and enables them to learn from the experience of other countries how to execute Court judgments more effectively.

5.2.2. The effects of CM decisions and interim resolutions

The impact of the CM decisions and interim resolutions adopted in individual cases varies significantly depending on the subject matter of the case at issue and the state in relation to which it was made. In many instances, such decisions help to mobilise the efforts in implementing particular cases and specify or clarify the steps that need to be taken.

Although states are granted a 'margin of appreciation' in choosing the means to execute a particular judgment, CM decisions will sometimes directly influence the changes implemented. In some states, these decisions trigger further discussions in the bodies responsible for execution of judgments.

Another important function of the CM decisions is to further empower the co-ordination authority. For example:

- In **Lithuania**, the decisions of the CM helped to facilitate the execution of the *Paksas* case,[57] considered very sensitive as it related to the impeachment of the former President of Lithuania, and when the political situation was amenable, it was implemented. An interim resolution was adopted by the CM in December 2018, which resulted in a new legislative proposal submitted by the *Seimas*. However, due to the lack of political consensus, the legislative process came to a standstill and no further progress was achieved in the execution of the case before the election of a new *Seimas* (in 2020). The co-ordination authority's reliance on the CM decisions relating to the case then led to a political consensus being achieved and in April 2022 a constitutional amendment aimed at implementing the Court's judgment was adopted.
- in **Slovakia,** CM decisions are seen as serving as a back-up for the co-ordination authority. When national institutions are hesitant in taking certain steps, the CM is considered as authoritative in encouraging them to start introducing measures in order to execute the judgments.

It is good practice for co-ordination authorities to translate and disseminate decisions issued by the CM, as they provide significant information about the implementation process, and their dissemination could help galvanise further action (see also 4.5.1).

57. No. 34932/04, 6 January 2011.

6. Conclusion

The implementation of Court judgments requires sustained focus and commitment and the involvement of multiple bodies, both state and non-state. Most of the 27 states surveyed in this study face challenges regarding leading cases pending implementation for more than five years, and in more than half of the states this challenge relates primarily to leading cases pending for between five and 10 years. Even states with relatively few cases pending execution are not immune from the challenges arising from one or two complex or intractable cases. Accordingly, as recommended by the Guide for Recommendation (2008)2, all states should have, as a matter of either law, regulation or established practice, a suitably empowered and resourced co-ordination authority within the executive.

This Multi-Country Study has highlighted examples of good practice by which co-ordination authorities facilitate and galvanise the actions not only of government ministries and agencies but also other actors, including courts, legislatures and administrative bodies, as well as maintaining dialogue with National Human Rights Institutions and civil society organisations. In addition, the study presents good practices in terms of effective cooperation between co-ordination authorities and the CM and the DEJ, including timely submission of comprehensive action plans and action reports.

The study highlights institutionalised good practices, such as committees and working groups bringing together different domestic actors on a permanent or case-by-case basis; executive reporting to enable scrutiny by parliamentary committees; enabling legislation, and direct enforcement of judgments through national court systems. Further, it identifies day-to-day good practices, such as the use of digital case management systems; secondments from the co-ordination authority to the DEJ and other parts of the Council of Europe; and initiatives to translate and disseminate not only judgments against the state but also friendly settlements, unilateral declarations, Committee of Ministers decisions, action plans and action reports, and relevant judgments against other states.

On the basis of the comparative state practices surveyed, we conclude that no single practice is sufficient to ensure full and timely execution of judgments. Rather, it is the combination of mutually reinforcing measures, suitably adapted to the particular national context, that will enable states to fulfil the recommendations set out by the CDDH.

Annex – States and authors of national studies

No.	Country	Authors
1.	Albania	Enkeledi Hajro
2.	Armenia	Davit Melkonyan
3.	Azerbaijan	Leyla Madatli
4.	Belgium	Freya Baetens
5.	Bosnia and Herzegovina	Harun Išerić
6.	Bulgaria	Bulgarian Helsinki Committee: Boyan Yotov, Krassimir Kanev, Adela Katchaounova
7.	Croatia	Ivana Celio Cega
8.	Cyprus	Lellos P Demetriades Law Office LLC Achilleas Demetriades
9.	Czechia	Maroš Matiaško
10.	Georgia	Ramute Remezaite
11.	Germany	Ralf Alleweldt
12.	Hungary	Sonnevend Pál, Ügyvédi Iroda
13.	Lithuania	Karolina Bubnytė-Širmenė
14.	Montenegro	Valentina Pavličić
15.	Netherlands	Maastricht University Faculty of Law, Andrea Broderick
16.	Republic of North Macedonia	Jelena Ristikj
17.	Norway	Marius Emberland
18.	Poland	Dominika Bychawska-Siniarska
19.	Portugal	Maria Filipa Aragão Soares Homem
20.	Republic of Moldova	Daniel Goinic
21.	Romania	Razvan Horatiu Radu
22.	Serbia	Slavoljub Caric
23.	Slovak Republic	Tomáš Ľalík
24.	Spain	Lorena Bachmaier Winter
25.	Türkiye	Demirhan Burak Celik
26.	Ukraine	Viktoriya Gurash
27.	United Kingdom	AIRE Centre: Ciaran King, Nuala Mole

Bibliography

Books and articles

Donald, A. and Speck, A-K., *National Parliaments as Guarantors of Human Rights in Europe: Handbook for Parliamentarians* (Council of Europe, 2018), https://pace.coe.int/en/pages/jur-handbook.

Donald, A. and Leach, P., *Parliaments and the European Court of Human Rights* (OUP, 2016).

Murray, R. and De Vos, C. 'Behind the State: Domestic Mechanisms and Procedures for the Implementation of Human Rights Judgments and Decisions', *Journal of Human Rights Practice*, Volume 12, Issue 1, February 2020, Pages 22–47.

Council of Europe documents

Department for the Execution of Judgments of the European Court of Human Rights, *Guide for the drafting of action plans and reports for the execution of judgments of the European Court of Human Rights*, https://rm.coe.int/guide-drafting-action-plans-reports-en/1680592206

Department for the Execution of Judgments of the European Court of Human Rights, Information document DGHL-Exec/Inf (2010)1 18 May 2010 – DG-HL. Entry into force of Protocol No. 14: consequences for the supervision of the execution of judgments of the European Court by the Committee of Ministers, 18 May 2010, https://rm.coe.int/168059ac93

Steering Committee for Human Rights (CDDH), Guide to good practice on the implementation of Recommendation (2008)2 of the Committee of Ministers on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights (CDDH(2017)R87 Addendum I), rm.coe.int/r86-abridged-report/168073418b

PREMS 019625

ENG

www.coe.int

The Council of Europe is the continent's leading human rights organisation. It comprises 46 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.

HUMAN RIGHTS TRUST FUND

FONDS FIDUCIAIRE POUR LES DROITS DE L'HOMME

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE