

**Roundtable on Effective national co-ordination: a key factor
in reinforcing the domestic capacity for rapid execution of judgments
of the European Court of Human Rights
(Strasbourg, 7 March 2022)**

Session three - Co-ordinator's contribution to developing effective synergies with actors in the execution process and other national stakeholders, including NHRIs and civil society organisations

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I would like to thank the organizers for the invitation and a possibility to present also few remarks from the point of view of national human rights institutions (NHRIs) and European Network of National Human Rights Institutions - ENNHRI. In absence of ENNHRI Secretary General Ms. Debbie Kohner, I have a privilege to share some thoughts on the importance of developing effective synergies in the execution process also with other stakeholders, including national human rights institutions and civil society organizations. I am also going to share briefly some national experience of Slovenia.

First, I would like to recall that already the 1993 United Nations Paris Principles relating to the Status of National Human Rights Institutions have clearly established a responsibility of NHRIs “[t]o promote and ensure the harmonization of national legislation, regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation.”

European Convention on Human Rights is clearly such an international instrument. In this context the NHRIs in compliance with Paris Principles have been recognised as key stakeholders for ensuring the effective implementation of the European Convention on Human Rights also by the Committee of Ministers:

- The involvement of NHRIs in the effective national implementation of the Convention system has been emphasised in Committee of Ministers Decision no. 130/4 of 4 December 2020 on Securing the long-term effectiveness of the system of the European Convention on Human Rights.
- Further, in Recommendation CM/Rec(2021)1 on the development and strengthening of effective, pluralist and independent national human rights institutions, of 31 March 2021, the Committee of Ministers underlined the great potential and impact of independent NHRIs for the promotion and protection of human rights in Europe, in particular for the effective implementation of the European Convention, including third party intervention before the European Court of Human Rights and communication with regard to the supervision of the execution of judgments under Article 46, paragraph 2, of the Convention.

While proper and full implementation of the Strasbourg Court judgments lies within state authorities, it clearly follows from the mentioned framework that the authorities should enable NHRI participation in the execution of judgments process already at the national level.

At the same time, NHRIs and ENNHRI are committed to act as watchdogs also in the field of full implementation of Strasbourg Court judgments. In this context, ENNHRI prepared in cooperation with its members an Interactive resource hub with guidance on the implementation of ECHR judgments, which was funded by the Council of Europe and

supported by the Execution Department. The hub compiles good practice examples from various countries and institutions on their action at national and international level. The implementation of the Strasbourg Court judgment should be understood as a national as well as international obligation of the State Parties to the Convention.

A cycle of synergies and cooperation of NHRIs with state authorities at the national level should include cooperation with national coordinators as well as with executive branch of government, legislator, civil society and other stakeholders as well as on education and awareness raising.

At the same time, NHRIs have at the level of the Council of Europe an important role to play in the Court judgment supervision process under so-called Rule 9(2) of the Committee of Ministers Rules. NHRIs can be involved in the supervision process by submitting Communications to the Committee of Ministers. In these Communications NHRIs can review and assess States' performance with regard to the execution of judgments and make recommendations on how to proceed with the execution process.

It is my view that if synergies and cooperation were sufficient at the national level it is less likely there would be a need for a so-called Rule 9 submission. However if needed there are ongoing efforts for NHRIs and NGOs to become more active also in this field.

I would like to welcome the great work done by international NGO European Implementation Network (EIN), who prepared a "Rule 9 Submission Guide" to help NHRIs and NGOs engaging effectively in the Committee of Ministers' supervision of the execution of Strasbourg Court judgments by means of Rule 9 submissions. Good practice examples of Rule 9 submission are for example those of Armenian, French, Georgian, Dutch, Northern Ireland and Polish NHRIs.

On the other hand, we can also find some good practice examples on the synergies and engagement of NHRI in the Strasbourg Court judgements enforcement at the **national level**. There are good practice examples on NHRI engagement with the legislator in Georgia and Greece and on the engagement with executive branch in Croatia, Czech Republic and Slovenia.

The Slovenian national example shows that turning from ad hoc approach to implementation of certain Strasbourg judgments to a holistic approach, provides good grounds and solid results. A corner stone of a new system was a 2014 amendment to the State Administration Act, giving the Ministry of Justice a guiding role toward other ministries on the enforcement of judgments of international courts. At the time I worked at the Ministry of Justice and I remember the debates on how to bring into life the mentioned provision. Based on ad hoc, but in general successful institutional approaches toward the implementation of three specific judgments against Slovenia – the *Lukedna* case (joining 264 separate cases) concerning lengthy court proceedings, a pilot judgment in *Kurić* case concerning so-called erased persons and a pilot judgment in *Ališić* cases related to foreign currency savers – the Ministry of Justice prepared a proposal to adopt a holistic and permanent institutional approach. In two cases the ad-hoc inter-governmental groups were established, while in all mentioned cases the Parliament adopted specific laws and state paid more hundred million Euros of compensations and just satisfaction. In December 2015 an Inter-Governmental Working Group for Coordination of the Execution of Judgments of the European Court of Human Rights and a Specialised support unit at the Ministry of Justice were established, while the structure became operational in 2016. Ministry of Justice also seconded a lawyer to the Execution department in Strasbourg in 2015.

In parallel as part of a holistic approach, the Ministry of Justice and the Government also proposed to the Parliament the amendments to the Human Rights Ombudsman Act, which

strengthened the mandate of Ombudsman institution in line with Paris principles. These amendments entered into force in 2017 and in January 2021, the Human Rights Ombudsman of Slovenia was for the first time re-accredited as A-Status NHRI.

In Slovenia Ombudsman has also a possibility to appoint two external members to the mentioned inter-governmental working group for coordination of the execution of judgments of the Strasbourg court and currently two of our deputy-ombudsmen are the external members. The task of our institution is to monitor the implementation process and to give its opinions when necessary.

In general, the achieved results are positive. From 309 unimplemented judgments at the end of 2015, the number was lowered to currently less than 10.

In practice however, a proper enforcement of leading cases need constant monitoring and reviewing whether the adopted implementation measures had have a real effect. For example in case of *Kurič* and adopted enforcement measures through a specific act, after 30 years of the violation, the effects of implementation of the Strasbourg Court judgment for concerned individuals could still be questionable. There might also be other cases of questionable implementation of the judgment like *Krajnc* case, where we also raised some concerns.

It seems that sometimes the Committee of Ministers adopted the final resolutions too quickly or that there is a lack of a mechanism, which would allow for a second or post review of functioning in practice of the adopted general, including legislative, measures.

There is as well still a room for improvement to engage NHRIs, Ombuds Institutions and civil society organization at an early stage of national execution process on the regular basis and when preparing action plans and reports.

In this context it is important for us that ENNHRI also has a privilege to participate as an observer in a CDDH Drafting Group on Enhancing the National Implementation of the System of the European Convention on Human Rights. I would especially like to underline that the present version of the Draft Guidelines of the Committee of Ministers to member States on the prevention and remedying of violations of the European Convention on Human Rights also include a draft guideline on the promotion stakeholder's participation in the execution process. According to it, Member States should also *"ensure that they include NHRIs, relevant NGO's, and representatives of the legal profession in consultations on the development of action plans and reports on the execution of judgments at the earliest possible stage and inform them of the results of their involvement, as well as the final action plans and reports communicated to the Council of Europe, so as to enable follow up and timely communication with regard to the supervision of the execution of judgments under Article 46, paragraph 2, of the Convention."*

I believe such approach would bring effective synergies with relevant national actors in the execution process, including with NHRIs and civil society organizations. It is in my view essential that state authorities follow a proactive approach not only to formally execute Strasbourg Court judgments but to also make a difference. A full respect of all human rights as guaranteed by the European Convention should be our common goal and value.

To conclude, it is vital that NHRIs are part of the dialogue on the supervision of the proper execution of judgments at the national and international level and that this awareness is raised among the authorities as well as NHRIs.

I thank you for your attention.