EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Better Enforcement of National Judicial Decisions

A Human Rights and Rule of Law Requirement

Council of Europe, Strasbourg, 17 March 2025

Hasan Bakırcı
Section Registrar, European Court of Human Rights

Distinguished Judges,

Dear Colleagues,

Ladies and Gentlemen,

I. Introduction

1. Allow me to begin by expressing my gratitude to the organisers of this important conference for the invitation to participate in such a vital discussion on the enforcement of national court decisions. It is a privilege to contribute to this important dialogue.

2. Judge M. Gnatovsky have outlined the fundamental principles of the rule of law, access to court, and the evolution of the Court's jurisprudence on the non-enforcement of domestic court decisions, tracing its development from the landmark *Hornsby v. Greece*[1] judgment in 1997.

3. Building on his insights, I wish to talk about the Court's case-law and practice in addressing the pervasive problem of non-enforcement of domestic decisions caused by systemic and structural shortcomings in Member States.

My analysis will unfold in two parts.

[1] *Hornsby v. Greece* judgment in 1997 (no. 18357/91, 19 March 1997).

4. First, I will highlight some of the Court's pilot judgments and the principles which it applies in cases concerning non-enforcement of domestic decisions. Then, I will turn to the pivotal—some might say infamous—judgment in *Burmych v. Ukraine*[2], reflecting on the important lessons that can be drawn from this experience.

II. The Court's approach to non-enforcement of domestic decisions

So, to my first point.

5. The Court has been dealing with mass litigation resulting from structural or systemic problems in the Contracting States for almost three decades. These structural or systemic problems cover wide range of issues, including **"non-enforcement or delayed enforcement of domestic decisions"** and lead to a growing number of applications before the Court.

6. To illustrate this phenomenon, I would like to point out that between 1999 and the present, the Court has received **57,400 applications** concerning non-enforcement or delayed enforcement of domestic decisions. These applications have been brought primarily against Ukraine (50%), Italy (20%), Serbia (15%), Russia (6%), and Moldova (2%).

7. As many of you already know, since its *Broniowski v. Poland*[3] judgment in 2004, the Court employs the **pilot judgment procedure** when it identifies a systemic or structural issue in a Contracting State that has led to a large number of repetitive cases before the Court. This procedure aims to provide a **comprehensive solution** to widespread human rights violations rather than addressing each case individually.

8. In this context, the Court has delivered several key pilot or quasi-pilot judgments to address big influx of cases concerning the non-enforcement of domestic decisions. These judgments establish **the legal problems and root causes of the structural and systemic issues** generating large of number of cases and direct the

[2] *Burmych and Others v. Ukraine (striking out) [GC]*, nos. 46852/13 et al., 12 October 2017.
[3] *Broniowski v. Poland*, no. 31443/96, 22 June 2004.

Contracting States to adopt general measures to remedy systemic dysfunctions in national law.

9. If I may illustrate with a few examples, in *Burdov v. Russia (No. 2)*,[4] a Chernobyl rescue worker repeatedly obtained favorable court decisions granting him compensation, yet authorities failed to enforce these rulings, reflecting a widespread problem impacting pensioners, military personnel, and others. Similarly, in *Yuriy Nikolayevich Ivanov v. Ukraine*,[5] the applicant had obtained a final domestic decision awarding him unpaid pension arrears, but the Ukrainian authorities failed to comply with the court orders. In *Olaru and Others v. Moldova*[6], the applicants faced years of inaction despite court orders granting them social housing, exposing yet another structural deficiency. Likewise, in *Manushaqe Puto and Others v. Albania*[7], the applicants, heirs of expropriated property owners, struggled with the authorities' prolonged failure to enforce final judgments recognising their property rights. Finally, in *R. Kačapor and Others v. Serbia*[8], the applicants, former employees of socially owned companies, complained about the authorities' failure to enforce final judgments awarding them unpaid salaries and employment-related benefits.

10. In all these cases, the Court found that the root causes of these structural and systemic problems included "lack of financial resources", "complex or inefficient administrative procedures", and "lack of political will to address social or economic issues".

11. The Court found violations of the applicants' rights under Article 6 § 1 of the Convention (right to a fair trial) and Article 1 of Protocol No. 1 (protection of property) due to the non-enforcement or delayed enforcement of final judicial decisions in their favour as well as Article 13 because the applicants did not have an available and effective domestic remedy to challenge non-enforcement. Finally, under Article 46 (binding force and execution of judgments), the Court required

[4] No. 33509/04, 15 January 2009.
[5] No. 40450/04, 15 October 2009.
[6] Nos. 476/07 and Others, 28 July 2009.
[7] Nos. 604/07 and Others, 31 July 2012.
[8] Nos 2269/06 and others, 15 January 2008.

respondent States to adopt general measures to provide redress to all victims and eliminate the root causes of the systemic problem, which continued to generate numerous applications before the Court.

In these pilot judgments, and many other individual cases, the Court has established 5 key principles:

1. Enforcement is an integral part of the right to a fair trial under Article 6;[9]
2. States cannot justify non-enforcement by invoking financial or administrative difficulties;[10]
3. Timely enforcement is essential — delays should only be permitted in exceptional circumstances.[11]
4. Non-enforcement of a court judgment within a reasonable time constitutes an interference with the right to peaceful enjoyment of possessions under Article 1 of Protocol No. 1;[12] and finally,
5. States must provide both individual and general remedies: they are required to provide compensation to affected individuals and implement reforms to eliminate the root causes of the systemic and structural problems.[13]

12. Some of these pilot judgments have been successfully implemented by the respondent States (*Burdov no. 2*), some have been partially executed (*Olaru and Others* and *R. Kačapor and Others*), but one of them has completely failed as the respondent State was unable to carry out the necessary reforms, namely the pilot judgment in the case of *Ivanov v. Ukraine*.

III. *Burmych v. Ukraine*, lessons that can be drawn

13. The failure of the pilot judgment procedure in the *Ivanov* case led the Court to adopt a groundbreaking judgment in the case of *Burmych v. Ukraine*[14].

[9] Burdov no. 2, para. 65.
[10] Ibid., para. 70.
[11] *Manushaqe Puto and Others*, para. 96.
[12] Yuriy Nikolayevich Ivanov, para. 57.
[13] Olaru and Others, para. 49.
[14] *Buymych and Others v. Ukraine* [GC], 46852/13 et al, 12 October 2017.

14. In a nutshell, in the *Burmych* judgment, the Court reaffirmed that the legal issues surrounding the prolonged non-enforcement of domestic decisions had already been resolved in the *Ivanov* pilot judgment. It had fulfilled its mandate under Article 19 of the Convention by identifying the systemic problem, finding a violation of the Convention, and providing clear guidance on the general measures required under Article 46 for proper execution.

15. However, in the years following *Ivanov*, the Ukrainian authorities failed to implement the necessary measures. Faced with a growing backlog of similar cases—over 12,000 pending applications—the Court recognised that continuing to examine them individually would not resolve the underlying problem. It decided, therefore, to join all pending and future similar applications, strike them out from its list, and transfer them to the Committee of Ministers, which is responsible for overseeing the execution of judgments and providing remedy for all victims of systemic violations. Yet the Court added a safeguard clause (para. 223), noting that it may restore these applications to its list of cases if the circumstances justify. However, the Court did not activate this clause for various reasons.

16. This decision was met with strong criticism, both from within and outside the Court. However, the key question remains: *How did we reach this point?*

The answer lies in the failure of the respondent State to adopt effective general measures.

17. When the *Ivanov* judgment was delivered in 2009, the Court gave Ukraine one year to establish an effective domestic remedy capable of providing redress for the non-enforcement or delayed enforcement of domestic decisions. It made clear that if Ukraine failed to act, the Court would have no choice but to resume examining similar applications. At the time, the Court adjourned the examination of 1,400 pending cases to allow time for provision of a remedy in national law.

18. The Ukrainian Government was granted an extension but ultimately failed to deliver the necessary reforms. By then, the number of pending cases had surged to

2,500. Given this failure, the Court resumed its examination of these follow-up applications.

19. To manage the growing caseload, the Court introduced the fast-track procedure and IT tools to process cases more efficiently. In July 2012, it delivered its first grouped judgment in *Kharuk and 115 Other Applications*. However, despite these efforts, the backlog continued to grow. By the time *Burmych* was decided on 12 October 2017, the Court had already examined and disposed of 14,430 *Ivanov*-type cases, yet 12,143 more remained pending.

20. Efficiency, in this case, backfired. The more cases the Court processed, the more applications it received. As the Court itself observed in *Burmych*, this created the risk of the Court becoming part of Ukraine's enforcement system, effectively substituting itself for the national authorities. This, of course, was incompatible with the Court's subsidiary role.

21. The *Ivanov* and *Burmych* cases serve as stark reminders of what happens when Contracting States do not execute the Court's judgments. No matter how efficiently the Court delivers individual justice, if systemic problems remain unresolved at the national level, the long-term effectiveness of the Convention system is put at risk. This is why execution of judgments is not just a legal obligation—it is an essential pillar of the Convention system.

22. Finally, a key takeaway from the Ukrainian experience in the *Ivanov* and *Burmych* cases is the crucial role of cooperation between the Court, the respondent State, and the Committee of Ministers. Without thorough groundwork before issuing a pilot judgment, its implementation is likely to fail.

IV. CONCLUSION

23. The execution of domestic court decisions is not only a fundamental aspect of the rule of law but also an essential component of the right to a fair trial under Article 6 of the Convention. A judgment that remains unenforced is justice denied,

undermining trust in the judiciary and the effectiveness of legal protection. Yet, the Court continues to receive thousands of applications concerning non-enforcement, responding with well-established principles in its case-law.

24. However, the real challenge lies not in the Court's judgments but in their execution. As seen in *Burmych*, when national authorities fail to implement necessary reforms, repetitive cases overwhelm the Court, threatening the long-term effectiveness of the Convention system. The responsibility to uphold human rights and the rule of law cannot rest solely with the Court—it must be met with genuine commitment by Contracting States and effective oversight by the Committee of Ministers. The Convention system can only function if judgments, whether domestic or from the Court, are fully implemented. Without this, legal rights remain theoretical, and the Convention's promise of justice remains unfulfilled.

Thank you for attention.