

What kind of challenges in enforcement of European Court's judgments concerning « non-enforcement »?

Pavlo Pushkar, PhD Head of division,

Department for Execution of Judgments of the European Court of Human Rights
Directorate General of Human Rights and the Rule of Law
Council of Europe

20/03/2025



Pavlo Pushkar, Council of Europe



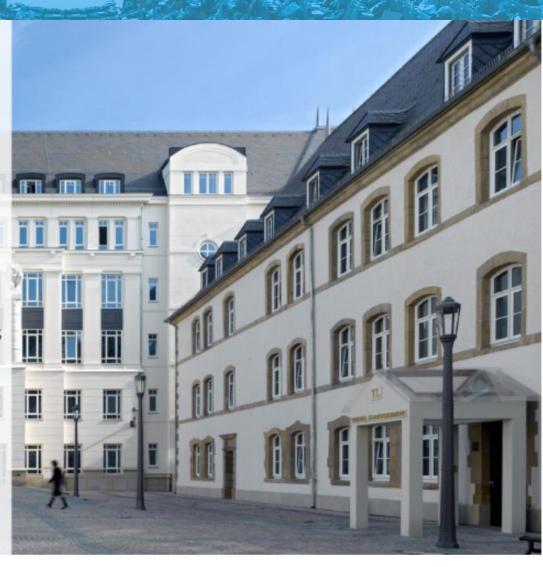
International Conference

JUDICIAL DECISIONS: A HUMAN RIGHTS
AND RULE OF LAW REQUIREMENT
Principles, challenges and possible solutions

17 March 2025







20/03/2025

Themes to be covered

- I. Why are we speaking about enforcement of the domestic judgments?
- II. The problem of domestic non-enforcement under the European Convention on Human Rights and where do we stand?
- III. What are the challenges for « better enforcement » of domestic judgments and what are the solutions for these challenges?

I. The problem of "non-enforcement"

- □ The problem of domestic non-enforcement and the European Convention on Human Rights and its status quo
 - A general problem of rule of law and access to justice
 - First identified as far as 1997 as a clearly distinct separate issue
 - Accumulation of cases before the Court and the CM
 - Stronger case-law of the Court, more detailed
- ☐ The problem of non-execution before the CM:
 - Much more developed analysis / more concrete decisions
 - Better identified problem, with clearer understood root causes (overarching problem within the State concerned)
 - E.g. Lack of funds = why lack of funds? (root cause analysis)
 - Larger issue of the role of the judiciary in public administration and good governance = essentially an issues of judicial independence and separation of powers



II. Challenges and how to overcome them

- ✓ Where non-enforcement is at the heart of the ECtHR judgment, it is quite frequent that the judgment reveals complex endemic problem
- ✓ Systemic and structural problems require coherent multilayer change (legislature, institutions, practical change)
- ✓ Planning of change is required with careful analysis of the root causes (Strategy and action plans have succeded if implemented)
- ✓ Step-by-step work is required (otherwise negative outcome)

III. Challenges and how to overcome them

- ✓ Horizontal coherence and pace of change, where the issue concern systemic and structural problems is necessary
- ✓ Piloting ad hoc solutions and then expanding them to entire system
- ✓ Positive change = positive results for rule of law / overall system
- ✓ Committee of Ministers practice, its acquis, offers a range of practical solutions that worked in practice
- ✓ More is necessary to enhance and detail solutions offered for challenges (discussion of enhanced standards)



Conclusions

Better enforcement of domestic judicial decisions:

Why? What? How?

THANK YOU FOR YOUR ATTENTION

ДЯКУЮ!