



## **Project**

# **Supporting Parliamentary Oversight over Execution of the European Court of Human Rights Judgments in Georgia**

## **PROPOSED AMENDMENTS TO THE RULES OF PROCEDURE OF THE PARLIAMENT OF GEORGIA**

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## **A. INTRODUCTION**

1. This Opinion is concerned with the proposals in the document “On Making Amendments in the Rules of Procedure of the Parliament of Georgia”.
2. These proposals (“the Draft Amendments”) have been prepared by the Parliament on Georgia. They aim at improving parliamentary oversight over the execution of judgments of the European Court of Human Rights (“the European Court”) and of friendly settlements of applications submitted to the European Court (“friendly settlements”).
3. The Draft Amendments are comprised of the text of proposed modifications to Articles 174 and 175 of the existing Rules of Procedure and an Explanatory note relating to them. Article 174 deals with the parliamentary oversight of the implementation of United Nations treaties, including recommendations by their supervisory bodies and decisions concerning petitions submitted to those bodies, whereas Article 175 is concerned with parliamentary oversight of the execution of judgments of the European Court (“judgments”) and of friendly settlements. The modifications to the two Articles are similar in their approach but the Opinion only deals with the modifications to Article 175.
4. The Opinion takes account of the standards elaborated by the Parliamentary Assembly of the Council of Europe (“PACE”) with respect to parliamentary oversight of the execution of judgments by the European Court and of friendly settlements, the practice in this regard by member States of the Council of Europe (“member States”), the conclusions in the Report, *Needs Assessment for Parliamentary Oversight over the Execution of Judgments of the European Court of Human Rights in Georgia* (“the Needs Assessment Report”) that was based on the standards elaborated by PACE and the best practice seen in member States and the Draft Principles on Parliaments and human rights (“the Draft Principles”).
5. Consideration is given first to the standards elaborated by PACE, relevant practice in Council of Europe member States other than Georgia and the proposals in the Draft Principles. The Opinion then assesses the proposals in the Draft Amendments in the light of these standards, practice and proposals together with the further steps that would be required to fulfil the recommendations in the Needs Assessment Report.
6. This Opinion has been prepared by Jeremy McBride<sup>1</sup> and Konstantin Korkelia<sup>2</sup> under the auspices the Project “Supporting Parliament’s role on oversight over the execution of ECtHR judgments by the government”.

## **B. RELEVANT STANDARDS, PRACTICE AND PROPOSALS**

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7. This section is concerned with the standards elaborated by PACE as regards parliamentary oversight of the execution of judgments and friendly settlements, current practice seen in selected member States and the relevant requirements in the Draft Principles.

## **1. Standards elaborated by PACE**

8. PACE has been particularly concerned about the extent to which member States are implementing judgments and friendly settlements, for at least the last 20 years.
9. This has partly taken the form of reports by its Committee on Legal Affairs and Human Rights, followed by the adoption of resolutions and recommendations by PACE itself.
10. Although these have drawn attention to shortcomings as regards the implementation of judgments both by specific member States of the Council of Europe and generally, there has also been a focus on emphasising the particular role that national parliaments can play in ensuring the execution of judgments and friendly settlements, as well as on other ways in which they can contribute to the full implementation of the obligations arising from the European Convention on Human Rights (“the European Convention”).
11. The key resolution of PACE in this regard is *National Parliaments: guarantors of human rights in Europe*, (“Resolution 1823 (2011)”)<sup>3</sup>.
12. Thus, this Resolution specified that:
  5. With respect to the implementation of judgments of the European Court of Human Rights (hereafter “the Court”), the Assembly:
    - 5.1. believes that national parliaments are uniquely placed to hold governments to account for swift and effective implementation of the Court’s judgments, as well as to swiftly adopt the necessary legislative amendments;
    - 5.2. regrets that the post-Interlaken debate on the future of the Convention system does not sufficiently take into account the potentially important role of parliaments and deplores the silence of the Izmir Declaration in this respect;
    - 5.3. points to the positive examples in several member states, notably the United Kingdom, the Netherlands, Germany, Finland and Romania, which have set up parliamentary structures to monitor the implementation of the Court’s judgments.
  6. Furthermore, the Assembly:
    - 6.5. urges parliaments to step up their efforts in contributing to the supervision of the Court’s judgments by overseeing steps taken by the competent authorities to execute adverse judgments, including scrutiny of the actual measures taken;
    - 6.6. calls on parliaments to set up and/or to reinforce structures that would permit the mainstreaming and rigorous supervision of their international human rights obligations, on the basis of the principles below.
13. The principles referred to in the last clause above were what the resolution termed “basic principles for parliamentary supervision of international human rights standards”
14. These standards entailed the establishment of appropriate parliamentary structures to ensure rigorous and regular monitoring of compliance with and supervision of

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<sup>3</sup> 23 June 2011.

international human rights obligations (including the implementation of the European Court's judgments), independent advice and cooperation with other institutions and civil society.

15. More recently, the importance of the parliamentary role was reaffirmed in its resolution, *The implementation of judgments of the European Court of Human Rights*, ("Resolution 2178 (2017)")<sup>4</sup>, with greater specificity being provided in it as to the fulfilment of this role.
16. Thus, Resolution 2178 (2017) stated that:
  9. Thus, the Assembly once again calls on the States parties to fully and swiftly implement the judgments and the terms of friendly settlements handed down by the Court and to co-operate, to that end, with the Committee of Ministers, the Court and the Department for the Execution of Judgments of the European Court of Human Rights, as well as with other Council of Europe organs and bodies where applicable. For this co-operation to be fruitful, the Assembly recommends that the States parties, *inter alia*:
    - 9.1. submit action plans, action reports and information on the payment of just satisfaction to the Committee of Ministers in a timely manner;
    - 9.2. pay particular attention to cases concerning structural problems, especially those lasting over ten years, as well as all related cases;
    - 9.3. provide sufficient resources to national stakeholders responsible for implementing Court judgments and encourage them to co-ordinate their work in this area;
    - 9.4. provide more funding to Council of Europe projects that could contribute to improved implementation of Court judgments;
    - 9.5. raise public awareness of issues relating to the Convention;
    - 9.6. condemn any kind of political statement aimed at discrediting the Court's authority;
    - 9.7. strengthen the role of civil society and national human rights institutions in the process of implementing the Court's judgments.
  10. Referring to its Resolution 1823 (2011), the Assembly calls on the national parliaments of Council of Europe member States to:
    - 10.1. establish parliamentary structures guaranteeing follow-up to and monitoring of international obligations in the human rights field, and in particular of the obligations stemming from the Convention
    - 10.2. devote parliamentary debates to the implementation of the Court's judgments;
    - 10.3. question governments on progress in implementing Court judgments and demand that they present annual reports on the subject;
    - 10.4. encourage all political groups to concert their efforts to ensure that the Court's judgments are implemented.
17. However, PACE has not sought to prescribe the adoption of any particular model of parliamentary oversight. Indeed, as a background memorandum prepared by its Secretariat observed, the effectiveness of a given model may be dependent on the context in which it operates.<sup>5</sup>
18. As can be seen from this background memorandum and also a handbook prepared by PACE for parliamentarians<sup>6</sup>, there are several considerations which are critical for the

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<sup>4</sup> 29 June 2017.

<sup>5</sup> The role of parliaments in implementing ECHR standards: overview of existing structures and mechanisms; available at: <http://www.assembly.coe.int/CommitteeDocs/2014/E-PPSD14-22%20BackgroundECHRstandards.pdf>, at paras. 11-15.

<sup>6</sup> *National parliaments as guarantors of human rights in Europe*, downloadable at: <https://edoc.coe.int/en/parliamentary-assembly/7770-national-parliaments-as-guarantors-of-human-rights-in-europe.html>.

effectiveness of parliamentary oversight of the execution of judgments and friendly settlements.

19. These considerations concern: the nature of body within the parliament responsible for this; the powers conferred on it; its manner of working; the resources available to it; and its engagement with others interested in the process of engagement
20. As regards the body itself, it is important that this:
  - a) has a permanent status, reflecting the fact that oversight is necessarily an ongoing process, not only because the possibility of applications to the European Court and judgments or friendly settlements resulting from them is a continuing one but also because the achievement of execution requires the effectiveness of the general measures being taken to be kept under review;
  - b) has a composition and thus a method of appointment ensuring that it is both independent of the executive and is broadly-based so that its work can be as objective and non-partisan as possible; and
  - c) does not lead to it having exclusive concern within the parliament for the execution of judgments and friendly settlements in particular and the fulfilment of human rights commitments in general as these can have implications across the range of work undertaken by parliaments.
21. In terms of the body's powers, it is considered essential that its remit with respect to the execution of judgments and friendly settlements be explicitly and clearly defined in the relevant rules of the parliament concerned so that there is no ambiguity as to its capacity to deal with this matter.
22. Furthermore, there is a need for it to have the powers to ensure that its oversight is effective.
23. This would entail the power: (a) to require or subpoena the production of documents (including action plans for execution) and the attendance of witnesses (including officials and ministers); and (b) to set in train the process of amending or adopting legislation where this is seen to be necessary.
24. The exercise of such powers may not be necessary where there is a good working relationship between the parliamentarians and everyone else concerned with execution. Nonetheless, their existence is a necessary safeguard against any risk of attempts being made to impede or frustrate oversight by a parliament.
25. As regards working methods, the process of oversight should be systematic and continuing so that it is:
  - a) synchronised with the proceedings before the Committee of Ministers;
  - b) takes account of the need for urgency in particular cases;
  - c) precludes unnecessary delays; and
  - d) ensures a follow-up to action that has been recommended.
26. This will undoubtedly entail the body meeting more than once a year. However, the specific frequency of its meetings should be a consequence of the number and

significance of the judgments and friendly settlements to be executed, as well as of the process before the Committee of Ministers.

27. Moreover, working on more than an annual basis does not mean that some form of annual report by the Government with respect to execution should not be expected and reviewed as this can provide a broader picture of the state of execution. However, if the focus is only on such an annual report, there is a risk that momentum in ensuring the timeliness of execution will not be attained.
28. The issue of resources is crucial for the effectiveness of parliamentary oversight of the execution of judgments and friendly settlements.
29. Parliamentarians should thus have available to them an adequate level of specialised support staff able to provide them with independent advice, as well as being able to call upon outside experts where required for a specific case being examined.
30. In addition, it is also vital that the allocation of time for the oversight process be actually sufficient for this both to be done properly and in a timely fashion. This necessarily has implications not only for the scheduling arrangements within the parliament concerned but also for the commitments of the parliamentarians involved.
31. Although the government will be the principal entity with which the work of the body will be concerned, PACE has recognised that oversight will also require account to be taken of the views of the applicants and their representatives in the cases being overseen, as well as of national human rights institutions, ombudspersons, non-governmental organisations and academic experts working in the field of human rights, and even regional and international bodies or institutions working on human rights institutions.
32. The ability to engage with all of the forgoing actors is something to be covered in the powers conferred on the parliamentary body with responsibility for oversight of execution of judgments and friendly settlements.
33. So far, PACE has not been concerned about oversight of the execution of a unilateral declaration that has led to the striking out of an application under Article 39(1)(c) of the European Convention, which permits the European Court to do this “where the circumstances lead to the conclusion that ... it is no longer justified to continue the examination of the application”. However, there is no reason to regard either such oversight as any less important than that of judgments and friendly settlements or the modalities required for it to be any different from that applicable to them.

## **2. National practice**

34. As is clear from the background memorandum prepared by the Secretariat of PACE and its handbook for parliamentarians, there are currently four different models in use

with respect to parliamentary oversight of the execution of judgments and friendly settlements, namely:

- A specialised human rights committee, i.e., one with a remit that is mainly or exclusively concerned with human rights and with specific functions dealing with matters such as the vetting of legislation for compliance with domestic, regional or international commitments and monitoring of the execution of judgments;
  - A specialised sub-committee with such a human rights remit as the specialised committee that is formed under another committee with a wider mandate;
  - A cross-cutting or fully 'mainstreamed model, i.e., one where there is no specialist committee or sub-committee but instead one which relies on all the parliamentary committees to deal with human rights matters as they arise within their respective mandates; and
  - A hybrid model, i.e., one combining both specialisation and mainstreaming with more than one committee having human rights committee within its mandate, which may or may not include specific functions such as oversight of the execution of judgments and friendly settlements.
35. The most up to date overview of this practice is to be found in the Appendix to the latest report on the implementation of judgments by PACE's Committee on Legal Affairs and Human Rights<sup>7</sup>, which is concerned with the implementation of the recommendations in Resolution 2178 (2017) and not just the execution of judgments and friendly settlements.
36. The following practice regarding the latter is particularly noteworthy:
- *Czech Republic* - the Constitutional and Legal Affairs Committee in the Chamber of Deputies (lower house) has established a Sub-committee on Legislative Initiatives of the Ombudsman and the European Court. In addition, the Committee on Petitions has a sub-committee on human rights. The sub-committees are effectively working groups of their parent committee and they meet in private. The Sub-committee on Legislative Initiatives of the Ombudsman and the European Court discusses the annual report prepared by the government agent on judgments against the Czech Republic and their state of execution. The Constitutional and Legal Affairs Committee and Committee on Petitions play the leading role in vetting the conformity of government and non-government bills with international human rights treaties, including the European Convention;
  - *Finland* – The foreign ministry sends all rulings of the European Court against Finland to the secretariat of the Constitutional Law Committee of the parliament – the principal function of which is to issue statements on bills (or other matters) sent to it for consideration regarding their constitutionality and their bearing on international human rights instruments - for information; they are not circulated unless requested. The parliamentary ombudsman submits an annual report to the parliament, including a short section on Finnish cases at the European Court.

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<sup>7</sup> AS/Jur (2019) 45, 22 November 2019, available at: <http://www.assembly.coe.int/LifeRay/JUR/Pdf/DocsAndDecs/2019/AS-JUR-2019-45-EN.pdf>.

The report is scrutinised by the committee. However, it does not seem to have taken any position on the latter section of the report;

- *France* – the French delegation to PACE is responsible for the supervision at parliamentary level of the execution of judgments of the European Court. It exercises this role in two ways: (1) every two months the head of the delegation receives documents from the Sub-Directorate of Human Rights of the Ministry for Europe and Foreign Affairs giving a detailed report on the decisions given by the Court on applications concerning France; and (2) every year the delegation itself holds hearings of French state officials to the European Court and civil servants from the Ministry for Europe and Foreign Affairs to review the judgments and decisions given in the preceding 12 months. It also hears members of the Government, particularly the Minister responsible for European Affairs;
- *Lithuania* – since 2010, the Law and Law Enforcement Committee of the Seimas (parliament) has held extended meetings twice a year to discuss the implementation of judgments of the European Court. In addition, such monitoring is also carried out by the Committee on Human Rights of the Seimas, to which the government agent presents an annual report. The involvement of the Seimas in the process of executing the judgments was institutionalised in 2016, with the Chairperson of the Law and Law Enforcement Committee having registered a law supplementing the Statute of the Seimas with provisions that provide that one of the committee's activities is oversight of the execution of the Court's judgments;
- *North Macedonia* – under a law on the execution of judgments of the European Court was adopted in 2009, an interdepartmental commission was established. This meets at least every three months and drafts analyses of judgments, recommends individual and/or general measures to remedy violations, proposes legislative reform and monitors the enforcement of the judgments in line with various deadlines set out in the law on enforcement. The commission reports annually to the Standing Inquiry Committee on Civil Freedoms and Rights, one of two parliamentary committees with a human rights-related remit;
- *Poland* – the Justice and Human Rights and the Foreign Affairs Committees of the Sejm (the lower house) jointly established in 2014 a permanent Sub-Committee on the execution of judgments of the European Court. This followed discussions, in which the Committee of Human Rights, Rule of Law and Petitions in the Senate (the upper house) was also involved, on the need to systematise arrangements for parliamentary oversight of the execution process. The new Sub-committee is composed of 11 MPs, and its terms of reference include: detailed examination of information submitted by the Council of Ministers on the state of execution of judgments, and preparation of draft opinions for the Sejm Committee on Justice and Human Rights and Committee on Foreign Affairs. Representatives of the Polish Sejm and Senate are also invited to meetings of the Inter-ministerial Committee on the ECtHR. Representatives of the Government and the Polish Government Agent also participate in meetings organised by the Justice and Human Rights Committee of the Sejm and the Human Rights, Rule of Law and Petitions Committee of the Senate, devoted to these issues;
- *United Kingdom* - the Joint Committee on Human Rights began work in 2001 and has 12 members, drawn equally from the elected House of Commons and the largely appointed House of Lords. It has tended to have two or three



dedicated legal advisers with human rights expertise who provide services to its members its members. The committee's formal remit is extremely broad, covering "matters relating to human rights" in the United Kingdom, excluding individual cases. It conducts scrutiny of the executive response to adverse judgments on the basis of its own criteria; in particular that the government should provide detailed plans as to its response within four months and make a final decision as to how the incompatibility will be remedied within six months. It regularly invites ministers to oral hearings to answer questions on the government's behalf on annual or biannual reports on the implementation of judgments published by the government. These sessions are public and transcripts of the proceedings are available on the parliamentary website. The committee also scrutinises legislative proposals by the government and proposes amendments to remove any incompatibility with international obligations identified in its reports, conducts thematic inquiries into issues where there is cause for concern about human rights and selectively monitors the United Kingdom's compliance with its international human rights obligations under UN human rights treaties.

37. In addition, according to by PACE's Committee on Legal Affairs and Human Rights<sup>8</sup> Many national parliaments hold debates on the question of the implementation of Court judgments<sup>9</sup> and question their government on action taken with regard to human rights obligations<sup>10</sup>. In particular, it noted that Swiss members of parliament and its PACE delegation had repeatedly sought to exchange views with representatives of the Federal Court of Justice and the Department of Justice to determine whether there were problems or fundamental disagreements in the relations between the European Court and the Swiss judicial system.
38. Overall, there is a good deal of variation in the approach to parliamentary oversight in the member States referred to above. Certainly, it is evident that not all the elements flowing from the standards elaborated by PACE are fulfilled in every respect. Moreover, there are also member States where the degree of parliamentary oversight is much more limited than in the ones that have been discussed.
39. Nonetheless, the picture is undoubtedly an evolving one, with the position moving from parliamentary oversight being a relatively rare occurrence to a more regular feature of the activities undertaken by national parliaments. In particular, the nature of the scrutiny over execution of judgments of the European Court is becoming more exacting and, in at least some instances, is not limited to something occurring only once a year.

### **3. The Draft Principles**

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<sup>8</sup> *Ibid.*

<sup>9</sup> It cites Andorra, Belgium, Cyprus, Croatia, Estonia, Germany, Hungary, the Netherlands, Romania, Slovenia, Switzerland, Turkey and the United Kingdom.

<sup>10</sup> It cites Albania, Andorra, Austria, Croatia, Cyprus, Czech Republic, Estonia, Germany, Slovenia, Switzerland and Turkey.

40. The Draft Principles were released by the Office of the United Nations High Commissioner for Human Rights following more than 5 years of discussion and study on the topic of the contribution of parliaments to the work of the Human Rights Council.<sup>11</sup>
41. In the course of this discussion and study, the Human Rights Council of the United Nations adopted several resolutions emphasising the contribution of parliaments to the protection of human rights. Such a contribution was noted as being made, in particular, through parliaments overseeing the human rights policies and actions by governments, especially the implementation of recommendations resulting from the international human rights mechanisms.<sup>12</sup>
42. The Draft Principles specify that a parliamentary human rights committee  
  
shall be given as broad a mandate as possible, covering all human rights as defined in national and international law. The mandate of the parliamentary human rights committee shall also provide clear terms of reference setting out its purpose and goals.<sup>13</sup>
43. They envisage the committee having the various roles regarding the international human rights system. Those of particular relevance in the present context are as follows:  
  
(d) To participate, through a designated focal point, in the national mechanism for reporting and follow-up, and ensure that recommendations of international and regional human rights mechanisms that require legislative reform, the adoption of new laws, or budgetary adjustments are identified and given priority consideration;  
(e) To lead the parliamentary oversight of the work of the Government in implementing recommendations of international and regional human rights mechanisms.<sup>14</sup>
44. The Draft Principles also echo PACE's resolutions as regards the importance of the committee having sufficient resources to carry out its functions effectively, having access to external independent human rights advice and conducting its work in such a way as to provide opportunities for meaningful civil society participation.
45. It is expected that the Draft Principles will ultimately be endorsed by the Human Rights Council.

## **C. THE DRAFT AMENDMENTS**

46. This section reviews and assesses the proposals in the Draft Amendment with respect to Article 175 of the Rules of Procedure.

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<sup>11</sup> They are annexed to the Office's Report, *Contribution of parliaments to the work of the Human Rights Council and its universal periodic review*, A/HRC/38/25, 17 May 2018; <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/135/75/PDF/G1813575.pdf?OpenElement>.

<sup>12</sup> Notably resolutions 30/14, 1 October 2015 and 35/29, 23 June 2017, both entitled: *Contribution of parliaments to the work of the Human Rights Council and its universal periodic review*.

<sup>13</sup> Principle 1.

<sup>14</sup> Principle 3.

47. The adoption of the proposals with respect to Article 175 would result in the reformulation of two existing paragraphs and the introduction of one new one and of one new sub-paragraph.
48. The new sub-paragraph would be introduced into paragraph 1 and extend the existing annual reporting requirement for the Government, which covers (a) the enforcement of decisions/judgments of the European Court regarding cases on which the Committee of Ministers of the Council of Europe has adopted a final decision in the previous year (“closed cases”) and (b) an action plan on the enforcement of those decisions/judgments in cases that are ongoing, as well on as decisions and interim resolutions adopted with respect to them by the Committee of Ministers (“pending cases”).
49. The new *sub-paragraph 1(c)* would require the reporting also to cover the fulfillment of commitments undertaken regarding cases struck out of the list of pending cases of the European Court on the basis of unilateral declaration (“unilateral declarations”).
50. Such a requirement would formalise something that was first done voluntarily in 2019 at the request of the Human Rights Committee.
51. The adoption of the proposed new sub-paragraph 1(c) – something recommended in the Needs Assessment<sup>15</sup> - would ensure that parliamentary oversight extends to the outcome of all applications to the European Court for which there is some obligation by Georgia to adopt particular measures, thereby strengthening national arrangements to secure the implementation of human rights. As such, the adoption of this proposal would thus be entirely appropriate.
52. The proposed new paragraph – *paragraph 2<sup>1</sup>* – would provide that the Human Rights Committee” would be the steering committee for the purpose of Article 175, i.e., making it the body with principal responsibility for considering the reports by the Government about the execution of judgments, friendly settlements and unilateral declarations resulting from applications to the European Court.
53. The purpose of this amendment is to bring clarity in the Rules of Procedure on the leading role of the Human Rights Committee in the field of execution of judgments of the European Court of Human Rights.
54. At present, there are two committees in the Parliament which play an important role in the oversight of execution, along with other committees, namely, the Legal Issues Committee and the Human Rights Committee. Although the Legal Committee’s role in preparing an opinion on the annual report of the Government should not be underestimated, the present amendment reflects the leading role in this process that is played in practice by the Human Rights Committee.
55. The proposed amendment maintains the hybrid model adopted to pursue Parliament’s concern with human rights. At the same time, it reinforces the sense of permanence in the role entrusted to the Human Rights Committee, the importance of which has been underlined in PACE’s resolutions.

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<sup>15</sup> Para. 170.

56. The adoption of this proposal would thus be entirely appropriate.
57. The effect of the proposed reformulation being proposed for *paragraph 4* would result in the consideration by the plenary sitting of the Parliament of the annual report on the execution of closed cases, pending cases and unilateral declarations to be mandatory instead of being dependent upon a request of a leading committee or the Bureau. In addition, there would be a new requirement for Parliament to adopt a resolution to evaluate the enforcement of the decisions concerned, in which it “may indicate recommendations and proposals regarding the elimination of individual shortcomings and/or improvements”
58. The term ‘individual’ in connection with “shortcomings” used in the English translation may be misleading as it might be thought to refer to the making of recommendations and proposals on the ‘individual’ measures. However, the reference in the Georgian text to the word ‘certain’ seems more properly to reflect the intention of the drafters of the proposal.
59. The proposed reformulation of *paragraph 5* would, instead of requiring Parliament in its plenary sitting to adopt a decree (something that would be covered by the reformulation proposed for paragraph 4), require now covered the Human Rights Committee to monitor the implementation of resolutions adopted by Parliament in its plenary sittings.
60. These reformulations – which give effect to recommendations in the Needs Assessment<sup>16</sup> - should lead both to the authority of Parliament as a whole becoming engaged in the oversight of execution and to the taking of steps to ensure that recommendations and proposals are actually acted upon.
61. Provision for the engagement of Parliament as a whole cannot guarantee a particular, positive outcome as much will depend upon what happens at plenary sittings. However, in the present context, there is good reason to expect this additional responsibility to be taken seriously.
62. Moreover, the precision as to what can be in the resolution at the end of the consideration of the reports and the provision for follow-up should facilitate efforts to execute judgments, friendly settlements and unilateral declarations.<sup>17</sup>
63. The adoption of the proposed reformulations of paragraphs 4 and 5 would thus be entirely appropriate
64. Furthermore, taken as a whole, the proposals regarding Article 175 of the Rules of Procedure not only seek to give effect to certain matters considered important by PACE with respect to parliamentary oversight of execution, as well as those in the Draft Principles, but they also exceed them through extending this oversight to unilateral declarations. The adoption of these proposals would thus be entirely appropriate.

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<sup>16</sup> In paras. 193 and 196.

<sup>17</sup> At present, as the Explanatory note makes clear, the reports submitted by the Government and considered by the Human Rights Committee, “are not considered at plenary sittings of the Parliament of Georgia, therefore, the process could not be summarized by the resolution of the Parliament, which, to some extent undermines its importance and cannot provide effective parliamentary control” (para. a.a.a).

#### **D. ADDRESSING THE RECOMMENDATIONS IN THE NEEDS ASSESSMENT**

65. Although the adoption of the proposals regarding Article 175 of the Rules of Procedure would lead to the Parliament of Georgia fulfilling much of the essential elements of parliamentary oversight considered important by PACE and the Draft Principles – and indeed exceed the practice of parliaments in many other member States – there remain a number of recommendations from the Needs Assessment that still require attention.
66. These recommendations – which are summarised below<sup>18</sup> - were made in the light of PACE’s concern that judgments and friendly settlements be implemented “fully and swiftly”<sup>19</sup> and that the monitoring of compliance with and supervision of international human rights obligations should be “rigorous and swift”<sup>20</sup>.
67. The recommendations requiring attention – which go beyond the general nature of some of the specific elements highlighted by PACE in order to ensure that those elements are realised in a practical and effective manner – are as follows:
- the Human Rights Committee should be informed directly when there is a judgment finding a violation of the European Convention, a friendly settlement or a unilateral undertaking so that the Committee could then determine whether or not a particular case should be discussed - outside the examination of an annual report - on account of its urgency or the particular significance of the violation involved;
  - the format for the annual reports by the Ministry of Justice to be prescribed. in a way that enables the steps taken to implement recommendations previously made by the plenary sitting, as well as ones not yet addressed, to be clearly seen.
  - the organisation of hearings by the Human Rights Committee to consider an annual report should ensure that they are held only after a reasonable interval has elapsed after a deadline has been prescribed in an invitation to interested persons and bodies to submit written comments on it;
  - the invitation should make it clear that “interested persons” are regarded as including not only non-governmental organisations but also the parties to the cases covered by the report (and/or their legal representatives), the Office of the Public Defender (Ombudsperson) and anyone else that might have relevant information;
  - the invitation, together with the annual report, should be posted on the web pages of the Human Rights Committee to raise the visibility of the monitoring process;
  - the Analytical Department of the Supreme Court and the Public Defender (Ombudsperson) should be strongly encouraged to provide the Human Rights Committee with information relevant to the execution process and provided with additional resources required for this purpose;
  - there should be a readiness to cooperate with academic/research institutions and experts specializing on human rights when examining measures to execute judgments, friendly settlements and unilateral undertakings;

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<sup>18</sup> They are set out fully in paragraphs 170-204 of the Needs Assessment.

<sup>19</sup> Resolution 2178 (2017), para. 9.

<sup>20</sup> The basic principles for parliamentary supervision of international human rights standards set out in Resolution 1823 (2011).

- all written comments received should also be posted on the web pages of the Committee;
- invitations to take part in the hearings should be determined according to an assessment as to need to pursue points raised in the written comments, particularly those which suggest that there are potential shortcomings in proposals regarding execution;
- the overall goal of the hearings should be to facilitate a constructive exchange regarding the cases being considered between members of the Human Rights Committee, the representatives of the Ministry of Justice and all other interested persons.
- whenever considered necessary, the Human Rights Committee should be able to hold hearings in respect of the execution of particular judgments, friendly settlements and unilateral undertakings outside of its consideration of annual reports;
- the Human Rights Committee should have a clear power to require the production of documents and the attendance of witnesses that might assist it in oversight of execution;
- recommendations included in opinions adopted by the Human Rights Committee following examination of an annual report or any other hearing concerned with execution should be as precise as possible regarding the legislative, administrative or other measures that ought to be taken in respect of the cases considered. Furthermore, the Human Rights Committee should always refer in its opinion to any instance where previous recommendations have not been acted upon;
- the Ministry of Justice should be given a deadline to provide information about the steps taken or being taken to implement the recommendations of the Human Rights Committee or to justify any decision not to follow them. If considered appropriate, the Human Rights Committee should then hold a hearing to consider the Ministry's response, following the same procedure as that for the annual report;
- the specialised staff available to the Human Rights Committee and more generally to the Parliament should be adequate both in terms of numbers and familiarity with the requirements of the European Convention (and especially the case law of the European Court). Moreover, these staff members should have the opportunity to update themselves as to case law developments; and
- the Human Rights Committee should be given a general mandate to scrutinise draft laws for compatibility with the requirements of the European Convention and to highlight judgments in cases involving other member States that are likely to be of particular significance for law and practice in Georgia.

68. These recommendations are primarily matters relating to the internal operation of the Human Rights Committee and the allocation of resources by the Parliament of Georgia. Only those concerning more contemporaneous reporting of judgments, friendly settlements and unilateral declarations, the production of documents and the attendance of witnesses and the mandate of the Human Rights Committee would require an explicit legal basis to be implemented.

## **E. CONCLUSION**

69. The adoption of the proposals regarding Article 175 of the Rules of Procedure would be a very positive step towards enhancing the effectiveness of parliamentary oversight of the execution of judgments, friendly settlements and unilateral declarations.
70. However, it would be highly desirable to build on this step by also taking the practical and legal measures required to give effect to the recommendations in the Needs Assessment listed in the previous section.
71. Taken together, the adoption of the proposals regarding Article 175 and the implementation of the recommendations in the Needs Assessment, would ensure that parliamentary oversight of execution in Georgia makes a very significant contribution to the implementation of the European Convention, as well as providing a model which other parliaments would do well to emulate.