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STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)

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Draft CDDH report on measures taken by the member States to implement relevant parts of the Brussels Declaration

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INTRODUCTION

1. The High-level Conference on the "*Implementation of the Convention on Human Rights, our shared responsibility*", organised by the Belgian Chairmanship of the Committee of Ministers in Brussels, Belgium, on 26 and 27 March 2015, recalled that it is "the primary responsibility of the States Parties to ensure the application and effective implementation of the Convention and, in this regard, reaffirm[ed] that the national authorities and, in particular, the courts are the first guardians of human rights ensuring the full, effective and direct application of the Convention – in the light of the Court's case law – in their national legal system, in accordance with the principle of subsidiarity" (Section B. of the Declaration's Action Plan – Implementation of the Convention at national level).

2. Furthermore, the Declaration "first and foremost calls on the States Parties, the Committee of Ministers, the Secretary General and the Court to give full effect to this plan".[1] In this context, the Committee of Ministers "invited the States Parties, the Court and the Secretary General to implement the part of the Brussels Declaration which concerns them directly, to co-operate when relevant, and to inform the Committee of Ministers of the progress made in this respect by 30 June 2016".[2]

3. The Steering Committee for Human Rights (CDDH) was tasked with preparing a draft report for the Committee of Ministers containing:

(a) an analysis of the responses given by member States in their national reports on the implementation of the Brussels Declaration (hereinafter "national reports") and

(b) possible recommendations for follow-up. The CDDH had been given similar terms of reference following the Interlaken, Izmir and Brighton Declarations, and its work had resulted in the CDDH Report on measures taken by the member States to implement relevant parts of the Interlaken and Izmir Declarations[3] as well as the CDDH Report on measures taken by the member States to implement relevant parts of the Brighton Declaration.[4]

4. The present report has been drafted on the basis of the national reports on the implementation of the Brussels Declaration,[5] with 30 States Parties having submitted their reports.[6] Although most of the reports follow the structure of the Brussels Declaration, they present certain differences as to the structure, the scope and level of detail of the information provided.

5. Frequent reference is made to measures adopted prior to the Brussels Declaration or there are comments to the effect that the national report supplements the information provided in the previous national report on the implementation of the Interlaken, Izmir and Brighton Declarations.

6. This report should therefore be regarded as supplementing the CDDH's previous reports, in which all member States, on the basis of a structure provided by the CDDH and adopted by the Committee of Ministers, had submitted reports which in most cases went into greater detail than the reports submitted for this exercise. It addresses paragraphs B. 1. a) to B. 1. g) and B. 2. a) to B. 2. j) of the Brussels Declaration.

7. The report should also be read in the light of the main recent developments in the intergovernmental work on the system of the European Convention on Human Rights,

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[1] High-level Conference on the "*Implementation of the Convention on Human Rights, our shared responsibility*", Brussels Declaration, 27 March 2015.

[2] See the decisions taken at the 125th session of the Committee of Ministers on Securing the long-term effectiveness of the supervisory mechanism of the European Convention on Human Rights, 14 April 2015. The deadline for the submission of reports was extended to 30 June 2018 by decision of the Ministers' Deputies taken at their 1293rd meeting, item 4.7 d, on 14 September 2017.

[3] Document CDDH(2012)R76 Addendum I..

[4] Document CDDH(2016)R85 Addendum I.

[5] Compiled in documents CDDH(2018)23 and CDDH(2019)21

[6] Albania, Andorra, Armenia, Austria, Azerbaijan, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Ireland, Liechtenstein, Lithuania, Luxembourg, Monaco, Montenegro, Netherlands, Norway, Poland, Portugal, Russian Federation, Slovakia, Spain, Sweden, United Kingdom.

namely the Copenhagen Declaration (13 April 2018) and the CDDH report on the process of selection and election of judges of the European Court of Human Rights (the Court).[7]

8. Certain issues addressed in the national reports on the implementation of the Brussels Declaration are being examined by the Committee of experts on the system of the European Convention on Human Rights (DH-SYSC) in different contexts in the course of the 2018-2019 biennium in accordance with its terms of reference, notably in the work regarding:

- Recommendation (2004)4 on the European Convention on Human Rights in university education and professional training[8]; and

- Recommendation (2010)3 on effective remedies for excessive length of proceedings[9].

9. For reasons of efficiency, the present report does not analyse the information relating to aspects that have been or are being analysed in the context of the said activities of the DH-SYSC[10].

10. Finally, it should be underlined that the present report is not intended to provide a compilation of national practices but rather an analysis of the national reports illustrated by selected examples of good practices.[11] The fact that a State is not mentioned with respect to a certain issue does not mean that its national practice is deficient or that it cannot be considered as a good practice. The report will successively present the analysis of the responses submitted by the member States in their national reports and some conclusions and recommendations of the CDDH for follow-up.

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[7] Document CDDH(2017)R88addI.

[8] See the terms of reference of the DH-SYSC for the biennium 2018-2019, document DH-SYSC(2018)01, whereby the DH-SYSC is instructed to "update Recommendation Rec(2004)4 in light of important developments taken place over more than 10 years in the field in the 47 member States of the Council of Europe, notably as a result of the European Programme for Human rights Education for Legal Professionals (HELP) of the Council of Europe".

[9] According to its terms of reference, the DH-SYSC is instructed to "update the accompanying Guide to Good Practice to Recommendation CM/Rec(2010)3".

[10] See notably document DH-SYSC-III(2018)02 for information on the implementation of Recommendation Rec(2004)4 of the Committee of Ministers on the European Convention on Human Rights in university education and professional training.

[11] As the national reports had been submitted to the Secretariat of the Committee of Ministers over a long period (between 2016 and 2017), member States were asked to ensure that this report reflected the current situation (see documents CDDH(2018)23 and CDDH(2019)21).

I. ANALYSIS OF NATIONAL REPORTS

B.1.a) Prior to and independently of the processing of cases by the Court: ensure that potential applicants have access to information on the Convention and the Court, particularly about the (a) scope and limits of the Convention's protection, (b) the jurisdiction of the Court and the (c) admissibility criteria

11. The replies provided in the national reports illustrate the efforts deployed, most importantly over the last decade, in the member States, at both governmental and civil society levels, in view of ensuring the largest possible access to information on the European Convention on Human Rights (the Convention), the European Court of Human Rights (the Court), the case-law of the Court and the admissibility criteria for lodging an application with the Court.

12. These efforts at national level have been facilitated or, at least, inspired by the Court itself, which has developed on its official website a special page[12] with relevant information and a series of informative documents for potential applicants.

13. This information is currently available in 36 languages of the member States of the Council of Europe and comprises *inter alia* the texts of the Convention, the Practical Guide on Admissibility Criteria, the Rules of the Court, in particular Rule 47, videos on how to lodge an application and on the admissibility criteria, a leaflet describing the various stages of the procedure by which the Court examines an application, as well as an online admissibility check-list and other relevant information, notably for potential applicants or their legal representatives.

14. As it appears from the replies received from a large majority[13] of the responding States, general information on the Convention and the Court is usually available through the official websites or webpages of the Ministries of Justice or of Foreign Affairs.

(i) In most of the States, the official websites of these Ministries have links to the relevant pages of the Court or the Council of Europe[14] containing information on the Convention, the Court, the admissibility criteria and other information relevant for potential applicants.[15]

(ii) In some States[16], information on the Convention and the Court is presented in parallel on several national websites, for example, on the website of the Government Agent, national Bar Association, and/or Human Rights Ombudsman or other comparable institution.

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[12] https://www.echr.coe.int/Pages/home.aspx?p=applicants/ol&c .

[13] This covers 24 States (Albania, Armenia, Austria, Azerbaijan, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Ireland, Lithuania, Montenegro, Norway, Poland, Portugal, Slovakia, Spain, Sweden and the United Kingdom) out of 30 responding States.

[14] https://www.coe.int/en/web/human-rights-convention/

[15] For example, the video on the European Convention on Human Rights, produced by the Court, has been published in Croatian language, among other relevant information on the Convention and the Court, on the website of the Office of the Representative of Croatia before the European Court of Human Rights.

[16] For example, Andorra, Croatia, Cyprus and the Russian Federation.

(iii) In other States, this information is being published mostly, but not exclusively, through the websites of the National Human Rights Institutions.

(iv) There are also States that distinguish between information destined mostly to law professionals from that destined to the public at large.[17]

(v) Several States have developed databases with general information on the Court and the Convention as well as on the Court's case-law translated into the national language. These databases may also contain information on the admissibility criteria, i.e. the Practical Guide on Admissibility Criteria, also translated into national language(s).

(vi) Besides the information available on national official websites, some States[18] informed of the possibility to request and receive information in writing or by telephone.

15. For purely illustrative purposes, in Estonia, general information on the Convention and the Court is available on the official webpage of the Ministry of Foreign Affairs,[19] including links to the full text of the Convention and its additional protocols in Estonian, as published in the electronic version of the Official Gazette (*Riigi Teataja*). This webpage also provides links to the webpages of the Court and the Council of Europe. As to the information regarding the admissibility criteria, the Estonian authorities informed that the 2014 version of the Practical Guide on Admissibility Criteria was made available in Estonian and English languages on the webpage of the Ministry of Foreign Affairs, as well as in the electronic *Riigi Teataja* and on the webpage of the Supreme Court of Estonia. In addition, relevant guidelines based on Rule 47 of the Rules of the Court are provided in Estonian and Russian languages on the webpage of the Ministry.

16. Similar situations can be observed, for example, in Austria, Armenia, Bulgaria, Croatia, the Czech Republic, Denmark, France, Germany, Ireland, Lithuania, Poland, the Russian Federation, Portugal,[20] the Slovak Republic or Spain, where the website of the relevant Ministry or Government Agent, or National Commissioner for Human Rights or other similar institution provides information, in national language(s), on the Convention and its Protocols and the Court, as well as links to the relevant pages of the website of the Court, notably to the specially dedicated page on "how to make a valid application to the Court", which includes the Practical Guide on Admissibility Criteria.

17. In some other States,[21] information on the Convention, the Court and its case-law, of relevance for potential applicants but also for law professionals, is assembled and systematised in databases.

18. For instance, in the Czech Republic (besides the general information related to the Convention, the Court and the Practical Guide on Admissibility Criteria, made available through the website of the Ministry of Justice), the Office of the Government Agent administers the Czech database of the Court's case-law and the periodic Newsletter on the latest case-law of the Court.

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[17] See below paragraphs 15 and 16.
[18] For example, Albania and Denmark.
[19] http://www.vm.ee/?q=taxonomy/term/229
[20] In Portugal, such information is provided on the webpage of the Documentation and Comparative Law Office of the *Procuradoria-Geral da República* (www.gddc.pt).
[21] For instance, Austria, Bulgaria, Croatia, Czech Republic, Finland, Germany and Lithuania.

19. Likewise, in Germany, the website of the Federal Ministry of Justice and Consumer Protection hosts the Ministry's case-law database[22] with all the judgments of the Court in cases against Germany, translated into German language.[23] In Georgia, all judgments and decisions rendered by the Court in respect of Georgia are translated and published on the websites of the official herald, the Ministry of Justice and the Supreme Court. Lithuania reported the existence of both public and private search engines of the judgments and decisions of the Court. The public database, free of charge, is hosted on the website of the Government Agent[24] and the private database, subject to a charge – *Infolex* [25] –, is the largest private legal search engine in Lithuania, used by legal professionals.

20. Similarly, the Finnish Government, through its Ministry of Justice, has developed and ensures the maintenance of *Finlex*,[26] a public databank free of charge, available to everyone through Internet and also in public libraries of Finland. The *Finlex* database contains *inter alia* information on the Convention and the Court and provides legislative and other judicial material in Finnish and Swedish languages. In addition to the information freely available through *Finlex*, summaries of the case-law of the Court are published in *Edilex* – a real-time information service, subject to a charge, produced by a private company and intended for legal professionals.

21. In the same vein, the Austrian Government maintains a public database, which, since 1997, is free of charge – the Legal Information System of the Republic of Austria (*Rechtsinformationssystem des Bundes* - RIS). It provides extensive information on Austrian law (legislation and court decisions). The data collection is supplemented with a comprehensive selection of summaries and translations of the Court's judgments and decisions and of links to websites of Austrian federal and regional authorities, the EU and international organisations as well as to other Internet providers of legal data, including the Court and the Directorate General Human Rights and Rule of Law.

22. Spain has reported that since it became a member of the Council of Europe (in 1977), the lawyers of the Secretariat of the Parliament were translating most important decisions and judgments of the Court, regardless of the respondent State. Since 2002 this function is being ensured by the Government Agent's office.[27] Dissemination of all translations is effected through the judicial database,[28] available on the Agent's webpage and through the link to the Court's HUDOC database.

23. In States like Ireland, Norway and the United Kingdom, the role of informing, promoting, raising awareness and understanding of human rights in general and of the Convention and the Court in particular lies in the hands of National Human Rights Institutions.

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[22] www.bmjv.de/egmr

[23] The case-law translated into German is regularly sent to several important publishing houses that publish legal periodicals.

[24] http:// l rv-atstovas -eztt.lt/

[25] http://www.infolex.lt /tp/>

[26] http://www.finlex.fi/fi/

[27] Based on agreements between the Ministry of Justice and universities, Ph.D. students and last year students in law translate relevant judgments and decisions in cases lodged against States other than Spain.

[28] https://www.mjusticia.gob.es/cs/Satellite/Portal/es/areas-tematicas/area-internacional/tribunal-europeo-derechos

(i) The Irish Human Rights and Equality Commission (IHREC), Ireland's national human rights institution (NHRI), plays a key role in ensuring that potential applicants have access to information on the Convention and provides guidance on the protection available under the Convention.

(ii) It is the role of the Norwegian National Human Rights Institution to offer guidance to individuals on the most important admissibility criteria of the international complaint mechanisms, including the Convention and the Court.

(iii) In the United Kingdom, the Equality and Human Rights Commission (EHRC), the Northern Ireland Human Rights Commission (NIHRC) and the Scottish Human Rights Commission (SHRC) have statutory responsibilities to promote awareness and understanding of human rights. To this end, these institutions maintain websites which provide *inter alia* information and guidance to the public, notably on the scope and limits of the Convention rights.

24. There are also States[29] where governments consider that in practice information on the Convention and the Court and more precisely information on the admissibility criteria is to be destined mostly to law professionals; therefore such information is provided through the websites of National Bar Associations. Thereby, the information efforts by the authorities are targeted mostly towards legal professionals, including young trainee counsels and not at the public at large. Given that the authorities argue that in practice the applicants address the Court mainly through legal counsel, the Bar Associations organise seminars and lectures on the Convention system, its case-law and the admissibility criteria, specifically for law professionals.

25. Other States[30] consider that applicants in need of help for submitting their applications have easy access to professional and subsidised legal aid and the practice shows that besides the availability of (free) legal aid and the information provided by the Court itself on its website (which is available in all national languages), no real need exists for any official information from the Government.

26. Most of the States have however reported a wide dissemination of the information on the Convention, the Court and of the Guide on Admissibility Criteria. As to the latter, its translation, publication on various national websites and dissemination to both the public at large and law professionals, notably through the national Bar Associations, appears to be the most frequent practice.

> To give an example, the German authorities reported that through a joint co-operation with Austria, Liechtenstein and Switzerland, the Guide on Admissibility Criteria has been translated into German and made available through links to the Court's website, where this Guide is available in all national languages.

[29] For instance, Andorra, Cyprus and the Netherlands.
[30] For example, the Netherlands.

B.1.b) Prior to and independently of the processing of cases by the Court: increase efforts at national level to raise awareness among members of parliament and improve the training of judges, prosecutors, lawyers and national officials on the Convention and its implementation, including as regards the execution of judgments, by ensuring that it constitutes an integral part of their vocational and in-service training, where relevant, including by having recourse to the Human Rights Education for Legal Professionals (HELP) programme of the Council of Europe, as well as to the training programmes of the Court and to its publications

27. One could note that the answers provided by the States to the previous question cover in part or, at least, relate to the awareness raising measures considered under this question, but also, for some States, to training measures.

28. Moreover, for a broader picture of the situation in the member States, note may be taken of the analysis of answers provided in document DH-SYSC-III(2018)02 on "Proposals concerning Recommendation Rec(2004)4 of the Committee of Ministers on the European Convention on Human Rights in university education and professional training",[31] which covers in more depth aspects related to vocational and in-service training for various legal professionals, as well as the recourse to the HELP programme.

29. However, the States that have replied and whose answers were assessed in document DH-SYSC-III(2018)02 partly differ from the States covered in this report, which will analyse answers provided by the States in document CDDH(2018)23[32].

30. As far as awareness-raising measures are concerned, in several member States,[33] the practice of publishing and disseminating the Court's judgments to national courts, prosecution authorities, the police, penitentiary administration and / or the police is well established. Often, the Court's case-law is disseminated to Parliaments,[34] which are notably monitoring the process of the execution of judgments of the Court.

31. The authority(ies) carrying out the awareness-raising measure(s) differ from one State to another. Quite often, this responsibility is ensured by the Government Agent before the Court, the Ministry of Justice,[35] the Supreme Court,[36] but at times also by the Ombudsman (or a similar institution),[37] the National Human Rights institution,[38] the National Judicial Academy,[39] the National School for Public Administration[40] or the Bar association.[41]

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[31] See notably the Appendix to document DH-SYSC-III(2018)02 ("Proposals concerning Recommendation Rec(2004)4 of the Committee of Ministers on the European Convention on Human Rights in university education and professional training"), in particular the assessment of the answers to questions 3 and 4.

[32] Document CDDH(2018)23 contains the "Compilation of national reports on the implementation of the Brussels Declaration".

[33] For instance, Albania, Armenia, Austria, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Ireland, Liechtenstein, Lithuania and Poland.

[34] For example, in Andorra, Bulgaria, Croatia, Czech Republic, Estonia, France, Georgia, Germany, Ireland, Liechtenstein and Norway.

[35] For instance, in Austria, Bulgaria, Germany, Ireland, the Russian Federation, the United Kingdom etc.

[36] For instance, in the Russian Federation.

[37] Notably, in the Russian Federation.

[38] See for example, the Netherlands.

[39] For instance, in Azerbaijan, Croatia and the Slovak Republic.

[40] For example, in Croatia.

[41] For instance, in Andorra, Cyprus and Lithuania.

(i) In Germany, for instance, the Federal Ministry of Justice and Consumer Protection prepares an annual report[42] including all judgments in cases against Germany. This report, together with an additional academic report comprising the Court's case-law against other member States, as far as these judgments are relevant for the German legal system, are widely disseminated to Parliament, *Länder*, lawyers' associations etc. and published on the Ministry's website. The Committee for Human Rights and Humanitarian Aid of the German Federal Parliament (*Bundestag*) regularly includes both reports on its agenda for discussion with representatives of the Federal Ministry of Justice and Consumer Protection.

(ii) The Supreme Court of the Russian Federation systematically prepares thematic reviews of the case-law of the Court and other international human rights treaty bodies, which are communicated to judges and officials of the Supreme Court and of lower courts of the Russian Federation. Furthermore, the Investigative Committee[43] deploys efforts to ensure access to the case-law of the Court for investigators and other officials of the Investigative Committee. Moreover, the Office of the State Representative at the Court transmits to the executive bodies of the entities responsible for healthcare copies of relevant judgments of the Court through the Ministry of Healthcare.

32. In other States,[44] it is the Government Agents before the Court that play the awareness-raising and liaison role with other domestic authorities.

(i) In Estonia, for example, at the end of each year, the Government Agent submits an activity report to the Government, to the Constitutional Committee and to the Legal Affairs Committee of the Parliament. This public report includes an overview of all cases pending before the Court against Estonia, of decisions and judgments delivered by the Court in respect of Estonia and an overview of key decisions and judgments in respect of other member States that are relevant to laws or administrative practice of Estonia. The Court's judgments, accompanied by explanatory summaries, are also sent to the Ministry of Justice, other relevant ministries, the Chancellor of Justice and the Supreme Court. The Ministry of Justice, in turn, forwards by e-mail the relevant information to all the judges of the country.

(ii) A somehow similar role is played in Luxembourg by the Goodwill Ambassador for Human Rights (*Ambassadeur itinérant pour les droits de l'homme*), who, besides the role of raising awareness of human rights issues within the Luxembourg administration, takes the interface role between the administration and civil society, but also represents the Ministry of Foreign and European Affairs in seminars, colloquia and conferences organised in Luxembourg in connection with human rights or related issues.

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[42] Report on the Case Law of the European Court of Human Rights and on the Execution of its Judgments in Cases against the Federal Republic of Germany.

[43] The Investigative Committee of the Russian Federation (in Russian: *Следственный комитет Российской Федерации / Sledstveny Komitet*), put in place in 2011, has replaced the previous Prosecutor General of the Russian Federation.

[44] For example, in Albania (State Advocate Office), Armenia (Government Representation before the European Court), Bulgaria (Government Agent), Czech Republic (Office of the Government Agent), Estonia (Chancellor of Justice), France, Germany, Lithuania, etc.

33. A different example of an awareness-raising tool, intended to provide and share information and exchange experience among law professionals, has been provided by Montenegro, which referred to a Database developed by the AIRE centre in cooperation with representatives of Montenegro and other countries of Southeast Europe compiling the Court's case-law in Montenegrin language. This Database is a unique portal which provides access to the practice of the Court and contains a presentation of subjects and expert comments relevant for Southeast European countries. It shall primarily enable national judges to incorporate and apply the case-law of the Court in their judgments and encourage them to take this practice into account when it comes to legal analyses.

34. In some other States, awareness-raising on the Convention and the Court's case-law is also carried out through vocational and in-service training of judges, prosecutors, lawyers and national officials. In this respect, several responding States[45] reported that training on the Convention and the Court's case-law are part of the university curricula for lawyers.

35. In many other States, the Convention and the Court's case-law are taught within the Justice Academy, Police Academy or School of Advocates – institutions that most often provide both vocational and in-service training, tailored to law professionals in a particular domain, notably to future or in-service judges, prosecutors, police, lawyers, advocates and other law professionals, for instance, penitentiary public servants.

36. A number of States[46] have reported increased recourse, in particular over the last three years, to the HELP Programme, which is permanently up-dated, adapted and developed for a particular category of future law specialists but also for national trainers, in close cooperation with the Council of Europe and the participation of the Government Agent of a given State.

37. Several States have indicated that vocational and in-service trainings are regularly or, at least, occasionally accompanied by training seminars and / or traineeships, notably at the Court,[47] but also by study visits to various institutions of the judiciary or penitentiary systems in other member States,[48] which provide a rich source for fruitful exchanges of experience and practice, a matter which is assessed in more detail below, under B.1.c).

B.1.c) Prior to and independently of the processing of cases by the Court: promote, in this regard, study visits and traineeships at the Court for judges, lawyers and national officials in order to increase their knowledge of the Convention system

38. A few States[49] have indicated simply considering the possibility of organising study visits and traineeships at the Court. Many other States reported that traineeships and study visits to the Court, with the help or direct involvement of various national institutions (e.g.

[45] For instance, Austria, Bulgaria, Croatia, the Czech Republic, Estonia, France, Georgia, Germany, Lithuania, the Netherlands, Sweden, Norway, Poland, Portugal, Russian Federation and Spain.
[46] For example, Armenia, Azerbaijan, Croatia, Czech Republic, Finland, Lithuania and Spain.
[47] In Georgia, for example, judicial candidates are given an opportunity to have study visits to Strasbourg, with the purpose to familiarise themselves with the activities of the Court and the Council of Europe in general.
[48] The Russian Federation, for instance, has reported, in particular, an important co-operation and intense exchange of best practices regarding the functioning of penitentiary institutions with some 26 States all over the world, of which 14 States are members of the Council of Europe.
[49] For instance, Andorra and Cyprus.

National Institute of Justice,[50] Bar Associations, Human Rights Institutes etc.) are taking place regularly.

39. The scope and frequency of such trainings or in-situ visits vary from one State to another, according to the possibilities and the needs for such trainings, as assessed by the relevant domestic authorities, national and international institutions habilitated with training competences or able to contribute to the organisation of such trainings, seminars and visits through various cooperation programmes.

40. In this vein, a number of States[51] have mentioned that trainings, seminars and/or in-situ visits to the Court are taking place notably in the framework of various co-operation programmes for justice and/ or penitentiary reforms, developed and implemented with the Council of Europe and the European Union[52] and covering *inter alia* specific human rights issues, such as combating ill-treatment, strengthening the application of the Convention and the Court's case-law, strengthening health care and human rights protection in prisons, family law etc.

41. Some other States have provided examples of fruitful cooperation and regular participation of magistrates and judges in trainings organised by the European Judicial Training Network (EJTN),[53] the Academy of European Law (ERA),[54] the Institute of Advanced Legal Studies in London (AIRE),[55] or in annual study visits for groups of judges (or law professionals), concentrating on specific areas of the Court's case-law[56] (e.g. right to fair trial, right to life, family law, freedom of expression, etc.).

42. Finally, there were also States that referred to secondments of experts and judges or long-term traineeships,[57] notably at the Registry of the Court, by the national ministries or the supreme courts – which were considered as providing all the parties involved with mutual benefits in terms of knowledge and practices.

B.1.d) Prior to and independently of the processing of cases by the Court: take appropriate action to improve the verification of the compatibility of draft laws, existing laws and internal administrative practice with the Convention, in the light of the Court's case law

43. The majority of the replies provided illustrate a generalised, often multi-layered practice of verification of the compatibility of draft laws and existing laws with the Convention and the Court's case-law. To this end, the habilitated national authority identifies and communicates to the relevant domestic authorities the Court's judgments that may require a revision of the domestic practice and legislation.

[50] The denominations of such institutions may differ from one States to another, for example: Judicial Academy (Croatia), National Training and Study Centre for the Judiciary (the Netherlands) or Judicial Training Academy (Sweden), Judicial College and Judicial Institute (United Kingdom), etc.
[51] For example, Armenia, Azerbaijan, Montenegro and Russian Federation.
[52] See, for example, Finland, France, Georgia, Lithuania, the Netherlands, Poland, Slovak Republic and United Kingdom.
[53] For example: Finland, Poland, Slovakia and United Kingdom.
[54] For example, in Finland.
[55] For example, in Montenegro.
[56] For example: Germany, Lithuania, Luxembourg etc..
[57] In Spain, for example, several judges and State prosecutors have made one-year traineeships at the Registry of the Court during the last three years within the framework of European Union programmes.

44. To the extent that the Convention is, in one way or another, an integral part of the internal legal order, in some[58] of the States Parties to the Convention, the monitoring of compliance with the Convention is inherent in the legislative process, so that all domestic bodies vested with the right to legislative initiative are required or deemed to ensure compliance of all national legislation with the Convention.

45. Accordingly, certain States[59] have reported that in general, it is the responsibility of all the relevant ministries, and more precisely of special "human rights" units within them,[60] to scrutinise the compliance of draft or existing laws with the Convention and the Court's case-law and to initiate legislative amendments where necessary.

46. In some other States, this competence is attributed to the Ministry of Justice,[61] as the main governmental body competent to ensure for all draft and existing laws *inter alia* the quality and compatibility check-up with the Convention and the Court's case-law. In some other States this function is performed by the Government Agent[62] or other governmental body,[63] or by the Parliament.[64]

47. A number of States[65] mentioned the existence of "Compatibility Guidelines" intended for government officials within national ministries and members of Parliament (notably, Parliamentary Committees), who can consult these Guidelines and assess the compatibility with the Convention during the process of drafting or amending of a law or when assessing the compatibility of administrative practices.

48. As for the verification of the compliance of existing laws or administrative practices with the Convention, some States[66] mentioned the involvement of Supreme Courts and/or Constitutional Courts in changing the existing legislation and administrative practices in line with the requirements of the Convention and in the light of the Court's case-law.

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[58] For instance, Albania, Armenia, Austria, Estonia, the Czech Republic, the Netherlands, Poland and Slovakia.

[59] For example: Denmark, France, Ireland, Norway and Poland.

[60] For example, in Ireland these functions are exercised by lawyers of legal divisions and units within Government Departments; some of these lawyers are seconded by the Attorney General's Office. A similar situation may be observed in the Czech Republic, where ministries have "human rights" focal points.

[61] Germany (Federal Ministry of Justice and Consumer Protection), Liechtenstein (Foreign Affairs Office and Office of Justice), Lithuania (European Law Department of the Ministry of Justice), Montenegro (the Ministry of Human and Minority Rights), Netherlands (Legislation and Legal Affairs Department at the Ministry of Security and Justice) etc..

[62] See for example: Albania (the State Advocate Office), Armenia (the Government Agent), Bulgaria (the Government Agent), Croatia (the Office of the Representative), Cyprus (the Attorney General), Czech Republic (the Government Agent), Estonia (the Chancellor of Justice), Liechtenstein (Permanent Representation of the Council of Europe in Strasbourg), Luxembourg (*Ambassadeur itinerant*) etc..

[63] For instance, in Austria (Constitutional Service of the Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice), in France (*Secrétariat Général du Gouvernement*, followed by *Conseil d'Etat*), in Luxembourg (*Commission consultative des droits de l'homme*), in Monaco (Department of external relations/ *Département des Relations Extérieures* – Human Rights Cell / *"Cellule des droits de l'homme"*), in Slovakia (Legislative Council; Legislation and Law Approximation Department of the Office of the National Council), in Sweden (Council on Legislation), in the United Kingdom (Joint Committee on Human Rights) etc..

[64] in Portugal, for instance, it's the 1st Parliamentary Commission of the *Assembleia da Republica* that proceeds to the verification of the compatibility of all draft laws with human rights requirements.

[65] For instance, Czech Republic, Denmark, Finland, Norway and Poland.

[66] For example, Albania, Armenia, Azerbaijan, Croatia and the Slovak Republic.

(i) In Austria, for example, the Convention has become part of the Federal Constitutional Law in 1964. The legal remedies ensuring the protection of Convention rights are similar to those in the Slovak system described below. Individuals are, under certain conditions, entitled to address the Constitutional Court directly, asking it to review the constitutionality (conformity with constitutionally guaranteed rights, including compatibility with the Convention) of statutes and treaties and the legality of regulations and treaties and to repeal them, or to declare treaties inapplicable.

(ii) In Slovakia, the domestic authorities are under a constitutional obligation to apply the Convention directly, as the Convention takes precedence over the national legislation.[67] However, the compliance of administrative practices with the Convention can also be ensured by means of an individual constitutional complaint under Article 127 § 1 of the Constitution. If the Constitutional Court finds that the fundamental rights and freedoms have been violated by a final decision, specific measure or other act, it shall quash such decision, measure or act. It may remit the case to the authority concerned for further proceedings, order such authority to refrain from violating the fundamental rights and freedoms or, where appropriate, order those who have violated the rights or freedoms to restore the situation to that existing prior to the violation. The Constitutional Court may also grant appropriate financial compensation to the person whose rights have been violated.

(iii) Most recently, in Spain, the Directorate General of International Legal Cooperation (within the Ministry of Justice) was mandated with examining laws, regulations and internal administrative practices in order to ensure their full compliance with the obligations deriving from international instruments on the protection of human rights ratified by Spain, and promoting coordination among public actors in order to comply with international standards on human rights. Moreover, the Council of State, the highest consultative body of the State, has to deliver an opinion on new draft laws that may have an impact on the implementation or enforcement of treaties on the protection of human rights ratified by Spain before they can be submitted for deliberation in Parliament.

B.1.e) Prior to and independently of the processing of cases by the Court: ensure the effective implementation of the Convention at national level, take effective measures to prevent violations and to provide effective domestic remedies to address alleged violations of the Convention

49. It emerges from the replies provided by certain States[68] that the incorporation of the Convention in the domestic legal order and its direct application by the domestic courts is one of the ways to ensure the effective implementation of the Convention at national level, notably as a means of preventing future violations.

[67] The situation is similar in Croatia.

[68] For example, Cyprus, Czech Republic, Estonia, Liechtenstein, Monaco, Netherlands, Norway, Poland and Sweden.

(i) An interesting example in this respect was provided by Cyprus. The domestic courts changed their interpretation of domestic law and stopped applying an impugned domestic provision by basing their decisions directly on the judgment of the Court in the case of *Theodossiou Ltd v. Cyprus*,[69] although the impugned internal law was still in force.[70]

(ii) A slightly different situation can be observed in Germany, where the domestic courts continue applying the law in force, even if it raises an issue of compliance with a judgment of the Court requiring the adoption of general measures. However, the German courts have to interpret any legal provision as far as possible in the light of the Court's judgment. If such an interpretation is not possible, the issue may be referred by the lower German courts to the Federal Constitutional Court for a ruling on the constitutionality of the relevant provision, which generally includes compatibility with the Convention.

50. Some States provided examples where highest and / or lower courts made direct reference[71] to the Court's case-law in respect of their own State and / or in respect of other States but of relevance for national practice.

51. Through these references the higher courts are raising awareness of the lower domestic courts, allowing the harmonisation of national judicial practices with the Court's case-law and the Convention's requirements, thus being effective measures for preventing future similar violations.

52. Other States[72] have put in place a constitutional appeal as an effective legal remedy available at national level in respect of violations of the rights protected by the Convention.

(i) As in Slovakia and in Austria (see § 48 above), in the Czech Republic, the Constitutional Court may receive appeals from any individual who claims that a final decision in proceedings to which the individual was a party, or a measure or any other action taken by a public authority, has infringed his or her fundamental rights or freedoms as guaranteed by the Constitution. The Constitutional Court also has the power to order a public authority to stop infringing the appellant's rights.

(ii) In Spain, there is a specific fundamental rights appeal that can be filed before the Constitutional Court, the so-called "Recurso de amparo constitucional". The case-law of the Constitutional Court on *amparo* appeals incorporates extensively[73] the case-law of the Court in domestic judgments and decisions. This is particularly important for matters which have led in the past to judgments of the Court finding violations of the Convention by Spain. In these cases, the applications for *amparo* appeal are considered as bearing "constitutional relevance" and are therefore examined on the merits. The doctrine of the

[69] In this judgment, the Court found a violation of the Convention due to the fact that the applicable law did not provide for any compensation in the event of excessive delay between publication of the notice of acquisition of property and the payment of compensation for compulsory acquisition.

[70] This measure taken by the domestic courts, allowed the Committee of Ministers of the Council of Europe, which was supervising the execution of the *Theodossiou Ltd v. Cyprus* judgment (and other similar judgments), to proceed to the closure of the execution supervision in this case.

[71] Albania, Bulgaria, Estonia, Georgia, Ireland, Lithuania, Monaco and Montenegro.

[72] Albania, Austria, Croatia, Czech Republic, Liechtenstein, Poland, Slovakia and Spain.

[73] In fact, an estimated 60% of the Constitutional Court´s judgments on *amparo* appeals contain an in-depth analysis of the Court's case-law.

Constitutional Court in matters of fundamental rights on *amparo* appeals is binding on all judges and courts.

53. France provided a series of examples of domestic remedies put in place in order to prevent violations of the Convention such as (a) strengthening the administrative judge's control over the decisions taken by the prison administration, notably by extending the control of legality of the decisions taken in penitentiary matters, easing the conditions engaging the responsibility of the prison administration and recourse to interlocutory proceedings in penal matters, and (b) the modification of the remedies available against negative decisions in asylum cases.

54. Likewise, Lithuania has provided examples of important legislative reforms, involving the drafting of a new Code of Administrative Offences and amendments made to the Code of Civil Procedure, in order to bring these laws in line with the Convention requirements.

55. In the same vein, the Austrian administrative court system has been fundamentally reorganised, with effect from 1 January 2014, in order to fully comply with Austria's obligations under international law, in particular those arising from Articles 5, 6 and 13 of the Convention and the case-law of the Court.

56. A number of structural problems were remedied after the conduction by the Russian authorities of reforms, notably through (a) an improved efficiency of the enforcement of judicial decisions concerning the State's monetary obligations, (b) the reform of the supervisory review procedure ("*nadzor*"),[74] by imposing strict time-limits and ensuring that only the parties to the proceedings could initiate such a review or (c) the improvement of the safeguards surrounding detention on remand to ensure that detention is covered by motivated court decisions containing clear time-limits for the detention.

57. In other States[75], the Government Agent plays an important role in addressing potential violations of the Convention, notably in cases already brought before the Court in which it is very likely that the Court will find a violation of the Convention.

(i) In the Czech Republic, for example, before reaching a friendly settlement in such cases, the Office of the Government Agent identifies (if possible, in cooperation with the applicant's representative) general and individual measures that need to be taken in order to remedy the situation at the national level and prevent similar applications to the Court. Consultations with relevant actors within various branches of the Government and the judiciary are initiated to decide upon such measures and to put them in place. If this process is successful, a friendly settlement may be reached and there is no more need for a Court judgment finding a violation, given that the situation has already been remedied at the national level. This practice has proven useful also in cases in which the applicant does not wish to reach a friendly settlement and the Government makes a unilateral declaration. If no friendly settlement was concluded and the Government did not choose to make a unilateral declaration, and the Court eventually delivers a judgment finding violation of the Convention in a given case, the judgment may, in fact, already be executed to a large extent or, at least, the execution process has been initiated.

[74] The now repealed "*nadzo*r" procedure allowed quashing of final and binding judicial decisions by a higher court via supervisory-review on an application made by a State official whose power to lodge such an application was not subject to any time-limit.
[75] For example, Czech Republic, Finland etc..

(ii) Moreover, Poland provided examples of several remedies put in place to address alleged violations, including a compensatory remedy for certain breaches of human rights, *e.g.* inappropriate detention conditions in penitentiary units, discrimination, compensation for excessively lengthy proceedings, or the possibility to seek compensation and just satisfaction in case of unjustified conviction or obviously unjustified detention on remand or other deprivation of liberty, etc.

B.1.f) Prior to and independently of the processing of cases by the Court: consider making voluntary contributions to the Human Rights Trust Fund and to the Court's special account to allow it to deal with the backlog of all well-founded cases, and continue to promote temporary secondments to the Registry of the Court

58. The majority of the responding States[76] reported having made voluntary contributions with a view to assisting the Court and / or the Department for the Execution of Judgments of the Court in their work.

59. Among these, some States like Norway have provided substantial[77] and punctual[78]contributions to the Human Rights Trust Fund or directly to the Court's special account[79] with a view to increasing the Court's staff. Some other States make regular contributions[80] to this Fund, whilst some States only consider this possibility[81].

60. Furthermore, there are numerous States that reported seconding punctually or regularly[82] lawyers / judges to the Court and some of them also to the Department for the Execution of Judgments[83].

B.1.g) Prior to and independently of the processing of cases by the Court: consider the establishment of an independent National Human Rights Institution

61. It should be noted that some of the responding States have provided replies to this question already in the Questionnaire on the follow-up to the Brighton Declaration. The answers provided in this Questionnaire show that the large majority of States[84] have at least

[76]Azerbaijan, Cyprus, the Czech Republic, Denmark, Finland, France, Germany, Liechtenstein, Lithuania, Luxembourg, the Netherlands, Norway, Poland, the Russian Federation, Sweden, and the United Kingdom.

[77] Norway has reported being the largest contributor to the HRTF.

[78] Other States that have made punctual contributions are Cyprus, France, Finland, Germany, the Czech Republic, Luxembourg and the United Kingdom.

[79] Sweden has made a substantial contribution of 2 mln SEK directly to the Court.

[80] For example, Liechtenstein and the Netherlands.

[81] For instance, Denmark and Lithuania.

[82] For example, Austria, Azerbaijan, Cyprus, the Czech Republic, France, Germany, Norway, Poland, the Russian Federation and Sweden.

[83] For instance, France, Poland and Norway.

[84] Austria (*Ombudsman Board*), Azerbaijan (*Office of the Commissioner for Human Rights - Ombudsman*), Cyprus (*Ombudsman*), Czech Republic (*Public Defender of Rights*), Denmark (*Institute for Human Rights*), Finland (*Parliamentary Ombudsman*), France (*Commission nationale consultative des droits de l'homme*), Georgia (*Public Defender*), Germany (*German Institute for Human Rights*), Liechtenstein (*Association for Human Rights*), Lithuania (*Seimas Ombudsmen's Office*), Luxembourg (*Commission consultative des droits de l'homme*), Monaco (*Haut-Commissaire*), Montenegro (*Institution of the Protector of Human Rights and Freedoms*), Norway (*National Human Rights Institution*), Poland (*Human Rights Defender- Ombudsman*), Russian Federation (*High*

one independent National Human Rights Institution (NHRI) and in certain States,[85] these institutions comply with the Paris Principles of the United Nations[86] and are respectively accredited with "A" status.

62. In some of the States, there is more than one NHRI, like for instance in the United Kingdom where there are three NHRIs, each with specific jurisdiction and functions: the Equality and Human Rights Commission (for England and Wales), the Northern Ireland Human Rights Commission and the Scottish Human Rights Commission; or in the Slovak Republic, where besides the National Centre for Human Rights, there is the Public Defender of Rights (Ombudsman), the Commissioner for Children (Ombudsman for Children) and the Commissioner for Disabled Persons. In Spain, in addition to the National Ombudsman, several regional authorities have established territorial Ombudsmen.[87] In addition, the Spanish Government has created human rights institutions dealing with specific themes, such as, for example, the National Observatory against racism and xenophobia (*Oberaxe*[88]) or the High Commissioner against child poverty.

B.2.a) After the Court's judgments: continue to increase their efforts to submit, within the stipulated deadlines, comprehensive action plans and reports, key tools in the dialogue between the Committee of Ministers and the States Parties, which can contribute also to enhanced dialogue with other stakeholders, such as the Court, national parliaments or National Human Rights Institutions

63. All the responding States[89] acknowledged that timely delivery of comprehensive action plans and reports to the Committee of Ministers is important for the process of execution of judgments of the Court.

(i) To this end, in the Czech Republic, for instance, a special law - *the Act N° 186/2011, of 8 June 2011, on Providing Cooperation for the purposes of proceedings before certain International Courts and other international supervisory bodies* – was adopted and serves as an effective tool to ensure timely submission of action plans and reports in respect of judgments against the Czech Republic. The Act explicitly provides that upon request of the Ministry of Justice (i.e. the Office of the Government Agent) and within the deadlines set, the competent authorities shall inform the Ministry/the Office about measures taken or proposed with the aim to execute the judgment of the Court or about measures they are about to take or propose, including the expected time frame for the adoption of such measures. The Office of the Government Agent is then

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Commissioner), Slovak Republic (*Centre for Human Rights*), Spain (*Defensor del Pueblo*) and United Kingdom (*Equality and Human Rights Commission* (for England and Wales), the *Northern Ireland Human Rights Commission* and the *Scottish Human Rights Commission*).

[85] For example, in Denmark, Finland, France, Germany, Liechtenstein, Lithuania, Norway, Poland, the Russian Federation, Slovak Republic and Spain.

[86] Paris Principles are available at : https://www.un.org/ruleoflaw/files/PRINCI~5.PDF
In 2018, there were 27 European NHRIs accredited by the Global Alliance of NHRIs (GANHRI) with an A status (fully compliant with the *Paris Principles*) and 11 with B Status (partially compliant with the *Paris Principles*); for the Chart of the status of National Institutions by GANHRI see: https://nhri.ohchr.org/EN/Documents/Status%20Accreditation%20Chart%20%288%20August%202018.pdf

[87] For instance, in *Andalucia*, Galicia, Aragón, Canarias, Navarra, *Castilla y León*, *País Vasco*, *Cataluña* and *Comunitat Valenciana*.

[88] http://www.mitramiss.gob.es/oberaxe/es/index.htm

[89] Andorra, Armenia, Austria, Cyprus, Czech Republic, Denmark, Estonia, France, Georgia, Germany, Ireland, Liechtenstein, Lithuania, Luxembourg, Monaco, Montenegro, the Netherlands, Norway etc..

responsible for the drafting of action plans and reports on the basis of the information received from the competent authorities.

(ii) A similar regulation exists in Poland - *the Order Establishing the Committee for Matters of the European Court of Human Rights* of 19 July 2007*,* as amended by the Prime Minister on 23 April 2015 - providing specifically which documents should be submitted by the competent ministries to draw up the action plans and reports and in which time-limits.

(iii) France referred to the *Guide for the drafting of action plans and reports for the execution of judgments of the European Court of Human Rights*[90], published by the Department for the Execution of Judgments on its website, as a reference document setting out the criteria to be met by the authorities when drafting action plans and / or reports.

64. Many replies provide examples of multifaceted cooperation between several relevant authorities at national level involved in the process of drafting of action plans / reports. Usually, it is the Government Agent or a given Ministry - of Justice or of Foreign Affairs - that cooperates with other ministries and relevant national authorities for the drafting of comprehensive action plans and reports and ensures their timely transmission to the Committee of Ministers.

(i) In Armenia, for instance, the Government Agent's Office includes, since 2014, a Division for the Execution of the Court's Judgments, which cooperates with all relevant national stakeholders during all the phases of the execution process.

(ii) In Georgia, the Department of the State Representation to International Courts, i.e. the Office of the Government Agent (under the authority of the Ministry of Justice) collects information from governmental institutions and other bodies, relevant for the implementation of judgments and decisions of the Court. Since 2016, in line with the amended Rules of procedure of the Parliament, the Office of the Agent submits annual reports on the execution of judgments of the Court to the Parliament.

(iii) In Cyprus, the drafting of action plans or reports in the execution process is being ensured by the lawyer at the Attorney General or Government Agent's office who has dealt with the case before the Court.

(iv) Similarly, in Finland, the drafting of action plans or reports is being ensured by the same contact persons and/or officials that have been involved in preparing the ministries' statements for consideration by the Government Agent for the Government's observations in the proceedings before the Court.

(v) The Russian Federation referred notably to a close cooperation and coordination between the State Representative before the Court and the relevant public bodies in the process of preparation of action plans and/or reports on the execution of the Court's judgments, involving the participation of the Supreme Court and that of the Constitutional Court.

[90] https://www.coe.int/en/web/execution/vademecum.

65. In certain cases, the execution measures initially planned may need to be revisited and therefore the initial action plans must be updated.

> In France, for example, the Government regularly updates the action plans / reports on cases supervised by the Committee of Ministers. To that effect, the Ministry of Foreign Affairs and International Development, as a coordinator, re-launches the contributing ministries to get the latest information or missing information relating to the action plans of the French Government. It also regularly re-launches the applicants to obtain the missing supporting documents necessary for the settlement of the just satisfaction, as well as the relevant ministries to ensure the progress of the payment of the sums due. The importance of transmitting to the Committee of Ministers regularly updated action plans in order to contribute to the efficiency of the execution process has been also emphasised *inter alia* by Lithuania and the Netherlands.

66. In a number of States, the cooperation during the preparation of action plans and / or reports at national level includes also a dialogue with the NHRI(s), which can provide submissions to the Committee of Ministers under Rule 9.2 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.[91]

67. Sometimes, the identification of necessary measures may involve bilateral consultations between domestic authorities and the Department for the Execution of Judgments,[92] but also thematic round-tables or seminars[93] organised in cooperation with the Department and various co-operation programmes within the Council of Europe.[94]

B.2.b) After the Court's judgments: in compliance with the domestic legal order, put in place in a timely manner effective remedies at domestic level to address violations of the Convention found by the Court

68. The range of effective remedies that may need to be introduced by a given State in a timely manner to address violations of the Convention found by the Court can be very large and varied in terms of the domains they concern, in as much as these remedies usually should cover all the rights enshrined by the Convention and its Protocols.

69. A typical example of an effective remedy which was introduced by numerous States[95] is a compensatory remedy for lengthy civil, criminal and/or administrative proceedings.

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[91] Rules of the Committee of Ministers adopted by the Committee of Ministers on 10 May 2006 at its 964th Session and amended on 18 January 2017 at its 1275th meeting (see :https://rm.coe.int/16806eebf0).

[92] For example, Andorra, Armenia, Cyprus, Estonia, Finland, Lithuania, the Netherlands, Norway and Poland.

[93] Armenia, Azerbaijan and Russian Federation.

[94] As examples can be cited the multi-year Council of Europe and European Union joint project "*Supporting the Criminal Justice Reform and Combating Ill-treatment and Impunity in Armenia"* and the joint Council of Europe and European Union project *"Penitentiary Reform – Strengthening Healthcare and Human Rights Protection in Prisons in Armenia"* (2015-2017) aimed at, *inter alia,* improving the capacity of the penitentiary staff of applying the relevant European prison standards, of particular relevance for the execution of groups of cases like *Virabyan v. Armenia.*

[95] For example, Cyprus, the Czech Republic, Finland, the Russian Federation etc..

70. Another type of an effective remedy introduced in many States[96] is the possibility, after the delivery by the Court of a judgment finding a violation of the Convention, to re-open proceedings before the domestic courts, including the higher domestic courts or the Constitutional Court.

(i) In Estonia, for instance, the Code of Criminal Procedure, the Code of Misdemeanour Procedure, the Code of Civil Procedure and the Code of Administrative Court Procedure foresee a possibility of reopening proceedings before the Supreme Court once the Court has found a violation of the Convention and an end to such a violation cannot be put or damage caused thereby cannot be compensated otherwise than by means of a review.

(ii) In Sweden, the Supreme Court and the Supreme Administrative Court confirmed the possibility of re-opening a case to remedy a violation of the principle of *ne bis in idem*, as enshrined in Article 4 of Protocol no. 7 to the Convention.

(iii) In the Czech Republic, according to the Constitutional Court Act, it is possible to reopen the proceedings before the Constitutional Court in criminal, civil, commercial and administrative matters, following a judgment of the Court.

(iv) The Dutch authorities have a more reserved approach to the re-opening of proceedings in civil matters, given the negative impact this can have on any third parties that were involved in these proceedings and the lack of legal certainty. Therefore, a compensatory remedy for unlawful administration of justice has been introduced, and strict criteria apply for proceedings to be eligible for compensation on grounds of unlawful administration of justice.

(v) In Armenia, for example, the compensatory remedy covers specifically the non-pecuniary damage caused as a result of actions of public authorities.

(vi) In the Czech Republic, the State Liability Act (N° 82/1998) provides for a general compensatory remedy for damage incurred in the execution of public powers, including non-pecuniary damage.

B.2.c) After the Court's judgments: develop and deploy sufficient resources at national level with a view to the full and effective execution of all judgments, and afford appropriate means and authority to the government agents or other officials responsible for co-ordinating the execution of judgments

71. The responses provided by the States reflect quite similar patterns of coordination at the national level between the Government Agent / the ministry responsible for monitoring the execution of judgments process and the other relevant authorities that might need to get involved in this process.

(i) In Sweden, for instance, the Government Agent receives the Court's judgment and immediately forwards it to the other ministries involved in the case. An analysis is then undertaken to identify measures required to ensure the execution of the judgment, such as securing payment of just satisfaction and dissemination

[96] For instance, Armenia, the Czech Republic, Denmark, Estonia, Finland, France, Georgia, Lithuania, the Netherlands, Norway, the Russian Federation and Spain.

and publication of the judgment, or, where necessary, amendments of the Swedish legislation. If a judgment by the Court requires such amendments, it is the task of the ministry responsible for the legislation in question to initiate and pursue the amendment in accordance with the normal procedures for amending Swedish legislation. In addition, if cases against Sweden require the granting of residence permits as the Court has found that it would be contrary to the Convention to expel an individual to his or her country of origin, a provision in the Swedish Aliens Act (2005:716) stipulates that normally, if an international body that is competent to examine complaints from individuals has found that a refusal-of-entry or expulsion order in a particular case is contrary to a Swedish commitment under a convention, a residence permit shall be granted to the person covered by the order, unless there are exceptional circumstances. Moreover, if the execution process requires information to be obtained from another State actor, the actor will normally be contacted by the ministry responsible for the relevant area of law. Thus, for instance, in cases concerning refusal-of-entry or expulsion orders, the Ministry of Justice will contact the Swedish Migration Agency.

(ii) In Denmark, the coordination between the relevant authorities for the execution of judgments is not based on a written procedure, but on working arrangements between the national authorities that developed over time. The Ministry of Foreign Affairs immediately transmits judgments in cases against Denmark to the Ministry of Justice and to other relevant authorities. An analysis is then undertaken, by the particular authorities in question, to identify measures required to ensure execution of the judgment. Such an analysis will often be carried out with the assistance of the Ministry of Justice. If individual measures are required in order to comply with the judgment, the authority in question will be responsible for carrying out the necessary steps, for example the payment of compensation. If general measures are required in order to comply with a judgment, for example in cases where the underlying problem is the Danish legislation, the legislation in question will be reassessed by the responsible authority, usually in collaboration with the Ministry of Justice. If measures at legislative level turn out to be required, the responsible minister would prepare the necessary amendments and present the proposal to the Parliament; hereafter it will be up to the Parliament to adopt the proposed amendment.

(iii) In Germany, the responsibility for the execution process lies with the Government Agent's Office[97] and, as in Denmark, there is no written procedure for the adoption of general measures. Once a judgment becomes final, the Agent's Office within the Federal Ministry of Justice will analyse the judgment and determine whether general measures are called for. If so, the ministry will initiate the necessary steps - depending on the nature of the measures (federal legislation, *Länder* legislation, practice directives, etc.). If the general measures in question involve federal legislation, the executive branch will be obliged to produce a draft of the necessary legislative measures, which will then be examined by the legislative bodies. The *Bundestag* will usually leave the first draft to the executive branch, but it also has the right to initiate legislation. The same applies for legislation on the constituent state level: the Federal Ministry of Justice is the starting point for the identification of any need for legislation, but the coordination of such measures falls to whichever ministry is responsible for the respective field

[97] Very similarly to the German and Danish examples, the Austrian Government Agent's Office in the Federal Ministry for Europe, Integration and Foreign Affairs coordinates the execution process.

of legislation. The Agent's Office maintains a network of contacts at the other federal ministries, all ministries of justice in the constituent states and representatives of the highest federal courts, including the Federal Constitutional Court. Once a year, the Agent's Office invites these contacts to a meeting at the Federal Ministry of Justice and Consumer Protection. The national judge at the Court and the Head of the German Division of the Registry regularly take part in these meetings, which provide for a highly suitable forum for exchange and allow for a better mutual understanding in matters regarding the Court's case-law.

(iv) In the United Kingdom, a core component of the cross-Government coordination mechanism is a specifically-designed 'implementation form', which is issued to lead Government departments to assist the Ministry of Justice and the Foreign and Commonwealth Office in responding to Court judgments having found a violation of the Convention. The form includes advice on the completion of the action plan for implementation which is required by the Committee of Ministers and helps ensuring that all the information needed for the effective oversight of the implementation process is provided to the Ministry of Justice and the Foreign and Commonwealth Office. This enables the said Ministry and Office to ensure that the required information can be submitted to the Committee of Ministers on time.

B.2.d) After the Court's judgments: attach particular importance to ensuring full, effective and prompt follow-up to those judgments raising structural problems, which may furthermore prove relevant for other States Parties;

72. In their replies, the majority of the responding States have reiterated their permanent commitment to ensure that judgments are implemented in a timely manner and that remedies are put in place to address all violations found by the Court, including those raising structural problems.

73. Moreover, some of the States[98] declared that they were closely following the developments in the Court's case-law, even when these do not directly concern them. Indeed, not all the responding States[99] are confronted with genuine structural or systemic problems.

74. For some of them,[100] even if confronted with such problems, the execution of the relevant judgments does not necessarily pose particular difficulties.

Poland, for instance, has provided many examples of successful closure of the execution supervision in groups of cases of a recurring nature. These concerned *inter alia* the problem of a lack of adequate health care in penitentiary units (*Kaprykowski* group of cases), which led the domestic authorities to clarify in several Regulations the scope and responsibility of the competent authorities for the provision of health care in detention (2010-2016) and to improve the infrastructure, thereby ensuring better sanitary and living conditions in prisons, in particular for special groups of inmates (e.g. disabled persons, pregnant women, etc.).

[98] For instance, Austria, France, Germany, Lithuania, Spain and the United Kingdom.
[99] For instance, Andorra, Cyprus, Estonia, Liechtenstein and the Netherlands.
[100] For example, the Czech Republic, Finland, Germany and Norway.

75. Other States referred to special measures taken by the authorities in view of ensuring a full follow-up to judgments that raise complex and/or structural problems, currently under execution supervision by the Committee of Ministers.

In the Russian Federation, for instance, special inter-ministerial working groups have been set up in the context of the execution of the "pilot" judgments in *Ananyev and Others v. Russia* and *Gerasimov and Others v. Russia*, the interstate case *Georgia v. Russia (I)* and regarding the *Garabayev* group of cases, similarly to the working groups previously created for the implementation of judgments on the *Mikheyev* and *Khashiyev and Akayeva* etc. groups of cases which continue their work.

76. Furthermore, States put forward a practice of permanent cooperation between public authorities competent in the field of execution of judgments.

(i) In the Russian Federation, for example, an effective interaction was developed between the Russian Federal Penitentiary Service, the Office of the Prosecutor General and the Ministry of Defence of the Russian Federation in addressing the issue identified by the Court of delayed enforcement of judicial decisions on the provision of housing to military servicemen and persons equated to them.

(ii) The United Kingdom pointed to the close cooperation with the Secretariat of the Department for the Execution of Judgments of the Court, notably the organisation of technical meetings in the United Kingdom and visits to Strasbourg to set up a dialogue on the implementation of the judgments the execution of which is more complex.

B.2.e) After the Court's judgments: foster the exchange of information and best practices with other States Parties, particularly for the implementation of general measures

77. In addition to the information already presented under B.1.b) and c), interesting examples have been provided notably by Andorra, the Czech Republic, Estonia, Finland and Ireland, which referred to the regular meetings of the Government Agents, and the meetings between the latter and the Registrar of the Court.

78. Moreover, the informal network set up among Government Agents in order to share information and good practices about the respective national legal systems as well as the avenues of possible execution of the Court's leading judgments was mentioned.

(i) Liechtenstein and Lithuania referred to an informal exchange of information and best practices with other States which was taking place on a case-by-case basis and considered that the network of experts sitting in the Steering Committee for Human Rights (CDDH) was very helpful in that regard.

(ii) Austria and Denmark declared their openness to exchange information, including information on the implementation of general measures and best practices, with other States Parties upon request.

(iii) The Netherlands indicated having regularly provided bilateral technical assistance to other member states upon request.

B.2.f) After the Court's judgments: promote accessibility to the Court's judgments, action plans and reports as well as to the Committee of Ministers' decisions and resolutions, by:
– developing their publication and dissemination to the stakeholders concerned (in particular, the executive, parliaments and courts, and also, where appropriate, National Human Rights Institutions and representatives of civil society), so as to involve them further in the judgment execution process;
- translating or summarising relevant documents, including significant judgments of the Court, as required

79. The replies provided in respect of point B.1. a) reflect in much detail the advanced situation in various States as regards the translation, publication and dissemination of the judgments of the Court notably to the relevant authorities.

80. At point B.2. c) the possible ways of coordination have been presented between the actors that might be involved in the execution process, notably in the identification of the necessary individual and general measures and the drafting of action plans and / or reports. Moreover, the authority responsible for coordinating the execution of judgments (Government Agent, Ministry of Justice or of Foreign Affairs or National Human Rights Institution) aims to ensure access of law professionals to the Court's judgments, notably through specially destined websites / webpages of these bodies.

81. The translation and dissemination of judgments is carried out by most States. In many States the action plans / reports are initially drafted in the national language of the country and then the authorities ensure their translation into one of the official languages of the Council of Europe in view of their transmission to the Committee of Ministers.

82. This situation may suggest that beyond the Government Agent/ the relevant Ministry concerned, the other national actors involved in drafting action plans / reports are familiar with the content of the action plans, at least to the extent or on the aspects on which these authorities contributed to the drafting.

83. The situation is less clear when it comes to the practice of translating the decisions and / or resolutions adopted by the Committee of Ministers in the process of the execution of judgments in response to the measures referred to in the action plans / reports.

B.2.g) After the Court's judgments: within this framework, maintain and develop the financial resources that have made it possible for the Council of Europe, since 2010, to translate a large number of judgments into national languages

84. The replies provided in the national reports show that several States make specific or non-specific (Human Rights Trust Fund) financial contributions to support translation by the Council of Europe of the Court's judgments into national languages; in addition, webcasting of hearings before the Court, a new info-graphics tool highlighting the positive impact of the Convention and a video-clip on the conditions of admissibility have also been funded by some States (Ireland, Monaco).

85. It has also been noted that member States themselves have translated the Court's significant judgments into their national languages; such translations are accessible in the national database (mostly online) and are often made available in the Court's HUDOC database.

B.2.h) After the Court's judgments: in particular, encourage the involvement of national parliaments in the judgment execution process, where appropriate, for instance, by transmitting to them annual or thematic reports or by holding debates with the executive authorities on the implementation of certain judgments

86. It appears from the replies received that in most States national parliaments are regularly informed by the Government, often through the annual report of the Government Agent, about the judgments and decisions delivered by the Court against the country in question and the ensuing execution process, and that they are involved in the discussions on the implementation of these judgments. Specialised parliamentary (sub)committees may exist to support parliaments' legislative and supervisory functions. Government Agents are often involved in the relevant meetings and targeted ministerial auditions may also be organised in the national parliaments.

(i) In the Czech Republic for example, both chambers of Parliament have their representatives sitting in the Committee of Experts on the Execution of Judgments of the European Court of Human Rights.

(ii) In Poland, representatives of both chambers participate in the meetings of the Inter-ministerial Committee for Matters of the European Court of Human Rights.

(iii) In France, action plans and action reports submitted to the Committee of Ministers are also sent to the relevant commission of the National Assembly; furthermore, the deputies receive a report on the execution of judgments against France prepared by the French delegation to the PACE.

(iv) In Norway, the Norwegian National Human Rights Institution delivers annual reports to the Parliament on the human rights situation in Norway and makes recommendations to the Parliament and the Government to ensure that Norway's human rights obligations are fulfilled.

(v) In Sweden, an annual report summarising judgments against Sweden is submitted by the Government to the *Riksdag* delegation to the Council of Europe, the Parliamentary Committee on the Constitution and the Parliamentary Committee on Foreign Affairs and the Parliamentary Ombudsmen.

B.2.i) After the Court's judgments: establish "contact points", wherever appropriate, for human rights matters within the relevant executive, judicial and legislative authorities, and create networks between them through meetings, information exchange, hearings or the transmission of annual or thematic reports or newsletters

87. While in certain States the establishment of contact points is not considered necessary, given their size or the quality of the inter-institutional dialogue, several other States have established networks of contact persons or inter-ministerial committees/working groups involving mainly representatives of relevant ministries, and sometimes also the highest courts or other public bodies. The Government Agent often plays an important role within those networks. Moreover, in several member States there is a practice of a permanent or *ad hoc* cooperation between the competent public authorities in the execution of the Court's judgments.

(i) In Austria, the Government Agent and his deputy preside over the network of human rights coordinators in the Federal Ministries and the regions (*Länder*). This network regularly exchanges information on current human rights issues, including the Court's case-law.

(ii) In France, for instance, it is envisaged, following the Brussels Declaration, to extend the existing human rights network in order for it to include other national actors involved in the execution process, such as the Parliament, the *Commission Nationale Consultative des Droits de l'Homme*, the Public Defender of Rights, the General Controller of places of detention, etc.

(iii) In Germany, meetings of contact persons organised by the Agent's Office take place in the presence of the Court's judge elected in respect of Germany and the Head of the German Division in the Court's Registry.

(iv) In Luxembourg, the institution of the "Itinerant Ambassador for Human Rights" was put in place in 2015, under the Secretariat General of the Ministry of Foreign and European Affairs, whose task is to contribute to the harmonisation and synchronisation of national and international actions of Luxembourg in the field of human rights.

(v) In the Netherlands, apart from the contact points with overall expertise on the Convention which exist within certain ministries, there are coordinators for European law within each court who are responsible for keeping their colleagues informed about relevant developments in the case-law of the Court.

(vi) In Poland plenipotentiaries for human rights, who carry out comprehensive activities fostering respect for human rights have been appointed at the Police and the Border Guard. Recently, consultants for human rights protection have also been appointed at the courts of appeal.

B.2.j) After the Court's judgments: consider, in conformity with the principle of subsidiarity, the holding of regular debates at national level on the execution of judgments involving executive and judicial authorities as well as members of parliament and associating, where appropriate, representatives of National Human Rights Institutions and civil society

88. Several member States indicated that, given the small number of judgments finding a violation of the Convention in their respect, it has so far not been considered necessary to hold regular debates on the execution of judgments since the existing procedures already provide for the necessary dialogue between the relevant actors, when needed.

89. Other member States referred to the existence of the specialised committees, mentioned under B.2.h) and B.2.i), which are composed of the key relevant actors, i.e. not only public bodies but also leading human rights NGOs or national structures for the protection of human rights.

(i) France recalled that it envisaged institutionalising the already existing debates between the executive and legislative authorities. The Government also held specific exchanges of views with the *Commission Nationale Consultative des Droits de l'Homme*, and the Ministry of Foreign Affairs and International Development intends to organise at least one annual meeting concerning the

execution of judgments with the said Commission, the Public Defender of Rights and the General Controller of places of detention. Multipartite thematic exchanges could also be organised.

(ii) In Lithuania, the Law on the Basic Principles of Law-Making has provided, since 2014, a special measure for the authorities participating in the law-making process, namely consultations with society. This tool is important in cases in which the judgment of the Court involves necessary changes of the legislation and the subject-matter of the legal regulation has repercussions in the society.

(iii) In Poland, the Polish Bar contributes to the debates on the execution of the Court's judgments also by written proposals and reports which are then communicated to the Council of Europe's Committee of Ministers, the Government Agent, the Human Rights Defender and the President of the Helsinki Foundation for Human Rights and which are published on the website of the Polish Bar Council. The National Council of the Judiciary has also organised several meetings devoted to the execution of the Court's judgments, which involved representatives of the judiciary, public authorities, the Court's Registry and the Council of Europe Secretariat. In addition, in 2016 and 2017, the Programme of cooperation of the Minister of Foreign Affairs with non-governmental organisations included the execution of the Court's judgments and improving the implementation of the Convention at the national level in the fields of cooperation.

II. CONCLUSIONS AND RECOMMENDATIONS FOR FOLLOW-UP

A. Phase prior to the Court's judgments

90. As regards the *access for potential applicants to information on the Convention and the Court*, the replies provided show that, in general, the States have deployed the necessary efforts in order to ensure that information is accessible notably on the scope and limits of the Convention's protection, as well as on the case-law of the Court and the admissibility criteria.

91. The efforts deployed and access ensured may be different from one State to another, depending on a series of variables such as the size of the country, the period of time since the integration of the Convention system into the national legal order, the number of applications pending before the Court and the number of judgments delivered with respect to a particular State, etc..

92. It must be borne in mind that it is difficult in the present context to assess whether the information tools put in place by a given State always respond exactly to the need for such information by the applicants. However, the States' practices show a constructive and pragmatic approach to the issue with many good examples.

The creation of freely accessible national data-bases, the publication and free dissemination of summaries of the Court's case-law and the translation also of judgments and decisions concerning other member States into national languages are examples to be encouraged and followed.

Those member States that have not yet put in place a special Web-page with links to the HUDOC data-base and the Web-page of the Court could draw inspiration from the practice of other States, which, on their official Web-sites, provide links to the HUDOC data-base and to the Court's Web-page with relevant information for applicants, notably on the admissibility criteria, in all national languages of the member States.

93. As regards *awareness-raising and training on the Convention and the Court's case-law of members of the legislature, executive and judiciary*, depending on the State, these activities may be ensured by one, main body, for example, the Government Agent or a ministry (the Ministry of Justice or of Foreign Affairs), or are shared between several bodies, for example, the Ministry of Justice, the Ombudsman, the National Bar Association, the National Human Rights Institute and/ or the Justice Academy.

94. State responses further indicate that, in general, various domestic authorities or habilitated institutions identify traineeship needs at national level. In many member States, regular / annual exchanges between the executive (e.g. the Government's Agent) and the Parliament, notably on the cases pending before the Court in respect of their country, are taking place, and appear to be well functioning in practice.

95. In contrast, it appears that the awareness-raising related to the implementation of the Convention, notably the process of execution of judgments, could be further developed.

Efforts in view of a regular and timely dissemination of, and free and easy access to the Court's case-law, including the newest judgments and decisions available in the respective national language(s), are important and should continue.

Similar efforts should continue with respect to a regular and timely dissemination of action plans and reports sent by the Governments to the Committee of Ministers. Moreover, the dissemination of the Committee of Ministers' decisions and resolutions in response to measures indicated by the authorities in action plans and reports regarding the execution of judgments for the relevant stakeholders (the executive, parliaments and courts, NHRI) that might be involved in the execution process is to be continued and further encouraged.

Furthermore, efforts to ensure targeted awareness-raising activities for the members of the executive, legislature and judiciary, notably on the Convention system, the Court's case-law and the process of implementation of judgments, are important and need to be further developed, notably through the HELP programme.

Moreover, efforts already deployed by the relevant domestic authorities to better identify vocational and in-service training needs for specific categories of law professionals (including in the framework of HELP, EJTN, etc.) and provide targeted trainings on specific Convention rights relevant for the various categories of law professionals are important and should continue and be further developed.

96. For most States, *traineeships and study visits to the Court* are regularly taking place, mostly with the considerable support of the Council of Europe and the European Union through various co-operation programmes, but also of judiciary networks.

97. The positive impact of such activities is recognised by the States, which consider them as very important for building and strengthening professional capacities of the judiciary staff, prosecutors, police, penitentiary administration, but also bailiffs and notaries.

The continuation and further development of co-operation programmes with the active participation, if necessary, of National Institutes of Justice, National Bar associations, NHRI or other similar institutions, in view of organising regular study visits and traineeships for law-professionals, notably at the Court, are to be further promoted and adequate financial support be provided to this end.

98. As for the *verification of the compatibility of draft laws, existing laws and administrative practices with the Convention*, it may be noted that the compatibility with the Convention of draft laws is usually verified by the Ministry of Justice and the relevant Committees of the Parliament.

99. Although the primary responsibility lies with the Ministry of Justice or, in certain States, the Government Agent (or a similar body), other ministries equally ensure the compliance of draft texts in their field of competence with the Convention and the Court's case-law.

100. The *ex-ante* verification of the compatibility of draft laws with the Convention appears to be a well-integrated practice in the law-drafting process.

101. The examination of the compatibility of the existing laws and/ or administrative practices with the Convention usually lies with the Supreme Courts and / or the Constitutional Courts, which are habilitated to declare them invalid for non-compliance with the Convention or, at least, provide Convention-based guidance with a view to changing them.

The well-established practice of a verification of the compatibility of draft laws with the Convention is to be welcomed; means for ensuring a better and earlier identification of existing laws and administrative practices which are in breach of the Convention should be developed.

102. As for the *effective implementation of the Convention at national level to prevent Convention violations (including the provision of effective remedies to address alleged violations of the Convention),* the domestic courts' direct application of the Convention or direct reference made to the Court's case-law is one of the States' effective means to prevent breaches of the Convention.

103. Moreover, in many States comprehensive legislative and judicial reforms have taken place, including, for example, the adoption of new procedural codes, the introduction of compensatory remedies and / or the improvement of conditions of detention.

104. Certain States have introduced a right to lodge a complaint with the Constitutional Court for individual applicants, comprising, in some States, also the right to compensation for wrongful acts of the administration or for deficiencies in the administration of justice.

105. Even if the level of implementation of the Convention via these mechanisms may differ from one State to another, it is important that such mechanisms have been put in place and prove to be efficient in preventing new applications from arriving at the Court.

The States should be encouraged to continue improving domestic remedies, notably by a direct application of the Convention or of the Court's case-law, or by introducing a constitutional appeal. States should further be encouraged to continue implementing and improving, where appropriate, the existing remedies put in place, in order to ensure their full efficiency at national level. If, for various reasons, certain States did not yet put in place such remedies, they should be invited to explore proper avenues, adapted to their judicial systems, for doing so.

106. As for *contributions to the Human Rights Trust Fund and secondments to the Court's Registry*, it may be noted that the numerous contributions by some member States to the Human Rights Trust Fund have made possible the implementation of targeted projects aimed at promoting the human rights enshrined in the Convention.

107. Moreover, a number of States seconded national lawyers / magistrates to the Court's Registry, but also to the Department for the Execution of Judgments. This both provided support to the Court and the Committee of Ministers in dealing with the backlog of cases and led to enhancing knowledge of the Convention system in the member States themselves.

States should be encouraged to continue providing contributions to the Human Rights Trust Fund and seconding national judges and lawyers to the Court's Registry and the Department for the Execution of Judgments.

108. As regards *independent National Human Rights Institutions*, these have been established in the majority of the respondent States and are fully or partially complying with Paris Principles.

> *The States should strive to ensure appropriate conditions for NHRI to carry out their activities and play their role independently and without undue obstacles.*
>
> *The States which have indicated that given the size of the country or given the limited number or non-existent findings of violations of the Convention, it did not seem indispensable to establish such an institution, could envisage reconsidering their approach to the issue. These States may identify such an institution among the already existing bodies or establish a new independent human rights body, vested with appropriate, similar competences to those of a NHRI, which will be adapted to the needs and the size of the country.*

B. Phase after the Court's judgments

109. As for the *efforts deployed to submit, within the deadlines, comprehensive action plans and reports to the Committee of Ministers*, a number of States have set up mechanisms of cooperation and dialogue between the authorities involved in the process of drafting action plans and reports at the national level and also between these authorities and the NHRIs.

110. It may be noted in that context that the statistics on this subject for the period 2011-2017, produced by the Department for the Execution of Judgments of the Court,[101] highlight the trend of a constant increase in the number of action reports transmitted to the Committee of Ministers over the years 2015-2017, while the number of action plans transmitted over the same period remained relatively stable.[102]

111. At the same time, the number of reminder letters[103] and, more importantly, the number of States concerned by these reminder letters, increased.[104] In 2018 the number of action plans / reports received slightly decreased, as well as that of reminder letters.[105]

> *The States should continue deploying and increase, where appropriate, the necessary means, particularly in terms of human resources, in order to ensure the preparation of comprehensive action plans / reports and their transmission to the Committee of Ministers within the deadlines.*

[101] https://rm.coe.int/1-supervision-process-global/16807b86e2.

[102] For example, there were 236 action plans transmitted in 2015, 252 in 2016 and 249 in 2017, whilst the number of action reports over the same period was 350 (in 2015), 504 (in 2016) and 570 (in 2017).

[103] A reminder letter is sent to the member State by the Department for the Execution of Judgments when the six-month deadline for submitting and action plan / report has expired and no such document has been transmitted to the Committee of Ministers by a given State.

[104] At the same time, the number of reminder letters and the number of States concerned was of 56/20 in 2015, 69/27 in 2016 and 75/36 in 2017.

[105] In 2018, the figures are lower: 187 action plans and 462 action reports received, and 53 reminder letters sent in respect of 16 member States (see the 12th Annual Report of the Committee of Ministers on Supervision of the execution of judgments and decisions of the European Court of Human Rights 2018, p. 67).

As for the dialogue with other stakeholders, such as NHRI, the existing practices are encouraging and should be further developed.

112. As to the *effective remedies put in place at domestic level to address Convention violations found by the Court*, a number of such remedies have been introduced in many member States and their impact on reducing the number of applications pending before the Court, notably of repetitive cases, has already been confirmed.[106]

113. However, as shown above,[107] the need to continue improving domestic remedies remains and the continuation of efforts in that sense is needed.

114. With regard to *resources to be deployed at national level with a view to a full and effective execution of all judgments*, in many States it is the Government Agent who, in addition to representing the State before the Court, is also responsible to coordinate the whole execution process at national level. The implication and active participation of other national bodies and stakeholders (e.g. NHRI) in the execution process, notably through contributions to drafting action plans/ reports, is crucial for a proper execution of the Court's judgments.

The States may wish to consider the possibility to reinforce the authority of the Government Agents, notably as regards the coordination of the process of execution of judgments, by providing them with sufficient financial and human resources, thus enabling them to properly exercise their functions.

115. When it comes to *ensuring full, prompt and effective execution notably of judgments raising major structural problems*, the States affirmed their determination and permanent commitment to find effective remedies in a timely manner.

116. The States provided examples of groups of cases with complex or structural problems for which the supervision of the execution of the judgment(s) concerned has been successfully closed as a result of the remedies created by the authorities. Putting in place effective remedies takes time and requires co-ordinated efforts of many actors at the national level. The complexity of the issues raised may require multilateral examination of underlying problems that led to a violation. Sometimes, national special committees have been created which offer a platform for exchanging information between all the relevant actors involved at the national level.

117. Solutions for many of these problems can be found through the well-established practice of dialogue between the Department for the Execution of Judgments and the various domestic authorities, and also the dialogue within the Committee of Ministers, which recently started organising thematic debates.[108]

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[106] See paragraphs 49 and 50 of the CDDH report on the longer-term future of the system of the European Convention on Human Rights, document CDDH (2015)R84 Addendum I.

[107] See §§ 65-67.

[108] A first "Thematic debate on conditions of detention" was organised in March 2018 (see link: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=090000168076d31e). Most recently, in March 2019, a second "Thematic debate on the obligation to investigate violations of Articles 2 and 3 of the European Convention on Human Rights by law enforcement officials" was held (see link: https://search.coe.int/cm/pages/result_details.aspx?ObjectId=0900001680907889).

118. During these thematic debates, States are invited to share their experiences, practices, but also concerns and difficulties in finding solutions to long-standing problems regarding a specific Convention issue.

119. In certain cases, issues are resolved also when sufficient resources are deployed. In spite of all the efforts, the number of leading cases raising structural problems under the execution supervision of the Committee of Ministers decreases very slowly,[109] although the number of cases that raise the same problems has considerably decreased.[110]

> *The States could be encouraged to accelerate, to the extent possible, the execution process of judgments raising important structural problems at the domestic level.*
>
> *To this effect, the States may need to create an appropriate platform for a constructive dialogue between various actors involved in the execution process of such judgments.*
>
> *The States can find inspiration for the solution of such problems notably through the thematic debates within the Committee of Ministers which can offer useful avenues of reflection.*

120. In order to *foster the exchange of information and best practices with other States Parties notably on the implementation of general measures*, the informal network set up among Government Agents appears to be a particularly interesting avenue.

> *The States may wish to consider exploring whether the Government Agents' network could be given a more regular or formal structure, thus providing a more stable platform for exchanges.*

121. As regards the *accessibility of the Court's judgments and the Court's case-law*, it appears to be ensured, as shown above.[111] When it comes to the accessibility of action plans and reports and the Committee of Ministers' decisions and resolutions, as equally shown above,[112] additional efforts might be needed.

122. As for the *means deployed by the States, notably through the Human Rights Trust Fund, for the translation of judgments into national languages*, these are to be welcomed and continued, together with the publication of the translated judgments on relevant web-sites and their wide dissemination to the judiciary, legislative and executive authorities.

123. As regards the *involvement of national parliaments in the judgment execution process*, the fact that in a number of States the executive or the Government Agent inform national parliaments of the execution process reveals a constructive approach to this multi-layered process, which may often necessitate a prompt reaction from the legislature. Such

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[109] There were 323 leading cases under the *enhanced supervision* procedure (from a total of 1493 leading cases) in 2016, 317 in 2017 and 309 in 2018 (from a total of 1248 leading cases) (cf. Annual Report 2018 of the Committee of Ministers on the supervision of the execution of judgments and decisions of the European Court of Human Rights, p. 57).

[110] There were 8448 repetitive cases (and a total of 9941 cases) under the Committee of Ministers' supervision in 2016, 6205 (and a total of 7584) in 2017 and 4903 (and a total of 6151) in 2018 (cf. Annual Report 2018, p. 57).

[111] See §§ 11- 26 and 90-92.

[112] See §§ 93-95 above.

practice should be developed and constructive exchanges between all the authorities involved in the process of execution of judgments are to be encouraged and facilitated.

124. The *need for establishing "contact points" for human rights matters* appears not to be uniform in the different States concerned. In many States, this role is already fulfilled by the Government Agent or a different institution. The member States' replies appear to suggest that it may be more appropriate to reinforce the already existing bodies at national level, notably through reinforcing the institution of the Government Agent.

125. Following the recommendation to consider *holding regular debates at national level on the execution of judgments*, involving various national authorities and actors (judiciary, executive, legislative, NHRI), certain States provided examples of such debates and some others have indicated their intention to institutionalising the already existing debates between the executive and the legislative authorities. Such debates are to be continued and their development, notably in member States concerned by judgments in which violations of the Convention reveal the existence of major structural problems, are to be encouraged. Sufficient resources to this end should be put in place.