

Role of National Human Rights Institutions in the Implementation of the Judgements of the European Court of Human Rights

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National human rights institutions (NHRIs) could contribute to the implementation of the judgments of the European Court of Human Rights (European Court) at two levels: the European level and the national level. I will deal both successively in my presentation.

1. The European level: the Committee of Ministers

According to Article 46 (2) of the European Convention on Human Rights, the Committee of Ministers of the Council of Europe is responsible for the supervision of the execution of the judgments of the European Court. The Committee of Ministers is the political organ of the Council of Europe. The execution of the judgments of the European Court of Human Rights is a quite unknown aspect of the Convention but yet very important in practice.

The Court tends now more and more to provide, to a certain extent, which measures, both individual and general, should be taken by the member states to comply with its judgments. The Committee of Ministers subsequently evaluates with whether these measures have been taken by these States. It may adopt interim resolutions which examine the measures taken and encourage them to take further measures to comply with the judgments. It eventually adopts a final resolution when the measures taken are satisfactory.

NHRIs can provide the Committee of Ministers with useful information regarding the implementation of the judgments of the European Court. This can happen in two ways. First, they can inform the Committee of Ministers through the Commissioner for Human Rights. The latter is closely involved in the judgments of the European Court since recently, and has the right to intervene as *amicus curiae* during the procedure according to new Article 36 (3) (which will apply when Protocol 14 to the European Convention on Human Rights will enter into force). Second, NHRIs can communicate directly with the Committee of Ministers regarding the judgments concerning their States, as the Northern-Ireland Human Rights Commission for instance does. They are explicitly allowed to do so by virtue of 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*.¹

¹ 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* provides that '[t]he Committee of Ministers shall be entitled to consider any communication from non-governmental organisations, as well as *national institutions for the promotion and protection of human rights*, with regard to the execution of judgments under Article 46, paragraph 2, of the Convention' (emphasis added).

2. The National Level: States

According to Article 46 (1) of the European Convention on Human Rights, member states have the obligation to comply with the judgements of the European Court. These judgments are therefore binding on these states. They must take the individual and general measures necessary to comply with these judgements, under the supervision of the Committee of Ministers. While the adoption of a judgment is an important step in itself, its real success will depend on its implementation by the States.

One of the functions of NHRIs is to monitor the compliance of legislation and practice by States with international human rights law. This function is outlined in the Paris Principles. They can therefore whether a particular legislation or practice ignores the judgments of the European Court. They may also make recommendations to state authorities on the measures to be taken to comply with these judgments. This can both concern the adoption of new legislation or the change of certain practices.

Furthermore, NHRIs can contribute to the implementation of the judgments of the European Court in third States concerned with these judgments. Through the European Group of National Human Rights Institutions, an NHRI can inform its peers about those judgments that deal with human rights violations that are also taking place in their own States. In this way, NHRIs may encourage their states to take measures to avoid future condemnations by the European Court. This may reduce the workload of the European Court which is currently overloaded with too high a number of applications.

To continue with the national level, there is no independent body controlling the implementation of the judgments of the European Court, which is usually a task of the government agents. There is one only exception (which is not an NHRI): the Joint Committee on Human Rights in the UK. Aware of the problem, the Committee of Ministers adopted *Recommendation 2008 (2) to member states on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights*, which recommends States to designate a coordinator for the execution of judgments at the national level.² This coordinator (which could be an individual or a body) should be able to liaise with those actors responsible for the measures to be taken implement the judgments and even have the power to take such measures itself where necessary. This could be the role of NHRIs. They could invite both state and non-state actors to discuss the implementation of the judgments of the European Court. They could also invite state authorities to execute these judgments and encourage them to take the necessary measures to comply with them.

To conclude, NHRIs could have a role in the implementation of the judgments of the European Court both at the European and national level. In so doing, they can form bridges between both national and international human rights systems.

² *Recommendation 2008 (2) to member States on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights* recommends at paragraph 1 that member states: 'designate a co-ordinator – individual or body – of execution of judgments at the national level, with reference contacts in the relevant national authorities involved in the execution process. This co-ordinator should have the necessary powers and authority to: acquire relevant information; liaise with persons or bodies responsible at the national level for deciding on the measures necessary to execute the judgment; and if need be, take or initiate relevant measures to accelerate the execution process'.