



MONITORING THE IMPLEMENTATION OF JUDGMENTS OF THE EUROPEAN COURT OF HUMAN RIGHTS

A Handbook for Non-Governmental Organisations

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Are you a Non-Governmental Organisation (NGO) working to improve the enjoyment of human rights in the Council of Europe zone? Are you considering how the judgments of the European Court of Human Rights can advance the change you want to achieve? This handbook provides information on how monitoring of human rights judgments works. It gives practical knowledge about how the framework for the enforcement of European Court of Human Rights judgments operates, and how NGOs can use the European human rights system once a judgment is delivered. Whether or not you have legal experience, this handbook will be a useful tool for your engagement with the Council of Europe and the judgments of the European Court of Human Rights.

CONTENTS

	Part I: NGOs and Monitoring Implementation	5
1	Why monitor implementation of human rights judgments?	5
2	Isn't implementation of human rights judgments the job of state authorities?	5
3	Isn't monitoring the job of lawyers and applicants who take the cases?	5
4	Doesn't the European Court of Human Rights monitor implementation of its judgments?	6
5	Can the input of NGOs really make a difference to implementation?	6
6	My NGO does not have legal expertise. Can we still participate in the monitoring of human rights judgments?	6
7	How much effort is involved with monitoring implementation?	6
8	When should we begin thinking about implementation?	7
	Part II: NGOs and Human Rights Judgments	7
9	Where can we find information about how a judgment should be implemented?	7
10	Does a human rights judgment specify what actions States should take to remedy a violation?	7
11	What is a declaratory judgment?	7
12	How does the Court provide specific direction in its judgments?	7
13	If the Court does not indicate in the judgment what is required for implementation, doesn't this lead to vagueness?	7
14	What is a pilot judgment?	8
15	Where can I find a human rights judgment?	8
16	What does a human rights judgment contain?	9
17	What exactly am I looking for within the judgment?	10
	Part III: Implementation Measures	11
18	What types of implementation requirements are there?	11
19	What is just satisfaction?	11
20	What are individual measures?	11
21	What are general measures?	11

	Part IV: Monitoring & Follow-Up Mechanisms & Procedures	12
22	What is the Committee of Ministers?	12
23	Who are government agents?	12
24	What is the Secretariat of the Committee of Ministers, and the Department for the Execution of Judgments?	12
25	When does monitoring of implementation begin?	12
26	What is an Action Plan?	13
27	How does the Committee of Ministers manage and prioritise cases for implementation?	13
28	Can cases transfer between the tracks?	14
29	What happens if even after all these procedures are carried out, the State does not submit an Action Plan at all?	14
30	What is an interim resolution?	14
31	How does the Committee of Ministers decide when implementation is satisfactory?	14
32	What is a final resolution?	15
33	How long does implementation take?	15
34	What happens when there is no implementation?	15
35	Where can NGOs get information about follow-up to cases?	15
36	Is all of the information about the execution of a judgment public?	15
37	Do NGOs need any particular accreditation or 'standing' to communicate with the Committee of Ministers?	15
38	Can NGOs attend the meetings of the Committee of Ministers and make oral submissions?	15
39	Where should the communications be sent?	16
40	What entry points are there for NGOs into the Committee of Ministers implementation process?	16
41	How should an effective submission to the Committee of Ministers be made?	16
42	Are there other things NGOs can do to aid effective implementation?	17
	Appendix: Implementation and NGO Entry Points	18

PART I: NGOs and Monitoring Implementation

1. Why monitor implementation of human rights judgments?

The European Court of Human Rights judgments provide an authoritative statement on what constitutes a human rights violation. The judgment provides specific remedies for the individual(s) who brought the case, and may also require the State to make changes to legislation, policy or practice to prevent the violation from happening to someone else in the future. In this way, a human rights judgment has the potential to lead to widespread change. Without follow-up, however, a human rights judgment is not sufficient to stop similar violations occurring. Monitoring and advocating compliance with human rights judgments is one important way of effecting human rights change on the ground. Human rights judgments are concrete tools of advocacy. Specific changes in laws, policies and practices can be advocated via human rights judgments in diverse human rights thematic areas ranging from conditions of detention, freedom from discrimination, freedom of expression, the right to housing and the right to privacy. As a result of a judgment and close monitoring changes have already been made with respect to detention and prison conditions, freedom of association for non-governmental organisations, media freedom and rights of vulnerable groups such as Roma, non-citizens, ethnic, religious or sexual minorities in many parts of Europe.

2. Isn't implementation of human rights judgments the job of state authorities?

Yes, States are under an international legal obligation to implement human rights judgments. However, just because States should implement the judgment does not

mean they will always do so in real life. States are reluctant or slow to implement judgments which are politically unpopular, controversial or practically complex. Or, when States do try to implement a judgment, they might get it wrong owing to misunderstanding the requirements of the judgment, or simply not being aware of the situation on the ground. Furthermore, States may approach the implementation process as 'doing the least possible'. Each of these reasons point to the important role of NGOs in monitoring the implementation process.

Monitoring compliance by NGOs plays a crucial role in identifying what implementation really requires and whether implementation measures are making a real difference. NGOs are in a position to put pressure on government authorities that may be unwilling to implement, and to provide assistance to government actors who are willing to implement.

3. Isn't monitoring the job of lawyers and applicants who take the cases?

It is generally believed that it is the victim, or the victim's lawyer, who should be concerned with monitoring the implementation of judgments. This is to misunderstand the nature of human rights judgments. Human rights judgments have much wider consequences. In most cases they go beyond providing a remedy to an individual victim of a violation and require systematic changes to prevent similar violations. Such systematic changes may require the domestic legislature, the executive or the judiciary (or a combination of all of them) to act. Some cases call for making legislative or policy changes, such as changing discriminatory laws or improving election procedures. Other cases demand that the domestic courts change their practice of interpretation of rights,

for example, courts may have to review their evidentiary tests in pre-trial detention decisions, in asylum applications or in child care proceedings.

4. Doesn't the European Court of Human Rights monitor implementation of its judgments?

No, the Court does not monitor implementation. This task is carried out by the Committee of Ministers of the Council of Europe; an inter-governmental peer review mechanism made up of diplomats of the 47 Council of Europe member states, and supported by the Secretariat for the Execution of Human Rights Judgments (see Part IV).

5. Can the input of NGOs really make a difference to implementation?

Yes, in a number of ways both domestically and at the European level. Firstly, NGOs can help identify the right approach to implementation by proposing amendments to law or government policy or judicial practice. Where is the specific problem with legislation, policy, or practice, which needs to be fixed? NGOs can feed into the implementation process by making concrete suggestions and calling on those responsible to act.

Secondly, NGOs can provide information on the implementation process and its shortcomings or successes to the public, media and international monitoring institutions. The State is not likely to provide information on the ways its implementation is lacking, and it is important that this is publicly highlighted.

Thirdly, NGOs can use judgments to support lobbying or advocacy activities. A judgment from the Court acknowledges in clear and authoritative terms that a violation has occurred, and gives rise to a legal obligation

to make changes. For example, a concrete judgment could be used in campaigning activities to raise public awareness of a particular marginalised group and the injustice they suffer, or form the basis of lobbying political authorities for reform of a specific government policy, or judicial practice (such as disproportionate use of force by security forces, or lengthy pre-trial detentions, or discrimination).

6. My NGO does not have legal expertise. Can we still participate in the monitoring of human rights judgments?

Yes, absolutely. For implementation purposes, issue-specific knowledge is often more important than an overall knowledge of legal procedures and case law. For example, the input of educational NGOs in a case concerning discriminatory attitudes in school textbooks, or the input of refugee rights groups in a case that deals with detention conditions of asylum-seekers, would be vital. Often implementation that requires policy development and monitoring requires non-legal input. Creating implementation coalitions amongst NGOs with a range of knowledge - whether they can contribute legal, or issue-specific expertise - is also key to achieving full implementation.

7. How much effort is involved with monitoring implementation?

When you monitor implementation of a case, you need to be familiar with how to read a human rights judgment and the monitoring system in place at the Council of Europe. The first time that you do it, it may require some additional time and effort because you will be less accustomed to the environment and procedures. However, the effort put in the first time around will make the work much easier subsequently. It is worth spending the extra time and effort initially.

8. When should we begin thinking about implementation?

As early as possible. The more civil society is involved in monitoring, the more speedy and comprehensive is implementation. In fact, implementation is not separate from thinking about bringing a case to the European Court of Human Rights. NGOs involved in taking cases either as victims or in support of victims should be thinking about implementation even when a case is in drafting stage, and should aim to build an implementation coalition during the drafting process of a human rights case.

PART II: NGOs and Human Rights Judgments

9. Where can we find information about how a judgment should be implemented?

The judgment itself is the key to identifying what is required for implementation. NGOs should familiarize themselves with reading a human rights judgment with a view to identifying implementation requirements.

10. Does a human rights judgment specify what actions States should take to remedy a violation?

The European Court of Human Rights delivers four kinds of judgment:

- declaratory judgments offering general direction for implementation
- judgments offering specific direction for implementation
- pilot judgments providing a list of actions together with time limits.

11. What is a declaratory judgment?

Declaratory judgments leave it open for domestic authorities to decide on the appropriate implementation measures that

would then be supervised by the Committee of Ministers (See Question 22). Declaratory judgments offer general direction for implementation in the main body of the judgment and in most cases anyone reading the judgment can identify what the appropriate implementation measures should be to prevent future violations from occurring. Most human rights judgments delivered by the European Court of Human Rights are declaratory.

12. How does the Court provide specific direction in its judgments?

Some human rights judgments provide more specific guidance by stating, for example, that particular legislation needs to be amended or a person needs to be released from detention. Even when the Court specifies that a particular law or policy must be changed, it will not dictate what exactly that change should look like. There is, therefore, important room for discussion as to what a human rights judgment really requires even in cases where the Court gives specific direction.

13. If the Court does not indicate in the judgment what is required for implementation, doesn't this lead to vagueness?

The texts of declaratory human rights judgments provide direction in discussing implementation requirements even if they do not specify exactly what needs to be done. It is not part of the Court's role to, for example, draft an education policy or a directive on the use of firearms by the police. This actually has advantages for NGOs and other stakeholders, as there are more opportunities to influence the implementation process, which is often entwined with human rights reform. If NGOs are unable or unwilling to participate in this process, the State authorities may prefer

to take the minimum action required, and an important opportunity for human rights improvement may be lost.

In Assanidze v Georgia (2004), which concerned the arbitrary detention of the applicant, the Court clarified how the direction it provides for implementation should be read in relation to the breathing space domestic authorities have to find the best ways to prevent future violations.

"...As regards the measures which the Georgian State must take subject to supervision by the Committee of Ministers, in order to put an end to the violation that has been found, the Court reiterates that its judgments are essentially declaratory in nature and that, in general, it is primarily for the State concerned to choose the means to be used in its domestic legal order in order to discharge its legal obligation under Article 46 of the Convention, provided that such means are compatible with the conclusions set out in the Court's judgment. This discretion as to the manner of execution of a judgment reflects the freedom of choice attached to the primary obligation of the Contracting States under the Convention to secure the rights and freedoms guaranteed (Article 1)." (para 202)

14. What is a pilot judgment?

Since 2004 The European Court of Human Rights has been delivering a new type of judgment called 'pilot judgments'. The Court

uses pilot judgments to identify a 'systemic or a structural' problem that affects a large number of similar applications before the Court. In pilot judgments, unlike in declaratory or specific guidance-providing judgments, the Court sets out a framework for general measures in the final operative part of the judgment. These measures provide specific instructions and are subject to time limits for their fulfillment. The Court waits for the State's response to the pilot judgment before it deals with other cases of a similar kind. If the State complies with the pilot judgment the other similar cases are not examined. Some examples of pilot judgments are Broniowski v Poland, Sedjovic v Italy, Xenidis-Arestis v Turkey, and Burdov (No. 2) v Russia (see box). NGO involvement in the implementation of pilot judgments is all the more important, because pilot judgments address systematic or widespread human rights violations and require major reform of institutions, laws and policies.

15. Where can I find a human rights judgment?

The Council of Europe publishes all of the Court's judgments on the internet, through a searchable database named HUDOC. The database is available at www.echr.coe.int if you click on 'case-law' at the left hand side of the page. The judgments are available in English or French, and the State is under an obligation to disseminate the judgment in its languages. Usually, this translation responsibility is carried out by the domestic state agency with responsibility for justice issues.

In *Burdov (No. 2) v Russia*, the government's repeated failure to pay the social benefits to which the applicant was entitled (despite several domestic court judgments ordering it) violated Article 6, and Article 1 of Protocol 1, and the lack of an effective enforcement mechanism for domestic court judgments violated Article 13. The Court identified the latter violation as a systemic problem affecting hundreds of people, noting that there were hundreds of such cases on its docket. The Court explicitly said it was

"...appropriate to apply the pilot-judgment procedure in this case, given notably the recurrent and persistent nature of the underlying problems, a large number of people affected by them in Russia and the urgent need to grant them speedy and appropriate redress at the domestic level" (paragraph 130). The Court drew attention to the wide-ranging changes required to remedy the situation, saying that the violations *"do not stem from a specific legal or regulatory provision or a particular lacuna in Russian law. They accordingly require the implementation of comprehensive and complex measures, possibly of a legislative and administrative character, involving various authorities at both federal and local level."* (paragraph 136).

The Court required Russia to set up an effective domestic remedy for non-enforcement or delayed enforcement of domestic judgments. It also ordered Russia to ensure that, within one year of the *Burdov* judgment becoming final, applicants with cases on the same issue lodged at the Court prior to the judgment in *Burdov*, were granted redress. The Court adjourned all these cases for one year. The Court also imposed a deadline for implementation, of 4 May 2010. The Committee of Ministers prioritised examination of the case. By the June 2010 human rights meeting, Russia had changed the law to enable a compensation complaint to be lodged in case of excessively lengthy execution proceedings before domestic courts. The Committee observed that whether this was effective would depend on the implementation of the law. The conversation on implementation is ongoing.

16. What does a human rights judgment contain?

The judgments themselves are easy to read, and follow the same format. A European Court of Human Rights judgment has three parts. The first part is called PROCEDURE, where the judgment sets out the procedural facts: how the case arrived before the Court. The second part is called THE FACTS where the Court describes the facts of the case

in some detail, and relevant domestic and international law it has considered. The third part is called THE LAW. It is in this part that the Court sets out the legal question that is being decided, with reference to the relevant articles of the Convention, and the arguments made by the parties to the case. The arguments are clarified in sections called 'the applicant's submissions', 'the government' and finally 'the court's assessment'. The section entitled 'the

court's assessment' is where the most important analysis takes place with respect to the appropriate ways of implementing the judgment. In the LAW section, the Court takes each Convention Article in turn when assessing the alleged violation. Here, it also decides on whether the State should pay any damages to the applicant under Article 41 of the European Convention on Human Rights. The final element of the judgment is the 'operative' part: in this part the Court declares which Articles of the Convention were violated (or not violated) based on the preceding analysis, and how much (if any) damages and costs the State should pay.

17. What exactly am I looking for within the judgment?

When you read the judgment, the first thing to check is whether the judgment is a pilot judgment (only a small number of judgments are pilot judgments), whether the judgment asks for any specific measures for implementation in the section entitled 'The Court's Assessment' (such as a change in legislation), or whether it declares a violation but merely provides a general guidance for what would the acceptable measures would be for implementation. The best way to find this out is first to read

the judgment 'backwards'. The final section of the judgment (its operative paragraphs, or its discussion of remedies under Articles 41 or 46 of the Convention) should help you answer these questions. In most cases, however, anything the Court has said about implementation to prevent future violations will be in the main body of the judgment, and not in the form of an operative paragraph at the end of the judgment. It is, therefore, essential to read the judgment and to think through the relationship between the reasoning of the Court and the necessary steps for implementation. When you are reading 'the court's assessment' you are looking for criticisms the Court has made of state conduct, and the shortcomings in laws, policies, procedures and domestic court judgments it has identified. These are determinative of its finding of a violation. They may be in several places throughout the section. These statements provide the basis for implementation discussions: the Court has indicated with its language what its expectations would be in order that the violation would not have taken place. This can be used to make changes to ensure there are no future violations.

PART III: Implementation Measures

18. What types of implementation requirements are there?

A central purpose of a human rights judgment is its effective implementation to stop human rights violations, undo and recognize the effects of human rights violations to the greatest extent possible and prevent them from occurring in the future.

The European Human Rights System employs the terms 'just satisfaction', 'individual measures', and 'general measures' when classifying the types of implementation measures that states are required to take.

19. What is just satisfaction?

Judgments include a section at the very end of the judgment awarding damages as well as legal costs and expenses, to the victim of a human rights violation. The European Court of Human Rights relies in its decisions on damages, costs and expenses, upon Article 41 of the European Convention on Human Rights which states:

"If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

20. What are individual measures?

Individual measures are the actions that the State must take to reverse the effects of a human rights violation on the victim. The State must put the victim of the violation in the position they would have been in if the State had not violated their rights, and to put an end to continuing violation.

Individual measures are case-sensitive.

For example, the Court may require the destruction of information held on the individual victim on a right to privacy case, may require permission for them marry on a right to marry case, may ask the revocation of a deportation order made in respect of an applicant in the case of a right to family case, or may ask for the reopening of domestic proceedings in the case of an unfair trial.

21. What are general measures?

General measures aim to prevent future violations. These include changes to legislation, government policy or domestic court practice, putting in place new policies, or additional training or awareness-raising efforts. For each case, the most appropriate general measures are best decided through the involvement of victims and NGOs.

General measures that require changing or putting in place new policies will take a long time. NGOs play a key role in the design and implementation of these measures.

In *Unal Tekeli v Turkey*, the Court held that the requirement in the Turkish Civil Code that a woman could not continue to be known by her maiden surname alone following her marriage was a violation of Article 14 taken with Article 8. In the section of its judgment dealing directly with Article 41, the Court ordered Turkey to “implement in due course such measures as it considers appropriate to fulfill its obligations to secure to each married partner, including the applicant, the right to keep their own surname or to have an equal say in the choice of their family name in compliance with this judgment.” (paragraph 73).

This is an explicit statement of what the Court expects, made in the operative part of the judgment. The Court also awarded the applicant just satisfaction of EUR1,750 for the costs and expenses incurred before the domestic courts and the Court (paragraph 74). In this case, Article 187 of the Turkish Civil code, which expressly set out the regulation that gave rise to the violation, must be amended. Additionally, changes to the administrative system of registering names (in particular the automatic name transfer upon marriage) will need to be made.

PART IV: Monitoring & Follow-Up Mechanisms & Procedures

22. What is the Committee of Ministers?

The Committee of Ministers is the inter-governmental body responsible for the execution of human rights judgments. Its role is set out in Article 46 of the European Convention of Human Rights. Execution of human rights judgments is only one of the monitoring tasks it undertakes. The Committee, for example, is also responsible for the execution of the decisions of the Committees under the European Social Charter, the Framework Convention on the Protection of the Rights of Minorities, and the Convention on the Prevention of Torture. The Committee of Ministers is formally composed of the Foreign Ministers of each Member State. In practice, however, ministers delegate this role to the permanent representatives in Strasbourg. Permanent representatives further delegate their supervision role to diplomats or experts. The Committee of Ministers meets in private meetings. The agenda of the meetings and the decisions taken are

made public on the Committee of Ministers website.

23. Who are government agents?

Government agents are responsible for defending the State before the European Court of Human Rights during the proceedings, and ensuring the implementation of the human rights judgments domestically once the Court delivers a judgment. Government agents also represent the State during the meetings of the Committee of Ministers for the supervision of execution of judgments.

24. What is the Secretariat of the Committee of Ministers, and the Department for the Execution of Judgments?

The Secretariat of the Committee of Ministers is responsible for ensuring the smooth functioning of the Committee of Ministers in terms of its decision-making procedures (one of which is monitoring implementation of the Court’s judgments). In respect of implementation, part of the Secretariat named ‘The Directorate

of Human Rights and Legal Affairs' is responsible for these functions. The Department for the Executions of Judgments is part of this Directorate. It employs lawyers and other specialist advisors who work closely with the states on determining the actions required to give full effect to the Court's judgment, and provide advice to the Committee of Ministers in respect of implementation in individual cases.

25. When does monitoring of implementation begin?

After the Court gives a judgment, there is a period of three months until the judgment becomes 'final'. Within this three months either the State or the applicant can require the case to be considered by the Grand Chamber. The judgment is then transmitted to the Committee of Ministers. Once the Committee of Ministers receives the judgment it automatically enters into the agenda for the regular meetings of the Committee of Ministers. The agendas are made public on the Council of Europe's website. The first stage of implementation is for the State to provide its Action Plan to the Committee of Ministers in consultation with the Department of the Execution of Judgments.

26. What is an Action Plan?

The Action Plan is a document prepared by the State in consultation with the Department of Execution of Judgment lawyers. The Action Plan is in effect a 'joint reading' of the judgment by the government agents and the Department of Execution with the aim of identifying implementation requirements.

The Action plan sets out the itemized plan for implementing the Court's judgment: what it will do exactly in order to comply with the terms of the judgment. The State is required to provide this within six months of the date the judgment becomes final. The State is expected to provide the details of what it will do and the time within which it will be completed. Occasionally, it may not be possible for the State to give full details of what it will do within the six months.

Under these circumstances the Action Plan may describe the progress that the State will make (for example, carrying out a domestic referendum by a certain date) and if possible set out a timetable for what will happen after that. It is a statement of the intended action, rather than a legally binding document. If the State has already taken action to comply with the judgment, it may use this document to describe what has been done. The reports of action taken are called 'Action Reports'. It is not open to the State to simply submit no Action Plan, and where it cannot provide details of a plan for implementation it will be required to justify why not. Then, the State is expected to carry out what it has said it will do in the Action Plan and the Committee of Ministers monitors this process.

If the judgment is unclear regarding what is required for implementation, the Committee of Ministers may agree by a two-thirds majority vote to refer back to the Court (a referral decision) asking the Court to clarify what is required.

Influencing the preparation of *action plans* at the domestic level is a key advocacy entry point for NGOs, who can do this by lobbying the government agents or domestic authorities or coordinators responsible for the execution of judgments.

27. How does the Committee of Ministers manage and prioritise cases for implementation?

Since January 2011, the Committee of Ministers operates a 'twin-track' method of managing the large number of cases it is responsible for monitoring. There is the standard (or 'simplified') supervision track, and the enhanced supervision track. Standard supervision is where the Secretariat takes forward the implementation by working with the State (for example assessing the Action Plan and monitoring the work done on progressing it). The Committee of Ministers does not take an active role. It simply makes formal decisions that are necessary to progressing

supervision. These might be noting that the Action Plan has been received, progress is satisfactory, and that the case has been implemented and can be closed.

Enhanced supervision is where the Committee of Ministers takes an active and intensive role, itself paying close attention to implementation. During the Human Rights meeting it may note progress achieved so far, call on the State to take specific action, and set timetables. The Secretariat is also given a more proactive role to move implementation forward. This might include providing technical assistance to the State in the preparation of Action Plans, helping the State to decide what kind of measures should be taken, and in complex cases engaging in bilateral or multilateral cooperation programmes (for example, round-table discussions).

Cases will be subject to standard supervision unless it is decided by the Committee of Ministers that enhanced supervision should apply. Reasons for a case to be subject to enhanced supervision are that the judgment:

- requires urgent individual measures;
- is a pilot judgment;
- discloses major structure or complex problems, as identified by the Court or the Committee of Ministers;
- is an inter-state case.

Either a Member State or the Secretariat may propose (and the Committee of Ministers may agree) that the case is allocated to the enhanced supervision procedure at any time. Once a case is under enhanced supervision, it may also be proposed by the Secretariat or a Member State that there is an oral debate about the implementation of the case. During the debate the State may be required to explain to the Committee of Ministers any factors hampering implementation, and how they are being tackled.

Both for cases under standard and enhanced supervision the views of the well-informed NGOs are essential to monitor progress in implementation.

28. Can cases transfer between the tracks?

Cases may transfer from one track to the other (in either direction) at any time, following a Committee of Ministers decision to that effect.

Cases may move from the standard to the enhanced track if, for example, despite reminders the State has failed to submit an Action Plan or Report. Or, there may be disagreement between the Secretariat and the State regarding the implementation measures required. If there is serious delay in implementing the Action Plan, the Committee of Ministers may consider it necessary to place the case on the enhanced supervision track.

A case subject to enhanced supervision may move to standard supervision if the Committee is satisfied with the Action Plan and with implementation progress. Obstacles previously impeding implementation might no longer exist, or any urgent individual measures that were required may have been taken. Information received from NGOs would significantly influence decisions to move cases from one track to the other.

29. What happens if even after all these procedures are carried out, the State does not submit an Action Plan at all?

The Committee will use a number of methods at its disposal to put pressure on the State to provide an Action Plan, and these will increase in urgency and forcefulness as time passes. Ultimately if an Action Plan is required and not provided the Committee of Ministers may conclude that the State concerned has refused to comply with the judgment. It may decide, by a two-thirds majority vote of representatives, to use an interim resolution to ask the Court to consider whether the State has failed to meet its Convention obligations under Article 46. This is called the non-compliance procedure. If the Court agrees that the State has failed to implement the judgment, this

would mean the State had committed an additional violation of the Convention.

30. What is an interim resolution?

An interim resolution is a decision adopted by the Committee of Ministers at one of their meetings. It will usually provide details of the measures taken by the State (which may be no measures at all), and set a calendar for further action. An interim resolution may suggest particular changes that the State should take, or even be quite insistent that the State take the measures identified to comply with the judgment.

31. How does the Committee of Ministers decide when implementation is satisfactory?

Implementation will be satisfactory when the State has carried out all the measures contained in its Action Plan. The Department for the Execution of Judgments will provide advice to the Committee of Ministers on the specific tasks in the Action Plan and whether they have in fact been carried out. The involvement of NGOs in this stage is crucial. The Department for the Execution of Judgments, amongst other sources, relies on well-informed communications from NGOs regarding the reality of the implementation. Without non-governmental voices on implementation that challenge governmental testimonies, a case risks being closed prematurely.

32. What is a final resolution?

A final resolution is a decision taken at a meeting of the Committee of Ministers that declares the State has fully complied with the terms of the relevant judgment. The final resolutions are available on the HUDOC database.

33. How long does implementation take?

The time taken for a State to implement a judgment depends on a number of factors, including the complexity of the general measures and the motivation of the government to implement. Some

cases see implementation in less than two years, others between two and five years. Cases that take more than five years to implement are identified as requiring special attention. The pressure applied by NGOs is essential in encouraging a State to take its implementation obligations seriously and to act quickly and comprehensively to prevent further violations.

34. What happens when there is no implementation?

The Committee of Ministers has the power to refer a case back to the Court asking for a declaration that the State has failed to fulfill obligations under Article 46 of the Convention. This will be in the form of an interim resolution. If the State continues to refuse to implement the judgment, the ultimate sanction is suspension or expulsion from the Council of Europe. This is a very serious sanction and has never been used.

35. Where can NGOs get information about follow-up to cases?

Information about the progress that has been made towards implementation is available on the Department for the Execution of Judgments' website www.coe.int/t/dghl/monitoring/execution. Here you can find notices of when the Committee of Ministers will meet to discuss implementation, agendas for the meetings, and after the meeting annotated agendas showing the discussion and decisions taken in respect of each case on the agenda.

36. Is all of the information about the execution of a judgment public?

Generally, yes. However, the Committee of Ministers may decide to keep certain information confidential to protect a legitimate public or private interest. They may decide to do this in response to a request made by the State, an NGO, the injured party, or an affected third party or National Human Rights Institution that has submitted the information or can show a good reason why it should be kept confidential.

37. Do NGOs need any particular accreditation or ‘standing’ to communicate with the Committee of Ministers?

No, all that is required is that you are an NGO. However, NGO communications are only accepted in respect of general measures. For just satisfaction and individual measures, it is the role the applicant or their lawyer to communicate with the Committee of Ministers about implementation.

38. Can NGOs attend the meetings of the Committee of Ministers and make oral submissions?

No. The meetings of the Committee of Ministers are held in private and NGOs cannot participate in the actual proceedings. NGO participation in this process is through written communications with the Department of the Execution of Judgments.

39. Where should the communications be sent?

Communications to the Committee of Ministers can be sent via email, fax, or post. You can email your communication to DGHL.Execution@coe.int

Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements: Rule 9 - Communications to the Committee of Ministers

1. The Committee of Ministers shall consider any communication from the injured party with regard to payment of the just satisfaction or the taking of individual measures.

2. The 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.

3. The Secretariat shall bring, in an appropriate way, any communication received in reference to paragraph 1 of this Rule, to the attention of the Committee of Ministers. It shall do so in respect of any communication received in reference to paragraph 2 of this Rule, together with any observations of the delegation(s) concerned provided that the latter are transmitted to the Secretariat within five working days of having been notified of such communication.

The Rules in full are available for download at www.coe.int/t/dghl/monitoring/execution/Documents/Doc_ref_en.asp

40. What entry points are there for NGOs into the Committee of Ministers implementation process?

After the judgment has been transmitted to the Committee of Ministers, NGOs can begin to engage with the Committee of Ministers straight away. An NGO can provide its views on what is required for implementation prior to the Action Plan being submitted, to assist the Committee of Ministers to identify any shortcomings it may have. They can also provide progress updates that give details of the status of implementation on the ground. The State may have told the Committee of Ministers that they have done something when in fact they have not done it, or it has not been well managed, it has not had the anticipated effect, or some people who should have benefitted from the changes have not in fact benefitted. It is important for the Committee of Ministers to be aware of these issues so that they can encourage the state to improve its implementation. The chart in the Appendix shows when and how NGOs can consider providing input.

41. How should an effective submission to the Committee of Ministers be made?

It is very important to clearly communicate your arguments in writing. Identify any facts upon which you rely, and provide

evidence that can be objectively assessed and verified. Give details of what has caused the violation or non-compliance in your view and how the situation can be changed. You can also identify any short, medium, or long-term measures that the State could take towards the goal of full implementation. You can provide details of any unjustifiable delay by the State. Remember that the staff of the Department for the Execution of Judgments, and the Committee of Ministers, have a high workload: your submission should make your points as concisely as possible. It is generally not necessary to attach raw data, newspaper clippings, or other extensive information.

The Committee of Ministers publishes some examples of submissions they have received from NGOs on its website, which you can

find by looking in the documents section of the Department of Execution's website. If the State has responded to the submission it will also be published there.

42. Are there other things NGOs can do to aid effective implementation?

You may also wish to communicate directly with the relevant politicians and officials in your domestic government to inform or persuade them about what implementation will require, once the judgment is final. You can begin by setting out your views about what implementation will require, in the same way that you have done for your communication with the Committee of Ministers. You may even copy letters that you have written to the Committee of Ministers, to relevant politicians and officials too so that they know you are paying continuing attention to the case.

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Appendix: Implementation and NGO Entry Points

