

Contribution by the Department for the Execution of Judgments
of the European Court of Human Rights

Introduction

The European Convention on Human Rights of 1950 (*the Convention*) was the first regional convention creating a collective guarantee for some of the rights contained in the Universal Declaration of Human Rights. The Convention system has subsequently seen, through 14 Protocols, a number of additions to the initial catalogue of rights and a number of reforms of the supervisory machinery.

An important element of the implementation of the Convention today is the right of individual petition to the European Court of Human Rights (*the Court*). In accordance with Article 46 of the Convention, the member states of the Council of Europe undertake to abide by all final judgments of the Court in cases to which they are parties. **The information below deals with the national situation as it emerges from the supervision of the execution of the judgments of the Court.**

It may be noted that since 2000 the Committee has adopted 7 recommendations to member states regarding the national implementation of the Convention (including the execution of the Court's judgments)¹.

The proper execution of the Court's judgments is supervised by the Committee of Ministers of the Council of Europe (*the Committee*).

The Committee's execution supervision aims at ensuring that:

- **Individual measures** have been taken, i.e. the applicant received, as far as possible *restitutio in integrum*, including through :
 - a) the payment of any monetary *just satisfaction* (Art. 41) awarded by *the Court*, and, where necessary
 - b) the adoption of further individual measures (such as the reopening of criminal proceedings, the destruction of information gathered in breach of the right to privacy, the enforcement of unenforced domestic judgments or the revocation of a deportation order issued despite a real risk of torture or other form of ill-treatment in the country of destination);
- **General measures** are adopted and implemented so as to prevent new violations similar to that/ those found and/or put an end to continuing violations. The obligation to take such measures may, depending on the violation, imply a review of legislation, government regulations and/or judicial practice. Some cases may even require constitutional changes. Remedying violations may also require other kinds of measures such as the refurbishing of a prison, an increase in the number of judges or of prison personnel or improvements of administrative arrangements or procedures. An increasingly important aspect of general

¹ -Recommendation Rec(2000)2 on the re-examination or reopening of certain cases at domestic level following judgments of the European Court of Human Rights;

-Recommendation Rec(2002)13 on the publication and dissemination in the Member States of the text of the European Convention on Human Rights and of the case-law of the European Court of Human Rights;

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

-Recommendation Rec(2004)5 on the verification of the compatibility of draft laws, existing laws and administrative practice with the standards laid down in the European Convention on Human Rights;

-Recommendation Rec(2004)6 on the improvement of domestic remedies.

- Recommendation Rec(2008)2 on improved domestic capacity for rapid execution of the judgments of the European Court of Human Rights;

-Recommendation Rec(2010)3 on effective remedies for excessive length of proceedings.

measures over the last years aims at ensuring that there exists, as required by the Convention (notably Art. 13) effective domestic remedies to ensure that further violations may be adequately redressed already by domestic authorities.

The Committee's supervision is carried out mainly at its regular Human Rights meetings (presently four a year). It is assisted notably by a special Secretariat, the Department for the Execution of judgments of the Court.

The Committee completes its examination of each case by adopting a final resolution. In the course of its supervision, *the Committee* may adopt interim resolutions and other forms of decisions, notably in order to provide information on the state of progress of the execution or, where appropriate, to express concern and/or to make suggestions with respect to the execution.

Interim and Final Resolutions are accessible through www.echr.coe.int on the HUDOC database. Decisions and other relevant execution information is available on the Internet site:

- of the Committee (http://www.coe.int/t/cm/humanrights_EN.asp), and/or
- of the Department for the Execution of judgments of the European Court (<http://www.coe.int/execution>).

Since 2008, the Committee adopts an *annual report* on its activities under Article 46 of the Convention. The annual reports (for years 2007 and 2008) are available at the: http://www.coe.int/t/DGHL/Monitoring/Execution/Documents/Publications_en.asp

The information presented below consists first of a list of the main pending cases for execution supervision, followed by an extract from the last public notes on the Committee's agenda with more detailed information on the execution situation in individual cases (highlighting both outstanding individual measures and more general reforms, whether legislative or other).

Explanatory note as to certain references made

In the presentations below the "meeting number" indicates the last Human Rights meeting at which the case was examined and/or the next meeting at which the case will be examined. The "meeting section" indicates whether the examination of the case concerns:

- *a first assessment of the execution measures needed (Section 2),*
- *the payment of any just satisfaction awarded (Sections 3.A or 3.B) or of default interest due (3.A.int)*
- *the adoption of individual and/or general execution measures (Section 4.2 (if only individual measures are examined at the meeting the case will be in a special Section 4.1) or if the cases raise more important problems section 4.3)*
- *the adoption of different measures already on their way, such as legislative reforms (Section 5.1), changes of case-law (Section 5.2), publication and awareness raising measures aimed at promoting the direct effect of ECHR case law (Section 5.3), or other measures, notably administrative nature or changes of practice (Section 5.4).*

Pending case against Andorra

Application Number	English Case Title	Date of Judgment	Date of definitive Judgment	Meeting Number	Meeting Section
38196/05	VIDAL ESCOLL and GUILLAN GONZALEZ	29/07/2008	26/01/2009	1086	4.2

Main pending case or group of case against Andorra

Case name :	VIDAL ESCOLL and GUILLAN GONZALEZ v. Andorra	Appl N° :	<u>38196/05</u>
Judgment of :	29/07/2008		
Final on :	26/01/2009		
Violation :		Payment status :	Paid in the time limit
Theme / Domain :			
Next exam :	1086-4.2(01/06/2010)		
Last exam :	1072-4.2(01/12/2009)		
First exam :	1059-2.1(02/06/2009)		

NOTES OF THE AGENDA

38196/05 Vidal Escoll and Guillán González, judgment of 29/07/2008, final on 26/01/2009

This case concerns the fact that it was impossible for the applicants to obtain enforcement of a judgment given in their favour by the High Court of Justice in May 2003.

In 1999 the applicants, relying on the unlawfulness of the building permits for two blocks of flats being built opposite and beside where they lived, brought an action to have the permits annulled before the administrative section of the court of *batlles*. In a judgment of 28/05/2003, the High Court of Justice ruled in favour of the applicants and ordered the demolition of the parts of the two buildings exceeding the regulation height.

However, in June 2004, at the request of the local authority of Escaldes-Engordany, Parliament decided to expropriate part of the property of each applicant on town-planning grounds. The Constitutional Court, seised of an *empara* appeal by the applicants, held in a judgment of April 2005 that these expropriations would result in transforming the applicants' property rights into an entitlement to compensation and would thus render their application for enforcement of the 28/05/2003 judgment pointless.

Noting that the local authority had taken no measure with a view to enforcing the 2003 judgment, the European Court found that the expropriation decision, taken after the judgment at issue establishing the rightfulness of the applicants' position, could not be considered a sufficiently exceptional circumstance to justify the failure to enforce a final judgment (violation of Article 6§1).

Individual measures: The European Court awarded each of the applicants just satisfaction in respect of all heads of grievance.

- *Information is awaited on measures to redress the violation found, including the enforcement of the 20/05/2003 judgment of the High Court of Justice.*

General measures:

- *Information is awaited on measures taken or envisaged to prevent new, similar violations and on the dissemination of the European Court's judgment to the judicial bodies concerned.*

The Deputies decided to resume consideration of this item at the latest at their 1086th meeting (June 2010) (DH), in the light of information to be provided on individual and general measures.

Latest development

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