Supervision of the execution of judgments of the European Court of Human Rights
Part I: Relevant legal instruments

Part II: Overview of the role and work of the Committee of Ministers

Part III: General considerations on non-compliance

Part IV: Shared responsibility for execution
I. Relevant legal instruments

- Articles 39/46, European Convention
- Amended CM Rules for the supervision of the execution of judgments and of the terms of friendly settlements (2017)
- CM working methods (2011)
- CM recommendations
Article 46 of the Convention

46 § 1 “States undertake to abide by the final judgment of the European Court in any case to which they are parties”

46 § 2 “The final judgment of the Court shall be transmitted to the Committee of Ministers which shall supervise its execution”
II. Committee of Ministers

Inter-governemental political body

Ministers of 47 MS : represented by « Deputies »
Continuous supervision of all judgments

Four annual **confidential** meetings – 3 days (decisions/interim and final resolutions)

Constructive **dialogue** between Deputies

**Principle of subsidiarity**

"free to choose the means"
II.1. Size of the task

End 2018 – 6,151 cases pending

Approx 1,300 new cases every year
Evolution of pending cases

- Total number of pending cases
- Leading cases pending

1998: 120
1999: 168
2000: 181
2001: 245
2002: 283
2003: 359
2004: 481
2005: 632
2006: 686
2007: 1077
2008: 1194
2009: 1286
2010: 1337
2011: 1435
2012: 1497
2013: 1513
2014: 1555
2015: 1493
2016: 1379
2017: 1248
2018: 6151

INTERLAKEN PROCESS
Implementing judgments from the European Court of Human Rights

Proportion of cases closed by each Council of Europe member state

Source = Council of Europe; updated 06/06/2019
Implementing European Court of Human Rights judgments

Cases pending by Council of Europe member state

- Russian Federation
- Turkey
- Ukraine
- Bulgaria
- Romania
- Italy
- Republic of Moldova
- Hungary
- Greece
- Croatia
- Other 37 member states

*Cases revealing new structural and/or systemic problems; source – Council of Europe; updated 06/06/2019
Main themes under enhanced supervision

- Actions of security forces
- Lawfulness of detention and related issues
- Conditions of detention - medical care
- Right to life - Protection against ill-treatment
- Length of judicial proceedings
- Other interferences with property rights
- Execution of domestic judicial decisions
II.3. Supervision process

The Committee of Ministers supervises the execution of the judgment
II.4. Principles of execution

Individual measures

to ensure that the injured party is put, as far as possible, in the same situation as that party enjoyed prior to the violation of the Convention.

Restituto in integrum.
General measures

to prevent new violations similar to that or those found, or put an end to continuing violations

NB : Ensuring effectiveness of domestic remedies is an important concern
Action plan

- All steps state intends to take to implement a judgment
- Road map for execution
- Regularly updated throughout execution process
Action report

- All steps state has taken to implement a judgment
- State’s conclusion that the judgment has been fully executed
- Request for closure of supervision
II.5. Role of the Department of Execution

• Supports states in identification of measures required
• Advises and assists the CM on assessment of measures taken or envisaged
• Ensures transparency and visibility of the execution process
III. General considerations of non-compliance

- Expensive
- Negative image of State
- Encourages other States to do the same
- Undermines possibility to push other States to comply with judgments against them
- Poses a threat to the Convention system
III. 1. Committee of Ministers

Decisions
Interim resolutions
Letter from the Chair/Secretary General
Calls to other MS to adopt measures (eg diplomatic activity)
Article 46 § 4

If the Committee of Ministers considers that a Party refuses to abide by a final judgment ..., it may, after serving formal notice on that Party and by decision adopted by a majority vote of two-thirds of ...the committee, refer [the question] to the Court

Ilgar Mammadov v. Azerbaijan
Article 8 of the Council of Europe Statute

The Committee may suspend a State’s rights of representation at CoE for serious violations of the obligation to "accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms"
III.2. Court

- Repetitive violations
- Expensive (possibility of increased damages)
- Pilot judgment procedure
- Article 46(4) judgment
III.3. PACE

Monitoring Committee
Legal Affairs and Human Rights Committee

Regular reports
Recommendations and resolutions

– Recommendation 2110 (2017)
– Resolution 2178 (2017)
IV. Shared responsibility for execution


- Reiterated in Copenhagen Declaration 2018: “vital to the proper functioning of Convention system and more effective human rights protection in Europe”
• **European level** –
  – Participation in the Committee of Ministers
  – Synergies
    - between the Committee and the Court
    - between Council of Europe bodies
    - thematic debate on conditions of detention
    - better targeting of co-operation activities in areas where States require additional technical assistance
• National level –
  – Constructive dialogue between all those capable of providing solutions to the identified problems
https://www.coe.int/en/web/execution/supervision-video
Department of Execution website
https://www.coe.int/en/web/execution

HUDOC –EXEC
https://hudoc.exec.coe.int/

Committee of Ministers website
https://www.coe.int/en/web/cm

Annual reports on Supervision of Execution

PACE reports on implementation of judgments