



Resolution 1411 (2004)¹

Implementation of decisions of the European Court of Human Rights

Parliamentary Assembly

1. The Parliamentary Assembly recalls that, since the adoption of its [Resolution 1226 \(2000\)](#) on the execution of judgments of the European Court of Human Rights – in which it examined the reasons why certain decisions of the Court had not been executed and called for a number of measures to be taken to remedy the situation – it has involved itself with the implementation of judgments of the Court.
2. It decided, *inter alia*, to regularly debate the execution of judgments on the basis of a record to be drawn up by it in order to support the efforts of the Committee of Ministers in this field.
3. To date, it has devoted a general report to compiling an initial record for which it applied the following two criteria: the time elapsed since the Court's decision and the urgency of the measures to be taken – which gave rise to the adoption of [Resolution 1268 \(2002\)](#) and [Recommendation 1546 \(2002\)](#) on the implementation of decisions of the European Court of Human Rights.
4. It has devoted two reports to Turkey owing to the large number of cases involved: one report in 2002 and another in 2004.
5. Its Committee on Legal Affairs and Human Rights has compiled a new record of Court judgments which have not been implemented, using the following three criteria: the time elapsed since the Court's decision, the existence of an interim resolution of the Committee of Ministers and the importance of the issues raised.
6. Against this background, it wrote to eight national delegations on 17 February 2003, concerning twenty-one Court decisions in all, asking them to prevail upon their respective governments to implement the unexecuted decisions, setting a two-month deadline for replies. The delegations concerned were Austria, Belgium, France, Italy, Poland, Romania, Switzerland and the United Kingdom. A reminder was sent to three delegations on 30 May 2003 (France, Italy, Romania). Seven delegations replied (Austria, Belgium, Italy, Poland, Romania, Switzerland and the United Kingdom).
7. The Assembly notes that of the twenty-one decisions in question five date from 1996, seven from 1997 and eight from 1998.
8. In six cases, the individual or general measures requested by the Committee of Ministers have been taken (two decisions against Romania, one decision against Switzerland and three decisions against the United Kingdom).
9. In one case, the individual measures have been taken but general measures are still required (Poland).
10. In four cases, the draft legislation required to facilitate implementation of the judgments still has to be enacted by parliament (Austria, Belgium and Italy – the cases of F.C.B., Dorigo, Calogero Diana, and Domenichini).
11. In seven other cases involving Italy, the Italian authorities are contesting the measures they are required to take.

1. (see [Doc. 10351](#)[Doc. 10351](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Jurgens). Text adopted by the Standing Committee, acting on behalf of the Assembly, on 23 November 2004



12. In one case against the United Kingdom, negotiations are under way between the authorities and the Council of Europe Secretariat.
13. No reply has been received concerning the two cases against France.
14. The overall assessment of this new exercise once again illustrates the excessive length of time taken to implement the Court's decisions. It also illustrates the difficulty of interpreting the Court's decisions in a number of cases. Lastly, in some cases the authorities in question have shown unwillingness to take action.
15. We might infer from the replies received that the aim pursued, namely to ensure that parliamentary delegations should approach their government with a view to implementation of Court decisions, has not been attained. Delegations would appear merely to take note of their government's explanations and pass them on, without sufficiently trying to induce the authorities to act by way of making use of their parliamentary prerogatives and privileges to hold the government to account and to put pressure on it.
16. The Assembly welcomed the possibility of the Committee of Ministers asking the Court to clarify its decisions in cases of disputes concerning the requested measures, as established by Protocol No. 14, but regrets that its proposal to establish a system of *astreintes* (daily fines for a delay in the performance of a legal obligation) has been rejected.
17. The Assembly is, however, still convinced that pressure could usefully be put on governments and a debate organised to discuss this matter, if only to ensure that such cases are brought to public attention and enable other governments to benefit from the experience thus acquired.
18. Consequently, the Assembly:
 - 18.1. asks the Italian authorities to implement the measures required of them in the following cases: Ceteroni, Abenavoli; A.B., E.F. and C.C.; Aldini; Immobiliare Saffi; A.O.; G.Le.; Lunari; P.M.; Edoardo Palumbo; Tanganelli; S.B.F. S.p.a.; C.A.R. S.r.l.; A.D.; Scozzari and Giunta;
 - 18.2. urges the Italian authorities to comply without further delay with the *Dorigo v. Italy* decision, in accordance with the Committee of Ministers' interim resolutions, by reopening the impugned criminal proceedings or by otherwise redressing the situation of the applicant who has been serving for more than ten years a prison sentence imposed in gross violation of the right to a fair trial;
 - 18.3. requests the national delegations to work more actively within their respective parliaments to ensure that their government take the measures required to comply with the Court's decisions;
 - 18.4. reserves the right to make use of Rule 8 of its Rules of Procedure should a government persistently refuse to take all the measures required of it pursuant to a decision by the Court;
 - 18.5. shall continue to contribute to the implementation of the Court's decisions by holding debates in which non-implementing governments are publicly called to account.