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Implementation of judgments of the European Court of Human Rights

Reply to Recommendation¹: Recommendation 2110 (2017)
Committee of Ministers

1. The Committee of Ministers welcomes Parliamentary Assembly [Recommendation 2110 \(2017\)](#) on “The implementation of judgments of the European Court of Human Rights” as well as its [Resolution 2178 \(2017\)](#) with the same name. It has brought these texts to the attention of the member States’ governments and has communicated the recommendation to the Steering Committee for Human Rights (CDDH), the Venice Commission and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), for information and possible comments.

2. The Committee of Ministers reiterates the importance it attaches to the efficient supervision of the execution of judgments of the European Court of Human Rights in order to ensure the long-term sustainability and credibility of the Convention system. As the Parliamentary Assembly rightly points out, it has taken a number of measures to improve its supervision, most recently in the context of the implementation of the Brussels Declaration of 2015. This has led to an improvement of the situation with respect to the execution of the Court’s judgments. Progress in the adoption of legislative, regulatory, jurisprudential or other measures to remedy structural problems revealed by European Court judgments continued in 2017, including in many cases linked to long-standing problems such as excessive length of judicial proceedings, non-execution of domestic judgments and excessive length of pre-trial detention and prison conditions. Important reforms were also adopted in response to other types of problems revealed by the Court’s judgments, relating in particular to the right to family life, freedom of assembly and freedom of expression. As a result, the Committee of Ministers could close its supervision of a new record number of cases, including over 300 relating to structural problems at the basis of some 3,000 repetitive cases. Provisional statistics for 2017 also demonstrate significant improvements in the execution of cases pending before the Committee for more than five years. More detailed information on the Committee of Ministers’ supervision of execution will be contained in its annual report 2017 (available in April 2018).

3. In this context, the Committee of Ministers notes that it significantly increased the resources of the Department for the Execution of Judgments in the biennium 2016-2017 (cf. paragraph 2.7 of the Assembly’s recommendation).

4. In response to paragraphs 2.1 and 2.2 of the recommendation, the Committee underlines that it considers the use of all the means at its disposal in the supervision of the execution of the Court’s judgments. In this vein, it has over the last years increased in an important manner the number of examinations of cases at its HR meetings to support ongoing execution processes. At its 1302nd meeting (DH) on 5 December, 2017, the Committee adopted Interim Resolution [CM/ResDH\(2017\)429](#), whereby it decided to refer to the Court, in accordance with Article 46 § 4 of the Convention, the question whether the Republic of Azerbaijan has failed to fulfil its obligation under Article 46 § 1 in respect of the Court judgment *Ilgar Mammadov v. Azerbaijan*.

1. Adopted at the 1306th meeting of the Ministers’ Deputies (7 February 2018).



5. The Committee of Ministers gives priority to pilot judgments revealing systemic problems (paragraph 2.3 of the recommendation). These cases are dealt with under the Committee's enhanced procedure. Also, at the end of November 2017, the Committee agreed to organise a thematic debate on the theme "Conditions of detention" at its 1310th meeting (DH) to be held on 13 to 15 March 2018. It will invite some of the main stakeholders of the Council of Europe to this debate, such as the Commissioner for Human Rights, the CPT and the European Committee on Crime Problems. Conditions of detention is one of the most important problems pending before the Committee of Ministers, affecting a range of member States and generating a high number of repetitive applications to the Court, and the objective of the thematic debate is to promote an exchange of views between States on different ways of addressing it, thus providing useful guidance. The debate will concentrate on problems linked to overcrowding, detention conditions and effectiveness of remedies.

6. Taking constant measures to improve its working methods, the Committee of Ministers has notably improved the transparency of its supervision (paragraph 2.4 of the recommendation) and, since June 2016, the list of cases which it is proposed to examine in detail at the next human rights meeting is published at the end of the preceding human rights meeting, giving any interested person or institution ample time to react. The right of international organisations and institutions to submit communications in relation to execution has also been formally recognised by the Committee by way of an amendment to the applicable rules (Rule 9) (paragraph 2.5 of the recommendation). It is recalled that applicants, civil society and national institutions for the protection of human rights already have this possibility. Furthermore, the relevant websites of the Committee of Ministers and the Department for the Execution of Judgments have been developed and equipped with powerful search engines (HUDOC-EXEC). A series of factsheets with basic information about the situation in respect of the execution of the Court's judgments in each member State has also been developed.

7. In addition, the Ministers' Deputies organised an event on 1 June 2017 to present the 10th annual report on the execution of the judgments with the participation of all relevant stakeholders within the Council of Europe, including the Parliamentary Assembly, and with national human rights institutions and civil society. This was one step in the Committee's effort to strengthen synergies between all the stakeholders concerned with the execution (paragraph 2.6 of the recommendation). The Committee fully shares the Assembly's opinion as to the necessity to do so. It welcomes the Assembly's efforts in this respect and refers also to the activities undertaken by the CDDH and to the Venice Commission's important work (see the enclosed comments from these bodies). In particular, the Committee supports and encourages the possible advisory role of the Venice Commission in the preparation of general measures of implementation of judgments. The Committee further notes that as from the 2016-2017 biennium, the terms of reference of all intergovernmental committees of the Council of Europe contain an instruction to take pertinent aspects of the Convention into consideration in their thematic work.

8. The Committee last evaluated its working methods in the autumn of 2017 and made some further adjustments regarding the order of business of the human rights meetings. The next evaluation will take place at the latest at the end of 2018.

9. Finally, the Committee of Ministers notes that the Department for the Execution of Judgments has regular exchanges with the Court and its Registry. The Department also works closely with national authorities to assist them with identifying adequate implementation measures. In line with the Assembly's recommendation (paragraph 2.8), the Committee encourages the Department to continue these exchanges and intensify them should the situation so require.

Appendix

Comments by the Steering Committee for Human Rights (CDDH)

1. The Steering Committee for Human Rights (CDDH) takes note of the Parliamentary Assembly [Recommendation 2110 \(2017\)](#) – “The implementation of judgments of the European Court of Human Rights”.
2. The CDDH notes that the issue of implementation of the Convention, including the execution of the Court’s judgments, was highlighted in several declarations of Ministerial conferences from 2010 onwards, the most recent one being the 2015 Brussels Declaration. The issue of execution of judgments and its supervision by the Committee of Ministers is one of the main themes of the CDDH’s ongoing work under its terms of reference to examine the longer-term future of the Convention system and the Court.²
3. In 2013, the CDDH identified three general causes of failure to execute judgments in a timely manner: (i) reluctance on the part of either the executive to propose measures or parliament to adopt legislation; (ii) substantive problems and technical complexity, e.g. need for a wide range of measures requiring co-ordination or extensive legal reforms; and (iii) inertia, being a simple failure to take action not linked to any particular political or technical consideration, but e.g. to a shortage of staff.³
4. Since 2014, regular exchanges of information on various issues connected to the execution of judgments have taken place within the relevant bodies of the CDDH, regarding *inter alia* the re-examination or reopening of cases following judgments of the Court⁴ as well as verification of the compatibility of legislation with the Convention.⁵ The CDDH has also taken an active part in a number of extraordinary events concerning execution.⁶
5. Concerning in particular rapid execution of judgments of the Court, the CDDH has in 2017 elaborated a Guide to good practices on the implementation of the Recommendation (2008)2 on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights. The Guide includes an inventory of good practices relating to implementation of the recommendation.⁷
6. Regarding the ideas put forward by the Assembly in its [Recommendation 2110 \(2017\)](#) to the Committee of Ministers, the CDDH wishes to submit the following comments:
 - 2.1. *give renewed consideration to the use of the procedures provided for in Article 46, paragraphs 3 to 5, of the Convention, in the event of implementation of a judgment encountering strong resistance from the respondent State*
7. It is worth recalling the CDDH’s 2008 Practical proposals for the supervision of the execution of judgments of the Court in situations of slow execution.⁸ This text contributed to the Committee of Ministers’ introduction of the ‘twin-track’ (standard and enhanced) supervision process. In 2013, the CDDH submitted its report on whether more effective measures are needed in respect of States that fail to implement Court judgments in a timely manner.⁹ The 2017 Guide to good practices on the implementation of the

2. See the terms of reference for the biennium 2018-2019 for the CDDH and the DH-SYSC. In the 2015 CDDH report on the longer-term future of the system of the European Convention on Human Rights, execution of judgments and its supervision were identified as one of four overarching areas that are crucial for the longer-term effectiveness and viability of the Convention system. In its contribution to the Brussels Conference, the CDDH affirmed that full and rapid execution of judgments of the Court, in accordance with Article 46, is essential for the effective functioning of the Convention system.

3. CDDH report on whether more effective measures are needed in respect of States that fail to implement Court judgments in a timely manner, 2013, document CDDH(2013)R79 Addendum I, §§ 6-7.

4. See document DH-GDR(2014)R6, Item 5.

5. “Overview of the exchange of views held by the DH-SYSC at its 1st meeting (25-27 April 2016) on the verification of the compatibility of legislation with the Convention (arrangements, advantages, obstacles)”, document DH-SYSC(2016)013REV.

6. In particular, the Multilateral Round Table on “Reopening of proceedings following a judgment of the European Court of Human Rights” (Strasbourg, 5–6 October 2015) and the International Conference “Enhancing national mechanisms for effective implementation of the European Convention on Human Rights”(Saint-Petersburg, 22-23 October 2015). In addition, a conference on “The long-term future of the European Court of Human Rights” was organised in Oslo in April 2014 by the Norwegian research centre PluriCourts under the aegis of the Council of Europe with the active participation of the CDDH.

7. See document CDDH(2017)R87 Addendum I.

8. See document CDDH(2008)014 Addendum II.

9. See document CDDH(2013)R79 Addendum I. The text was examined by the Ministers’ Deputies following receipt of comments by the Court. For the Court’s comments, see “Reply of the European Court of Human Rights to Committee of Ministers’ request for comments on the CDDH Report on Execution”, document [DD\(2014\)650](#).

Recommendation CM/Rec(2008)2 examined in particular the role of the co-ordinator in identifying execution measures, practices ensuring the visibility of and promoting sufficient acquaintance with the execution process, the co-operation of member States with the Committee of Ministers and the Department for the Execution of Judgments, as well as the means to prevent or resolve a significant persistent problem in the execution process.

8. The CDDH is following with interest the recent developments in the area the of procedures provided for in Article 46, paragraphs 3 to 5, of the Convention, regarding both individual measures¹⁰ relating to individual applicants and general measures¹¹ to address systemic shortcomings.

9. In its work on civil society and national human rights institutions, the CDDH has noted that in the case of systemic shortcomings in the protection and promotion of human rights, many of the judgments of the Court concerning such situations have yet to be implemented through the adoption of general measures.¹²

10. At the same time, the CDDH is continuing its work by producing a compilation of good practices regarding the general measures taken by member States aimed at executing judgments of the Court concerning human rights defenders, national human rights institutions, and freedom of assembly and association.¹³

2.5. give applicants, civil society, national human rights protection bodies and international organisations a greater role in this process

11. The Brussels Declaration¹⁴ reiterated the need to involve national human rights institutions and civil society where appropriate in the supervisory mechanism established by the Convention. In the same light, the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements¹⁵ make provision for the involvement of national human rights protection bodies and civil society in the process of the supervisory mechanism concerning the implementation of judgments of the Court. The CDDH relied significantly upon the jurisprudence of the Court in its analysis on the impact of current national legislation, policies and practices on the activities of civil society organisations, human rights defenders and national human rights institutions. NHRIs can improve the implementation of human rights at the national and local level through their broad mandate to protect and promote human rights. According to the Paris Principles, they also co-operate with civil society, other national bodies and the international human rights system. Applicants could be invited, when appropriate, to actively collaborate in the execution of judgments.

2.6. continue to strengthen synergies, within the Council of Europe, between all the stakeholders concerned, in particular the European Court of Human Rights and its Registry, the Assembly, the Secretary General, the Commissioner for Human Rights, the Steering Committee for Human Rights, the European Commission for Democracy through Law (Venice Commission) and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

12. The CDDH, through its subcommittee the DH-SYSC, will work in close synergy and co-operation with other relevant Council of Europe instances and activities.¹⁶ One example of such synergy in practice, albeit in a different area than the execution of the Court's judgments, is the close interaction between the CDDH, the Court and its Registry, the PACE and the Advisory Panel of Experts on Candidates for Election as Judge to the Court in the work undertaken within the CDDH concerning the process of selection and election of judges of the Court.¹⁷ The CDDH and its subcommittees work in their activities in close synergy with the Department

10. See notably the case of Ilgar Mammadov v. Azerbaijan, Application No. 15172/13, Judgment of 22 May 2014, European Court of Human Rights.

11. See notably the case of Burmych and Others v. Ukraine, Applications Nos. 46852/13 et al., Judgment of 12 October 2017 (Grand Chamber), European Court of Human Rights.

12. "Analysis on the impact of current national legislation, policies and practices on the activities of civil society organisations, human rights defenders and national institutions for the promotion and protection of human rights", see document CDDH(2017)R87 Addendum IV, § 276.

13. Ibid., § 277.

14. Brussels Declaration, 2015, Preamble, Recital 7.

15. 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, as amended by the Ministers' Deputies at their 1275th meeting, 18 January 2017.

16. CDDH report on the longer-term future of the system of the European Convention on Human Rights, 2015, document CDDH(2015)R84 Addendum I, §§ 158, 170 ii), vi).

17. This work is currently being undertaken within the framework of follow-up to the 2015 CDDH report on the longer-term future of the system of the Convention, which in turn is the result of intergovernmental work undertaken in response to §§ 35.c-f of the Brighton Declaration.

for the Execution of Judgments. One example of this co-operation is the latter's presentation of the search tool HUDOC-EXEC and of information on the state of execution of the Court's judgments prior to the 2nd meeting of the DH-SYSC in 2016.¹⁸

2.7. increase the resources of the Department for the Execution of Judgments of the European Court of Human Rights

13. In its 2015 report on the longer-term future of the Convention system, the CDDH has underlined the significance of the bodies dealing with the supervision of the execution of judgments of the Court (e.g. the Committee of Ministers assisted by its Secretariat and the Department for the Execution of Judgments of the Court) having sufficient capacity to process effectively the high number of cases decided by the Court.¹⁹ Support for increased resources for the Department of Execution of Judgments was also expressed in the 2015 Brussels Declaration.

Conclusion

14. The CDDH emphasises to the Parliamentary Assembly that the long-term efficacy of the Convention, including the implementation of the Court's judgments, rests on the enhanced dialogue between all actors of the Convention. In this regard, the Council of Europe will continue its work in the upcoming months with the aim of enhancing, at every stage of the process, this dialogue which is beneficial to the execution of judgments.

Comments by the Venice Commission

I. Introduction

1. On 5 July 2017, the Committee of Ministers of the Council of Europe decided to communicate to the Venice Commission the Parliamentary Assembly of the Council of Europe (PACE) [Recommendation 2110 \(2017\)](#) on the "Implementation of judgments of the European Court of Human Rights" for information and possible comments.

2. In its [Recommendation 2110 \(2017\)](#) adopted on 29 June 2017, the PACE urged the Committee of Ministers to use all available means to fulfill its tasks arising under Article 46.2 of the European Convention on Human Rights (ECHR). Accordingly, it recommended, *inter alia*, that the Committee of Ministers continue to step up synergies, within the Council of Europe, between all stakeholders concerned, in particular the European Court of Human Rights (ECtHR) and its Registry, the PACE, the Secretary General, the Commissioner for Human Rights, the Steering Committee for Human Rights, the Venice Commission and the European Committee for the Prevention of Torture.

3. These comments were prepared on the basis of a contribution of Mr Helgesen; they were adopted by the Venice Commission at its 112th plenary session (Venice, 6-7 October 2017).

II. Previous work of the Venice Commission in this field

A. General studies and reports

18. At the request of the Chairperson of the Committee on Legal Affairs and Human Rights of the PACE, the Venice Commission adopted in 2002 an "Opinion on the implementation of the judgment of the European Court of Human Rights", in which it assessed the existing proposals and made a number of recommendations on this issue. As expressed in this opinion, the Venice Commission attaches high importance to the timely and complete execution of the ECtHR judgments for the effectiveness of the European mechanism of human rights protection.²⁰

19. The Venice Commission carried out in 2006 a comparative study on existing national remedies with respect to allegations of excessive length of proceedings, with a view to proposing possible improvements in their availability and effectiveness.²¹ The study aimed at assisting States in devising a remedy or improving

18. See document DH-SYSC(2016)R2, § 3.

19. CDDH report on the longer-term future of the system of the European Convention on Human Rights, 2015, document CDDH(2015)R84 Addendum I, §§ 136, 156, 170 iii).

20. Opinion on the Implementation of the Judgments of the European Court of Human Rights (CDL-AD(2002)34, § 48).

21. Report on the effectiveness of national remedies in respect of excessive length of proceedings (CDL-AD(2006)036rev, § 2).

an already existing one in order for it to be compatible with the requirements of the ECtHR. It was also designed to assist the Committee of Ministers in monitoring compliance with such requirements. In fact, the effectiveness of national judicial remedies with respect to the length of proceedings is of primary importance for the execution of numerous judgments that found a breach of the reasonable time requirement.

20. In a report adopted in 2014, the Venice Commission analysed, in the broader context of the implementation of international human rights treaties in national law, the role of national courts in implementing ECHR and ECtHR judgments.²²

B. Country-specific opinions

a. Opinions relating to European human rights standards

21. The Venice Commission has repeatedly received from PACE and member States requests for an assessment of the compatibility of a legal act or of a practice with the ECHR. Indeed, most opinions of the Venice Commission are directly or indirectly related to at least one judgment of the ECtHR or one article of the ECHR or the Protocols thereto. This is very well demonstrated by the great number of references made to the ECtHR caselaw in the Venice Commission's opinions and studies. Indeed, when it assesses the compatibility of a piece of legislation with European human rights standards, the Venice Commission obviously refers to the ECHR and the ECtHR caselaw.²³

22. By referring to the ECtHR caselaw, while assessing a particular legal provision or practice, the Venice Commission draws the national authorities' attention to the incompatibility between the latter and the fundamental rights enshrined by the ECHR or the Protocols thereto.²⁴ It makes, where appropriate, specific recommendations on how to amend (draft) legislation or change a practice to be fully in line with the ECHR requirements.²⁵ In the event, the ECtHR has already identified a shortcoming in a particular piece of legislation or practice, the Venice Commission verifies whether a (draft) amendment subject to its opinion has succeeded or partially or completely failed to address the shortcoming in question.²⁶

23. The Venice Commission is aware of the fact that the question of the execution of judgments of the ECtHR is of exclusive competence of the Committee of Ministers. That being said, the aforementioned practice of the Commission may usefully contribute to a better execution of the ECHR judgments.

22. Report on the implementation of international human rights treaties in domestic law and the role of courts (CDL-AD(2014)036).

23. See, amongst many others, Opinion on Russian federal law No. 129-fz on amending certain legislative acts (Federal law on undesirable activities of foreign and international non-governmental organisations) (CDL-AD(2016)020); Opinion on the draft Amendments to the Media Law of Montenegro (CDL-AD(2015)004); Opinion on the Draft Law of the Republic of Armenia making a supplement to the Penitentiary Code of the Republic of Armenia (CDL-AD(2011)024).

24. See in this regard, amongst many others, Joint Opinion of the Venice Commission, the Directorate of Human Rights (DHR) of the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe and the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) on two Draft Laws on Guarantees for Freedom of Peaceful Assembly of Ukraine (CDL-AD(2016)030), §§ 71, 74; Opinion on the issue of the prohibition of so-called "Propaganda of homosexuality" in the light of recent legislation in some Council of Europe member States (CDL-AD(2013)022, §§ 78-83).

25. See, amongst many others, Opinion on the Act of 15 January 2016 amending the Police Act and certain other Acts (CDL-AD(2016)012, § 133); Opinion on the Legal Framework governing Curfews (CDL-AD(2016)010, §§ 98-100); Joint Opinion on the draft Law on the Prosecution Service of the Republic of Moldova (CDL-AD(2015)005, §§ 52, 111, 140); Joint Opinion on the draft Election Code of Bulgaria (CDL-AD(2014)001, §§ 30, 72, 85); Opinion on the Draft Law of the Republic of Armenia making a supplement to the Penitentiary Code of the Republic of Armenia (CDL-AD(2011)024, § 42).

26. See in this regard, amongst others, Opinion on the Law on non-governmental Organisations (Public Associations and Funds) as amended of the Republic of Azerbaijan (CDL-AD(2014)043, §§ 38, 83-84, 45-46, 61); Joint Opinion of the Venice Commission and the Directorate General of Human Rights (DHR) and the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe on the draft law on amending and supplementing certain legislative acts, promoted by the intelligence and security service of the Republic of Moldova (CDL-AD(2014)009, §§ 12, 32, 46, 51, 52, 55, 57, 68, 75, 91); Opinion on the Law on political parties of the Russian Federation (CDL-AD(2012)003, §§ 8, 10, 33, 54); Opinion on the compatibility with human rights standards of the legislation on non-governmental organisations of the Republic of Azerbaijan (CDL-AD(2011)035, §§ 46-47, 64, 109-111, 115); the joint opinion on the Electoral Code of Moldova in place since 10 April 2008 (CDL-AD(2008)022, paragraphs 19 to 21); the joint opinion on the Electoral Code of Moldova as amended on 22 July and on 4 and 17 November 2005 by the Venice Commission and the ODIHR/OSCE (CDL-AD(2006)001, paragraphs 88 and 114).

b. Opinions specifically requested within the framework of a procedure of execution of judgments of the ECtHR

24. The Venice Commission has at times been requested to express its view on general measures adopted with the special purpose to execute judgments of the ECtHR. The following opinions fall under this category:

- Joint Opinion of the Venice Commission, the Directorate of Human Rights (DHR) of the Directorate General of Human Rights and Rule of Law (DGI) of the Council of Europe and the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) on two Draft Laws on Guarantees for Freedom of Peaceful Assembly of Ukraine (CDL-AD(2016)030). This opinion was requested by the Speaker of the *Verkhovna Rada* (Parliament) of Ukraine. It concerns two Draft Laws on “Guarantees for Freedom of Peaceful Assembly” prepared in order to fill the existing legislative lacuna in this area, as highlighted by the ECtHR in its *Vyerentsov v. Ukraine* judgment (Application No. 20372/11, 14 April 2013).
- Preliminary Opinion on the Draft Law on the Judicial System and the Status of Judges of Ukraine (CDL-AD(2015)008). This opinion was requested by the Minister of Justice of Ukraine. It relates to the Draft Law on Amending the Law on the Judicial System and the Status of Judges of Ukraine, which aimed to remedy a number of deficiencies in the judicial system that the Venice Commission and the Directorate General of Human Rights and Legal Affairs had pointed out in their 2010 Joint Opinion²⁷ and fulfil the requirements of the ECtHR judgment in the case of *Oleksandr Volkov v. Ukraine* (Application No. 21722/11, judgment of 9 January 2013).
- Joint Opinion of the Venice Commission and the Directorate of Human Rights (DHR) of the Directorate of Human Rights and Rule of Law (DGI) of the Council of Europe on the Draft Laws amending the Administrative, Civil and Criminal Codes of Georgia (CDL-AD(2014)030). This opinion was requested by the Minister of Justice of Georgia. It relates to the draft amendments to the Administrative, Civil and Criminal Procedure Codes of Georgia which introduced the possibility of cassation appeal in case “the decision of the appeal court contradicts the precedent decision(s) of the European Court of Human Rights in case(s) in which Georgia was a party.”
- Opinion on the Draft Law on making changes and additions to the Civil Code (introducing compensation for non-pecuniary damage) of the Republic of Armenia (CDL-AD(2013)037), requested by the Permanent Representative of the Republic of Armenia to the Council of Europe. The Draft Law had introduced compensation for non-pecuniary damages into the Armenian civil law in specific, limited circumstances, in order to implement Armenia’s obligations under the ECHR and properly execute the judgments of the ECtHR in the cases *Poghosyan and Baghdasaryan v. Armenia* (Application No. 22999/06, Judgment of 12 June 2012) and *Khachatryan and Others v. Armenia* (Application No. 23978/06, Judgment of 27 November 2012).
- Opinion on the legislation pertaining to the protection against defamation of the Republic of Azerbaijan (CDL-AD(2013)024). This opinion concerning the Draft Law on defamation was prepared by the Venice Commission following a request from the Presidential Administration of the Republic of Azerbaijan. The latter had requested the assistance of the Venice Commission in drafting a Law on Defamation as part of the execution of two judgments of the ECtHR²⁸, in which the Court had found violations by Azerbaijan of Article 10 of the ECHR.
- Opinion on the Draft Law on Amendments and Additions to the Law on Alternative Service of Armenia (CDL-AD(2011)051). This opinion was requested by the Chairman of the Standing Committee on Defense, National Security and Internal Affairs of the National Assembly. It concerns the Draft Law on Amendments and Additions to the Law on Alternative Service of the Republic of Armenia which was an important step forward for the execution of the Grand Chamber Judgment in the case of *Bayatyan v. Armenia* of 7 July 2011 (Application No. 23459/03).

25. In the aforementioned opinions, the Venice Commission and the Directorate of Human Rights made a number of specific suggestions aiming to improve the Draft Laws submitted for assessment in order for them to be fully in line with the relevant ECtHR caselaw.

27. Joint Opinion on the law on the judicial system and the status of judges of Ukraine by the Venice Commission and the Directorate of Co-operation within the Directorate General of Human Rights and Legal Affairs of the Council of Europe (CDL-AD(2010)026).

28. Mahmudov and Agazade v. Azerbaijan, Application No. 35877/04, Judgment of 18 December 2008, and Fatullayev v. Azerbaijan, Application No. 40984/07, Judgment of 22 April 2010.

26. The Venice Commission received as well an *amicus curiae* brief request from the President of the Constitutional Court of Albania on the conformity of Law No. 133/2015 of the Republic of Albania “On the treatment of property and finalisation of the process of compensation of property” with the requirements of Article 1, Protocol No. 1 to the ECHR and the respective caselaw of the ECtHR. Law No. 133/2015 aimed to resolve the administrative problems concerning the effective restitution of property and concerned, at the time of writing the *amicus curiae* brief, around 230 cases pending before the ECtHR and over 15 cases under the supervision of the Committee of Ministers. The Venice Commission concluded that in Albania's specific situation, it could well be argued that a new and effective legal framework provided by Law No.133/2015, which may lead to a lower amount of compensation paid to the former owners, meets the requirement of proportionality as set out in Article 1 of Protocol No.1 to the ECHR.²⁹

27. The Venice Commission has also received similar requests from PACE which, for instance, in its [Resolution 1920 \(2013\)](#) on the state of media freedom in Europe, requested an opinion on “whether the Italian laws on defamation are in line with Article 10 of the European Convention on Human Rights”. The Venice Commission assessed the legislative amendments aimed at limiting the use of criminal sanctions for defamation and introducing the abolishment of imprisonment as a sanction for defamation, in line with the relevant ECtHR judgments against Italy. The Venice Commission considered the aforesaid amendments as a welcome effort to bring the Italian legal framework pertaining to defamation into conformity with the ECHR requirements³⁰

28. Lastly, the Venice Commission assessed the compatibility of legislative amendments with the ECHR related to the power of the Russian Constitutional Court on declaring the decisions of international courts, notably of the ECtHR, as “unenforceable” when their execution raises issues of constitutionality. In this opinion, requested by PACE, the Venice Commission emphasised once again the utmost importance of the execution of judgments of the ECtHR, which is, in its view, an unequivocal and imperative legal obligation, whose respect is vital for preserving and fostering the community of principles and values of the European continent.³¹

C. Conferences and other similar events

29. Furthermore, the Venice Commission has co-organised³² in co-operation with various partners or simply participated in a number of conferences, seminars, and similar events on the European Convention mechanism including the issues linked to the execution of the ECtHR judgments.³³

29. Amicus Curiae Brief for the Constitutional Court on the restitution of property (CDL-AD(2016)023, §§ 1, 11, 18, 54).

30. Opinion on the legislation on defamation of Italy (CDL-AD(2013)038, §§ 1, 59, 83).

31. Final Opinion on the Amendments to the Federal Constitutional Law on the Constitutional Court of the Russian Federation (CDL-AD(2016)016, § 38).

32. For instance the 13th International Forum on Constitutional Justice “ECHR in the 21st Century: Practice, Problems and Prospects of Implementation” co-organised with the Constitutional Court of the Russian Federation, the Institute of Law and Public Policy and the St. Petersburg State University in St Petersburg from 18 to 20 November 2010; the Conference on “Remedies for unduly lengthy proceedings: a new approach to the obligations of Council of Europe member States” co-organised with the Ministry of Foreign Affairs of Romania in Bucharest on 3 April 2006; the Conference on “The interaction of National Courts with European Courts” co-organised with the Constitutional Court of Georgia, USAID Georgia, ABA Rule of Law Initiative and the Open Society Georgia Foundation in Batumi from 6 to 7 November 2007; the Conference on “Remedies for unduly lengthy proceedings: a new approach to the obligations of Council of Europe member States” organised in co-operation with the Romanian Minister of Justice in Bucharest on 3 April 2006.

33. Representatives of the Venice Commission participated in a conference on “The impact of the European Convention on Human Rights on the Constitution of Bosnia and Herzegovina and the Electoral Code” held on 28 January 2010 in Sarajevo and in a conference on “Challenges of Implementation of the Judgments of the European Court of Human Rights: Dialogues about Prisoner’s Voting” co-organised by the Council of Europe, Moscow State University, PluriCourts/ University of Oslo, University of Durham, Higher School on Economics and University of Surrey, in Moscow, on 30 October 2015.

III. Conclusions

30. The Venice Commission has, on so many previous occasions, emphasised the legal aspects involved in the execution of judgments by ECtHR. At this juncture, the Commission reiterates the statements presented already in 2002:

“49. The issue of execution is central in any system of judicial review. It is, however, especially pertinent and problematic, and indeed “the crucial question”, for international jurisdictions, since execution lies mainly in the hands of sovereign States. And this the more so if the cohesiveness within the community of States concerned is weak or has weakened, and if the international judicial body has no power to put a sanction on non-execution of its judgments.

50. It may be argued that since the Court has so far seen itself as having almost no means to promote the execution of its judgments and the supervision is in the hands of the Committee of Ministers, the issue of execution is a political rather than a legal issue. However, States are under a legal obligation to execute the judgments of the Court (see para. 28 above). In that respect, the issue of execution and its supervision is also a legal one and, consequently, justifies also a legal approach.”³⁴

31. The Venice Commission stands ready to play a more active role in this field, within the framework of the procedures of execution of judgments of the ECtHR. The Commission's legal opinions can be useful for the Committee of Ministers in deciding whether general measures taken by member States should be considered as sufficient to close the supervision of the execution of a judgment or a group of judgments. They can, on the other hand, assist the member States in bringing their existing legislation which generated violations of the ECHR into conformity with the latter and in ensuring compliance of their draft legislation with the ECHR before being adopted, thus avoiding further violations.

32. The Venice Commission has the possibility of preparing these opinions jointly with other services of the Council of Europe, thus streamlining the synergies already existing within our Organisation.

33. The Commission is also well placed to carry out research and prepare general studies, notably from a comparative perspective, with the aim of contributing to the execution of judgments of the ECtHR.

34. The Venice Commission therefore encourages the relevant organs of the Council of Europe as well as member States to take full advantage of its expertise for strengthening the execution of judgments of the ECtHR.

34. Opinion on the implementation of the judgments of the European Court of Human Rights (CDL-AD(2002)34, §§ 49-50).