



## Resolution 2358 (2021)<sup>1</sup>

# Implementation of judgments of the European Court of Human Rights

Parliamentary Assembly

1. Although primary responsibility for supervision of the implementation of judgments of the European Court of Human Rights (“the Court”) lies with the Committee of Ministers in accordance with Article 46.2 of the European Convention on Human Rights (ETS No. 5, “the Convention”), signed nearly seventy years ago, the Parliamentary Assembly has significantly contributed to this process since its [Resolution 1226 \(2000\)](#) on the execution of judgments of the European Court of Human Rights, as stressed in its [Resolution 2277 \(2019\)](#) entitled “Role and mission of the Parliamentary Assembly: main challenges for the future”.
2. The Assembly recalls in particular its [Resolutions 2178 \(2017\)](#), [2075 \(2015\)](#), [1787 \(2011\)](#), [1516 \(2006\)](#) and [Recommendations 2110 \(2017\)](#) and [2079 \(2015\)](#) on the implementation of judgments of the European Court of Human Rights, in which it promoted national parliaments’ involvement in this process. It also recalls that the implementation of a Court judgment, required by Article 46.2 of the Convention, may relate not only to the payment of just satisfaction awarded by the Court, but also to the adoption of other individual measures (aimed at *restitutio in integrum* for applicants) and/or general measures (aimed at preventing fresh violations of the Convention).
3. Since last examining this question in 2017, the Assembly notes further progress in the implementation of Court judgments, notably a constant reduction in the number of judgments pending before the Committee of Ministers (5 231 at the end of 2019) and the adoption of individual and general measures in many complex cases that are still pending. This shows the efficiency of the reform of the Convention system started in 2010 after the High-Level Conference on the future of the European Court of Human Rights in Interlaken and the impact of Protocol No. 14 to the Convention (CETS No. 194), which entered into force in June 2010, in response to the extremely critical situation of the Court and over 10 000 judgments pending before the Committee of Ministers at that time. The Assembly welcomes the measures taken by the Committee of Ministers to make its supervision of the implementation of Court judgments more efficient, and the synergies that have been developed in this context within the Council of Europe as well as between its bodies and national authorities.
4. However, the Assembly remains deeply concerned over the number of cases revealing structural problems that have been pending before the Committee of Ministers for more than five years. The number of such cases has only slightly decreased over the last three years. The Assembly also notes that the Russian Federation (including illegally annexed Crimea and temporarily occupied territories of the Donetsk and Luhansk regions), Turkey, Ukraine, Romania, Hungary, Italy, Greece, the Republic of Moldova, Azerbaijan and Bulgaria have the highest number of non-implemented Court judgments and still face serious structural or complex problems, some of which have remained unresolved for over ten years. This might be due to deeply rooted problems such as persistent prejudice against certain groups in society, inadequate management at national level, a lack of necessary resources or political will or even open disagreement with the Court’s judgment.

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1. *Assembly debate* on 26 January 2021 (3rd Sitting) (see [Doc. 15123](#) and [addendum](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Constantinos Efsthathiou). *Text adopted by the Assembly* on 26 January 2021 (3rd Sitting).

See also [Recommendation 2193 \(2021\)](#).



5. The Assembly is particularly concerned by the increasing legal and political difficulties surrounding the implementation of the Court's judgments and notes that any national legislative or administrative measure cannot add further obstacles to this process. The Assembly stresses that member States are not entitled to legitimise the possibility of not implementing the Court's decisions.

6. The Assembly further expresses its concern about the obstacles to the implementation of the Court's judgments delivered in inter-State cases or showing inter-State features. It calls on all States Parties to the Convention involved in the process of implementation of such judgments not to hinder this process and to fully co-operate with the Committee of Ministers.

7. The Assembly once again condemns the delays in implementing the Court's judgments and recalls that the legal obligation for the States Parties to the Convention to implement the Court's judgments is binding on all branches of State authority and cannot be avoided through the invocation of technical problems or obstacles which are due, in particular, to the lack of political will, lack of resources or changes in national legislation, including the constitution.

8. Thus, almost seventy years after the signing of the Convention, the Assembly invites all States Parties to the Convention to reaffirm their primordial commitment to the protection and promotion of human rights and fundamental freedoms, in particular through full, effective and swift implementation of the judgments and the terms of friendly settlements handed down by the Court. For this purpose, it strongly calls on States Parties to the Convention to:

8.1. co-operate, to that end, with the Committee of Ministers, the Court and the Department for the Execution of Judgments of the European Court of Human Rights, as well as with other relevant Council of Europe bodies;

8.2. submit action plans, action reports and information on the payment of just satisfaction to the Committee of Ministers in a timely manner; and to provide replies to submissions made by applicants, national institutions for the promotion and protection of human rights (NHRIs) and non-governmental organisations (NGOs) under Rule 9 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements;

8.3. provide for effective domestic remedies to address violations of the Convention;

8.4. pay particular attention to cases raising structural or complex problems identified by the Court or the Committee of Ministers, especially those pending for over ten years;

8.5. not adopt laws or other measures that would hinder the process of implementation of the Court's judgments;

8.6. take into account the relevant opinions of the European Commission for Democracy through Law (Venice Commission) when taking measures aimed at implementing the Court's judgments;

8.7. provide sufficient resources to relevant Council of Europe bodies and national stakeholders responsible for implementing Court judgments, including government agents' offices, and encourage them to co-ordinate their work in this area;

8.8. strengthen the role of civil society and NHRIs in the process of implementing the Court's judgments;

8.9. condemn statements discrediting the Court's authority and attacks against government agents working for the implementation of the Court's judgments and NGOs working for the promotion and the protection of human rights.

9. In light of the Venice Commission's Opinion No. 981/2020 of 18 June 2020 on draft amendments to the Constitution (as signed by the President of the Russian Federation on 14 March 2020) related to the execution in the Russian Federation of decisions by the European Court of Human Rights, the Assembly calls on the Russian Federation to change the recent amendments to Articles 79 and 125.5.b of the constitution.

10. Referring to its [Resolution 1823 \(2011\)](#) "National parliaments: guarantors of human rights in Europe", the Assembly calls on the national parliaments of Council of Europe member States to implement the "Basic principles for parliamentary supervision of international human rights standards", included in the appendix to that resolution. In this context, it stresses once again the need to establish parliamentary structures to monitor compliance with international human rights obligations, and in particular those stemming from the Convention and the Court's case law.

11. The Assembly calls on Council of Europe member States which have not yet ratified Protocols Nos. 15 and 16 to the Convention (CETS Nos. 213 and 214) to do so rapidly.
12. In view of the urgent need to speed up implementation of the Court's judgments, the Assembly resolves to remain seized of this matter and to continue to give it priority.