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**(Final version)**

## **Implementation of judgments of the European Court of Human Rights**

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## A. Draft Resolution

1. Although primary responsibility for supervision of the implementation of judgments of the European Court of Human Rights ("the Court"), signed nearly 70 years ago, lies with the Committee of Ministers in accordance with Article 46.2 of the European Convention on Human Rights (ETS No 5, "the Convention"), since its Resolution 1226 (2000), the Parliamentary Assembly has significantly contributed to this process, as stressed in its recent Resolution 2277 (2019) on the "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, which are still pending. This shows the efficiency of the reform of the Convention system started in 2010 after the high-level conference in Interlaken and the impact of Protocol No. 14 to the Convention, 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 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, 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 not been resolved 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, lack of

### **Amendment 1**

**Tabled by Mr Sergiy VLASENKO, Mr Oleksii GONCHARENKO, Ms Olena KHOMENKO, Mr Serhii SOBOLIEV, Ms Yuliia OVCHYNNYKOVA on behalf of the Committee on Legal Affairs and Human Rights**

*In the draft resolution, paragraph 4, after the words:*

*"The Assembly also notes that the Russian Federation", insert the following words: "(including illegally annexed Crimea and temporarily occupied territories of Donetsk and Luhansk regions)".*

necessary resources or political will or even open disagreement with the Court's judgment.

5. The Assembly is particularly concerned with 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 obstacle to this process.

**Amendment 5**

**Tabled by Mr Alexander BASHKIN, Mr Leonid KALASHNIKOV, Mr Petr TOLSTOI, Ms Irina RUKAVISHNIKOVA, Mr Vladimir KRUGLYI, Mr Leonid SLUTSKIY, Ms Svetlana ZHUROVA on behalf of the Committee on Legal Affairs and Human Rights**

*In the draft resolution, paragraph 5, after the words:*

*"The Assembly is particularly concerned with the", replace the rest of the paragraph with the following words: "existing legal and political difficulties surrounding the implementation of the Court's judgments, and notes that national legislative or administrative measures shall aid the process of implementation of the judgments of the European Court of Human Rights".*

**Amendment 3**

**Tabled by Mr Sergiy VLASENKO, Mr Oleksii GONCHARENKO, Ms Olena KHOMENKO, Mr Serhii SOBOLIEV, Ms Yuliia OVCHYNNYKOVA on behalf of the Committee on Legal Affairs and Human Rights**

*In the draft resolution, paragraph 5, insert the following sentence at the end of the paragraph:*

*"The Assembly stresses the inadmissibility of member States to legitimise the possibility of non-implementation of the Court's decisions".*

6. The Assembly further expresses its concern for the obstacles to the implementation of the Court's judgments delivered in inter-States 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.

**Amendment 6**

**Tabled by Mr Alexander BASHKIN, Mr Leonid KALASHNIKOV, Mr Petr TOLSTOI, Ms Irina RUKAVISHNIKOVA, Mr Vladimir KRUGLYI, Mr Leonid SLUTSKIY, Ms Svetlana ZHUROVA**

*In the draft resolution, replace paragraph 7 with the following paragraph:*

*"The Assembly reiterates its concern regarding delays in the implementation of the Court's judgments and reminds Convention Member States that they are legally obliged to comply with the Court's judgments, this obligation is binding on all branches of the Government and cannot be evaded by appealing to technical problems or obstacles arising in particular from the lack of political will and lack of resources."*

8. Thus, almost 70 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 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 to 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' and NGOs working for the promotion and the protection of human rights.

9. Referring to its Resolution 1823 (2011) "National parliaments: guarantors of human rights in Europe", the

**Amendment 4  
Tabled by the Committee on Legal Affairs  
and Human Rights**

*In the draft resolution, after paragraph 8, insert the following paragraph:*

*"In light of the Venice Commission's opinion 981/2020 of 18 June 2020, the Assembly calls on the Russian Federation to change the recent amendments to Articles 79 and 125.5.b to the constitution."*

**Amendment 7  
Tabled by Mr Alexander BASHKIN, Mr Leonid KALASHNIKOV, Mr Petr TOLSTOI, Ms Irina RUKAVISHNIKOVA, Mr Vladimir KRUGLYI, Mr Leonid SLUTSKIY, Ms Svetlana ZHUROVA on behalf of the Committee on Legal Affairs and Human Rights**

*In the draft resolution, delete paragraph 8.9.*

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 the latter 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.

10. The Assembly calls on Council of Europe member States which have not yet ratified Protocols Nos. 15 and 16 to the Convention to do so rapidly.

**Amendment 2**

**Tabled by Mr Sergiy VLASENKO, Mr Oleksii GONCHARENKO, Ms Olena KHOMENKO, Mr Serhii SOBOLIEV, Ms Yuliia OVCHYNNYKOVA on behalf of the Committee on Legal Affairs and Human Rights**

*In the draft resolution, after paragraph 10, insert the following paragraph:*

*“The implementation of the Court’s decisions should be a priority for the State, the Assembly calls on all State Parties to legally facilitate the admissibility and enforcement of all ECHR judgments”.*

11. 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.

## B. Draft Recommendation

1. Referring to its Resolution ... (2020) on the implementation of judgments of the European Court of Human Rights, the Parliamentary Assembly welcomes the measures taken by the Committee of Ministers to fulfil its tasks arising under Article 46.2 of the European Convention on Human Rights (ETS No. 5, “the Convention”) and improve the efficiency of its supervision of the implementation of judgments of the Court. In particular it welcomes the use of the procedures provided for in Article 46, paragraphs 3 to 5, of the Convention in the case of *Ilgar Mammadov v. Azerbaijan*.
2. As the implementation of Court’s judgments still presents many challenges, the Assembly recommends that the Committee of Ministers:
  - 2.1. continue to use all available means (including interim resolutions) to fulfil its tasks arising under Article 46.2 of the Convention;
  - 2.2. use once again 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; however, this should continue to be done sparingly and in very exceptional circumstances;
  - 2.3. give priority to leading cases pending for over five years;
  - 2.4. consider transferring leading cases examined under standard procedure and pending for over ten years to enhanced supervision procedure;
  - 2.5. continue to take measures aimed at ensuring greater transparency of the process of supervision of the implementation of Court judgments and a greater role for applicants, civil society and national institutions for the protection and promotion of human rights in this process;
  - 2.6. continue to organise thematic debates on the execution of the Court’s judgments during its meetings and consider organising special debates on leading cases pending for over ten years;
  - 2.7. continue to increase the resources of the Department for the Execution of Judgments of the European Court of Human Rights;
  - 2.8. continue to step up synergies, within the Council of Europe, between all the stakeholders concerned, in particular the Court and its Registry, the Parliamentary Assembly, the Secretary General, the Commissioner for Human Rights, the Steering Committee for Human Rights (CDDH), the European Commission for Democracy through Law (Venice Commission), the European Committee for the Prevention of Torture (CPT) and the Human Rights Trust Fund (HRTF);
  - 2.9. regularly inform the Assembly about judgments of the Court whose implementation reveals complex or structural problems and requires legislative action;

- 2.10. rapidly finalise its evaluation of the reform of the Convention system following the 2010 Interlaken high-level conference.