



EU-RUSSIA CIVIL SOCIETY FORUM
ГРАЖДАНСКИЙ ФОРУМ ЕС-РОССИЯ

Policy paper

**Recommendations of the Working group “Human Rights and the Rule of Law”
as regards execution of the European Court decisions**

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The Working group “Human Rights and the Rule of Law” of Civil society Forum EU-Russia considers the system of the European court as an effective mechanism created in order to protect human rights. At the same time the raising number of complains waiting for been judged demonstrates the need of changes of the system which is not able to handle an avalanche of complaints. In 2006 the backlog stood at 86,000. At the moment there over 160,000 applications pending and every year there are 20,000 new cases. Russia, together with Italy, Poland, Romania, Turkey and Ukraine, is one of the countries, which provide 70 percent of all the applications. All these countries are “persistent defaulters”, which means that most of their applications are repetitive. To a large extent this is a result of the fact that the states fail to execute the Strasbourg judgments properly .

In the case of Russia the Committee supervised 962 judgments that should be executed. At December 2010 only in 6 cases it was possible for the Committee to take final resolutions stating that the entire procedure had been completed. This clearly suggests that Russia fails to execute the judgments. At the same time it is worth noting that from the overall number of Russian cases pending before the Committee at December 2010, 90,85 percent (874 cases) were clone/repetitive or isolated cases.

In the light of the rising backlog of cases, the reform of the Court, especially considering the upcoming accession of the EU to the European Convention on Human Rights, should primarily focus on the efficacy of the execution of judgments and the elimination of systemic, structural violations (which lead to clone and repetitive cases).

In the case of Russia, most of the cases pending before the Court refer to the systematic problems with violations of articles 2, 3, 5 and 6 of the European Convention*. To date, the European Court of Human Rights has adopted more than 180 judgements against Russia for grave human rights abuses.

Members of the Working group “Human Rights and the Rule of Law” consider massive violations of human rights as a negative impact on cooperation between European Union and Russian Federation therefore the current works on a new Partnership and Cooperation Agreement between Russia and the European Union may serve as an occasion to include topics related to the execution of judgments to the negotiations agenda.

The possibility of joining the Council of Europe protection system by the European Union should be combined with a concern on the future of the ECHR. It might also be a momentum to discuss the potential remedies to improve the execution of judgments in the country delivering the higher amounts of violations.

Members of the Working group “Human Rights and the Rule of Law” deem it is important to recall that on 17 November 2010 the Committee on Legal Affairs and Human Rights adopted unanimously a resolution on the implementation of judgments of the European Court of Human Rights. The resolution mentions the chronic non-enforcement of domestic judicial proceedings, deaths and ill-treatment by law enforcement officials, and a lack of effective investigations thereof and unlawful detention and excessive length of detention on remand being the Russian Federation’s major problems. In the resolution it was stated that states parties should fulfill their obligation under Article 46 of the Convention to ensure the full and rapid implementation of judgments of the Court. National parliaments may, in this respect, have an essential role to play as they, sometimes more effectively than the Committee of Ministers, can exert pressure on governments to ensure the effective implementation of an adverse judgment. To date, national parliaments did not take visible actions in this sphere.

Taking into account the role of the European Court, NGOs-members of the Working group “Human Rights and the Rule of Law” recommend to the state authorities - parties of the EU-Russia dialogue to take actions listed below for effective execution of the European Court judgments that will contribute to the implementation of the Council of Europe standards in human rights in the Russian Federation, as well as in the EU member-states:

to increase the effectiveness of domestic remedies by extension of subsidiarity;
to ensure that human rights are respected and that law and practice of states conform to the Convention;

* For detailed report on execution of judgments of the European Court of Human Rights please visit Civil society Forum EU-Russia web-site <http://eu-russia-csf.org>

to execute fully and in good time judgments of the Strasbourg Court and to pay utmost attention to the implementation of the European Court judgements regarding the North Caucasus.

to expand more effort to have not only the text of the Convention and its protocols available in all the languages of the Council of Europe, but also that of the Court's case-law.

to introduce and, where necessary, reinforce training programs for professional groups, in particular, persons responsible for law enforcement and the administration of justice on the questions which arise from the case law, in order to prevent subsequent violations.

to integrate the Strasbourg Court's case-law into national law and the judicial practice of member-states. In order to optimize the Court's effectiveness and authority, the Committee of Ministers should adopt a Recommendation on the principle of *res interpretata* (the interpretative authority of the Court's Grand Chamber judgments of principle within the legal orders of states other than the respondent state in a given case).

to increase transparency of the judgments execution at the national level. The best solution would be the publication of regular information about the state of execution of different judgments. This would enable to NGOs to follow the process of execution and to give a positive impact at the early stage of drafting the action plan or in any other stage of the proceedings.

to increase the engagement of national parliamentarian, particularly those who are also members of the Parliamentary Assembly of the Council of Europe.

EU, in the scope of its possible accession should engage in the process to the a larger extent. The state of execution of judgments should be an element of negotiations between EU and other states, particularly Russian Federation.

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