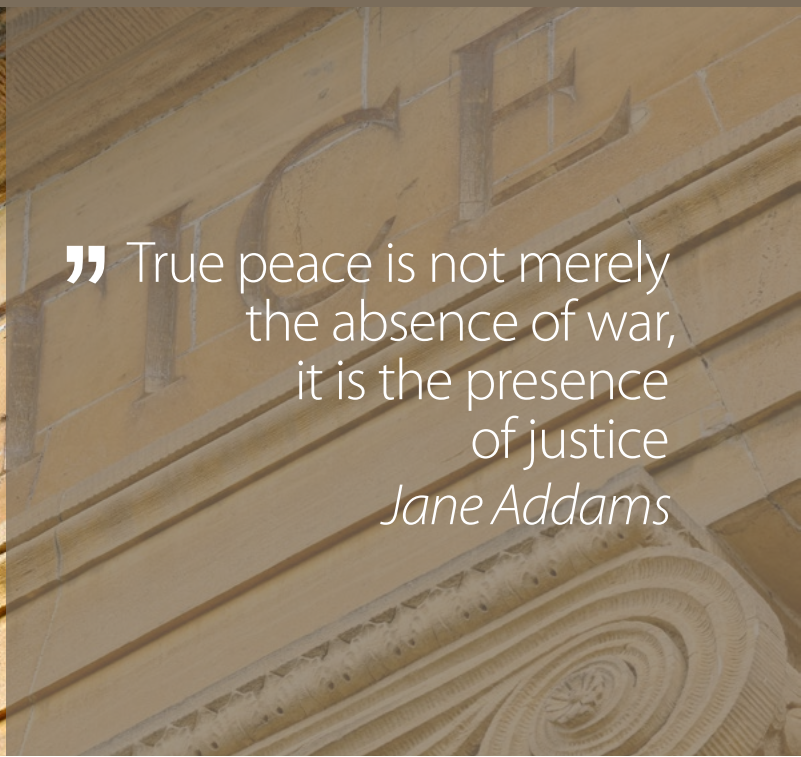


Evaluation of the effectiveness of the Council of Europe support to the implementation of the ECHR at national level



” True peace is not merely
the absence of war,
it is the presence
of justice
Jane Addams

EVALUATION OF THE COUNCIL OF EUROPE SUPPORT
TO THE IMPLEMENTATION OF THE ECHR
AT NATIONAL LEVEL

Final report

REPORT

Directorate of Internal Oversight

Evaluation Division

Evaluation (2017)20

30 January 2017

This report was prepared by the Directorate of Internal Oversight, with the support of the consulting company ICF International. It is based on the terms of reference established after an exchange of views with the Reference Group consisting of main stakeholders in the CoE secretariat which accompanied the evaluation exercise by providing oral and written feedback throughout the process. In addition, a presentation and discussion were held with the Permanent Representations of member States concerned by the evaluation and other permanent representation who expressed their interest in the exercise.

The report reflects the views of the independent evaluators, which are not necessarily those of the Council of Europe. We would like to express our gratitude to the partners in member States involved in the exercise and to the CoE staff, and especially to all the persons interviewed during the conduct of this evaluation.

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List of abbreviations

AP	Action Plan for the execution of judgments
CCJE	Consultative Council of European Judges
CCPE	Consultative Council of European Prosecutors
CDDH	Steering Committee for Human Rights
CDPC	European Committee on Crime Problems
CEB	Council of Europe Development Bank
CEPEJ	The European Commission for the Efficiency of Justice
CLAHR	Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe
CM	Committee of Ministers
CoE	Council of Europe
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
DGI	Directorate General of Human Rights and Rule of Law
DGII	Directorate General of Democracy
DH-SYSC	Committee of Experts on the system of the European Convention on Human Rights
DHR	Directorate of Human Resources
DIO	Directorate of Internal Oversight of the Council of Europe
ECHR	European Convention on Human Rights
ED	Department for the Execution of judgments of the European Court for Human Rights
EU	European Union
FRA	European Union Fundamental Rights Agency
GR-H	Rapporteur Group on Human Rights of the Committee of Ministers

HELP Unit	Human Rights Education for Legal Professionals Unit
HRTF	Human Rights Trust Fund
MoJ	Ministry of Justice
Mol	Ministry of Interior
MS	Member State
NGO	Non-governmental organisation
NHRI	National Human Rights Institution
NHRS	National Human Rights Structure
NPM	National Preventive Mechanism
ODGP	Office of the Directorate General of Programmes
OSCE	Organisation for Security and Co-operation in Europe
PACE	Parliamentary Assembly of the Council of Europe
PC-CP	Council for Penological Co-operation
SG	Secretary General
The Commissioner	Commissioner for Human Rights
The Court	European Court of Human Rights
UN OPCAT	United Nations Optional Protocol to the Convention against Torture
VC	Venice Commission

Executive Summary

The mandate

The evaluation seeks to contribute to the implementation of the Declaration and Action Plan adopted at the High-Level Conference on the 'Implementation of the European Convention on Human Rights, our shared responsibility', held in Brussels on 26-27 March 2015. The Conference encouraged "...the Secretary General to evaluate the Council of Europe co-operation and assistance activities relating to the implementation of the Convention so as to move towards more targeted and institutionalised co-operation".

Following the Interlaken, Izmir and Brighton Declarations, the Brussels Declaration placed emphasis on the necessity to address the current challenges, in particular "the repetitive applications resulting from the non-execution of Court judgments, ... the growing number of judgments under supervision by the Committee of Ministers and the difficulties of States Parties in executing certain judgments due to the scale, nature or cost of the problems raised".

Taking into account this context, the purpose of the evaluation is to assist the Secretary General in his preparation of proposals to the Committee of Ministers on how the delivery and the effectiveness of Council of Europe support to the national implementation of the Convention can be improved.

The scope

The evaluation focused on the analysis of the Council of Europe support to the national implementation of the Convention provided by various Council of Europe entities between 2012 and 2015 helping member States fulfil their obligations under the Convention.

The following themes for the evaluation have been selected based on statistics presented in the 8th Annual Report of the Committee of Ministers 2014 on the main themes under enhanced supervision which are conditions of detention, ill treatment by law enforcement in pre-trial detention and impunity, unlawful detention and length of judicial proceedings.

The countries covered by the evaluation have also been selected based on statistics presented in the 8th Annual Report of the Committee of Ministers 2014. Eight states with the highest percentages of cases under enhanced supervision were selected from this list: Bulgaria, Greece, Italy, Republic of Moldova, Romania, Russian Federation, Turkey, and Ukraine. Further, two other countries were added to the sample, because they received project support from the Council of Europe in the thematic areas mentioned above. These are Poland and "the former Yugoslav Republic of Macedonia".

The evaluation addresses the following four focus areas related to the implementation of the ECHR:

- Swift execution of the decisions and judgments of the European Court of Human Rights
- Creation of national remedies when rights of the European Convention on Human Rights were violated
- Achieving conformity of national laws and administrative measures with the Convention and with the case law of the European Court of Human Rights
- Mainstreaming of the European Convention on Human Rights into national education programmes for

legal professionals and awareness raising.

The methodology

Field visits were conducted in all the countries selected (except for the Russian Federation); around 160 interviews were conducted with representatives of national ministries, judiciary, parliaments, National Human Rights Institutions and the civil society. In addition, approximately 80 Council of Europe staff members were interviewed individually or in groups. The evaluation terms of reference were discussed with the Permanent Representations of the countries selected and several permanent representations who volunteered to participate were interviewed after the field visits. Around 345 documents were reviewed, 8 major projects related to the selected themes and countries were assessed and a survey covering the government agents and co-agents of 47 member states was conducted.

Main Conclusions

The following conclusions can be drawn on the effectiveness of the Council of Europe support.

1. Swift Execution of Judgments

The Committee of Ministers reforms concerning the supervision of the execution of judgments, such as the twin-track procedure and the introduction of action plans within a period of six months after the judgment has become final, have facilitated the execution of judgments. Action plans have been an effective support to member States, yet a number of challenges remain.

In order to swiftly execute judgments, feedback from member states suggested that, notwithstanding their responsibility under the principle of subsidiarity, they required a good understanding of what concrete legal and

administrative measures are needed to execute judgments. The strengthened supervision by the Committee of Ministers meant that it also required proof of the impact of legislative changes in order for the cases to be closed. The dialogue of the President of the European Court of Human Rights, the Court registry and the support provided by the Department for the execution of the judgments of the European Court of Human Rights has been most effective in achieving concrete results. Sharing of experiences in the framework of intergovernmental committees (such as the Committee of Experts on the system of the European Convention on Human Rights) and roundtable meetings organised by the Department for the execution of judgments have also improved understanding of requirements. The supervision by the Committee of Ministers could be further enhanced by facilitating more input from non-governmental organisations and national human rights institutions.

The report also points out the importance of including in Committee of Ministers' decisions related to the execution of judgments, where relevant and appropriate, references to the opportunities for support through cooperation programmes and references to other relevant sources of support (such as the tools of the European Commission for the Efficiency of Justice, reports of the European Committee for the Prevention of Torture and the Council of Europe Commissioner for Human Rights, and the opinions of the Venice Commission), including references to successful interventions and their results in respect of the implementation of judgments.

The evaluation report recommends including more detailed information related to the implementation of laws in the action plans

where appropriate (secondary laws, regulations, budgetary information) and to inform national human rights institutions and non-governmental organisations on the possibilities of submission of communications related to action plans. Concerning government agent's offices, the evaluation report suggests to further support national efforts to strengthen their capacity through traineeships and secondments to the Department for the execution of judgments and through cooperation activities and recommends that the authority and means of the government agents is reinforced and interaction between them is improved through seminars and a digital communication platform. With regard to projects, the report recommends mainstreaming of execution of judgment related issues in projects and improving priority-setting in the country cooperation action plans for more targeted co-operation.

It also recommends further improvements in respect of Council of Europe's internal information-sharing and making the comparative studies produced by the European Court of Human Rights accessible to Council of Europe staff, particularly to the Department the execution of judgments.

2. Creation of national remedies when rights of the European Convention on Human Rights have been violated

The combined effects of the pilot judgments of the European Court of Human Right and the support provided by the Department for the execution of judgments as well as visits and reports of the European Committee for the Prevention of Torture have had significant results on the creation of national remedies in some of the cases analysed. Relatively small projects with exclusive focus on strengthening

national remedies have had good results. The report recommends that the creation and strengthening of domestic remedies for the execution of judgments is included as a part of relevant cooperation activities and an explanation on how projects are expected to contribute to the execution of specific judgments is included systematically in Country Cooperation Action Plans.

The evaluation report concludes that projects do not receive sufficient institutional support and investment; in addition the funds of the Human Rights Trust Fund whose purpose is to support the execution of judgments have been in decline. The evaluation report recommends therefore that projects adapted to the rapid execution of judgments should be promoted and relevant funds from ordinary budget and voluntary contributions for such projects be increased. It also makes several suggestions on how projects could be more relevant and targeted to the execution of judgments. Concerning the field offices, the evaluation report underlines the negative effects of the lack of permanent staff working in the sector of cooperation, particularly in the field, on the efficiency of cooperation activities. This poses a reputational risk and also results in the loss of expertise and continuity. It is therefore recommended to appoint A grade staff to the field.

Finally, the evaluation underlines the importance of public opinion particularly on issues related to detention and prison conditions and suggests that working methods are expanded to make better use of wider local TV coverage during high-level Council of Europe missions, publications, campaigns and documentaries targeted at the public at large.

3. Conformity of national laws and administrative measures with the European Convention on Human Rights and the case law of the European Court of Human Rights

Support to member States to help ensure the conformity of their legislation and administrative measures with the European Convention on Human Rights is possibly the Council of Europe's greatest added value as compared to other international institutions. The Council of Europe's steering committees appear to be particularly effective in this regard due to their inter-governmental working methods based on the principle of equality between member States, which creates a sense of ownership of the resulting standards and their better understanding amongst the national representatives.

Given the important role played by these intergovernmental networks, the absence of such networks among Ministries of Interior / law-enforcement bodies may explain the less noticeable impact of the Council of Europe in the area of law-enforcement. The evaluation report therefore recommends strengthening the Council of Europe's institutional link with law enforcement officials to better combat ill-treatment and impunity. Interviews in the field also revealed that there is a need for greater connectivity with ombudspersons institutions with the Council of Europe among all its members which the evaluation recommends to re-establish.

Projects have proven to be excellent for supporting member States in achieving conformity with the European Convention on Human Rights. The evaluation report also highlighted the importance of strengthening links of steering committees with projects so as

to have the possibility of taking up good practices in standards relevant for execution that come out of cooperation activities and to further disseminate the outputs of steering committees through projects. Lastly, the evaluation report identified the need to further support the independence of the judiciary through the field work of the judicial advisory bodies.

4. Mainstreaming of the European Convention on Human Rights into national training and awareness raising on the European Convention on Human Rights

The Council of Europe is widely respected as a leader in training on human rights. This reputation is supported by the case studies prepared as part of this evaluation; the Council of Europe provided capacity building support to all the countries concerned in relation to some or all of the themes considered. Whilst the feedback from participants of this training has on the whole been positive, a number of areas have been mentioned for further improvement.

The European Court of Human Rights, the Parliamentary Assembly of the Council of Europe, the Department for the execution of the judgments of the European Court of Human Rights, and the European Commission for the Efficiency of Justice have in recent years become actively involved in capacity building. This development has helped to expand the reach of the training to include a wider range of stakeholders. However, it may be necessary to develop more systematic coordination between the actors involved.

The evaluation report identifies the need to strengthen co-operation with parliamentarians. It recommends strengthening support to national parliaments in setting up structures

supervising execution of judgments and ensuring compliance of draft legislation with the European Convention on Human Rights and strengthening the awareness of parliamentarians and officials on the European Convention on Human Rights. It suggests that the Secretariat of the Parliamentary Assembly of the Council of Europe propose to its rapporteurs to invite government officials to their hearings with national delegations concerning the execution of judgments.

Concerning law education and professional training, the report recommends mainstreaming the European Convention on Human Rights in law faculties and initial and continuous training of law enforcement personnel and personnel dealing with those deprived of their liberty. It suggests the private offices of the Secretary General of the Council of Europe, the President of the European Court of Human Rights, the Office of the Commissioner for Human Rights and the Secretariat of Parliamentary Assembly of the Council of Europe preparing country visits of rapporteurs to consider systematically including

university law faculties in the agenda of their visits.

It further recommends the Office of the Directorate General of Programmes to encourage member States to finance secondments to the Registry of the European Court of Human Rights and the Department for the execution of the judgments of the European Court of Human Rights. It also suggests projects with training components to include, where relevant, visits to the Court which encompass judges from outside the capitals and general prosecutors and inspectorate of police. Given the importance of the HUDOC database for disseminating knowledge on the case law of the European Court of Human Rights the report also recommends to the Registry of the European Court of Human Rights to create a more intuitive thematic index for HUDOC and “thematic fiches” on specific issues. Finally, to promote internal awareness and synergies within the Council of Europe the report recommends facilitating increased staff mobility between different entities, including field offices.

1. Introduction

1.1 Rationale and Purpose

1. The evaluation¹ seeks to contribute to the **implementation of the Declaration and Action Plan adopted at the High-Level Conference on the “Implementation of the European Convention on Human Rights, our shared responsibility”, held in Brussels on 26-27 March 2015.** Following Interlaken, Izmir and Brighton Declarations, the Brussels Declaration placed emphasis on the necessity to address the current challenges, in particular “the repetitive applications resulting from the non-execution of Court judgments, ... the growing number of judgments under supervision by the Committee of Ministers (CM) and the difficulties of States Parties in executing certain judgments due to the scale, nature or cost of the problems raised”². The Conference encouraged (para. C3(c)) “...the Secretary General to evaluate the Council of Europe (CoE) co-operation and assistance activities relating to the implementation of the Convention so as to move towards more targeted and institutionalised co-operation.”
2. The purpose of the evaluation is to assist the Secretary General in his preparation of proposals to the Committee of Ministers on **how the delivery and the effectiveness of Council of Europe support can be improved.** In addition, the evaluation seeks to identify good practices of effective support and implementation of the ECHR. According to the

¹ Work programme 2016 of the Directorate of Internal Oversight. Information document GR-PBA(2016)1 of 29 January 2016.

² High level conference on the “Implementation of the European Convention on Human Rights, our shared responsibility” Brussels Declaration, 27 March 2015, 2.

roadmap established following the Brussels Declaration, the deadline for completing the evaluation report is 31 December 2016.³ It can be further noted that the Ministers’ Deputies, in their [decisions](#) adopted on 30 March 2016 on the Steering Committee for Human Rights (CDDH) 2015 report on the longer-term future of the system of the European Convention on Human Rights, invited the Secretary General to develop activities to support member States (MS) in national implementation of the Convention in the light of the relevant conclusions of the CDDH report. They also invited the Secretary General to consider establishing a more effective strategy to enhance the capacity and involvement of all national stakeholders concerned with the implementation of the Convention.

3. For the purpose of this evaluation, the term **‘CoE support’** will be used in a larger sense than technical co-operation and will cover the support provided by all the relevant entities of the CoE.
4. This involvement of various CoE entities is also in line with what was mentioned at the Brighton Conference, namely:

“The States Parties and the Court also share responsibility for ensuring the viability of the Convention mechanism. The States Parties are determined to work in partnership with the Court to achieve this, drawing also on the important work of the Committee of Ministers and the Parliamentary Assembly of the Council of Europe as well as the Commissioner for Human Rights and the other institutions and bodies of the Council of Europe, and working in a spirit of co-operation with civil

³ Roadmap of work for the reform of the European Court of Human Rights following the Brussels Declaration. Information Document SG/Inf(2015)29-rev of 26 April 2016.

society and National Human Rights Institutions (NHRIs).”⁴

5. Furthermore, using this wider meaning of the ‘CoE support’ is also in line with the request of member States to take into account the wider work of the organisation, emphasising better co-ordination.

1.2 Scope

Geographic and Thematic Scope

6. The evaluation focused on the analysis of the CoE support to the national implementation of the Convention provided by various CoE entities **between 2012 and 2015**, helping member States fulfil their obligations under the Convention.
7. The themes for the evaluation have been selected based on statistics presented in the 8th Annual Report of the Committee of Ministers 2014 on the main themes under enhanced supervision⁵ (see Annex 1 for pie chart on main themes under enhanced supervision):
 - **Conditions of detention**
 - **Ill treatment by law enforcement officials in pre-trial detention and impunity**
 - **Unlawful detention**
 - **Length of judicial proceedings**
8. While the report focuses on these four areas, it is not intended as a representation of the organisation’s entire portfolio of activities in supporting the implementation of the ECHR.
9. The countries covered by the evaluation have been selected based on statistics presented in the 8th Annual Report of the Committee of Ministers 2014 on the main states with cases

⁴ High Level Conference on the Future of the European Court of Human Rights, Brighton Declaration, para 4.

⁵ 8th Annual Report of the Committee of Ministers (2015). Council of Europe.

under enhanced supervision (see Annex 2 for pie chart on states with cases under enhanced supervision). Eight states with the highest percentages of cases were selected from this list: Bulgaria, Greece, Italy, Republic of Moldova, Romania, Russian Federation, Turkey, and Ukraine.

10. Another criterion used for scoping the evaluation exercise was the existence of project support in relation to the selected themes and countries. Based on this criterion, two additional countries were added to the sample: Poland, which received support in the framework of a Human Rights Trust Fund project “Execution of the European Court judgments in the field of detention on remand and remedies to challenge detention conditions”⁶ and “the former Yugoslav Republic of Macedonia”, which received support in the framework of a Joint Programme “Capacity Building of the Law Enforcement Agencies for Appropriate Treatment of Detained and Sentenced Persons”.
11. Further projects targeting improvements in the above mentioned thematic areas and countries in the period between 2012 and 2015 were identified. The selection of cooperation activities has taken into account the assessment of the Directorate General for Human Rights and Rule of Law of its cooperation activities in respect of their relevance for the execution of judgments. Preference was given to those projects, which directly addressed the execution of a Court judgment (Annex 3 outlines a complete list of projects evaluated).
12. Following the scoping exercise, the following geographic and thematic selection has been established.

⁶ Hereafter referred to as Project on domestic remedies for detention conditions

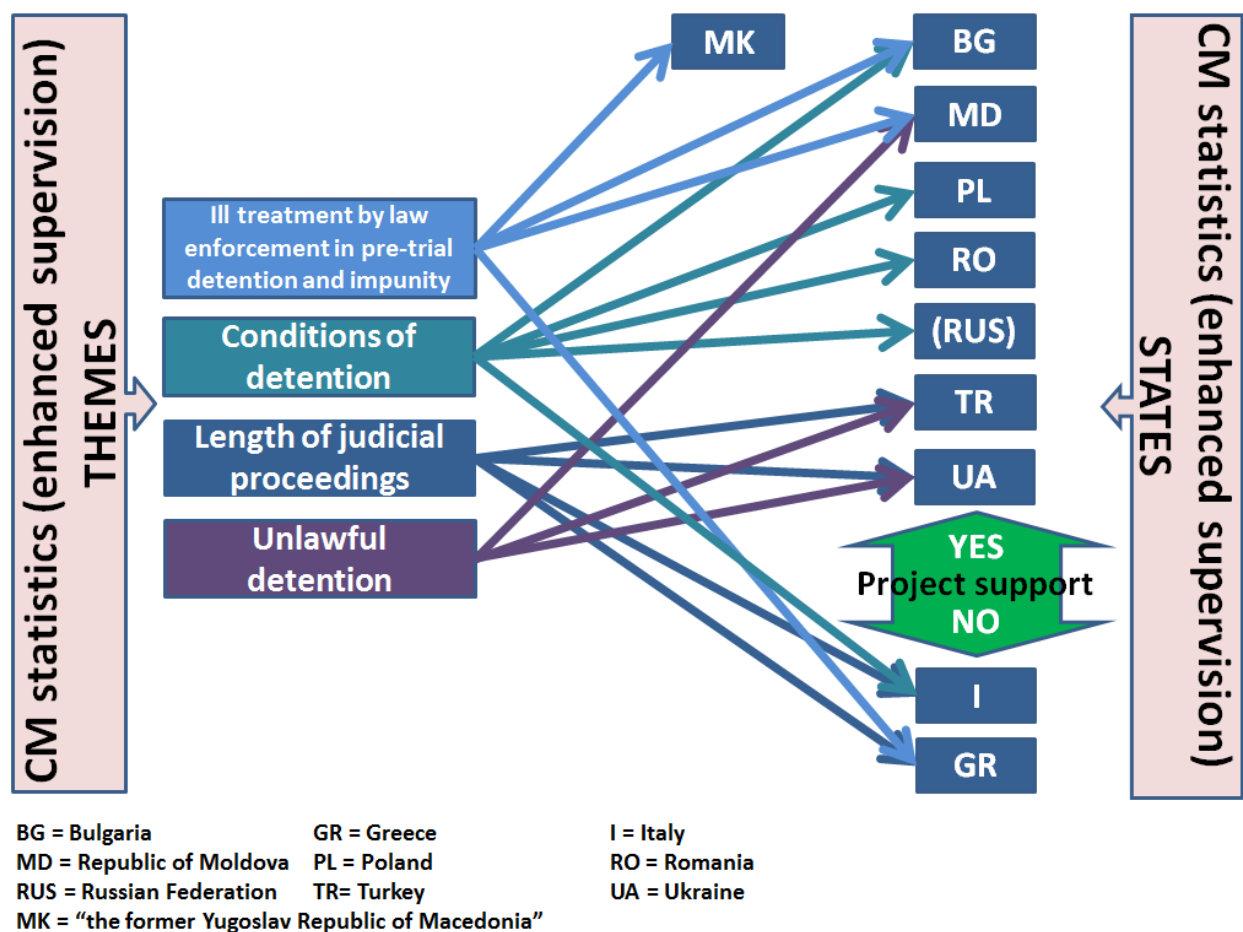


Figure 1. Geographic and thematic scope of the evaluation.

Action Plans

13. Country Cooperation Action Plans are programmatic documents approved by the Committee of Ministers and co-ordinated by the Office of the Directorate General of Programmes (ODGP). The member States who accept such plans thus have at their disposal a document with agreed priorities for technical co-operation, which favours raising of extra-budgetary resources to support their policies aimed at fulfilling their statutory and specific commitments to the CoE. Out of 10 countries selected, two had Action Plans, namely, the

Republic of Moldova and Ukraine. It is also worth noting that two of the member States had not received project support, namely Greece and Italy.

14. A note of caution is necessary on the term 'Action Plans' as they are sometimes confused with action plans drafted by member States for the execution of judgments.

1.3 Use of evaluation

15. In line with the Terms of Reference, the evaluation specifically aimed to:

- identify **good practices** that can be replicated in the field of support to implementation of the ECHR;
- identify ways to improve the **working methods, tools and structures** used for supporting the implementation of the Convention and execution of judgments, in particular to make cooperation and assistance activities more focused;
- identify areas where **cooperation and coordination between various CoE bodies** engaged in the implementation of the ECHR can be improved by identifying possibilities for synergies within the Council of Europe.

1.4 Evaluation questions

16. The main evaluation question is:

To what extent has the CoE support to the implementation of the ECHR at national level been effective?

17. In order to assess the effectiveness, the evaluation team in consultation with the Major Administrative Entities (MAEs) and through an analysis of Committee of Ministers recommendations (see Annex 4) has defined four areas in which the support of the CoE could make a difference. These were then formulated as sub-questions to the main evaluation question (See Figure 2):

- I. **Swift execution of the Court's decisions and judgments** - This area concerns the supervisory procedure of the Committee of Ministers and other support activities provided by the Department for the Execution of judgments of the European Court for

Human Rights (ED), the Court Registry and some examples of technical assistance specifically targeted at the execution of judgments.

- II. **Creation of national remedies when Convention rights were violated** – For the purpose of this evaluation exercise, remedies are understood as mechanisms which permit or support individuals to bring complaints of human rights violations to the attention of the appropriate national bodies and, where violations are determined, to receive compensation and require the state to prevent further violations of the rights of individuals. The creation of national remedies is distinguished in this paper from the adoption of substantive measures, in the form of legislation or administrative measures, which aim to eradicate or reduce the occurrence of ECHR violations even in the absence of individual complaints.
- III. **Achieving conformity of national laws and administrative measures with the Convention and with the case law of the Court** – This area relates to the Council of Europe support to the adoption and implementation of substantive measures in order to eradicate or reduce the occurrence of ECHR violations even in the absence of individual complaints.
- IV. **Mainstreaming of the ECHR into national education programmes for legal professionals and awareness raising** – This area concerns contribution of the CoE to national training and awareness-raising measures aimed at aligning the practices of legal professionals and other groups to the requirements of the ECHR.

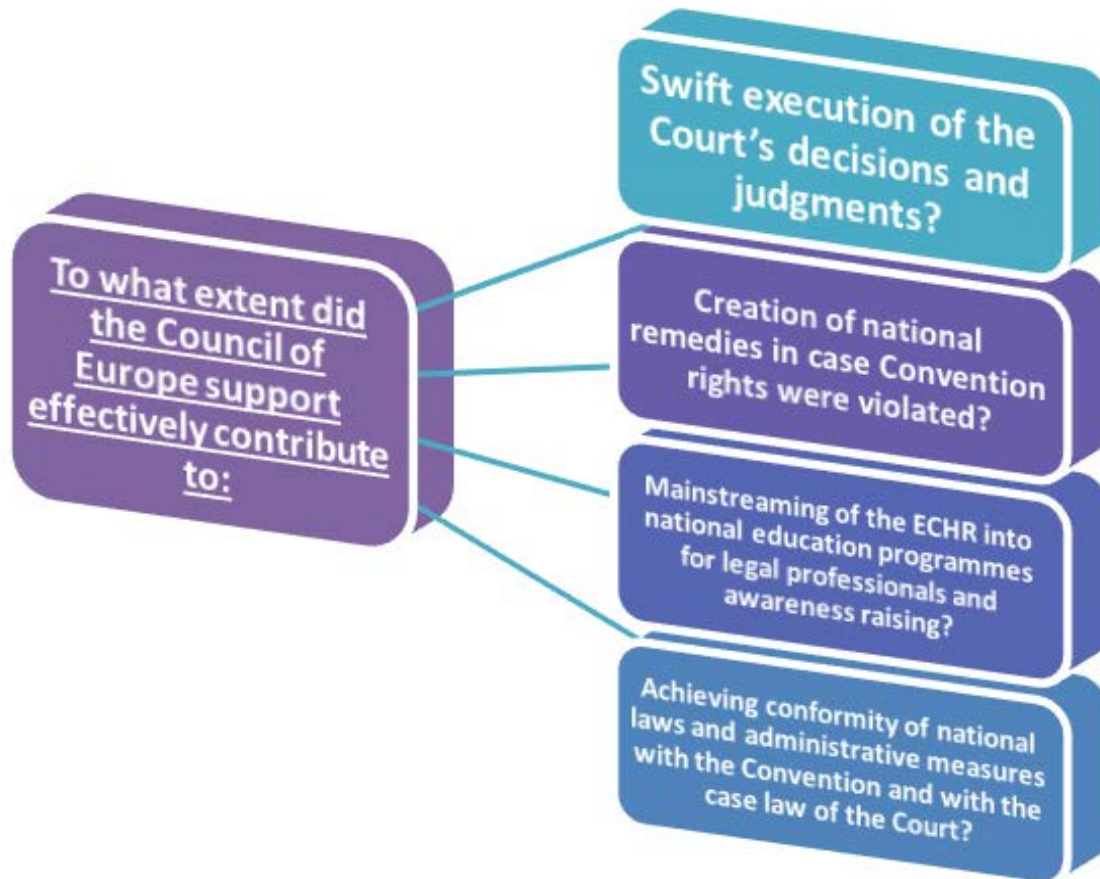


Figure 2. Evaluation sub-questions.

18. The evaluation areas 1 and 2 relate more specifically to the execution of judgments whereas the areas 3 and 4 are preventive measures in that, through these, awareness on human rights should be strengthened and violations of these rights avoided through the creation of the necessary legal framework.
19. The evaluation assessed the effectiveness of CoE support to the four areas.
20. The evaluation team is aware that these areas are **not clearly separable from each other**, that they all overlap to a certain extent and progress in each area influences other areas as well. Thus, the division into the four areas has been

established solely for the sake of structuring the evaluation exercise and the report.

21. An evaluation matrix for the exercise is presented in Annex 5.

1.5 Evaluation methodology

22. The evaluation process followed the Council of Europe's evaluation guidelines⁷ and the methodology developed by the international consultancy ICF. The evaluation was divided into three phases:

⁷ [Directorate of Internal Oversight \(2014\), Evaluation Guidelines](#)

- The **inception phase**, during which the Directorate of Internal Oversight of the Council of Europe (DIO) team mapped the scope and stakeholders of the evaluation, conducted a pilot mission to the field and refined its methodology, and a consultant presented the inception report;
- The **data collection** phase, during which the evaluation team (DIO and consultants and/or national resource persons) collected data in the field and the Council of Europe Secretariat, aiming at answering the evaluation questions;
- The **data analysis and reporting** phase, during which the DIO and consultants reviewed, analysed and interpreted the data and drafted the synthesis report.

Triangulation

23. To ensure that biases and technical gaps are minimised, the method of data triangulation is used. The validity of data is cross-checked by using several data collection methods, by soliciting the views of a variety of stakeholders and consulting a wide range of sources.

Data Collection Methods Used

Document Review

24. The evaluation team has reviewed documentation, including relevant judgments of the Court, ED's documents on the status of execution, Committee of Ministers recommendations in the relevant areas, Committee of Ministers decisions, reports of monitoring bodies, the work of relevant steering committees and committees of experts, reports, resolutions and recommendations of the Parliamentary Assembly, documents of the programmatic entities on selected cooperation activities as well as documents provided to us during field

missions by representatives of authorities and civil society.

25. For a list of consulted documents, please refer to Annex 6.

Field work

26. The evaluation team has conducted data collection in nine countries through field missions.⁸ The data collection in each country focused on specific thematic areas as presented in Figure 1 above.
27. The field work included semi-structured interviews with the main stakeholders in the countries concerned, including, as applicable, representatives of the Ministry of Foreign Affairs, Ministry of Justice (MoJ), Ministry of Interior (Moi), Government Agent office, Office of the Prosecutor General, High Courts, Supreme Court, National School of Judges, Parliament, Supreme Judicial Council, Ombudspersons, Bar and lawyers' organisations, as well as representatives of civil society and other international organisations. For a list of interviews conducted in the framework of the field work, Annex 7 can be consulted.
28. The interviews were based on interview guides (see Annex 8 for an example of an interview guide).

Semi-Structured Interviews

29. In addition to the interviews in the field, the evaluation team has conducted semi-structured interviews with stakeholders in the Council of Europe Secretariat, the Court Registry, Secretariat of the PACE and Permanent Representations (those which indicated an interest in contributing to the evaluation with

⁸ An additional field mission was planned to the Russian Federation, which has, however, not taken place.

their views). Interviews were carried out face-to-face in Strasbourg.

30. A detailed list of interviews can be consulted in Annex 9. The interviews were based on interview guides (see Annex 10 for an example of an interview guide).

Online Survey

31. An online survey was carried out among government agents and co-agents of the 47 member States with the purpose of assessing their satisfaction with the way the Council of Europe activities contribute to the execution of judgments in their countries. More importantly, the survey was used to measure the relevance of some suggestions to improve the work of the Council of Europe Secretariat. A total of 88 people were consulted, the response rate of the survey was 52 per cent. Its contents can be consulted in Annex 11.

Methodological limitations

32. As with any evaluation, there are limitations to the evaluation methodology.
33. First, to trace the effects of the CoE support in the thematic areas of this evaluation is extremely difficult as the types of CoE support considered are very numerous and wide-ranging and the legislative and policy developments they may have led to are quite broad.
34. While interviews were combined with desk research to try to understand the effects of different types of support, CoE interventions never occurred in isolation from other influences (national and international) and therefore the evaluation relied significantly on the views and interpretations of people who know the Council of Europe well. In this connection, it is important to note that the evaluation relied heavily on qualitative data.

35. Another limitation was that the themes chosen for the evaluation are more central to the work of some CoE entities than others (e.g. the Commissioner For Human Rights (the Commissioner) has not focused on detention conditions, precisely because it is at the centre of the European Committee for the Prevention of Torture (CPT) work). This was taken into account when assessing the effectiveness of the different CoE entities.

36. It should also be mentioned that interviews and file review did not include all projects that addressed issues raised in the Court's judgments. However, as previously mentioned, efforts were made to select those projects that provided targeted support in an area of execution. To mitigate this problem, the evaluation team conducted a focus group meeting to which all CoE staff working in projects with the Council of Europe member States were invited to provide their input to the evaluation questions.

37. Finally, while the survey was addressed to all government agents and co-agents, the overall sample was still quite small so that certain statistical differences could not reach a level of significance. Rather, the results of the survey should be interpreted as trends.

1.6 Organisational arrangements

38. The Directorate of Internal Oversight was in charge of the evaluation exercise with the support of the International consultancy ICF. ICF supported DIO in providing methodological advice, data collection also including field visits and analysis. The ICF International consultancy company was selected, following a call for tenders, because of its expertise in evaluation methods and knowledge of the legal systems of the selected member States as well as the ECHR system. For some selected field missions, DIO

has engaged national resource persons on the Convention system for the joint data collection. The consultants were supervised by the DIO, and a DIO team member has been present during every field mission.

39. At the launch of the evaluation, DIO established a Reference Group composed of main stakeholders in the CoE secretariat.⁹ The Reference Group commented on the thematic reports and the draft synthesis report, with particular focus on the usefulness and feasibility of the draft recommendations.
40. The DIO will follow up the implementation of the recommendations in the evaluation.

1.7 Difficulties encountered during the evaluation

41. Some difficulties were encountered during the implementation of the evaluation exercise and led to readjustment of interview lists and schedules as well as changes in the original evaluation design.
42. While most of the persons interviewed during the country visits were participants in the CoE activities that have been evaluated, in some cases this was not possible, either due to changes in government since the activities took place or because the direct participants were not available. The evaluation team has countered this effect by ensuring that a significant number of stakeholders of each relevant group were interviewed.

⁹ Secretary to the Committee on Legal Affairs and Human Rights, PACE Secretariat; Court Registry; Secretariat of the Committee of Ministers; CPT Secretariat; Justice and Legal Co-operation Department; Independence and Efficiency of Justice Division; Action against Crime Department; Human Rights National Implementation Division; Department for the Execution of Judgments of the ECHR; Special Co-ordinator DGI; Secretariat of the Venice Commission; Office of the Commissioner for Human Rights; Representatives of the Private Office, Office of the Directorate General of Programmes.

43. Another difficulty was that one of the field missions had to be cancelled due to a lengthy process of agreeing on the mission dates with the country concerned, which made it impossible to conduct the mission within the deadline. The evaluation team conducted extensive desk research on the country concerned; however, since no field mission took place, the effectiveness of CoE support could not be assessed.
44. In some cases, planned missions to the field had to be rescheduled due to important events at national level such as national elections and referenda.
45. In one case, a selected project in the area of the judicial system turned out to be irrelevant to the narrower topic of the length of judicial proceedings as it focused mainly on the independence of the judiciary.
46. The evaluation team has also observed that the Council of Europe has produced a wealth of documents of various types on the thematic issues under the scope of this evaluation. However, this information is not always accessible in a user-friendly manner through the CoE website. Feedback has been received from different stakeholders that they often faced similar difficulties.
47. Finally, proposals to change working methods were made and discussed on a continuous basis, for example developments on the website of the ED and outcomes of the internal Working Group on deployment of expertise and staff to the field. The evaluation had to be informed of all these discussions in order to make recommendations that are innovative but nevertheless feasible to implement.

2. Findings

2.1 Swift execution of judgments

48. The main Council of Europe entities involved in supporting the swift execution of judgments at national level are the Committee of Ministers; the Department for the Execution of Judgments (ED); and the European Court of Human Rights (the Court). In addition, standard setting work and exchange of information supporting swift execution is carried out in the Steering Committee for Human Rights (CDDH). Further, the Parliamentary Assembly follows closely the execution of judgments and promotes a more proactive approach from national parliaments to this process. Most of this support is based on non-project forms of assistance; however, an important evolution in the Council of Europe's support has been the development of projects which aim specifically to support the execution of judgments. A prominent example of this in the thematic areas covered by this evaluation was the VC/2748 project on execution of judgments in the field of detention conditions funded by the Human Rights Trust Fund (HRTF), implemented by the ED. This section considers the effects of these different forms of support and identifies the key factors contributing to their variable effectiveness.

The role of the Committee of Ministers (CM)

49. The CM supervises execution of judgments and provides in this context assessments of results achieved and different forms of guidance and recommendations to the States in decisions and interim resolutions. In 2011, following calls for a more effective and transparent supervision¹⁰, a

¹⁰ The Committee of Ministers' supervision of the execution process. Accessible at:

new twin-track supervision procedure was introduced. Under this twin-track system, cases are, in principle, examined under the standard procedure unless they warrant closer CM scrutiny under the enhanced procedure. The enhanced procedure should apply for the following types of cases: judgments requiring urgent individual measures; pilot judgments; judgments raising structural and/or complex problems as identified by the Court or by the Committee of Ministers; and interstate cases. In all cases, states have since 2011 the obligation to submit an action plan to the CM together with a timetable or, if all measures have already been taken, an action report. Under both procedures, the ED is entrusted with a proactive role through the provision of assistance to national authorities notably in drafting action plans and organisation of round tables. The CM scrutinises the measures taken by State Parties, as reported in the action plans and reports on the follow-up to these.

50. Most of the judgments examined in this evaluation were supervised under the 'enhanced' procedure since they concern cases raising major structural or complex problems and in some cases they were pilot judgments. In

<http://www.coe.int/en/web/execution/the-supervision-process?desktop=true>

Further calls to promote the effectiveness of the execution of judgments were made at successive High-level Conferences on the reform of the Court at Interlaken, Izmir, and Brighton. Information on these conferences can be found here:

<http://www.coe.int/t/DGHL/STANDARDSETTING/CD/DH/REFORMECHR/> The high-level conference in March 2015 in Brussels led to formulation of additional measures in the Brussels Declaration: http://www.echr.coe.int/Documents/Brussels_Declaration_ENG.pdf

most cases, the State Parties concerned submitted a number of action plans to the CM, which responded with formal decisions requesting more information on the progress made in respect of certain measures and on their impact.

51. The country case studies suggest that the CM's 'enhanced' supervision procedure has had several positive effects:

- Stakeholders in all the countries examined noted that the CM had become more effective at supervising the execution of judgments since the adoption of the twin-track procedure. It has, for example, been noted that CM 'human rights' meetings are now a venue for useful discussions of pending cases.
- The new priority arrangements have increased the efficiency of CM meetings, making it possible to discuss a greater number of cases and adopt relevant decisions and resolutions. The efficiency of these arrangements is enhanced as in most cases these texts are drafted in advance by the ED in cooperation with the CM Secretariat and presented to the CM in due time for the meeting.
- Transparency has increased with the adoption in 2011 of new working methods for the CM supervision process which permit submissions from civil society, National Human Rights Structures (NHRs) and the victims themselves. The CM is in the process of considering amendments to the rule to allow for communications by international intergovernmental organisations and institutions and the Commissioner for Human Rights. The process has also become more transparent with the presentation, at each Human Rights meeting of the Ministers' Deputies, of an indicative list of cases to be discussed at the next meeting. Stakeholders consulted confirmed that this development

improved their ability to plan ahead. In addition, from the end of 2016 an indicative work programme for the next year will be made available.

- In its decisions, the CM makes reference to the work of other CoE entities, e.g. requesting national authorities to take into account the recommendation of the CPT, or encouraging them to take advantage of cooperation activities offered by the CoE Secretariat. This is positive, as where projects have been organised around the needs of the execution process, they appear to have had effects on the adoption of general measures (see section on project support below for examples). However, this process is not systematic and can be further strengthened.
52. So far, it appears that the new working methods have provided good results. All countries made some progress in terms of the development of general measures, although the extent of progress varies from case to case (see sections 2.2, 2.3 and 2.4). Four groups of cases examined in the framework of the evaluation were closed during 2012-2015: three in Greece,¹¹ and one group in Turkey,¹² all of them concerning excessive length of judicial proceedings. In addition, in March 2016, the CM closed the examination of the *Torregiani* case against Italy.

***Interview quote:** 'The CM decisions sometimes play a functional role by helping to crystallise the priorities for reform. However, the CM's political pressure works well if combined with the technical advice made available through the ED.'*

53. Where progress has been made, it is difficult to isolate the effects of the CM supervision as in many of the cases examined, its main added

¹¹ This concerned the Athanasiou group, Michelioudakis group and Glykantzis group of cases.

¹² The Ormanci group.

value is the basic requirement that results have to be achieved and demonstrated before the CM. Many of the problems examined in this evaluation have been very complex and other factors beyond the guidance provided by the CM and the Court were instrumental to progress in the introduction of the reforms such

as, at the European level, high level political interventions by the Secretary General (SG) and PACE. While the CM has on a number of occasions invited the SG to take action, the SG himself also took initiatives such as those described in Box 1 below.

Box 1. Support to Turkish authorities

In 2011, the Directorate of Human Rights (DHR) at the Ministry of Justice took over responsibility for the execution of the Court judgments from the Turkish Ministry of Foreign Affairs (except for cases under the responsibility of the Ministry of Foreign Affairs). The Secretary General and the Turkish Minister of Justice set up an informal working group in January 2015 including staff from the Department for the Execution of Judgments, the Court Registry, the Private Office of the Secretary General, other entities, and relevant Turkish authorities to exchange views and find solutions to general human rights related issues - including the execution of judgments. The working group met five times to discuss Court judgments against Turkey, and steps needed to accelerate their execution.

Besides helping to give political weight to the new DHR, the working group provided input into the design of a CoE/EU co-funded project proposal called "Development of effective investigation techniques for prosecutors".

54. However, progress with execution continues to be slow. Whilst the overall number of cases closed every year is increasing, the number of pending cases remains rather stable (at around 10,000) over the years, largely linked to the increased productivity of the Court since the mid-2000s without a corresponding progress in the speed of the execution.¹³ A sign of this development is the increased number of cases pending over five years.
55. There appear to be factors contributing to slowing down the progress in closing the

supervision before the CM and affecting the quality of the process:

- The CM's scrutiny of the effectiveness of measures taken has increased in the context of the Interlaken process notably stressing the importance of clear evidence of the effectiveness of reforms, including statistics. This has been so, in particular under the enhanced procedure (e.g. in the *Corsacov v. Republic of Moldova* judgment, the CM required 'proof' of the impact of the legislative changes made, including by means of statistics, and identified further concrete changes which were needed, including providing adequate funding and human resources to the new anti-torture unit created within the General Prosecutor's Office).
- With only four human rights meetings a year, the CM has limited time to discuss action plans

¹³ The total number of cases closed by the CM was 1,537 in 2015, 1,502 in 2014, 1,397 in 2013 and 1,029 in 2012. This compares favourably to the first decade of the 2000s, when the average number of cases closed by the CM was 295 per year. However, the total number of pending cases decreased only slightly between 2012 and 2015: from 11,099 to 10,652 (see Appendix 1 of the CM Annual Report, 2015).

and developments, even those related to cases under the 'enhanced procedure'. It has been noted that a significant part of the meetings is spent on debates on a few non-implemented cases where it is difficult to make progress (this does not prevent the CM from adopting decisions on 20 to 30 cases where the provision of guidance does not necessitate a debate at each meeting). Time limitations also make it difficult for the CM to experiment with different types of meetings, for example, thematic meetings which might encourage member States to take action by presenting them similar issues in other countries. These issues have been under consideration recently by the Rapporteur Group on Human Rights (GR-H) in the context of the reform process.

- On the other hand, feedback received from a variety of stakeholders, civil society organisations and government agents suggests that action plans' analysis presented in the CM is still not sufficiently detailed, and more attention needs to be given to the implementation of legislation, secondary laws, regulations as well as budgetary resources assigned to the action plans.
- Whilst the transparency of the CM supervision process has increased,¹⁴ the cases examined for this evaluation indicate that NGOs still do not feel sufficiently supported in order to submit communications to the Committee of Ministers on the execution of the Court's judgments. Existing guidance by the ED on submitting communications is directed exclusively at

¹⁴ Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

Rule 9.2. The Committee of Ministers shall be entitled to consider any communication from non-governmental organisations, as well as national institutions for the promotion and protection of human rights, with regard to the execution of judgments under Article 46, paragraph 2, of the Convention.

national authorities.¹⁵ It encourages governments to include comments made by NGOs in action plans out of concern for transparency. NGOs also pointed out that the Council of Europe did not always acknowledge receipt of communications submitted by them. While this finding was disputed by the ED, which considers that sufficient information is provided to NGOs and that receipt of NGO submissions is always acknowledged, it may be necessary for the ED to clarify further and make known to NGOs the procedure for submissions. The results of the survey addressed to government agents conducted in the framework of this evaluation also suggest that NGOs are not effectively using the opportunities available to them to contribute to the supervision of the execution of judgments. Communications of NGOs to the Committee of Ministers on the progress of execution, and contributions of NGOs to the preparation of action plans are at the present not considered to be as useful by government agents as compared with the contributions of NGOs within the legislative process and their efforts to raise public awareness.

The European Implementation Network which has been established with the aim, inter alia, to build capacity of NGOs and civil society to engage effectively in implementation oversight processes in both the Council of Europe and at the national level could be a new potential partner in the efforts to make the process of submissions by NGOs more transparent.

- The CM has also recommended to State Parties to strengthen their domestic capacity to

¹⁵ Guide for the drafting of action plans and reports for the execution of judgments of the European Court of Human Rights. Accessible at: <https://rm.coe.int/CoERMPublicCommonSearchServices/SSODisplayDCTMContent?documentId=0900001680592206&ticket=ST-84803-En5XoreWEsjorpyodxWV-cas>

execute judgments, including through the identification of authorities which are able to coordinate the process.¹⁶ National capacity to execute judgments swiftly is still weak in the countries examined. Government agents do not always have the resources they need (human but also in terms of political authority) to monitor progress with execution and prepare appropriate action plans given the large number of cases that are open (e.g. problems reported by government agents include understaffing, difficulties retaining staff due to low salaries and significant workload). While some countries examined have set up a permanent commission to facilitate cooperation between the different departments concerned (e.g. Poland, Romania and “the former Yugoslav Republic of Macedonia” have set up inter-ministerial/inter-institutional committees for the execution of judgments), in other countries there is no such permanent coordination mechanism and the government agent must contact each department separately. This is particularly a problem where the institutional landscape is characterised by fragmentation (as in the case of Ukraine) with low levels of cooperation between government bodies.

- In some cases, national authorities have strengthened efforts to execute judgments by; for example, establishing working groups and commissions related to specific judgments (see Box 2 for the example of Bulgaria and Italy).
- Insufficient mandate/authority of the office of the government agent was identified as one of the two most important obstacles to swift execution of judgments by government agents who participated in the evaluation’s survey. When prompted about the forms of Council of Europe support that would help most to

strengthen the capacities of the government agent’s office, government agents who responded to the survey identified as ‘most useful’: regular meetings with other government agents; participation of government agents in CoE steering committees; and secondments to the Court Registry and ED for government agents. Some national authorities have pro-actively sought Council of Europe support in the development and implementation of reforms (e.g. Republic of Moldova and Ukraine requesting opinions from the Venice Commission, and Turkey requesting legal and capacity building assistance through projects).

¹⁶ Recommendation on efficient domestic capacity for rapid execution of judgments of the ECtHR’, CM/Rec(2008)2, 6 February 2008.

Box 2. Working groups set up to execute the Court's judgments on conditions of detention in Bulgaria and Italy

Bulgaria

In May 2015, the Bulgarian Ministry of Justice set up the 'Neshkov Working Group' tasked with responsibility to produce legislative proposals for the execution of the *Neshkov and Others v Bulgaria* pilot judgment of 27 January 2015. This working group was composed of representatives from the Ministry of Justice, Ministry of Interior, Prosecutor's Office, Judiciary (Supreme Administrative Court, and Supreme Court of Cassation, a judge for a district court and a former judge of the Court), the Prison Administration (General Directorate for the Execution of Judgments) and two NGOs (the Centre for the Study of Democracy and the Bulgarian Lawyers for Human Rights). The working group met on a weekly basis for six months. In October 2015, it submitted to the Ministry of Justice its proposals on how to strengthen existing compensatory and preventive remedies.

Italy

In June 2013, the Italian Minister of Justice appointed a special commission chaired by Professor Palma (the Palma Commission) tasked with responsibility to produce proposals for the execution of the *Torregiani v Italy* judgment. The Commission consisted of the representatives of the prison administration, legislative office, regional "garanti", directors of prisons and representatives of the Ministry of Finance. The Commission is credited for helping to coordinate the actions of the various stakeholders involved in the execution of judgments in the *Torregiani* case. While the Government Agent's office was not a member of the Palma Commission, the Commission organised several consultations with this office. As a result, the Commission succeeded not only in proposing remedies, but also in developing a perspective beyond the *Torregiani* case. For instance, it created 18 working groups on different issues concerning penitentiary administration with a view to contributing to a new law which is being prepared by the Italian Parliament.

The role of the Department for the Execution of Judgments of the European Court for Human Rights (ED)

56. The mandate of the ED is two-fold: on the one hand to advise and assist the CM in its functions of supervision of the execution of judgments; on the other hand, to provide support to the member States in their efforts to achieve full, effective and prompt execution of the judgments.
57. In terms of the ED's effects, the country case studies suggest the following:
- Government agents and key representatives of the Ministries of Justice in all of the countries examined concurred that the support provided by the ED helped them to better understand the types of measures needed to execute the judgments, and to draft clearer and more targeted Action Plans.
 - In some countries, the ED was also mentioned by government agents as an important 'ally' in the face of resistance to reform (Bulgaria, Ukraine).
 - Notwithstanding the ED's support, acknowledged by government agents in all countries, the action plans presented by member States to the CM often still focus excessively on the adoption of new legislation without giving sufficient attention to the implementation of the legislation, secondary laws, regulations as well as budgetary resources assigned to it.

58. Factors contributing to these effects appear to be:

Type of support provided:

- Government agents suggested that face to face meetings between the ED and key officials within the government (held in national capitals or CoE headquarters) are a crucial form of support as the direct contact and the confidential dialogue encourages the sharing of information and concerns in a more open manner. For example, progress was made in the execution of the *Torregiani* case following extensive consultations between the Italian authorities and the ED. The frequency of the support provided by the ED is therefore important: in some countries, the volume of support was considered insufficient (“the former Yugoslav Republic of Macedonia” and Ukraine).
- The importance of face-to-face contacts between national authorities and the ED is confirmed by the results of the survey conducted with government agents. The two most useful types of support provided by the ED to the execution of judgments are considered by government agents to be seminars/conferences organised by the ED with government representatives from different countries to share experience on how to address similar problems with execution, and roundtables organised by the ED that bring relevant national authorities together to discuss outstanding problems with execution.
- The ED also provides an important coordination role between national authorities (both within a State Party and from different State Parties). In Greece, for example, the ED was commended for organising several roundtables on the issue of ill-treatment by the police and lack of effective investigations, which helped to bring the relevant national authorities together to

discuss the outstanding problems. The seminar organised by the ED in Turkey in November 2012 on “Excessive length of proceedings: how to resolve a systemic problem in this area, and avoid an influx of repetitive applications to the European Court in a durable manner” brought together representatives from different countries (Bulgaria, Italy, Greece, Germany, Poland and Slovakia) to discuss common challenges.

Limited outreach:

- ED meetings mostly take place with government agents and the Ministries of Justice. ED has fewer opportunities to talk to other relevant actors including the Ministry of Interior (Poland) and civil society (Ukraine). There is very little knowledge about the ED’s work outside the government agent and the Ministry of Justice circles; other ministries, national parliaments and civil society lack awareness of the supervision process and their role in it. This problem is partly being addressed through the implementation of cooperation activities, when these are implemented in close cooperation with the ED, as projects provide an opportunity for the ED to meet with a wider range of government and non-government stakeholders (see section 2.1 on the role of project support).

Insufficient transparency:

- Government agents in several countries (e.g. Poland, Ukraine, and Italy) suggested that the ED’s website could be more user-friendly, in particular it was not always easy to consult the action plans of other countries on specific cases because of the complicated cross-reference system between cases. Such consultations are considered useful when preparing action plans. While the majority of government agents participating in our survey reported that

accessing the action reports and action plans from other countries is straightforward, a significant number (23%) considered it 'difficult' or 'very difficult' to find these documents on the Council of Europe's website.

***Interview quote:** 'There needs to be greater transparency as regards the procedures for submitting communications, including comments on action plans on execution of judgments, with clearer information on deadlines on the Council of Europe website.'*

- These issues are currently being addressed through a significant overhaul of the ED's website and the creation of a documentation system - HUDOC-EXE - for the ED which will permit searches for all ED-related documents using different criteria, including by type of violation (Article of the ECHR), by member State and by theme. The ability to search for action plans and action reports by theme and by country will be particularly appreciated by government agents who noted that the experience of other countries is valuable during the process of drafting action plans.
- Another issue raised was that it was unclear why laws adopted were not sufficient to close cases.

Coordination with other parts of the Council of Europe to be improved:

- The ED maintains contacts with the Court Registry, organising meetings with judges and with the registrars of the Court at regular intervals and lawyers from the ED covering specific countries regularly calling up their counterparts in the Court Registry.
- The ED maintains close contacts with the CDDH and the Committee of Experts on the system of the European Convention on Human Rights (DH-SYSC) which is the main intergovernmental

committee addressing systemic issues relating to the functioning of the Convention system and its effectiveness in the long run. The ED participates in all meetings of the DH-SYSC and closely cooperates with the latter in the work of the Committee directly related to the execution of the Court's judgments. The ED maintains contact with relevant Steering Committees, including the European Committee on Crime Problems (CDPC) and its subordinate bodies such as Council for penological co-operation (PC-CP). These contacts include presentation of the ED's work at Steering Committee meetings and providing contributions (e.g. the White Paper on Prison Overcrowding, adopted on 2 May 2016). However, there is currently no formal mechanism for Steering Committees to take up in their own work obstacles to execution that the ED has identified.

- Whilst the ED can provide suggestions for cooperation activities which reflect execution priorities, or contribute to the design of existing cooperation activities with suggestions, the Council of Europe's procedures for identifying and selecting projects for funding do not include an effective mechanism for systematically addressing issues mentioned in the Court's judgments. As a result, projects do not necessarily address obstacles to execution that the ED has identified in particular countries, representing a missed opportunity from the point of view of the execution of judgments. Some progress has been achieved in this area through the establishment of a special coordinator position in the operational Directorates General who analyses judgments, situation with the execution and findings of CoE monitoring bodies to provide advice on the design of cooperation activities.
- At the same time, whilst project managers may often have access to the most up-to-date information about legislative and policy

developments in a country, the project managers consulted mentioned that the ED does not systematically check with them when assessing and helping to produce action plans on the measures which State Parties will take to execute the Court judgments.

- The ED is consulted during the drafting of the Country Action Plans. Concerning the Action Plans for the Republic of Moldova 2013-2016 and for Ukraine 2011-2014 there are a number of sections where implementation of judgments is mentioned. However, there is no single specific section outlining the judgments to the execution of which the Action Plan aims to contribute, which can be taken up in the progress report.

The role of the European Court of Human Rights

59. The judgments of the Court do not have 'direct effect' and, whilst State Parties are under an obligation to execute the judgments, they are given wide latitude to decide on the measures needed. Nevertheless, in recent years the Court has begun to contribute to the execution process in a number of ways. This evaluation has examined the inclusion of possible individual and general measures for execution within the Court judgments; bilateral discussions held by members of the Court Registry and respondent States; and in particular the use by the Court of the pilot procedure. The latter involves the suspension by the Court of its examination of all repetitive cases during the CM's supervision of the pilot procedure, and the indication by the Court of general measures needed, including setting up of retroactive domestic remedies to deal with all similar cases and, in most cases, the imposition of a deadline.

60. Since 2004, the Court has issued approximately 15 pilot judgments and over one hundred quasi-pilot judgments where the Court includes indications as regards possible individual and general measures for respondent States to consider without however suspending the examination of repetitive cases. The Court Registry has also initiated numerous visits and meetings with government representatives. As the Court Registry becomes more involved in giving advice to respondent States, it will be important to ensure good synergies between the Court Registry and the ED. Since 2015 the ED and the ECHR have been exploring how to structure best those contacts and to raise awareness of execution matters in the Court. Certain activities are planned: exchanges by ED with all Registrars of the Court, detailed training on the execution process and know-how development within the Court as well as the development of HUDOC – EXE soon to be launched. The Court Registry could also benefit from more information from CoE entities relevant to its work, including information on outcomes of cooperation activities.

61. A former government agent from Italy as well as stakeholders from other countries (e.g. Greece, and Bulgaria) noted that it is not always easy to interpret the judgments of the Court, to understand what exactly needs to be executed. They, therefore, appreciated when the Court itself provided advice on the general measures needed.

- In Italy, for example, government representatives met with the Registry and the President of the Court to discuss the *Torregiani* judgment as regards overcrowding in penitentiary centres. At this meeting the Italian authorities found it useful to learn about the experience of other countries executing similar judgments (e.g. *Ananyev v Russia*) in particular as regards the financial calculation of remedies.

In addition, in February 2016, the Registry met representatives from the Italian Ministries of Justice and Foreign Affairs (including the government agent) in Rome to discuss selected issues arising from the most recent case law against Italy as well as topics concerning the procedure before the Court.

- Greek stakeholders mentioned the criteria laid down by the Court for governing compensation on excessive length of judicial proceedings as a useful building block in the process of executing the three pilot judgments against Greece handed down by the Court between 2012 and 2015.
- Approximately two-thirds of government agents who responded to the evaluation survey considered that meetings organised by the Registry of the Court with member States were either 'important' or 'very important' sources of support for countries to develop and implement the general measures highlighted in the Court's judgments.

62. The follow-up of the pilot judgments is a priority of the CM. The pilot judgments in a number of countries were also followed promptly notably as regards the setting up or the strengthening of domestic remedies: *Athanasiou and others v. Greece* (became final on 21 March 2011); *Ümmühan Kaplan v. Turkey* (became final on 20 June 2012); *Neshkov v. Bulgaria* (became final on 1 June 2015). In all three cases, the Court held that the state party was to introduce an effective remedy within one year of the judgment becoming final.

- In Greece, Law 4055/2012 was adopted in 2012 allowing litigants in an administrative judicial procedure to apply for fair compensation, if the proceedings have taken up more time than what should be reasonably justified on the special merits of the case. The law also

introduced an accelerated administrative judicial procedure. The CM closed the case on 9 December 2015.

- In Turkey, two institutional developments took place: by 23 Sept 2012 the Constitutional Court began to receive individual applications; and by 20 Feb 2013, the Human Rights Compensation Commission started to receive applications (in the case of the latter, applications were only eligible for cases pending before the Court as of 23 March 2013). The CM closed the case in 2014.
- In Bulgaria, the Ministry of Justice set up the 'Neshkov working group' tasked with responsibility to produce legislative proposals for the execution of the *Neshkov* judgment. This working group was composed of representatives from the Ministry of Justice, Ministry of Interior, Prosecutors Office, Judiciary (Supreme Administrative Court, and Supreme Court of Cassation, a judge for a district court and a former judge of the Court), the Prison Administration (General Directorate for the Execution of Judgments) and two NGOs. The Working Group developed legislative proposals to strengthen existing preventive and compensatory remedies. These proposals have been approved by the Ministry of Justice and are currently awaiting approval by parliament.

63. On the other hand, the case studies examined for this evaluation suggest that pilot judgments may not always be effective.

- The case studies examined for this evaluation suggest that pilot judgments, which include specific deadlines for execution may only be effective where important legislative changes have already taken place at national level, frequently as a result of the ongoing execution processes under CM supervision, signaling the 'readiness' of a country to create effective domestic remedies. For example, the Court

introduced the *Ümmühan Kaplan* pilot judgment in 2012, seven years after the *Ormanci* judgment (21 March 2005). By 2012, Turkey had already made initial moves to adopt the individual application to the Constitutional Court and the Human Rights Compensation Commission. Similarly, the Court introduced the *Athanasiou* pilot judgment six years after the *Manios v. Greece* judgment (11 March 2004), when Greece had already introduced several legislative changes to reduce the length of judicial proceedings.

In all countries where measures were taken in response to pilot judgments, there was a strong pro-reform domestic constituency which used the pilot judgment in its lobbying for reforms.

- Furthermore, even when domestic remedies are adopted rapidly in response to a pilot procedure, they are often not able to solve the structural problems causing the delays in the first place. In Greece for example, steps were taken after the relevant pilot judgments to award applicants with appropriate redress for violations of Article 6(1) of the Convention in respect of excessive length of judicial proceedings in all three branches of the judiciary e.g. as regards length of judicial proceedings. However, observers have noted that, while introducing the option of raising compensatory claims against the State for delays, the remedies did not address the lack of human resources and inadequate infrastructure that largely cause the delays in the first place.
- When a pilot judgment is closed by the CM, the ‘repatriation’ of (sometimes) hundreds of cases, previously frozen by the Court, can present national authorities with significant resource and organisational challenges. It is not clear whether the Council of Europe is able to offer State Parties support during this critical period.

- Moreover, the freezing of repetitive cases, which results from pilot judgments, can also increase the amount of work faced by the Court, as a decision to ‘unfreeze’ the cases following inaction or insufficient action by a respondent State requires updating the Court’s position on each case.
- In a few cases examined, specific problems were caused by perceived tensions between the minimum standards developed by the Court and the CPT recommendations (e.g. the 4m² standard of the CPT¹⁷ was not taken up by the Court in some cases¹⁸).

The role of the Steering Committee for Human Rights and the Committee of Experts on the system of the European Convention on Human Rights

64. The Steering Committee for Human Rights (CDDH), conducts the intergovernmental work of the Council of Europe in the human rights field, advises and gives its legal expertise to the Committee of Ministers on all questions within its field of competence bearing in mind the Council of Europe legal standards as well as the relevant jurisprudence of the European Court of Human Rights. In December 2015, the CDDH adopted its report on the longer-term future of the Convention system (also referred to in the introduction). The report comprises a number of conclusions regarding the national implementation of

¹⁷ ‘Living space per prisoner in prison establishments: CPT standards’, available at: <http://www.cpt.coe.int/en/working-documents/cpt-inf-2015-44-eng.pdf>

¹⁸ See, for example: *Torreggiani and Others v. Italy*, no. [43517/09](#) § 68, 27 May 2013. Also, see *Trepashkin v. Russia* (no. 2), no. [14248/05](#), § 113, 16 December 2010; *Kozhokar v. Russia*, no. [33099/08](#), § 96, 16 December 2010; and *Svetlana Kazmina v. Russia*, no. [8609/04](#), § 70, 2 December 2010, *Idalov v. Russia*, no 5826/03, § 101, 22 May 2012 where the Court refers to 3sqm.

the Convention, related to the role of national parliaments and National Human Rights Structures, the Court, the Committee of Ministers, the ED and technical assistance.

65. The DH-SYSC (Committee of experts on the system of the European Convention on Human Rights) is a plenary inter-governmental committee set up by the Committee of Ministers under the authority of the CDDH. It is entrusted with the task of improving the effectiveness of the control mechanism of the Convention and its implementation at national level. The DH-SYSC has specifically been tasked since 2014 to assist member States in developing their domestic capacities and facilitate their access to relevant information.
66. The DH-SYSC is a platform for exchange of views with a particular focus on good practices and practical and procedural difficulties encountered. Recent examples of exchanges include:
- Re-examination or reopening of cases following judgments of the Court¹⁹.
 - Mechanisms for ensuring the compatibility of legislation with the Convention (see below under 2.3).
67. The DH-SYSC also was tasked to review the Recommendation CM/Rec(2008)2 on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights. The DH-SYSC will take stock of the implementation of the Recommendation CM/Rec(2008)2 and

¹⁹ Overview of the exchange of views held at the 8th meeting of DH-GDR (presently DH-SYSC) on the provision in the domestic legal order for the re-examination or reopening of cases following judgments of the Court. DH-GDR (2015)008 Rev. Accessible at: [http://www.coe.int/t/dghl/standardsetting/cddh/reforme_chr/DH_GDR/Final%20DH-GDR\(2015\)008%20Rev_E.pdf](http://www.coe.int/t/dghl/standardsetting/cddh/reforme_chr/DH_GDR/Final%20DH-GDR(2015)008%20Rev_E.pdf)

make an inventory of good practices relating to it and, if appropriate, provide for updating the recommendation.

68. The work of the CDDH and other Council of Europe steering committees, including their best practice guides, was highlighted by government agents participating in our survey as one of the most important forms of support which the Council of Europe provides to governments assisting their efforts to identify, develop and implement the general measures highlighted by the Court's judgments. Only CM Recommendations, CPT monitoring activities and meetings of the Court Registry with member States were deemed more valuable.

The role of projects in the execution process

69. The SG attaches high priority to technical assistance and cooperation activities being used by the Council of Europe to support the execution of the Court's judgments²⁰. Important examples of such projects have been implemented under the Human Rights Trust Fund (HRTF), which counts Norway, Germany, the Netherlands, Finland, Switzerland and the United Kingdom among its members. One of the objectives of the HRTF is to finance activities that contribute to strengthening the sustainability of the European Court of Human Rights. The HRTF supports the rapid reaction capacity of the Council of Europe to respond to problems related to the execution of judgments.
70. In terms of the effects of these projects:

²⁰ An analysis by the Secretary General indicated that 32% of technical assistance and cooperation programmes of the Council of Europe directly address the major challenges identified in ECtHR judgments. [http://www.coe.int/t/dghl/monitoring/execution/Source/Documents/SG%20Inf\(2015\)17rev_EN.pdf](http://www.coe.int/t/dghl/monitoring/execution/Source/Documents/SG%20Inf(2015)17rev_EN.pdf)

- On the one hand, less than one third of government agents who responded to the survey conducted in the framework of this evaluation considered that cooperation activities provided an ‘important’ or ‘very important’ form of support to countries in their efforts to develop and implement the general measures highlighted in the Court’s judgments.
 - On the other hand, the stakeholders consulted in the context of the evaluation’s case-studies suggested that, where projects included a specific objective to contribute to the execution of judgments, their effects were positive. This is illustrated by the projects implemented under the HRTF, which stakeholders confirmed were able to contribute directly to the execution of judgments either by helping to propose new remedies in line with requirements of ECHR (HRTF project on domestic remedies for detention conditions – see Section 2.2), or by strengthening domestic capacity to coordinate and monitor execution (HRTF project in the Republic of Moldova).
 - The project ‘Support to coherent implementation of the European Convention on Human Rights in the Republic of Moldova’ (2014-2015), implemented by the Division on National Implementation of Human Rights with participation of the ED aimed, inter alia, at increasing the capacity of the government agent.
 - The project on domestic remedies for detention conditions helped national authorities identify national implementation measures which were then communicated to the CM in the form of action plans.
 - The cooperation in the framework of the Norway grants has also greatly contributed to improving standards in prisons and investigative detention facilities by directly financing the refurbishment of infrastructure to ensure respect for human rights. Another objective achieved through activities funded by the Norway grants is the increased application of probation measures in compliance with European standards and use of electronic monitoring.
 - Limited progress made in Ukraine in addressing problems in the area of efficiency of justice may be attributable to the discontinuation of a relevant project in this area. Whereas a regulatory framework governing the length of judicial proceedings has existed since 2010, for a variety of reasons, the relevant provisions are not implemented - including poor organisation of courts, insufficient resources and extremely low levels of public confidence in Ukraine’s judicial system. This situation could have been addressed by a relevant Council of Europe project in Ukraine focusing on efficiency of justice, however although the project had been initiated, it was suspended soon after due to changes in donor priorities.
71. Factors contributing to these effects:
- The projects which were able to contribute the most to the execution of judgments were tailored to the needs of the execution process in each country: this was the case with the HRTF projects, where the project managers consulted closely with the ED regarding the measures needed, both during the design and the implementation of the project.
 - However, among the projects examined, in many cases such consultations did not take place sufficiently, so cooperation activities were implemented which did not specifically take into account the process of execution of judgments before the CM. The survey conducted for this evaluation also suggests that

government agents are not systematically consulted by project managers during the needs assessment conducted in the preparation of cooperation activities.

- The involvement of lawyers from the Court Registry in cooperation activities was considered useful and particularly important when projects touch on issues which are not currently the subject of monitoring bodies but which have been the subject of the Court case law.
- The round table seminars organised in the context of projects brought together a wide range of stakeholders with the ED, the Court Registry and the CPT to discuss reform proposals. These activities strengthened informal links between national stakeholders. They also give the ED, in particular, an opportunity to be in direct contact with a wide range of government stakeholders (see section 2.1 on the role of ED above).
- Finally, projects give national stakeholders exposure to the practices of other countries, especially where they involve country visits for judges, prosecutors, law-enforcement officers or other stakeholders to other countries and promote the dissemination of CoE standards. In their responses to the survey, government agents considered that country visits/exchanges of experience between different member States are the aspect of cooperation activities which should be strengthened the most, followed closely by quality of training and the availability of good practice guides.

72. Since the HRTF project on domestic remedies for detention conditions led directly to the setting up of domestic remedies for individuals to challenge violations of ECHR (Article 3), it is analysed in more detail in section 2.2 under the role of project support.

The role of the Parliamentary Assembly of the Council of Europe

73. The implementation of the Court's judgments is examined in the periodical reports of PACE Monitoring Committee concerning certain countries under PACE monitoring procedure or the 'post-monitoring dialogue' procedure. However, since 2000 the Parliamentary Assembly, and in particular its Committee on Legal Affairs and Human Rights (CLAHR), has engaged in its own assessment of the execution of judgments, promoting a more proactive approach of national parliaments in this process. This has included the adoption of eight reports, eight resolutions and seven recommendations calling on, inter alia, particular member States to address delays with the execution of the Court's judgments. The latest PACE resolution on this subject – Resolution 2075 (2015)²¹ focused on nine countries facing serious structural problems – Bulgaria, Greece, Hungary, Italy, Poland, Romania, the Russian Federation, Turkey and Ukraine. When preparing their reports on the implementation of the Court judgments, PACE rapporteurs usually liaise with the CM Secretariat, ED and civil society and undertake fact-finding visits to selected member States; for example, the previous PACE rapporteur Mr Klaas de Vries visited Turkey, Italy and Poland in 2014. Moreover, in 2012-2013, the CLAHR held a series of hearings with the heads of PACE national delegations and their experts (from Bulgaria, Greece, Hungary, Italy, Poland, Romania, the Russian Federation, Turkey, Ukraine and the United Kingdom). In its

²¹ Resolution 2075 (2015). Implementation of judgments of the European Court of Human Rights. Accessible at: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=22197&lang=en>

Recommendation 2079 (2015)²² addressed to the CM, PACE raised a number of issues concerning enhancing the process of supervision of the Court's judgments, such as considering the use of Article 46, paragraphs 3-5 of the ECHR, ensuring greater transparency of this process and involving to a greater extent applicants and civil society. Since January 2015, the CLAHR has a Sub-Committee on the Implementation of the Court's judgments.

74. PACE has also tried to strengthen the capacity of national parliaments to fulfil their obligation to ensure compliance with the Convention, including through the implementation of judgments of the Court. In 2011, PACE adopted a resolution calling for national parliaments to create adequate procedures to verify the compatibility of draft legislation with ECHR standards and monitor the implementation of the Court's judgments²³. It has also drafted a comparative overview of the structures and mechanisms that national parliaments have put in place in order to carry out these functions²⁴.
75. Finally, PACE has contributed to training and raising awareness among national parliamentarians and parliamentary staff of the ECHR and the role of national parliaments in monitoring the execution of the Court's judgments at national level. This training and awareness raising support is discussed in section 2.4 under the role of PACE below.

²² *Implementation of judgments of the European Court of Human Rights* (09/2015), see AS/Jur report (Doc 13864 + Addendum), Resolution 2075 (2015) and Recommendation 2079 (2015) <http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?fileid=22198>

²³ PACE Resolution 1823 (2011), National parliaments: guarantors of human rights in Europe, adopted by the Parliamentary Assembly of the Council of Europe on 23 June 2011.

²⁴ PACE, The role of parliaments in implementing ECHR standards: overview of existing structures and mechanisms – Background memorandum prepared by the Secretariat, 8 Sept 2015.

76. The direct effects of PACE's monitoring work on the execution process are difficult to observe in the short term. Its involvement in this issue has raised interest of the members of the parliament in the work of the Court and the implementation of its judgments. However, stakeholders consulted by the evaluation team were not aware of the PACE's visits or reports. Similarly, less than half of the government agents who responded to the survey considered that PACE was either 'important or very important' to countries in their efforts to execute the Court's judgments. Moreover, many national parliaments continue to lack adequate (or any) structures for fulfilling the monitoring and oversight functions. Romania's Parliamentary Subcommittee for Monitoring the Execution of ECtHR Judgments and Decisions is an important exception. Greece and Turkey also have parliamentary committees (Greece's Special Permanent Committee on Monitoring and Decisions of the Court, and Turkey's Human Rights Enquiry Committee) which include, within their remit, the vetting of legislation for Convention compliance and oversight of the execution of the court's judgments. However, in the case of Greece, the Committee has not yet begun its work, and in Turkey the Committee does not deal directly with the execution of judgments.

77. PACE's efforts to strengthen the capacity of national parliaments to monitor the implementation of the Court's judgments has had effects in Ukraine and the Republic of Moldova, where it has led to discussions to create a separate parliamentary committee exclusively responsible for the Court's judgments as well as drafting possible amendments to existing legislation and new laws.

78. Factors contributing to the variable effects of PACE appear to be:

- PACE has not up to this time used sanctions in order to encourage national delegations to oversee how their government has implemented the Court's judgments.
- Low levels of public awareness of execution processes, which means that members of the Parliamentary Assembly have difficulties raising the visibility of this issue within the national parliament.

Conclusions on the effectiveness of CoE support to the swift execution of judgments

79. Under the Convention system, governments have primary responsibility to execute judgments, developing both individual and general measures under the supervision of the CM. The exchanges of views on the implementation of the Convention and the execution of the Court's judgments carried out within the DH-SYSC have proven to be very fruitful. They allow, at CoE level, sharing of experiences, between peers, on good practices and difficulties encountered.
80. The effectiveness of the CM in its supervisory role is limited by the politically sensitive nature of its work, which involves putting peer pressure on non-compliant member States. The supervision process could further benefit from more substantive involvement of civil society and NHRs.
81. The support of other CoE entities (in particular the ED and the Court) can help to clarify to national authorities the types of measures needed to execute the Court's judgments. However, in order for the ED and the Court to make proposals which are coherent and feasible to implement, they need to have the most up-to-date information about the countries in

question. This highlights the importance of ensuring appropriate coordination and information-sharing between MAEs. Currently such coordination relies on the individual initiative of staff members, who may not always have the time to contact their colleagues in the Court Registry, and vice versa. Mechanisms must be supported when in place (e.g. the cooperation between the DH-SYSC -and its Secretariat-with the ED) by the senior management and/or further enhanced. Mechanisms must also be put in place to permit different entities to share information in a more regular and automatic manner and to engage expertise of staff members when needed in a more reactive and organised manner. Where such exchanges have happened and successful synergies were created, these were facilitated by staff mobility between the entities (i.e. CM Secretariat and Court Registry, CPT and ED, Court Registry and the Directorate General of Human Rights and Rule of Law).

82. The complexity of the problems which need to be addressed in order to execute judgments often requires more sustained interventions at national level. Only project activities succeed in offering sustained interventions and in bringing together all the concerned stakeholders in roundtable meetings and involving national or international experts in the development of proposals for new legislative or administrative measures. However, whilst there are some good examples of cooperation activities that have targeted execution, these still represent a minority of the projects implemented by the Council of Europe. There would be merits in 'mainstreaming' the execution of judgments not only in the design of all

cooperation activities, but also in other aspects of the Council of Europe's work, including the process of setting priorities within the Country Cooperation Action Plans concluded by the Council of Europe with individual countries. Although priorities are set by the operational DGs,

they are not always adequately reflected in Country Cooperation Action Plans due to their different internal logic as the Action Plans represent a programmatic framework agreed by the member State concerned and serve to raise extra budgetary resources.

2.2. Creation of national remedies when Convention rights have been violated

83. This section assesses the effectiveness of the project and non-project activities of the Council of Europe to support the creation of national remedies. Remedies are understood in this paper as mechanisms which permit or support individuals to bring complaints of human rights violations to the attention of the appropriate bodies and, where violations are determined, to receive compensation and require the state to prevent further violations of the individual's rights. The creation of national remedies is distinguished in this paper from the adoption of substantive measures, in the form of legislation or administrative measures, which aim to eradicate or reduce the occurrence of ECHR violations even in the absence of individual complaints.
84. Between 2012 and 2015, national remedies were created or strengthened in all ten countries covered by this evaluation. However, in a few countries, no new remedies were introduced in particular domains (e.g. in Ukraine with respect to the length of judicial proceedings). Moreover, the effectiveness of the remedies introduced is considered weak in many cases, particularly in the case of the remedies aimed at supporting challenges by individuals who allege ill-treatment by the police.
85. The main non-project activities of the Council of Europe which aimed to create or strengthen national remedies in the thematic areas of the evaluation (besides the Court itself, through pilot judgments – see section 2.1 above) were the regular

monitoring visits performed by the CPT, and the visits and reports of the Commissioner. As regards project-based assistance, the most important activity was the HRTF project, which focused on the creation of domestic remedies to challenge conditions of detention, implemented by the ED.

The role of the European Committee for the Prevention of Torture

86. The creation of national remedies has been an important focus of the CPT's work in all the countries covered by this evaluation. The CPT's work in this area has focused on those themes which correspond to its mandate of preventing torture and inhuman or degrading treatment or punishment, i.e. ill-treatment by the police in places of detention, effectiveness of investigations against such ill-treatment and conditions of detention both in prisons and remand centres.
87. While the emphasis of the CPT has varied depending on the problems it has encountered in each country, some commonalities can be identified:
- The creation of effective national remedies for detainees to challenge their conditions of detention consistently featured among the detailed recommendations issued by the CPT as part of its regular monitoring activities in the countries covered by this evaluation. The CPT called on the national authorities to create effective complaints procedures, both inside and outside the prison system. Where such remedies existed, often in the form of the Ombudsperson's office, the CPT urged national authorities to ensure that prisoners enjoy confidential access to them. The CPT also emphasised the need to increase the financial and human resources available to independent oversight mechanisms, such as national

preventive mechanisms (NPMs). Less attention has been given by the CPT to compensatory remedies, that is, procedures that enable prisoners to file compensation claims for any period spent in detention conditions that did not comply with Article 3, either before civil or administrative domestic courts, as the CPT's mandate is targeted towards prevention of Article 3 violations.

- The creation of national remedies for individuals to challenge ill-treatment by the police has also featured prominently in CPT reports during the period in question. The CPT's main recommendation in this area has been the need to set up an independent national agency specialised in the investigation of complaints against law-enforcement officials. Depending on the national context, it has also urged the relevant authorities to ensure that requests for investigations are processed by judges expeditiously.

88. The findings of this evaluation suggest that the CPT has had effects on the development of remedies in a number of countries, especially in the area of detention conditions:

- For example, in Bulgaria, after several years following the CPT's recommendations as regards the need to create effective complaints procedures for detainees, in 2015 a government working group prepared a series of proposals to strengthen existing preventive and compensatory remedies for detainees to seek redress for violations of Article 3 in respect of detention conditions. Bulgarian stakeholders, both governmental and non-governmental, attribute effect for this development to the CPT (among other factors) albeit in different ways. In the view of one NGO, the CPT's public statement of March 2015 was a major trigger for the Bulgarian authorities. In the view of the government agent, the CPT's confidential dialogue prior to the public statement was

more valuable in helping to strengthen the position of reform-minded policy-makers prior to the CPT's public statement.

- In the Republic of Moldova, a CPT recommendation made in 2011 to reinforce the capacity of the NPM to carry out independent inspections led to several institutional developments, including the decision to shift the NPM from the Human Rights Centre (which had lacked resources to implement its functions) to the newly created office of the Ombudsperson, which took over responsibility for implementing the NPM in April 2014. While the Ombudsperson is still considered to face difficulties in carrying out this function, it enjoys greater powers to conduct independent inspections.
 - In Romania, a law was adopted in 2013 giving remedial powers to the judge in charge of the supervision of the execution of sentences to address complaints made by detainees concerning poor material conditions. This development was consistent with CPT recommendations made in 2010 regarding the need to provide detainees with avenues of complaint both inside and outside the prison system. Having said this, during its visit to Romania in 2014, the CPT noted a widespread reluctance among detainees to approach judges due to concerns about the system's confidentiality.
89. In the survey conducted for this evaluation, a significant proportion of government agents (68%) considered the CPT's standards and monitoring activities to be an 'important' or 'very important' form of support to countries in their efforts to implement the general measures needed to execute the Court's judgments. However, in a number of countries visited by the evaluation team, the CPT's recommendations regarding the need to reinforce the capability of the NPM to organise

independent oversight mechanisms have not been followed for the period examined (Poland, Ukraine).

90. The CPT appears to have been less effective in its efforts to support the creation of effective remedies to redress cases of police violence within detention facilities:

- Out of the six countries analysed under this theme, four (Bulgaria, “the former Yugoslav Republic of Macedonia”, Turkey and the Republic of Moldova) continue to rely on units within the office of the public prosecutor or Ministry of Interior for the investigation of complaints against law-enforcement officials, notwithstanding the CPT’s recommendation to set up an independent agency for such investigations.
- In the other two countries, the independent agency set up for this purpose either does not work (Greece’s Office against Arbitrary Conduct, as neither financial nor human resources have been assigned to it) or it has not yet started to work (Ukraine’s State Bureau of Investigations, which is scheduled to begin work in late 2017).

91. Numerous factors appear to contribute to the effects of the CPT:

- Reforms concerning prison conditions require public awareness and acceptance by political parties in order for reform proposals to be approved by parliament (for an example of the role of public opinion in the process of reforming Italy’s penitentiary system, see Box 3 below). Qualitative responses received from government agents to the evaluation’s survey also highlighted this point, with resistance to reform on the part of parliamentary groups identified as an important obstacle to the swift execution of judgments. Therefore, the importance of creating publicity around CPT visits and reports, and ensuring early publication of the reports should be stressed. Civil society organisations in all the countries covered in this evaluation confirmed that CPT visits and reports play a crucial role in raising public awareness and contributing to greater transparency of the existing situation in prisons.

Box 3. Awareness raising by civil society organisations: Italy

The problem of prison overcrowding has been a long-standing concern for Italy. Periodically general amnesties were used as an instrument for reducing overcrowding. However, recent public opinion and the media were against this solution due to security concerns.

The NGO Radicali played an important role in the process of reforming Italy’s penitentiary policies initiated by the President of the Republic, Giorgio Napolitano, by explaining to the public the problem in prisons and its adverse effects on society. NGO Radicali regularly read letters of prisoners in a special radio programme dedicated to prison life.

- When consulted about the CPT’s effectiveness, non-government actors highlighted the important role of the CPT as a conveyor of their concerns about the direction of policy,

especially when they are not included in the policy-making process.

***Interview quote:** ‘The CPT has succeeded in creating a community of trust with the*

Ministries of Justice and National Penitentiary Services which helps the CPT to persuade the national authorities of the need to adopt the requisite measures'

- The CPT also appears to exert a direct influence on certain government stakeholders, in particular within the Ministries of Justice and national penitentiary services, who recognise the expertise of CPT members and appreciate the confidentiality of their dialogue. The government stakeholders unanimously report that the CPT was an important source of standards on how to set up preventive remedies for challenging inadequate detention conditions, and in particular how to investigate and address prisoners' complaints. On the whole, they do not see the CPT as a 'stick' with which the Council of Europe can impose its standards, but rather as a source of constructive, technical advice on how penitentiary services can be improved.
 - Finally, the CPT's recommendations as regards the need for independent inspections of prisons and police detention centres have been consistent with the support provided by other international institutions, with national authorities signing up to the United Nations Optional Protocol to the Convention against Torture (UN OPCAT) which requires the establishment of a national preventive mechanism. Attempts should be made to align CPT visits and other interactions with the actions of other international organisations in order to capitalise on joint efforts. In Greece, for example, stakeholders concurred that authorities paid greater heed to the CPT's recommendations when they had to report to the UN OPCAT.
92. As regards barriers to the effectiveness of the CPT, several factors can be observed:
- National stakeholders pointed to the significant time lag between the CPT's visits and the

publication of its reports; in some cases, the time lag can extend to several years since publication is controlled by the national authorities. This was emphasised in particular by members of civil society, but also by the penitentiary authorities in several countries who noted that it was sometimes difficult to address issues raised by the CPT when they were superseded by new developments.

***Interview quote:** 'The CPT would be more effective if its reports were made accessible earlier. They can contain important and needed information, but time is also crucial here. It should be remembered that the report must be translated and officially sent to entities concerned.'*

- Furthermore, whilst CPT visits have tended to attract media attention, this has often not been the case with the publication of CPT reports which have relied on the Council of Europe website for dissemination. In the view of one representative of civil society, the Council of Europe's biggest challenge is to strengthen its outreach capacity.

The role of the Commissioner for Human Rights

93. The main strength of the Council of Europe's Commissioner for Human Rights is his flexibility to focus on the human rights issues he considers the most urgent, without any legal or political constraints which would limit his leeway. This means that the Commissioner often focuses on issues that are not addressed by other parts of the Council of Europe. Detention conditions have therefore not often been a focus of the Commissioner's work since this issue is covered by the CPT. An exception has been juvenile justice, which the Commissioner has focused on in the context of

his work on the rights of the child.²⁵ Another exception concerns detention conditions of asylum seekers and migrants, which has been the focus of a number of country reports (for instance the 2012 report on Italy). On the other hand, the other themes covered by this evaluation – in particular police impunity and the excessive length of judicial proceedings – have often been prioritised by the Commissioner in his country visits and reports, although the prominence they are given is determined on a case-by-case basis, depending on the circumstances.

94. This section identifies the Commissioner's specific support to the creation of national remedies in these areas, and explores the effects of this support. This support has mostly taken two forms: country visits and reports, and support addressed to all member States through thematic advice and awareness raising, in the form of recommendations, opinions and reports. For example, the Commissioner has published a Human Rights Comment on police abuse and an Opinion on Independent and Effective Determination of Complaints against the Police.²⁶

95. The Commissioner also has at his disposal the power to intervene as third party before the Court. However, the Commissioner has used this power in a limited number of cases (so far only in respect of 13 cases; none of these in the thematic areas covered by this evaluation). In his 1st Quarterly Activity Report for 2016, the Commissioner explained this cautious approach in terms of the need for him to add value i.e.

only on issues to which he has already directed extensive work, and on which he has first-hand experience, and indicated that he has begun to make much more active use of this power.

96. The Commissioner made the following recommendations in country reports in the thematic areas covered by this evaluation:

- As regards detention conditions, the Commissioner has urged national authorities to strengthen the independence and resources available to the Ombudsperson and to designate a NPM where such a mechanism did not already exist (Turkey 2013);
- As regards unlawful detention on remand, the Commissioner has urged national authorities to introduce effective national remedies for unjustified remand in custody (Ukraine, 2012);
- As regards police impunity, the Commissioner has called on authorities to investigate and prosecute those responsible promptly and in accordance with CM guidelines (Ukraine, 2014). He has also urged authorities to consider the establishment of an independent police complaints mechanism (Ukraine 2012 and 2014, Turkey 2013); and for national authorities to reform the Prosecutor's Office, in particular the appointment procedure of the General Prosecutor in order to ensure his/her independence (Republic of Moldova 2013). Finally, in a thematic report published in 2015 on 'Democratic and effective oversight of national security services',²⁷ the Commissioner highlighted the need to ensure that persons who believe that their rights have been unlawfully infringed by security services must have access to an institution that can provide an effective remedy.
- As regards excessive length of judicial proceedings, the Commissioner called on

²⁵Interview with the Office of the Commissioner for Human Rights. See 2015 report on Bulgaria.

²⁶ Human Rights Comment by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe, Police abuse: a serious threat to the rule of law, 25 February 2014; and Opinion on Independent and Effective Determination of Complaints against the Police, CommDH(2009)4, 12 March 2009.

²⁷Democratic and effective oversight of national security services (2015). Accessible at: <http://www.coe.int/en/web/commissioner/publications>

national authorities to introduce effective remedies for individuals to complain and seek redress for undue delays in judicial proceedings (Ukraine, 2012; Turkey, 2013).

97. The effects of the work of the Commissioner are difficult to ascertain as in all countries he operated alongside others. However, national stakeholders consulted during this evaluation were not always familiar with the Commissioner's visits and reports (stakeholders not recalling the Commissioner's visits include judges and parliamentarians, although prosecution services and persons working for the Ministry of Justice, including government agents, tended to be more aware of his interventions). Most NGOs who were consulted had knowledge of the Commissioner's work. Also international NGOs praised the Commissioner's "open door policy" towards NGOs.
98. The effects also depend on the country and on national and international circumstances:
- In the Republic of Moldova, the Commissioner's visit and 2013 report were identified by government stakeholders as important triggers for the start of reforms of the public prosecution office.
 - In Turkey, the government agent considered the Commissioner's impact was useful in helping to shape the content of CoE's project on criminal justice.
 - In Ukraine, the Commissioner's recommendations as regards length of judicial proceedings (to introduce effective remedies) were not taken on board.
 - While the Commissioner's recommendations in the area of criminal justice after Maidan had a push-effect on policy changes in Ukraine, according to the government agent, they coincided with a significant increase of interest in and support to Ukraine's criminal justice

reforms by several international organisations and donors, and so it is difficult to isolate the specific effect of the Commissioner in this area.

99. Factors influencing the Commissioner's variable effects include:

- Outreach: During his country visits, the Commissioner meets with the highest representatives of government, parliament, the judiciary, civil society and national human rights structures. However, for the Commissioner's message to resonate politically, it must be covered by the national media, in particular, national television. Whilst the Commissioner's investment in communication and information activities has increased substantially in recent years, there may be a need to strengthen this work further at national level, in order to encourage wider coverage of his visits and reports within national media.²⁸
- The Commissioner's country-specific recommendations and thematic reports build on existing international or European standards. As indicated in relation to the CPT under the previous section, the Council of Europe's standards are less visible in relation to the effectiveness of investigations into ill-treatment by the police (and especially other aspects of policing) than they are in relation to detention conditions. Having said this, the Commissioner's main added value is his flexibility and independence, which allows him to bring to the attention of national authorities' the matters which he deems most important, often those which have not been taken up by other Council of Europe entities. He is therefore able to cite international standards, even when these are

²⁸ Annual Activity Report 2015 by Nils Muižnieks Commissioner for Human Rights of the Council of Europe, 14 March 2016, CommDH(2016)7, p.40. Accessible at:

<https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2933575&SecMode=1&DocId=2369708&Usage=2>

not so visible in Council of Europe instruments. Just over half of government agents participating in the evaluation's survey considered the Commissioner's support to countries in their efforts to identify, develop or implement general measures 'important or very important'.

The role of project support

100. Only two projects with a specific focus on the creation of national remedies were implemented by the Council of Europe in the time period of this evaluation (2012-2015) in the countries selected as case studies: (1) The project on domestic remedies for detention conditions which specifically aimed to support the partner countries in setting up preventive and compensatory remedies to challenge conditions of detention, including detention on remand (2012-2015). Six partner countries were involved: Bulgaria, Poland, the Republic of Moldova, Romania, the Russian Federation and Ukraine. (2) Bridging project to the project 'Supporting Individual Application to the Constitutional Court of Turkey' (2013-2014), also funded by the Human Rights Trust Fund, which aimed to ensure the effectiveness of the newly introduced individual application system in Turkey. This bridging project was preceded by the Joint Programme Enhancing the Role of the Supreme Judicial Authorities in Turkey and followed by the Joint Programme Supporting the Implementation of the Individual Application to the Constitutional Court of Turkey. It demonstrates an important value added of the Council of Europe's cooperation work – continuity between two projects is ensured and institutional memory is taken advantage of.

101. Other projects tended to focus more on substantive measures needed to ensure conformity between national laws and

administrative measures and the ECHR, or on capacity building (see sections 2.3 and 2.4 on project support below). Given the frequency with which the Court finds violations of Article 13 of the ECHR, regarding the lack of an effective remedy, it may be useful for this aspect of the Court's case law to feature more prominently in the needs assessments which feed into the design of Council of Europe projects.

102. In some cases, projects have been implemented which, while focusing primarily on substantive measures and/or capacity-building, have also given attention to the creation or strengthening of specific national remedies:

- In the Republic of Moldova, for example, the project "Support to Criminal Justice Reforms in the Republic of Moldova", managed by DG I and funded by the government of Denmark (2015-2017) covers a wide range of criminal justice reforms and included, as one of its aims, strengthening the NPM and reforming the public prosecutor's office.
- The Council of Europe's project 'Support to the criminal justice reform in Ukraine' (2013-2015) funded by the government of Denmark also covered a wide range of criminal justice reforms; it included the reform of the prosecution service, providing free legal aid and facilitating the drafting of a law on the State Bureau of Investigations of Ukraine, and its actual application.
- Council of Europe project on "Improving the Efficiency of the Turkish Criminal Justice System" (2012-2014) included, as one of its objectives, expert advice on creating a Law-Enforcement Oversight Commission that will centrally record and monitor the measures to be taken by administrative authorities as regards offences committed by police officers.

103. Effects of the projects:

- The project on domestic remedies for detention conditions (illustrated in Box 4 below) and Turkey’s individual application project helped to improve the functioning of the national remedies concerned.
- The project managers consulted by the evaluation team also emphasised the impacts of

the projects on strengthening political will within the countries concerned, by making the execution process – which is often poorly understood at national level – more tangible to stakeholders.

Box 4. Impact of projects aimed at strengthening national remedies

Project on execution of judgments in the field of detention conditions in Romania

In 2009, Romania initiated the reform of its criminal justice policy. This process resulted in the adoption of a new Criminal Code and Code of Criminal Procedure which entered into force on 1 February 2014 together with new Laws on Probation and on the Execution of Sentences. Romania requested an expert assessment of the Law on the Execution of Sentences from the CoE in the context of the project.

Most of the comments provided to the Romanian authorities were taken into account in the final version of the Law adopted by Parliament in June 2013. In particular, this Law extended the competences of the judge supervising the deprivation of liberty to address complaints made by detained persons concerning poor material conditions, including the prison administration’s failure to provide the minimum living space enshrined in the domestic regulations. Decisions by the supervising judge are mandatory to the prison administration.

104. The effects on national remedies were more limited in the case of the other projects, which did not focus exclusively on strengthening national remedies.
- Ukraine’s Special Bureau of Investigation has still not been set up, notwithstanding the project’s expertise and advice aimed at laying the foundations for the adoption of this new institutional mechanism for investigating serious human rights violations committed by law enforcement officials.
 - In Turkey, while a bill to create a Law Enforcement Oversight Commission was drafted in 2012, there have been repeated delays in the actual setting up of the commission and this is now only scheduled to take place in late 2016.
 - In the Republic of Moldova, the project made a comprehensive evaluation of the new Ombudsperson law that entered into force in

April 2014. The assessment concluded that there was a lack of legal certainty in distinguishing which body constitutes the NPM – the Ombudsman or the Council for the prevention of Torture (body under the Ombudsman). Recommendations for legal amendments were made to remedy this shortcoming and ensure an effective functioning of the NPM. At the time of the evaluation team’s visit to the Republic of Moldova, whilst the Ombudsman’s office was in full reform, a response to these particular recommendations was still awaited. In other countries, where no project support was provided to the ombudsperson, stakeholders regretted the weakened involvement of the Council of Europe in this area (Romania, “the former Yugoslav Republic of Macedonia”).

105. Factors contributing to the effectiveness of projects to support the creation of national remedies:

- a) Project objectives: One of the main success factors of the project on domestic remedies for detention conditions and the individual application to the Constitutional Court project in Turkey was their exclusive focus on strengthening the national remedies concerned. This permitted the project manager to coordinate the project's activities carefully with key milestones in the execution processes of each of the partner countries. This is true of the project on detention conditions, where the project manager worked within the ED and adjusted the project's activities to the main needs of the execution process. In Turkey, another project supporting the individual application to the Constitutional Court started shortly after the *Ummühan Kaplan* pilot judgment which set a deadline for creating an effective remedy. The other projects implemented in the countries covered by this evaluation did not specifically target the creation of national remedies.
- b) Project design: Project beneficiaries were unanimous that one of the most useful aspects of the projects was the exchange of experience they permitted amongst countries addressing similar problems. This provided for incentives and a source of inspiration e.g. for the project on domestic remedies for detention conditions, the study visits organised to Italy and the Netherlands; for the project in Turkey, high level conference organised to assess the functioning of the individual application system, brought together representatives from constitutional courts of Germany, Spain, and Romania.
- c) Needs assessments: Both the project on domestic remedies for detention conditions and the individual application project in Turkey

benefited from detailed needs assessments during the course of the projects. With the detention conditions project, the expert reports gave particular attention to gaps and/or weaknesses in the preventive and compensatory remedies available in each country, and made concrete suggestions on additional measures that were needed. In respect of the project in Turkey, a detailed needs assessment identified the main challenges and difficulties faced by the Constitutional Court in the course of implementing the individual application.

- d) Project implementation: The commitment and motivation of project managers and staff based in Strasbourg and in the Council of Europe field offices to implement high quality activities, sometimes in difficult circumstances, needs to be commended. However, excessive concentration of decision-making power in Strasbourg was considered by the field office staff as delaying important aspects of project implementation, such as the contracting of consultants, responses to inquiries of cooperation partners, and reaction to arising needs. According to field office staff in one of the countries visited by the evaluation team 'all of this meant that other international organisations were better placed to respond to changing needs on the ground'. There was an internal working group created to address issues related to decentralisation.²⁹ In addition, the ODGP has developed a new Council of Europe's project management methodology (PMM). An internal audit is also currently being carried out by DIO in respect of decentralisation policies and results.

²⁹ Working group on deployment of expertise and staff to the field which had two sub groups working on efficient working methods between Strasbourg and the field and the on expertise in the field.

- e) Dissemination of project outputs: Another factor limiting the effects of projects has been the insufficient dissemination of project outputs at national level. Government agents are not always aware of the project's activities, and these are therefore often not mentioned in action plans describing progress with regard to the execution of the Court's judgments. This problem is compounded by the lack of field offices in several countries covered by the evaluation. However, even where field offices exist, the absence of a clear strategy on visibility and communication and the absence of local communication officers make dissemination work difficult.
- f) Information sharing within the Council of Europe: The absence of formal feedback mechanisms within the Council of Europe also results in lost opportunities for projects to inform the work of the ED, monitoring bodies and Steering Committees. The results of projects, including legal expertise, can contribute to the CoE's standard setting work but these outputs are not sufficiently known and recognised by all entities.

The role of the Steering Committee for Human Rights and the Committee of Experts on the system of the European Convention on Human Rights

106. The CDDH has drafted a guide to good practice in respect of domestic remedies which aims to identify the fundamental legal principles applying to effective remedies, and the characteristics required for remedies in certain specific situations and general remedies to be effective and to identify good practices which can provide a source of inspiration for other member States.³⁰ This guide was adopted by

³⁰ Guide to Good Practice in respect of domestic remedies. Council of Europe. Accessible at:

the Committee of Ministers on 18 September 2013. The specific situations dealt with concern remedies for deprivation of liberty, in relation to both the measure's lawfulness and the conditions of detention, and the way in which the person in detention is treated. It also deals with investigations in the context of alleged violations of Articles 2 and 3 of the Convention.

107. The DH-SYSC is expected to work further on the Recommendation CM/Rec (2010)3 on effective remedies for excessive length of proceedings and its accompanying Guide of Good Practice.

108. It is also worth noting that the CDDH 2015 report on the longer-term future of the ECHR system focused on the issue of domestic remedies. It considered that the issue of effective domestic remedies should be at the heart of any activity supporting the national implementation of the Convention and in the thematic work of the relevant committees of the Council of Europe, especially those involving representatives of domestic justice systems (judges, prosecutors).

Conclusions on the effectiveness of CoE support to the creation of national remedies

109. Besides the Court (through the pilot judgments – see section 2.1), only two non-project Council of Europe entities – CPT and the Commissioner – included the creation of national remedies in the support they provided to national authorities in the thematic areas covered by this evaluation. The CPT and the Commissioner both exert influence by raising public awareness of the problems (in particular through the publicity which normally follows their visits) and through meeting with a wide

<http://www.coe.int/t/dghl/standardsetting/cddh/CDDH-DOCUMENTS/GuideBonnesPratiques-FINAL-EN.pdf>

range of national stakeholders, from the Ministries of Justice, to parliament, members of the judiciary and human rights defenders. The coverage of their activities by the national media is therefore an important condition for their effectiveness, as is the early publication of CPT reports.

***Interview quote:** 'The Court's jurisprudence, CPT standards, CM recommendations were very influential in shaping the reforms at national level. For instance the Court's jurisprudence was analysed to inform the nature and reach of the reforms concerning the compensatory remedies. The CPT reports reiterated the need for reforms, reiterated the standards of the Convention and emitted recommendations that inspired the national reforms and were regularly flagged by the Committee of Ministers. It can also be argued, however, that through the **combined activities** of the Court, Committee of Ministers and CPT, the Council of Europe applied the peer pressure on the authorities to keep implementing the action plan even through difficult economic times.'*

110. Projects were once again very important aspects of the Council of Europe's support to the creation of national remedies as they enabled a deeper analysis of the problems (though the involvement of international and national legal experts) and a wider set of tools to address the issues (capacity building, legislative advice and exchange of best practices). Most Council of Europe projects have given more attention to substantive problems with legislation and administrative practice, rather than helping to set up procedural

mechanisms for individuals to seek redress for alleged violations. The HRTF has been a crucial source of funding for projects that focus exclusively or primarily on the creation of effective domestic remedies. It is therefore a matter of concern that the volume of funds contributed to the HRTF has been in decline over the past years. In 2015, the total amount of the contributions paid in the HRTF was €708 000, compared to €1 750 000 in 2014, €1 818 000 in 2013 and €2 971 000 in 2012. Efforts should be made to reverse the decrease of the Fund's budget in the future.

111. Organisational issues internal to the Council of Europe, including sometimes the lack of systematic project preparation processes and insufficient investment in field operations, can affect the smooth set-up and implementation of projects. Greater attention needs to be given to dissemination of the output of projects at national level, including such outputs as legislative expertise, handbooks for practitioners, training manuals, etc. The recent upgrading of the Council of Europe's project management methodology (PMM) is an important step in the right direction. Further, feedback mechanisms also need to be strengthened within the Council of Europe to ensure that outputs of projects are brought to the attention of the ED as well as the relevant monitoring bodies and steering committees of the Council of Europe. Finally, involvement of the ED and the staff of the Court Registry in cooperation activities as experts need to be promoted and encouraged.

2.3 Conformity of national laws and administrative measures with the Convention and the case law of the Court

112. This section assesses the effectiveness of the project and non-project forms of assistance provided by the Council of Europe to support the adoption of substantive measures in order to eradicate or reduce the occurrence of ECHR violations even in the absence of individual complaints. Substantive measures of this kind - in the form of new legislation and/or administrative measures – were adopted in all the countries examined in this evaluation, although the extent to which they achieved conformity with the ECHR and case law of the Court varied.

113. Various non-project forms of CoE support focused on the development of such substantive measures in the thematic areas covered by this evaluation, most prominently the work of different intergovernmental committees and advisory bodies such as CDDH, CDPC, the Consultative Council of European Judges (CCJE), the Consultative Council of European Public Prosecutors (CCPE) and the Commission for the Efficiency of Justice (CEPEJ), as well as the CPT, the Venice Commission and the Commissioner. In terms of cooperation assistance, numerous Council of Europe projects were implemented between 2012 and 2015 supporting national efforts to achieve conformity of national laws and administrative measures with the ECHR.

The role of intergovernmental and advisory bodies

114. The main intergovernmental committees and advisory bodies which provided support in the thematic areas covered by the evaluation are the CDDH, the CDPC and its subordinate bodies, the Council for Penological Co-operation (PC-CP) and the Committee of Experts on the Operation of European Conventions on Co-operation in Criminal Matters (PC-OC) CODEXTER, the CCJE, the CCPE and the CEPEJ. These intergovernmental committees and advisory bodies bring together high ranking practitioners (representatives of the MoJ, penitentiary prosecutors, judges, court administrators, and, in the case of the PC-CP, high-level representatives of prison administrations, probation services and of juvenile justice agencies, researchers or other experts) in order to discuss topical issues affecting their specialist area, and formulate opinions for submission to the Committee of Ministers. The intergovernmental and advisory bodies play an important role in setting standards. They can also initiate visits to countries, where specific problems need to be addressed, as well as visits for the exchange of experiences between members. It is notable that there is no equivalent committee or network for representatives of the police within the Council of Europe.

115. Examples of outputs relevant to the thematic areas of this evaluation:

- In 2016, the DH-SYSC has held an exchange of views³¹ on the basis of relevant excerpts of

³¹ Information concerning the implementation of the Convention and execution of the Court's judgments: verification of the compatibility of legislation with the Convention. Accessible at:

national reports on the implementation of the Brighton Declaration and written contributions of the experts on the mechanisms for ensuring the compatibility of legislation with the Convention. An overview of 'good practice' will be drawn up based on this exchange.

- PC-CP's European Prison Rules, together with the CPT standards, Article 3 of the ECHR and Court case law, provide the main standards of the Council of Europe as regards detention conditions.
- CDDH, CDPC, and CEPEJ: Members consulted stated that they benefit greatly from exchange of information on laws and practices with representatives of other member States, for instance, PC-CP members facilitated visits for the exchange of experience with Belgium and Denmark related to IT and high security in prisons.

Interview quote: 'Learning from other member states was also an important element for reform. The CDDH member consulted with nine other members of the committee on how to deal with similar problems.'

- PC-CP produced a White Paper on prison overcrowding with a view to providing further guidelines to member States on how to deal with the problem. This is a good example of CoE committees taking up issues arising from court judgments.
- PC-OC (Committee of Experts on the operation of European conventions on co-operation in criminal matters, subordinate to CDPC) created databases of Court case law with selected cases relevant to the committee's area of work.
- CODEXTER created a database with ECHR case law of relevance to terrorism.

http://www.coe.int/t/dghl/standardsetting/cddh/reforme_chr/Compatibility-en.asp

- CCPE drafted Opinion No.10 (2015) of the Consultative Council of European Prosecutors to the Committee of Ministers of the Council of Europe 'On the role of prosecutors in criminal investigations'.
- CCJE drafted Opinion 'On Fair Trial within a reasonable time and judges' role in trials taking into account alternative means of dispute settlement', adopted by the CCJE at its 5th meeting (Strasbourg, 22-24 November 2004).
- Guidelines on European standards in the effective investigation of ill-treatment have been produced in 2009 in the framework of a Council of Europe/European Union Joint programme implemented by the Directorate of Human Rights and Legal Affairs.³²

116. While the CoE has also developed standards on policing and effectiveness of investigations (in particular through the Court's case law on Articles 2, 3 and 5), these were less well known by stakeholders in the countries examined than the CoE's standards on conditions of detention. The European Code of Police Ethics, adopted as a Committee of Ministers' Recommendation on 19 September 2001,³³ calls on public authorities to 'ensure effective and impartial procedures for complaints against the police', without providing further specification as to the nature of the complaint procedures. The CPT's standards on effective investigations go much further, but they are presented in a section on 'combatting impunity' in its '14th General Report on the CPT's activities' covering the period 1 August 2003 to 31 July 2004³⁴ and

³² <http://www.coe.int/t/dgi/hr-natimplement/publi/materials/1121.pdf>

³³ Prepared by the Committee of Experts on Police Ethics and Problems of Policing (PC-PO), a subordinate body of the CDPC, Accessible at: [Rec\(2001\)10 on the European Code of Police Ethics](#)

³⁴ 14th General Report on the CPT's activities covering the period 1 August 2003 to 31 July 2004, Strasbourg, 21 September 2004

were therefore less well known to the stakeholders interviewed. Finally, in 2011, the Committee of Ministers' 'Guidelines on eradicating impunity for serious human rights violations'³⁵ include a section on 'the duty to investigate' which outlines the key criteria for investigations of alleged ill-treatment to be considered effective³⁶.

117. An attempt to consolidate and publicise the Council of Europe's standards on actions of the police and the effectiveness of investigations was made in 2013, in the context of a Joint Programme with the European Union, through the publication of a Handbook for the Police on the European Convention on Human Rights and Policing.³⁷ It is not clear to the evaluation team whether this publication has been sufficiently disseminated among relevant stakeholders at national level. In general, given the centrality of the ECHR to the effectiveness of investigations, there is scope to strengthen the Council of Europe's efforts to raise awareness of these standards and to monitor their implementation. The weaker effects observed in relation to the CPT's efforts to support the creation of national remedies to redress cases of police violence in detention facilities may also reflect a gap in the connection of the Ministries of Interior with the Council of Europe's intergovernmental structures. Existing CoE steering committees

(http://www.cpt.coe.int/en/annual/rep-14.htm#_Toc82840130).

³⁵ Prepared by the Steering Committee for Human Rights (CDDH), Accessible at: [Guidelines on eradicating impunity for serious human rights violations](#)

³⁶ Eradicating impunity for serious human rights violations, Guidelines adopted by the Committee of Ministers on 30 March 2011 at the 1110th meeting of the Ministers' Deputies.

³⁷ The European Convention on Human Rights and Policing, a Handbook for police officers and other law-enforcement officials, published in the context of the Joint Programme with the EU on 'Reinforcing the fight against ill-treatment and impunity', 2011-2013.

and advisory bodies bring together stakeholders from each CoE member State under the remit of the Ministry of Justice. There is no platform which brings together police representatives for the purpose of establishing common standards on policing.

118. Stakeholders consulted during the evaluation highlighted that the standards created by these advisory bodies at national level acted as important influences on the direction of reforms, particularly as regards the penitentiary system and in efforts to combat the excessive length of judicial proceedings:

- Penitentiary authorities in Bulgaria and Romania underlined the value of the European Prison Rules for their programmes of refurbishment of prisons.
- The Italian Ministry of Justice also specifically mentioned the European Prison Rules (and several others) as informing the penitentiary reforms implemented between 2012 and 2015.
- Turkey's High Council of Judges and Prosecutors noted that the opinions on alternative means of dispute settlement (ADR) of the CCJE had an impact on the development of Turkey's mediation law.

119. The main factors contributing to these effects appear to be:

- Networking: Judges and prosecutors interviewed in each of the countries that were visited during the evaluation commented on the usefulness of the networks of practitioners from different countries who form part of the advisory bodies. This was also reported to be the case for the members of steering committees. These networks are valued as providing important examples of national laws and practices (as well as contacts) from other countries.
- Active dissemination of outputs: Individual members of the bodies (e.g. in particular

judges, prosecutors and other representatives within the CCJE, CCPE and CEPEJ) often actively disseminate the outputs (standards, guidelines, studies) produced by the advisory bodies. For example, the guidelines of the CCPE are published on the website of the General Prosecutor's Office of Ukraine. CEPEJ has a strong dissemination function. Its website and newsletter are widely consulted, particularly in the weeks following the publication of their biennial evaluation reports. CEPEJ representatives are often active participants in debates on judicial issues in different international fora.

120. On the other hand, the government agents who responded to the evaluation survey did not highlight as particularly important the role of the Council of Europe's advisory bodies in the efforts by member States to develop general measures to execute the Court's judgments. The following were identified by the evaluation team as potential areas for strengthening/complementing the work of advisory bodies:

- Volume of activities: It seems that the activities of the CCJE and the CCPE have been decreasing in recent years (compared to CEPEJ, whose activities have increased). Interviewees (in Italy) mentioned this to be regretful as the CCJE is 'the watchdog of judicial independence' and insisted on the necessity to revitalise the work of the advisory body.³⁸ Steps have been taken in this direction when the advisory bodies were tasked to follow the Secretary General's report on the state of democracy. Their situation report³⁹ in the field of independence of justice

³⁸ Interview with judge from Italy's Supreme Court of Cassation and member of the CCJE.

³⁹ Challenges for judicial independence and impartiality in the member states of the Council of Europe.

will serve as input into the action plan on strengthening judicial independence and impartiality.

- Funding: Related to the previous issue, advisory bodies should be given the resources they need to develop more cooperation activities. The early termination of a CEPEJ project in Ukraine, due to changed priorities of the donor, slowed down efforts by Ukraine to combat the problem of excessive length of judicial proceedings.
- Some advisory bodies may be over-reliant on the initiative of national representatives to disseminate outputs, which may result in little or no dissemination activity in certain member States. This is particularly an issue in those member States which do not appoint high-level representatives to the advisory bodies.
- Formal feedback mechanisms are lacking for intergovernmental committees and advisory bodies to be informed of the results of cooperation activities implemented by other Council of Europe entities of relevance to their work. This represents a missed opportunity for the results of cooperation activities to inform standard-setting and receive greater political visibility through the Committee of Ministers.
- The absence of a network for representatives of the police may explain the more limited implementation of the ECHR in regard to ill-treatment by the police as no opinions have been produced on this issue in recent years to serve as standards in this area.

Example of CEPEJ:

121. As one of the Council of Europe's foremost advisory bodies, the Commission for the Efficiency of Justice (CEPEJ) provides valuable support to member States in their efforts to achieve conformity of their legislation

[http://www.coe.int/t/DGHL/cooperation/ccje/textes/SGLnf\(2016\)3rev%20Challenges%20for%20judicial%20independence%20and%20impartiality.pdf](http://www.coe.int/t/DGHL/cooperation/ccje/textes/SGLnf(2016)3rev%20Challenges%20for%20judicial%20independence%20and%20impartiality.pdf)

and administrative measures with the ECHR, in particular Article 6. It does so through the development of indicators, guidelines, projects and compendia of best practices to prevent or minimise the excessive length of judicial proceedings. Its focus is on structural issues related to court management where it provides the greatest added value as this subject is not being addressed elsewhere. In this way, CEPEJ also supports member States in their efforts to execute the Court judgments. In the words of Jean-Paul Costa, former President of the Court, 'CEPEJ can be considered as an aide de camp for the Court.'

122. CEPEJ's support to member States in this area is three-fold:

- CEPEJ has published and regularly updates a study on 'Length of court proceedings in the member States of the Council of Europe based on the case law of the European Court of Human Rights';
- the CEPEJ SATURN Centre for judicial time management, acting as a European Observatory of lengths of proceedings, follows closely the Court case law to orient its own action; it is, in particular, establishing indicators (including figures) on length of proceedings per case categories which are also used in the framework of cooperation projects with member States aimed at refining judicial organisation. The SATURN Guidelines on judicial time management, expected to be adopted in December 2016, give a list of 63 possible actions to be undertaken to fight the excessive length of judicial proceedings along with a guide on how these can be implemented.
- the findings of the CEPEJ evaluation cycles (new data base and evaluation reports published on 6 October 2016) and of the SATURN Centre on the efficiency of justice in each member State, and production of comparative reports permit

benchmarking of each country's progress in this area; these are regularly shared with the ED.

123. The effects achieved by CEPEJ can be attributed to the following:

- CEPEJ guidelines were highlighted in particular by stakeholders as helpful because of their operational nature. The guidelines of CEPEJ are often accompanied by practical manuals to help practitioners implement the standards, e.g. the implementation guide which accompanies the SATURN Guidelines on judicial time management.⁴⁰ The development by CEPEJ of indicators to measure different aspects of the efficiency of justice (e.g. indicators for measuring the productivity of a court) also illustrates the operational nature of CEPEJ's work.⁴¹
- Stakeholders in Greece, Italy, Turkey and Ukraine highlighted the usefulness of CEPEJ guidelines for efforts to amend legislation and administrative practice regarding the problem of excessive length of judicial proceedings (as illustrated in Box 5 in the case of Turkey).
- Stakeholders consulted widely concurred that the comparative evaluations of CEPEJ which permit benchmarking a country's progress against other countries are very useful as are also the compendia of best practices. CEPEJ has produced several of these on court management, which are kept up to date. CEPEJ is also considering the creation of a 'CEPEJ Innovation Centre' as a clearing house of best practices on this topic.

124. Factors contributing to the effectiveness of CEPEJ:

⁴⁰ 'Implementing the SATURN time management tools in courts: a guide', adopted at the 26th plenary meeting of the CEPEJ, 10-11 December, 2015.

⁴¹ 'Guidelines on the creation of judicial maps to support access to justice within a quality judicial system (06/2013).

- CEPEJ regularly shares with the ED new data and assessments on the length of court proceedings in each member State. However, feedback has been received that while CEPEJ has managed to make use of the intergovernmental work and cooperation effectively, its cooperation and synergies with other entities involved in cooperation activities can be further strengthened.
- CEPEJ makes regular use of projects (and other activities) to promote their standards in individual member States, to identify difficulties they face in reforming their judicial systems, and to provide them with assistance. Member States show more and more willingness to participate in such cooperation activities with CEPEJ, which is a testament to their success.
- CEPEJ participates actively in the drafting of the annual 'EU Justice Scoreboard'. This has further raised the visibility of CEPEJ and its products within EU member States and EU bodies.

Box 5. The effects of CEPEJ support in Turkey 2012-2015

In the period examined in the evaluation exercise, CEPEJ guidelines on the efficiency of justice have played an important role in both the design and implementation of Turkey's on-going process of judicial reform. The regular evaluations conducted by CEPEJ to compare the efficiency of justice in different member states formed the basis of the Judicial Reform Strategy adopted by Turkey's Ministry of Justice in 2015. The SATURN guidelines on judicial time management have been fully incorporated into this Strategy. CEPEJ has also implemented two projects aimed at strengthening Turkey's court management system: "Support to the Court Management System in Turkey", which began in 2006, and more recently "Strengthening the Court Management System in Turkey", implemented between May 2011 and October 2013.

Some of the more immediate effects of CEPEJ are organisational: Turkey's Ministry of Justice has a dedicated website to raise awareness of CEPEJ standards, disseminate information on CEPEJ activities and provide access to CEPEJ materials. The Ministry of Justice has set up a Coordination Board for CEPEJ, aimed at coordinating CEPEJ activities among the different judicial institutions. The Coordination Board consists of representatives of the Ministry of Justice, High Council of Judges and Prosecutors, the Court of Cassation, the Council of State, and the Justice Academy. CEPEJ recommendations regarding the need to strengthen Turkey's judicial statistics have also led Turkey's statistics agency to work more collaboratively with a variety of government institutions. CEPEJ guidelines on judicial time management have started to be implemented in pilot courts.

The role of the Venice Commission

125. The Venice Commission provided substantial legislative and constitutional support to several countries covered by the evaluation in the area of criminal justice and judicial reform. Venice Commission opinions can be sought by national authorities, CM, PACE, SG, the Congress of Local and Regional Authorities in Europe and international organisations. The opinions focused on structural problems with the judicial system,

and in particular, the prosecutor's office⁴² (prepared jointly with the Directorate of Human Rights) and other fair trial guarantees and on ensuring the independence of the courts. Recent opinions of the Venice Commission in this area concerned the immunity of judges,

⁴² Joint Opinion on the Draft Law on the Public Prosecutor's Office of Ukraine. Accessible at: [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2013\)025-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2013)025-e)

their appointment and discipline, the composition, mandate and the independence of judicial councils, appraisal systems for judges and judicial ethics. Both of these areas of support are wider than the themes addressed in this evaluation; however, the structural problems addressed by the Venice Commission had direct implications for our themes. Taking certain powers away from prosecutors was necessary to ensure effective investigation of allegations of ill-treatment by the police; and strengthening the independence of judges should help to address the problem of excessive length of judicial proceedings by minimising the influence of external actors on the procedural activities of judges.

126. The work of the Venice Commission had significant effects in the countries included in the evaluation, for example:

- In the Republic of Moldova, the Venice Commission provided recommendations on the reform of the Public Prosecutor's Office on three occasions. This included a joint opinion (with the Directorate of Human Rights and the Organisation for Security and Co-operation in Europe (OSCE)) on the draft Law on the Public Prosecutor's Office in 2015. The resulting Law presented to parliament incorporated three of the five key recommendations defined in the Joint Opinion, more specifically related to the powers of the Public Prosecutor's Office outside criminal law, the dismissal mechanism of the Prosecutor General and arrangement of appointing prosecutors in Gagauzia. The new law on the Public Prosecutor's Office was adopted by Parliament in February 2016.
- In Turkey, the Venice Commission provided legislative support to Turkey in the thematic areas covered by this evaluation by issuing Opinions on the draft law on the High Council for Judges and Prosecutors (2010), the draft law

on Judges and Prosecutors (2011) and on the establishment and rules of procedure of the Constitutional Court (2011). In May 2016, the Monitoring Committee of the Parliamentary Assembly decided to ask the opinion of the Venice Commission on the duties, competences and functioning of the criminal courts of peace of Turkey, which are mainly competent to decide on detention on remand issues in criminal proceedings. This Opinion is still pending before the Venice Commission. The Venice Commission's specific concerns regarding the Turkish judiciary constituted the basis for the judicial reform strategy of the Ministry of Justice.

- In Ukraine, the Venice Commission issued several opinions, including joint opinions with the Directorate of Human Rights on Ukraine's judicial reforms, with a particular focus on the independence of judges and the role of the public prosecutor.⁴³ Ukraine took on board the majority of the Venice Commission's recommendations e.g. regarding legal requirements for judicial candidates, the procedure for appointing judicial positions and the organisation of disciplinary proceedings. In its last opinion, regarding amendments made to the Ukrainian constitution, the Venice Commission commended the Ukrainian authorities for taking on board all its previous recommendations with the exception of the recommendation that a qualified majority should be required for the election by the Verkhovna Rada of the 2 members of the High Council for the Judiciary and the six judges of the Constitutional Court.

127. More than 50% of government agents who responded to the evaluation's survey

⁴³ For a full list of opinions, see Venice Commission's website: <http://www.venice.coe.int/webforms/documents/?country=47&year=all>

likewise suggested that the Venice Commission's opinions on draft legislation are an important form of support to countries in their efforts to develop the general measures needed to execute the Court's judgments.

128. Factors explaining the Venice Commission's effects include:

- National stakeholders consulted by the evaluation team unanimously highlighted the concrete and operational nature of the Venice Commission's support (Italy, Republic of Moldova, Turkey, and Ukraine). In particular, it was commented that the Venice Commission's recommendations demonstrated understanding of the countries' political and institutional context. This is a positive result of the established practice that the Venice Commission organises a visit to the country concerned in order to meet relevant authorities and the civil society organisations prior to the adoption of each opinion.
- The Venice Commission is unanimously seen as authoritative and independent, a reputation which guarantees wide publicity for Venice Commission opinions issued in respect of member States.
- The Venice Commission has participated actively in cooperation activities organised by the Council of Europe. Participation in projects has given the Venice Commission access to a wide range of stakeholders. This not only allowed the Venice Commission to understand better the national context for the preparation of Opinions, but also served to provide wide dissemination of the opinions following their publication. For instance, in Ukraine, the support of the Venice Commission was often mobilised in the context of Council of Europe cooperation and assistance activities. Furthermore, in Moldova, the Venice

Commission was one of the participants in the project 'Support to Criminal Justice Reforms in the Republic of Moldova', managed by the Directorate General of Human Rights and Rule of Law (DGI) and funded by the government of Denmark (2015-2017). The project included several international expert meetings where the recommendations of the Venice Commission were discussed with representatives from the Parliament of the Republic of Moldova and the Ministry of Justice.

- The Venice Commission has worked closely with other international organisations. An example is the Venice Commission's joint opinion on the public prosecutor's office in the Republic of Moldova, which the Venice Commission published jointly with the Directorate of Human Rights and the OSCE/office for Democratic Institutions and Human Rights (ODIHR). In other cases, the Venice Commission's effects were magnified by the common position of other international institutions, in particular the EU, as in the case of Turkey, where stakeholders consulted noted the complementarity between the Venice Commission's support and the European Commission's Positive Agenda. The Venice Commission receives significant support from other parts of the Council of Europe, including PACE, which often calls on member States to work with the Venice Commission in the implementation of reforms, e.g. Resolution 1955 from 2013 on the Republic of Moldova and the Committee of Ministers, which has several times encouraged the member States to cooperate closely with the Venice Commission in the preparation of domestic legislation.

129. However, stakeholders also noted that the opinions of the Venice Commission sometimes arrived too late, although in Ukraine they recognised this was largely a function of the very rapid turnover of legislative proposals in Ukraine which in some cases made the

recommendations which came from the Venice Commission out-dated⁴⁴. The Venice Commission, for its part, is quite critical on the rapid turnover of legislative proposals, not only in Ukraine, but also in other countries, because this does not allow for instance, consultation of civil society or other stakeholders which are targeted by a specific legislation.

The role of the Court's case law / HUDOC / thematic fiches

130. The Court's case law, available to the public through the HUDOC database, also offers support to national authorities in their efforts to ensure conformity between legislative and administrative measures and the ECHR.

131. Government stakeholders in several countries (Italy, Poland, Bulgaria) mentioned that it was useful to consult the Court's case law, also concerning judgments handed down in relation to other countries, when drafting new legislation.

- In Italy, this was mentioned by the Ministry of Justice in respect of measures taken to execute the *Torregiani* case (inspired by the Court's case law e.g. *Ananyev v Russia*).
- In Poland, the authorities noted that the Court's case law was consulted when drafting a law on dangerous prisoners. HUDOC was found very helpful for this purpose, to avoid pitfalls in the new Polish law.

132. A large majority of government agents participating in the evaluation survey (95%) considered that it was either 'easy' or 'very easy' to access the case law of the Court. On the other hand, stakeholders consulted in the context of the evaluation case studies noted that they would welcome additional information resources as well as certain

adaptations to HUDOC to make it more user-friendly:

- Easier access to the Court's case law, including by developing a thematic index within HUDOC which would be based on concepts and, thus would facilitate searches for less advanced users. It appears that the Registry has already begun to consider a 'concepts refiner' as part of the HUDOC search tool, and these efforts will be highly appreciated.
- Other stakeholders suggested that it would be useful if the Council of Europe could set up an on-line platform where information on legislation could be exchanged. In addition, more 'thematic factsheets' on a greater number of topics would also be useful. The thematic factsheets which exist were also considered insufficiently detailed. For instance, the Polish Prosecutor General's office mentioned they need information on 'lapse of time' in the case of prosecutors dismissing the case, effective investigation, and admissibility of evidence.

The role of the European Committee for the Prevention of Torture

133. In its regular monitoring activities, the CPT has given extensive attention to the substantive measures needed to bring each country's legislation and administrative measures in line with the Convention and the Court's case law on Article 3 as regards detention conditions and ill-treatment by the police in places of detention.

134. CPT recommendations in the area of detention conditions (both in remand centres and prisons) have encouraged national authorities to adopt a range of measures, including:

- The use of alternatives to imprisonment, in order to limit the number of persons sent to prison;

⁴⁴ Interview with the High Qualification Commission, 17 March 2016.

- Improvements in material conditions, including the need to expand the amount of living space and access to natural light available to inmates, and to improve the sanitary conditions of cells;
- Improvements to the medical services available to detainees.

135. CPT recommendations on combating police impunity include:

- Ensuring that all persons who are detained, including persons detained on military premises, have the right to notify a relative or other appropriate person, and to access a lawyer or doctor.

136. In terms of effects, there was a variation across countries:

- In Turkey, CPT's reports were used by the Ministry of Justice as input for its strategic plan and led to an increased understanding by the national authorities of the importance of collecting official statistics on ill-treatment.
- In Ukraine, stakeholders did not seem very aware of the CPT's support, possibly because the support was provided at a time of heightened international interest in Ukraine, with several international bodies (including the EU, OSCE, and USAID), providing support in similar areas.

137. Factors explaining effectiveness:

- See under section 2.2 (in particular: ensuring publicity around CPT visits and reports, delays in the publication of reports, greater visibility of CoE and CPT standards on detention conditions than on policing and the effectiveness of investigations).

The role of the Commissioner for Human Rights

138. The Commissioner has made numerous country-level interventions focusing on problems with national legislation and administrative practice in the thematic areas

covered by this evaluation. Compared to the CPT, which has focused on very specific issues, the Commissioner's interventions have often been wide-ranging, covering a variety of human rights problems in the country in question. While avoiding duplication with the CPT, and therefore focusing less on detention conditions, the Commissioner's country reports published in the period between 2012 and 2015, included observations and recommendations concerning:

- The need to ensure that detention on remand is used as an exceptional measure (Ukraine, 2012) and effective remedies are in place for unjustified use of detention on remand (Turkey, 2012);
- The need to transform attitudes to the use of non-custodial measures (Ukraine, 2012);
- The need to remove obstacles to accountability for law enforcement officials (Republic of Moldova, 2013; Turkey, 2013; Ukraine, 2012 and 2014);
- The need to revise the rules governing the use of force by the police (Turkey, 2013; Ukraine, 2014).
- The inadequate working conditions and resources available to the judiciary which aggravate the problem of excessive length of judicial proceedings (Ukraine 2012).

139. The effects of the Commissioner have often been indirect; the stakeholders consulted by the evaluation team could not point to any changes in legislation or administrative practice that resulted from the Commissioner's interventions. Instead, government agents, parliamentarians and Ombudsperson's offices in the countries highlighted the awareness-raising role of the Commissioner, who helped to ensure that reforms stay at the top of the national political agenda and magnified the voices of civil society organisations within policy discussions.

140. The factors contributing to the effectiveness of the Commissioner are analysed in section 2.2. In particular, whilst the Office of the Commissioner invests significantly in communication and information activities, there may be a need to strengthen one particular aspect of this work, namely, to encourage coverage of his visits and reports by national media. It is also notable that the Commissioner's support is naturally different to that of the Venice Commission or other forms of expertise provided in cooperation activities. The wide-ranging coverage of the Commissioner's country reports does not permit the kind of detailed, operational advice on legislative changes that other Council of Europe entities can provide. This highlights the particular added value of the Commissioner, which is to create political momentum in favour of reform by raising awareness of the issues among political parties and the public at large.

141. It has been mentioned that the synergies between the Commissioner's Office and the cooperation divisions were strengthened over the past years. For example, the Commissioner took up certain issues indicated in briefings from project managers in his visits, and cooperation activities were initiated after the visit. These synergies could be further strengthened and become more systematic.

The role of projects

142. A variety of projects which include, among their objectives, achieving conformity of legislative and administrative measures with the ECHR, have been implemented in the countries included in the evaluation across the different thematic areas. The following list provides some examples:

143. As regards detention conditions:

- Improving standards in prisons and investigative detention facilities by refurbishment of infrastructure to ensure respect for human rights 57,250.00€ Duration: 1 April 2013 - 31 March 2015 (Norway Grants).
- Increasing the application of probation measures in compliance with European Standards and programme for electronic monitoring 57,250.00€ Duration: 1 April 2013 - 31 March 2015 (Norway Grants).
- Strengthening the capacity of the pre-trial detention system to comply with the relevant international human rights instruments 1,286,598€ Duration: 2014-2016 (Norway Grants)

144. As regards ill-treatment by the police, including effective investigations:

- The project 'Human rights protection and further development of necessary skills and knowledge of police officers, especially those working in multi-ethnic environment, including Roma communities' funded by Norway Grants began to be implemented in October 2014 and is still on-going. The project aims at enhancing police officers' knowledge of human rights standards and the implications in the day to day work to provide trainees with skills to fulfil professional duties effectively. The activities include an expert report which, among other things, contains recommendations on specific substantial measures which Bulgaria should take in order to align its legislation and administrative measures with the ECHR.

145. As regards the length of judicial proceedings, stakeholders mentioned positively the following CoE activities which were outside the scope of this evaluation:

- 'Developing mediation practices in civil disputes in Turkey' implemented by DGI with inputs from CEPEJ (funded by the Swedish International

Development Cooperation Agency (SIDA) and the Republic of Turkey)

- 'Strengthening the Court Management System in Turkey' (JP COMASYT) May 2011 to October 2013: This is a follow-up to the project 'Support to the Court Management System in Turkey' which aimed to develop an efficient court management system, i.e. case flow

management, fiscal management, human resources management and technology management in 2006.

146. The effects of the projects have varied but in some cases have been significant (see, for example, Box 6 on the effects of two Norway Grants-funded projects on detention conditions in Bulgaria).

Box 6. The effects of projects aimed at ensuring conformity of legislation and administrative measures with the ECHR

Bulgaria

Two Norway Grants-funded projects implemented in Bulgaria between April 2013 and March 2015 included as objectives assisting Bulgaria in ensuring greater conformity between legislation and administrative measures and the ECHR in the field of detention conditions: a project on 'Improving standards in prisons and investigative detention facilities by refurbishment of infrastructure to ensure respect for human rights'; and a project on 'Increasing the application of probation measures in compliance with European Standards and programme for electronic monitoring'.

Bulgarian stakeholders spoke very positively about these projects, both in terms of the targeted nature of the needs they addressed and in organisational and project management terms. The Directorate General for the Execution of Sanctions, the main administrative body in Bulgaria in charge of the penitentiary system, considered that the expert reports produced in the context of the two projects contained very helpful recommendations and fed directly into the government's proposals to amend the Act on the Execution of Punishments and Pre-Trial Detention.

Republic of Moldova

On 21 October 2014, an HRTF project entitled 'Support to coherent implementation of the European Convention on Human Rights in the Republic of Moldova' provided an important legal assessment on amendments proposed to the Code of Criminal Procedure. The amendments aimed to bring the Code of Criminal Procedure closer to the standards of Article 5 of the ECHR in particular by seeking to reinforce the existing limitation on the use of coercive measures involving deprivation of liberty prior to the conclusion of criminal proceedings. The expert recommendations and conclusions were incorporated in the draft law, which since has been adopted.

Ukraine

Between January 2013 and June 2015, the Council of Europe implemented the project 'Support to the criminal justice reform in Ukraine', with funding from the government of Denmark. One of the objectives of the project was to provide legal advice and facilitate the drafting of the law on the Office of the Public Prosecutor in line with Ukraine's new Criminal Procedural Code, and facilitate its actual application. (The support provided to facilitate the application of the law involved capacity building work, which is reviewed in section 2.4 of this report).

Through the provision of legislative support and advice, the project contributed to the adoption of the law on the public prosecution service, as well as its implementing regulations (which at the time of writing the report were in their second reading in parliament). The project's main beneficiary, the General Prosecutor's Office of Ukraine, considered the project to have been very effective. The operational nature of the project, focusing on how to implement the Council of Europe's standards in the precise context of Ukraine's prosecution services, was highlighted as particularly helpful. Judges interviewed by the evaluation team noted that 'without the assistance of the Council of Europe, it is doubtful that the Law on the Public Prosecution Office would have been adopted'.

147. In addition to the factors influencing the effectiveness of projects highlighted under section 2.2 (regarding project design, sources of funding, project implementation, external dissemination and information-sharing between Council of Europe entities), the following additional factors specific to projects that aimed to strengthen conformity of national legislation with the ECHR can be highlighted:

148. There appear to be more focus in cooperation activities on conformity with the ECHR in the area of detention conditions and judicial reform (including length of judicial proceedings and reform of the prosecution service) than on the actions of law-enforcement officers, and in particular on police impunity. This may be because Council of Europe standards on police impunity are not as visible, as indicated .

***Interview quote:** ‘The police would benefit more from direct support, instead of being just partners in projects. This used to happen in the past, however today the activities targeting the police are rather tangential and lack a link to the past projects.’*

- Information received from project managers suggests that over-reliance on external funding means that there is often insufficient time to conduct adequate assessments of needs prior to submitting project proposals (as the proposal is needed in order to raise funds). The Council of Europe’s reliance on external funding can also create risks for the continuity of certain projects if the donor’s agenda changes during the course of the project’s implementation. This situation affected one of the projects covered in this evaluation (a project implemented by CEPEJ on the efficiency of justice in Ukraine).
- Projects appear to be more effective if they do not only focus on amendments to legislation

but also provide more operational guidance to practitioners in charge of implementing the legislation. For example the Joint programme on criminal justice in Turkey included the production of a manual for lawyers in Turkey. In contrast, while stakeholders in the Republic of Moldova considered the support of the project on criminal justice reform very important, there is still a gap between legislation (which is largely in conformity with the ECHR) and the practice of judges and prosecutors, which do not always comply with the law.

- In Turkey, Ukraine and the Republic of Moldova, the Council of Europe offices played crucial roles ensuring continuity of involvement during the course of the projects. The lack of a field office was identified by stakeholders in Bulgaria and “the former Yugoslav Republic of Macedonia” as a limiting factor for the effectiveness of projects, as it makes the Council of Europe’s support less flexible and reactive compared to the support that other international organisations/donors can provide who operate in the field.

***Interview quote:** ‘CoE lacks a timely tackling of pressing issues and sometimes it takes too long to react and it might happen that by the time the CoE delivers an answer another organisation has already provided the support.’*

- In some cases, duplication of work with other international organisations and insufficient coordination with them have been observed. For example, the project ‘Support to the criminal justice reform in Ukraine’ mostly focused on the reform of the public prosecution service in Ukraine. Through this project, the Council of Europe gave an opinion on the draft law ‘On the National Police’ in October 2014⁴⁵.

⁴⁵ Opinion on the draft Law of Ukraine ‘On Police and Police Activity’. Accessible at:

However, in December 2014, the OSCE also gave an Opinion on this law, following a request by the Ukrainian Parliamentary Ombudsperson.

The role of the Council of Europe Development Bank (CEB)

149. It is worth recalling the activities of the Council of Europe Development Bank, which has been playing an active role in the area through implementation of projects with high social added value. CEB projects include the modernisation of penitentiary infrastructure, as well as the construction of prisons⁴⁶. The Administrative Council of the CEB included penitentiary infrastructure as a sectoral line of action for CEB financing as far back as 2006. This is a positive example of CEB financing in an area of long-standing importance for the Council of Europe. Such alignment of CEB financing with the Council of Europe cooperation priorities should be further strengthened in the areas examined by this evaluation.

Conclusions on the effectiveness of Council of Europe support to the conformity of national laws and administrative measures with the ECHR

150. Support to member States to help ensure the conformity of their legislation and administrative measures with the ECHR is possibly the Council of Europe greatest added value as compared to other international institutions. The Council of Europe's steering committees appear to be particularly effective

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016802e75b5>

⁴⁶ The CEB's Experience in Prison Financing, Working Paper, September 2014 (<http://www.coebank.org/en/news-and-publications/ceb-publications/cebs-experience-prison-financing/>).

in this regard due to their inter-governmental working methods based on the principle of equality between member States, which creates a sense of ownership of the resulting standards and their better understanding amongst the national representatives. Given the important role played by these intergovernmental networks, the absence of such networks among Ministries of Interior / law-enforcement bodies may explain the less noticeable impact of the Council of Europe in the area of policing.

151. The country-specific work of other Council of Europe entities, including the Venice Commission, the CPT, the Commissioner and through cooperation activities, have also achieved important effects, albeit in different ways. Whilst the legal assessments of the Venice Commission and those done under cooperation activities provided important technical support to decision-makers already embarked on reforms, the CPT and the Commissioner played a more important role in raising awareness of problems and creating political momentum in favour of change.

152. A number of areas for improvement can be highlighted. The CCJE and CCPE should complement their advisory work with activities which focus more on helping member States identify and address barriers to implementation. The preparation of projects would benefit from the Council of Europe's reducing its reliance on external sources of funding. Furthermore, there is scope for strengthening existing systems for sharing information regarding the outputs of each entity within the Council of Europe.

153. More could be done to coordinate CEB loans with CoE's priorities by involving the CEB in the process of drawing up Council of Europe Action Plans on individual member States.

154. Finally, Council of Europe entities involved in advising member States produce a

wealth of information and experience in the thematic areas covered in this evaluation. More attention should be given to the consolidation and dissemination of these outputs (see also section 2.4 below). Strengthening the dissemination of Council of Europe products would benefit the CPT and the Commissioner, which rely to a great extent on ensuring media coverage to achieve effects.

155. More efforts are needed to secure additional sources of external funding, and it is not clear that all potential donors are sufficiently aware of opportunities to fund Council of Europe projects. Currently, Council of Europe annual reports focus on the activities implemented by the organisation, rather than on the results achieved⁴⁷.

⁴⁷ Council of Europe Highlights 2015, available at <https://edoc.coe.int/en/an-overview/6912-council-of-europe-highlights-2015.html>.

2.4 Training, mainstreaming of the ECHR into national training and awareness raising on the ECHR

156. This section assesses the effectiveness of non-project and project assistance provided by the Council of Europe for national training and awareness-raising measures aimed at aligning the practices of judges, prosecutors, lawyers, prison staff, and police officers with the requirements of the ECHR. Cooperation and assistance activities implemented by DGI, but also other Council of Europe entities such as PACE, have often prioritised training and capacity building for judges, prosecutors, lawyers and prison staff⁴⁸. The main forms of non-project assistance in this area have been recommendations issued by the CPT, dissemination work by the CEPEJ, and study visits and other contacts organised by the Court.

157. The countries analysed have made varying efforts to promote knowledge about the ECHR and the Court's case law among practitioners. In Turkey, for example, since 2005, the ECHR has become part of the regular curriculum for trainee judges and prosecutors at Turkey's Justice Academy. The president of the Academy estimates that 60-70% of judges are aware of the Court. Their knowledge of the Convention and the Court's case law is also increasing. On the other hand, despite the substantial support provided by the CoE in this area, the national curricula of the countries examined still do not systematically feature courses and content related to the ECHR, for

⁴⁸ The scope of the exercise did not include the work of the Education Department, for instance, concerning familiarisation of secondary school students with the key principles of European law relating to human rights and the functioning of the European Court of Human Rights and other important Council of Europe monitoring bodies.

example, in Ukraine until recently there was no initial training of judges on international human rights law (besides the training they are provided with at law school, which is often minimal). Whilst Ukraine's High Qualification Commission estimates that 50% of judges are aware of the Court, their knowledge of the Convention and the Court's case law is considered to be very limited. Ukraine is attempting to improve this knowledge under the current re-evaluation of the judicial corps (lustration process). The following section analyses the different types of support provided by the CoE to national authorities to strengthen their ECHR training and awareness raising efforts.

The role of Human Rights Education for Legal Professionals (HELP) Programme

158. The Council of Europe's Human Rights Education for Legal Professionals (HELP) Programme is specifically designed to support member States in implementing the ECHR at national level. It does so by providing high-quality and tailor-made training tools to European legal professionals and by supporting national training institutes for judges and prosecutors as well as bar associations in the provision of ECHR training. For more detailed findings and conclusions on the HELP Programme, please see Annex 12 for the executive summary of a separate evaluation of the Programme, conducted by DIO in 2015-2016.⁴⁹

⁴⁹ HELP Programme Evaluation. Final Report. Directorate of Internal Oversight. Accessible at: ?? <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806acd4f>

The role of the Court

159. The Court's role in training and awareness raising has recently grown, among other ways via the HRTF which has financed an increasing number of Court-led initiatives in this area. These include:

- Placements of judges in the Court Registry (paid for by funds from cooperation activities, but also in some cases by other member States e.g. Norway Grants, which have funded secondments by Bulgarian judges). Feedback from Bulgaria's National Law Academy suggests that these secondments play a crucial role in raising awareness of the Court's case law among judges. However, ensuring that this knowledge is spread more widely, especially among judges at regional level, remains a challenge. Bulgaria has addressed this challenge by employing the judges who have been on secondments as lecturers at the Bulgarian Academy of Justice (see Box 7).
- Study visits to the Court and other contacts between judges/courts at national/regional level and the Court are also seen as extremely

effective. In Italy, for example, a 'dialogue project' between the Court and the Court of Cassation has recently taken place, to introduce the Court's standards to judges that are less familiar with the Council of Europe. Such discussions also contribute to a better understanding of relevant judgments by representatives of member States. The study visits conducted often in the framework of cooperation activities, also encourage member States to take inspiration from the Court's organisation as a model for their national human rights systems. For example, Turkey modeled the Research, Screening unit and Case law Unit of the Constitutional Court after the corresponding units of the Court's Registry (EU/CoE Joint Programme on High Courts).

***Interview quote:** 'Visits of the Registry and Court's judges as well as study visits to the Court play an important role for in the changing of mindsets. It is crucial to bring representatives of provincial courts to Strasbourg to visit the Court.'*

Box 7. Bulgarian judges trained at the European Court of Human Rights

In July 2013, a programme of one-year placements for Bulgarian judges began at the European Court of Human Rights. The programme permitted nine Bulgarian judges to work in the Bulgarian unit of the Court's Registry. This was a unique opportunity for the judges to gain experience and obtain practical knowledge about the work of the Court.

The programme had numerous benefits, not only for the nine selected judges, who gained experience and obtained practical knowledge about the work of the Court, but also for the Court which obtained additional resources to reduce the backlog of pending complaints. The secondments also facilitated judicial reform in Bulgaria in line with European standards as, after their placements, the judges became trainers at the National Institute of Justice in Bulgaria.

- The President of Ukraine's Supreme Court confirmed that HUDOC is of great assistance but its usage is limited by language barriers. Russian-language translations of the most important judgments would help to raise

awareness of the Court's judgments on other countries among the judiciary. This was also mentioned by Moldovan stakeholders who use translations into Romanian to familiarise themselves with the Court's case law. A project

entitled 'Bringing Convention standards closer to home: Translation and dissemination of key ECHR case law in target languages' provided support in this area to member States which have no financial means for translating landmark judgments. As a result of that project, around 20,000 case law translations in over 30 languages other than English and French have been made available in HUDOC (corresponding to 15 per cent of the total HUDOC content). There is a need to keep up the momentum created by the project which ended in the spring of 2016. In addition, there is a clear and urgent need to increase the number of translations further, not just into Russian but also into several other languages. The termination of the translation project encouraged member States to rely once again on their own budgets for this purpose but not all member States have been able to take the responsibility, mostly due to lack of financial means. The significant investment which Poland has made in this area is highlighted in Box 8.

In response to an invitation from ODGP in 2014 the Registry made proposals for inclusion in Country Action Plans (five so far) with a view to raising voluntary contributions allowing for further case law translations to be commissioned. The proposals amounted to a total of 300,000 euros to be spent over the duration of each plan. However, so far none of the funds raised for these Action Plans have been allocated for implementing the Registry's proposals.

- It is worth mentioning the joint publications programme of the Court and the EU Fundamental Rights Agency (in which entities working on cooperation have also been involved), so far resulting in five handbooks on European law including a Handbook on European law relating to access to justice. The translations into almost all EU languages are

being funded by the European Union Agency for Fundamental Rights, whereas some additional translations have been covered by some EU-CoE joint programmes or projects⁵⁰. Recently the Court has also begun to diversify its case law information activities in other ways such as through the COURTalks videos⁵¹ and by organising webinars with law schools, bar associations and other partners in Eastern Europe.

⁵⁰

http://www.echr.coe.int/Pages/home.aspx?p=caselaw/otherpublications&c=#n13729238669275624205289_pointer

⁵¹

http://www.echr.coe.int/Pages/home.aspx?p=caselaw/analysis&c=#n14460446030940980592280_pointer

Box 8. Translation of European Court of Human Rights judgments in Poland

Following the call of the Court to all 47 States to take charge of translating its leading cases, Poland made a concerted effort to finance this activity from the state budget. Poland's Constitutional Court, Ministry of Foreign Affairs, Ministry of Justice and High Administrative Court made an agreement to have a common budget for translation.

The selection of cases to be translated is organised by the government agent in consultation with the Supreme Administrative Court and Constitutional Court. So far, besides the translation of all the Court's judgments against Poland, more than 40 judgments of the Court against other member States have also been translated. The translations were prepared by (and made available on the website of) the Polish Constitutional Court, the Supreme Administrative Court and the Ministry of Justice.

The Polish Ministry of Justice also prepares newsletters with overviews of recent judgments adopted by the Court. It prepares and publishes on its website numerous analyses of standards stemming from the Court's jurisprudence in respect of Poland, e.g. a guide on standards as to the rights of persons deprived of liberty ("Standards of the case law of the Court regarding the detention conditions in the penitentiary units in selected cases concerning Poland"). The Ministry regularly translates the factsheets and other publications of the Court.

The role of the European Committee for the Prevention of Torture

160. The CPT has accompanied its recommendations on the need to implement effective remedies and substantive measures to address shortcomings affecting detention conditions and ill-treatment by the police with recommendations on the need to provide relevant practitioners with specialised training. The CPT's recommendations on training have mostly focused on training of prison staff (including medical and security staff) in order to prevent ill-treatment of detainees. For example, the CPT consistently recommends national authorities to provide adequate training to medical and health care professionals with a view to developing their competences in the documentation and interpretation of injuries resulting from ill-treatment.

161. CPT visits attracted the attention of the national media in most of the countries covered

by this evaluation. This has helped to raise awareness about issues relating to detention conditions and ill-treatment by the police in the countries examined under this theme. However, stakeholders consulted by the evaluation team have indicated that the publication of CPT reports is often not picked up by the national media. This is partly the result of the time lag between CPT visits and the publication of the reports, but it also reflects the limited steps taken by the Council of Europe to disseminate the findings of the reports. This in turn means that the wider public is often not aware of the CPT's country-specific findings and recommendations.

The role of project support

162. Stakeholders consulted by the evaluation team in all countries highlighted the important role of Council of Europe projects in

building knowledge of the ECHR and the Court's case law among judges and prosecutors:

- In Turkey, judges complimented the capacity building support provided through the EU-funded project on criminal justice, implemented between January 2012 and June 2014. They mentioned in particular the operational nature of the support, which is helping to make prosecutors understand Council of Europe standards and the Court's judgments. A judge mentioned that, whereas previously the ECHR and domestic law were seen as two different entities, now, following the implementation of Council of Europe capacity-building activities, they have become well integrated.⁵² The project is also a good example of coordination between DGI and the Court as the Guide on Article 5 was translated into Turkish in the framework of this project.
- In Ukraine, judges and non-governmental organisations were very positive about the training component of the project 'Support to the criminal justice reform in Ukraine', funded by the government of Denmark and implemented between January 2013 and June 2015. This focused on building up Ukraine's capacity to train prosecutors, judges and investigating judges, thus helping to address an important need as the number of trainers of prosecutors had decreased significantly in Ukraine following repeated reforms. The project also helped the Academy of Prosecutors to contact its counterpart in Spain in order to exchange experiences.
- In the Republic of Moldova, the stakeholders consulted complimented the capacity-building components of the Council of Europe projects implemented between 2012 and 2015. The most prominent of these projects was 'Support to Criminal Justice Reforms in the Republic of Moldova', funded by the government of

Denmark and implemented between 2015 and 2017.

- The Council of Europe/European Union Joint Programme on 'Capacity Building of the Law Enforcement Agencies for Appropriate Treatment of Detained and Sentenced Persons' in "the former Yugoslav Republic of Macedonia" was effective in achieving enhanced understanding of human rights issues in the police and penitentiary sectors. Moreover, stakeholder feedback confirms good prospects for the achievement of improved practices in the police and penitentiary sectors.
- Nevertheless, it has been mentioned by several Bar Associations and other stakeholders that the ECHR is not yet fully utilised by the judges as part of the legal arguments, in particular, at the level of lower courts. The awareness of judges of the Convention appears to be especially low in the regions of some countries as compared to their capitals.

163. Aspects of the Council of Europe's capacity building projects which explain their positive effects are:

- Sensitivity to needs (in Ukraine – training evolved to train the trainers and provide trainers when it was recognised that the deficit of trainers was the biggest problem following lustration / a wave of dismissals).
- Operational nature of the training: For example, Ukraine's criminal justice project highlighted the practical meaning of the principle of equality of arms. Bulgaria's pilot project on legal aid (funded by Norway Grants) involved a study visit for employees of the National Legal Aid Bureau to the Netherlands to learn from equivalent practices in that country (e.g. telephone hotlines and legal aid centres in prisons). These practices were then implemented in Bulgaria in pilot projects.

164. CoE capacity building projects would be even more effective if they systematically:

⁵² Interview with the Justice Academy, 21.04.2016

- offered training as part of a wider intervention providing legislative and other forms of expertise;
- paid more attention to the appropriate duration of training, the number of topics covered during the training, and the number of participants;
- ensured that employed international experts had a good level of knowledge of the country context;
- included evaluation of the effectiveness of the training.

165. Several gaps can be identified in Council of Europe projects focused on capacity building:

- CoE capacity building projects appear to be focusing more on judges and prosecutors than on police. In the Republic of Moldova, there were some limited training activities organised for the police e.g. an instruction for police officers in the field of human rights protection within the National Human Rights Plan for 2011-2014, and two training seminars one on Good Practices on Democratic Crowd Management and the other one on Police and Domestic Violence in 2015. However, these activities have been insufficient and police officers suffer from lack of training concerning the implications of human rights issues for their work.
- The capacity building activities have also not targeted civil servants to a sufficient extent. The international departments of the prosecutor's office and ministries of justice and interior in particular are crucial in promoting the ECHR and the case law of the Court.
- The Council of Europe's capacity building projects have enabled the provision, e.g. by national academies of justice, of optional courses on the ECHR for judges and prosecutors. However, insufficient efforts have been made at national level to introduce compulsory in-service training on the ECHR. Given the key role that the Council of Europe plays in training and capacity building on the ECHR, there is scope for it to play a much greater role in helping to develop standards on

curricula for judges/prosecutors, prison staff and police officers.

- The outreach and coverage of capacity building within Council of Europe cooperation activities is often very thin, making it more difficult to create impact (Romania, Bulgaria). In those countries where this was mentioned, it is worth noting that there is no CoE office, and the cooperation activities only started recently.

The role of the Steering Committee for Human Rights and the Committee of Experts on the system of the European Convention on Human Rights

166. The lack of courses on the ECHR in university curricula for law students was mentioned in the majority of cases examined.

167. Since the recommendation of the Committee of Ministers to member States on the European Convention on Human Rights in university education and professional training (Rec (2004)4⁵³) was issued, the Council of Europe has not yet engaged strategically with higher education providers with a view to contributing to the introduction of mandatory courses on different topics of international law for law students. The content of the recommendation is general and lacks operational guidelines.

168. Certain countries are taking steps to change this. For example, in Turkey, officials from the Constitutional Court mentioned that the right to individual application should be included in the curricula of law schools. There are on-going meetings with the Ministry of Justice, law faculties and the Constitutional Court to restructure the curricula of the law

⁵³ Recommendation Rec(2004)4 of the Committee of Ministers to member States on the European Convention on Human Rights in university education and professional training. Accessible at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805dd13a

schools. Extension of such education to five years, making courses on the ECHR compulsory and establishing an entrance exam for admission to the Bar are among the points that are being discussed.

169. The CDDH will submit in 2017 a proposal to the Committee of Ministers regarding Recommendation Rec(2004)4 on the Convention in university education and professional training, along with the development of guidelines on good practice in respect of human rights training for legal professionals.

170. The CDDH has also produced materials to raise awareness of the Convention among civil servants by drafting a toolkit to inform public officials about the State's Convention obligations.⁵⁴ The toolkit is primarily for officials working in the justice system and for those responsible for law enforcement and includes a guide to the rights conferred by the Convention and its Protocols and to the corresponding obligations of the State, following the order in which the provisions appear, as well as questions and checklists highlighting points to consider, to help officials decide whether a potential issue under the Convention arises.

The role of the Parliamentary Assembly of the Council of Europe

171. Since 2013, following the establishment of the Parliamentary Project Support Division within PACE, the Parliamentary Assembly of the Council of Europe has undertaken a series of seminars which aim to strengthen the capacity of both parliamentarians and parliamentary staff to monitor the execution of judgments of the Court and the conformity of national legislation with the ECHR. These seminars were

⁵⁴ Toolkit to inform public officials about the State's Convention obligations. Accessible at: <http://www.coe.int/cs/web/echr-toolkit>

part of a training programme funded by the HRTF and implemented by PACE in cooperation with the ED⁵⁵.

172. The training has taken place in Strasbourg and has involved two components: first, an overview of the Council of Europe system and the system of supervising the execution of judgments led by the Committee of Ministers with the support of the ED; the second component involved meetings for the parliamentarians and parliamentary staff with lawyers from the Court and the ED. These meetings took a while to set up; however, today they have led to a new interest in execution from national parliamentarians visiting the Court on their own initiative.

173. Having said this, the funding for this project has been small and while most national parliaments have taken part in the programme the overall number of persons concerned has been quite limited.

174. In 2014, PACE also adopted Resolution 1982 (2014)⁵⁶ and Recommendation 2051

⁵⁵ PPSD (2014) 07 rev. 3. The role of Parliaments in implementing ECHR standards

⁵⁶ Related texts of PACE:

Implementation of judgments of the European Court of Human Rights, see AS/Jur Report (Doc. 12455 + Addendum), Resolution 1787 (2011), Recommendation 1955 (2011)
<http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?fileid=17953>

The European Convention on Human Rights: the need to reinforce the training of legal professionals (01/2014), see AS/Jur report (Doc. 13429), Resolution 1982 (2014) and Recommendation 2039 (2014)
<http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?fileid=20550>

Other PACE documents on related subjects:
The effectiveness of the European Convention on Human Rights: the Brighton Declaration and beyond (03/2015), see AS/Jur report (Doc 13719 + Addendum), Resolution 2055 (2015) and Recommendation 2070 (2015)
<http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?fileid=21565>

Ensuring the viability of the Strasbourg Court: structural deficiencies in States Parties (01/2013), see AS/Jur Report (Doc. 13087), Resolution 1914 (2013) and Recommendation 2007 (2013)
<http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?fileid=19245>

(2014) on the need to reinforce the training of legal professionals on the Convention. Moreover, besides the above-mentioned project, CLAHR regularly organises visits to the Court for its members.

Conclusions on effectiveness of CoE support to the training, mainstreaming of ECHR into national training and awareness raising on ECHR

175. The Council of Europe is widely respected as a leader in training on human rights. This reputation is supported by the case studies examined as part of this evaluation, with the Council of Europe providing capacity building support to all the countries concerned in relation to some or all of the themes considered. Whilst the feedback from participants of this training has on the whole been positive, a number of areas have been mentioned for further improvement. These include increasing the operational focus of the training, so that it is less theoretical and more relevant to the day-to-day practice of judges, prosecutors and law-enforcement officials; finding ways to increase the number of participants in the trainings; conducting more evaluation of the impact of training; and working more closely with education providers at national level, including universities and colleges.

176. Traditionally non-training providers like the Court, PACE, ED, and CEPEJ have in recent years become actively involved in capacity building. This development has helped to expand the reach of the training to include a wider range of stakeholders. However, in view of the involvement in capacity-building of a wider range of entities, it may be necessary to

develop more systematic coordination between the actors involved. The efforts made by PACE to involve the ED and the Court Registry in the training on the execution of judgments that were organised for national parliamentarians and national parliamentary staff are an example of good practice in this regard.

Guaranteeing the authority and effectiveness of the European Convention on Human Rights (01/2012), see AS/Jur Report (Doc. 12811), Resolution 1856 (2012) and Recommendation 1991 (2102) <http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?FileID=12914&lang=EN>

3. Conclusions, Recommendations and Suggestions

177. The recommendations and suggestions are outcomes based on the main findings of the evaluation exercise as well as extensive discussions on possible and feasible improvements to enhance targeted and institutionalised co-operation with all the stakeholders concerned. This does not mean that they are exhaustive and each CoE entity is free to draw its own conclusions and additional recommendations from the evaluation report.

178. A note on the distinction between recommendations and suggestions. The follow-up of the 'suggestions' will be under the responsibility of each entity to which they are addressed. The DIO will report, as it regularly does, on the state of implementation of recommendations in its annual report to the GR-PBA/CM, notwithstanding the discussion that may take place on the recommendations within the framework of the roadmap for the implementation of the Brussels Declaration examined by the GR-H/CM.

179. Any budgetary implications are expected to be considered in the context of the preparation of the Council of Europe Programme and Budget 2018-2019.

Conclusion 1

Committee of Ministers supervision based on action plans for the execution of judgments have proven to be an excellent working method, but need further developing.

180. CM reforms for the supervision of the execution of judgments, such as the twin-track procedure and the introduction of action plans within a period of six months after the judgment has become final, have facilitated the execution of judgments. Action plans have been an effective support to member States, yet a number of challenges remain.

181. Two main difficulties have been raised by the member States consulted in this exercise, both linked with the interpretation of the basic principle of subsidiarity. The first concerns the fact that **the exact measures to be taken to execute judgments are not always clear** to member States. Although in accordance with the subsidiarity principle it is the responsibility of the member States to identify the necessary measures, ED's face-to-face meetings and round tables which include experts from different countries help clarify how to go about executing a judgment. There is a demand to increase the frequency of such meetings. The dialogue with the Court Registry and the President of the Court has been useful too in finding concrete solutions. Member States require more support in terms of studies on good practice and study visits to other member States to exchange practical experiences.

182. The second challenge member States face is that the CM's scrutiny of adopted laws in the framework of executing judgments requires **proof of impact of legislative changes** (e.g. through provision of statistical data). Several member States mentioned that the collection of

this type of statistic needs to be adapted for the purpose and takes time. In addition, it is not always clear to the MS what are the full criteria which will satisfy the closure of cases. Several interviewees mentioned that the most important factors that block the effective implementation of laws are the lack of secondary laws and the related budgetary allocations which are not included in the action plans.

183. Some member States suggested that a reduction of the standard six-month period for response from the ED on the action plans submitted might help to make adjustments and accelerate the submission of additional information. The recent staff reinforcement of the ED with 16 posts⁵⁷ should be able to reduce the standard time for response, once recruitment is finalised. In addition, interviews with NGOs highlighted their need to get more familiar with the process of communicating with the CM on action plans.

⁵⁷ GR-PBA(2015)19. Draft Programme and Budget 2016-2017 – additional information in relation to staff expenditure.

Recommendations:

1.	Strengthen focus on implementation of laws in action plans for the execution of judgments. For this purpose, when assessing action plans, take into account, whenever appropriate, the inclusion of secondary laws, regulations, budgetary resources and capacity development plans. Consider including good practice examples in the Vademecum.	DGI (ED)
2.	Initiate a cooperation agreement with the European Network of National Human Rights Institutions (ENNHRI) to organise seminars in member States where the possibilities for NGOs to make submissions under Rule 9.2 are explained to the relevant civil society organisations. One member of the ED or expert in this field could be present at the seminars to answer questions and for quality control.	DGI (Division for Cooperation with International Institutions and Civil Society)
3.	Organise more regular seminars with government agents allowing for exchange of views on issues pertinent for the execution process.	DGI (ED)
4.	Consider making the comparative studies of the Court's Research Division or parts of them internally accessible, for instance to the ED.	Court Registry

Suggestions for improvement:

a)	Continue to include, where relevant and appropriate, in CM decisions references to the opportunities for support through cooperation programmes and references to other relevant sources of support (such as CEPEJ tools, the CPT, the Venice Commission and the Commissioner's reports), including references to successful interventions and their results for the implementation of judgments.	ED and CM
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Conclusion 2

Domestic capacity and national co-ordination need to be strengthened.

184. The evaluation led to certain findings regarding the domestic capacity for the execution of judgments. Pilot judgments examined for this evaluation have triggered the creation of ad hoc commissions and working groups that have been very effective. However, it appears that the domestic capacity to execute judgments could be further strengthened in member States. For example, for standing inter-ministerial committees, major obstacles to their work appeared to be a too large membership, which sometimes led to slow progress. Other concerns raised were the low status of government agents and insufficient budgetary capacity.

Recommendations:

5.	Establish, and, if need be, add to the Terms of Reference of the DH-SYSC ⁵⁸ a digital communication platform for experts of DH-SYSC with a view to strengthening the exchange of information.	DH-SYSC Secretariat
6.	DH-SYSC Secretariat should suggest to the DH-SYSC to consider examining the different means to reinforce the authority of and to provide sufficient means to government agents to deal with the execution of judgments.	DH-SYSC Secretariat

Suggestion for improvement:

b) Further support national efforts to strengthen the capacity of government agent's offices, i.e. through traineeships, seminars and secondments to ED and through cooperation activities.	DGI/ED
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185. All the above is currently being examined by the Committee of Experts on the system of the European Convention on Human Rights (DH-SYSC). The DH-SYSC is expected to take stock of the implementation of the Recommendation CM/Rec(2008)2 on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights, and make an inventory of good practices with a view to possibly updating the Recommendation.

186. The CoE may envisage further lending its support to this area, while respecting the subsidiarity of member States.

187. The format of this type of support by CoE could be the further facilitation of communication between government agents in order to promote quicker exchange of information and experience.

⁵⁸ The CM Secretariat proposed that the recommendation does not include the part "and, if need be, add to the Terms of Reference of the DH-SYSC" as the digital platform is seen as already included in the Terms of Reference.

Conclusion 3

Public opinion plays a crucial role for undertaking reform initiatives and CoE should aim to address this in country visits and projects.

188. Keeping important and urgent issues of human rights and rule of law on the national agendas gives political weight to on-going activities. PACE Resolutions and reports on the execution of judgments, its country reports produced in the framework of its monitoring procedure, and visits by its President and

rappoteurs give political support and raise awareness.

189. The same holds true for SG visits; some permanent representatives have requested more involvement of the SG for promoting the implementation of the execution of judgments. The Commissioner also has a strong awareness raising role. His recommendations are taken up by civil society and he lends political support to the ombudsperson's offices and other national human rights structures, which is appreciated.

190. Public awareness and acceptance of certain reforms, particularly on sensitive issues such as prison conditions, require a concerted effort to raise the media profile of the above-mentioned visits through TV and radio interviews.

Suggestions for improvement:

c) When visiting countries, the secretariat supporting the Committee of Legal Affairs and Human Rights rapporteurs on execution of judgments, and any other PACE rapporteurs and members are recommended to propose making arrangements for them to appear more frequently, in appropriate cases, on TV and to participate in public debates to promote awareness of the execution of judgments.	Secretariat of PACE
d) When implementing projects, DGI should further expand and diversify its working methods to include campaigns, publications and documentaries to raise the awareness of the public at large, particularly on issues related to detention and prison conditions.	DGI

Conclusion 4

The standards and guidance provided by steering committees and advisory bodies play a key role in supporting legislative reforms and are most influential when they are operational.

191. Standards and comparative studies developed by steering committees and advisory bodies played a key role in supporting the conformity of laws and administrative measures with the ECHR at national level, particularly when it concerned the penitentiary system and excessive length of judicial proceedings. This highlights the importance of ensuring synergies

between the Court and the steering committees, for instance by presenting trends observed in the ECHR case law in the steering committees which could be made in a systematic manner. Steering committees can also benefit from the standard-related outputs developed in the framework of projects if they are systematically presented to steering committees.

192. Steering committees and advisory bodies were also used as platforms of exchange of experience and good practice with members and facilitated the organisation of visits to countries. Contacts between members, for instance of the CDDH/DH-SYSC played a role during the execution process also in terms of obtaining information on laws and practices in other member States.

193. The evaluation showed that CEPEJ tools were much appreciated not only for collecting information on the efficiency of justice, but also for reflecting on reforms for tackling problems of length of proceedings. CEPEJ’s pilot courts

were praised as good practical support. Other key examples that supported national reforms were the European Prison Rules, CCJE opinion on alternative means to dispute settlement and Saturn guidelines.

194. The fact that the advisory bodies such as CCJE and CCPE have not been more proactive on the ground, has been criticised. Given the growing importance of the independence of the judiciary in Europe the activities of the CCJE and the CCPE should be strengthened.

195. The Venice Commission’s joint opinions with the Directorate of Human Rights were important to advise particularly on laws regarding the prosecutorial systems. Since national authorities can request opinions from several international organisations, the good practice of joint opinions should be pursued.

196. In general, the outputs of steering committees and advisory bodies have been most effective when they were operational, widely disseminated and complemented with regular comparative studies.

Recommendations:

7.	In order to ensure adequate targeted co-operation with member States in the area of judicial independence, the CCJE and CCPE should conduct more needs assessment visits to the field, when requested.	DGI
8.	Propose to the CM to include in the terms of reference of steering committees ⁵⁹ the strengthening of the interaction between standard-setting and cooperation activities.	DGI/DGII

⁵⁹ A positive example can be taken from the terms of reference for 2016 of the Steering Committee on Media and Information Society. Accessible at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900016805a08cb>

Conclusion 5

Given projects' capacity to provide on-the-ground support, cooperation must be given appropriate strategic importance including institutional support and investment.

197. Generally, member States have not proactively sought support from the CoE in the form of projects as regards the execution of judgments. However, some examples of project support have been directly relevant and effective, such as the project which covered a group of countries to support the execution of judgments in the area of prison conditions.⁶⁰

198. When support on the execution of judgments is provided to member States through cooperation programmes it is more effective when funds are flexible, can be mobilised relatively quickly and allow grouping of countries with similar difficulties. Not all funding sources satisfy these criteria.

Feedback has been received that some donors, such as HRTF and the Swedish International Development Cooperation Agency show a more flexible approach to adapting a project to concrete needs related to the implementation of the ECHR as they arise by, for example, approving changes more quickly or welcoming new initiatives and activities not initially included in the project. This allowed designing, negotiating and implementing activities targeted to the beneficiaries' most urgent needs. On the other hand, the EU was, in the view of several interviewees, at times less flexible and more bureaucratic in similar cases.

⁶⁰ Project 'Execution of the European Court judgments in the field of detention on remand and remedies to challenge detention conditions'

In addition, feedback has also been received that a substantial level of flexibility regarding the geographical dimension of cooperation activities allowing for multi-lateral interventions is very useful in addressing problems with the execution of judgments. Therefore, it would be a significant contribution to the execution of judgments if the ordinary budget, which can more easily satisfy the criteria of flexibility, rapid reaction and possibility of multi-lateral support, would increase the specific allocations to address these issues (for instance, from the reserve for field missions or provision for action plans).

199. One area where CoE projects examined in this evaluation could be strengthened is in addressing the gap between national laws that have been brought into conformity with the ECHR and their implementation. A striking phenomenon is the repeated delay in establishing institutions, mostly due to budgetary constraints. Change of mind-sets and culture are also important elements when new procedures, such as electronic monitoring or alternatives to litigation, such as mediation are introduced.

200. The feedback by member States highlights the need to provide more support to the operational aspects of laws. The evaluation has shown that comparative studies and exchange of good practices are effective means of supporting member States in the practical implementation of laws. This type of support could be further strengthened.

201. Projects have proven to be excellent means for integrating the work of different CoE entities. They have been particularly important for supporting member States in achieving conformity with the ECHR. They are also a means of increasing formal and informal coordination within the CoE and within member States. They contribute substantially to national

authorities' efforts to engage in dialogue and cooperate with each other whilst also promoting the work of various CoE entities such as the ED and the Venice Commission among a larger set of national authorities than these bodies traditionally interact with. Projects are also an effective means to disseminate CoE standards, integrating them into national laws, strategies and capacity building efforts, and to expose national authorities to experiences of other countries. Relatively small projects with exclusive focus on strengthening national remedies have had good results. In order to build on the success of projects they require **institutional support and investment**. The field offices play a major role in the success of

projects. In “the former Yugoslav Republic of Macedonia”, the lack of a fully-fledged project office was felt negatively. Even in those MS where field offices exist, stakeholders criticised the lack of reactivity and decision making authority on the part of field office staff.

202. Another area for improvement in cooperation activities is the communication and dissemination of outputs. While the good practices documents, guidelines, handbooks and manuals produced in the framework of project implementation have been considered extremely useful and to have a value outside the particular support activity, they are generally not known in wider CoE circles.

Recommendations:

9.	In the context of the preparation of the 2018-2019 programme and budget, priority should be given to those co-operation activities which contain a significant element of providing support to member states in areas relating to execution of judgments, in particular addressing remedies.	SG/CM
10.	More projects targeted at addressing specific execution problems should be developed using, if appropriate, a similar methodology as the project on the remedies for detention conditions, which grouped member States with similar issues regarding the execution of judgments. Funds should be raised for those projects.	DGI/DGII/ODGP
11.	DGI should annually define the needs for the execution of judgments and present them at HRTF meetings and to other potential donors ⁶¹ , in close cooperation with ODGP.	DGI/ODGP
12.	Select a pilot field office with a view to seconding an A-grade staff member from the headquarters in order to liaise with national	DHR

⁶¹ Divergent views exist on this issue in DGI and ODGP on what and by whom should be presented to HRTF and other donors.

	partners on progress in the execution of judgments and new ideas for projects. ⁶²	
13.	Include support to the creation and strengthening of domestic remedies for the execution of judgments in relevant cooperation activities.	DGI/DGII
14.	Country Cooperation Action Plans should better reflect the implementation of judgments in their priorities, for example, by including a related section, and provide an explanation of how projects are expected to contribute to the execution of specific judgments. Progress reports should specifically refer to the results in these areas.	DGI/DGII/ODGP

Suggestions for improvement:

e)	Increase the intake of seconded experts from the national authorities for the execution of judgments which provides the basis for better understanding and cooperation, in particular with Government agents;	DGI
f)	Explore new approaches to provide more continuous support to the national authorities on issues related to the execution of judgments, such as staff from Headquarters be seconded to the field for this purpose, including to those countries where there are no projects implemented;	DGI
g)	Bring to the attention of the CEB Organs and CEB member States the need to check the alignment of CEB financing with the needs of the execution of judgments in the priorities of country cooperation programmes and Cooperation Action Plans	CEB Secretariat
h)	Involve government agents and where relevant ombudsperson's offices when designing projects.	Project managers
i)	Include systematically support for the development of secondary laws, regulations and administrative measures when providing legislative expertise as well as translation of pertinent judgments and case law of the Court.	
j)	Project managers should respect key milestones in the execution process, and therefore seek information about the results of the DH meetings.	
k)	For key events (conferences at the opening and closing phases of projects) invite important decision-makers who play a role in the process of the	

⁶² It should be noted that the response to this recommendation is weak and that clear instructions from the SG/DSG are required to see progress on this issue.

execution of judgments who are not part of the project steering committee (such as staff of the Ministry of Finance, national parliaments and ombudspersons).

- l) In the closing stage of the projects, organise internal CoE seminars in Strasbourg with participation of the Court Registry, the ED, the Office of the Commissioner, secretariats of steering committees and monitoring bodies to present and discuss project results.
- m) Present more systematically results of cooperation activities to relevant steering committees.

Conclusion 6

The absence of CoE networks with police representatives affect the effectiveness of CoE support on combatting ill-treatment and impunity in law enforcement.

203. For various reasons CoE support for improving prison conditions has been more visible and effective than its support for combating ill-treatment by and impunity of law enforcement agents/offices. The monitoring activities of the CPT produce regular reports on prison conditions featuring recommendations to the member States. The PC-CP, a subordinate body to the CDPC deals with standards in this area. Concerning police work, there is **no specific monitoring**, except the CPT which covers treatment and conditions of persons deprived of their liberty by the police (typically: police custody). There is **no standard-setting**

body to assess the situation regularly and to make recommendations on how to address ill-treatment and impunity. As there is no committee addressing ill-treatment by and impunity of law enforcement agents/offices, it is also difficult to establish links with international and European networks in this area.

204. In addition, there are quite a few projects concerning detention conditions and prison reform which are very focussed such as the project on domestic remedies for detention conditions funded by the HRTF and the projects financed by the Norway funds. However, among the countries selected for this evaluation, **only a few projects focussed on ill-treatment and impunity**, and if they did, they were within larger projects on criminal justice which targeted mainly ministries of justice (except the JP PRISPOL in “the former Yugoslav Republic of Macedonia” which worked directly with the Mol and achieved some tangible results).

Recommendations:

- 15. Identify the main problems related to law enforcement based on the Court’s case law, CPT reports, applications to the Court and cases DGI⁶³

⁶³ DGI accepted this recommendation if provided with additional resources and the expressed wish of high level police representatives from member states for such a forum.

pending execution with a view to addressing these issues in a high-level regular forum of police representatives.

Conclusion 7

Capacity building needs to be oriented towards sustainability.

205. Several entities of the CoE are involved in capacity building and awareness raising activities, often as part of projects. It is crucial to coordinate these efforts well and ensure their complementarity.
206. The HELP programme is one major intervention; following a separate DIO evaluation it is undertaking strategic improvements.
207. The **secondments and placements to the Court Registry and the ED** and study visits as well as placements in several CoE entities help to bring about a change of mentality and a deeper understanding of how the various CoE institutions work. Not all member States have sufficient funds for organising such visits and placements and would require support. Concerning the visiting groups, the Court should encourage the participation of courts from outside the capitals as well as staff from international departments of the judiciary, the ministries of justice and internal affairs, encouraging gender balance in doing so.
208. The **cooperation with the Ombudsperson's institutions** which are of great importance for strengthening domestic remedies, in particular in the area of detention conditions, is highly appreciated. In the past, the Commissioner engaged in cooperation and assistance activities. The responsibility for these activities was transferred in 2009 to DGI
- which was better equipped for technical cooperation. Co-operation is currently developed with the ombudspersons from EU member states and is financed by the EU. Some of the ombudspersons that do not come from EU member states, have been left out for budgetary reasons. This is a significant gap in the CoE's outreach to its member States.
209. **PACE's training** for legal officials of the parliaments and study visits for parliamentarians have contributed to raising awareness of the importance of screening laws to ensure conformity with the ECHR and to establish supervision of the execution of judgments by the parliament. These capacity building efforts are quite recent and require more financial support to improve their outreach.
210. An important issue that has come up regularly is that the ECHR is not sufficiently mainstreamed into the continuous professional training and the university law faculties. The CDDH has been tasked by the Committee of Ministers to submit by 31/12/2017 a proposal regarding Recommendation Rec(2004)4 on the Convention in university education and professional training, along with the development of guidelines on good practice in respect of human rights training for legal professionals. This work could lead to strategic involvement with the providers of initial and continued training for legal professionals in the member States. The agenda of the CoE high-level visits to MS should include university law faculties. This would contribute to promoting awareness of the ECHR and the importance of integrating it into the curricula.

211. The **HUDOC database** plays an important part in increasing awareness and understanding of the Court's case law in general. It is used widely but could benefit from

a thematic index more adapted for users with less advanced knowledge of the Convention and thematic factsheets on more specific issues as well as translation into more languages.

Recommendations:

16.	<p>When submitting proposals to the CM regarding a possible update of the Recommendation Rec(2004)4 on the Convention in university education and professional training, along with the development of guidelines for good practices in respect of human rights training for legal professionals, consider collecting comparative country information and good practices on:</p> <p>a) mainstreaming the ECHR into law faculties, including into initial training of legal professionals, by, for example, developing standards for curricula for initial training,</p> <p>a) initial and continuous professional training of law enforcement personnel and personnel dealing with persons deprived of their liberty.</p>	DGI (DH-SYSC, CDDH, HELP)
17.	<p>Strengthen support to national parliaments in setting up structures supervising the execution of judgments and ensuring compliance of draft legislation with the ECHR and strengthen awareness of parliamentarians, and officials on the ECHR.</p>	PACE Secretariat
18.	<p>Create a more intuitive thematic index for HUDOC and 'thematic factsheets' on specific issues.</p>	Court Registry
19.	<p>Establish a network of ombudsperson institutions covering all CoE member States.</p>	DGI

Suggestions for improvement:

<p>n) The private offices of the SG, the Court President, the Office of the Commissioner and the secretariat of PACE preparing rapporteurs country visits include, whenever possible, university law faculties in the agenda of their visits.</p>	<p>Private offices of SG, the President of the Court, Office of the Commissioner, secretariat of</p>
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	PACE
o) The Secretariat of PACE should propose to PACE rapporteurs to invite government officials to their hearings with national delegations concerning the execution of judgments.	Secretariat of PACE
p) Projects with training components to include, where relevant, visits to the Court which encompass judges from outside the capitals and general prosecutors and police inspectorates.	Project managers

Conclusion 8

CoE internal synergies can be further promoted by encouraging staff mobility, including mobility to the field.

212. Concerning the execution of judgments, a general conclusion of the evaluation is that the European Convention System (ECS) is wider than the Court, the respondent State and the CM's supervisory role. A wide array of CoE entities provide support to the member States in developing national preventive and procedural remedies: the ED's advice and practice collections, CPT monitoring, Venice Commission's opinions, PACE resolutions, the Commissioner's reports, CEPEJ tools, the standards created by the CDDH and CDPC with their subordinate bodies and the project

support are interlocking pieces brought together to achieve conformity with the ECHR.

213. It has been found that while in most cases only a concerted effort of the above entities leads to results, the principle of mutual responsibility for results is still not entirely part of the organisational culture. Productive synergies leading to significant outcomes have been observed between entities where **mobility of staff members** has taken place. It has allowed staff members to be exposed to the work of other parts of the organisation but also to bring innovative input to the work of those entities. Most staff members felt that mobility should be encouraged

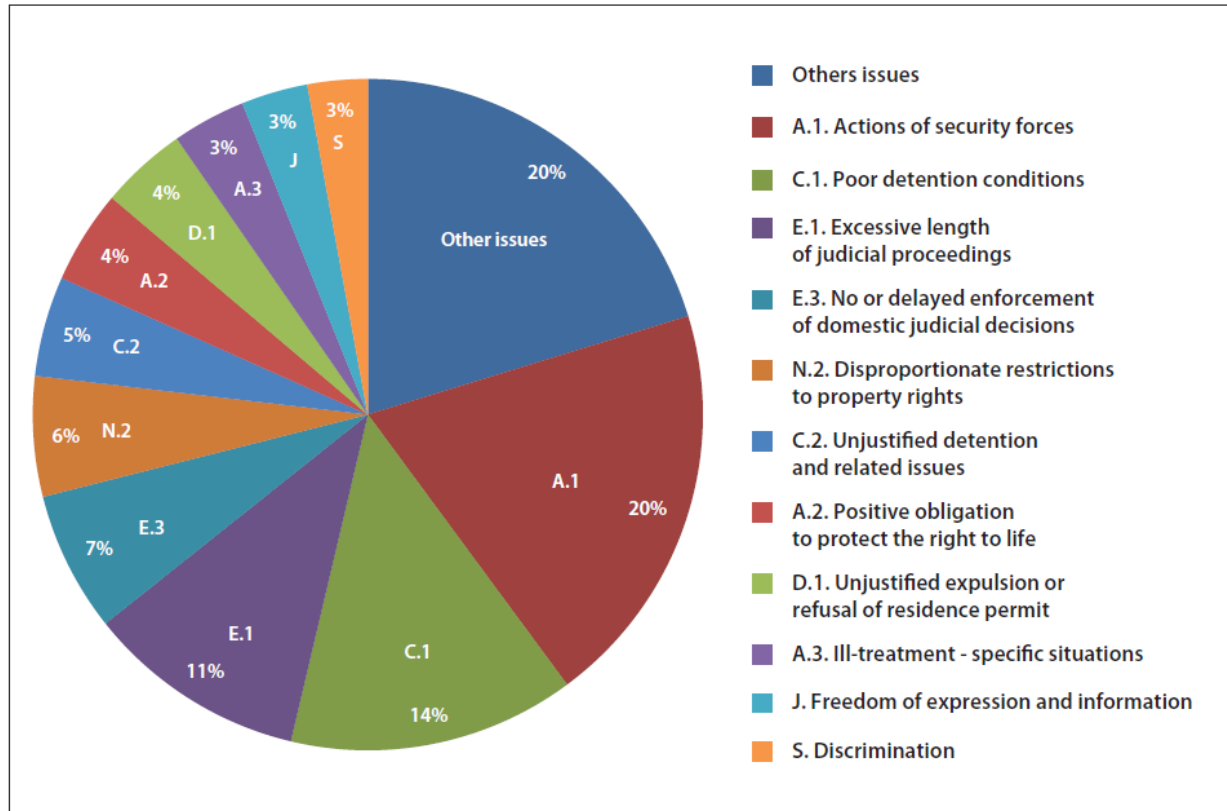
214. Increased staff mobility could potentially require an adaptation of current human resources policies and pertinent training for staff. It should also be noted that not all entities lend themselves equally well to job exchanges.

Recommendation:

20.	Facilitate and promote mobility in the CoE through, for example, job exchanges and internal secondments and the creation of a web-based platform providing information about such opportunities, all within the limits of continuity and functionality within entities. Examine the possibility to create incentives for mobility.	DHR
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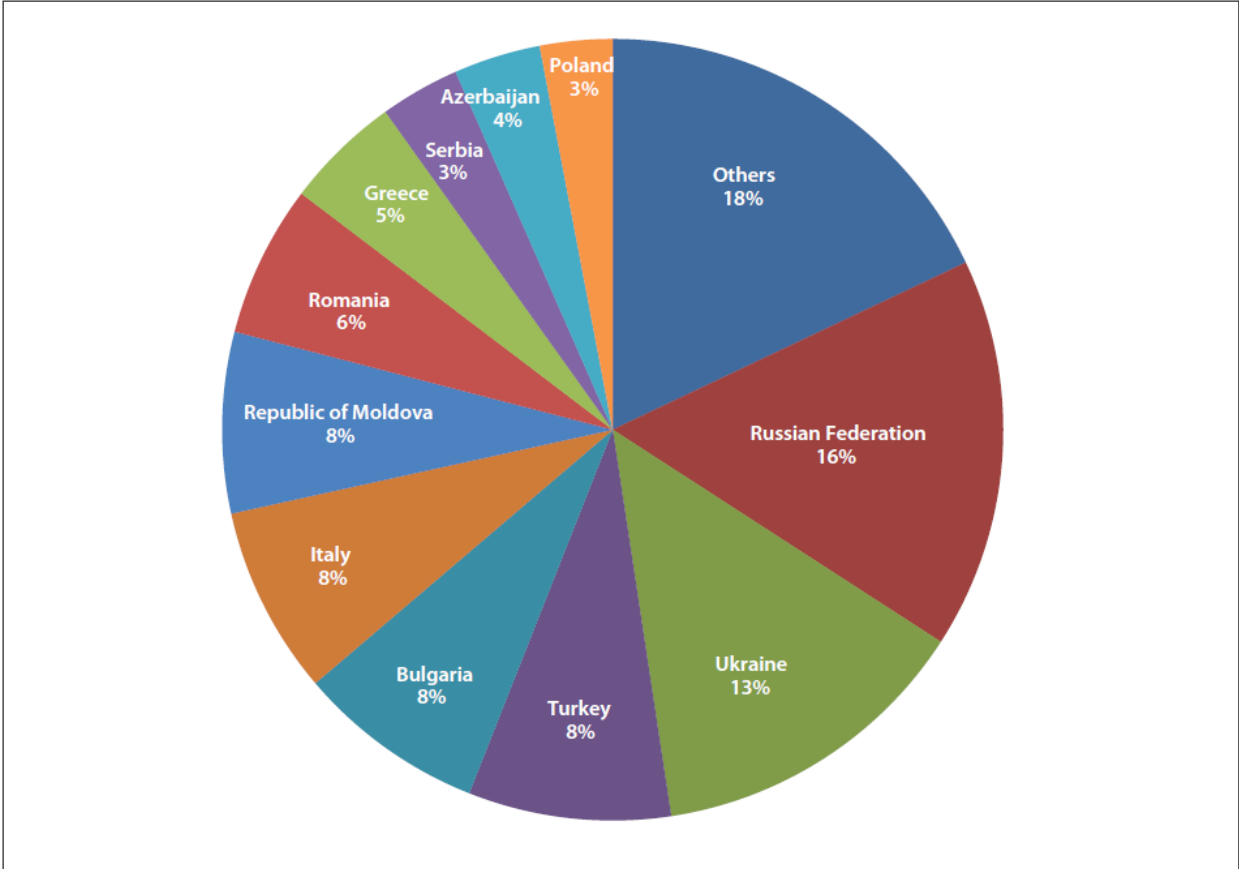
4. Annexes

Annex 1. Main themes under enhanced supervision



Source: Supervision of the execution of judgments and decisions of the European Court of Human Rights. 8th Annual Report of the Committee of Ministers (2014).

Annex 2. States with cases under enhanced supervision



Source: Supervision of the execution of judgments and decisions of the European Court of Human Rights. 8th Annual Report of the Committee of Ministers (2014).

Annex 3. List of evaluated projects

Country	Thematic area	Project	Donor
Poland, Romania, (Russian Federation)	Detention conditions	VC2748 Execution of the European Court' judgments in the field of detention on remand and remedies to challenge detention conditions	HRTF
Bulgaria	Detention conditions	VC2748 Execution of the European Court' judgments in the field of detention on remand and remedies to challenge detention conditions	HRTF
	Detention conditions / Actions of law enforcement	VC3025 EEA - Norway Grants, BGR , selected activities under programme areas 30 and 32: <ul style="list-style-type: none"> • Improve standards in prisons and investigative detention facilities by refurbishment of infrastructure to ensure respect for human rights; • Increasing the application of probation measures in compliance with European standards and programme for electronic monitoring; • Strengthening the capacity of the pre-trial detention system to comply with the relevant international human rights instruments in Romania, 2014-2016; • Improving access to legal aid for vulnerable groups, via the implementation of a Pilot Scheme for a “Primary Legal Aid Hotline” and Regional Consultative Centres in Bulgaria, 2009-2014; • Human Rights protection and further development of necessary skills and knowledge of police officers, especially those working in multi-ethnic environment, including Roma 	EEA grants Norway grants
“The former Yugoslav Republic of Macedonia”	Actions of law enforcement	JP2731 Capacity Building of the Law Enforcement Agencies for Appropriate Treatment of Detained and Sentenced Persons	EU
Republic of Moldova	Judicial System	VC3015 Support to a coherent national implementation of the European Convention on Human Rights	HRTF
	Criminal Justice	VC3192 Support to criminal justice reforms	DANIDA
Turkey	Judicial System	VC3014 Supporting the Individual Application to the Constitutional Court in Turkey	HRTF
	Criminal Justice	JP2268 Improving the efficiency of the Turkish criminal justice system	EU
Ukraine	Criminal Justice	VC2821 Support to the criminal justice reform in Ukraine	DANIDA

Annex 4. Committee of Ministers recommendations relevant to the evaluation exercise

[Recommendation Rec \(2000\) 2 on the re-examination or reopening of certain cases at domestic level following judgments of the European Court of Human Rights](#)

[Recommendation Rec \(2002\) 13 on the publication and dissemination in the member states of the text of the European Convention on Human Rights and of the case law of the European Court of Human Rights](#)

[Recommendation Rec \(2004\) 4 on the European Convention on Human Rights in university education and professional training](#)

[Recommendation Rec \(2004\) 5 on the verification of the compatibility of draft laws, existing laws and administrative practice with the standards laid down in the European Convention on Human Rights](#)

[Recommendation Rec \(2004\) 6 on the improvement of domestic remedies](#)

[Recommendation Rec \(2008\) 2 on efficient domestic capacity for rapid execution of judgments of the European Court of Human Rights](#)

[Recommendation Rec \(2010\) 3 on effective remedies for excessive length of proceedings; accompanied by CM \(2010\)4 add1 Guide to Good Practice](#)

Annex 5. Evaluation matrix

Evaluation of the Council of Europe support to the implementation of the ECHR at national level

Evaluation Criterion	Evaluation question	Sub-Question	Judgement criteria	Data Collection Instrument and Data Source(s)	Data Analysis
Evaluation Criterion: Effectiveness	Evaluation Question: To what extent has the CoE support to the implementation of the ECHR at national level been effective?	To what extent does CoE support effectively contribute to the swift execution of Court decisions and judgments?	<ul style="list-style-type: none"> Stakeholders consider the (different types of) support provided by the Department for the Execution of Judgments useful for the preparation and revision of Action Plans. Stakeholders consider the CM's working methods (in particular the two-track supervision procedure) has led to increase scrutiny over action plans. Stakeholders consider that the Court's pilot procedure has helped to accelerate the execution of Court decisions (and reasons why). Domestic remedies are adopted by member States that have been the subject of a pilot judgment by the Court. There are mechanisms for the ED to systematically coordinate with other parts of the Council of Europe on addressing obstacles to execution. Council of Europe technical assistance and cooperation activities have included the execution of judgments as a core objective / extent to which they targeted the main issues facing the execution of judgments in a country. 	<ul style="list-style-type: none"> Interviews with a group of internal and external stakeholders (CoE staff, government representatives, representatives of the civil society and international governmental organisations and NGOs); Review of project related documentation; Review of documentation related to other forms of support; Review of external documentation on thematic issue Survey to government agents - Survey responses 	Qualitative Quantitative

Evaluation Criterion	Evaluation question	Sub-Question	Judgement criteria	Data Collection Instrument and Data Source(s)	Data Analysis
Evaluation Criterion: Effectiveness	Evaluation Question: To what extent has the CoE support to the implementation of the ECHR at national level been effective?	To what extent does CoE support effectively contribute to the creation of national remedies in case Convention rights have been violated?	<ul style="list-style-type: none"> • Council of Europe technical assistance and cooperation activities focused on providing support to member States in establishing effective national remedies. • The creation of effective national remedies featured prominently among the recommendations issued by the Council of Europe’s monitoring, advisory and standard-setting bodies. • Policy developments take place at national level in line with the Council of Europe recommendations concerning the creation of effective national remedies. • Stakeholders consider the Council of Europe was an important source of standards on how to set up preventive and compensatory remedies. • Stakeholders consider the Council of Europe’s monitoring bodies helped to raise awareness of the need to create effective national remedies. • Stakeholders consider Council of Europe technical assistance and cooperation activities helped to improve the functioning of particular national remedies (and reasons why). 	<ul style="list-style-type: none"> • Desk research exercises focused on reviewing programme and project management documentation, reports and opinions of monitoring and advisory bodies on selected thematic issues, reports of steering committees on their work on selected thematic issues; • Field visits comprising of in-depth semi-structured interviews with government representatives, representatives of the civil society and of other international organisations; possible observation of the activities implemented as a result of the projects; • closing interviews to share and discuss findings and conclusions with key stakeholders; 	Qualitative

Evaluation Criterion	Evaluation question	Sub-Question	Judgement criteria	Data Collection Instrument and Data Source(s)	Data Analysis
Evaluation Criterion: Effectiveness	Evaluation Question: To what extent has the CoE support to the implementation of the ECHR at national level been effective?	To what extent does CoE support effectively help to achieve conformity of national laws and administrative measures with the Convention and with the case law of the Court?	<ul style="list-style-type: none"> • Achieving conformity of national laws and administrative measures with the ECHR featured prominently among the recommendations issued by the Council of Europe's monitoring, advisory and standard-setting bodies. • Council of Europe technical assistance and cooperation activities focused on providing support to member States to achieve conformity of national laws and administrative measures with the Convention and with the case law of the Court. • National laws and administrative measures are amended in line with the Council of Europe recommendations concerning conformity with the ECHR. • Stakeholders consider that the standards created by the Council of Europe acted as important influences on efforts to amend legislation and administrative practice in line with the ECHR (and reasons why). • There is adequate coordination between Council of Europe bodies involved in supporting the achievement of conformity; • The Council of Europe works closely with other international institutions to achieve conformity of national law and administrative measures with the ECHR. 	<ul style="list-style-type: none"> • Desk research exercises focused on reviewing programme and project management documentation, reports and opinions of monitoring and advisory bodies on selected thematic issues, reports of steering committees on their work on selected thematic issues; • In-depth semi-structured interviews with CoE secretariat and some Permanent Representations • Field visits comprising of in-depth semi-structured interviews with government representatives, representatives of the civil society and of other international organisations; possible observation of the activities implemented as a result of the projects; • Closing interviews to share and discuss findings and conclusions with key stakeholders; 	Qualitative

Evaluation Criterion	Evaluation question	Sub-Question	Judgement criteria	Data Collection Instrument and Data Source(s)	Data Analysis
Evaluation Criterion: Effectiveness	Evaluation Question: To what extent has the CoE support to the implementation of the ECHR at national level been effective?	To what extent does CoE support effectively result in the mainstreaming of the ECHR into national education and training programmes for legal professionals and awareness raising on ECHR?	<ul style="list-style-type: none"> • There is an increasing trend in the number of courses on ECHR / integrated content in compulsory initial and continued education of legal professionals, which is attributable to CoE support; • Stakeholders consider that the Council of Europe has contributed to raising awareness of ECHR and its application in the practice of legal professionals (and reasons why); • Stakeholders consider that information on The Court case law and on the execution of judgments is accessible (via HUDOC and the website of the Department for the Execution of Judgments). • There is adequate coordination between Council of Europe entities involved in supporting national training and awareness raising on ECHR. • The Council of Europe works closely with other international organisations in efforts to raise awareness of the ECHR and The Court case law. 	<ul style="list-style-type: none"> • Desk research exercises focused on reviewing programme and project management documentation, reports and opinions of monitoring and advisory bodies on selected thematic issues, reports of steering committees on their work on selected thematic issues; • In-depth semi-structured interviews with CoE secretariat and some Permanent Representations • Field visits comprising of in-depth semi-structured interviews with government representatives, representatives of the civil society and of other international organisations; possible observation of the activities implemented as a result of the projects; • Closing interviews to share and discuss findings and conclusions with key stakeholders; 	Qualitative

Annex 6. List of reviewed documents

Relevant judgments of the European Court of Human Rights

Nachova and Others v Bulgaria	43577/98 and 43579/98	6 July 2005
Neshkov and Others v Bulgaria	36925/10, 21487/12, 72893/12, 73196/12, 77718/12 and 9717/13	01/06/2015
Velikova v. Bulgaria	41488/98	04/10/2000
Harakchiev and Tolumov v. Bulgaria	15018/11 and 61199/12	08/10/2014
Iliev and Others v. Bulgaria	4473/02 and 34138/04	10/05/2011
Iordan Petrov v. Bulgaria	22926/04	24/04/2012
Iovchev v. Bulgaria	41211/98)	02/05/2006
Kehayov v. Bulgaria	41035/98	18/04/2005
Tzekov v. Bulgaria	45500/99	23/05/2006
Gutsanovi v. Bulgaria	34529/10	15/10/2014
Vasil Sashov Petrov v. Bulgaria	63106/00	10/06/2010
Shishkovi v. Bulgaria	17322/04	25/06/2010
Diamantides v. Greece	71563/01	19/08/2005
Konti/Arvanti v. Greece	53401/99	08/07/2003
Makaratzis v. Greece	50385/99	20/12/2004
Manios v. Greece (70626/01	11/06/2004
Ceteroni v. Italy	22461/93 ; 22465/93	15/11/1996
Luordo v. Italy	32190/96	17/10/2003
Giuseppe Mostacciolo v. Italy (No. 1 and 2)	64705/01and 65102/01	29/03/2006
Sulejmanovic v. Italy	22635/03	06/11/2009
Torreggiani and Others v. Italy	43517/09, 46882/09, 55400/09, 57875/09, 61535/09, 35315/10 and 37818/10	27/05/2013
Kaprykowski v. Poland	23052/05	03/05/2009
Orchowski v. Poland	17885/04	22/01/2010
Sikorski v. Poland	46004/99	09/02/2005
Al Nashiri v. Poland and Husayn (Abu Zubaydah) v. Poland	28761/11	
Wenerski no. 2 v. Poland	38719/09	
Grzywaczewski v. Poland	18364/06	
Mirosław Zielinski v. Poland	3390/050	
Corsacov v. Republic of Moldova	18944/02	04/07/2006
Cristina Boicenco v. Republic of Moldova	25688/09	27/12/2011

Musuc v. Republic of Moldova	42440/06	06/02/2008
Sarban v. Republic of Moldova	3456/05	04/01/2006
Bragadireanu v. Romania	22088/04	06/03/2008
Vlad and others v. Romania	40756/06	26/02/2014
Iacov Stanciu v. Romania	35972/05	24/10/2012
Petrea v. Romania	4792/03	01/12/2008
Ananyev and Others v. Russia	42525/07 and 60800/08	10/04/2012
Kalashnikov v. Russia	47095/99	15/10/2002
Dzeladinov and Others v. "the former Yugoslav Republic of Macedonia"	13252/02	10/07/2008
El-Masri v. "the former Yugoslav Republic of Macedonia"	<u>39630/09</u>	13/12/2012
Jasar v. "the former Yugoslav Republic of Macedonia"	<u>69908/01</u>	15/05/2007
Kitanovski v. "the former Yugoslav Republic of Macedonia"	<u>15191/12</u>	22/04/2015
Sašo Gorgiev v. "the former Yugoslav Republic of Macedonia"	<u>49382/06</u>	19/07/2012
Sulejmanov v. "the former Yugoslav Republic of Macedonia"	<u>69875/01</u>	24/07/2008
Trajkoski v. "the former Yugoslav Republic of Macedonia"	<u>13191/02</u>	07/07/2008
Bati and Others v. Turkey	<u>33097/96</u> and <u>57834/00</u>	03/09/2004
Cahit Demirel v. Turkey	<u>18623/03</u>	07/10/2009
Ormanci and Others v. Turkey	<u>43647/98</u>	21/03/2005
Afanasyev v. Ukraine (part of Kaverzin group of cases)	<u>38722/02</u>	05/07/2005
Kaverzin v. Ukraine (group of cases)	<u>23893/03</u>	15/08/2012
Kharchenko v. Ukraine (group of cases)	<u>40107/02</u>	10/05/2011
Lutsenko v. Ukraine	<u>6492/11</u>	19/11/2012
	<u>30663/04</u>	18/03/2009
Lutsenko v. Ukraine (No 2)	<u>29334/11</u>	11/09/2015
Svetlana Naumenko v. Ukraine	<u>41984/98</u>	30/03/2005
Tymoshenko v. Ukraine	<u>49872/11</u>	30/07/2013

Council of Europe documents

Bulgaria

- CM, Information provided on general measures (16/06/2011) [DH-DD\(2011\)918](#);
- CM, Revised action plan (31/08/2015) [DH-DD\(2015\)755rev](#), Action plan (06/07/2015) [DH-DD\(2015\)755](#);
- CM, Action plan (09/04/2013) [DH-DD\(2013\)417](#);
- CM, Revised action plan (08/12/2014) [DH-DD\(2014\)1490](#);
- CM, Committee of Ministers 8th Annual Report from 2014;
- CM, IOVCHEV v. Bulgaria (LEAD) Action plan (09/04/2013) [DH-DD\(2013\)417](#);
- CPT, Public statement for Bulgaria' 26th March 2015;
- CPT, visits [Bulgaria](#) and carries out high-level talks with the authorities';
- CPT, visit to Bulgaria carried out by CPT from 24 March to 3 April 2014
- CPT/Inf (2015) 12; Report, Visit 2014;
- CPT, Report to the Bulgarian Government on the visit to Bulgaria carried out by CPT from 4 to 10 May 2012;
- ECtHR Country Factsheet 1959 – 2010.
- PACE, , Resolution 1915 (2013) 'Post-monitoring dialogue with Bulgaria';
- PACE, Press Release 'Bulgaria: rapporteur sees progress, urges on-going reform';
- PACE, Press Release ' Post-monitoring rapporteur returns to Bulgaria for high-level meetings';
- Commissioner for Human Rights 'Report by Nils Muižnieks following his visit to Bulgaria, from 9 to 11 February 2015';

Greece

- CCJE (2015)3 situation Report on the judiciary and judges in the Council of Europe member States
- CCPE Opinion No.9 (2014) on European norms and principles concerning prosecutors (Rome Charter)
- CM Decision adopted at 1193rd meeting (4-6 March 2014)
- CM Decision adopted at the 1236th meeting (September 2015)
- CM Guidelines on eradicating impunity for serious human rights violations (2011)
- CM/Inf/DH(2012)40 Information documents
- CM/ResDH(2007)74 Interim Resolution
- CM/ResDH(2015)230 Final Resolution
- CM/ResDH(2015)231 Final Resolution
- CPT Report to the Government, March 1st, 2016
- ECtHR, Press Unit, Factsheet –Pilot Judgments of July 2015
- ECtHR, Makarantzis v. Greece (application no. 50385/99)
- ECtHR, Pilot judgment Glykantzi v. Greece (2012)
- ECtHR, Pilot judgment Michelioudakis v. Greece (2012)
- ECtHR, Pilot judgment Athanasiou and Others v. Greece (application no. 50973/08)
- ECtHR, Techniki Olympiaki A.E. v. Greece (application no. 40547/2010)
- ECtHR Inadmissibility decision of 01/10/2013 in the case of Techniki Olympiaki A.E. v. Greece (application No. 40547/10)
- ECtHR Xynos v. Greece (application no. 30226/09)
- H/EXEC (2014)1. Memorandum prepared by the Department for the Execution of Judgments of the European Court of Human Rights on the case Vasilios Athanasiou and Others against Greece /Manios against Greece (and 189 similar cases)
- Human Rights Commissioner Report following his visit to Greece (Jan. 28 – Feb. 1, 2013)
- PACE Resolution 1953 (2013) Final version

Italy

- Administration of justice, including impunity and the rule of law⁶⁴, CoE, p. 2 / CoE-Commissioner, (paras. 6-44); (NRPTT, para. 9.)
- CEPEJ, Press Release DC093(2012) Council of Europe, Publication of the 4th CEPEJ evaluation report on European judicial systems, <https://wcd.coe.int/ViewDoc.jsp?p=&id=1978823&direct=true>
- CEPEJ(2013)8E 09 October 2013 Study on Council of Europe Member States on Appeal and Supreme Courts' Lengths of Proceedings, by Marco Velicogna, IRSIG-CNR
- CEPEJ, Impact of the publication of the 2012 edition of the CEPEJ evaluation report of European judicial systems, Italy
- [CEPEJ court coaching programme on judicial timeframes, Court of Syracuse \[Italy\], May 2013](#) [it]
- CEPEJ [ITALY: Evaluation exercise - 2012 Edition](#)
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- CM, [Decisions cases No. 10](#), 1236th meeting, 24 September 2015
- CM, [Decision Dec\(2012\)1136/14](#), 6 March 2012
- CM (DD-DH(2012)58)Action plan provided on 16 January 2012
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- CM [DD\(2012\)1125](#) Communication de l'Italie relative au groupe d'affaires Mostacciolo et Gaglione contre Italie (requêtes n° 64705/01 et 45867/07).
- CM [DD\(2012\)58](#) Bilan d'action - Communication de l'Italie relative au groupe d'affaires Luordo (durée de procédures de faillite) contre Italie (Requête n° 32190/96).
- CM [DD\(2013\)1016](#) Communication de l'Italie relative au groupe d'affaires Mostacciolo et Gaglione et autres contre Italie (Requête n° 64705/01).
- CM [DD\(2015\)1123](#) Communication des autorités (20/10/2015) concernant le groupe d'affaires Mostacciolo Giuseppe (I) contre Italie (requête n° 64705/01).
- CM [DD\(2015\)1157](#) Communication des autorités (mesures générales) (26/10/2015) concernant le groupe d'affaires Ceteroni contre Italie (requête n° 22461/93).
- CM [DD\(2015\)731](#) Communication des autorités (02/07/2015) concernant le groupe d'affaires Mostacciolo Giuseppe contre Italie (requête n° 64705/01).
- CM [DD\(2015\)761](#) Communication from the authorities (07/07/2015)prepared for the visit of Mr Klaas de Vries (rapporteur APCOE) in Italy on 22-23 Oct. 2014 concerning the Mostacciolo Giuseppe group of cases against Italy (Application No. 64705/01).
- CM DH-DD(2012)806 Letter from the Secretariat (08/08/2012).
- CM DH-DD(2013)1016, Pinto action plan.
- CM DH-DD(2013)727, Ceteroni, Mostacciolo and Luordo groups of cases and Gaglione and others against Italy.
- [CM DH-DD\(2015\)1123](#), Communication des autorités (20/10/2015) concernant le groupe d'affaires Mostacciolo Giuseppe (I) contre Italie (requête n° 64705/01).
- [CM DH-DD\(2015\)760](#) Communication from the authorities (07/07/2015) prepared for the visit of Mr Klaas de Vries (rapporteur APCOE) in Italy on 22-23 Oct. 2014 concerning the Ceteroni, Luordo and Mostacciolo group of cases against Italy (Applications_No. 22461/9, 22461/93, 64705/01).

⁶⁴ United Nations A/HRC/WG.6/20/ITA/3, Human Rights Council Working Group on the Universal Periodic Review Twentieth session, Summary prepared by the Office of the United Nations High Commissioner for Human Rights, 27 October–7 November 2014, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/098/73/PDF/G1409873.pdf?OpenElement>, p.6.

- CM DH-DD(2015)761 Communication from the authorities (07/07/2015) prepared for the visit of Mr Klaas de Vries (rapporteur APCOE) in Italy on 22-23 Oct. 2014 concerning the Mostacciuolo Giuseppe group of cases against Italy (Application No. 64705/01)
- CM/ResDH(2015)246, Final Resolution Execution of the judgments of the European Court of Human Rights, Twenty-eight cases against Italy, 9 December 2015
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- CM DH-DD(2013)468 Letter from the Registry of the European Court of Human Rights concerning the Ceteroni, Mostacciuolo, Luordo groups of cases and Gaglione and others against Italy (Application No. 22461/93)
- [CM/Del/Dec\(2015\)1236](#) Ministers' Deputies, Annotated order of Business and decisions adopted, , 28 September 2015.
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- [European Day of Civil Justice 2013 in Italy: Turin, on 24 October 2013 and Rimini on 25 and 26 October 2013](#)
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- Giovanni Diotallevi, *Deputy Head of the Legislative Office at the Ministry of Justice*. [Programme outline for the efficiency of Justice](#)
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- PACE [Resolution 1914 \(2013\)](#) Final version, Ensuring the viability of the Strasbourg Court: structural deficiencies in States Parties

“The former Yugoslav Republic of Macedonia”

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- Commissioner for Human Rights, [Issue paper](#) ‘Democratic and effective oversight of national security services’ by Nils Muižnieks, 5 June 2015, CommDH/IssuePaper(2015)2.
- Comments of the authorities of "the former Yugoslav Republic of Macedonia" on the report by Nils Muižnieks, Council of Europe Commissioner for Human Rights, following his visit to the Republic of Macedonia, from 26 to 29 November 2012. [CommDH/GovRep\(2013\)3 / 09 April 2013](#)

- CM, [“Resolution CM/ResCMN\(2012\)13](#) on the implementation of the Framework Convention for the Protection of National Minorities by “the former Yugoslav Republic of Macedonia”, 4 July 2012
- CM [DH - DD\(2010\)382](#) Communication from two NGOs in the Jasar group of cases against “the former Yugoslav Republic of Macedonia” and response of the Government Report to the Government of “the former Yugoslav Republic of Macedonia” on the visit to “the former Yugoslav Republic of Macedonia” carried out by the CPT from 21 to 24 November 2011
- Joint Programme ‘Capacity Building of the Law Enforcement Agencies for Appropriate Treatment of Detained and Sentenced Persons’
 - Assessment Report Final (December 2013)
 - Inception Report Final
 - Interim Report Final
 - Action Plan on the National Strategy
 - National Strategy on prison development
 - Human Rights Concept for the Police
 - Training Manual for Prison Managers
 - Training Manual Preventing and Managing Conflict
 - Training Modules for the Police
 - Work Plans
- PACE, [Recommendation 2022 \(2013\)](#) Final version, Post-monitoring dialogue with “the former Yugoslav Republic of Macedonia”
- PACE, [The progress of the Assembly's monitoring procedure](#) (October 2013 – September 2014)
- PACE, Post-monitoring dialogue with “the former Yugoslav Republic of Macedonia” [Information note](#) by the rapporteur on his fact-finding visit to Skopje (2-3 December 2013)
- PACE, [Post-monitoring dialogue](#) with “the former Yugoslav Republic of Macedonia”

Republic of Moldova

- VC3015 HRTF Final Interim Report, 31 March 2015
- VC3192 Project Description, 21 November 2014
- VC3192 Briefing and Update, 26 June 2015
- VC3192 Interim Narrative Report - CJR Moldova (DK), 30 March 2016;
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- CM, Republic of Moldova Action Plan - Sarban v. Republic of Moldova, 24 June 2014, DH-DD(2014)836;
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- CoE [Action Plan](#) to support democratic reforms, 15 November 2013
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- PACE [Resolution 1955\(2013\)](#), The honouring of obligations and commitments by the Republic of Moldova
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Poland

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- CM, 8th Annual Report from 2014;
- CM, Council of Europe Progress Review Report 2012 (CM/Inf(2013)4 rev), published 10 April 2013;
- CPT, on the most recent visit to Poland from 5 to 17 June 2013, published on 25 June 2014;
- ECtHR Country [Factsheet](#) 1959 – 2010.
- PACE Report entitled “Implementation of judgments of the European Court of Human Rights” from September 2015;
- VC 2748 project on Execution of the European Court’ judgments in the field of detention on remand and remedies to challenge detention conditions: The Experts Report following the visit in Poland from November 2013 (published February 2014);

*Orchowski v. Poland (Application no. 17885/04) and Sikorski v. Poland (Application no. 17599/05)*⁶⁵

- CM DD(2014)950 Communication from the authorities - Consolidated Action report - - 08.07.2014;
- CM (DD(2013)798) - DD(2013)867 Communication from the authorities as a response to the communication from a NGO - 16.07.2013;
- CM DD(2013)798 Communication from NGOs (Helsinki Foundation for Human Rights and the Association for Legal Intervention) - 21.06.2013;
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*Kaprykowski v. Poland (Application no. 23052/05)*⁶⁶

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Relevant CoE cooperation activities

Bulgaria

- VC 2748 Project (Logframe No. 2012/DG I/VC/2748): “Implementing pilot, ‘quasi-pilot’ judgments and judgments revealing systemic and structural problems in the field of detention on remand and remedies to challenge conditions of detention” with a total budget of 1,021,878.00 EUR including BG, MD, PL, RO, RU and UA;
- VC3025 EEA - Norway Grants, BGR , selected activities under programme areas 30 and 32:
 - Improve standards in prisons and investigative detention facilities by refurbishment of infrastructure to ensure respect for human rights;
 - Increasing the application of probation measures in compliance with European standards and programme for electronic monitoring;
 - Strengthening the capacity of the pre-trial detention system to comply with the relevant international human rights instruments in Romania, 2014-2016;
 - Improving access to legal aid for vulnerable groups, via the implementation of a Pilot Scheme for a “Primary Legal Aid Hotline” and Regional Consultative Centres in Bulgaria, 2009-2014;
 - Human Rights protection and further development of necessary skills and knowledge of police officers, especially those working in multi-ethnic environment, including Roma
- HELP Programme webpage on Bulgaria.

“The former Yugoslavic Republic of Macedonia”

- Joint Programme ‘Capacity Building of the Law Enforcement Agencies for Appropriate Treatment of Detained and Sentenced Persons

Republic of Moldova

- VC3192 Support to criminal justice reforms funded by DANIDA
- VC3015 Support to a coherent national implementation of the European Convention on Human Rights funded by HRTF
- JP 2628 Reinforcing the fight against ill-treatment and impunity funded by the European Union

Poland

- VC 2748 Project (Logframe No. 2012/DG I/VC/2748): “Implementing pilot, ‘quasi-pilot’ judgments and judgments revealing systemic and structural problems in the field of detention on remand and remedies to challenge conditions of detention” with a total budget of 1,021,878.00 EUR including BG, MD, PL, RO, RU and UA;
- The Norwegian Financial Mechanism - the Norwegian Correctional Services projects from the period 2012-2014 involving a 13 million EUR programme to Poland;
- HELP Programme project: Human Rights awareness and training for judges and prosecutors (2012);
- HELP Programme project: Creation of a distance-learning training course on anti-discrimination issues by a working group of experts (2013);
- HELP Programme project: Publication and dissemination of Handbooks on art. 6, 8, 9 ECHR, translated into Polish language, in occasion of training activities and HELP national events for Polish judges (2013);
- HELP Programme project: E-learning course on antidiscrimination issues for Polish judges: kick off meeting (2013);
- HELP focal and Info Points in 28 states;
- HELP Programme webpage on Poland.

Romania

- VC 2748 Project (Logframe No. 2012/DG I/VC/2748): “Implementing pilot, ‘quasi-pilot’ judgments and judgments revealing systemic and structural problems in the field of detention on remand and remedies to challenge conditions of detention” with a total budget of 1,021,878.00 EUR including BG, MD, PL, RO, RU and UA;
- Norway Grants: Cooperation in the framework of EEA and Norway Grants – Romania (2013/DG PROG/VC/3107);
- HELP Programme: European programme for Human Rights education for Legal Professionals (2013/DG I/VC/3001);
- HELP Programme: European Training Network and Programme for Human Rights Education for Legal Professionals (2014/DG I/VC/3060);
- HELP Programme webpage on Romania.

Russian Federation

- VC 2748 Project (Logframe No. 2012/DG I/VC/2748): “Implementing pilot, ‘quasi-pilot’ judgments and judgments revealing systemic and structural problems in the field of detention on remand and remedies to challenge conditions of detention” with a total budget of 1,021,878.00 EUR including BG, MD, PL, RO, RU and UA;
- HELP Programme in the Russian Federation (2015/DG I/VC/3308), 2015-2017;
- European programme for Human Rights education for Legal Professionals (2010/DGHL/VC/2350), 2010-2013;
- HELP Programme webpage on Russia.

Turkey

- Supporting the Individual Application to the Constitutional Court in Turkey
- HRTF- Supporting the Individual Application to the Constitutional Court in Turkey (November 2013-October 2014)
- Improving the Efficiency of the Turkish Criminal Justice System (March 2012 – December 2014)
- Project on Developing Mediation Practices in Civil Disputes in Turkey (1 December 2014-30 November 2016)
- Strengthening Judicial Ethics in Turkey
- Strengthening the Court Management System (Phase II of Support to the Court Management System in Turkey) (May 2011 – October 2013)
- Enhancing the Role of the Supreme Judicial Authorities in respect of European standards (January 2010-October 2013)

Ukraine

- ‘Support to the criminal justice reform in Ukraine’ 2013/DGI/VC/2878
- ‘Strengthening Judicial Accountability in Ukraine’
- Strengthening the system of judicial accountability in Ukraine 2015/DG I/VC/3303

Annex 7. List of interviews conducted in the framework of the field work

Date	Organisation
Bulgaria	
02/11/2015	Bulgarian Helsinki Committee
02/11/2015	Ministry of Justice
02/11/2015	Government agent of the Republic of Bulgaria
02/11/2015	Office of the Ombudsperson of the Republic of Bulgaria
03/11/2015	General of Directorate of the Execution of Sentences (GDES), Ministry of Justice
03/11/2015	General Directorate Security
03/11/2015	Prosecutor's Office of the Republic of Bulgaria
03/11/2015	Police Training Centre
03/11/2015	Ministry of Justice
04/11/2015	Ministry of Foreign Affairs
04/11/2015	Bulgarian Delegation to PACE International Relations and Protocol Directorate National Assembly of the Republic of Bulgaria
04/11/2015	National Institute of Justice
04/11/2015	Open Society Institute Sofia
04/11/2015	Supreme Judicial Council
05/11/2015	National legal aid bureau
05/11/2015	Centre for the Study of democracy
Greece	
28/03/2016	Athens Bar Association
28/03/2016	National Ombudsman
28/03/2016	Professor of Criminal Law at Athens Law School and Chairman of the Criminal Bar Association
29/03/2016	Marangopoulos Foundation for Human Rights
29/03/2016	Legal Council of the State
29/03/2016	Ministry of Foreign Affairs (MFA), Legal Department
29/03/2016	GNCHR-National commission for Human Rights
29/03/2016	Hellenic League for Human Rights
30/03/2016	Supreme Court (Areios Pagos)
30/03/2016	Prosecutor General
30/03/2016	National School of Judges
30/03/2016	Council of State
31/03/2016	Ministry of Justice, Transparency and Human Rights
31/03/2016	Ministry of Interior and Administrative Reconstruction (Alternate Minister of Public Order and Citizen Protection)
31/03/2016	Association of Judges and Prosecutors
Italy	
30/11/2015	NGO Radicali Italiani
30/11/2015	Association Antigone (NGO)

Date	Organisation
30/11/2015	Judge, former government co-agent before of European Court of Human Rights
30/11/2015	Service for Legal Affairs, Diplomatic Disputes and International Agreements, Ministry of Foreign Affairs and International Cooperation
01/12/2015	Director of Prison "Regina Coeli"
01/12/2015	Bar Association
01/12/2015	Constitutional Court
02/12/2015	Juvenile and Probation Administration Department
02/12/2015	Research and International Relationship, Penitentiary Administration
02/12/2015	Ministry of Justice
03/12/2015	Associate Professor of International Law, Cattolica University
05/04/2016	Association Antigone (NGO)
05/04/2016	National Correspondant of CEPEJ
06/04/2016	Bar Association
06/04/2016	Scuola Superiore dell'Avvocatura
06/04/2016	Higher school for Judges and Prosecutor
07/04/2016	Supreme Court of Cassation
07/04/2016	School for the Judiciary
07/04/2016	High Council for the Judiciary
07/04/2016	Bank of Italy
08/04/2016	Superior Council of Magistracy
08/04/2016	Administrative Court
"The former Yugoslav Republic of Macedonia"	
26/10/2015	Helsinki Committee for Human Rights of the Republic of Macedonia
26/10/2015	Civil Society Organisation "Institute for Human Rights
26/10/2015	Macedonian Young lawyers association
26/10/2015	Ministry of Justice
26/10/2015	Council of Europe
27/10/2015	Bureau for the representation of the Republic of Macedonia before the European Court of Human Rights
27/10/2015	Standing Inquiry Committee for Protection of Civil Freedoms and Rights (Parliament)
27/10/2015	Ministry of Justice
27/10/2015	Prison Administration
27/10/2015	Association of Judges
28/10/2015	Ministry of Internal Affairs, Sector for internal control and professional standards
28/10/2015	CPT member
28/10/2015	Ministry of Internal Affairs, Public Peace and Order and Prevention
28/10/2015	Council of Europe
29/10/2015	Delegation of the European Union to "the former Yugoslavia Republic of Macedonia"
29/10/2015	Police Training Center
29/10/2015	Macedonian Bar Association
29/10/2015	Ombudsman of the Republic of Macedonia

Date	Organisation
29/10/2015	National Preventive Mechanism
29/10/2015	Public prosecutor
30/10/2015	Academy for judges and public prosecutors 'Pavel Shatev'
30/10/2015	Center for Institutional Development
Republic of Moldova	
11/04/2016	CoE Office, first meeting
11/04/2016	National Legal Aid Council
11/04/2016	Ombudsperson
11/04/2016	CoE Office, second meeting
12/04/2016	National Institute of Justice (HELP focal point)
12/04/2016	Prosecutor General Office
12/04/2016	Ministry of Justice
12/04/2016	Ministry of Interior
13/04/2016	Soros-Foundation Republic of Moldova
13/04/2016	National Bar Association Young Lawyers Association (HELP info point)
13/04/2016	Supreme Court
13/04/2016	Constitutional Court
13/04/2016	EU Expert
14/04/2016	Legal Resource Centre
14/04/2016	OSCE
Poland	
02/11/2015	The Helsinki Foundation for Human Rights NGO
02/11/2015	Prosecutor General's Offices
02/11/2015	<u>National Council of the Judiciary of Poland</u>
03/11/2015	Ministry of Justice, Prison Service
03/11/2015	Ministry of Foreign Affairs
04/11/2015	The Supreme Administrative Court
04/11/2015	Supreme Court
04/11/2015	Chief of police
04/11/2015	Stowarzyszenie Interwencji Prawnej NGO
05/11/2015	Warsaw Regional Court
05/11/2015	Patients' Rights Ombudsman
05/11/2015	National Bar Association
05/11/2015	Ombudsperson Office
05/11/2015	Constitutional Court
Romania	
07/09/2015	General Inspectorate of the Romanian Police
07/09/2015	APADOR NGO (Association for the Defence of Human Rights in Romania – Helsinki Committee)

Date	Organisation
07/09/2015	Ministry of Justice
08/09/2015	Institute of Legal Medicine "Mina Minovici"
08/09/2015	Ombudsman Office
09/09/2015	GRADO NGO (Romanian Group for the Human Rights Defence)
09/09/2015	Ministry of Foreign Affairs
09/09/2015	Probation Services
09/09/2015	National Administration of Penitentiaries (MoJ)
09/09/2015	Prosecutor General Office
10/09/2015	National Institute of Magistracy (INM)
10/09/2015	Romanian Parliament
Russian Federation	
16/12/2015	Council of Europe Programme Office in the Russian Federation
Turkey	
18/04/2016	Ombudsman
18/04/2016	Yarsav – the association of judges and prosecutors
18/04/2016	The Union of Bar Association
18/04/2016	High Council of Judges and Prosecutors
18/04/2016	Justice in Unity
19/04/2016	Dept of Human Rights, Ministry of Justice
19/04/2016	Human Rights Commission on Compensation, Ministry of Justice
19/04/2016	DG for the EU, DG for Laws, DG for Strategy Development, Ministry of Justice
20/04/2016	Fourth Administrative n Ankara
20/04/2016	Constitutional Court
20/04/2016	Court of Cassation
20/04/2016	Council of State
21/04/2016	Ministry of Justice
21/04/2016	Criminal Affairs Dept, Ministry of Justice
21/04/2016	National Human Rights Institution
21/04/2016	Justice Academy
21/04/2016	Human Rights Commission of the Grand National Assembly of Turkey
22/04/2016	Ministry of Foreign Affairs, Directorate General for Council of Europe and Human Rights
22/04/2016	Council of Europe office
Ukraine	
14/03/2016	Council of Europe Office in Ukraine
14/03/2016	Reanimation Reforms Package
14/03/2016	Centre for Political and Legal Reforms
14/03/2016	Former Government Agent of Ukraine before the European Court of Human Rights
14/03/2016	EU Project Support to Justice Sector Reforms
15/03/2016	Office of the Government Agent
15/03/2016	Ministry of Justice

Date	Organisation
15/03/2016	High Council of Justice
15/03/2016	Council of Judges
15/03/2016	Supreme Court
16/03/2016	European Union Advisory Mission
16/03/2016	Supreme Court of Ukraine
16/03/2016	Office of Prosecutor General
16/03/2016	High Specialized Court of Ukraine for Civil and Criminal Cases
16/03/2016	High Qualification Commission of Judges of Ukraine
16/03/2016	USAID Fair Justice Project
16/03/2016	High Administrative Court of Ukraine
17/03/2016	Constitutional Commission
17/03/2016	National Academy of Public Prosecution Office
17/03/2016	Secretariat of the Ukrainian Parliament Commissioner for Human Rights (Ombudsperson)
17/03/2016	Verkhovna Rada Committee on the Legislative Support of Law Enforcement
17/03/2016	Council of Europe
17/03/2016	Ministry of Foreign Affairs of Ukraine
18/03/2016	Danish Embassy of Ukraine
18/03/2016	Swedish Embassy of Ukraine

Annex 8. Generic interview guide for field missions

Generic questionnaire used for Poland

1. Please describe your role / the role of your institution in the execution of the Court's judgments (listed above).
2. What were / are the main obstacles, in your view, to implementing the Court's judgments?
3. What Council of Europe entities did you work with/come into contact with during your involvement in the execution of the Court's judgments? Below is a list of national stakeholders that interacted with CoE entities.
 - Ministry of Justice - met CPT during the 2013 visit;
 - Ministry of Foreign Affairs - met the CoE SG during a 2015 visit in September;
 - Ministry of Interior - met CPT during the 2013 visit;
 - General Prosecutor Office - met CPT during the 2013 visit, replied to CCPE questionnaires;
 - National School for Judges and Prosecutors – involved in the HELP programme;
 - Central Board of Prison Service - met CPT during the 2013 visit;
 - Human Rights Defender (Ombudsman) – implements the National Preventive Mechanism (NPM / UN OPCAT), met CPT during the 2013 visit;
 - Helsinki Foundation for Human Rights – met CPT during the 2013 visit.
1. How useful were each of the types of support provided by the Council of Europe in the execution of the Court's judgments?
2. For each of the types of support that were deemed useful, please describe in what ways they were useful to each of the changes that have taken place at national level, for example, they influenced:
 - Changes in structures (e.g. setting up of new institutions)
 - Changes in the legal framework
 - Changes in mechanisms, ways of working
 - Changes in educational programmes, awareness-raising
 - The timing of the changes
3. Additionally, did the support of the Council of Europe trigger the decision to adopt the changes, or would the changes have taken place anyway?
4. It is possible that in fact the support provided by the Council of Europe did not always meet the needs of Poland. If this is so, please explain in which ways the support did not meet these needs, and how the support might have been better designed or targeted?
5. According to the CPT report from 2013, notwithstanding the significant efforts made Poland, there are still some areas where improvements are needed in order for Poland to be fully in line with the Court's judgments (for example, overcrowding and lack of adequate medical care in detention). Is it possible to attribute any of these gaps to problems with the type of support provided by the CoE?
6. Did the support provided by the Council of Europe have any surprising or non-intended effects in Poland?
7. Which other factors (non-Council of Europe) were influential in explaining the national changes listed in the first column. Were these other factors purely national level considerations, or were other (non-Council of Europe) international factors also important?
8. Did these other factors work alongside the Council of Europe's support? E.g. would you say that the Council of Europe's support was only useful to national stakeholders as a result of certain changes or developments that took place at national or international level?

Generic questionnaire used for Poland

Foreword

The Council of Europe (CoE) is conducting an evaluation of the effectiveness of the Council of Europe support to the implementation of the European Convention of human rights (ECHR) at national level. The evaluation covers ten countries, including Ukraine. The aim of the evaluation is to enhance:

- the organisational knowledge;
- the working methods and procedures;
- the organisational structures;
- and the co-ordination and co-operation between the different entities of the CoE.

The evaluation offers a service to the Member States of the Council of Europe by helping to identify ways in which the Council of Europe's support to the implementation of the Convention at national level could be improved. As such, it is an evaluation of the Council of Europe's support services, rather than an evaluation of the implementation of the European Court of Human Rights' (the Court) judgments in the selected Member States.

In the case of Ukraine, we are focusing on the effectiveness of the CoE's support to the implementation of the Court's judgments relating to:

- (i) *Arbitrary and unlawful arrest and detention on remand*, in particular the following judgments: Kharchenko v Ukraine, of 10 February 2011 (group of cases); Lutsenko v Ukraine, of 3 July 2012; and Tymoshenko v Ukraine of 30 April 2013.
- (ii) *Ill-treatment by law-enforcement agents and lack of effective investigation into such complaints*, in particular the following judgments: Afanasyev v Ukraine, of 5 March 2005 (group of cases); and Kaverzin v Ukraine, of 15 May 2012.
- (iii) *Excessive length of judicial proceedings*, in particular the following judgment: Svetlana Naumenko v. Ukraine, of 11 September 2004 (group of cases).

Outline of interview questions

1. What were / are the main obstacles to Ukraine's implementation of the above-listed Court's judgments?
2. How useful was the support provided by the Council of Europe's Department for the Execution of Judgments to Ukraine in the preparation and revision of the Action Plans relevant to the above-listed Court's judgments?
3. Please comment in particular on the accessibility of information from the Council of Europe on the Court's case law and on the execution of the Court's judgments. For

example, how useful/easy to navigate do you consider HUDOC and the website of the Department for the Execution of Judgments?

4. How useful have other Council of Europe support activities been to Ukraine in its efforts to identify, develop and implement the general measures highlighted in the Court's judgments? Please comment in particular on the contribution of the following support activities:
 - i. The visit to Ukraine of the Council of Europe's **Human Rights Commissioner** on 4-10 February 2014, and his comments published in a subsequent report on law enforcement, the public prosecutor's office and the judicial system;
 - ii. The studies, tools and evaluations developed by the **European Commission for the Efficiency of Justice (CEPEJ)** on judicial time-management;
 - iii. The monitoring activities of the **European Committee for the Prevention of Torture (CPT)**, including the CPT visits conducted in November 2011, December 2012, October 2013, February 2014 and September 2014, and their corresponding reports.
 - iv. The Opinions on draft legislation provided to Ukraine by the **Venice Commission** during the period 2012-2015 especially insofar as the role of public prosecutors are concerned.
 - v. The standard-setting work provided by the **Consultative Council of European Prosecutors (CCPE)**, in particular [Recommendation Rec\(2000\)19 on the Role of Public Prosecution in the criminal justice system](#).
 - vi. The standard-setting work provided by the **Consultative Council of European Judges (CCJE)**, in particular [Opinion n°6 \(2004\)](#) on the fair trial within a reasonable time.
 - vii. The fact-finding visits and reports of the **Parliamentary Assembly of the Council of Europe**, including the visits to Ukraine and corresponding reports on the functioning of democratic institutions in Ukraine published in 2012, 2013 and 2014 as part of the PACE's monitoring procedure on the honouring of obligations and commitments by Member States;
 - viii. [Project](#) 2015 / DG I / VC / 2821: "**Support to the Criminal Justice Reform in Ukraine**", implemented between January 2013 and June 2015.
 - ix. [Project](#) (2013 / DG I / VC / 2878): "**Strengthening the Independence, Efficiency and Professionalism of the Judiciary in Ukraine**", implemented between 2013 and 2014 (sub-component relevant to the length of judicial proceedings).

5. Did the Action Plans concluded between the Council of Europe and Ukraine (2011-2014, and 2015-2017) help to focus the Council of Europe's support to Ukraine in the thematic areas listed at the start of this document? If so, in which ways were the Action Plans helpful?
6. Please comment on the benefits that Ukraine obtains, if any, by participating in the networks of experts from the 47 Member States such as CEPEJ, CCPE or CCJE? Are the methods for exchanging information in these networks adequate and sufficient in your view?
7. Did the Council of Europe's field office in Ukraine strengthen the effectiveness of the Council of Europe's support to Ukraine in the thematic areas listed at the start of this document? If so, in which ways?
8. It is possible that in fact the support provided by the Council of Europe did not / does not always meet the needs of Ukraine. If this is so, please explain in which ways the support did not meet these needs, and how the support might have been better designed or targeted?
9. Which other factors (independent of the Council of Europe) were influential in explaining the measures already adopted and/or planned in Ukraine in order to prevent the unlawful use of arrest and detention on remand; the lack of effective investigations of ill-treatment by law-enforcement agents; and the lack of impartiality and independence of the courts?

For example:

- i. National level factors
- ii. Other international factors (independent of the Council of Europe) e.g. the 2014 Association Agreement with the European Union, the FAIR Justice project funded by USAID, etc.

Thank you very much for your assistance.

Annex 9. List of interviews conducted:

- CoE secretariat
- Permanent representations
- Civil society

Council of Europe Secretariat:

29/06/2015	MAYER Genevieve LOBOV Mikhail HOLZENBERGER Achim DE SALAS Alfonso JUNCHER Hanne	DGI : Directorate General Human Rights and Rule of Law. Head of Department for the Execution of Judgments of the European Court of Human Rights DGI : Directorate General Human Rights and Rule of Law. Head of Human Rights Policy and Co-operation Department. DGI : Directorate General Human Rights and Rule of Law. Special Co-ordinator (DGI) DGI : Directorate General Human Rights and Rule of Law. Human Rights Intergovernmental Co-operation. Head of Division, Secretary of CDDH DGI : Directorate General Human Rights and Rule of Law. Head of Justice and Legal Co-operation Department
06/07/2015	EARLY Lawrence KAYACIK Leyla KOEDJIKOV Ivan FLODIN-JANSON Ulrika TANYAR Ziya HOLM Frederik SZKLANNA Agnieszka SCHURRER Christel MENECEUR Yannick	Registry of the European Court of Human Rights. Directorate of Jurisconsult. Jurisconsult Private Office of the Secretary General and the Deputy Secretary General Senior Adviser DGI : Directorate General Human Rights and Rule of Law. Action against Crime Department. Head of Department and Anti-terrorism Co-ordinator Secretariat of the Committee of Ministers DGI : Directorate General Human Rights and Rule of Law. Democratic Institutions and Fundamental Rights Office of the Directorate General of Programmes. Central coordination and risk management. Head of Division Secretariat of the Parliamentary Assembly. Committee on Legal Affairs and Human Rights DGI : Directorate General Human Rights and Rule of Law. Secretariat of the Committees for Justice DGI : Directorate General Human Rights and Rule of Law. Secretariat of the Committees for Justice
05/08/2015	LEYENBERGER Stephanie	DGI : Directorate General Human Rights and Rule of Law. Independence and Efficiency of Justice. Executive Secretary
05/08/2015	DERMAN Ozgur	DGI : Directorate General Human Rights and Rule of Law. Division II \ Execution. Head of Division
05/08/2015	DANEGHIAN-BOSSLER Lilit DIKMAN Sergey KARAPETYAN Tigran	DGI : Directorate General Human Rights and Rule of Law. Justice Sector Reform – Unit 1. Head of Unit DGI : Directorate General Human Rights and Rule of Law. South East Europe & Turkey Unit DGI : Directorate General Human Rights and Rule of Law. Eastern Partnership & Russian Federation Unit. Head of Unit
06/08/2015	MULLER Uwe	Directorate of Political affairs. Political Advisor
07/08/2015	OTVOS Patricia	Office of the Commissioner for Human Rights. Adviser
11/08/2015	MUNTEANU Geanina	DGI : Directorate General Human Rights and Rule of Law. Division II \ Execution.

28/08/2015	BOILLAT Philippe	DGI : Directorate General Human Rights and Rule of Law. Director General
31/08/2015	KONECNA Eva	DGI : Directorate General Human Rights and Rule of Law. Special Co-ordinator (DGI)
31/08/2015	PROCA Razvan	Registry of the European Court of Human Rights. Division 30. Head of Division
31/08/2015		Presentation of evaluation to the RPs
02/09/2015		Special presentation to the Court from the DIO
16/09/2015	FIORI Matteo	DGI : Directorate General Human Rights and Rule of Law. Division I \ Execution
05/10/2015	SCHOKKENBROEK Jeroen	DGI : Directorate General Human Rights and Rule of Law. Secretariat of the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). Executive Secretary
09/10/2015	KAYACIK Leyla JUNCHER Hanne KOEDIKOV Ivan SUNDBERG Frederik LEYENBERGER Stephanie HOLZENBERGER Achim PIEDIMONTE Stefano TANYAR Ziya SZKLANNA Agnieszka HOLM Frederik FLODIN-JANSON Ulrika	Private Office of the Secretary General and the Deputy Secretary General Senior Adviser DGI : Directorate General Human Rights and Rule of Law. Head of Justice and Legal Co-operation Department DGI : Directorate General Human Rights and Rule of Law. Action against Crime Department. Head of Department and Anti-terrorism Co-ordinator DGI : Directorate General Human Rights and Rule of Law. Department for the Execution of Judgments of the European Court of Human Rights. Deputy to the Head of Department DGI : Directorate General Human Rights and Rule of Law. Independence and Efficiency of Justice. Executive Secretary DGI : Directorate General Human Rights and Rule of Law. Special Co-ordinator (DGI) Registry of the European Court of Human Rights. Research Division and Library. Head of Division DGI : Directorate General Human Rights and Rule of Law. Democratic Institutions and Fundamental Rights Secretariat of the Parliamentary Assembly. Committee on Legal Affairs and Human Rights Office of the Directorate General of Programmes. Central coordination and risk management. Head of Division Secretariat of the Committee of Ministers
17/11/2015	BERG Leif CORAKCI Deniz	Registry of the European Court of Human Rights. Head of Case law Information and Publications Division ???
07/12/2015	WODZ Borys	DGI : Directorate General Human Rights and Rule of Law. Division II \CPT. Head of Division
07/12/2015	IVANOVA Sylvia	Office of the Directorate General of Programmes. Division for Resource Mobilisation and Donor Relations
08/12/2015	TANEVA Ilina	DGI : Directorate General Human Rights and Rule of Law. Penological Co-operation, Medicrime and Trafficking of Organs Unit. Chef d'Unité, Secrétaire du PC-CP
08/12/2015	RAKUSIC-HADZIC Tanja	DGI : Directorate General Human Rights and Rule of Law. Criminal Law Cooperation Unit. Chef d'Unité
08/12/2015	GACHET Isil CARDINALE Giancarlo	Office of the Commissioner for Human Rights. Director of the Office Office of the Commissioner for Human Rights. Division III. Head of Division – Deputy to the Director
09/12/2015	DEGENER Renata	Registry of the European Court of Human Rights. Division 20. Head of

		Division
09/12/2015	CHETWYND Hugh	DGI : Directorate General Human Rights and Rule of Law. Division III \CPT. Head of Division
15/12/2015	AMAT Corinne	DGI : Directorate General Human Rights and Rule of Law Division I \ Execution Head of Division
06/01/2016	PAJARDI Giusi FIORILLI Tobia	DGII : Directorate General of Democracy. Partial Agreement of the Council of Europe Development Bank (CEB). Head of Secretariat Directorate General of Administration. Transversal Support. Policy Adviser
27/01/2016	JUNCHER Hanne	DGI : Directorate General Human Rights and Rule of Law. Head of Justice and Legal Co-operation Department
27/01/2016	KARAPETYAN Tigran MALANCHUK Bozhena	DGI : Directorate General Human Rights and Rule of Law Head of Eastern Partnership & Russian Federation Unit DGI : Directorate General Human Rights and Rule of Law. Eastern Partnership & Russian Federation Unit
05/02/2016	KAYACIK Leyla JUNCHER Hanne KOEDJIKOV Ivan SUNDBERG Frederik LEYENBERGER Stephanie HOLZENBERGER Achim PREDIMONTE Stefano TANYAR Ziya SZKLANNA Agnieszka HOLM Frederik SIVONEN Lauri PETSUN Olena FLODIN-JANSON Ulrika MAYER Genevieve TAYLOR Verena BARR Matthew CHETWYND Hugh TERMACIC Tatiana GORSETH Hallvard	Private Office of the Secretary General and the Deputy Secretary General Senior Adviser DGI : Directorate General Human Rights and Rule of Law. Head of Justice and Legal Co-operation Department DGI : Directorate General Human Rights and Rule of Law. Action against Crime Department. Head of Department and Anti-terrorism Co-ordinator DGI : Directorate General Human Rights and Rule of Law. Department for the Execution of Judgments of the European Court of Human Rights. Deputy to the Head of Department DGI : Directorate General Human Rights and Rule of Law. Independence and Efficiency of Justice. Executive Secretary DGI : Directorate General Human Rights and Rule of Law. Special Co-ordinator (DGI Registry of the European Court of Human Rights. Research Division and Library. Head of Division DGI : Directorate General Human Rights and Rule of Law. Democratic Institutions and Fundamental Rights Secretariat of the Parliamentary Assembly. Committee on Legal Affairs and Human Rights Office of the Directorate General of Programmes. Central coordination and risk management. Head of Division Office of the Commissioner for Human Rights. Adviser -Office of the Commissioner for Human Rights. Adviser Secretariat of the Committee of Ministers DGI : Directorate General Human Rights and Rule of Law. Head of Department for the Execution of Judgments of the European Court of Human Rights Office of the Directorate General of Programmes. Director Office of the Directorate General of Programmes. Division for Resource Mobilisation and Donor Relations. Head of Division DGI : Directorate General Human Rights and Rule of Law. Division III \CPT. Head of Division DGI : Directorate General Human Rights and Rule of Law. Human Rights National Implementation. Head of Division Private Office of the Secretary General and the Deputy Secretary

		General. Adviser
26/02/2016	BARTON Louise KAYACIK Leyla GORSETH Hallvard	Private Office of the Secretary General and the Deputy Secretary General. Deputy Director Private Office of the Secretary General and the Deputy Secretary General Senior Adviser Private Office of the Secretary General and the Deputy Secretary General. Adviser
07/03/2016	GIAKOUMOPOULOS Christos	DGI : Directorate General Human Rights and Rule of Law. Directorate of Human Rights. Director
24/03/2016	LEYENBERGER Stephane	DGI : Directorate General Human Rights and Rule of Law. Independence and Efficiency of Justice. Executive Secretary
31/03/2016		Department for the Execution of judgments of the European Court of Human Rights
22/06/2016	DEGENER Renata CHENAL Roberto BAKIRCI Hasan CHERNISHOVA Olga PUSHKAR Pavlo PIEDIMONTE Stefano BERG, Leif	Registry of the European Court of Human Rights. Division 20. Head of Division Registry of the European Court of Human Rights. Division 3 Registry of the European Court of Human Rights. Filtering Section. Deputy to the Head of the Filtering Section Registry of the European Court of Human Rights. 11. Head of Division DGI : Directorate General Human Rights and Rule of Law. Division III \ Execution. Head of Division Registry of the European Court of Human Rights. Research Division and Library. Head of Division Registry of the European Court of Human Rights Case law Information and Publications Division Head of Division
23/06/2016	POIREL Christophe FLODIN-JANSON Ulrika OVEY Clare	Secretariat of the Committee of Ministers. Deputy Secretary to the Committee of Ministers Secretariat of the Committee of Ministers Secretariat of the Committee of Ministers Advisory Committee on Disputes. Substitute, appointed by the Secretary General
23/06/2016	KOEDJIKOV Ivan	DGI : Directorate General Human Rights and Rule of Law. Action against Crime Department. Head of Department and Anti-terrorism Co-ordinator
24/06/2016	JOVANOVSKA-BREZOSKA Elena BOSHKOVSKI Donche SALACZ Ildiko DJUNIC Milica	DGI : Directorate General Human Rights and Rule of Law. South East Europe & Turkey Unit DGI : Directorate General Human Rights and Rule of Law. Criminal Law Cooperation Unit DGI : Directorate General Human Rights and Rule of Law. Criminal Law Cooperation Unit DGI : Directorate General Human Rights and Rule of Law. Eastern Partnership & Russian Federation Unit
24/06/2016	MANCINI Alessandro	Secretariat of the Parliamentary Assembly. Parliamentary Projects Support Division
05/07/2016	JAEGER Markus	DGI : Directorate General Human Rights and Rule of Law. Cooperation with International Institutions and Civil Society. Head of Division
11/08/2016	KITSOU-MILONAS Irene	DGI : Directorate General Human Rights and Rule of Law. Human Rights Intergovernmental Co-operation
18/08/2016	AUSTIN Anna	Registry of the European Court of Human Rights. Directorate of Jurisconsult

29/08/2016	SCHOKKENBROEK Jeroen CHETWYND Hugh	DGI : Directorate General Human Rights and Rule of Law. Secretariat of the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). Executive Secretary DGI : Directorate General Human Rights and Rule of Law. Division III \CPT. Head of Division
30/08/2016	LOBOV Mikhail	DGI : Directorate General Human Rights and Rule of Law. Head of Human Rights Policy and Co-operation Department.

Permanent representations:

11/02/2016	Permanent representation of Greece
07/07/2016	Permanent representation of Denmark
12/07/2016	Permanent representation of Norway
26/08/2016	Permanent representation of Austria
29/08/2016	Permanent representation of the Republic of Moldova
31/08/2016	Permanent representation of Ireland
01/09/2016	Permanent representation of Lithuania
06/10/2016	Permanent representation of Germany

Civil society:

07/12/2015	European Human Rights Association
26/09/2016	Human Rights House Foundation
29/09/2016	Open Society Justice Initiative
03/10/2016	European Human Rights Advocacy Centre
05/10/2016	European Human Rights Advocacy Centre

Annex 10. Generic interview guide for CoE secretariat

Example: Questions for the focus group with the Department for the execution of judgments of the European Court of Human Rights (ED)

Question 1: Please comment on the change in the ED's working methods and attitude towards swift execution of judgments before 2012 and after, how does or should the future look like?

- Has there been an impact of the measures taken to facilitate and accelerate execution with the introduction of the twin-track supervision procedure?
- One of the developments associated by the 'enhanced procedure' was the opportunity for the CM to scrutinise measures taken by State Parties as reported in Action Plans. However, feedback received from civil society organisations (e.g. in Greece, Republic of Moldova, Ukraine) suggests that action plans are still not analysed in sufficient detail by the CM. Do you agree with this?
- What in your view has been the most useful way to support the execution of judgments? Please provide examples.
- Does the ED's work entail different activities when it concerns cases related to the length of proceedings compared to other cases such as detention conditions?
- Feedback from government agents suggests that they find it particularly useful to learn from the experience of other countries in the execution of judgments. What measures does the ED have at its disposal to strengthen such exchanges between different MS?
- Should comparative studies and research studies be produced on topics related to execution of judgments? A research and study dept?

Question 2: Please comment specifically on the ED's role in supporting State Parties who are the subject of a pilot judgment.

- Does the ED's work entail different activities when it concerns pilot judgments?
- How useful is the inclusion of a deadline in pilot judgments, and is this really only effective when there is already a conducive (legislative and policy) environment in favour of reform in the Member State?
- Please comment on the 'repatriation' of cases to a State Party following the execution of a pilot judgment and the support which the Council of Europe provides to state parties in this process.
- Would it be desirable to involve projects more systematically in the supervision of pilot judgments, e.g. by triggering the offer of cooperation and assistance (semi)automatically following a pilot judgment?

Question 3: Is there scope to create more 'institutionalised' support to the execution of judgments, by involving other entities of the Council of Europe in the supervision procedure in a more systematic manner? What would this involve?

- What in your view signifies institutionalised support to execution of judgments?
- What in your view is lacking in (existing) institutional support which would make the work of the ED and the execution at national level more effective?
- We are interested in the lessons learned from the HRTF18 project, which was implemented by the ED with the support of DGI. Would it be desirable to involve projects more systematically in the work of the ED?
- Please comment on the opportunity available to the HRC to make third-party submissions to the CM as part of the supervision of execution.
- Please comment on the role of PACE in the monitoring procedure of the execution of judgments. Would it be desirable to strengthen this role in any way?

Question 4: Would there be merits in 'mainstreaming' the execution of judgments in other aspects of the Council of Europe's work?

- How is ED involved in projects? What does the ED think of their strengths and weaknesses?
- How feasible and desirable is it to adopt a focus on execution of judgments in all (project) activities of CoE?
- How feasible and desirable is it to adopt a focus on execution in the work of steering and monitoring committees?
- How can information circulate internally more effectively? What is the most light and useful format?

Question 5: Please comment specifically on the transparency and accessibility of the CM's procedure for supervising the execution of judgments.

- How could the website of the ED be improved? Government agents (e.g. in Poland, Ukraine and Italy) have suggested that the ED's website could be more user-friendly, in particular in order to allow easy consultation of the Action Plans of other countries.
- Would it be feasible to align the website of the ED more with the website of the Court, i.e. to use the same terminology and classification and to create link to cases / judgments in the data bases?
- Some stakeholders have mentioned that the criteria for the analysis of Action Plans should be more clear and transparent. Do you agree with this? If so, how? Would it be feasible to extend the analysis to implementation of adopted legislation?
- Could CM discussions be organised thematically in order to facilitate comparisons across judgments against different countries / promote comparative studies and sharing best practices?
- Representatives of civil society have stated that they are not sufficiently informed and involved in the process of the execution of judgments? In which way could NGOs be more involved in the process of execution? Could there be more active information sharing when submissions from NGOs would be useful?

Question 6: Government agents from some countries have reported that the Council of Europe can play a useful role coordinating between government departments. Do you agree with this? Should this role be strengthened?

- Please comment on the ED's role as 'ally' to government agents or other government bodies in the face of resistance to reform from other political entities.
- Which government departments tend to be more / less cooperative with the execution process?
- We are interested in the informal working group set up by Turkey including officers from ED, Court registry, PO, experts and relevant Turkish authorities to exchange views on the execution of judgments. It seems that this support led to the development of an action plan on preventing ECHR violations in 2014 and strengthened the role of the Department for Human Rights within the Turkish government. Please comment on how this working group was set up, the type of support provided and whether it could be replicated in other countries.

Annex 11. Survey addressed to government agents and co-agents

Survey questions

How many years have you worked as a government agent or co-agent?

- Less than 2 years
- 2-5 years
- 6-15 years
- More than 15 years
- Prefer not to answer

1. Please select up to three **most important obstacles** to a swift execution of judgments in your country.

(Please check up to three answers):

<input type="checkbox"/>	The types of measures required to execute the judgments are unclear.
<input type="checkbox"/>	The mandate / authority of the office of the government agent are not strong enough to lead and coordinate actions with the relevant government departments.
<input type="checkbox"/>	The office of the government agent has insufficient expertise to monitor progress of execution and prepare appropriate Action Plans.
<input type="checkbox"/>	The office of the government agent has insufficient human resources to monitor progress of execution and prepare appropriate Action Plans.
<input type="checkbox"/>	The execution of the Court's judgments is not a political priority among the relevant national policy-makers.
<input type="checkbox"/>	There are insufficient budgetary resources to carry out the necessary reforms.
<input type="checkbox"/>	There is no / an inefficient inter-ministerial structure responsible for the execution of judgments

Please indicate any other obstacles that you are aware of: _____

2. Please select up to three **most useful types of support** provided by the Council of Europe's Department for the Execution of Judgments to the execution of the Court's judgments in your country.

(Please check up to three answers):

<input type="checkbox"/>	Suggestions on the type of measures needed to execute the judgments of the Court.
<input type="checkbox"/>	Advice on how to draft clearer and more targeted Action Plans and Action Reports.
<input type="checkbox"/>	Information provided on the case law of the Court in the area concerned
<input type="checkbox"/>	Roundtables organised by the ED that bring relevant national authorities together to

	discuss outstanding problems with execution.
<input type="checkbox"/>	Seminars/conferences organised by the ED with government representatives from different countries to share experience on how to address similar problems with execution.

Please indicate any other useful types of support that you are aware of: _____

3. Please, rate the **importance** of the following (wider) **Council of Europe activities** supporting your country's efforts to identify, develop and implement the general measures highlighted in the Court's judgments.

	not important at all very important <----->				No opinion
The Committee of Minister's recommendations to Member States	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Secretary General's visits and dialogue	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
President of the Court's visits and dialogue	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The meetings with the member States organised by the Registry of the Court	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The visit(s) of the Council of Europe's Human Rights Commissioner to your country and his/her published report(s)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The studies, tools and evaluations developed by the European Commission for the Efficiency of Justice (CEPEJ) on judicial time-management	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The monitoring activities of the European Committee for the Prevention of Torture (CPT) , including the CPT visits and their corresponding reports and CPT standards	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The Opinions on draft legislation provided by the Venice Commission	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The standard-setting work, guidelines and good practice guides provided by Steering Committees (such as for human rights, CDDH and for crime problems, CDPC)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The standard-setting activities of the Consultative Council of European Prosecutors (CCPE)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The standard-setting activities of the Consultative Council of European Judges (CCJE)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Recommendations and Resolutions of the Parliamentary Assembly of the Council of Europe (PACE)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The visits and corresponding reports as part of the PACE's monitoring procedure on the honouring of obligations and commitments by member States	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Activities of the European Programme for Human Rights Education for Legal Professionals (HELP)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Support of the Council of Europe Development Bank (CEB)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Project support received in the framework of cooperation activities , financed through Joint Programmes with the European Union or voluntary contributions by other donors, including support through Action Plans for cooperation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please indicate any other Council of Europe support activities in your country, which you consider important: _____

4. Has your country worked on implementing the Court's judgments in the last 3 years?
 Yes
 No

[those who reply 'yes' will be asked the questions 4a and 4b below]

4a. Please, rate the **importance of the following national factors** in influencing the **progress** made towards implementing the Court's judgments in the last three years?

	<div style="display: flex; justify-content: space-between; align-items: center;"> not important at all ←-----→ very important </div>				No opinion
Active civil society organisations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
National ombudspersons / Human Rights Institutions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Public opinion and media	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reform-minded politicians	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Access to funding by international financial institutions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Economic crisis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Political stability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Terrorism threat	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Refugee crisis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please indicate any other national factors that you are aware of: _____

4b. Please, rate the **importance of international factors** in influencing the progress made towards implementing the Court's judgments in the last three years?

	Not important at all very important ←----->				No opinion
The agenda / priorities of bi-lateral donors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The support, or requirements, of the European Union	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The support of other international organisations (OSCE, UNDP, etc.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Policy learning from other countries, independently of the Council of Europe	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please indicate any other potential factors that you are aware of: _____

5. Please select up to three **most useful contributions of civil society organisations** to the execution of the Court's judgments.
(Please check up to three answers):

<input type="checkbox"/>	Communications of civil society organisations to the Committee of Ministers on the progress of execution of the Court's judgments.
<input type="checkbox"/>	Contributions of civil society organisations at national level to the preparation of Action Plans and Action Reports by government agents.
<input type="checkbox"/>	Efforts of civil society organisations to raise awareness of the public on issues raised in the Court's judgments.
<input type="checkbox"/>	Cooperation of civil society organisations with law-makers at the stage of proposing or designing new legislation.

Please indicate any other useful contributions that you are aware of: _____

6. Are you aware of any **cooperation activities** with the Council of Europe implemented in your country since 2012?
- Yes
 No

[those who reply 'yes' will be asked the questions 6b and 6c below]:

6a. Have you (or other government agents in your country) been consulted in the context of needs assessments conducted by the Council of Europe during the preparations of cooperation activities?

- Yes
 No
 Don't know

6b. Do you know **whom to approach** in the Council of Europe in order to propose ideas for new cooperation activities involving your country?

- Yes
 No

If yes, please, indicate the entity you (would) contact? _____

6c. Which of the following aspects of Council of Europe cooperation activities / projects **need most improvement?**

(Please check up to three answers):

<input type="checkbox"/>	Council of Europe field presence
<input type="checkbox"/>	Continuity in the involvement of international experts (avoiding frequent turn-over)
<input type="checkbox"/>	Quality of the training activities
<input type="checkbox"/>	Quality of legislative expertise
<input type="checkbox"/>	Guidance on implementation of laws
<input type="checkbox"/>	Country visits / exchanges of experience between different Member States
<input type="checkbox"/>	Availability of good practice guides / comparative studies

Please indicate any other aspects in need of improvement: _____

7. Has your country provided voluntary contributions to the Council of Europe since 2012?
- Yes
 No
 Don't know

[those who reply 'yes' will be asked the questions 7a, 7b and 7c, below]

Please, rate to which degree you agree with the following statements:

	do not agree at all agree fully				No opinion
	←----->				
7a. The voluntary contributions made by my country towards cooperation activities / projects have provided good value for money .	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7b. Council of Europe projects compare favourably to similar projects implemented by other international organisations in terms of value for money.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

7c. Please mention and comment on the **strengths and weaknesses** of the Council of Europe in the implementation of projects compared with other organisations:

Strengths: _____

Weaknesses: _____

8. How easy or difficult is it to **access the following information** relevant to the execution of the Court's judgments on the Council of Europe website?

	very difficult very easy				No opinion
	←----->				
Committee of Ministers' practices and procedures concerning execution and its requirements	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Case law of the Court	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The Action Reports and Action Plans for execution of judgments of other countries	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reports produced by Council of Europe monitoring bodies	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Information on past and current projects implemented by the Council of Europe	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Legislation of Council of Europe Member States on specific topics of relevance to the ECHR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Guidelines / Good practices guides such as” the Guidelines on eradicating impunity for serious human rights violations” or “the Guide to good practice in respect of domestic remedies”	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comparative studies, such as: “A study on the role of parliaments in implementing ECHR standards: overview of existing structures and mechanisms prepared by the PACE Secretariat”	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please indicate any other sources of information relevant to the execution of the Court’s judgments that you are aware of: _____

9. Please select up to three most useful forms of support which the Council of Europe can provide to strengthen the **capacities of the government agent’s office**.

(Please check up to three answers):

<input type="checkbox"/>	Secondments to the Court Registry
<input type="checkbox"/>	Placements of government agents or co-agents in the Council of Europe’s Department for the Execution of Judgments
<input type="checkbox"/>	Regular meetings of government agents organised by CoE
<input type="checkbox"/>	Participation of government agents in Steering Committee for Human Rights
<input type="checkbox"/>	Human Rights Education for Legal Professionals (HELP) training
<input type="checkbox"/>	Involvement of government agents in cooperation activities in their own country
<input type="checkbox"/>	Involvement of government agents in cooperation activities in other countries

Please indicate any other potential support which the Council of Europe can provide: _____

10. Are there other ways, not mentioned in any of the earlier questions, in which the Council of Europe could support the execution of judgments in your country?

- Yes
 No

If yes, please specify: _____

Annex 12. HELP Programme Evaluation (2016). Executive Summary

The European Programme for Human Rights Education for Legal Professionals (the HELP Programme) aims at supporting the Council of Europe (CoE) member states in implementing the European Convention on Human Rights (ECHR) at the national level. The overall objective of the Programme is to enhance the capacity of judges, lawyers and prosecutors in all 47 member states to apply the ECHR in their daily work. More recently, its scope includes also the European Social Charter (ESC) and the Charter on Fundamental Rights of the European Union (EU).

In response to a request by the HELP Secretariat, the Directorate of Internal Oversight (DIO) carried out an evaluation of the HELP Programme in order to contribute to internal reflections on its strategic direction. The evaluation assessed the HELP Programme against the criteria of relevance, effectiveness, efficiency, impact, sustainability, and added value.

The evaluation used a mixed-methods approach, including (i) a document review, (ii) semi-structured interviews with key stakeholders, (iii) online surveys among members of the HELP Network and participants in training of trainers' courses, (iv) secondary data analysis of the HELP budget and staff resource allocation, and (v) observation of HELP events.

Based on evaluation findings, the following key conclusions can be drawn with regard to the evaluation questions:

- 1) **Relevance:** The HELP Programme is relevant for the Council of Europe. It is in line with high-level declarations as well as recommendations of the Committee of Ministers and other Council of Europe entities. It also generally meets the needs of National Training Institutions (NTIs)/Bar Associations (BAs). An extension of the Programme to non-legal target groups should be limited as it risks the diversion of scarce resources away from those areas where they can be used most effectively. Law students are, however, a target group to which an extension of the HELP Programme seems at the same time relevant and feasible.
- 2) **Effectiveness:** The HELP Programme is effective in producing good quality tutor-run distance learning courses. Some feedback from participants suggests that those legal professionals who took HELP training gained knowledge about the respective legal topic they were trained on. Self-learning courses have the potential to reach a large number of legal professionals. However, to date they are hardly used. A better promotion alongside an improved userfriendliness of the HELP platform and the introduction of certificates may boost a wider outreach of self-learning courses.
- 3) **Efficiency:** The HELP Programme is managed effectively and efficiently. It is run with very limited and stretched human resources. A more sustainable allocation of resources to the HELP core function would be desirable. The attitude and working methods of the HELP Secretariat are exemplary in the sense that they are geared towards continuous improvement and the maximization of synergies through partnerships with Council of Europe internal and external stakeholders. More attention needs to be given to

communication as well as to further improving the e-learning platform and HELP webpage including national pages. There is also room for further increasing the value for money of the Programme: by focusing more on enhancing the usage of its products, the Programme could achieve better results in terms of the number of and costs per legal professional(s) trained. The annual HELP Network Conference is seen very positively by members of the HELP Network.

- 4) **Impact and Sustainability:** The HELP Programme was able to achieve some positive impact and there are also a few success stories related to sustainability but a more systematic integration of HELP courses into the training curricula of NTIs and BAs would be needed in order to have a significant impact on the respect of human rights in member states and a decrease in the case load of the European Court of Human Rights (the Court).
- 5) **Added Value:** The HELP Programme plays a unique role within the Council of Europe and also among other external providers of human rights training for legal professionals. Within its specific field of expertise, the Programme has a clear comparative advantage.

The evaluation makes the following key recommendations with a view to improve the HELP Programme's effectiveness and efficiency:

- 1) Unless there are strong reasons for exceptions, efforts should be focused instead of further spreading resources too thinly. This involves concentrating on legal professionals rather than expanding the Programme to other target groups, as well as replicating courses and promoting their usage rather than developing new ones.
- 2) The e-learning platform needs to be revamped in order to become more user-friendly (a respective tender is already being processed).
- 3) A staff workload analysis should be done with a view to assess the adequacy of staff resources. Staff competencies should be diversified in order to ensure the availability of specialized expertise for managing the e-learning platform and HELP webpage.
- 4) More efforts should be made to develop and promote self-learning courses that are openly accessible to any legal professional and possibly also law students.

The evaluation of the effectiveness of the Council of Europe support to the implementation of the ECHR at national level was conducted in order to contribute to the implementation of the Declaration and Action Plan adopted at the High-Level Conference on the 'Implementation of the European Convention on Human Rights, our shared responsibility', held in Brussels on 26-27 March 2015. Its purpose was to assist the Secretary General in his preparation of proposals to the Committee of Ministers (CM) on how the delivery and the effectiveness of Council of Europe support to the member States in their efforts to implement the ECHR can be improved.

The evaluation found that while the procedure for the supervision of the execution of judgments of the European Court of Human Rights has become more transparent and efficient, there is still a need for the CoE to strengthen its support to building national capacity (including capacity of civil society) in this area.

The CoE intergovernmental work and the monitoring activities are perceived by the national authorities as important and influential. Further strengthening of the practical application of CoE's strategic triangle of standard-setting, monitoring and cooperation can be achieved through increased interaction between them, increased focus on execution of judgments in cooperation activities and encouragement of internal staff mobility.

The evaluation also showed that the Council of Europe produces a wealth of information, which is not always easy to access. Promoting access to and exchange of information in the area of the execution of judgments of the European Court of Human Rights is critical in order to raise the impact of CoE's work.

There is also a need to strengthen the CoE's capacity for rapid and flexible responses to arising needs by diversifying funding sources for cooperation and further strengthening the field presence.

Finally, the cooperation activities conducted in the thematic areas examined have been effective; however, the CoE's outreach to certain groups of national stakeholders such as police authorities, ombudsperson institutions and staff of national parliaments should be strengthened.

<http://www.coe.int/fr/web/internal-oversight/dio>

www.coe.int

Le Conseil de l'Europe est la principale organisation de défense des droits de l'homme du continent. Il comprend 47 États membres, dont les 28 membres de l'Union européenne. Tous les États membres du Conseil de l'Europe ont signé la Convention européenne des droits de l'homme, un traité visant à protéger les droits de l'homme, la démocratie et l'État de droit. La Cour européenne des droits de l'homme contrôle la mise en œuvre de la Convention dans les États membres.