

N.B.: If approved, PD STRAS together with the Secretariat will start setting up the mechanism (the mailing lists) aiming at launching it in 2025.

Draft Proposal for an Early Warning System for Encouragement of Engagement by National Bars in Enforcement of General Measures

I. INTRODUCTION AND OBJECTIVE

The purpose of this note is to set out a concise plan of action for CCBE PD STRAS and CCBE members to improve the execution of judgments of the European Court of Human Rights (ECtHR) in the enhanced examination of leading cases. This proposal aims to address the significant deficiencies in the current process, particularly regarding the engagement of National Bars and Law Societies (Bars) in enforcing general measures. By establishing a structured Early Warning System, we will ensure timely communication about final judgments and action plans, enabling proactive participation by National Bars. However, this mechanism is not intended to intervene in the execution of judgments in the enhanced examination of leading cases. It aims at making the information about those cases available to National Bars in order to enable them to support the implementation procedure. The question whether a National Bar, once informed, desires to engage in the implementation procedure will be up to the National Bar. Additionally, this initiative will help build expertise within PD STRAS that can be leveraged in future endeavours.

II. PRESENT PROCEDURE

Respondent Governments typically prepare action plans and action reports. Currently, applicant's lawyers can only address just satisfaction and individual measures under Rule 9(1), leaving general measures inadequately covered, as they can only be addressed by National Bars and NGOs under Rule 9 (2) of the Rules of the Committee of Ministers dealing with the execution of ECtHR's judgements (CMDH). General measures generally require legislative changes for which National Bars may be well placed in proposing to their National authorities how should such legislative changes be drafted. To be able to advocate effectively for general measures, National Bars must be promptly informed of final judgments and relevant documents in order to give them the opportunity to address the CMDH with such proposals that could be then taken into consideration at national level.

III. PROPOSED NEW ACTION PLAN: AN EARLY WARNING SYSTEM

An Early Warning System must be established to alert concerned parties, enabling them to address the CMDH and the Execution Directorate accordingly. National Bars and their Human Rights Committees must be made aware of final judgments to engage on general measures that applicants' lawyers cannot address.

1. Setting up a mailing list:

The proposed innovation consists of setting up a mailing list per country represented in the CCBE, which would receive and circulate information to the relevant National Bars about the execution of ECtHR's judgments **only in enhanced examination of leading cases.**

If the system works effectively, the information flow could later be extended to cases related to the legal profession.

2. The mailing list should consist of:

- The PD STRAS President and volunteer PD STRAS members (each PD STRAS member would be part of the mailing list for their own country, and some members would also be on the list for other countries not represented in PD STRAS, including observers and associated members);
- A member of the CCBE Secretariat;
- A member of the respective National Delegation to the CCBE or an assigned representative and/or the President of the respective National Bar Association or their assigned representative (allowing maximum flexibility depending on each Bar's structure and organization);
- A member of the European Implementation Network (EIN).

3. Involvement of National Bars in General Measures:

- **Possibly, one of the National Bar's members is the applicant's lawyer**, which would naturally facilitate the Bar's involvement in the execution of judgments.
- **Alternatively, the National Bar's Human Rights Committee may prepare a submission** to the national legislative body to give effect to the general measures. This would be particularly important when legislative changes are required.
- **If the Bar does not have the competence** to address these general measures, it is critical to identify the competent authority or entity that can address them.

IV. POTENTIAL INTERACTION WITH CMDH

Given the importance of the CMDH in overseeing the execution of ECtHR judgments, Bars have an inherent interest in closely following cases before the CMDH. In this context, the Early Warning System will allow the Bars to be aware of final judgments and their implementation procedure, including the action Plan. If Bars are promptly informed of the relevant cases and procedures, they will have the opportunity to reflect on the enforcement process and provide comments that can contribute to the effective execution of general measures, through submissions under Rule 9(2) which allows National Bars to present their views on general measures, which the Action Reports must take into account. This will ensure broader acceptance and scrutiny of these measures by the CMDH.

By engaging with the CMDH in this way, National Bars can help ensure that action plans and reports are not only comprehensive but also reflective of the necessary changes required for

the proper execution of judgments. These action reports will then be scrutinized by the CMDH and followed up at the national legislative level to ensure progress. By ensuring that the appropriate body is involved, the National Bar can help push forward the necessary legislative or policy changes. The proactive engagement of National Bars through this Early Warning System would thus ensure that general measures are not left inadequately addressed.

Section V (Means) provides guidance on how cooperation with external stakeholders, such as NGOs, could help Bars contribute effectively even when they lack direct competence.

V. MEANS

To achieve the above, the CCBE and National Bars should actively explore cooperation with the EIN as well as other NGOs that operate similar systems for individual Applicant's lawyers.

This collaboration will not disrupt their existing efforts; instead, we will simply request that they share final judgments, action plans, and action reports to keep our member working email groups informed.

By combining this information with tools like HUDOC and the Supervision of Execution platform, the execution of judgments can significantly be enhanced —not only in terms of just satisfaction but, more importantly, in implementing individual and general measures.