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COURT JUDGMENTS”**

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**EXECUTION OF THE JUDGMENTS OF
THE EUROPEAN COURT OF HUMAN RIGHTS
FROM THE VIEWPOINT OF THE COURT**

REPORT

by
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Introduction

1. I would like to begin by saying that I feel extremely honoured to be here and I am very grateful to the Constitutional Court of the Republic of Armenia and the Venice Commission for having invited me. The European Convention on Human Rights is more than ever our common heritage (“patrimoine”) and in this respect we share a common responsibility at national and international level. But today, perhaps the real issue here is how rights – especially human rights – are to be taken “seriously” to borrow Dworkin’s expression¹.

2. As we are all aware, human rights are not an ideology or a thought system. To have any meaning in the lives of individuals and communities, they must be translated into action and embedded in practice. A judgment of the European Court of Human Rights is not an end in itself, but a promise of future change, the starting-point of a process which should enable rights and freedoms to be made effective. This means that the recognition of human rights is inseparable from their implementation. Thus the execution of the Court’s judgments is a fundamental aspect of the European human-rights protection system: “If the Court’s long-term viability is to be ensured, it is essential that Member States take appropriate measures to implement the Court’s judgments and prevent repeat violations”².

3. *Mutatis mutandis*, what the Court has stated for domestic courts, i.e. that the execution of judgments is an integral part of the trial, applies equally to the judgments of the Court itself. Today, more than ever, the execution of judgments is “one of the keys to improving the European human-rights system”³, because it is obvious that both the Court and the Member States, the governments and the applicants, suffer from the non-execution of judgments which is a real “gangrene”. Lastly, as E. Lambert explains, “while the European Union has relied mainly on a constraint-based model, on infringement proceedings coupled with daily fines and on a delegation or elite model of accountability to compel states to enforce the judgments of the Court of Justice of the European Communities promptly, the Council of Europe has opted for a very different approach: that of persuasion, co-ordination among the various national and European bodies concerned, and accountability of authorities at different levels, in keeping with the participatory model of accountability”⁴. In this regard, the significant developments observed in the recent practice of the Court can be explained by its willingness to assume its share of responsibility in the matter of execution of judgments.

4. Against this background, dialogue between judges is indispensable, a dialogue with the national courts which the European Court of Human Rights is keen to maintain, intensify and deepen⁵. In this respect, Constitutional Courts are our best allies.

5. The Court has opted for a relatively flexible system, requiring States to achieve a particular result while leaving them free to choose the means to do so (I). However, the Court,

¹ R. DWORKIN, *Taking rights seriously*, Cambridge, Harvard University Press, 1977.

² Lord WOOLF, *Review of the working methods of the European Court of Human Rights*, Strasbourg, December 2005, p. 66, and to similar effect, N. FRICERO, “L’exécution des arrêts de la Cour européenne des droits de l’homme : un enjeu pour l’Europe”, in *Studia in honorem Pelayia Yessiou-Faltsi*, Athens, Sakkoulas Publishers, 2007, p. 107.

³ E. LAMBERT ABDELGAWAD, “L’exécution des arrêts de la Cour européenne des droits de l’homme (2006)”, *Rev. trim. dr. h.*, 2007, p. 669.

⁴ Id., *The execution of judgments of the European Court of Human Rights*, Human Rights Files, n° 19, Strasbourg, Council of Europe, 2nd ed., 2008, p. 71.

⁵ EUROPEAN COURT OF HUMAN RIGHTS, *Dialogue between judges*, Strasbourg, Council of Europe, 2005; 2006; 2007; 2008; 2009; 2010; 2011; 2012. See:

www.echr.coe.int/ECHR/EN/Header/Reports+and+Statistics/Seminar+documents/Dialogue+between+Judges/

without going so far as to require States to use specified means to ensure the execution of a judgment, has indicated the most appropriate means (II).

I. The starting principles

6. The States Parties to the Convention have undertaken to execute the Court's judgments. This obligation originates in Article 1 of the Convention, which provides that the Parties are to "secure to everyone within their jurisdiction the rights and freedoms" guaranteed by the Convention. Accordingly, a violation of the rights guaranteed by the Convention may entail the international responsibility of the States Parties.

7. Article 46 § 1 of the Convention provides: "The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties." However, under Article 46 § 2, supervision of the execution of judgments remains within the Committee of Ministers' exclusive competence.

8. This wording limits the States' obligation, as the judgment is binding only on the States that are parties to the case and concerns only the case at hand. From a very early stage the Court emphasised the declaratory nature of its judgments, stressing that States were free to choose the means to execute them: "Admittedly, it is inevitable that the Court's decision will have effects extending beyond the confines of this particular case, especially since the violations found stem directly from the contested provisions and not from individual measures of implementation, but the decision cannot of itself annul or repeal these provisions: the Court's judgment is essentially declaratory and leaves to the State the choice of the means to be utilised in its domestic legal system for performance of its obligation [under Article 53]"⁶. This fundamental aspect of the *Marckx* judgment has been reiterated on many occasions in the Court's subsequent case-law.

9. States must take measures to put an end to the violation but they remain free to determine what type of measures would be appropriate, as D. Anzilotti observes: "International law does not in principle specify the means by which the State must perform its duties. Such means are in fact so closely linked to the State's internal organisation that international law cannot determine them without invading a sphere which it is entirely forbidden to enter"⁷.

10. Furthermore, the Court's judgments are not directly enforceable. The Court may find a violation but its judgment cannot amend or invalidate the act by the State which gave rise to the violation. States are thus under an obligation to achieve a particular result in relation to the Court's judgment, as the Council of Europe's Parliamentary Assembly has pointed out: "Since the Court does not tell states how to apply its decisions, they must consider how to do so themselves. The obligation to comply with judgments is an obligation to produce a specific result – to prevent further violations and repair the damage caused to the applicant by the violation"⁸.

11. States may opt for general and/or individual measures. General measures are intended to amend provisions of domestic law whereas individual measures seek to put an end to the violation in respect of the applicant in the case at hand.

12. The Court has clarified the content of the States' obligation to achieve a particular result as regards the execution of judgments. Where individual measures are concerned, the

⁶ ECtHR, *Marckx v. Belgium*, judgment of 13 June 1979, § 58.

⁷ Cited in V. ESPOSITO, "La liberté des Etats dans le choix des moyens de mise en œuvre des arrêts de la Cour européenne des droits de l'homme", *Rev. trim. dr. h.*, 2003, pp. 823 et seq.

⁸ Parliamentary Assembly report on *Execution of judgments of the European Court of Human Rights*, Doc. 8808, 12 July 2000, § 35.

aim it has set is the removal of the consequences of the violation and the restoration of the previous situation for the applicant (*restitutio in integrum*). In *Papamichalopoulos and Others v. Greece*, which was the first case in which the Court encouraged a State to return property, the Court stated: "... a judgment in which the Court finds a breach imposes on the respondent State a legal obligation to put an end to the breach and make reparation for its consequences in such a way as to restore as far as possible the situation existing before the breach." On the basis of its finding of a violation of Article 1 of Protocol No. 1, it held that "the return of the land in issue ... would put the applicants as far as possible in a situation equivalent to the one in which they would have been if there had not been a breach" of the Convention⁹.

13. Thus, in order to ensure that these aims are achieved, the Court has begun progressively to give indications in its judgments as to the type of measures that States might take.

II. New directions

14. While emphasising the State's freedom of choice in matters of execution, in the past few years the Court has increasingly stated its views as to the most effective means of ensuring that judgments are executed. In the case of *Scozzari and Giunta v. Italy* of 13 July 2000, while the Court drew attention to the role of the Committee of Ministers in the execution of judgments and to the State's freedom of choice, it stressed that the means employed must be "compatible with the conclusions set out in the Court's judgment"¹⁰. This compatibility requirement means that the State must take care when exercising its freedom of choice. In other words, the State must be guided by a "single objective parameter, namely the suitability of the means in relation to the aim pursued"¹¹.

15. In the wake of Protocol No. 14 of 13 May 2004 which, quite rightly, reflects an awareness of the issue of execution of the Court's judgments, the Court's recent case-law has tended in two new directions.

A. Specific measures

16. First, the Court is moving towards a practice of indicating to the State concerned specific measures aimed at remedying a violation both in a particular case and in other identical cases which are pending before it¹².

Retrial or reopening clause

17. As a matter of fact, the Committee of Ministers, the body responsible for supervising the execution of the Court's judgments, encourages States to afford applicants the possibility of requesting the reopening of proceedings at national level. The Committee's position on reopening is clearly expressed in its Recommendation No. R (2000) 2 of 19 January 2000. According to this Recommendation, the re-examination of a case or reopening of proceedings is "the most efficient, if not the only, means of achieving *restitutio in integrum*", i.e. to ensure that the injured party "is put, as far as possible, in the same situation as he or she enjoyed prior

⁹ ECtHR, *Papamichalopoulos and Others v. Greece* judgment (Article 50) of 31 October 1995, § 34. See also ECtHR (GC), *Brumărescu v. Romania* judgment (just satisfaction) of 23 January 2001, § 22.

¹⁰ ECtHR (GC), *Scozzari and Giunta v. Italy* judgment of 13 July 2000, § 249; ECtHR (GC), *Sejdovic v. Italy* judgment of 1 March 2006, § 119; ECtHR, *Aleksanyan v. Russia* judgment of 22 December 2008, § 238.

¹¹ V. ESPOSITO, "La liberté des Etats dans le choix des moyens de mise en œuvre des arrêts de la Cour européenne des droits de l'homme", *op. cit.*, pp. 836.

¹² ECtHR, *Tekin Yildiz v. Turkey* judgment of 10 November 2005, §§ 91 et seq., and ECtHR, *Xenides-Arestis v. Turkey* judgment of 22 December 2005, § 40.

to the violation of the Convention”¹³. On the whole, Recommendation No. R (2000) 2 has been well observed by States. However, its implementation is not uniform and varies according to the type of proceedings (civil, criminal, administrative). Moreover, it may be interesting to note the observation by E. Lambert-Abdelgawad in 2006 that “[t]he scenario of a violation of the right to an independent and impartial tribunal is the most common ground for reopening proceedings”¹⁴. Today it seems to me that the scope of reopening is becoming broader and more diversified.

18. Therefore, in some judgments, the Court, in addition to finding a violation of Article 6 § 1, has indicated that the most appropriate means of remedying the violation would be to have the case retried¹⁵. In its *Salduz v. Turkey* judgment of 27 November 2008, the Grand Chamber inserted the retrial clause in its reasoning under Article 41, finding that the most appropriate form of redress would be the retrial of the applicant in accordance with the requirements of Article 6 § 1, should the applicant so request. Hence, the majority opted for an approach consisting in not inserting the retrial clause in the operative provisions. In their joint concurring opinion, Judges Rozakis, Spielmann, Ziemele and Lazarova Trajkovska expressed the view that the clause should also have been included in the operative provisions, as it was the Court’s duty to urge the domestic authorities to make use of the reopening procedure, provided, of course, that the applicant so wished. Nevertheless, since *Salduz*, it has been the consistent practice of the Grand Chamber and the different Sections to include the retrial clause mainly in the reasoning of the judgment¹⁶.

Individual measures

19. Since 2004, on the basis of the *Papamichalopoulos* precedent, the Court has regularly ordered the adoption of individual measures of execution even outside the scope of Article 1 of Protocol No. 1. It has justified this approach by the nature of the violation in issue.

20. In exceptional cases, where the very nature of the violation leaves little scope for choosing between different types of remedial measures, the Court may decide to indicate a single individual measure, having regard to the particular circumstances of the case and the urgent need to put an end to the violation found. Thus, for instance, in cases relating to the physical liberty of the applicants, the Court did not hesitate to request the respondent State to secure the applicant’s release immediately or “at the earliest possible date”¹⁷.

¹³. For an analysis of the Recommendation, see, in particular, M. HUNT, “State Obligations following from a Judgment of the European Court of Human Rights”, in T. Christou & J.P. Raymon (eds.), *European Court of Human Rights, Remedies and Execution of Judgments*, London, BIICL, 2005, pp. 39-42, and E. LAMBERT-ABDELGAWAD, “Les procédures de réouverture devant le juge national en cas de ‘condamnation’ par la Cour européenne”, in *De l’effectivité des recours internes dans l’application de la Convention européenne des droits de l’homme*, Brussels, Bruyant-Nemesis, 2006, pp. 202-204.

¹⁴. E. LAMBERT-ABDELGAWAD, “Les procédures de réouverture devant le juge national en cas de ‘condamnation’ par la Cour européenne”, *op. cit.*, p. 206.

¹⁵. ECtHR (GC), *Öcalan v. Turkey* judgment of 12 May 2005; and ECtHR, *Claes and Others v. Belgium* judgment of 2 June 2005, § 53.

¹⁶. See, for instance, the Grand Chamber judgments in *Cudak v. Lithuania* (23 March 2010, § 79), *Sakhnovski v. Russia* (2 November 2010, § 112) and *Taxquet v. Belgium* (16 November 2010, § 107), and the following judgments by the five Sections: *Lesjak v. Croatia* (18 February 2010, § 54); *Orhan Çağan v. Turkey* (23 March 2010, § 47); *Postolache (no. 2) v. Romania* (6 July 2010, § 54); *Laska and Lika v. Albania* (20 April 2010, § 75); and *Borotyuk v. Ukraine* (16 December 2010, § 92).

¹⁷. For cases of arbitrary detention in breach of Article 5 of the Convention, see ECtHR (GC), *Assanidze v. Georgia* judgment of 8 April 2004, point 14 of the operative provisions; ECtHR (GC), *Ilaşcu and Others v. Moldova and Russia* judgment of 8 July 2004, point 22 of the operative provisions; and ECtHR, *Alexanian v. Russia* judgment of 22 December 2008, point 9 of the operative provisions. For a case of a prison sentence in breach of Article 10 of the Convention, see ECtHR, *Fatullayev v. Azerbaijan* judgment of 22 April 2010, point 6 of the operative provisions.

21. With regard to conditions of detention, one case worthy of note is the *Stawomir Musiał v. Poland* of 20 January 2009, concerning the detention of a person with a mental disability in ordinary prisons, in which the Court found a violation of Article 3 of the Convention. The Court requested Poland to secure to the applicant “at the earliest possible date” adequate conditions of detention in an institution capable of providing him with the necessary psychiatric treatment and constant medical supervision¹⁸.

22. As regards determination of the sentence imposed or liable to be imposed on the applicant, in *Scoppola (no. 2) v. Italy*, the Grand Chamber, after finding a breach of Articles 6 and 7, requested the State to ensure that the applicant’s sentence of life imprisonment be replaced by a penalty not exceeding thirty years’ imprisonment¹⁹. In *Al-Saadoon and Mufdhi v. the United Kingdom*, the Court held that there had been a breach of Article 3 because there were substantial grounds for believing there to be a real risk of the applicants being condemned to the death penalty and executed in Iraq. It held, under Article 46 alone, that the United Kingdom Government must seek to put an end to the applicants’ suffering as soon as possible, by taking all possible steps to obtain an assurance from the Iraqi authorities that they would not be subjected to the death penalty²⁰.

Restitution of property and enforcement of domestic judicial decisions

23. In cases concerning unlawful deprivation of property, the Court does not hesitate to use its powers to indicate measures with a view to ensuring restitution of the property in question, while giving the respondent State a choice between restitution and compensation of the applicant²¹. Only where restitution is impossible will the Court make an immediate award for pecuniary damage without indicating restitution of the property as the preferred solution²².

24. The Court has also used its power to indicate individual measures in cases concerning failure to enforce a domestic ruling, in order to direct the respondent State to ensure enforcement²³.

Speeding-up of trial and/or release of applicant pending trial

25. Where there has been a breach of the right to a trial within a reasonable time and the domestic proceedings are ongoing, the Court may indicate under Article 41 that an appropriate means of putting an end to the violation found would be to conclude the trial as speedily as possible²⁴. However, the Court may not direct the judicial authorities of a State Party to the Convention to terminate proceedings instituted in compliance with the law where the criminal investigation has exceeded a reasonable time²⁵.

¹⁸. ECtHR, *Stawomir Musiał v. Poland* judgment of 20 January 2009, § 108, under Article 46, and point 4 (a) of the operative provisions. By contrast, in the judgments of *Poghossian v. Georgia* of 24 February 2009 and *Dybeku v. Albania* of 18 December 2007, the Court confined itself to indicating, under Article 46 alone, general measures relating to conditions of detention and the medical treatment of prisoners.

¹⁹. ECtHR (GC), *Scoppola (no. 2) v. Italy* judgment of 17 September 2009, § 154.

²⁰. ECtHR, *Al-Saadoon and Mufdhi v. the United Kingdom* judgment of 2 March 2010, § 171.

²¹. See ECtHR (GC), *Brumărescu v. Romania* judgment (just satisfaction) of 23 January 2001; ECtHR, *Hirschhorn v. Romania* judgment of 26 July 2007; ECtHR, *Katz v. Romania* judgment of 20 January 2009; and ECtHR, *Dacia SRL v. Moldova* judgment (just satisfaction) of 24 February 2009.

²². see, for example, ECtHR, *Belvedere Alberghiera S.r.l. v. Italy* (just satisfaction) judgment of 30 October 2003, § 34; and ECtHR (GC), *Guiso-Gallisay v. Italy* (just satisfaction) judgment of 22 December 2009, § 96.

²³. See, for instance, ECtHR, *Karanović v. Bosnia and Herzegovina* judgment of 20 November 2007; ECtHR, *Ilić v. Serbia* judgment of 9 October 2007; ECtHR, *Kopilovich and Others v. Ukraine* judgment of 17 January 2008; ECtHR, *Yavuz Sarkaya v. Turkey* judgment of 13 January 2009; and ECtHR, *Nițescu v. Romania* judgment of 24 March 2009.

²⁴. See ECtHR, *Naime Doğan and Others v. Turkey* judgment of 17 July 2007, § 34; and, most recently, ECtHR, *Serdar Güzel v. Turkey* judgment of 15 March 2011, § 65.

²⁵. see ECtHR, *De Clerck v. Belgium* judgment of 25 September 2007, § 101.

26. Where there has been a dual breach of the right to trial within a reasonable time (Article 6 § 1 of the Convention) and the right to be released pending trial (Article 5 § 3 of the Convention), and the applicant remains in pre-trial detention, the Court may also indicate that an appropriate means of putting an end to the violation would be to terminate the proceedings as speedily as possible, taking into consideration the requirements of the proper administration of justice, and/or to release the applicant pending trial²⁶.

Other individual measures

27. In cases where it finds a violation of the right to respect for private or family life, the Court appears to be gradually shedding its restraint when it comes to indicating individual remedial measures²⁷. Thus, for instance, in the *Amanalachioai v. Romania* judgment of 26 May 2009, the Court held, in its reasoning under Article 41, “that it is in the child’s best interests for the competent domestic authorities to take the initiative and coordinate their activities in order to gradually rebuild the relationship between the applicant and his child”²⁸. More recently, in the *Gluhaković v. Croatia* judgment of 12 April 2011, the Court required the respondent State to secure effective contact between the applicant and his daughter at a time compatible with the applicant’s work schedule and on suitable premises, on the basis of the judgment by the domestic courts²⁹.

28. Lastly, it is worth noting a recent development in the Court’s case-law as regards the indication of individual measures. In the *Abuyeva and Others v. Russia* judgment of 2 December 2010, the Court held that there had been no independent and effective investigation following its finding of a twofold (substantive and procedural) breach of Article 2 in its *Isayeva v. Russia* judgment of 24 February 2005. It found that the investigation conducted post-*Isayeva* had been beset by exactly the same failings as those it had identified back then, and considered it inevitable that a new, independent, investigation should take place³⁰. By so doing, the Court departed from its consistent practice of refraining from directing the State to conduct a fresh investigation after finding a procedural violation of Article 2³¹.

B. General measures

29. The *Broniowski v. Poland* judgment of 22 June 2004 was described by the Court as a *pilot judgment* in a case which brought to light a specific problem affecting over 80,000 people³². The main legal basis for this new procedure is the Resolution of the Council of Europe’s Committee of Ministers of 12 May 2004 on judgments revealing an underlying systemic problem, which authorises the Court to prescribe/suggest to the respondent State the adoption of certain general measures³³. Admittedly, the Court’s requests are usually directed

²⁶. See ECtHR, *Yakışan v. Turkey* judgment of 6 March 2007, § 49; and ECtHR, *Şahap Doğan v. Turkey* judgment of 27 May 2010, § 46.

²⁷. See, for example, ECtHR (GC), *Scozzari and Giunta v. Italy* judgment of 13 July 2010, § 249, in which the Court reiterates that the State remains free, subject to supervision by the Committee of Ministers, to choose the means by which it discharges its obligations under Article 46 of the Convention. See, by contrast, ECtHR, *Görgülü v. Germany* judgment of 26 February 2004, § 64. Referring to Article 46, the Court expressly stated that, in this case, the applicant should at least be granted access rights.

²⁸. ECtHR, *Amanalachioai v. Romania* judgment of 26 May 2009, § 107.

²⁹. ECtHR, *Gluhaković v. Croatia* judgment of 12 April 2011, § 89.

³⁰. ECtHR, *Abuyeva and Others v. Russia* judgment of 2 December 2010, § 243.

³¹. See, for example, ECtHR (GC), *Varnava and Others v. Turkey* judgment of 18 September 2009, § 222, and the concurring opinion of Judge Spielmann, joined by Judges Ziemele and Kalaydjieva.

³². ECtHR (GC), *Broniowski v. Poland*, judgment of 22 June 2004. See also the friendly settlement in the case (judgment of 28 September 2005).

³³. Resolution Res(2004)3 on judgments revealing an underlying systemic problem (12 May 2004). On the distinction between structural and specific problems, see P.-H. IMBERT, “Follow-up to the Committee of Ministers’ Recommendations on the implementation of the Convention at the domestic level and the Declaration on ‘Ensuring the effectiveness of the implementation of the European Convention on Human

principally at the legislature. However, the question arises whether it might not be possible to involve the domestic courts in the process, and, if so, to what extent.

30. In a nutshell, a pilot judgment could be said “to address a general problem by adjudicating on a specific case”³⁴. Two recent concerns seem to me to be at the origin of this new procedure and indeed these can direct its future development. On the one hand, in the matter of human rights, we are confronted today in the Court with a certain change of scale: in addition to simple, singular, individual violations of Convention rights (which unfortunately subsist), there are complex, collective, massive violations – large scale violations. On the other hand, the Court is more and more sensitive and attentive to the execution of its judgments. In turn, the execution of judgments can, of course, play a strong preventive role – namely preventing the accumulation of other violations. These two (interrelated) concerns can explain why the Court is willing both to identify the underlying problem / cause of the violation (diagnosis) and to indicate, under Article 46 of the Convention, what steps should be taken by the State to remedy the situation. In doing this, it also assists the Committee of Ministers of the Council of Europe in its role of ensuring that each judgment of the Court is properly executed by the respondent State. The core of a pilot judgment is the identification of a general problem and its cause and the guidance given by the Court to the State concerned, i.e. what measures are necessary at the national level, which is a substantial departure from the purely declaratory approach the Court has followed so far. In this respect, the pilot-judgment procedure is both looking forward and backward³⁵.

31. The degree to which the general measures indicated in these judgments are specified varies: the indications range from the relatively general³⁶ to the more detailed³⁷. In most of these judgments³⁸, the Court lays down a time-limit in the operative provisions for adoption of the general measures. This may range from six months³⁹ to eighteen months⁴⁰ from the date on which the judgment becomes final.

32. Recently, in the *Kurić and Others v. Slovenia* judgment of 26 June 2012, the Court “consider[ed] that the present case [was] suitable for the adoption of a pilot-judgment procedure within the meaning of Rule 61 of the Rules of Court, given that one of the fundamental implications of this procedure is that the Court’s assessment of the situation complained of in a “pilot” case necessarily extends beyond the sole interests of the individual applicants and requires it to examine that case also from the perspective of the general measures that need to be taken in the interest of other potentially affected persons ... In this connection, the Court observes that, further to the pilot judgment in the case of *Lukenda v. Slovenia* ..., concerning the excessive length of judicial proceedings and the malfunctioning of the domestic legal system in this respect, the Government adopted a number of measures, including the setting

Rights at national and European levels”, in *Reform of the European human rights system: Proceedings of the high-level seminar, Oslo, 18 October 2004*, Directorate General of Human Rights, Council of Europe, Strasbourg, 2004, p. 40.

³⁴. A. BUYSE, “The Pilot Judgment Procedure at the European Court of Human Rights: Possibilities and Challenges”, *Nomiko Vima* (The Greek Law Journal), vol. 57, pp. 1890 et seq., 2009, available at <http://ssrn.com/abstract=1514441>, p. 1.

³⁵. Fr TULKENS, “A typology of the pilot-judgment procedure”, *Crossroads* (The Macedonian Foreign Policy Journal), vol. II, no 3, 2010, pp. 125 et seq. See also A. Buyse, “The Pilot Judgment Procedure at the European Court of Human Rights: Possibilities and Challenges”, *op. cit.*, p. 8.

³⁶. For instance, the adoption of measures to ensure effective protection of the rights guaranteed by Article 6 of the Convention and Article 1 of Protocol No. 1, in accordance with the principles enshrined in the Convention, in the *Maria Atanasiu and Others v. Romania* judgment of 12 October 2010.

³⁷. The introduction of an effective remedy capable of affording adequate and sufficient redress in cases where proceedings before the administrative courts exceed a reasonable length, in the *Vassilios Athanasiou and Others v. Greece* judgment of 21 December 2010.

³⁸. With the exception of the *Broniowski v. Poland* judgment (GC) of 22 June 2004 and the *Hutten-Czapska v. Poland* judgment (GC) of 19 June 2006.

³⁹. ECtHR, *Olaru and Others v. Moldova* judgment of 28 July 2009.

⁴⁰. ECtHR, *Maria Atanasiu and Others v. Romania* judgment of 12 October 2010.

up of a special financial mechanism. This has enabled the Court to dispose of a high number of pending cases⁴¹. The Court therefore “decide[d] to indicate, in accordance with Rule 61 § 3 [of the Rules of Court], that the respondent Government should, within one year, set up an *ad hoc* domestic compensation scheme ... Pursuant to Rule 61 § 6 (a), the examination of all similar applications [would] be adjourned pending the adoption of the remedial measures at issue⁴².”

33. In recent practice the Grand Chamber and the different Sections of the Court have also used lighter variants of the pilot-judgment procedure, identifying the structural origin of the violation found in the domestic legal order and indicating general measures of execution to the respondent State, without formally designating the judgments as “pilot judgments⁴³”.

34. *Either way, the domestic courts are in a position to play an important role.* It would be interesting, therefore, to hear your initial reactions on the subject.

⁴¹. ECtHR (GC), *Kurić and Others v. Slovenia* judgment of 26 June 2012, § 413.

⁴². *Ibid.*, § 415.

⁴³. For example: ECtHR (GC), *Scordino (no. 1) v. Italy (no. 1)* judgment of 29 March 2006, §§ 228-240; ECtHR, *Urbárska Obec Trenčianske Biskupice v. Slovakia* judgment of 27 November 2007, §§ 147-150; ECtHR, *Driza v. Albania* judgment of 13 November 2007, §§ 121-126; ECtHR, *Ramadhi and Others v. Albania* judgment of 13 November 2007, §§ 89-94; ECtHR, *Gülmez v. Turkey* judgment of 20 May 2008, §§ 59-63; ECtHR, *Dybeku v. Albania* judgment of 18 December 2007, § 64; ECtHR, *Martins Castro and Alves Correia de Castro v. Portugal* judgment of 10 June 2008, § 66; ECtHR, *Ghigo v. Malta* (just satisfaction) judgment of 17 July 2008, §§ 25-29; ECtHR, *Viaşu v. Romania* judgment of 9 December 2008, § 83; ECtHR, *Faimblat v. Romania* judgment of 13 January 2009, §§ 53-54; ECtHR, *Katz v. Romania* judgment of 20 January 2009, §§ 35-36; ECtHR, *Deneş and Others v. Romania* judgment of 3 March 2009, §§ 60-66; ECtHR, *Sławomir Musiał v. Poland* judgment of 20 January 2009, § 107; ECtHR, *Kauczor v. Poland* judgment of 3 February 2009, §§ 60-62; ECtHR, *Poghossian v. Georgia* judgment of 24 February 2009, § 70; ECtHR, *Elias v. Romania* judgment of 12 May 2009, §§ 26-32; ECtHR, *Cahit Demirel v. Turkey* judgment of 7 July 2009, § 48; ECtHR, *Daneshpayeh v. Turkey* judgment of 16 July 2009, § 51; ECtHR, *Manole and Others v. Moldova* judgment of 17 September 2009, § 117; ECtHR, *Ürper and Others v. Turkey* judgment of 20 October 2009, § 52; ECtHR, *Orchowski v. Poland* judgment of 22 October 2009, § 154; ECtHR, *Norbert Sikorski v. Poland* judgment of 22 October 2009, §§ 149-161; ECtHR, *Sinan Işık v. Turkey* judgment of 2 February 2010, § 60; ECtHR, *Laska and Lika v. Albania* judgment of 20 April 2010, §§ 75-77; ECtHR, *Sarıca and Dilaver v. Turkey* judgment of 27 May 2010 §§ 58-61; ECtHR, *Yetiş and Others v. Turkey* judgment of 6 July 2010, §§ 68-69; ECtHR, *Gözel and Özer v. Turkey* judgment of 6 July 2010, § 76; ECtHR, *Holy Synod of the Bulgarian Orthodox Church (Metropolitan Inokentiy) and Others v. Bulgaria* judgment (just satisfaction) of 16 September 2010, § 50; and ECtHR, *Gaglione and Others v. Italy* judgment of 21 December 2010, §§ 59-60.