The supervision of the execution of judgments of the European Court of Human Rights

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9. The Court has consistently interpreted the words "just satisfaction" in Article 1/50 as meaning monetary compensation only. If, having found a violation, it decides to award just satisfaction, it will require the respondent State to pay the applicant within three months of the delivery of the judgment. After the Committee's first examination at its meeting immediately following the delivery of the judgment, a case involving an award of just satisfaction will usually come up for renewed examination after the expiry of the three-month time-limit. If the respondent State is unable to supply proof of payment, the case will return to the agenda at every subsequent meeting until the Committee is satisfied that the money has been paid in full. Since January 1996, following discussions between the Court and the Committee, the Court has included in its awards of just satisfaction an order to states to pay simple interest, calculated on a daily basis, from the expiry of the three months until payment. The purpose of the award of interest is obviously to encourage States to pay up quickly, and to safeguard the value of the award. However, the Court's practice is to apply the legal rate of interest of the respondent State, which, in some countries, is inadequate to guard against high levels of inflation. In some cases, in order to guard against inflation, the Court has expressed the monetary award in US dollars, pounds sterling or French francs, to be converted into the less stable national currency at the date of payment. [13]

10. The most difficult case of late payment that the Committee of Ministers has so far had to deal with, and which was, indeed, largely responsible for the introduction of default interest, was that of *Stran Greek Refineries and Stratis Andreadis v. Greece*. The background to the case was that the applicant company had entered into a contract with the Greek State (which at the time was governed by the military junta) to build an oil refinery, and had incurred considerable expenditure procuring goods and services for the construction of the refinery. When the democratic government regained power, they decided that it was not in the national interest for the refinery to be built and they terminated the contract. The company commenced proceedings against the State for compensation for the expenditure it had incurred under the terms of the contract, and a substantial arbitration award was made against the Government, which appealed to the Court of Cassation. However, the State then asked for the hearing to be postponed on the ground that a draft law concerning the point in issue was just about to go through Parliament. The new legislation in fact made it inevitable that the Court of Cassation would find against the applicant. The Court of Human Rights unanimously found a violation of Article 6 § 1, and awarded pecuniary damages of almost 30 million US dollars, together with simple interest at 6% from 27 February 1984 (the date of the arbitration award) to the date of judgment.[14]

13 See, for example, the *Selçuk & Asker v. Turkey* judgment of 24 April 1998, Reports 1998-II, and the *Assenov & Others v. Bulgaria* judgment of 28 October 1998, Reports 1998.

14 Judgment of 9 December 1994, Series A No. 301-B.

11. Because of the size of the award, the Greek government refused to pay within the three-month limit and asked the Committee if it could pay by instalments over a period of five years, without interest. This request was rejected by the Committee. The President at the time, the Estonian Foreign Minister, wrote to the Greek Minister of Foreign Affairs, stressing that "the credibility and effectiveness of the mechanism for the collective enforcement of human rights established under the Convention was based on the respect of the obligations freely entered into by the States and in particular in respect of the supervisory bodies".[15] In the event, the case was not resolved until 17 January 1997, when the Government transferred 30,863,828 US dollars to the applicants, corresponding to the just satisfaction awarded by the Court, increased in order to provide compensation for the loss of value caused by the delay in payment.[16]

III.B. Other individual measures

12. The majority of individual applications under the Convention concern alleged violations of Article 6, the right to a fair trial in civil and criminal matters. In many cases where the Court finds a violation in respect of an unfair procedure in the determination of civil rights and obligations, a sum of monetary compensation will often be an adequate remedy for the aggrieved individual. In other cases, however, and particularly where an applicant has been convicted and sentenced following unfair criminal proceedings, the only way fully to put right the wrong would be to reopen the proceedings or quash the conviction.

13. For example, on 10 July 1992 the Turkish Constitutional Court ordered the dissolution of the Turkish Socialist Party, on the grounds that its chairman, Mr Dogu Perinçek, had made certain statements which could be interpreted as advocating Kurdish secession, contrary to the Constitution. In its judgment of 25 May 1998,[17] the European Court held that the dissolution of the Socialist Party amounted to a violation of Article 11 of the Convention (right to freedom of assembly and association) and awarded damages under Article 50 of the Convention. The Committee, which examined the case under Article 53 of the Convention, adopted a resolution on 4 March 1999, stating that it was satisfied that Turkey had paid the just satisfaction ordered by the Court, but continued:

> The Committee of Ministers ... [h]aving, however, been informed that by judgment of 8 July 1998 – i.e. after the Judgment of the European Court of Human Rights – the Court of Cassation of Turkey confirmed a criminal conviction imposed on Mr Perinçek by the first State Security Court of Ankara on 15 October 1996, according to which the sanction of dissolution of the party also carried with it personal criminal responsibility;

15 Resolution DH(97)184.

16 Ibid.

17 *Socialist Party & Others v. Turkey*, Reports 1998-III.

Noting that the Court of Cassation based its judgment on the statements which had been pronounced by Mr Perinçek in 1991;
Noting, furthermore, that by virtue of his conviction, Mr Perinçek has been sentenced to a 14-month prison sentence, which he started to serve on 29 September 1998, and has furthermore *inter alia* been banned from further political activities;
Insists on Turkey's obligation under Article 53 of the Convention to erase, without delay, through action by the competent Turkish authorities, all the consequences resulting from the applicant's criminal conviction on 8 July 1998;
Decides, if need be, to resume consideration of the present case at each of its forthcoming meetings.[18]

III.C. General measures

14. The aim of general measures is to prevent the recurrence of similar violations of the Convention. There are countless examples of States taking action as a result of findings of violation of the Convention, including the adoption by Belgium of measures for subsidising French-speaking schools in the Flemish area; Denmark amending the law on custody of illegitimate children; France passing a law relating to the secrecy of telephone communications; Sweden amending the law on compulsory religious instruction; and, finally, the United Kingdom outlawing corporal punishment in state schools.[19]

15. Over half of the general measures taken by respondent States involve changes to legislation. The Committee has to date taken note of 130 legislative reforms under the Convention system. Other general measures include administrative measures, changes to court practice or the introduction of human rights training of the police, for example.

16. As mentioned above, Rule 2(b) of the Committee's Rules provides that, until the Committee is satisfied with the measures taken by a State to comply with a judgment of the Court, that case will be returned to the Committee's agenda at least every six months. On the whole, States are relatively quick to implement the recommendations of the Committee in respect of general measures, sometimes even adopting the necessary measures before the case in question comes before the Committee or even the Court.[20] Thus a written question put forth by four members of the Parliamentary Assembly to the Committee in September 1998,[21]

18 Interim Resolution DH(99)245.
19 For a longer version of this list, see http://www.dhdirhr.coe.fr.
20 For example, the Court "noted with satisfaction" in its *Findlay v. United Kingdom* judgment of 25 February 1997, Reports 1997-I, that the United Kingdom had implemented changes to its court-martial procedure following the Commission's finding of a violation of Article 6.
21 See "Execution of certain judgments forwarded to, or certain cases pending before, the Committee of Ministers", Reply from the Committee of Ministers to Written Question No. 378, Council of Europe document No. 8253, 29 October 1998.

identified only seven cases which had at that time been pending before the Committee for more than three years waiting for general measures to be taken for their adequate execution. Moreover, as will be seen, in relation to each of these cases the Committee was able to provide some explanation on behalf of the respondent State.

17. Delays in executing judgments, the Committee explained, could sometimes be accounted for by the extent of the reforms required. This applied to the longest outstanding case mentioned in the Parliamentary question, *Gaskin v. the United Kingdom*, where the Court, in its judgment of 7 July 1989,[22] found a violation based on the absence of any procedure to determine when the interests of an individual brought up in public care in having access to his or her medical and other records should outweigh the public interest in the confidentiality of such data. According to the Committee, the United Kingdom Government had been preparing a broad comprehensive reform of the law governing public access to documents held by the authorities. In the meantime, the State had been able to give partial effect to the judgment through Regulations, a Local Authority Circular and the Data Protection Act of 1998.

18. Secondly, the length of time could sometimes be explained by difficulties encountered by the member State in implementing reforms. For example, in its *Modinos v. Cyprus* judgment of 22 April 1993,[23] the Court found a violation of Article 8 of the Convention arising from the criminalisation in Cyprus of private homosexual relations. Since 1995 various draft laws had been drafted, with a view to lifting the ban, but at each attempt the legislation was blocked following extensive Parliamentary debate. Finally, in June 1998, the Committee was informed that an Act had been passed by the Cypriot Parliament on 21 May 1998. At the time of the response to the Parliamentary question, the Committee still had to examine the legislation to assess whether it was sufficient.

19. The above examples concern individual judgments with which States have been slow to comply. Perhaps more serious is the situation where measures are required to remedy a whole series of cases which highlight an ingrained and persistent problem within the respondent State. Probably the most notorious example of this situation is the Italian length of proceedings cases. Under Article 6 § 1 of the Convention, "[i]n the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a ... hearing within a reasonable time ...". This provision is violated by Italy on a constant, even a systematic, basis. In the period immediately prior to entry into force of the Eleventh Protocol, the Commission, Court and Committee of Ministers (acting under Article 32 of the Convention) together dealt with approximately 12,000 applications leading to some 500 findings of violation. Of the violations, approximately 60% arose from the length of civil and criminal proceedings in Italy (where proceedings lasting 10–20 years are not uncommon).

22 Series A No. 160.
23 Series A No. 259.

20. In order to remedy this situation, the Italian Government informed the Committee in early 1995 that it had instituted a new office of Justice of the Peace and had hired approximately 5,000 magistrates to perform this function. In addition, a number of procedural simplifications were proposed. The Committee accepted these measures as execution in a number of cases,[24] but it does not appear to have resolved the problem. In the summer of 1997 the Committee took note of additional measures, including the hiring of another thousand new judges to deal specifically with the backlog of cases. In an interim resolution on the subject[25] the Committee took note of these measures and "decided to ... maintain the cases relating to this problem on its agenda until the implementation of these reforms."

21. Another striking example of a series of related findings of violation against a member State concerns the Kurdish conflict in Turkey. At the time of this writing, the Court has found, in three cases, that Turkish soldiers had destroyed Kurdish villages, giving rise to numerous violations of the Convention.[26] In three other cases it found that allegations of the torture or serious ill-treatment of Kurds held in police custody had been established.[27] Finally, in five cases it held that Turkey was, in one way or another, responsible for breaches of the right to life or for disappearances.[28] In almost all of these cases the Court in addition found breaches of the Convention relating to the absence of adequate official investigations into the allegations in question, giving rise to the virtual impunity of agents of the State and a lack of effective domestic remedies for their Kurdish victims. Moreover, the Commission, which in such cases sends a fact-finding delegation to Turkey, has found many other similar serious human rights violations.

22. The Committee has been grappling with these problems since 1996. To date, the Turkish Government has informed the Committee of a number of general measures taken in response to the above findings of violation, including the translation into Turkish of all of the above judgments of the Court, and their publication in legal journals and distribution to members of the security forces. In an attempt to combat the prevalence of torture, a law increasing the penalties in respect of State agents found guilty of ill-treating suspects is currently pending before the Turkish Parliament. Moreover, on 6 May 1997, legislation came into force reducing the maximum length of time during which a person can be detained before being brought before a magistrate. In respect of "collective crimes" (i.e., crimes allegedly involving more than one person), the maximum period of preliminary detention has been reduced from 15 to 7 days, and from 30 to 10 days for

24 See, for example, *Zanghì v. Italy*, Resolution DH(95)82.

25 DH(97)336.

26 *Akdivar & Others v. Turkey*, cited in n. 3 above, *Menteş & Others v. Turkey*, judgment of 28 November 1997, Reports 1997-III; *Selçuk & Asker v. Turkey*, cited in n. 13 above.

27 *Aksoy v. Turkey* judgment of 18 December 1996, Reports 1996-VI; *Aydin v. Turkey* judgment of 25 September 1997, Reports 1997-VI; *Tekin v. Turkey* judgment of 9 June 1998, Reports 1998-IV.

28 July 1998, Reports 1998-IV; *Yaşa v. Turkey* judgment of 2 September 1998 Reports 1998-VI.

crimes allegedly committed within the State of Emergency region (i.e., most of South-East Turkey). For individual crimes, the time limits have dropped from 96 to 48 hours. In addition, various safeguards for the detainee have been introduced: for example, a person held in preliminary detention now has the right, at any time after the first four days in custody, to see a lawyer and to apply for *habeas corpus*. Such a person must also be examined by a doctor at the beginning and end of the period of detention. The Committee is currently considering whether or not these measures are sufficient.

IV. Improving the system

23. As is apparent from the foregoing, the Committee is increasingly being called upon to deal with grave and endemic breaches of human rights. It might, therefore, be of use to consider whether any amendments could be made to the Convention system to enable it to combat more effectively such recalcitrant problems. In the following paragraphs I make a few, tentative, suggestions as to possible areas of reform.

IV.A. Wider range of sanctions available to the Committee

24. As Rolv Ryssdal, former President of the Court, once remarked, "[the Convention], as an international treaty that encroaches on domestic law, relies for its enforcement on a combination of binding legal obligation and the traditional good faith required of the signatories to an international agreement."[29] Good faith and diplomatic pressure aside, the only sanction available to the Committee is the threat of expulsion from the Council of Europe under Articles 8 and 3 of the Council's Statute.[30] So far, in the history of the Council, the Committee has never made use of its powers to suspend a member State, although it came close to doing so in 1970, when the military dictatorship which had seized power in Greece in 1967 declared that it considered the finding by the Commission in an inter-State case of a number of serious human rights violations, including torture,[31] to be "null

29 Lecture given at Masaryk University, 20 March 1996. See also R. Ryssdal, The Enforcement System Set Up Under the European Convention of Human Rights, in M. Bulterman & M. Kuijer (eds.), *Compliance with Judgments of International Courts: Symposium in Honour of Professor Henry G. Schermers* (1996) 49–84.

30 The Statute of the Council of Europe (London, 5 May 1949), provides in Article 3: "Every member of the Council of Europe must accept the principles of the rule of law and of the enjoyment of persons within its jurisdiction of human rights and fundamental freedoms, and collaborate sincerely and effectively in the realisation of the aim of the Council as specified in Chapter I."

Article 8 States: "Any member of the Council of Europe which has seriously violated Article 3 may be suspended from its rights of representation and requested by the Committee of Ministers to withdraw under Article 7 If such member does not comply with this request, the Committee may decide that it has ceased to be a member of the Council as from such date as the Committee may determine."

31 *Denmark v. Greece; Norway v. Greece; Sweden v. Greece; The Netherlands v. Greece*, Decision of the Commission, Yearbook vol. 25, 92–116.

nd void" and that it "[did] not consider itself legally bound by the conclusions of ıe said report".[32] In the end, however, Greece withdrew from the Council of Europe without being expelled, and did not join again until the dictatorship had been overthrown.

25. Recently, the Turkish Government similarly repudiated the Court's judgments in the case of *Loizidou v. Turkey*,[33] where the Court found that the denial of access to a Greek Cypriot to her property in Northern Cyprus was a breach of rticle 1 to the First Protocol to the Convention (right to peaceful enjoyment of property), imputable to Turkey, and ordered the payment of substantial compensation. The case is still pending before the Committee, which has not yet issued any ublic resolution or statement, although on 22 September 1998 the Committee's esident, the Greek Minister of Foreign Affairs, told the Parliamentary Assembly:

> A few weeks ago the Turkish Ministry of Foreign Affairs convened the ambassadors of the Council of Europe member States posted in Ankara and handed them a memorandum. In this memorandum it is clearly stated that Turkey will not comply with the Court's judgment, on the grounds that the Turks consider that they are not liable for what is going on in the occupied part of Cyprus. If Turkey insists on her refusal beyond the three-month term provided for the execution of the Court's judgment, the Committee of Ministers will certainly assume its responsibility, provided by Article 54 of the Convention of Human Rights, and will – I am sure – use all statutory means at its disposal to obtain the execution of the Court's judgment. If Turkey does not pay the compensation and does not take individual measures to restore Mrs Loizidou's rights, putting an end to their violation, then Turkey is simply being consistent with what it has already declared. In such a case the problem is not with Turkey, the problem remains with the other members of the Committee of Ministers.[34]

26. Despite the President's thinly-veiled threats, it is relevant to note that, although this is not the first time that serious problems have arisen within the Council of Europe in respect of Cyprus, both under British rule[35] and Turkish occupation,[36] the Committee has never to date appeared to consider expulsion. Indeed, to do so would seem to be at odds with the prevailing philosophy within the Council of Europe, that human rights can best be protected by working with a ıte within the organisation. This principle was instrumental in the acceptance as members of a number of new democracies which clearly fell far short, in many

32 Resolution DH(70)1.

33 Judgments of 23 March 1995 (preliminary objections), Series A No. 310, 18 December 1996 (merits), Reports 1996-VI and 28 July 1998 (Article 50), Reports 1998-IV.

34 See the verbatim record of the afternoon debate on 22 September 1998, available from the Council of Europe or on the internet: stars.coe.fr

35 Resolution DH(97)376.

36 Resolutions DH(92)12 and DH(79)1.

areas, of the Convention standards. Thus, for example, the Parliamentary Assembly's Political Affairs Committee, which made an initial assessment as to whether Russia's request for membership should be granted, reported that, although Russia did not meet the Council of Europe's standards, membership of the organisation "would enable the support and pressure that have so often been identified as essential to progress".[37]

27. It would appear, therefore, that a more flexible range of powers is required. Such powers should fulfil a two-fold purpose. First, it is striking that at present the Committee is almost entirely dependent on information provided to it by the respondent State. It might, therefore, assist the Committee if it had at its disposal, probably for use only in exceptional cases, some sort of independent monitoring procedure. Secondly, the effectiveness of the Committee's work could, perhaps, benefit from the availability of sanctions, short of expulsion, but nonetheless calculated to place pressure on States to comply with their Convention obligations.

28. In this connection, it is perhaps relevant to note the steps taken over the past decade by the United Nations' Human Rights Committee. Thus, in 1990 the UNHRC created the mandate of a "Special Rapporteur for the Follow-up on Views", in 1995 it approved a follow-up fact-finding mechanism, which was used for the first time during a mission to Jamaica in June 1995; and since 1996, all States which fail to co-operate under the follow-up mandate appear on a special "black-list" in the Committee's Annual Report to the General Assembly. None of these measures have been provided for by treaty; they have all been instituted by the UNHRC in reliance on the legal doctrine of "implied powers"

IV.B. Increased access to the decision-making process for victims and third parties

29. As noted above, the footnote to the Committee's Rules recognises the right of an applicant to submit complaints to the Committee if he or she considers that the respondent State has failed properly to execute the Court's judgment. This right, as far as it is provided for in the Rules, extends only to the applicant's complaints relating to his or her personal situation. However, in a large number of cases brought before the Court, the applicant's prime concern is one of principle, to achieve changes to existing domestic law or practice. Moreover, there is no formal right of access to the Committee's decision-making process for non-governmental organisations or other third parties which might have a vital interest in seeing that effective general measures are implemented. Quite apart from the fact, linked to

37 Muehlemann, Report by the Political Affairs Committee on Russia's Request for Membership of the Council of Europe, Council of Europe document No. 7443, 2 January 1996; and see also the views expressed by members of the Parliamentary Assembly in the course of its debate on Russia's request for membership (25 January 1996, Official Report, Council of Europe document No. AS (1996) CR 7).

y earlier point about monitoring, that the Committee's work could be greatly sisted by information from those with first-hand experience of the domestic situation, the lack of standing for applicants is contrary to the principle of equality of arms which runs throughout the Convention, particularly as amended by otocol No. 11. It is therefore suggested that a procedure allowing applicants and interested third parties, perhaps subject to leave, to submit observations should be introduced.

IV.C. Increased supervisory role for the Court

32. As briefly noted above, the Court has, to date, interpreted its role under the Convention as limited to the pronouncement of declaratory judgments and has repeatedly held that it has no competence to order a State to change its law or practice so as to prevent similar violations from recurring in the future. For example, in the inter-State case *Ireland v. the United Kingdom*,[38] Ireland had requested the Court to make a number of consequential orders against the United Kingdom, such as to refrain from reintroducing interrogation techniques found by the Court to have violated Article 3 of the Convention and to take disciplinary proceedings against members of the security forces found to have ill-treated suspected terrorists. The Court rejected the applicant State's request and stated:

> The Court does not have to consider in these proceedings whether its functions extend, in certain circumstances, to addressing consequential orders to Contracting States. In the present case, the Court finds that the sanctions available to it do not include the power to direct one of those States to institute criminal or disciplinary proceedings in accordance to domestic law.[39]

33. Moreover, in contrast, for example, to the position of the Court of Justice of the European Communities under the Treaty of the European Union, the Court has never interpreted the Convention as giving its judgments direct effect in the domestic legal systems of the Contracting States. Thus, in the *Marckx v. Belgium* judgment of 13 June 1979, it held:

> [I]t is inevitable that the Court's decision will have effects extending beyond the confines of the 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 obligations under Article 53.[40]

In keeping with this principle, the Court has been unwilling to rule on matters relating to the execution of its judgments.[41]

34. It is arguable that the Convention enforcement mechanism would be strengthened if the Court were to abandon its above position and take a more active role in supervising the execution of its judgments. However, in a case where the Court has already found a State to be in breach of the Convention, and the State is determinedly unwilling or unable to take the measures required to implement the Court's judgment, it is doubtful whether a further finding by the Court would be any more effective than a resolution of the Committee. Moreover, in terms of economy of procedure, and in view of the ever-increasing number of applications pending before the Court, it is perhaps preferable to retain the current division of roles.

IV.D. Punitive damages

35. In a system for the protection of individual human rights, the award of damages performs several functions. In the first place, of course, damages provide some recompense to an individual who has suffered a breach of his or her rights. In addition, however, and particularly where the sums concerned are substantial, the award might have a deterrent effect on errant States, which may find the threat of similar payments to other victims an added incentive to put right the wrong. Finally, the award of compensation, which frequently attracts greater media interest than the finding of a violation alone, can help to reinforce the stigma of a breach of the Convention and underline the judicial condemnation of the facts in question.

36. Within the European system, the Court has applied a rather narrow interpretation of the expression "just satisfaction" in Article 50 (now Article 41) of the Convention. To date, such "just satisfaction" has taken the form of (a) financial compensation for any pecuniary and/or non-pecuniary damage suffered as a result of the violation found and (b) reimbursement of necessary and reasonable legal costs and expenses. The Court has consistently rejected requests by applicants to award punitive damages against a respondent State.[42] It is noteworthy, however, that despite certain dicta in the separate opinions of individual judges,[43] the Court

38 Judgment of 18 January 1978, Series A No. 25, 72, § 187

39 See also, e.g., *X. v. United Kingdom* (Article 50), judgment of 18 October 1982, Series A No. 55, §§ 13 and 15; *F. v. Switzerland*, judgment of 18 December 1987, Series A No. 128, §§ 42–43; and *Belios v. Switzerland*, judgment of 29 April 1988, Series A No. 132, §§ 77–78.

40 Series A No. 31, § 58.

41 See n. 3 above.

42 See, for example, the *Akdivar & Others v. Turkey* (Article 50) judgment of 1 April 1998, Reports 1998-II, 722, § 38; the *Selçuk & Asker v. Turkey* judgment of 24 April 1998, Reports 1998-II, 918, § 119; and the *Cable & Others v. United Kingdom* judgment of 18 February 1999, §§ 29–30.

43 See, for example, Judge Matscher's partly dissenting opinion in the *Gaygusuz v. Austria* judgment of 16 September 1996, Reports 1996-IV, 1147

has never expressly stated that it does not have the power to award punitive damages. Thus, in the Turkish cases cited in note 42 above, the Court stated simply that it "rejects the claim for punitive and aggravated damages". The new Court has been even more ambiguous in its pronouncements on this subject. In the *Cable & Others* case[44] the Court found that the court-martial system in the United Kingdom had not afforded the applicants fair trials before independent and impartial tribunals. The applicants' representative argued at the hearing that they were entitled to punitive damages, since the respondent State had failed, immediately following the publication of the Commission's report finding a violation of Article 6 § 1, to take steps to ensure that military personnel did not continue to be tried by courts martial convened under the impugned procedure. The Court, again leaving open the general question of its power to award punitive damages, stated that "[it] finds no basis, in the circumstances of the present cases, for accepting this claim".

35. It will be interesting to see how the Court determines this question in the future. Punitive damages might prove an effective weapon in the human rights arsenal, particularly against States which repeatedly and/or deliberately fail to comply with their obligations under the Convention. For example, if in each case where the Court found a breach by Italy of the "reasonable length of proceedings" provision in Article 6 § 1, the respondent State were required to pay substantial damages, perhaps reflecting the true cost of the Strasbourg proceedings, it might eventually find it cheaper to invest the money in increasing the resources of the Italian courts.

V. Conclusion

36. In the first few decades of its existence, the organs of the European Convention system, in contrast to those of other regional systems for the protection of human rights, were privileged in that their field of application extended, on the whole, to a relatively homogeneous region of Europe where democracy and the rule of law were well-established. However, this region has now expanded as far as the Pacific, to incorporate new member States which, in the last 50 years alone, have developed very different cultures and traditions to those prevailing in the West, giving rise to new challenges for the Strasbourg organs. The amendment of the Convention by the Eleventh Protocol may represent an opportunity for the Court and Committee to improve the implementation of the Court's judgments and the protection of human rights in Europe.

44 Cited in n. 42 above.