



## Resolution 1914 (2013)<sup>1</sup>

# Ensuring the viability of the Strasbourg Court: structural deficiencies in States Parties

Parliamentary Assembly

1. The Parliamentary Assembly considers that the viability of the human rights protection system based on the European Convention on Human Rights (ETS No. 5, “the Convention”) falls within the scope of the shared responsibility, alongside the Committee of Ministers, of both States Parties and the European Court of Human Rights (“the Court”). However, it is the primary responsibility of States Parties to ensure that the Convention is applied effectively at national level.
2. The Assembly recalls its previous work on this subject, in particular its resolutions and recommendations on the implementation of the Court’s judgments, including [Resolutions 1516](#) (2006) and [1787](#) (2011) and [Recommendations 1764](#) (2006) and [1955](#) (2011), and its [Resolution 1856](#) (2012) on guaranteeing the authority and effectiveness of the European Court of Human Rights.
3. The Assembly deplores the fact that the Court is still overloaded with a large number of repetitive cases revealing widespread dysfunctions in national legal orders. Most of them relate to structural issues identified by well-established case law, such as the excessive length of judicial proceedings, chronic non-enforcement of domestic judicial decisions, deaths and ill-treatment attributable to law enforcement officials and lack of effective investigation thereof, unlawful detention on remand and its excessive length. In addition, there are specific systemic/structural deficiencies in States Parties. Some of them only exist within one national legal system. The judge from the relevant State Party should be empowered to identify cases raising important and systemic legal issues so as to prioritise them and secure their prompt consideration in order to terminate a continuing violation.
4. The Assembly confirms, as underlined in [Resolution 1787 \(2011\)](#), that, *inter alia*, Bulgaria, Greece, Italy, the Republic of Moldova, Poland, Romania, the Russian Federation, Turkey and Ukraine face major structural problems which lead to delays in the execution of the Court's judgements. The Assembly notes also the progress achieved in respect of some of these countries.
5. The Assembly insists on the fact that, where the Strasbourg Court has identified major and complex structural deficiencies in States Parties, regular and stringent national supervision must be ensured to adequately deal with them, in addition to their examination by the Committee of Ministers under the latter's “enhanced supervision procedure”.
6. The Assembly is deeply concerned about this situation, which undermines the effectiveness of the Convention system and prevents the Court from focusing on new and important questions of interpretation and application of the Convention.

---

1. Assembly debate on 22 January 2013 (4th Sitting) (see [Doc. 13087](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Kivalov). Text adopted by the Assembly on 22 January 2013 (4th Sitting).  
See also [Recommendation 2007 \(2013\)](#).

7. The Assembly therefore calls on States Parties to:
  - 7.1. strengthen their efforts to execute fully and rapidly the Court's judgments, including through the implementation of the Interlaken Declaration and Action Plan of 19 February 2010 as well as the Izmir Declaration of 27 April 2011 and the Brighton Declaration of 20 April 2012, and in particular:
    - 7.1.1. set up, as a matter of priority, comprehensive strategies aimed at solving structural problems, and co-ordinate these strategies at the highest political level;
    - 7.1.2. rapidly provide action plans to the Committee of Ministers;
    - 7.1.3. consider establishing a national body responsible solely for the execution of the Court's judgments, in order to avoid a conflict of responsibilities with the agent representing the government before the Court;
  - 7.2. amend legislation according to standards stemming from the case law of the Court and ensure that the Convention is implemented by all relevant national authorities;
  - 7.3. put in place effective domestic remedies, primarily in areas affected by structural problems;
  - 7.4. take comprehensive measures with a view to raising awareness of the Convention standards as interpreted by the Court. In States Parties with major structural problems, these measures could consist, in particular, in:
    - 7.4.1. creating a publicly available database containing the Court's case law, including judgments pertinent to the State Party concerned in official translation;
    - 7.4.2. improving legal education with a view to deepening knowledge about the Convention among legal professionals;
    - 7.4.3. establishing non-governmental permanent centres for potential applicants in order to advise them on Convention standards;
  - 7.5. strengthen national authorities' co-operation with civil society, bar associations, experts and national human rights institutions.
  - 7.6. strengthen legal guarantees of independence of the Court's judges and secure their immunity by:
    - 7.6.1. providing them and their families with diplomatic immunity *ad vitam*, including immunities, exemptions and facilities accorded to diplomatic envoys and to national judges of the highest level;
    - 7.6.2. securing that, after the replacement of a judge on the Court, the former judge be entitled to a similar position, if he or she has not yet reached retirement age;
    - 7.6.3. including a judge's term of office at the Court onto his or her national employment record in judicial or other occupations;
    - 7.6.4. securing that, when the former judge reaches retirement age, he or she is entitled to a pension equivalent to that of judges of the highest courts or that of State agents of a similar position.
8. The previous work of the Assembly has shown the need for an increased role of national parliaments in monitoring the effective implementation of the Convention standards at national level. The Assembly therefore:
  - 8.1. reiterates its call on States Parties to put into practice the basic principles for parliamentary supervision in this field, as set out in its [Resolution 1823](#) (2011) on national parliaments: guarantors of human rights in Europe;
  - 8.2. invites parliaments to ensure that their committees monitoring compliance with human rights obligations are actively involved in the execution of the Court's pilot judgments and other judgments revealing structural problems;
  - 8.3. invites the members of the Assembly, in their capacity as national parliamentarians, to question regularly their governments regarding execution of the Court's judgments.