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12. MORETTI E BENEDETTI C. ITALIA (RICORSO N. 16318/07) - CM/RESDH(2015)177

Resolution [CM/ResDH\(2015\)177](#)Execution of the judgment of the European Court of Human Rights
Moretti and Benedetti against Italy

Application No.	Case	Judgment of	Final on
16318/07	MORETTI AND BENEDETTI	27/04/2010	22/11/2010

(Adopted by the Committee of Ministers on 4 November 2015
at the 1239th meeting of the Ministers' Deputies)

The Committee of Ministers, under the terms of Article 46, paragraph 2, of the Convention for the Protection of Human Rights and Fundamental Freedoms, which provides that the Committee supervises the execution of final judgments of the European Court of Human Rights (hereinafter "the Convention" and "the Court"),

Having regard to the final judgment transmitted by the Court to the Committee in this case and to the violations established:

Recalling the respondent State's obligation, under Article 46, paragraph 1, of the Convention, to abide by all final judgments in cases to which it has been a party and that this obligation entails, over and above the payment of any sums awarded by the Court, the adoption by the authorities of the respondent State, where required:

- of individual measures to put an end to violations established and erase their consequences so as to achieve as far as possible *restitutio in integrum*; and
- of general measures preventing similar violations;

Having invited the government of the respondent State to inform the Committee of the measures taken to comply with the above-mentioned obligation:

Having examined the action report provided by the government indicating the measures adopted in order to give effect to the judgment including the information provided regarding the payment of the just satisfaction awarded by the Court (see document [DH-DD\(2014\)754](#)):

Having satisfied itself that all the measures required by Article 46, paragraph 1, have been adopted,

DECLARES that it has exercised its functions under Article 46, paragraph 2, of the Convention in this case and
DECIDES to close the examination thereof.

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13. M. E ALTRI C. ITALIA E BULGARIA (RICORSO N. 40020/03) CM/RESDH(2015)205

Resolution CM/ResDH(2015)205

Execution of the judgment of the European Court of Human Rights
M. and Others against Italy and Bulgaria

Application No.	Case	Judgment of	Final on
40020/03	M. AND OTHERS	31/07/2012	17/12/2012

(Adopted by the Committee of Ministers on 17 November 2015
at the 1240th meeting of the Ministers' Deputies)

The Committee of Ministers, under the terms of Article 46, paragraph 2, of the Convention for the Protection of Human Rights and Fundamental Freedoms, which provides that the Committee supervises the execution of final judgments of the European Court of Human Rights (hereinafter "the Convention" and "the Court"),

Having regard to the final judgment transmitted by the Court to the Committee in this case and to the violations established against Italy (the application was declared inadmissible as regards Bulgaria);

Recalling the respondent State's obligation, under Article 46, paragraph 1, of the Convention, to abide by all final judgments in cases to which it has been a party and that this obligation entails, over and above the payment of any sums awarded by the Court, the adoption by the authorities of the respondent State, where required:

- of individual measures to put an end to violations established and erase their consequences so as to achieve as far as possible *restitutio in integrum*; and
- of general measures preventing similar violations;

Having invited the government of the respondent State to inform the Committee of the measures taken to comply with the above-mentioned obligation;

Having examined the action report provided by the government indicating the measures adopted in order to give effect to the judgment including the information provided regarding the payment of the just satisfaction awarded by the Court (see document DH-DD(2015)1092);

Having satisfied itself that all the measures required by Article 46, paragraph 1, have been adopted,

DECLARES that it has exercised its functions under Article 46, paragraph 2, of the Convention in this case and
DECIDES to close the examination thereof.

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14. DICHIARAZIONE DI BRUXELLES - 26 E 27 MARZO 2015 E RELATIVO PIANO D'AZIONE

**High-level Conference on the “Implementation of the European
Convention on Human Rights, our shared responsibility”****Brussels Declaration****27 March 2015**

The High-level Conference meeting in Brussels on 26 and 27 March 2015 at the initiative of the Belgian Chairmanship of the Committee of Ministers of the Council of Europe (“the Conference”)

Reaffirms the deep and abiding commitment of the States Parties to the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) and their strong attachment to the right of individual application to the European Court of Human Rights (“the Court”) as a cornerstone of the system for protecting the rights and freedoms set forth in the Convention,

Acknowledges the extraordinary contribution of the Convention system to the protection and promotion of human rights in Europe since its establishment and reaffirms its central role in maintaining democratic stability across the Continent,

Recalls, in this respect, the interdependence between the Convention and the other activities of the Council of Europe in the field of human rights, the rule of law and democracy, the objective being to develop the common democratic and legal space founded on respect for human rights and fundamental freedoms.

Reaffirms the principles of the Interlaken, Izmir and Brighton Declarations and welcomes the very encouraging results achieved to date by the Council of Europe in the framework of the reform of the Convention system, through the implementation of these declarations,

Welcomes, in particular, the efforts of the Court as regards the swift implementation of Protocol No 14 to the Convention, which entered into force on 1 June 2010, and that the backlog of manifestly inadmissible cases is expected to be cleared in 2015,

Welcomes, in the light of the positive results obtained, the new working methods of the Committee of Ministers for the supervision of the execution of the Court’s judgments, which entered into force on 1 January 2011 and which inter alia strengthen the principle of subsidiarity,

Reiterates the subsidiary nature of the supervisory mechanism established by the Convention and in particular the primary role played by national authorities, namely governments, courts and parliaments, and their margin of appreciation in guaranteeing and protecting human rights at national level, while involving National Human Rights institutions and civil society where appropriate,

Underlines the obligations of States Parties under Article 34 of the Convention not to hinder the exercise of the right to individual application, including by observing Rule 39 of the Rules of the Court regarding interim measures, and under Article 38 of the Convention to furnish all necessary facilities to the Court during the examination of the cases,

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Underlines the importance of Article 46 of the Convention on the binding force of the Court's judgments, which stipulates that the States Parties undertake to abide by the final judgments of the Court in any case to which they are parties

Stresses the importance of further promoting knowledge of and compliance with the Convention within all the institutions of the States Parties, including the courts and parliaments, pursuant to the principle of subsidiarity;
Recalls in this context that the execution of the Court's judgments may require the involvement of the judiciary and parliaments

Whilst noting the progress achieved by States Parties with regard to the execution of judgments, emphasises the importance of the full, effective and prompt execution of judgments and of a strong political commitment by the States Parties in this respect, thus strengthening the credibility of the Court and the Convention system in general;

Is convinced that further to the improvements already carried out, emphasis must now be placed on the current challenges, in particular the repetitive applications resulting from the non-execution of Court judgments, the time taken by the Court to consider and decide upon potentially well-founded cases, 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. To this end, additional measures are necessary in order to:

- i. continue to enable the Court to reduce the backlog of well-founded and repetitive cases and to rule on potentially well-founded new cases, particularly those concerning serious violations of human rights, within a reasonable time;
- ii. ensure the full, effective and prompt execution of the judgments of the Court;
- iii. guarantee full and effective supervision of execution of all judgments by the Committee of Ministers and develop, in co-operation with States Parties, bilateral dialogue and assistance by the Council of Europe in the execution process.

The Conference therefore:

- (1) Reaffirms the strong attachment of the States Parties to the Convention to the right of individual application;
- (2) Reiterates the firm determination of the States Parties to fulfil their primary obligation to ensure that the rights and freedoms set forth in the Convention and its protocols are fully secured at national level, in accordance with the principle of subsidiarity;
- (3) Invites each stakeholder to ensure that the necessary means are available to fulfil its role in the implementation of the Convention, in conformity with the Convention providing for shared responsibility between the States Parties, the Court and the Committee of Ministers;
- (4) Welcomes the work carried out by the Court in particular regarding the dissemination of its judgments and decisions, through its information notes, its practical guide on admissibility, as well as its case-law guides and thematic factsheets;

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- (5) Reaffirms the need to maintain the independence of the judges and to preserve the impartiality, quality and authority of the Court,
- (6) Acknowledges the role of the Registry of the Court in maintaining the highest efficiency in the management of applications and in the implementation of the reform process,
- (7) Invites the Court to remain vigilant in upholding the States Parties' margin of appreciation;
- (8) Stresses the need to find, both at the level of the Court and in the framework of the execution of judgments, effective solutions for dealing with repetitive cases;
- (9) Encourages in this regard States Parties to give priority to alternative procedures to litigation such as friendly settlements and unilateral declarations;
- (10) Recalling Article 46 of the Convention, stresses that full, effective and prompt execution by the States Parties of final judgments of the Court is essential;
- (11) Reiterates the importance of the Committee of Ministers respecting the States Parties' freedom to choose the means of full and effective execution of the Court's judgments;
- (12) Calls for enhancing, at the level of both the Committee of Ministers and the States Parties, in accordance with the principle of subsidiarity, the effectiveness of the system of supervision of the execution of the Court's judgments
- (13) Encourages the bodies of the Council of Europe to increase and improve their activities of co-operation and bilateral dialogue with States Parties with regard to the implementation of the Convention, including by facilitating access to information on good practices, and invites States Parties to make full use of the said activities;
- (14) Calls on the States Parties to sign and ratify Protocol No. 15 amending the Convention as soon as possible and to consider signing and ratifying Protocol No. 16,
- (15) Reaffirms the importance of the accession of the European Union to the Convention and encourages the finalisation of the process at the earliest opportunity;
- (16) Takes note of the work currently being carried out by the Steering Committee for Human Rights (CDDH), as a follow-up to the Brighton Declaration, on the reform of the Convention system and its long-term future, the results of which are foreseen in December 2015;
- (17) Adopts the present Declaration in order to give political impetus to the current reform process to ensure the long-term effectiveness of the Convention system

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Action Plan:**A. Interpretation and application of the Convention by the Court**

1. Bearing in mind the jurisdiction of the Court to interpret and apply the Convention, the Conference underlines the importance of clear and consistent case-law as well as the Court's interactions with the national authorities and the Committee of Ministers, and in this regard:

- a) encourages the Court to continue to develop its co-operation and exchange of information on a regular basis with the States Parties and the Committee of Ministers, especially as regards repetitive and pending applications
- b) welcomes the Court's dialogue with the highest national courts and the setting-up of a network facilitating information exchange on its judgments and decisions with national courts, and invites the Court to deepen this dialogue further
- c) welcomes the intention expressed by the Court to provide brief reasons for the inadmissibility decisions of a single judge, and invites it to do so as from January 2016;
- d) invites the Court to consider providing brief reasons for its decisions indicating provisional measures and decisions by its panel of five judges on refusal of referral requests.

2. Recalling the remaining challenges, including the repetitive cases, the Conference underlines the importance of an efficient control of the observance of the engagements undertaken by States Parties under the Convention and, in this regard, supports:

- a) further exploration and use of efficient case-management practices by the Court in particular its prioritisation categories for the examination of cases, according to, among other things, their level of importance and urgency, and its pilot-judgment procedure
- b) the continued consideration by the Court, in consultation with the Committee of Ministers and the States Parties, in particular through their government agents and legal experts, of the improvement of its functioning, including for appropriate handling of repetitive cases, while ensuring timely examination of well-founded, non-repetitive cases,
- c) greater transparency on the state of the proceedings before the Court in order that the parties can have better knowledge of their procedural progress

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B. Implementation of the Convention at national level

The Conference recalls the primary responsibility of the States Parties to ensure the application and effective implementation of the Convention and, in this regard, reaffirms that the national authorities and, in particular, the courts are the first guardians of human rights ensuring the full, effective and direct application of the Convention — in the light of the Court's case law — in their national legal system, in accordance with the principle of subsidiarity.

The Conference calls upon the States Parties to

1. Prior to and independently of the processing of cases by the Court.
 - a) ensure that potential applicants have access to information on the Convention and the Court, particularly about the scope and limits of the Convention's protection, the jurisdiction of the Court and the admissibility criteria;
 - b) increase efforts at national level to raise awareness among members of parliament and improve the training of judges, prosecutors, lawyers and national officials on the Convention and its implementation, including as regards the execution of judgments, by ensuring that it constitutes an integral part of their vocational and in-service training, where relevant, including by having recourse to the Human Rights Education for Legal Professionals (HELP) programme of the Council of Europe, as well as to the training programmes of the Court and to its publications;
 - c) promote, in this regard, study visits and traineeships at the Court for judges, lawyers and national officials in order to increase their knowledge of the Convention system;
 - d) take appropriate action to improve the verification of the compatibility of draft laws, existing laws and internal administrative practice with the Convention, in the light of the Court's case law;
 - e) ensure the effective implementation of the Convention at national level, take effective measures to prevent violations and to provide effective domestic remedies to address alleged violations of the Convention;
 - f) consider making voluntary contributions to the Human Rights Trust Fund and to the Court's special account to allow it to deal with the backlog of all well-founded cases, and continue to promote temporary secondments to the Registry of the Court;
 - g) consider the establishment of an independent National Human Rights Institution

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2 After the Court's judgments

- a) continue to increase their efforts to submit, within the stipulated deadlines, comprehensive action plans and reports key tools in the dialogue between the Committee of Ministers and the States Parties, which can contribute also to enhanced dialogue with other stakeholders, such as the Court, national parliaments or National Human Rights Institutions,
- b) in compliance with the domestic legal order, put in place in a timely manner effective remedies at domestic level to address violations of the Convention found by the Court;
- c) develop and deploy sufficient resources at national level with a view to the full and effective execution of all judgments, and afford appropriate means and authority to the government agents or other officials responsible for co-ordinating the execution of judgments
- d) attach particular importance to ensuring full, effective and prompt follow-up to those judgments raising structural problems, which may furthermore prove relevant for other States Parties;
- e) foster the exchange of information and best practices with other States Parties, particularly for the implementation of general measures,
- f) promote accessibility to the Court's judgments, action plans and reports as well as to the Committee of Ministers' decisions and resolutions, by:
 - developing their publication and dissemination to the stakeholders concerned (in particular, the executive, parliaments and courts, and also, where appropriate, National Human Rights Institutions and representatives of civil society), so as to involve them further in the judgment execution process;
 - translating or summarising relevant documents, including significant judgments of the Court, as required.
- g) within this framework, maintain and develop the financial resources that have made it possible for the Council of Europe, since 2010, to translate a large number of judgments into national languages,
- h) in particular, encourage the involvement of national parliaments in the judgment execution process, where appropriate, for instance by transmitting to them annual or thematic reports or by holding debates with the executive authorities on the implementation of certain judgments,

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- i) establish "contact points", wherever appropriate for human rights matters within the relevant executive, judicial and legislative authorities, and create networks between them through meetings, information exchange, hearings or the transmission of annual or thematic reports or newsletters;
- j) consider, in conformity with the principle of subsidiarity, the holding of regular debates at national level on the execution of judgments involving executive and judicial authorities as well as members of parliament and associating, where appropriate, representatives of National Human Rights Institutions and civil society

C. Supervision of the execution of judgments

The Conference underlines the importance of the efficient supervision of the execution of judgments in order to ensure the long-term sustainability and credibility of the Convention system and, for this purpose:

1. Encourages the Committee of Ministers to:
 - a) continue to use, in a graduated manner all the tools at its disposal, including interim resolutions, and to consider the use, where necessary, of the procedures foreseen under Article 46 of the Convention, when the conditions have been satisfied;
 - b) develop, in this context, the resources and tools available, including by adding appropriate political leverage to its technical support, in order to deal with the cases of non-execution;
 - c) promote the development of enhanced synergies with the other Council of Europe stakeholders within the framework of their competencies – primarily the Court, the Parliamentary Assembly and the Commissioner for Human Rights;
 - d) explore possibilities to further enhance the efficiency of its Human Rights meetings, including - but not limited to - the chairmanship as well as the length and frequency of meetings, while reaffirming the intergovernmental nature of the process;
 - e) consider extending "Rule 9" of its Rules for the supervision of the execution of judgments and of the terms of friendly settlements to include written communications from international organisations or bodies identified for this purpose by the Committee of Ministers, while appropriately ensuring the governments' right of reply;
 - f) encourage, as required the presence in its Human Rights meetings of representatives of national authorities who have competence, authority and expertise in the subjects under discussion;
 - g) consider thematic discussions on major issues relating to the execution of a number of judgments, so as to foster an exchange of good practices between States Parties facing similar difficulties.

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- h) take greater account, where appropriate, of the work of other monitoring and advisory bodies,
 - i) continue to increase transparency in the judgment execution process in order to promote further exchanges with all the parties involved
 - j) support an increase in the resources of the Department for the Execution of Judgments, in order to allow it to fulfil its primary role, including its advisory functions, and to ensure co-operation and bilateral dialogue with the States Parties, by providing for more permanent personnel whose expertise would cover the national legal systems, as well as to encourage States Parties to consider the secondment of national judges or officials.
2. Encourages the Secretary General and, through him, the Department for the Execution of Judgments to:
- a) facilitate availability of information, regularly updated, on the state of the execution of judgments by improving its IT tools, including its databases and as the Court has done, produce thematic and country factsheets,
 - b) distribute a handbook to assist States Parties in the preparation of their action plans and reports,
 - c) continue the process of reflection on the recommendations of the External Audit,
 - d) enhance, when necessary, bilateral dialogue with States Parties, in particular by means of early assessment of action plans or action reports and through working meetings, involving all relevant national stakeholders, to promote, in full respect of the principle of subsidiarity, a common approach concerning judgments with regard to the measures required to secure compliance.
3. Also encourages:
- a) all the relevant Council of Europe stakeholders to take into account to a larger extent issues relating to the execution of judgments in their programmes and co-operation activities and, to this end, to establish appropriate links with the Department for the Execution of Judgments,
 - b) all intergovernmental committees of the Council of Europe to take pertinent aspects of the Convention into consideration in their thematic work;
 - c) 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;

PRESIDENZA DEL CONSIGLIO DEI MINISTRI

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