

EIN and LRCM Online Training

NGO involvement in the Strasbourg ECHR judgments
supervision process

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What can NGOs do to address implementation ineffectiveness?

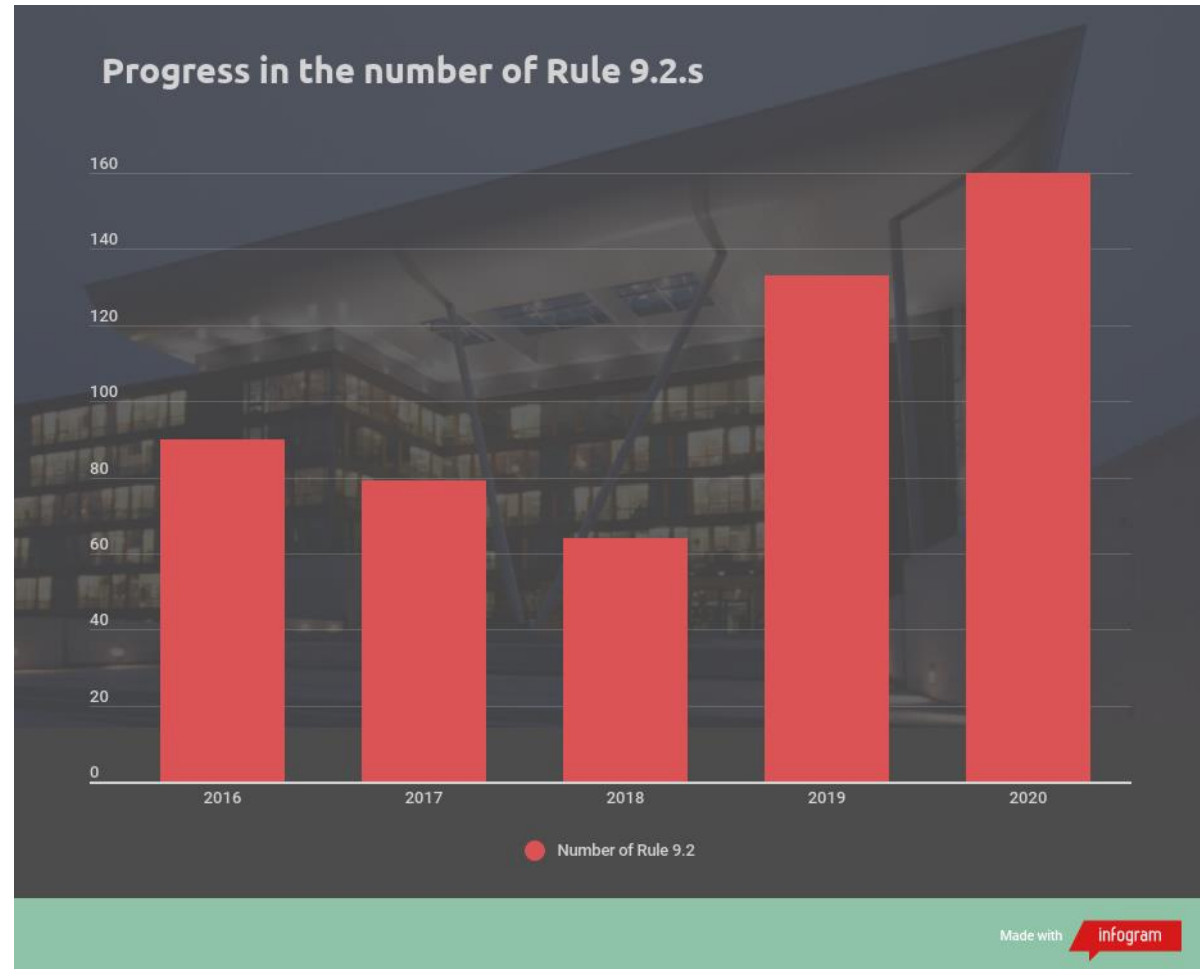
NGOs can:

- Engage in dialogue with government about ongoing reforms at the national level; and
- **Contribute to the CoE implementation monitoring system through so-called 'Rule 9 submissions'.**

Video on the supervision of the execution of judgments

[Video on the supervision process \(coe.int\)](#)

Number of Rule 9s since 2016



Countering ineffective implementation: Case Example

- Banning Pride Marches in Moldova: *Genderdoc* case
- Moldovan government said the incident had been an isolated one and claimed the organisation had been allowed to freely assemble since – requested demoted procedure.
- Real situation was continued bans and/or violence.
- Local NGO Genderdoc: Rule 9.2 [communications](#) to the Council of Europe about continued discrimination, explaining the real situation in Moldova and demanding concrete steps.
- CM kept case on agenda. Pressure led to changes to the relevant administrative practice in Moldova.
- Training and awareness-raising events on the prohibition of discrimination for public officials and the general public.
- LGBTI march could be held successfully and without disturbances for the first time in May 2018 and was repeated in 2019.



Where to start?

Where to find the relevant information?

- [HUDOC-EXEC](#)
- [Latest documents webpage](#) of the CM
- Indicative list of cases to be examined at upcoming CM-DH meeting (available from the [website of the DEJ](#))

Understanding where the dialogue has got to

- HUDOC-EXEC database: <https://hudoc.exec.coe.int/eng>



(1 of 2) T.M. AND C.M. v. the Republic of Moldova
Leading Repetitive | Case | 26608/11 | Pending | Enhanced Procedure | Judgment date: 28/01/2014 | Final judgment date: 28/04/2014
Document URL: <http://hudoc.exec.coe.int/eng?i=004-14229>

View Case Details Case Documents Group Documents Leading case CM Decisions

Terms (0 of 0) Highlight Exact term only

Case Description:

The issue here is principally the authorities' failure to comply with their positive obligations under Article 3 on account of the manner of handling complaints about domestic violence (events of 2009-2011). The Court notably found the following shortcomings:

- the failure of the authorities, despite knowing of the danger of further domestic violence, to take effective measures, and to ensure punishment under the applicable legal provisions;
- the domestic courts' failure properly to balance competing rights (the right not to be subjected to ill-treatment and the right to use an apartment);
- the long and unexplained delays in enforcing court protection orders and in subjecting the offender to mandatory medical treatment;
- the failure of the authorities, despite knowing of the risk of further domestic violence, to take effective measures against the aggressor during several months.

The Court also found a failure to comply with positive obligations under Article 8, notably because the authorities failed to take adequate measures to protect two minor daughters from witnessing their father's violent assaults on their mother and the effects of such behaviour on them, and to prevent the recurrence of such behaviour. The Court further found that the authorities failed to balance the competing rights involved, effectively forcing the applicant to remain at risk of domestic violence or to leave home.

Lastly, the Court found a violation of Article 14 read in conjunction with Article 3, notably because the authorities' actions were not a simple failure or delay in dealing with violence against the applicants, but amounted to repeatedly condoning such violence and reflected a discriminatory attitude towards them as women.

Status of Execution:

The Committee of Ministers examined the execution of this group of cases during its 1369th DH meeting (March 2020) (see below the decision adopted).

Understanding where the dialogue has got to

- Contact EIN! We are happy to include you in our database and send you relevant updates!



contact@einnetwork.org

Understanding where the dialogue has got to

- Subscribe to the [RSS feed](#) of the Department for Execution of Judgments

Exec RSS feeds

These RSS feeds provide a list of predefined links to related country-specific content published in the HUDOC-EXEC database.

By subscribing to an RSS feed, you will be notified when any new documents are published in the database. Whenever you click on the link created in your Favorites bar, this will open a web page with the most recently published document appearing at the top of the list.

The page offers the possibility of subscribing to the following RSS feeds:

- Action plans
- Action reports
- Communications

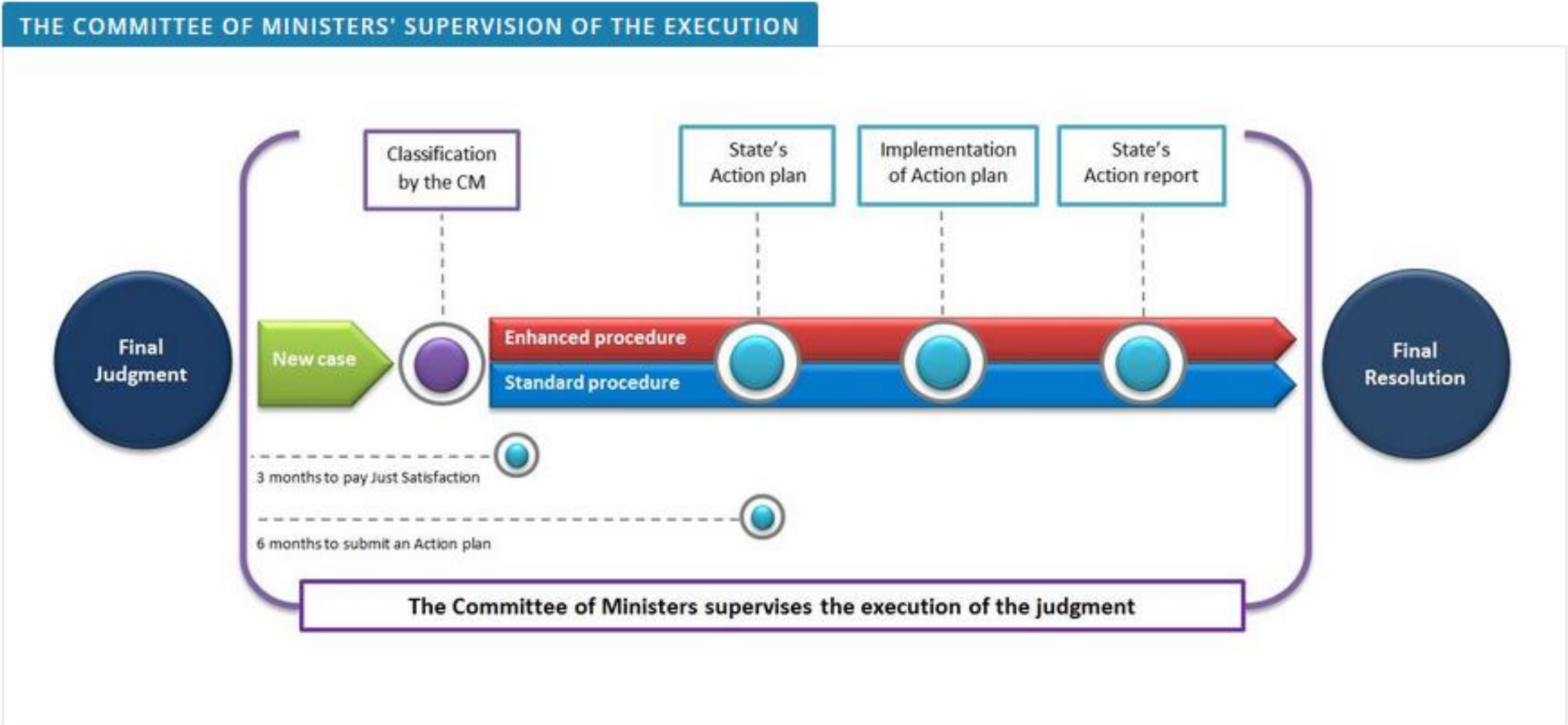
If you wish to create your own feeds with customized criteria, please consult our tutorial.

TUTORIALS

Please note that an RSS feed news reader is already installed with Internet Explorer. For other browsers, please consult our tutorials on **how to subscribe to an RSS feed**.

- [How to subscribe to Exec feeds](#)
- How to create customized feeds (coming soon)

Timeline for overall supervision process



Timetable for NGO submissions

Make submissions as and when needed, responding to:

- Action Plans / Action Reports as well as other circumstances, as needed

Enhanced supervision cases: list of cases to be considered at next CM DH meeting
published following preceding CM DH meeting

- Submit Rule 9.2 five - six weeks before meeting
- If Action Plan not already published, make follow-up submission nearer the time
- Bear in mind: cases rarely considered more often than once in 12 months

Standard supervision cases:

- Follow “status of execution” summaries at HUDOC-EXEC regularly
- Consult with DEJ on information needed (EIN can help with that)

How to add value (1): The basics!

- Examine judgment closely for clues as to the measures needed – individual and general measures
 - Develop your ideal list of measures and compare with Action Plan.
- Don't go beyond what can be justified by the judgment!

How to add value (2): Include concrete recommendations on the substance

- IM: address the adequateness of the IM adopted/envisaged, pointing out where IM require prior adoption of general measures
 - GM: recommend additional general measures where those proposed by the state are insufficient
- Do not repeat what already exists in other reports/submissions, but simply refer to them!

How to add value (2): Include concrete recommendations on the substance

Example: LRCM 2020 Rule 9.2. submission on the Sarban group of cases

[http://hudoc.exec.coe.int/eng?i=DH-DD\(2020\)387E](http://hudoc.exec.coe.int/eng?i=DH-DD(2020)387E)

in accordance with Rule 9.2 of the Rules for the supervision of the execution of judgments

SARBAN v. MOLDOVA

group of cases

This submission is presented by the Legal Resources Centre from Moldova (LRCM)¹ in the context of consideration of execution by the Republic of Moldova of the [Sarban group of cases](#) at the 1377 CDDH meeting (2-4 June 2020). The *Sarban* group of cases concerns various violations of the Art. 5 of the European Convention on Human Rights (ECHR), mostly related to pre-trial arrest. Lastly, this group of cases was discussed at the 1348th CDDH meeting (4-6 June 2020). The key recommendations made to the Moldovan authorities at that meeting are resumed as it follows:

- a. provide information on the progress made on using alternative measures to arrest;
- b. provide information on legislation implementation, including domestic courts case-law concerning the length of time taken to examine *habeas corpus* requests;
- c. submit examples of the prosecution and courts practice of as concerns access of the defence to case files;
- d. providing information on the impact of the amendments to Law No. 1545-XIII;

On 10 April 2020, the Government of the Republic of Moldova submitted a [revised Action Report](#) for the execution of these judgments. It mainly presents the relevant statistics for 2017-2019 concerning the remand procedures. The Government called the Committee of Ministers to closed the monitoring of this Group of cases.

The LRCM submission covers the general measures aimed at preventing the violation of Article 5 paras. 3-5 of the ECHR. It will not address the other issues from the *Sarban* group of cases. Our overarching

How to add value (3): Add recommendations on procedural aspects

- Oppose closure of supervision process
- Argue for case to be moved from standard to enhanced procedure, or not to be 'demoted' from enhanced to standard procedure
- Draw attention to delays in submission of action plan

Excerpt of the LRCM 2020 submission on the Sarban group of cases:

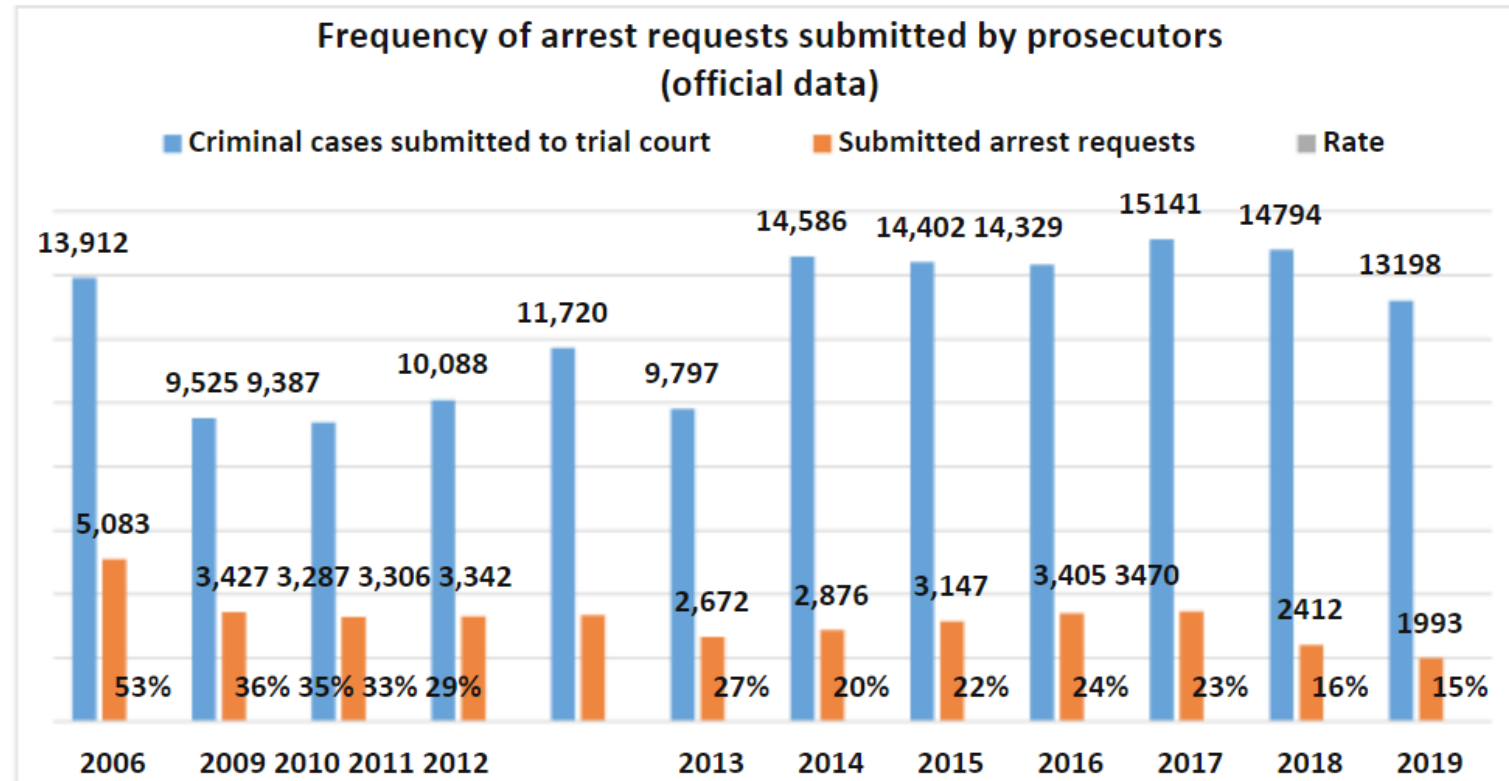
statistics. Some amendments to the legislation are desirable, but they will not have a decisive impact on respect of the ECtHR arrest standards. The authorities should take decisive measures to ensure that the judges and prosecutors respect and apply the language and the spirit of the legislation concerning the arrest. The legislation should also be amended to offer the right to compensation for the persons remanded in breach of the ECtHR standards. Despite important legislative measures taken by the Moldovan authorities, they did not fulfil all the obligations related to execution of *Sarban* group of cases. The Committee of Ministers supervision of execution of these judgements should therefore continue.

How to add value (4): Information types to convey

- Correct inaccuracies / misrepresentations/ omissions in Action Plan
- Statistics or other data to enable CM to assess implementation progress (recent examples of other similar incidents? contents of training programmes or numbers trained?)
- Analysis of domestic legislation
- More general information about relevant developments of a political or other nature
- If government claim “isolated” incident, contextual data including similar cases (pending domestically and/or in Strasbourg)
- Avoid “campaign style” approach – keep it sober, factual

Excerpt of the LRCM 2020 submission on the Sarban group of cases:

The next table presents the [official data of the Agency for Court Administration \(ACA\)](#) concerning the number of submitted arrest requests. It is compared to the number of criminal cases submitted to the trial court (meritous cases) [reported by the General Prosecution Office.](#) According to this statistics, in 2014-2017, the prosecutors were submitting judicial arrest requested in 20-24% of meritous cases. This rate decreased to 15% in 2019. However, it is not as low as reported by the Government (1,600). [According to ACA, in 2019, the courts received 1,993 remand requests, 25% more than reported by the Governmental Agent.](#)



Structuring your submission

Make it part of the dialogue:

- Follow the structure/headings of any action plan or action report you are responding to;
- Be clear exactly what government statement or CM Decision you are addressing;
- Use the same terminology and abbreviations
- **Keep it short!** Up to 5 pages recommended

Standard structure for submissions

Introductory section

- Brief description of the case
- Brief description of your organisation
- One or two sentences saying what it is that you want to address
- Executive summary of your recommendations

The evidence

- Section on individual measures (IMs)
- Section on general measures (GMs)

Conclusions and recommendations to the CM

DH-DD(2020)384: Rule 9.2 Communication from an NGO in I.D. v. Republic of Moldova.
Document distributed under the sole responsibility of its author, without prejudice
to the legal or political position of the Committee of Ministers.

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Excerpt of
the LRCM
and Promo-
LEX 2020
submission
on the *Ozdil*
and others
group of
cases:

to the legal or political position of the Committee of Ministers.

RECOMMENDATIONS

We call the Committee of Ministers to recommend the Moldovan authorities to take all measures to ensure that:

- a. Moldovan judges and other public employees respect in practice Articles 5 and 8 of the Convention when deciding on the desirability of the foreigners in Moldova. The judges, prosecutors and other civil servants shall be trained how to respect the right of foreigners when dealing with the decisions concerning their removal from Moldova;
- b. Law 200/2010 is amended to provide effective remedies and guarantees against abusive removal from Moldova of undesirable foreigners (introduction of the obligation to substantiate any decision declaring a person undesirable in Moldova and communication of these reasons to the foreigner concerned (amendment of art. 55 para. 3 and 56 para. 2); introduction of the suspensive effect of the appeal against such decisions (amendment of art. 57 para. 2); introduction of the absolute ban on transfer of a foreigner to regions where he/she risks torture, inhuman or degrading treatment or denial of justice (amendment of art. 60 para.4 and 63 para. 4); introduction of the right of the persons declared undesirable in Moldova to choose the country of removal);
- c. adequate sanctions to prevent similar incidents are promptly applied to all persons involved in the transfer of the 7 teachers to Turkey.

In light of the deficiencies highlighted above, we call the Committee of Ministers to keep the supervision of the execution of the *Ozdil and others* case under the enhanced procedure.