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Q&A – the Infringement Procedure of the European Court of Human Rights

What is an infringement procedure?

Member States of the Council of Europe commit to implement judgments of the European Court of Human Rights. Ordinarily supervision of that process is overseen by the Committee of Ministers (the executive body of the Council of Europe). With the infringement procedure the Committee of Ministers can, where it takes the view that a State has refused to implement the judgment or to resolve the problem that led to the human-rights breach, go back to the Court for a definitive ruling on the matter.

When was the procedure introduced?

It was introduced in 2010 as part of more general [reforms](#) to promote efficiency in the Court. The specific aim was to speed up the enforcement of judgments and so to return individuals as much as possible to the situation they were in before they had suffered a violation of their rights.

The procedure is set out under Article 46 (binding force and enforcement of judgments) of the [European Convention on Human Rights](#). Under the first point of Article 46, States commit themselves to abide by the final judgment of the Court in any case in which they are parties. However, this procedure was added (the fourth and fifth points of the Article) to the Convention to allow the Committee of Ministers, where necessary, to ask the Court to make a final decision on whether the State has failed to do so.

How does it work?

After the Court receives the referral from the Committee of Ministers, it then asks for submissions from the State concerned and other relevant parties. The Grand Chamber, which is the highest body of the Court, sets out the obligations flowing from the original judgment and then examines the State's compliance before reaching a decision.

This is the only procedure by which the Court can comment or decide on compliance with a judgment.

For what types of infringement can it be used?

Enforcement of the Court's judgments depends on the good faith on the part of the member States – after all, individuals' rights should not be illusory. This procedure can be used when the Committee of Ministers feels that that good faith to resolve breaches of the rights in the Convention is lacking. Ultimately, such absence of good faith can lead to an individual being denied justice.

How often has it been used?

Very rarely. The procedure is designed to be used only in the most exceptional circumstances.

The first time it was used was only in 2019 in the case of [Ilgar Mammadov v. Azerbaijan](#) (application no. 15172/13). Mr Mammadov, a political activist, was detained by the authorities, with the Court

finding, in 2014, that his detention was a violation of his rights. In the infringement procedure, the Court held that the domestic authorities had not provided the redress required and had not acted in good faith. Mr Mammadov's conviction was subsequently quashed and he received compensation following the infringement procedure.

What is the possible result if an infringement is found?

If the Court agrees with the Committee of Ministers that a State have refused to abide by a judgment of the Court, it can find that the State is in breach of its obligations under Article 46, leading to a new violation of the Convention being found. There is no appeal against this decision.

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