IMPLEMENTATION OF THE EUROPEAN COURT OF HUMAN RIGHTS’ JUDGMENTS IN THE ARMENIAN LEGAL SYSTEM

THESIS 2012-2013

Tigran Safaryan

Supervisor: Prof. Jean Paul Jacque
Strasbourg University

Word Count: 22058
Abstract

The Convention for the Protection of Human Rights and Fundamental Freedoms can be implemented in national legal systems only by prompt and effective implementation of the European Court of Human Right’s judgments. The need for effective implementation of the European Court’s judgments is one of actively discussed topics within the Council of Europe. It is extensively linked with the need to increase the efficiency of the European Court and the principal of subsidiarity.

In this thesis the effectiveness of measures taken by Armenian authorities is examined. This research approaches the issue of effective implementation as a vital for Convention system. Indeed, if the judgments are not implemented in national legal systems, the authority and efficiency of the whole Convention system is at stake.

It is argued that Armenia being relatively “new” member to the Council of Europe, experienced some gap with the European standards. Nonetheless, in last decade Armenia took some measures in order to create an effective system of implementation of the Court’s judgments and in some cases applied proactive approach by making conclusions from judgments against other member states.

Nevertheless, it is concluded that there is a room for improvements and Armenian authorities should activate their efforts.
ACKNOWLEDGMENT

I would like to acknowledge and extend my gratitude to the following persons who have made the completion of this report possible: Professor Jean Paul Jacque for his continuous and productive support and supervision; Dr. Angela Melchiorre for her inspiration, motivation and help; John Reynolds for his understanding and constant assistance; Manuela Torri for her regular reminders and support; all the faculty members and Staff; the classmates for friendly atmosphere; my roommates Kamadi, Anand and Leonard for their support and advice.

The last but not the least I want to thank my family: my lovely wife Anna for full support and understanding, my sons for motivation, my parents for making it possible.

Tigran Safaryan
12 July 2013
TABLE OF CONTENTS

LIST OF ACRONYMS ..................................................................................................................7

INTRODUCTION..........................................................................................................................8

1 A BRIEF HISTORY OF ARMENIA AS A STATE PARTY TO THE
EUROPEAN CONVENTION AND THE DOMESTIC STATUS OF THE
CONVENTION AND JUDGMENTS OF THE COURT IN THE ARMENIAN
LEGAL ORDER ..........................................................................................................................12
   1.1 The process of Armenia accession to the Council of Europe and
       ratification of the Convention .........................................................................................12
   1.2 Domestic status of the Convention in the Armenian legal order......................17
   1.3 The binding force of the Court’s judgments and their status in
       the Armenian legal order ..............................................................................................18
   1.4 Armenia and the European Court: What we have in 11 years ......................30

2 THE CONCEPT AND FRAMEWORK OF IMPLEMENTATION AND ITS
NECESSITY IN EUROPEAN HUMAN RIGHTS REGIONAL SYSTEM ..................33
   2.1 The concept of implementation and its necessity in European
       Human Rights regional system: Why it is so important for the
       Convention system? ........................................................................................................33
   2.2 The institutional framework of implementation of the Court’s judgments:
       The European level ........................................................................................................37
   2.3 The national level of implementation of the Court’s judgments ..............43
       2.3.1 The necessity and importance of involvement of the National
           Assembly in the implementation process .............................................................52

3 ANALYSIS OF THE CURRENT SITUATION IN ARMENIAN LEGAL ORDER
FROM THE POINT OF VIEW OF EFFECTIVE IMPLEMENTATION OF
THE COURT’S JUDGMENTS .................................................................57

3.1 Positive examples of effective implementation of the Court’s judgments:
   Critical analysis .................................................................57

3.2 Current issues in the Armenian legal system from the point of view of effective implementation of the Court’s judgments .........................64

CONCLUSION .....................................................................................69

BIBLIOGRAPHY ..................................................................................72
2013

Implementation of the European Court of Human Rights judgments in the Armenian legal system

Safaryan, Tigran

https://doi.org/20.500.11825/640

Downloaded from Open Knowledge Repository, Global Campus’ institutional repository