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Paul J. Magnarella on European Court of Human Rights: Remedies and Execution of Judgments. Edited by Theodora Christou and Juan Pablo Raymond. London, UK: British Institute of International and Comparative Law, 2005. 115 pp.

Paul J. Magnarella
Warren Wilson College

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The four papers in this collection were originally presented at a 2003 conference held at the British Institute of International and Comparative Law. The book takes its title from that conference. Of its five contributing authors, Drs. Tom Barkhuysen, Michiel van Emmerik, and Piet Hein van Kempen are associated with law faculties in The Netherlands, while Dr. Ed Bates is with the University of Southhampton School of Law and Murray Hunt is a barrister specializing in human rights law.

Together, the papers discuss a series of problems faced by the European Court of Human Rights (the Court) and the Committee of Ministers, whose role it is to supervise the execution of Court judgments by member states of the Council of Europe. Most of these problems fall into the following categories: an increasingly heavy case load, a large number of repeat cases, supervision of a growing number of judgments, legal infrastructural deficiencies among some member states, the addition of many new and comparatively poor member states outside of Western Europe, and recalcitrant states who refuse to honor Court judgments for economic and/or political reasons.

Since November 1998, the Court has been a full-time organ, receiving all communications (petitions) directly, without the filtering function of the former European Human Rights Commission. Since 1995, the Council of Europe has expanded to 46 members with the additions of such disparate countries as Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Croatia, Latvia, Moldova, and Russia. Consequently, the Court's caseload has increased dramatically, exceeding seven hundred annually. Most troubling is the large number of repeat cases. For example, the Court has dealt with over two thousand Italian cases concerning the excessive length of judicial proceedings. Such cases repeat themselves because Italy has not devoted sufficient funds to hire more judges and prosecutors and to build more courtrooms. Repeat cases usually arise from infrastructural insufficiencies within member states' judicial systems.

Remedies and their execution represent another serious issue. The Court prefers to place victims in the positions they were in before the state violation. However, if the victim had been convicted of a crime in a defective court proceeding, the Court does not have the authority to quash the criminal conviction or to order the reopening of judicial proceedings (e.g., if A steals $1000 from B, a court would place the victim in the position he was in prior to the violation by requiring B to give A $1000) . Consequently, the Court may award financial compensation, but the victim is not relieved of a criminal conviction. The Committee of Ministers has urged member states to pass laws that would allow them to reopen judicial proceedings in those cases where the Court has found a procedural defect in violation of the Convention. Many member states have complied with this request.

Although most states honor Court judgments, some do so only slowly, and, in certain instances, a few states simply have not complied. One such case is *Cyprus v Turkey*(2001), involving 14 violations of the Convention with applicability to wide sections of the Cypriot population. The Committee of Ministers, which has discussed the execution of this judgment on at least 12 occasions, realizes that satisfactory results cannot be achieved until the Island's inter-communal, inter-ethnic political conflict nears resolution. A similar situation will most probably arise if the

Court finds in favor of recent applications from individual Chechens who accuse Russia of indiscriminate bombings resulting in deaths, torture and extra-judicial executions (bombings have been viewed as a form of torture by, for example, Israel and the U.S. who have both used extra-judicial execution in the Occupied Territories and Afghanistan, respectively).

Some Council officials wonder whether the admission of so many relatively new and judicially undeveloped states, such as Russia and others listed above, will create a two-tiered system of human rights in the Council. Reportedly, this assumed dilution of Council of Europe human rights standards and values prompted the resignation of Peter Leuprecht, the former Director of Human Rights at the Council of Europe.

In his chapter, Ed Bates notes that for many years, the European human rights regime has been placed on a pedestal as the most successful of the world's regional systems. The judiciary functioned smoothly and state compliance with Court judgments was high. However, given the expansion of state membership, the Court's case load and the Council of Ministers' ability to effectively supervise the execution of Court judgments are being stretched to capacity. He worries that without more financial resources assigned to the system and without fairly rapid legal development among member states, the esteemed reputation of the European human rights system may be undermined.

This book is recommended to everyone interested in regional human rights regimes. The European system has been lauded as the most advanced of the three systems presently existing. Consequently, the ways it deals with problems that accompany the addition of new members with less developed economies and shorter histories of European style human rights legislation and judicial systems will offer valuable lessons to others. This book is one of the first to outline existing and potential problems and offer analyses of them.

Paul J. Magnarella, Warren Wilson College
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