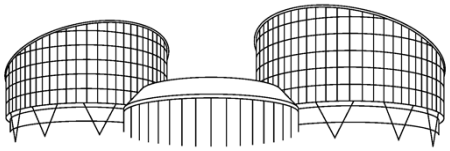

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF GEORGIOU v. GREECE

(Application no. 57378/18)

JUDGMENT

Art 6 § 1 (criminal) • Fair hearing • Court of Cassation's failure to examine, without giving reasons, applicant's request to seek a preliminary ruling from the Court of Justice of the European Union Art 46 • Execution of judgment • Reopening of domestic proceedings, if requested, to allow examination of preliminary reference request

STRASBOURG

14 March 2023

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Georgiou v. Greece,

The European Court of Human Rights (Third Section), sitting as a Chamber composed of:

Pere Pastor Vilanova*, President*,
Georgios A. Serghides,
Yonko Grozev,
Darian Pavli,
Peeter Roosma,
Ioannis Ktistakis,
Andreas Zünd*, judges*,
and Milan Blaško, *Section Registrar,*

Having regard to:

the application (no. 57378/18) against the Hellenic Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Greek national, Mr Andreas Georgiou ("the applicant"), on 3 December 2018;

the decision to give notice to the Greek Government ("the Government") of the complaint concerning Article 6 § 1 of the Convention and to declare the remainder of the application inadmissible;

the parties' observations;

the decision not to hold a hearing;

Having deliberated in private on 14 February 2023,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The application concerns a request to the Greek Court of Cassation to seek a preliminary ruling from the Court of Justice of the European Union (CJEU) which was made by the applicant in the context of criminal proceedings against him, and the alleged absence of any reasoning by the Court of Cassation in tacitly refusing this request.

THE FACTS

2. The applicant was born in 1960 and lives in Darnestown (Maryland, United States). The applicant was represented by Mr S. Potamitis, Mr A. Demetriades, Mr K. Papadiamantis and Ms V. Psaltis, lawyers practising in Athens.

3. The Government were represented by their Agent's delegates, Ms E. Tsaousi, Legal Counsellor at the State Legal Council and Ms A. Dimitrakopoulou, Senior Adviser at the State Legal Council.

4. The facts of the case may be summarised as follows.

5. The applicant was the president of the Hellenic Statistical Authority (ELSTAT) from 2 August 2010 to 2 August 2015.

6. On 10 November 2010, the applicant transmitted revised data concerning the Greek deficit for the year 2009 to Eurostat. The applicant had not presented the data for approval to the seven-member administrative board of ELSTAT in advance.

7. The applicant claimed that his actions complied with the principle of professional independence in the European Statistics Code of Practice, Principle 1.4 of which explicitly gave him "sole responsibility" as head of the statistical authority, for the decision to release statistics.

8. On an unspecified date, criminal proceedings were instituted against the applicant for breach of duty.

9. On 6 December 2016 the applicant was acquitted at first instance of all three charges against him by the three-member Athens Criminal Court (judgment no. 40428 A/2016). The charges were the following:

(i) breach of his official duty of full and exclusive employment with ELSTAT, because at the time of his appointment he had also continued to hold a position at the International Monetary Fund;

(ii) breach of his official duty to convene the board of ELSTAT from November 2010 to September 2011; and

(iii) breach of his official duty in that he had released the fiscal deficit information for 2009 without communicating it first to the administrative board of ELSTAT or asking for its consent to the release.

10. The prosecutor of the Athens Criminal Court appealed.

11. On 1 August 2017 the Athens Court of Appeal held that the applicant had committed the offence of breach of duty, and found him guilty of the third of the above charges and not guilty of the rest. The applicant was sentenced to two years' imprisonment, the sentence being suspended (judgment nos. 3103/2017 and 4480/2017). In particular, the appellate court found the applicant guilty because:

> "In Athens, on 10 November 2010, he ... transmitted to Eurostat a report on Greece's fiscal data, including the fiscal deficit data for 2009, without communicating them to ELSTAT as a body and without obtaining ELSTAT's consent, in breach of Article 10 § 2 A of Law no. 3832/2010, as it read at the time, by which 'ELSTAT shall in particular (a) prepare and implement the national statistical plan and compile and publish, in its capacity as "National Statistical Service" as defined in Article 5 § 1 of Regulation (EC) no. 223/2009, the official, national and European statistics of Greece ...' He committed this act intentionally with the purpose of gaining an illegal moral benefit, as specified in the description of the partial act referred to above at sub-paragraph (b), which consisted in the strengthening of his power as president of ELSTAT and his becoming a quasi-one-person executive organ by effectively abolishing the aforementioned body for practical purposes and usurping its powers. The above act was an objectively appropriate means of gaining the intended benefit."

12. The applicant introduced an appeal on points of law.

13. By a memorandum of additional grounds dated 21 March 2018, the applicant requested that a preliminary ruling be sought from the CJEU. In particular, he argued:

> "... If, nevertheless, there is any doubt as to the correct interpretation of the crucial provision, your Court ought to, pursuant to Article 267 TFEU, request the Court of Justice of the European Union to issue a preliminary ruling on the true intent of Principle 1.4 of the European Statistics Code of Practice. If such preliminary reference is not made, this will constitute a violation of my right to a fair hearing, as defined in Article 6 of the European Convention on Human Rights ..."

14. On 7 June 2018 the Court of Cassation rejected his appeal on points of law (judgment no. 977/2018). In that judgment, there is no reference to the applicant's request for a preliminary ruling to be sought from the CJEU.

RELEVANT LEGAL FRAMEWORK

15. The relevant domestic and European Union law and practice is described in the Court's judgments in *Gorou v. Greece (no. 2)* ([GC], no. 12686/03, § 15, 20 March 2009), *Baydar v. the Netherlands* (no. 55385/14, §§ 21-29, 24 April 2018) and *Ilias Papageorgiou v. Greece* (no. 44101/13, § 14, 10 December 2020).

16. Principle 1.4 of the European Statistics Code of Practice reads as follows:

> "The heads of the National Statistical Institutes and of Eurostat and, where appropriate, the heads of other statistical authorities have the sole responsibility for deciding on statistical methods, standards and procedures, and on the content and timing of statistical releases."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

17. The applicant complained that the Court of Cassation had rejected the request for a preliminary reference without any justification. He relied on Article 6 of the Convention, the relevant parts of which read as follows:

> "1. In the determination of his civil rights and obligations or of any criminal charge against him, ... everyone is entitled to a fair ... hearing ... by [a] ... tribunal ..."

A. Admissibility

18. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

19. The applicant argued that, despite the Court's case-law, the Court of Cassation had failed to address his request for a preliminary reference to the CJEU. Not only had the Court of Cassation not examined the relevant criteria or provided any reasons for its refusal to seek a preliminary ruling but it had not even mentioned the applicant's request. In addition, it had not even mentioned the applicant's memorandum in which that request had been made. In the memorandum, the applicant had explained what the correct interpretation of Principle 1.4 was, provided evidence as to the meaning of that principle in support of his interpretation and asked the Court of Cassation, if it still had doubts as to the correct interpretation, to seek a preliminary ruling. In the applicant's submission, the request in the memorandum was clear and it was not conditional on whether the Court of Cassation had any doubt as to the meaning of the relevant provision. The applicant added that the principle of independence of the president of ELSTAT was of fundamental importance for the reliability of national statistics within the European Union (EU). The failure of the Court of Cassation to address this critical issue meant that the applicant's fundamental professional duty as president had not been given due and proper consideration.

20. The Government submitted that it was evident from the wording of the request for a preliminary reference that the applicant had raised an issue to be dealt with only if the Court of Cassation had any doubt as to the interpretation of Principle 1.4 of the European Statistics Code of Practice. In the Government's submission, the contents of the judgment of the Court of Cassation showed that the ruling of the domestic courts could not be considered arbitrary, totally unreasoned, contradictory or incoherent, and so no issue arose under Article 6 § 1. It had not been necessary for the Court of Cassation to give a detailed answer. In addition, it had included in its judgment the crucial detailed considerations of the court dealing with the merits of the case. There was therefore no doubt that the domestic courts had paid due attention, taken all the applicant's allegations into account and assessed them, and provided adequate reasoning, in line with the requirements of the Convention.

21. Regarding in particular the rejection of the request for a preliminary reference to the CJEU, the Government argued that it was clear that the Court of Cassation had been in no doubt as to the interpretation and meaning of the provisions applied, "which is not negated by a possibly different interpretation proposed by the applicant". The provisions, including Principle 1.4 of the European Statistics Code of Practice, were, according to the assessments of both the Court of Cassation and the Court of Appeal, sufficiently clear, and therefore no preliminary reference to the CJEU was

necessary for the domestic courts to reach their final judgment. An interpretation by the CJEU of the words "the sole responsibility" in Principle 1.4 of the European Statistics Code of Practice, regardless of the formal force of the Code, would not contribute materially to the assessment of the grounds of appeal by the Court of Cassation. Therefore, a request for a preliminary ruling, even if considered admissible by the CJEU, would have had no decisive influence on the outcome of the case. The Government further argued that it would in any event be for the national court to apply EU law after the issuance of the preliminary ruling, which would not have any decisive influence on the outcome of the case. In any event, in the present case a preliminary ruling had not been considered necessary by the domestic courts.

2. The Court's assessment

22. Concerning the general principles governing the application of Article 6 of the Convention in cases raising similar issues to those which fall to be addressed in the present case, the Court refers to its relevant case-law on the subject (see, in particular, *Dhahbi v. Italy*, no. 17120/09, § 31, 8 April 2014, *Baydar*, cited above, §§ 41-44, and *Bio Farmland Betriebs S.R.L. v. Romania*, no. 43639/17, §§ 48-51, 13 July 2021).

23. In the case of *Vergauwen and Others v. Belgium* ((dec.), no. 4832/04, §§ 89-90, 10 April 2012), the Court established the following principles:

- Article 6 § 1 imposes on the domestic courts an obligation to give reasons, in the light of the applicable law, for decisions by which they refuse to refer a question for a preliminary ruling;

- when an allegation of a violation of Article 6 § 1 is brought before the Court in that context, its task consists in ensuring that the contested decision refusing the reference was duly accompanied by such reasons;

- although it is for the Court to carry out this check rigorously, it is not for it to examine any errors that the domestic courts may have made in the interpretation or the application of the relevant law;

- in the specific context of Article 267 of the Treaty on the Functioning of the European Union (TFEU), this means that domestic courts against whose decisions there is no judicial remedy under domestic law are required to justify a refusal to refer a question to the CJEU for a preliminary ruling on the interpretation of EU law in the light of the exceptions provided for by the case-law of the CJEU. They must therefore state the reasons why they consider that the question is not relevant, or that the provision of EU law in question has already been interpreted by the CJEU, or even that the correct application of EU law is so obvious that it leaves no room for reasonable doubt.

24. In the present case, the applicant requested the Court of Cassation in his memorandum of 21 March 2018 to ask the CJEU to issue a preliminary ruling on the true intent of Principle 1.4 of the European Statistics Code of

Practice. The decision of the Court of Cassation was not subject to any appeal under domestic law. The Court of Cassation was therefore under an obligation to give reasons for its refusal to ask the CJEU for a preliminary ruling.

25. The Court of Cassation's judgment of 7 June 2018 contains neither a reference to the request made by the applicant nor any reasons why it was considered that the question raised by him did not merit reference to the CJEU. That being so, it cannot be established from the content and reasoning of judgment no. 977/2018 of the Court of Cassation whether the question was considered irrelevant, whether it was viewed as relating to a provision that was clear or had already been interpreted by the CJEU, or whether it was simply ignored (see *Dhahbi*, cited above, § 33, and contrast *Vergauwen and Others*, cited above, § 91). As regards the Government's argument that the applicant had requested a preliminary reference only in case the Court of Cassation had doubts as to the interpretation of the applicable principles (see paragraph 20 above), the Court notes that it cannot impact its conclusion since, as established above, the Court of Cassation did not give any reasons in refusing that request.

26. There has accordingly been a violation of Article 6 § 1 of the Convention.

II. APPLICATION OF ARTICLES 41 AND 46 OF THE CONVENTION

27. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

28. The relevant parts of Article 46 of the Convention provide:

> "1. The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties.
>
> 2. The final judgment of the Court shall be transmitted to the Committee of Ministers, which shall supervise its execution."
>
> (...)"

A. Article 41 of the Convention

29. The applicant did not make any claim in respect of pecuniary or non-pecuniary damage or in respect of costs and expenses. He argued that what was important to him was that the domestic proceedings should be reopened.

30. In these circumstances, the Court is not called to make any award under Article 41 of the Convention.

B. Article 46 of the Convention

31. The Court reiterates its case-law to the effect that a judgment in which it finds a breach imposes on the respondent State a legal obligation to put an end to the breach and make reparation for its consequences in such a way as to restore as far as possible the situation existing before the breach (see *Kurić and Others v. Slovenia* (just satisfaction) [GC], no. 26828/06, § 79, ECHR 2014). Contracting States that are parties to a case are in principle free to choose the means whereby they will comply with a judgment in which the Court has found a breach. This discretion as to the manner of execution of a judgment reflects the freedom of choice attaching to the primary obligation of the Contracting States under the Convention to secure the rights and freedoms guaranteed by it (Article 1). If the nature of the breach allows of *restitutio in integrum*, it is for the respondent State to effect it, the Court having neither the power nor the practical possibility of doing so itself.

32. The Court notes that it has found a violation of Article 6 § 1 of the Convention on the ground that the Court of Cassation did not examine the applicant's request for a preliminary ruling to be sought from the CJEU.

33. In principle, it is not the Court's task to prescribe exactly how a State should put an end to a breach of the Convention and make reparation for its consequences. Nevertheless, it is clear that restoration of "the closest possible situation to that which would have existed if the breach in question had not occurred" (see *Papamichalopoulos and Others v. Greece* (Article 50), 31 October 1995, § 38, Series A no. 330-B; *Vistiņš and Perepjolkins v. Latvia* (just satisfaction) [GC], no. 71243/01, § 33, ECHR 2014; and *Chiragov and Others v. Armenia* (just satisfaction) [GC], no. 13216/05, § 59, 12 December 2017) would consist, in the present case, in taking measures to ensure that the domestic proceedings are reopened, if requested, so that the request for a preliminary reference is examined by the Court of Cassation.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

3. *Holds* that the taking of measures by the respondent State to ensure that the proceedings before the Court of Cassation are reopened, if requested, would constitute appropriate redress for the violation of the applicant's rights.

Done in English, and notified in writing on 14 March 2023, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Milan Blaško	Pere Pastor Vilanova
Registrar	President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the separate opinion of Judge Serghides is annexed to this judgment.

P.P.V.
M.B.

CONCURRING OPINION OF JUDGE SERGHIDES

I. Introduction

1. The present judgment concerns the applicant's complaint that the Court of Cassation in Greece had rejected his request for a preliminary reference to the Court of Justice of the European Union (CJEU) without giving any justification and, thus, by its omission it had breached Article 6 § 1 of the Convention.

2. I entirely agree with the judgment and, consequently, with all the points of its operative provisions. The only reason I have decided to write this concurring opinion is in order to explain what I consider are the legal bases for the Court's power to indicate individual measures, by way of contributing to the implementation of its own judgments and, in particular, in the present case, in holding "that the taking of measures by the respondent State to ensure that the proceedings before the Court of Cassation are reopened, if requested, would constitute appropriate redress for the violation of the applicant's rights" (see paragraph 33 of the judgment and point 3 of its operative provisions).

3. The need to elaborate on this issue arises because, though the Court very often indicates general and individual measures in its judgments, it, however, omits to refer to or least to elaborate on the legal basis or bases for doing so, apart from dealing with these issues under the heading "Article 46 of the Convention", as the Court did in the present judgment, thus implying that its legal basis is Article 46. The aim of this opinion is not only to strengthen the present judgment but also to show that there can be no doubt that the Court has the power to contribute to the implementation of its own judgments.

4. Before delving into the legal basis for the Court's power to contribute to the implementation of its own judgments, the difference between implementation and execution should first be explained, because it is in the context of the implementation rather than the execution of the Court's judgments that the indication of individual (as well as, of course, general measures) is made.

II. Difference between implementation and execution of the Court's judgments

5. It is my submission that any possible negative criticism of the Court's contribution to or participation in the implementation of its own judgments could rightly be answered by explaining the difference between the implementation and the execution of judgments.

6. In my humble view "implementation" is a broader term than "execution", because the former is the process of putting a judgment or decision into effect, starting from the time when the case is decided and its

wording is formulated by the judges, while execution takes place after the judgment has been delivered. Looking at implementation from this starting point and angle, Article 46 § 2 of the Convention cannot, therefore, be an obstacle preventing the Court from contributing to the implementation of its judgments, since the execution of its judgments by the national authorities as supervised by the Committee of Ministers (CoM) is only part of the implementation process as a whole and starts after delivery of the judgment. In other words, by considering that the implementation starts before delivery and includes the formulation of the judgment, there will be no clash between the role of Court and that of the High Contracting Parties or the CoM, since the latter can claim no role in supervising a judgment before its delivery.

7. It is to be emphasised that, save for the procedure under Article 46 §§ 3-5 of the Convention, all of the Court's contribution towards the implementation of its own judgments is made within or as part of the judgment itself, which needs to be implemented, and not outside of that framework. This is a proactive contribution on the part of the Court. The effective implementation of a judgment, which is a requirement of the principle of effectiveness as a norm of international law, should always be in the Court's mind when drafting its judgment and providing for general or individual measures to be taken by the relevant respondent State which is found to have violated a Convention provision.

III. The legal bases for the Court's power to indicate individual measures

8. In my view, the legal bases for the Court to indicate individual measures, including the measure provided for in point 3 of the operative provisions of the present judgment, are multifaceted and can be summarised as follows:

(a) Article 46 of the Convention, under which the individual measure in paragraph 33 is examined in the present judgment. Article 46 § 1 makes provision for the binding force of the Court's judgments on the High Contracting Parties, and it is obvious that the Court in delivering them must make them clear and helpful to the States to ensure that they are complied with under the supervision of the CoM. Effectiveness is a requirement of the binding force of judgments. If the Court's judgments were not to have binding force, there would neither be a need for them to be effective nor would there be any need for them to be executed. Apart from paragraph 1, paragraphs 3-5 of Article 46 can also show that the Court has the power to be involved in the implementation of its own judgments, but since these provisions are not relevant to the facts of the present case, I will not deal with them further.

(b) Article 45 of the Convention, which provides that the Court should give reasons for its judgments. This, in my view, may also include reasons as to how the Court considers that its judgments can better be implemented especially when the proposed individual measures are inextricably connected

with the issue or issues before the Court, as in the present case. In my opinion, the principle of effectiveness as a norm of international law is nested in the Court's judgment until its effective execution.

(c) Article 32 § 1 of the Convention, which provides that "the jurisdiction of the Court shall extend to all matters concerning the interpretation and application of the Convention and the Protocols thereto which are referred to it as provided in Articles 33, 34, 46 and 47". The express reference to Article 46 in Article 32 § 1 leaves no doubt that the Court can derive from these two provisions its power to contribute to the implementation of its own judgments by indicating individual measures. At the same time, paragraph 2 of Article 32 strengthens this finding even more by providing that "in the event of dispute as to whether the Court has jurisdiction, the Court shall decide".

(d) Article 19 of the Convention, which provides that the Court ensures the observance of the engagements undertaken by the Contracting Parties to the Convention. This can better be ensured, in my view, if the Court is involved in the implementation of its judgments by indicating therein general and individual measures which can assist the High Contracting Parties and the CoM in their respective tasks, namely, the execution and the supervising of the execution of the judgments, respectively.

(e) Article 6 § 1 of the Convention. The prompt implementation of the Court's judgment is regarded as an integral part of the "trial" for the purposes of Article 6 (see *Assanidze v. Georgia* [GC], no. 71503/01, § 181, 18 April 2004, and *Burdov v. Russia (no. 2),* no. 33509/04, § 65, 15 January 2009). Article 6 § 1 applies not only to the domestic courts but also to the Court itself (see Jean-Paul Costa, *La Cour européenne des droits de l'homme – Des Juges pour la Liberté*, 2nd edition, Dalloz, 2017, at p. 179). This provision allows the Court to contribute to the implementation of its own judgments by ensuring that its judgments are clear and that as far as possible they help the relevant Contracting Parties, under the supervision of the CoM, to execute them more effectively and more quickly. The non-implementation or delayed implementation of judgments disrupts legal certainty and, consequently, the rule of law, given that legal certainty is an aspect of the rule of law, in the light of which the right to a fair hearing must be interpreted. Thus it has rightly been argued that "[f]rom the perspective of the ECHR, a failure to implement a decision of the ECtHR is a breach of the Convention and flouts the rule of law" (see Andrew Le Sueur, Maurice Sunkin, Jo Eric Khushal Murkens, *Public Law – Text, Cases, and Materials,* 4th edition, Oxford, 2019, at p. 219).

(f) The relevant substantive Convention provisions, in other words, the allegedly impugned provisions in a given case (in the present case Article 6) and the norm of effectiveness therein. As I have previously said in several other separate opinions and in academic works, the principle of effectiveness is not only a method or tool or means of interpretation but also a norm of

international law enshrined in every Convention provision safeguarding human rights, in the present case Article 6. It is also enshrined in the other Convention Articles mentioned above, namely, Articles 19, 32, 45 and 46. The principle of effectiveness as a norm of international law should also be inherent in every judgment of the Court. As to the "journey" of the principle of effectiveness as a norm of international law in a particular case, I will elaborate thereon under the next heading.

(g) The inherent power of the Court based on its role and mission, which is the effective protection of human rights. The principle of effectiveness as a norm of international law is embedded in the jurisdiction and Rules of the Court as an international human rights court.

(h) Together with the above, the general and customary rule of international law by which an international human rights court can contribute to the implementation of its own judgments.

(i) The abundant and constant case-law in which the Court has made provision for general and individual measures, and through which it has acknowledged and developed its jurisdiction in that respect.

9. The CoM has not only acknowledged the power of the Court to contribute to the implementation of its own judgments but has also urged it to take a more active role in certain cases (see, for instance, CM/Res(2004)3 on "judgments revealing an underlying systemic problem").

IV. Further reflection on the Court's contribution to the implementation of its judgments on the basis of the principle of effectiveness as a norm of international law

10. The principle of effectiveness in its capacity as a norm of international law holds that the Convention provisions, which are rules of international law, must be effective and be treated as such. The same principle holds, with regard to the implementation of the Court's judgments, that they must be executed effectively, thus putting the applicant as far as possible in the position he or she would have been in had the Convention provisions not been violated.

11. The principle of effectiveness as a norm of international law has a remarkable "journey" ın a particular case which can be compared to a relay race: the principle of effectiveness as a norm is inherent in the relevant Convention provision, in the present case Article 6; then the provision, through its interpretation and application by the Court, passes the norm of effectiveness to the judgment as a baton, which can also contribute to its effective implementation; and finally the judgment conveys the norm of effectiveness to the mechanism for the execution of judgments under Article 46 of the Convention. The speedier and the more efficient this relay race, the better the principle of effectiveness is upheld as a norm. Only through the

effective implementation of the judgment can the principle's function as a norm be fulfilled.

12. The principle of effectiveness, as a norm of international law embedded in a Court judgment and requiring its effective implementation, concerns and pervades the whole of the judgment, not only the finding of a violation of a Convention provision, but also any provision or indication in the judgment calling for general or individual measures regarding the implementation of the judgment. The individual measures provided for in point 3 of the operative provisions of the present judgment should in my humble view be considered in that sense, namely, as being a part or an element of the norm of effectiveness of the judgment.

13. The relationship between the principle of effectiveness as a norm of international law and the effective implementation of the Court's judgments is twofold: on the one hand, the principle of effectiveness in its capacity as a norm of international law is the main source of, and the basis or foundation for, the effective implementation of the Court's judgments and therefore the latter is a corollary of the former; and, on the other hand, the effective implementation of the Court's judgments is a requirement of the principle of effectiveness as a norm of international law, which is embraced not only in the Convention provision at issue, in the present case in Article 6, but also in the Court's judgment and in the provisions of Article 46 of the Convention.

14. The principle of effectiveness as a norm of international law is also an impetus to the evolutive involvement of the Court in the implementation of its own judgments. This is a consequence of the capacity of the principle of effectiveness as a norm, which is flexible, tending always to be progressive in the effective protection of human rights.

15. Consequently, the Court contributes through its judgment to the formulation of the norm of effectiveness and at the same time contributes to the implementation of that judgment.

V. Conclusion

16. I have decided to follow the present judgment as to paragraph 33 and point 3 of its operative provisions, having in mind the above legal analysis. This concurring opinion humbly seeks to take a step further as to the legal bases which enable the Court to contribute to the implementation of its judgments, this being a step of the utmost importance for the effective protection of human rights.