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LEGAL POSSIBILITIES OF USING RUSSIAN CENTRAL BANK ASSETS TO ENFORCE EUROPEAN COURT OF HUMAN RIGHTS JUDGMENTS

Comparative Studies of Applicable Laws in Belgium, France, and the United Kingdom

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ACRONYMS

CoE	Council of Europe
CoM	Committee of Ministers (of the Council of Europe)
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
ICJ	International Court of Justice
PCIJ	Permanent Court of International Justice

1. INTRODUCTION

Since Russia launched the war of aggression against Ukraine in February 2022, hundreds of thousands of civilians have suffered enormous harm. Millions have been displaced or made refugees, and thousands killed. Russia is unlikely to provide these victims any form of reparation for the harms suffered, including the financial compensation they need to restore their lives.

Indeed, Russia has issued official notice that it will not comply with judgments of the European Court of Human Rights (ECtHR) after its expulsion from the Council of Europe (CoE). The many individual and interstate cases that have been filed against the Russian Federation at the ECtHR over the past decade based on its violations of the European Convention on Human Rights (ECHR) thus have little likelihood of leading to compensation and reparations for victims.

This report and its annexes consider a possibility as yet unexplored: that European jurisdictions could use frozen (or immobilized as the European Union terms it) assets of the Russian Central Bank to pay for compensation awards that the ECtHR may issue. These assets were frozen in 2022 as part of coordinated G7 sanctions against Russia's aggression against Ukraine, and thus remain in the hands of states that remain part of the CoE.

States and civil society organizations have already been deliberating the question of using these assets for the benefit of Ukraine or to support the costs of the war. Some take the view that such assets cannot be used as the international law on state immunity protects state assets from confiscation. Others suggest that confiscation is possible when a state wages a war of aggression.

This report looks at an innovative (albeit untested) way to access Russian Central Bank assets to pay for reparations. By focusing on compensation for victims, this report intends to put victims of human rights violations at the center of the debate.

This report's examination of the legality of using frozen Russian Central Bank assets focuses on Belgium, France, and the United Kingdom. It offers a detailed analysis of the applicable laws and procedures in each country to inform potential legal and political actions that could be taken at the domestic level in these three countries for the relief of victims in Ukraine.

As a novel way to seek reparations through national courts outside of Ukraine, this report suggests that legal pathways to enforce compensation awarded to victims by the ECtHR could be pursued. However, as these are untested, they will face a number of uncertainties. Hence, legislative changes that allow ECtHR judgments to be recognized as an enforceable title could help pave the way. The current negotiations on a new treaty for the International Claims Commission could provide a unique opportunity to introduce such a change.

The cross-national nature of this report brings up an issue with terminology, as different jurisdictions use different legal terms. This report uses the term "freezing" assets to refer to the prohibition of transfer of funds on a temporary basis, while "seizing" refers to such a prohibition for physical objects. It uses "confiscation" of assets to refer to the permanent transfer of ownership that would occur, should the countries take the pathway laid out here (the annexes also use the more legalistic term "attachment"). "Enforcement" refers to coercive measures imposed to satisfy a debt, "recognition" of a judgment is the process that must precede enforcement, and "execution" or "implementation" refers to the process of putting a judgment into effect. For reference a more fulsome description of these terms appears in the "Terminology" section below.

Given Russia's egregious violations of international law, Ukraine's allies should explore every reasonable pathway to ensure that the victims of Russian aggression obtain reparations. This report presents the summaries of findings for Belgium, France, and the UK. The full country studies appear in the annexes to this report.

2. BACKGROUND

Following Russia's full-scale invasion of Ukraine in February 2022, Australia, Canada, the European Union, New Zealand, Japan, the United Kingdom (UK), and the United States initiated multiple waves of wide-ranging economic and financial sanctions against Russia and its financial sector. Cumulatively these jurisdictions froze around $300 billion out of the $640 billion worth of Russian state assets, most notably Russia's Central Bank assets,[1] as well as tens of billions of dollars in assets belonging to Russian oligarchs and private entities.[2] Most of this money is frozen in European jurisdictions.[3] Belgium holds the largest amount, around €66 billion, because Euroclear Bank, an International Central Securities Depository, is in its territory.[4] An estimated €1.35 billion Russian Central Bank assets were frozen in France in December 2022.[5] The amount held in the UK is not known but the UK government has expressed some interest in confiscating such assets.[6]

Since May 2024, EU member states have provided interest generated on the windfall profit of the frozen Central Bank assets, estimated to be around €3 billion per year, to Ukraine for military support and reconstruction efforts.[7] However, none of the countries holding Russian sovereign assets have confiscated the underlying assets to date.

Russia's expulsion from the Council of Europe

In addition to the freezing of assets, Russia's aggression also triggered a resolution by the CoE to expel Russia from its membership on March 16, 2022.[8] Six months later this resolution took effect.[9] Russia has reacted with a legal declaration that ECtHR has no jurisdiction in the country and that it will not comply with its decisions.[10]

However, Article 58(2) of the ECHR provides that expelled members of the convention remain liable for violations of the ECHR they committed prior to their expulsion.[11] The ECtHR affirmed its competence in holding that both the cases of *Ukraine and Netherlands v. Russia* and *Ukraine v. Russia (re Crimea)* were admissible.[12] Likewise it confirmed its jurisdiction in *Fedotova and Others v. Russia, Kutayev v. Russia*, *Svetova and Others v. Russia, and Georgia v. Russia (I)*.[13] Russia's declaration indicates that Russia will never pay its victims the amounts the court directed it to pay in these cases.

Cases before the ECtHR

There are currently three interstate cases pending before the ECtHR against Russia in relation to the war in Ukraine: *Ukraine v. Russia* (VIII) (no. 55855/18); *Ukraine v. Russia* (IX) (no. 10691/21); *Ukraine and the Netherlands v. Russia* (X) (no. 11055/22).[14] In addition to these, the ECtHR issued its first judgment on the merits in another case between Ukraine and Russia on June 25, 2024. This case concerned Russia's violations of the convention in the territory of Crimea.[15] According to the judgment, both parties have 12 months from that date to submit relevant information, after which the court will indicate Russia's financial obligations to Ukraine in that case.[16] The other three cases have not been decided yet.

In addition, as of February 2025, there were 9,264 pending cases filed by individuals against Russia in relation to the war in Ukraine which make claims that overlap with the inter-state cases.[17] As of January 2025, Russia owed approximately €2.85 billion to applicants (including default interest) in cases already decided.[18]

Negotiations on New International Mechanisms

While the ECtHR cases are pending, negotiations on new international mechanisms to address the war in Ukraine have begun. First, the EU, the CoE, and 37 states laid legal grounds to establish a Special Tribunal for the Crime of Aggression against Ukraine in February 2025.[19] Should it be given a mandate on reparations, the questions of accessing funds to pay for these will arise.

Second, the Register of Damage, created in May 2023, serves as a record of claims of damages, loss, and injury inflicted by Russia's aggression. The CoE has initiated formal treaty negotiations on the establishment of an International Claims Commission for Ukraine to serve as the main body responsible for reviewing, assessing, and deciding eligible claims registered in the Register for Damage.[20] Satisfying these claims will also require funds.

3. ENFORCEMENT OF ECtHR JUDGMENTS

The ECHR entrusts the Committee of Ministers (CoM) with the authority to "supervise" member states' compliance, but there is no effective and well-regulated mechanism to compel state parties to follow ECtHR rulings. International law lacks a legal framework that governs the execution of orders in ECtHR judgments against the will of the respondent state.[21] Likewise, no entity analogous to enforcement agencies equipped to execute the judgments of domestic courts within nations exists to enforce ECtHR judicial decisions. The post-adjudication phase of international court proceedings and the enforcement of international judgments is widely considered to be a political rather than a judicial matter because of this lack of enforcement mechanisms.[22]

Under the rules on the supervision and execution of judgments, the CoM examines whether a state the ECtHR has ordered to pay compensation (or implement other measures) following a judgment has done so.[23] It ensures that the measures adopted pursuant to ECtHR judgments are "feasible, timely, adequate, and sufficient to ensure the maximum possible reparation for the violations found by the court."[24] In the event of noncompliance, the CoM adopts resolutions calling upon the recalcitrant state to execute the ECtHR's judgments. It can also refer the case back to the court to undertake infringement proceedings to assess whether the state has failed to fulfill its obligations.[25]

The ECtHR has held that the ECHR system is founded on the "general assumption that public authorities in the Member States act in good faith."[26] In other words the political pressure that follows from the CoM's condemnation of a disobedient state is the only factor to promote enforcement of the court's rulings.[27] It follows that the CoM lacks the power to order CoE member states to confiscate Russian sovereign assets to pay for compensation awarded to complainants.

In line with its mandate, following Russia's exit from the CoE, the CoM adopted a decision asking the CoE to put into effect and actively explore all possible strategies to ensure the effective implementation of cases against Russia.[28] It further noted that it will continue to supervise the execution of judgments and friendly settlements that concern EHCR violations by Russia that took place prior to its exit from the CoE and that Russia is obligated to implement the decisions.[29] Indeed, it exercised its supervision in cases against Russia unrelated to Ukraine, where the CoM examined the implementation of judgments and decisions six months after Russia's expulsion.[30]

Beyond the role of the CoM, the ECHR remains silent on whether successful applicants can employ national laws and procedures to obtain sums the ECtHR has awarded in the event of the respondent state's failure to pay compensation. There are also no precedents where applicants have sought the enforcement of ECtHR judgments through domestic courts or authorities of third states. However, neither the ECHR nor the ECtHR's Rules of Court explicitly prohibits such actions.

4. STATE IMMUNITY

Since confiscation would seek to target Russian Central Bank assets that are by their nature sovereign assets, the issue of state immunity arises as an overarching question. The customary international law principle safeguards a state and its property from the jurisdiction of the courts of another state.[31] The underlying principle of state immunity stems from the sovereign equality of all states, which ensures that the courts of one state cannot adjudicate a dispute in relation to a foreign state and order measures of constraint against its property.[32]

State immunity has two dimensions: jurisdictional immunity and enforcement immunity. Whereas the former refers to a limitation of the adjudicatory power of the domestic court, the latter restricts the enforcement powers of national courts or other state organs.[33] Enforcement immunity protects a state from "the making and execution of mandatory orders or injunctions against the State in respect of, for example, restitution, damages, [and] penalties."[34]

The International Court of Justice (ICJ) has held that the two immunities constitute different regimes, and that the rules governing immunity from enforcement "go further than those governing jurisdictional immunity."[35] Thus, a state might be immune from enforcement even if it is not immune from jurisdiction. Each is a separate hurdle for the claimant to overcome.[36]

In the context of enforcement of ECtHR judgments by a domestic court in Belgium, France, or the UK, both types of state immunity are likely to arise. As the summaries of each state below describe, in all three countries a national court would have to first recognize the ECtHR judgment as an enforceable title in the respective jurisdiction. This recognition process would trigger the question of jurisdictional immunity. If the recognition procedure were to succeed, the question of immunity from enforcement might still block confiscation of Russian Central Bank assets.

The scope of both categories of state immunity under customary international law, their application to Central Bank assets, and potential exceptions or justifications have been analyzed in detail elsewhere and will not be reexamined in this report.[37] In brief, proposals by scholars and others for how to address state immunity include the arguments of countermeasures to justify confiscation, reliance on executive rather than judicial action to avoid the application of state immunity, the adoption of national legislation to develop new international customary law exceptions to sovereign immunity, and exempting enforcement of international judgments from the purview of state immunity.[38] These existing studies and analyses suggest the question of state immunity might be surmountable in this particular context.

Some of the domestic laws this report covers contain specific rules on state immunity, both on the scope of its protection and on exceptions. The summaries below discuss these rules, with further details provided in the annexes.

5. SUMMARY OF COUNTRY STUDIES

The history of dealing with foreign judgments issued by the courts of other states in Belgium, France, and the UK shows some commonalities. All generally require a judicial process to recognize such decisions as an enforceable title before the domestic court can impose any coercive enforcement measures. Such recognition is subject to certain requirements but generally does not reexamine the merits of the foreign decision.

The majority of scholars in Belgium and France agree that ECtHR judgments are not exempt from this recognition process; we were unable to find scholarly discussion of the question in the UK. Judicial precedent on exceptions to the recognition process does not exist in any of the three countries.

If ECtHR judgments need to be recognized before enforcement, it is uncertain if the domestic laws allow for such a recognition. There is no previous court decision in any of the three countries on this issue.

In Belgium, it is unlikely that the courts will apply the rules of recognition for foreign judgments to ECtHR judgments due to the difference between a ruling from a national court and one from an international court. However, Belgian law allows domestic courts to recognize judgments of the Court of Justice of the EU via a simplified recognition procedure that merely assesses the authenticity of the judgment, and it could be argued that this process should apply to ECtHR judgments as well.

In France it seems unlikely that the courts would recognize ECtHR judgments. Much as in Belgium, French courts might not apply the rules on recognition for national foreign judgments. Without applicable rules for recognition, it is possible that ECtHR judgments cannot be recognized.

In the UK, in contrast, the common law rules on recognition of foreign judgment apply unless there is a statutory barrier. Thus the courts may or may not apply these rules to ECtHR judgments. If common law rules are applied, the requirements for recognition appear to be met. If common law rules are not applied, it would have to be argued that a legal basis for ECtHR judgments exists to make recognition possible. There are no previous court decisions on either scenario.

Given the lack of judicial decisions on this question, arguments pro and contra the possibility of recognition and enforcement could be raised in all three countries, as the summaries below describe.

BELGIUM

Under the general framework on the enforceability of foreign judgments in Belgium, judgments from EU member states are directly enforceable under the Brussels Ibis Regulation. Judgments from non-EU states require recognition through an *exequatur* (meaning, "let it execute") process governed by the Belgian Code of Private International Law (BCPIL). Through this process, Belgium can exercise a limited assessment of the foreign judgment before any coercive enforcement measures are undertaken on its territory. If all conditions for recognition are met, the competent judge affixes an enforcement order to the foreign judicial decision qualifying it as an enforceable title in Belgium.

In the case of ECtHR judgments and their potential enforceability in Belgium, the majority of Belgian scholars who have discussed this issue have suggested that ECtHR decisions are not directly enforceable in the domestic jurisdiction of states that are not the respondent in the case. As a consequence, a Belgian court would need to first recognize ECtHR judgments before the state could undertake enforcement measures.

This poses the question of whether recognition via the *exequatur* procedure under the relevant BCPIL rules would be possible. The BCPIL only applies to civil and commercial matters, and, within that, the *exequatur* procedure only applies to foreign judicial decisions. Both case law and scholars have understood foreign judicial decisions to consist solely of judgments emanating from other states. Therefore, it seems relatively unlikely that ECtHR judgments could be recognized in Belgium through the regular *exequatur* procedure.

If the *exequatur* procedure does not apply, scholars have suggested that a simplified procedure, focused on authenticity checks, might recognize ECtHR judgments as enforceable title in Belgium. While no Belgian court has evaluated this suggestion, a number of arguments could be put forward in support: First, the Court of Cassation, Belgium's highest court, has found that national courts must set aside any domestic provisions that conflict with international law. Second, ECtHR judgments are different from the foreign judgments of other sovereign countries and thus the strict requirements for their recognition should not apply. Third, as Russia is refusing to execute ECtHR judgments, by failing to recognize these rulings, Belgian courts would be undermining the effectiveness of the ECHR.

Legal objections could take three distinct forms. First, critics could argue that Belgian courts cannot act without a legislative intervention stipulating a recognition procedure for ECtHR judgments. A Belgian law specifically allows a simplified recognition procedure administered by the Minister of Foreign Affairs for judgments of the Court of Justice of the

European Union and nothing similar exists for ECtHR judgments. No law states that in the absence of such a law Belgian courts cannot enforce ECtHR judgments, however.

Second, critics might point out that the ECHR does not include a regime for coercive enforcement measures and therefore argue they intended to exclude any possibility of member states enforcing ECtHR judgments when noncompliance occurs. International conventions rarely contain explicit provisions on this matter, however, and thus this omission does not suggest that enforcement is prohibited.

Finally, a critic might argue that ECtHR judgments are only binding on the respondent state and therefore can only be enforced on their territory. The judgment is indeed only binding on the respondent state, but this does not prevent a third state from enforcing it in accordance with its own laws.

If a simplified recognition procedure would be applied to ECtHR judgments resulting in an enforceable title, the question of state immunity would arise in the context of Russian Central Bank assets held in Belgium. The rules on state immunity in Belgium follow international law and specific provisions of the Belgian Judicial Code. Foreign sovereign assets, and in particular Central Bank assets, have protections—with certain exceptions.

The most relevant exception to such protection is that the Belgian Judicial Code explicitly limits state immunity by making it "subject to the application of mandatory supranational and international provisions." Belgian courts have not yet ruled on the question of whether the enforcement of ECtHR judgments could fall under this caveat. It could be argued that, given Russia's refusal to comply, enforcing ECtHR judgments is an "application of mandatory international provisions", namely the ECHR. Thus, Belgian courts arguably might have a legal pathway to order the confiscation of Russian funds held in Belgium.

FRANCE

In France, to confiscate funds to enforce a judgment by another nation's court, a French court must first recognize it via the *exequatur* procedure. According to this procedure, if no agreement with the foreign country dictates the conditions of such a recognition, the French court will examine if (1) the foreign judge had jurisdiction to rule on the dispute, (2) the foreign decision conforms with the international public order, (3) the foreign court did not use the law fraudulently, (4) the applicant had interest and standing to act, and (5) the foreign judgment was enforceable in its country of origin. Once the foreign judgment is recognized via the *exequatur* procedure, it can serve as an enforceable title (writ of execution) that the claimant can use to seek confiscation of assets. Upon receipt of the title, the bank must immediately freeze the amount of money to be confiscated.

Whether the same process applies to ECtHR judgments is uncertain and has not been litigated yet. First, the question arises as to whether ECtHR judgments can be recognized through the *exequatur* procedure. The *exequatur* procedure is intended for foreign judgments, and judgments by supranational bodies like the ECtHR might not be considered comparable. The procedure also applies only to judgments that deal with a private law relationship on civil or commercial matters, and thus it may not apply to interstate judgments, although ECtHR judgments on individual complaints plausibly constitute civil matters. It is, therefore, possible that a French court would decline the recognition of ECtHR judgments via the *exequatur* procedure.

In such a case, one might propose that ECtHR judgments would be directly enforceable—without recognition—but the majority of French scholars argue they are not. The implementation of ECtHR orders is a political process depending on state parties' willingness to enforce them. French scholars argue that the binding nature of an ECtHR judgment according to ECHR Article 46(1) in itself is not sufficient to establish its enforceability. French courts could decide differently, but this seems unlikely.

The principle of state immunity would pose additional hurdles. There is no previous case law on the immunity of a state in relation to the recognition and enforcement of ECtHR judgments. However, the Court of Cassation refused to recognize a judgment issued by a US court due to Iran's immunity from jurisdiction in June 2023. Arguably the same could apply when considering ECtHR judgments.

State immunity in relation to enforcement would pose another obstacle. French law bans confiscation of the assets of a foreign state in principle and requires authorization by the enforcement judge on the basis of a request by the creditor. Authorization can only be granted when the foreign state has waived immunity, when the foreign state has reserved

or assigned the property in accordance with the request, or when the asset in question is used or intended for commercial purposes. It is unlikely that any of these exceptions would apply to Russian Central Bank assets in this context.

French law also specifically bans confiscation of foreign central bank assets in principle. The applicable law allows for an exception when assets are allocated to an activity governed by private law but only when the assets are held for the central bank's own account, not when they are held on behalf of the foreign state. Even though there has been no French case law on how this rule would apply to the enforcement of ECtHR judgments, it would be challenging to argue that this narrow exception is applicable.

UNITED KINGDOM

The law of England and Wales (in this report referred to as UK) calls for the recognition of a foreign judgment before a UK court can enforce it. This generally involves a formal procedure consisting of an application made to the relevant court for a summary judgment without a trial. Once recognized, foreign judgments can be enforced in the same way as English judgments.

Common law rules govern recognition in the absence of statutes or international conventions ratified by the UK that contain provisions for recognition. Under common law rules, the requirements for recognition consider (1) the nature of the judgment, (2) the competence of the foreign court, and (3) specific grounds to refuse recognition. According to these rules, the foreign judgment must have dealt with the substance of the case (i.e., the merits), be final (i.e., no further appeal is possible), and address civil matters (i.e., it cannot be a criminal or administrative case). Grounds for rejecting recognition include, among others, fraud, incompatibility with public policy, and inconsistency with prior judgments on the same matter and between the same parties.

It is unclear whether common law rules applicable to foreign judgments are equally applicable to judgments of the ECtHR, as case law *does not* exist. If these common law rules do not apply to international judgments, it could be argued that a claimant would need only to (1) establish a legal basis for enforcement and (2) overcome Russia's state immunity. The principle of international comity—that English courts respect foreign and international judgments—supports recognition. There is no principled reason why courts should not recognize ECtHR judgments on this same basis. However, as this argument is untested, it is possible that English courts will not accept it and thus block recognition (and consequently enforcement). Procedurally, a claimant will likely need to institute fresh proceedings against the judgment debtor (i.e., Russia) and apply for a summary judgment of the claim on the basis of the international judgment. If this succeeds the claimant would be able to enforce the claim.

If the common law rules applicable to foreign judgments *do* apply to ECtHR judgments, they appear to support recognition. ECtHR judgments provide monetary remedy, only make such awards after a decision on merits, and their finality can be easily determined. In addition, in its judgments the ECtHR makes pronouncement on its jurisdiction.

Russia's jurisdictional immunity could prevent recognition of the judgment by the UK. However, the UK State Immunity Act (UKSIA) allows for the exercise of jurisdiction for the purposes of recognition if the debtor state has consented to adjudication by the court. Arguably, Russia's consent to the ECtHR's jurisdiction in signing on to the ECHR might qualify as waiving its jurisdictional immunity.

With regard to immunity from enforcement, resorting to customary international law might have greater potential to support confiscation of Russian funds by the UK. No state has prevented the enforcement of a judgment of either the ICJ or the Permanent Court of International Justice against its property through invocation of state immunity. For example, Albania was not able to invoke immunity to avoid compliance with the ICJ's order that it compensate the UK in *Corfu Channel* (though other factors prevented enforcement). The UK's attempt to enforce the judgment against Albania provides state practice in support of the notion that states may take enforcement measures against a debtor state to satisfy a disregarded judgment of an international court. This suggests that a state's immunity from enforcement does not apply to international judgments.

The Foreign Act of State doctrine presents a barrier irrespective of whether or not common law recognition rules are applied, however. This doctrine bars English courts from adjudicating matters that involve a challenge to the lawfulness of the act of a foreign state. The UK courts have not pronounced on this question. Claimants could argue a public policy exception to this doctrine that is informed by relevant norms of international law that are binding on the UK, for instance, the prohibition of aggression. This would suggest the doctrine ought not prevent the enforcement of a judgment of the ECtHR that condemns Russia for its aggression towards Ukraine.

6. TERMINOLOGY

- "Freezing" assets is one way of "temporarily prohibiting the transfer, conversion, disposition or movement of assets" or "temporarily assuming custody or control of assets."[39] Whereas "seizing" refers to such measures in relation to physical assets, "freezing" is used in relation to fungible assets.[40] Such measures do not affect the ownership of the assets.[41]
- "Confiscation" or "attachment" in contrast to freezing is permanent and does affect ownership. Both refer to "the permanent deprivation of assets by order of a court or other competent authority."[42] Confiscation is usually used in relation to the transfer of ownership as a result of a criminal offense, whereas attachment is used for civil claims, where the ownership is transferred for the purpose of satisfying a debt. Both terms appear in the annexes to this report, but this report uses the term confiscation for simplicity.
- "Enforcement" refers to coercive measures imposed on assets of a debtor in order to satisfy a debt owed to the creditor.
- "Recognition" is the process of declaring a foreign judgment issued as a valid basis, that is an enforceable title, for enforcement measures in another state.
- "Execution" or "implementation" in this report refers to a process to ensure that the orders contained in a judgment are put into effect. This may occur voluntarily; if coercive measures are used this represents enforcement.

7. RECOMMENDATIONS

In light of the uncertainties under existing laws, legislative changes could potentially pave the way for enforcement. Any member state of the CoE might adopt a simplified recognition procedure for ECtHR judgments similar to Belgium's law on the recognition of EU Court of Justice decisions. This would allow national authorities to recognize an ECtHR judgment as an enforceable title in their jurisdiction following an assessment of basic requirements, such as the authenticity of the judgment. Under such provisions, recognition would not reexamine the merits of the ECtHR ruling, and it could be undertaken by an administrative body, such as the Minister of Foreign Affairs, rather than a court. Following recognition, the ECtHR judgment could be enforced in the same manner as a national judgment, including by coercive enforcement measures such as confiscation of held assets. This avoidance of a judicial procedure could potentially avoid the question of state immunity against adjudication. The safeguards for debtors in an enforcement procedure that apply to national judgments would continue to apply. Therefore, the debtor could still invoke state immunity against enforcement at that stage.

In addition, the new treaty, currently under discussion, establishing an International Claims Commission could include a clause stipulating that state parties would recognize ECtHR judgments as a wholly enforceable title in their respective jurisdictions without the need for any special or additional recognition procedure in their countries, if the commission deemed the claim eligible. This could achieve a change relevant to all members of the Council of Europe and thus provide significant relief to victims of Russia's aggression in Ukraine.

ENDNOTES

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