

EIN and LRCM Online Training

The do's and the don'ts of Rule 9.2. submissions

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The most common mistakes seen in Rule 9 submissions:

1. Argument is out of the scope of the judgment and/or CM review
2. Lack of evidence
3. Lack of structure
4. Too long
5. Bad timing
6. Aggressive / confrontational
7. Lack of clear recommendations

1. Argument is out of scope of the judgment

- Very common
- Weakens strength of the submission and legitimate arguments
- Example: in case about asylum procedure, call for change to immigration policy as a whole.

2. Lack of evidence

- Simple assertions of facts / lack of progress are not sufficient
- Evidence can include:
 - Reports from your organisation, other NGOs, international institutions
 - Government data / reports / freedom of information
 - Judgments
- Use footnotes and/or annexes

3. Lack of structure

- The Department for the Execution of Judgments and delegates to the Committee of Ministers lack a lot of time.
- Arguments that are made in way which is confusing or unclear are unlikely to have an impact.
- Use the recommended structure, with clearly identified sections and sub-sections for different topics.

4. Too long

- Time issue again
- Ideally 5 pages, 10 pages maximum
- Long submissions will not be read and digested
- Including too much information will mean less information is communicated
- Use Annexes

5. Bad timing

- Key deadlines
 - Enhanced cases: six weeks before the relevant CM/DH meeting
 - Standard cases subject to an Action Report: within 2 months of the Action Report (let us know)
- In all cases, earlier is better
- Ask EIN

6. Aggressive / confrontational

- Issues that arise:
 - Emotional language
 - Sarcastic tone
 - Unevidenced allegations of government bad faith
 - Overuse of **bold**, or underlining, CAPITAL LETTERS or explanation marks!!!!
- May be justified, but they will weaken the submission

7. Lack of clear recommendations

- List clear procedural and substantive recommendations, on individual and/or general measures, at the end.
- The CoE readers need to know what they should do and why – don't leave them guessing.

RECOMMENDATIONS

We call the Committee of Ministers to recommend the Moldovan authorities to take all measures to ensure that:

- a. Moldovan judges and other public employees respect in practice Articles 5 and 8 of the Convention when deciding on the desirability of the foreigners in Moldova. The judges, prosecutors and other civil servants shall be trained how to respect the right of foreigners when dealing with the decisions concerning their removal from Moldova;
- b. The Moldovan legislation should be quickly amended in the spirit of the Constitutional Court judgment of 13 November 2020;
- c. adequate and effective sanctions to prevent similar incidents are promptly applied, in a public trial and with involvement of the relatives of the applicants that request it, to the key persons involved in the transfer of the 7 teachers to Turkey.

In light of the deficiencies highlighted above, we call the Committee of Ministers to keep the supervision of the execution of the *Ozdil and others* case under the enhanced procedure.

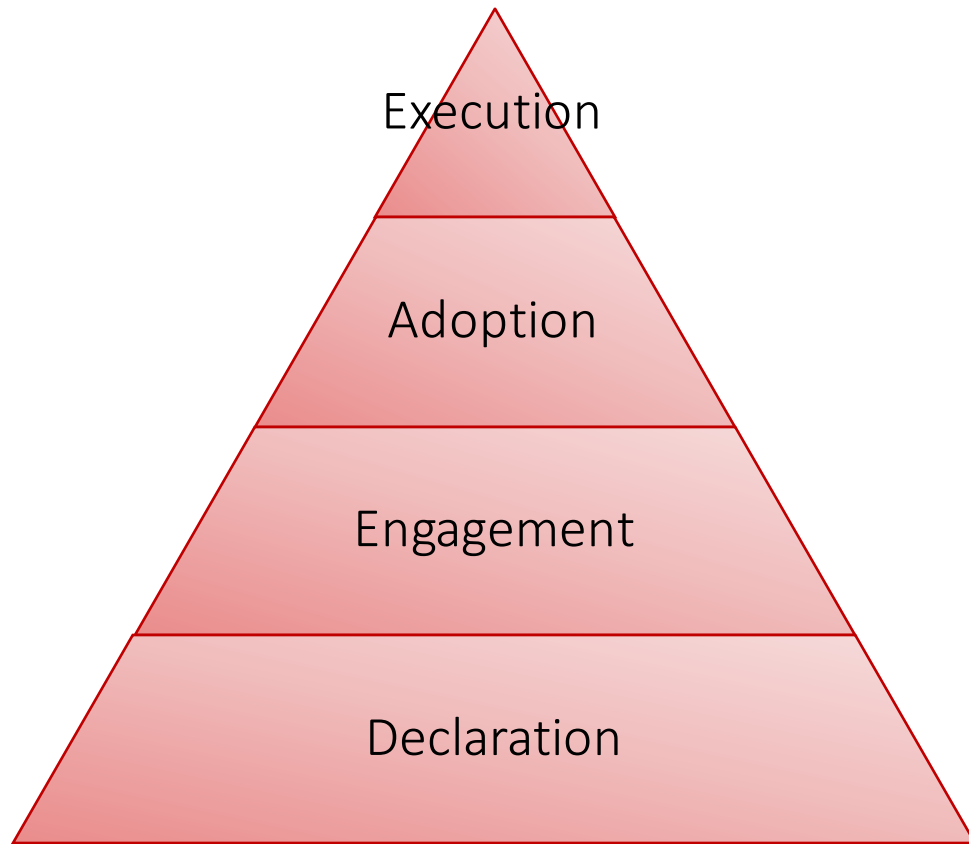
Understand the Council of Europe's Capacities

- Department for Execution of Judgments (DEJ) has relatively small staff
 - Limited capacity for country visits
 - Committee of Ministers delegates have very little time
 - Needs to maintain relationship from member state
- **Difficulty verifying/challenging member states' claims**

Assessing your impact

- Check “Status of execution” page and – for enhanced procedure cases – CM Decision + Notes to see how far recommendations/concerns are reflected.
- Watch out for state’s response to your Rule 9.
- More guidance on how to assess the impact achieved through NGO engagement here: <https://bit.ly/3cdMF1l>

How to measure the impact of NGO involvement?



Govt Action Plan takes up the NGO proposals.

Govt involves the NGO in interdepartmental working group.

DEJ and CM agree with NGO proposals and request them from the national authorities

Useful resources on Rule 9 communications

- DEJ's website on [Communications by NHRIs/NGOs](#)
- [EIN Handbook about implementation of ECtHR judgments](#) (available in 8 languages)
- [EIN Guide on how to write Rule 9s](#)
- [EIN Guidance on How to advocate for the implementation of "standard cases"](#)

Thank you for your attention.

Don't hesitate to get in touch:

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