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Примітка. Відшкодування запитувачами інформації фактичних витрат на копіювання або друк документів здійснюється у разі потреби у випадковості більш як 10 сторінок запитуваних документів, починаючи з 11 сторінки.



Ministres' Députés

Information documents

CM/Inf/DH(2008)7-final 15 January 2009¹

Monitoring of the payment of sums awarded by way of just satisfaction: an overview of the Committee of Ministers' present practice

Memorandum prepared by the Department for the Execution of Judgments of the European Court of Human Rights (DG-HL)

Note: this Secretariat memorandum presents the current practice of the Committee of Ministers in supervising payment of sums awarded by way of just satisfaction. It does not bind either the Committee of Ministers, or the member States. Because of its evolving nature (see the preliminary comments below), this document will be updated as the Committee's practice evolves.

PRELIMINARY COMMENTS

In many cases, the relevant information for the payment of just satisfaction already appears in the Court's judgment.

This information, however, is not always sufficient to resolve a number of - recurrent or one-off - questions as to arrangements for the payment of just satisfaction. This led to the wish that the Secretariat draw up a document recalling the practice followed in the framework of the monitoring of the payment of just satisfaction.

This document is therefore intended to present the practice followed to date on certain points by states and the Ministers' Deputies - in the light of the solutions adopted by the Court - and to highlight the points deserving further clarification.

¹ The document was classified restricted at the date of issue. It was declassified in two parts: the first at the 1020th DfJ meeting of the Ministers' Deputies (4-8 March 2008) and the second at the 1043rd CH meeting (2-4 December 2009). Internet: <http://www.coe.int/t/cm>

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INTRODUCTION

General principles

1. Unconditional obligation to pay in pursuance of the terms of the Convention and of judgments

1. In pursuance of Article 41 of the European Convention on Human Rights ('the Convention'): *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*².
2. Article 46 of the Convention reads as follows:
 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.*
3. It is clear from reading these two articles in conjunction with each other that the payment of the sums awarded by the Court by way of just satisfaction and the payment of default interest are among the obligations incumbent on respondent states in the framework of the execution of final judgments, and that the Committee of Ministers is therefore responsible for monitoring the payments concerned.
4. The Committee of Ministers has regularly pointed out that the obligation to abide by the judgments of the Court is unconditional: a state cannot rely on the specificities of its domestic legal system to justify failure to comply with the obligations by which it is bound under the Convention.
5. Thus, insofar as the amount of the compensation to be awarded, the currency, the beneficiary, the time limit for and place of payment, and the rate of default interest have been clearly set, these elements of the payment cannot be unilaterally altered and are binding on the state, without exception. In specific situations, however, practice has allowed an arrangement for payment other than that for which the judgment provides (such as a different place of payment or currency – see below for more details)³ to be, with the agreement of the parties, accepted as satisfactory.
6. Where default interest, in particular, is concerned, it should be noted that this interest serves only to maintain the value of the just satisfaction, and is not a penalty⁴.
7. That said, governments sometimes encounter situations where it proves difficult to place the just satisfaction at the applicant's disposal for reasons not connected with the government – the applicant has disappeared or the necessary information for payment is lacking (address, bank account, etc), or even situations in which the payment of interest seems disproportionate on account of the small sums concerned. In practice, these problems can be solved easily. First, as explained below, for instance, various ways of placing the just satisfaction at the applicant's disposal are accepted, enabling rapid payment to be made in most situations. Furthermore, experience shows that most applicants tend to desist from their right to default interests in cases of negligible delays in payment.

2. Placement at the beneficiary's disposal equates to payment

8. To be in a position to verifying that the payment meets the requirements of the Court's judgment, it is necessary to establish precisely the date on which it is made.

² The same provision was included, prior to the entry into force of Protocol No. 11 to the Convention, in Article 50 of the Convention.

³ In the case of *Reffoy v. France* (Grand Chamber), where the Committee of Ministers was informed of an agreement on other modalities of payment than those mentioned in the judgment, in particular as regards currency, it checked that the applicants had expressly accepted the new modalities of payment and that the agreed rules were in conformity with the standards of the Convention (see in particular the summary of the Chair of the 565th meeting (March 1997)).

⁴ The strict nature of the obligation to pay default interest is very clear in certain judgments, such as that in the case of *Buffalo Srl v. Spadon v. Italy* (Article 41 Judgment), of 22/07/2004, operative words.

9. Even if the obtaining of a receipt for the sums concerned from the applicant is often the best evidence of payment, it has been considered neither possible (on account of the number of cases) nor fair (certain applicants having disappeared or collecting the just satisfaction only a long time after it was placed at their disposal) to require such evidence in order to enable the state to discharge its obligation to pay.

10. It is the Committee's practice to take "payment" to mean the "placement (of the sums due) at the disposal" of the beneficiary of the just satisfaction, by any method whatsoever, provided that it is reasonably efficient. The method of placement at the beneficiary's disposal may vary, such as payment via bank transfer, cheque or warrant, the deposit of the money in a bank account in the applicant's name, the placement of the money in the bank for official deposits, the national bank, a given authority, etc. What counts is that the money should be at the applicant's disposal and that he or she should, to the maximum extent possible, be informed thereof. Given the diversity of the means used to place the money at the applicant's disposal, the evidence or certificates of payment provided by the states – of course always in writing – are also various (see 3.1.2. c).

11. Provided that the sums are placed at the applicant's disposal within the time limit, the obligation to pay default interest does not exist, even if the beneficiary withdraws them only after the expiry of the time limit for payment. However, if the sums are placed at the beneficiary's disposal after the expiry of the time limit, interest is to be paid for the period from the expiry of the time limit to the date on which they are placed at his or her disposal.

1. THE BENEFICIARY OF JUST SATISFACTION

1.1 The principle: payment to the person designated as the beneficiary by the Court

1.1.1 *In general*

12. In the great majority of cases, it is the applicant, the victim of the violation, who is identified by the Court in the operative part as the beneficiary. Therefore, it is in principle to him or her that payment must be made⁵.

13. If the applicant is represented by a lawyer, payment is usually made to the lawyer on the basis of a power of attorney given by the applicant to this end (see point 1.2 below). Some states consider payment to the lawyer as a normal method of payment⁶. Sometimes, the Court itself expressly orders the payment to the applicant via his or her lawyer before the Court.

14. Moreover, if the Court is aware of major developments relating to the legal capacity of the applicant or of conflicts of interest between the applicant and the person ordinarily authorised under national law to receive just satisfaction, judgments usually contain indications about the appropriate beneficiary, if necessary other than the applicant. The indication of another beneficiary than the applicant can also come from a request by the applicant for other reasons, for instance, to secure the payment of his or her lawyers.

⁵ It may be noted that, if the Court itself has ordered an expert report, the experts are ordinarily direct beneficiaries pursuant to the judgment: see for example the case of *Cartanara and Ventura v. Italy* (just satisfaction judgment of 11/12/2003, application No. 24038/04), or the case of *Pacemichailopoulos v. Greece* (judgments of 24/02/2003 and 01/10/2005, application No. 14650/03).

⁶ Indication given by the United Kingdom Delegation.

15. On several occasions, for example, the Court has awarded just satisfaction in respect of costs and expenses directly to the applicant's representative⁷. In order to avoid conflicts of interests, it has also happened that the Court has ordered the payment of sums directly to minor children, thus excluding the ordinary right of the parents or guardians to receive the sums concerned⁸. In order to safeguard as far as is possible the interests of a deceased person or of someone who has disappeared, the Court may also award a sum to a third person, who is made responsible for holding it for the benefit of the heirs⁹. Where the monitoring of the efficiency of such payments to persons specially appointed is concerned, the Committee ordinarily relies on the guarantees offered by the government itself and/or by national law, unless more detailed instructions are given in the Court's judgment.

1.1.2 Problems in identifying the beneficiary

16. Some cases raise special problems of execution when the respondent state is not in a position to know precisely whether the person appearing before the authorities is really the applicant accepted by the Court. This is a factual problem that the state will have to solve on the basis of different elements at its disposal¹⁰, if necessary in co-operation with the Court (to check the data in the file). Before the Committee of Ministers, such problems do not in principle lift the obligation to pay default interest.

1.2 Power of attorney

1.2.1 Questions relating to the need for power of attorney and its form

17. Other than in certain specific cases (see below, section 1.4) just satisfaction may not, in principle, be paid to a person other than the one expressly designated by the Court, unless this person holds power of attorney for this.

18. A question frequently asked is that of whether the power to act conferred for the proceedings before the Court is also sufficient to receive the payment of just satisfaction. This power (standard form proposed by the Registry of the Court) authorises the applicant's representative "to represent [him or her] in the proceedings before the European Court of Human Rights, and in any subsequent proceedings under the European Convention on Human Rights, concerning [his or her] application introduced under Article 34 of the Convention...".

19. While some states accept that this power is sufficient to receive payment of the just satisfaction¹¹, others require - special - new authority, in accordance with the requirements of national law (e.g. a document signed before a notary) for any payment.

20. With respect to the question of which law applies to the power of attorney of a beneficiary resident abroad, the normal solution is to apply the law of the respondent state. However, certain specific situations can request ad hoc solutions.

1.2.2 Whether or not power of attorney relating to the payment of just satisfaction is binding on the respondent state

21. Another question is that of whether the respondent state is bound by power of attorney concerning the payment of just satisfaction, or whether that authority is a mere authorisation.

⁷ In order to protect lawyers' costs from the applicant's creditors, or for other convincing reasons. See, for instance, the cases of *Dığın v. Turkey* (judgment of 16/11/2000, application No. 23915/94), *Özk v. Turkey* (judgment of 17/02/2004, application No. 26760/04), *Akşakar v. Turkey* (judgment of 15/02/2007, operative part); see also *Scorzev and Sivits v. Italy* (judgment of 13/07/2003).

⁸ See for example the *Scorzev and Sivits* judgment of 13/07/2003.

⁹ See for example the *Özk* case (cf. above), in which the Court awarded, in respect of annuity damage, a certain sum for each of the applicant's sons (who had disappeared), making the applicant responsible for holding the sums concerned for his sons' heirs. See also *Çelikkale v. Turkey* (judgment of 21/05/2005).

¹⁰ For public hearing with the applicant, he or she is known by the authorities and the problem at stake here only concerns the sole written proceedings.

¹¹ The United-Kingdom delegation indicated that according to its authorities, the power given to lawyers for the proceedings before the Court implies that the payment may be made to them.

22. As indicated in the section above, the Court itself expressly decides in certain cases that the just satisfaction intended for the applicant must be paid to him or her through his or her representative before the Court, i.e. the person who has been given power to act by the applicant. In these situations, the decision of the Court must of course be complied with, on condition that at the stage of execution, parties may agree on other modalities of payment than those mentioned in the judgment.¹²

23. It is nevertheless rare for such details to be given in judgments. It is usually accepted that states have a choice in this respect: either to pay the agreed sums directly to the applicant, or to pay them to his or her representative. Thus, in certain cases, although the applicants' lawyers held special authority, the respondent states nevertheless paid the just satisfaction directly to the applicant¹³. These payments were accepted by the Committee.

1.3. The problem of joint payment to several persons

24. In certain judgments, the Court designates several applicants as beneficiaries of the just satisfaction and awards them jointly certain sums, without going into more detail¹⁴. The practice shows that the execution of such decisions poses problems¹⁵.

25. The Committee therefore encourages agreement to the greatest possible extent between the applicants on the distribution of the sums concerned¹⁶. Failing agreement, the recommended solution is a decision by the government in agreement with the Secretariat on a division of the sums (for instance based on the interests at stake for each applicant, including, if this does not seem to be unfair in the case, a balanced share between the applicants¹⁷), provided that the Committee of Ministers gives consent to it. One alternative may be payment to one of the applicants, with an obligation to share the sums with the others on the basis of arrangements to be defined¹⁸.

1.4 Payment to a person other than the beneficiary designated by the Court

26. Notwithstanding the binding nature of judgments, payment may nevertheless, in a number of situations, be made to a person other than the one designated by the Court with the effect of discharge from the obligation. Among the commonest of these are:

¹² The delegation of Turkey wished to point out the following:

In the situation examined here, even though the Court orders (in its article on applicant's request) that the sums granted to the applicant should be paid to his/her representative lawyer, at the stage of execution he/she remains free to agree with the respondent state, subject to supervision by the Committee of Ministers, that the payment be made otherwise, for example through another lawyer. See, for example, the case of *Çavuşoğlu v. Turkey* (judgment of 31/05/2005), where the applicant requested, during the proceedings before the Court, that the sums which might possibly be granted to him for costs and expenses be paid on the account of his lawyer in the United Kingdom, which the Court took into account. However, at the stage of execution, he requested the amount to be paid to his new lawyer in Turkey; this was finally accepted. The British lawyer did not oppose.

¹³ For example, in the cases of *Özdemir v. Bulgaria* (judgment of 09/11/2005, application No. 38622/97) and *Milakov v. Bulgaria* (judgment of 30/01/2005, application No. 39984/97).

¹⁴ See for example the cases of *Jorge Nave Jorge and others v. Portugal* (judgment of 16/02/2004, application No. 52632/00), of *Abelnaud v. France* (judgment of 09/07/2002, application No. 33424/96), and of *Yagtzlar and others v. Greece* (just satisfaction judgment of 15/01/2004, application No. 41727/98).

¹⁵ However, the United Kingdom delegation indicated that, according to its authorities, no problem arises if the just satisfaction is paid to the applicant's lawyer. This delegation adds that if there are problems in sharing the sums awarded jointly to several applicants, the Committee of Ministers could invite the Court to indicate in its judgment the sum to be paid to each applicant, rather than awarding sums jointly.

¹⁶ In the *Yagtzlar* case (mentioned in the footnote No. 14), the applicants reached an agreement on division based on their respective interests. His case also raised the question of the effect, especially on default interest, of a prohibition of payment for a certain period, issued by a local court in order to protect any sums due to a lawyer of the applicants.

¹⁷ Addition suggested by the Turkish delegation.

¹⁸ See for example, the cases of *Moussard v. France* (judgment of 09/07/2002, application No. 33424/96), *Layon v. France* (judgment – friendly settlement – of 29/07/2003, application No. 43545/99) or *Layon v. France* (judgment – friendly settlement – of 26/04/2004, application No. 47631/99).

1.4.1 The beneficiary designated by the Court is a minor

27. The usual practice in this situation is that payment is made to the person or persons bearing 'parental responsibility'¹⁹ for the minor (the parents²⁰ or guardian²¹).

28. In the event of conflicts of interest with the person holding parental responsibility the payment should be made to a neutral person, ad hoc guardian or other party. The Committee has in most cases to date, however, relied on the government's assessment of the situation and the solutions offered by national law. Where the Court has ordered payment to a minor in person, payment to the minor's lawyer has been accepted, if the lawyer has agreed to manage the sum to the benefit of the minor, under appropriate supervision. Thus in one case, the government had informed the Committee of Ministers that the payment to the lawyer had been approved by the guardianship judge, who had enjoined the lawyer to safeguard the sums until the child reached majority, or to find another, equivalent investment²².

1.4.2 The beneficiary designated by the Court is a person without legal capacity, or with a restricted legal capacity

29. If the beneficiary designated by the Court is a person subject to supervision (a person suffering from mental illness or needing to be represented or assisted in order to carry out the acts of civil life), the practice followed is to pay the just satisfaction to the beneficiary's supervisor or guardian²³, to other similar institutions which exist to protect the person and/or property of the beneficiary to a person holding power of attorney established in accordance with the country's specific regulations for this purpose²⁴, or to the lawyer²⁵ (who will subsequently have to ensure that payment is made to the applicant in accordance with the requirements of national law). In the event that there are several persons authorised to receive the sums, the Committee has accepted the government's choice²⁶.

1.4.3 The individual who is the beneficiary is deceased

30. In the event of the death of the individual who is the beneficiary²⁷, the practice established by the Court and Committee of Ministers may be summarised as follows:

- *Death occurs before adoption of the judgment:* the Court takes note thereof and itself says that payment must be made to the person or persons closely linked to the beneficiary and having indicated to the Court a wish to continue the proceedings on behalf of the deceased;
- *Death occurs after adoption of the judgment:* it is constant practice for the beneficiary mentioned in the judgment to remain the beneficiary, so the respondent state will pay the just satisfaction to his or her heirs as heirs, with all the fiscal and other consequences that this may entail²⁸. If identification of the heirs takes time, the normal solution is to pay the just satisfaction into the assets of the deceased's estate.

¹⁹ This concept is used in the UN Convention on the Rights of the Child (20/11/88, United Nations) and in the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children (19/10/1986). Within the meaning of this latter Convention, the term 'parental responsibility' has very broad scope and encompasses parental authority or any analogous relationship of authority determining the rights, powers and responsibilities of parents, guardians or other legal representatives in relation to the person or the property of the child.

²⁰ See for example the case of *Enksson v. Sweden* (judgment of 22/06/1994, application No. 11373/95, Final Resolution ResDH(96)14).

²¹ See for example the case of *Scuzzari and Giarda v. Italy* (judgment of 13/07/2000, applications Nos. 36221/98 and 41963/98).

²² See for example the case of *Scuzzari and Giarda v. Italy* (see footnote No. 22); a similar solution also seems to have been adopted in the case of *A v. United Kingdom* (judgment of 23/08/1998, application No. 28599/94).

²³ See for example Final Resolution ResDH(96)14 on the case of *Horzegařev v. Austria* (judgment of judgment of 24/09/1992, application No. 10535/83).

²⁴ See for example the case of *Magnãees Pereira v. Portugal*, judgment of 25/02/2002, application No. 44872/98).

²⁵ See for example the case of *Hutchison Reid v. United Kingdom*, judgment of 26/02/2003, application No. 50277/99).

²⁶ See for example the case of *Horzegařev v. Austria* (see footnote No. 24).

²⁷ On this subject, see inter alia document CMInt(2004)rev. (drawn up before the entry into force of Protocol No. 11) 'The beneficiary of just satisfaction in Article 32 cases where the death of the original applicant occurs during the proceedings before the organs of the European Convention on Human Rights'.

²⁸ Document CMInt(2004)14 rev.

- *Death occurs before adoption of the judgment, but is notified to the Court only after the judgment concerned.* It is for the Court, if one of the parties refers the matter to it within the time limit²⁵, to indicate, if need be, a new beneficiary, by revising the judgment in respect of the just satisfaction³⁰. On the impact of the revision request on the deadline for payment, see items 3.1.1 and 3.2.1 b)³¹.
- *Death occurs before adoption of the judgment, but this fact is notified to the Court only after expiry of the time limit for a party to request revision of the judgment (cf. supra), or indeed is not notified to the Court at all, but only to the Committee of Ministers in the framework of its monitoring of execution of the judgment:* this rare situation raises some awkward questions. One simple solution may consist in placing the sum of the just satisfaction at the disposal of the estate, to be shared between the heirs once they have been identified, the problem of inheritance rights being left to the discretion of the state. Another solution could be to suspend the payment and check that no heir has come forward within a reasonable time following notification of the judgment. In such a case, the Committee might conclude that there has been renunciation, and close the case.

1.4.4 The beneficiary designated by the Court is a legal entity being run by a court-appointed administrator/liquidator/being wound up.

31. If the designated beneficiary is a legal entity subject to one of the measures cited in the title, a number of difficult questions arise.

32. If this situation of the beneficiary is known at the time of the proceedings before the Court, the question of the appropriate recipient of any just satisfaction will often have been dealt with in the Court, and special provisions included in the judgment. For instance, the Court already indicated that payment would have to be made to the applicant company's representative, notwithstanding the fact that this company had been placed under the control of a court-appointed administrator (in this case, the complaint related precisely to this compulsory administration)³². In another case, where there had been no conflict between the liquidator and the applicant company, payment to the liquidator had been ordered³³.

33. If the judgment contains no indications, it is for the state, under the supervision of the Committee, to find the appropriate solutions. The Committee's practice as far as possible follows that of the Court. Thus, if there is a doubt as to whether the court-appointed administrator/liquidator really represents the applicant's interests, it has been accepted that the payment should be made to the applicant's lawyer³⁴.

34. Another frequently connected question is that of whether the state may, in this kind of situation, use its ordinary right as a creditor to effect compensation for any debts the applicant has to the state, thereby obtaining priority over all other creditors, including the applicant's lawyer. This question and others related to the possibility of attaching the just satisfaction are dealt with separately in part 5³⁵.

1.4.5 The beneficiary designated by the Court is a legal entity which no longer exists in its initial form

35. If the beneficiary designated by the Court is a legal entity which no longer exists in its initial form (e.g. a company which has merged with another or has been liquidated), and if this situation is known at the time of the Court proceedings, the question of the appropriate recipient of any just satisfaction will often have been dealt with in the Court, and special provisions included in the judgment.

²⁵ Rule 81 of the Rules of Court: "... within a period of six months after [the party] acquired knowledge of the fact ...".

²⁶ See for example the case of *Amasea and Fozza v. Italy* (judgments of 25/10/2001 and 09/01/2002 (revision), application No. 44513/98).

²⁷ Addition suggested by the Turkish delegation.

²⁸ See e.g. the case of *Credit and Industrial Bank v. Czech Republic* (judgment of 21/10/2003, application No. 29010/95).

²⁹ In the case of *Buhalil Sait v. Greece* (just satisfaction judgments of 02/01/2003 and 22/07/2004, application No. 38749/87), a company headed by a single person having the capacities of administrator and liquidator, the Court said that payment to the applicant would have to take the form of a deposit for the benefit of the administrator/liquidator with the respondent State's central bank.

³⁰ See for example the case of *Västberg v. Sweden* (judgment of 23/07/2002, application No. 36982/97). It should be noted that in the case of *Presidential Party of Moldova v. Russian Federation* (judgment of 05/10/2004, application No. 65956/01), the Russian authorities raised the question of to whom they were to pay the just satisfaction. In view of the fact that the applicant had no legal personality, the Court itself solved the problem by amending the judgment, stating that the sums were to be paid to the lawyer.

³¹ See [CMH/DH\(2008\)7-xx](#) (restricted).

36. In the absence of such indications, it results from the general principles and from the practice of the Committee that the payment will have to be made to the legal successor or successors of the applicant legal entity. For example, in a case in which the applicant company had merged with another company, it was accepted that payment should be made for the benefit of the new company constituted by the merger³⁶.

37. In the event of a dispute as to the successor, or its representative, a solution may be to pay the sums into an escrow account in the name of the applicant company pending resolution of the question of its succession or representation³⁷.

38. Company successions may also give rise to conflicts of interest. While the victims of the violation may be the former owners of the company, an enforced transfer may have led to a change of ownership. In such situations, it is not certain that payment to the company in its new form will genuinely compensate the true victims.

1.4.6 The beneficiary designated by the Court is detained

39. It is possible that a person in detention has lost his / her civic rights or has a restricted capacity to receive/manage money. Thus the payment of just satisfaction directly to the person in prison may pose problems. However, these restrictions do not automatically prevent the imprisoned person from nominating proxy³⁸. If guarantees are given concerning the existence of such a possibility to nominate a proxy, but no information is sent to the government on the designation of an administrator, it is accepted that the sum is put in an escrow account in the name of the applicant, with the possible administrator being able to withdraw it³⁹.

40. These special problems may arise when the applicant is detained abroad, even in a country which is not a member of the Council of Europe⁴⁰. This issue, which is rather new, still needs considering.

1.4.7 The beneficiary designated by the Court has disappeared (i.e. cannot be found or contacted)

41. With respect to the cases in which the beneficiary has disappeared, the Committee of Ministers recognizes several ways of paying just satisfaction: it is up to the states to discharge their liability to pay by making use of one of the means or another, in view of its national law, for example placing the sums due in a special account opened in the applicant's name at the general bank for official deposits⁴¹, placing the sums at the applicant's disposal with an authority (such as the Government Agent) authorised to make the payment if the applicant comes forward⁴², and placing the money in an escrow bank account in the name of the applicant.

³⁶ Also see the case of *Sovtransaero Holding v. Ukraine* (just satisfaction judgments of 25/07/2002 and 02/10/2003, application No. 46553/99).

³⁷ See the case of *Qutay Co. Sh.ck v. Athens*, judgment of 16/11/2004 (application No. 64238/00).

³⁸ See, for example, the case of *Durjo v. Italy* (judgment of 16/11/2000, application No. 45520/99), for which the payment had been made to the applicant's brother, the applicant having been sentenced to a lengthy imprisonment.

³⁹ See, for example, the case of *Demirel v. Turkey* (judgment of 28/01/2003, application No. 38324/98). Payment was made within the time limit to an escrow account in the applicant's name, with assurances being given in the letter by the authorities that she could legally nominate her representative in the proceedings before the Court, notwithstanding the loss of her civic rights and the appointment of a guardian. Given these guarantees, of which the applicant has been informed, it was taken for granted that the date of the payment was when the money had been placed on an escrow account. Also see the case of *Baner v. Turkey* (judgment of 24/06/2003, friendly settlement, application No. 29933/00). This case also threw up a special problem in that the money was not in the escrow account when the representatives of the applicants tried to withdraw it, roughly one year after expiry of the time limit for payment. As the Turkish authorities scarcely made the payment after being informed of the problem encountered by the applicant, the Committee considered the sum to have been placed at the beneficiary's disposal on the initial date.

⁴⁰ See for example the case of *Idemuratov v. Turkey* (judgment of 04/02/05): the applicant is serving a life sentence in Uzbekistan.

⁴¹ See for example the case of *K.M.T. J.B.B. and L.O.A. v. Spain* (application No. 17437/90, [ResD-4095/105](#)), for a case of a fugitive applicant.

⁴² This solution was based on the one accepted by the Committee in the case of *Möller v. Switzerland* (judgment of 05/11/2002, Final Resolution on [ResDH\(2004\)17](#) of 22/04/2004).