Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Recommendation 24 (1950)[1]
Final version

Draft Convention for the Protection of Human Rights and Fundamental Freedoms

Parliamentary Assembly

The Consultative Assembly of the Council of Europe having been acquainted by the Committee of Ministers with a draft Proposal for the Protection of Human Rights and Fundamental Freedoms, which has been drawn up with due regard to the draft submitted by the Consultative Assembly to the Committee of Ministers, expresses a favourable opinion of the proposed draft ; but strongly urges the Committee of Ministers to complete or modify the text as drawn up in accordance with the following proposals :

I. - Insert at the beginning of the Convention the following Preamble :

PREAMBLE

"Whereas the Members of the General Assembly of the United Nations have proclaimed the Universal Declaration of Human Rights approved by the General Assembly on 10th December 1948 ;

And whereas the Declaration was proclaimed to the end, among others, that every organ of society should by progressive measures, national and international, strive to secure the universal and effective recognition and observance of the Rights therein declared, both among the peoples of the Member States themselves and among the peoples of territories under their jurisdiction ;

And whereas the High Contracting Parties are the Governments of European Countries, like-minded and having a common heritage of political traditions, ideals, freedom and the rule of law, and accordingly are in a position to take a first step towards the collective enforcement of certain of the Rights stated in the Universal Declaration and to re-state them in a form suitable for that purpose ;

And whereas the aim of the Council of Europe is the achievement of greater unity between its Members, who are the High Contracting Parties, and one of the methods by which that aim is to be pursued is by agreement and common action in legal and administrative matters and in the maintenance and further realisation of Human Rights and Fundamental Freedoms ;

Now, therefore, the High Contracting Parties, re-affirming their profound belief in those Fundamental Freedoms which are the foundation of justice and peace in the world and are best maintained on the one hand by an effective political democracy and on the other by a common understanding and observance of Human Rights upon which they depend,

Declare and agree as follows :"

II. - Insert in the draft an Article numbered 10 A worded as follows :

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. Such possessions cannot be subjected to arbitrary confiscation. The present measures shall not however be considered as infringing, in any way, the right of a State to pass necessary legislation to ensure that the said possessions are utilised in accordance with the general interest."

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1. Adopted 25th August 1950, at the conclusion of the Debate on the Report from the Committee on Legal and Administrative Questions. See Docs. AS (2) 93 and 104, and Sitting of 25th August 1950.

III. - Insert in the draft an Article numbered 10 B worded as follows :

“Every person has the right to education. The function assumed by the State in respect of education and of teaching may not encroach upon the right of parents to ensure the religious and moral education and teaching of their children in conformity with their own religious and philosophical convictions.”

IV. - Insert in the draft an Article numbered 14 A worded as follows :

“The High Contracting Parties undertake to respect the political liberty of their nationals and, in particular, with regard to their home territories, to hold free elections at reasonable intervals by secret ballot under conditions which will ensure that the government and legislature shall represent the opinion of the people.”

V. - Article 25 of the draft to be worded as follows :

“(i) The Commission may receive petitions, addressed to the Secretary-General of the Council of Europe, from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights recognised in this Convention. The High Constracting Parties undertake not to hinder in any way the effective exercise of this right.”

“(ii) Nevertheless, the High Contracting Parties may at the time of accepting the Convention declare that they exclude the jurisdiction of the Commission of Enquiry as regards private petitions in which they are concerned, involving any article or articles referred to in such a declaration ; save that no State may exclude petitions based on articles 2, 3, 4 (paragraph 1), or 7, from the jurisdiction of the Commission of Enquiry. Such a declaration can only be made for a maximum of three years ; it may only be renewed by means of an express statement made before the expiry of three years from the deposition of the article of ratification in accordance with Article 66."

VI. - In the third line of Section (1) of Article 56 of the Draft Convention, replace the figure “nine” by the figure “eight”.

VII. - Delete Article 63.

VIII. - Add a paragraph 3 to Article 64 with the following wording :

“Any State may also, at the time of its signature of this Convention or the deposit of its instrument of ratification or accession, make a declaration, in accordance with the procedure laid down under Article 25 of this Convention, restricting for all or any of the territories to which the Convention is applied the competence of the Commission to take cognizance of the petitions of persons, non-governmental organisations, or group of individuals.”