Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Recommendation 231 (1960)[1]

Uniform interpretation of European treaties

Parliamentary Assembly

The Assembly,

Considering that the aim of the Council of Europe is to achieve a greater unity between its Members, one means of attaining which is the conclusion of international treaties ;

Considering that such international treaties cannot be fully effective unless their application rests on a uniform interpretation;

Being resolved to take steps to this end, at European level, without prejudice to the constitutional systems of the Contracting Parties ;

Considering that it is fitting that the European Court of Human Rights set up by the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4th November 1950, should be competent to render advisory opinions on the interpretation of European treaties ;

Recommends to the Committee of Ministers :

1. 1. that it should convene a Committee of Experts with instructions to draw up a multilateral agreement based on the attached draft, in order to confer on the European Court of Human Rights the competence to interpret any convention concluded under the auspices of the Council of Europe, or any other international treaty concluded between two or more Member States of the Council of Europe, insofar as the provisions of these conventions or treaties are applicable by national courts ;
2. that it should submit the draft Agreement prepared by the Committee of Experts to the Assembly for an opinion before signature by Member Governments.

Draft European Agreement on the competence of the European Court on Human Rights to render advisory opinions on the interpretation of European treaties

The Governments signatory hereto, being Members of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its Members, one means of attaining which is the conclusion of international treaties ;

Considering that such international treaties cannot be fully effective unless their application rests on a uniform interpretation ;

Being resolved to take steps to this end at European level without prejudice to the constitutional systems of the Contracting Parties ;

Considering that it is fitting that the European Court of Human Rights, set up by the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4th November 1950 (hereinafter referred to as the European Convention on Human Rights), should be competent to render advisory opinions on the interpretation of European treaties,

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1. Assembly Debate on 22nd January 1960 (30th Sitting) (see Doc. 1062, Report of the Legal Committee). Text adopted by the Assembly on 22nd January 1960 (30th Sitting).

Have agreed as follows:

ARTICLE 1

1. The High Contracting Parties shall recognise, in accordance with the provisions set out below, the competence of the European Court of Human Rights to interpret any convention concluded under the auspices of the Council of Europe (here inafter referred to as "European convention"), or any other international treaty concluded between two or more Member States of the Council of Europe, insofar as the provisions of those conventions or treaties are applicable by national courts.

2. The procedure for interpretation provided for in this Agreement shall not be applicable in respect of the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed on 4th November 1950, or to its Protocol, signed on 20th March 1952.

ARTICLE 2

1. Each Contracting Party may at any time notify the Secretary-General of the Council of Europe of the international treaties to which it is a Party and in respect of which it agrees to the procedure for interpretation set out in the present Agreement.

2. Such notification may be for a limited or unlimited period.

3. The Secretary-General of the Council of Europe shall forward to the Contracting Parties copies of notifications received.

ARTICLE 3

When a matter of interpretation concerning any of the treaties mentioned in the notification made by a Contracting Party pursuant to the foregoing Article is raised before the competent judicial authority of the said Contracting Party, that authority shall, if its decisions are not subject to judicial appeal in municipal law, ask the European Court for an advisory opinion before rendering a decision which departs from an interpretation given in the matter by a higher court of another Contracting Party which has mentioned the same treaty in the notification made under the foregoing Article.

ARTICLE 4

1. The European Court shall immediately notify any request for an advisory opinion to the Contracting Parties to the present Agreement, and to the other Parties to the international treaty in respect of which the opinion is requested.

2. Any State thus notified may submit comments in writing within a period of time to be fixed by the Court. The Court may also request a State to give oral explanations.

ARTICLE 5

1. The European Court shall express its views in the form of advisory opinions.

2. Alternative A

The Contracting Parties shall take the necessary steps to ensure that, under their municipal law, the authorities which have referred a question to the European Court will act on the Court's advisory opinion.

Alternative B

If the authority which has referred a question to the European Court decides that it cannot act on the Court's opinion, it shall give reasons for its decision.

ARTICLE 6

The European Court shall notify its advisory opinions to all the Contracting Parties to this Agreement and to the other Parties to the international treaty in respect of which an advisory opinion has been rendered.

ARTICLE 7

The European Court shall draw up its rules and determine its procedure for the exercise of the functions conferred on it by this Agreement.

ARTICLE 8

1. The Agreement shall be open for signature by Members of the Council of Europe which have signed the European Convention on Human Rights. It shall be ratified. Instruments of ratification shall be deposited with the Secretary-General of the Council of Europe

The Agreement shall enter into force on the day when it shall have been ratified by all the signatories who, at that date, have ratified the European Convention on Human Rights.

As regards any Contracting Parties to the European Convention on Human Rights, which ratify the Agreement subsequently, this Agreement shall enter into force on the date of the deposit of their instruments of ratification.

Done at.....