



Recommendation 791 (1976)¹

Protection of Human Rights in Europe

Parliamentary Assembly

The Assembly,

1. Recalling the very great importance it attaches to the effective protection of human rights at national level, at supranational level in the framework of further European unification, and at international level ;
2. Recalling that, in accordance with its Statute, the aim of the Council of Europe is to achieve a greater unity between its Members, inter alia by the maintenance and further realisation of human rights and fundamental freedoms ;
3. Recalling the European Convention for the Protection of Human Rights and Fundamental Freedoms, the European Social Charter, and other important legal instruments for the protection of human rights, concluded within the framework of the Council of Europe ;
4. Considering the need to make the convention more effective, and to extend the protection of its organs to human rights which, although covered by most of the constitutions of member states, are not yet included in it ;
5. Believing that it is essential for the uniform interpretation of the convention that :
all member states recognise the right of individual application and the compulsory jurisdiction of the European Court of Human Rights ;
the Court of Human Rights be given the right to give preliminary rulings at the request of national courts ;
6. Welcoming the position taken by the organs of the European Communities for the implementation of human rights at Community level ;
7. Noting with satisfaction the recent decisions rendered by the Court of Justice of the European Communities in the field of human rights ;
8. Conscious that complications could result from the simultaneous interpretation of the articles of the European Convention on Human Rights by both the Commission and Court of Human Rights on the one hand, and by the Court of Justice of the European Communities on the other ;
9. Welcoming the fact that the International Covenant on Civil and Political Rights, adopted in 1966 by the General Assembly of the United Nations, recently entered into force ;
10. Welcoming the work undertaken by the Committee of Ministers to smooth out any difficulties which may arise as a consequence of the coexistence of the international covenant and its optional protocol on the one hand, and the European convention on the other ;
11. Considering the need for further implementation of the normative provisions of the European convention and the international covenant,

1. Assembly debate on 17 September 1976 (12th Sitting) (see [Doc. 3852](#), [Doc. 3852](#), report of the Legal Affairs Committee). Text adopted by the Assembly on 17 September 1976 (12th Sitting).



12. Recommends that the Committee of Ministers :
- a. in so far as the protection of human rights by the national constitutions and the European Convention on Human Rights is concerned :
- make a study to see which human rights are guaranteed by the constitutions of most of the Council of Europe member states and, for that reason, might usefully be added to the substantive provisions of the European convention ;*
- urge member states which have not yet done so to incorporate the normative provisions of the European Convention on Human Rights into their domestic law in such a way that they can be applied directly by domestic courts ;*
- accelerate the work undertaken by the Committee of Experts on Human Rights on the desirability of empowering the European Court of Human Rights to give preliminary rulings on the request of the European Commission of Human Rights, or of a national court ;*
- b. in so far as the protection of human rights in the European Communities is concerned : introduce a system of consultation between the Court of Justice of the European Communities and the European Commission and Court of Human Rights, possibly by concluding an additional protocol to the European Convention on Human Rights ;
- c. in so far as the protection of human rights under the UN Covenant on Civil and Political Rights and its Optional Protocol is concerned :
- invite the governments of member states which have not yet ratified to await the outcome of the first proceedings of the UN Human Rights Committee set up in accordance with Article 28 of the covenant, before ratifying the optional protocol ;*
- endeavour to insert as many as possible of the substantive provisions of the UN Covenant in the European Convention on Human Rights ;*
- accelerate the work undertaken by the Committee of Experts on Human Rights to this effect, and make the final results available to the Assembly by 1978 at the latest ;*
- instruct the Committee of Experts on Human Rights to make a study on the feasibility of adding a protocol to the covenant and/or to the European Convention on Human Rights to guarantee the independence of legal assistance.*