Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Recommendation 1005 (1985)[1]

Conference on Security and Co-operation in Europe and Human Rights (draft Convention)

Parliamentary Assembly

The Assembly,

1. Recalling that the Council of Europe, by virtue of its Statute and the European Convention on Human Rights, is committed to the maintenance and further realisation of human rights and fundamental freedoms ;

2. Emphasising that all the Council of Europe member states, together with other European states, the United States and Canada, have signed the Helsinki Final Act, of which human rights are one important aspect ;

3. Recalling that the right of the individual to know and act upon his rights and duties is embodied in Principle VII, paragraph 7, of the Helsinki Final Act ;

4. Noting with regret that in some parts of Europe reality does not match the requirements of the international agreements on human rights that have been concluded and often does not match the provisions of national constitutions ;

5. Emphasising that the Helsinki Final Act confirms the "relevant and positive role" which "organisations and persons", alongside governments and institutions, should play in contributing towards the achievement of the aims of the Final Act and, hence, the implementation of human rights (Principle IX, paragraph 3) ;

6. Welcoming the fact that in most European countries, individuals, groups of individuals and private organisations are seeking to secure the respect and application of human rights, with particular reference to the Helsinki Final Act ;

7. Noting and condemning the fact that such persons, groups or members of such organisations are in some countries subjected by the authorities to harassment, persecution and even systematic repression, and that many of those concerned are in prison for engaging in these legitimate activities ;

8. Pointing out that reminding the governments concerned of the duty of the Contracting Parties or international organisations to uphold and safeguard human rights is neither per se nor under current international law an interference in the domestic affairs of those states ;

9. Recalling the common obligation of all European states within the framework of the CSCE to endeavour unilaterally, bilaterally or multilaterally to secure the general implementation of the human rights provisions of the Helsinki Final Act ;

10. Recalling that the meeting in Ottawa of CSCE experts concerning respect for human rights and fundamental freedoms will open on 7 May 1985,

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1. Assembly debate on 1 February 1985 (29th Sitting) (see Doc. 5326. report of the Legal Affairs Committee, and Doc. 5350Doc. 5350, opinion of the Committee on Relations with European Non-Member Countries). Text adopted by the Assembly on 1 February 1985 (29th Sitting).

11. Recommends that the Committee of Ministers :

a. organise an exchange of its members' opinions in order to co-ordinate and prepare the action of the member states at the Ottawa meeting ;

b. invite the governments of member states to instruct their delegates at the meeting of experts in Ottawa to present and uphold on that occasion the draft Convention for the Protection of the Exercise of Human Rights and Fundamental Freedoms, the text of which forms an integral part of this recommendation.

Draft Convention for the Protection of the Exercise of Human Rights and Fundamental Freedoms

Article 1

The High Contracting Parties undertake to secure the rights and freedoms set forth below to all persons under their authority.

Article 2

12. Everyone has the right to invoke and assert human rights vis-à-vis public authorities or the courts.

13. Everyone has the right to obtain information on the substance and scope of human rights.

14. Everyone has the right, whether on his own or with others, whether spontaneously or on an organised basis, to seek to ensure respect for human rights and fundamental freedoms by appealing to parliaments, governments, authorities or the public, including the United Nations or any other international organisation, even if, in so doing, he criticises the authorities of his country or of other countries.

15. Anyone who avails himself of these rights shall not suffer any de jure or de facto prejudice, whether through judicial or administrative measures, such as the withholding or withdrawal of practical advantages, or through defamation, intimidation or threats.

Article 3

Action by public authorities to prevent the safeguards provided for in Article 2 above from being applied or to curtail or circumvent them shall be unlawful.

Article 4

The High Contracting Parties undertake, in the conduct of their internal and external relations and in particular in the drafting and application of national legislation and the conclusion of international treaties, to promote respect for human rights throughout Europe. To that end, they shall hold consultations and investigate procedures or institutions providing means of establishing and preventing gross violations of human rights and fundamental freedoms in Europe.