Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Recommendation 1458 (2000)[1]

Towards a uniform interpretation of Council of Europe conventions: creation of a general judicial authority

Parliamentary Assembly

1. The Assembly recalls that the aim of the Council of Europe is to achieve a greater unity between its members, and considers that this aim may be pursued inter alia by the conclusion of international treaties.

2. There are now more than 175 conventions and protocols concluded within the Council of Europe.

3. The existence of a large corpus of legally binding texts requires efficient and effective mechanisms of monitoring and control.

4. There is also a need for uniform interpretation and application of the Council of Europe conventions in the different member states and among the different legal instruments.

5. The Assembly is therefore convinced that it is necessary that the member states of the Council of Europe should agree on a procedure that would ensure a uniform interpretation of legal texts commonly agreed by them.

6. The Assembly is aware of the fact that a certain number of Council of Europe conventions - such as the European Convention on Human Rights and the revised Social Charter, and others - already provide for mechanisms to ensure control as well as uniform interpretation and application.

7. A large number of conventions have no such mechanism, however.

8. In addition to the increasing number of conventions, there is also an increasing number of member states, and it is more difficult to speak of a common legal tradition among them than it was in the past. Therefore a power on the part of the "general" judicial authority to give - as well as legally binding opinions - advisory, non-binding legal opinions could become a more practical and more frequently used competence.

9. For these reasons the Assembly recommends that the Committee of Ministers set up a "general judicial authority" of the Council of Europe which would provide the mechanism for the uniform interpretation of Council of Europe treaties starting with those still to be concluded and with a selected number of the existing conventions. The competencies of the "general judicial authority" would be three-fold:

   9.1. to give binding opinions on the interpretation and application of Council of Europe conventions at the request of one or several member states or at the request of the Committee of Ministers or of the Parliamentary Assembly;

   9.2. to give non-binding opinions at the request of one or several member states or of one of the two organs of the Council of Europe;

   9.3. to make preliminary rulings, at the request of a national court, on lines similar to those of Article 177 of the Rome Treaty of 1956 establishing the European Economic Community.

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1. Assembly debate on 6 April 2000 (15th Sitting) (see Doc. 8662, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Svoboda). Text adopted by the Assembly on 6 April2000 (15th Sitting).