Parliamentary Assembly
Assemblée parlementaire
https://pace.coe.int

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Recommendation 1535 (2001)[1]
Final version

Structures, procedures and means of the European Court of Human Rights

Parliamentary Assembly

1. Once again, the Parliamentary Assembly wishes to stress the tremendous importance of the European Convention on Human Rights which has set up a unique system for the protection of individual rights and freedoms currently applicable to most European countries.

2. In accordance with Article 34 of the Convention, the European Court of Human Rights "may receive applications from any person, non-governmental organisation or group of individuals claiming to be a victim of a violation (…) of the rights set forth in the Convention or the protocols thereto".

3. This right of individual application is the cornerstone of the Convention and it is essential that the exercise and the implementation of this right be facilitated in every way.

4. The main reason why a permanent Single Court was established in 1998 was the ever-increasing number of individual applications which the part-time system, in existence until then, had not been able to cope with.

5. However, the number of individual applications has continued to rise sharply and, as a consequence, the backlog of cases, instead of diminishing, has continued to increase considerably.

6. Thus the number of individual applications rose from 4 044 in 1988 to 20 538 in 1999 and to 26 398 in 2000. In the first seven months of 2001, 20 739 applications were received; if the same rate were maintained for the rest of the year, the total number of applications received in 2001 would be 35 553.

7. Unless immediate short- and long-term measures are taken, and unless the Court is provided with the resources immediately required, it, together with the Convention system, will face a situation of crisis.

8. Making available sufficient staff and financial resources will alleviate the alarming situation in the short term. Adaptation of working methods and procedures within the Court will also have an important contribution to make.

9. However, the development of the direct application of the case-law of the Court by judges and courts in member states and the incorporation of the Court's case-law into the internal legislation of the member states should contribute towards reducing considerably the number of applications in Strasbourg.

10. 10. As long as there is an increase in applications there cannot be any question of "zero growth" in the financial means made available to the Court. Yet any growth in financial means must be sustainable and it is clear that, if the number of applications stabilises, there should also be budgetary stabilisation.

11. All this must also be considered in the light of current developments in the European Union (EU), notably the proposals to revise the EU treaties into an EU constitution which might possibly include the protection of fundamental rights together with the Assembly's proposal for the accession of the EU to the European Convention on Human Rights.

---

1. Assembly debate on 26 September 2001 (28th Sitting) (see Doc. 9200, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mrs Nabholz-Haidegger). Text adopted by the Assembly on 26 September 2001 (28th Sitting).

12. However, whatever measures are to be taken, they should in no way hamper, hinder or restrict the free use of the right to individual application and any “filtering” system may only take place at the level of the Court according to its rules and under the full responsibility of its judges.

13. The Assembly appreciates the energetic action already undertaken by the Court itself and by the Committee of Ministers to respond to the situation, notably the preliminary increase in staffing resources provided in January 2001 and the decision to establish the Evaluation Group on guaranteeing the future effectiveness of the Court of Human Rights.

14. The Assembly therefore recommends that the Committee of Ministers:

i. reaffirm the core role and vocation of the European Convention on Human Rights, in relation to all national and international legal systems in Europe, in maintaining a stable and democratic society and upholding the rule of law and respect for human rights together with the indispensable role of the European Court of Human Rights as ultimate guardian of the Convention;

ii. express the political determination of the Council of Europe member states to guarantee the future effectiveness of this unique instrument both by ensuring its financing and by ensuring that decisions of the Court are properly implemented;

iii. in the context of the follow-up to be given to the conclusions of the Evaluation Group, which should be transmitted to members of the Parliamentary Assembly as soon as they are distributed to the Committee of Ministers, make available, as a matter of urgency, the necessary staffing and other resources to guarantee the short- and long-term effectiveness of the European Court of Human Rights, including the provision of the necessary additional offices in Strasbourg;

iv. by treating the additional indispensable needs of the Convention system, including the Court, separately from the criteria applied by the Committee of Ministers in the adoption of the overall Council of Europe budget, ensure that any future additional budgetary resources required will be made available without infringing on the budgets of other activities of the Council of Europe;

v. launch preparations with all the interested parties for the drafting of an amending protocol to the European Convention on Human Rights with a view to ensuring the long-term effectiveness of the European Court of Human Rights.