Parliamentary Assembly
Assemblée parlementaire
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 1391 (2004)[1]

Ratification of protocols and withdrawal of reservations and derogations made in respect of the European Convention on Human Rights

Parliamentary Assembly

1. The Parliamentary Assembly, referring to its Recommendation 1671 (2004) on the ratification of protocols and the withdrawal of reservations and derogations made in respect of the European Convention on Human Rights, invites the parliaments of the member states to:

1.1. hold a debate on the ratification of the protocols with a view to their ratification within three years;

1.2. re-examine one by one, with a view to their withdrawal, the reservations they have made in respect of the European Convention on Human Rights and if necessary to amend their domestic legislation so that it no longer contravenes the provisions of the Convention.

2. The Assembly encourages the Secretary General of the Council of Europe, assisted by the Treaty Office, in his efforts to ensure that reservations are admissible. It also invites the Secretary General to send to it any notification made in virtue of Article 15 of the Convention and resolves to hold a debate on each derogation of which it is thus informed.

3. The work of the Ad hoc Committee of Legal Advisers on Public International Law (CAHDI), acting as a European observatory of reservations to international treaties, is also encouraged by the Assembly, which urges the CAHDI to take all possible steps to assist member states to withdraw their reservations fully and promptly, including by considering also reservations to the Convention which are no longer open to objection.

4. The Assembly welcomes the developing jurisprudence of the European Court of Human Rights with respect to its jurisdiction over reservations and derogations and the approach taken in cases involving inadmissible reservations or unlawful derogations.

1. Text adopted by the Standing Committee, acting on behalf of the Assembly, on 7 September 2004 (see Doc. 10136, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Olteanu).