Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Opinion 264 (2007)[1]

Budgets of the Council of Europe for the financial year 2008

Parliamentary Assembly

1.The Parliamentary Assembly is seriously concerned about the Organisation's financial prospects for 2008, which do not augur well. If no political decision is taken, the future of many of the Organisation's activities could become desperate.

2. The European Court of Human Rights, which needs evermore resources (in particular human) to cope with the growth in the number of applications lodged, is weighing increasingly on the Organisation's budget.

3. For a number of years now, as a result of zero budgetary growth in real terms due to budget constraints at national level, the Council of Europe has no longer had a budget appropriate to its needs. Limits have now been reached where the Organisation's activities and structures are in jeopardy.

4. The fears voiced by the Assembly in its earlier budget opinions Nos. 248 (2004), 256 (2005) and 259 (2006), in which it drew the attention of the Committee of Ministers to the dangers for the Organisation of a policy emphasis on meeting the Court's financial needs by reducing appropriations to the Organisation's other sectors, have unfortunately been borne out by reality.

5. The Assembly considers that this policy decision is detrimental to the Council of Europe as a whole and cannot endorse the attitude of certain member states which respond to the Court's increased requirements by reducing the resources allocated to operational activities. This approach will inevitably lead to the abandonment of many of these activities.

6. The Court should receive contributions from the member states enabling it to cope with its tasks, but without this jeopardising co-operation activities in other sectors of the Council of Europe. The Council of Europe must not have to pay for the constant growth in the number of applications lodged with the Court in Strasbourg by European citizens.

7. It would be futile to believe that the system can be saved through a policy of expenditure cuts, via efficiency gains, in all sectors of the Council of Europe. The member states must confront their responsibilities and finance all the needs of the European Court of Human Rights outside zero growth in real terms.

8. It is therefore necessary to identify all possible means of remedying the current situation, where the European Court of Human Rights is using up an ever-increasing share of the Organisation's resources. The Court, which is the most successful system for the protection of human rights and fundamental freedoms in the entire continent (both as a supervisory body and as a creator of rights through its case-law), must receive contributions from the member states enabling it to meet its needs, but without this jeopardising the co-operation machinery existing in other sectors of the Council of Europe.

9. For this reason the Assembly proposed in its Opinion No. 259 (2006) that the budget of the Court be separated from the rest of the Ordinary Budget. While keeping the Court within the Council of Europe, from a budgetary standpoint it could be dealt with under a partial or enlarged agreement (as is the case with the European Commission for Democracy through Law (the Venice Commission), of which all Council of Europe countries are members) or some other appropriate method.

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1. (see Doc. 11278, report of the Committee on Economic Affairs and Development, rapporteur: Mr Wille). Text adopted by the Standing Committee, acting on behalf of the Assembly, on 24 May 2007

10. Aware of the legal difficulties arising from the role played by the Committee of Ministers in the execution of the Court's judgments, the Assembly reiterates the request it also made in Opinion No. 259 (2006) that minimum scales for member states' contributions to the Ordinary Budget be determined in the meantime so as to cover at least the administrative cost which each judge entails (approximately € 350 000).[2]

11. It is clear from the table of contributions per member state that the three smallest contributors pay an average of € 70 000, or one-fifth of this administrative cost. For twelve other states the contribution to the Ordinary Budget is lower than this cost, which means that nearly one third of the member states pay an annual contribution to the Ordinary Budget lower than the administrative cost of their being parties to the European Convention on Human Rights.

12. The contribution to the Ordinary Budget paid by the future member state Montenegro will not, moreover, cover the administrative cost of the judge elected in respect of that country.

13. On submitting its report to the Committee of Ministers, the Group of Wise Persons which had been asked to examine the long-term effectiveness of the European Convention on Human Rights control mechanism made a number of proposals, while pointing out that they could be envisaged only if Protocol No.14 was ratified. This is indeed the crux of the problem, since no reform can be duly implemented without taking this vital step.

14. The Assembly furthermore fears that rapid implementation of the Wise Persons' proposals will prove impossible. Some of them require the preparation of additional protocols to the Convention itself. This will take time, but the crisis is already upon us and solutions must be found immediately.

15. To that end, the Assembly requests the Court to apply, without delay, some of the measures recommended by Lord Woolf, former Lord Chief Justice of England and Wales, as it proposed in its Opinion N °. 259 (2006), particularly by better defining what constitutes an application and registering only properly completed application forms.

16. In these circumstances the Assembly earnestly calls on the members of the Russian Federation's parliamentary delegation to take action within their own parliament so that Protocol N°. 14 can rapidly be ratified. Implementation of Protocol No. 14 is an absolute priority if the aim is to give the Court the means to fulfil its statutory obligations in a more effective manner.

17. The Assembly is aware that the Council of Europe is a leading European Organisation not only in the fields where competition is fiercest - the rule of law, democracy and human rights - but also in relatively uncompetitive ones, such as education, culture, sport, social cohesion and public health.

18. Nonetheless the Assembly cannot endorse the current "compartmentalisation" policy, namely the repeated budget cuts in all sectors other than the European Court of Human Rights. The Council of Europe is unfortunately no longer in a position to pursue all the aims assigned to it on its foundation in 1949. The Assembly would accordingly like the Committee of Ministers, bearing in mind the priorities set at the Warsaw Summit, to conduct more methodical reviews of the Council of Europe's activities, with a view to enhancing their quality and effectiveness, and at last dare close down activities not consistent with the Organisation's field of action as defined by the summit.

19. In view of the above, the Assembly urges the Committee of Ministers to adopt a multi-annual budget framework, as it proposed in its previous budget opinions Nos. 256 (2005) and 260 (2006), so as to have a clear perception of short and medium term requirements:

1. to enable the Court to cope with the growth in the number of applications lodged and with processing of cases pending, which are expanding by between 10 and 15% per year;
2. to permit implementation of the work programme and action priorities of the Council of Europe, as defined at the Third Summit of Heads of State and Government of the Council of Europe held in Warsaw in May 2005; and
3. to pursue the administrative modernisation of the Council of Europe Secretariat, called for in Chapter V of the Warsaw Action Plan.

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2. This administrative cost includes the cost of remunerating a judge, an administrative officer to deal with the cases brought before the Court and a secretary responsible for processing applications; these three posts are directly linked to a state's accession to the ECHR and its mechanism.

20.It also asks the Committee of Ministers to comply with the budget timetable adopted at the beginning of the year, so as to set the Organisation's priorities and the total amount of member states' contributions before the summer break, in order to avert a deadlock in the discussions, as in 2006, a situation which was a source of frustration and resulted in the late adoption of the budgets of the Council of Europe.

21. The Assembly is aware of the growing weight of "staff expenses" in the Council of Europe's budgets. It is indisputable that these expenses are increasing automatically as a result of the decisions to grant the registry of the European Court of Human Rights and the other departments involved in execution of judgments the number of permanent and fixed-term posts essential to deal with the constant inflow of cases. The Assembly nonetheless believes that staff must not be regarded simply as an expense but must be valued as one of the Organisation's most precious assets that no machine can replace, whose work to a large extent leads to the production of documents of a lasting and/or binding nature, destined to constitute authoritative standards or precedents long after the financial year in which the expenditure was incurred for their drafting.

22. The Assembly reiterates its position that the two statutory organs of the Council of Europe (the Parliamentary Assembly and the Committee of Ministers) must treat each other as partners. It accordingly regrets the lack of receptiveness shown by the Committee of Ministers in its reply to the Assembly's Recommendations 1728 (2005) on the budgetary powers of the Parliamentary Assembly of the Council of Europe and 1763 (2006) on the institutional balance at the Council of Europe and cannot be satisfied with the failure to give a clear response to its requests concerning an improved institutional balance between the political organs of the Council of Europe, and notably with the refusal to reconsider its budgetary powers.

23. The Assembly would also like the Committee of Ministers to take appropriate steps to recover unpaid contributions and default interest owed by member states in respect of financial years prior to 2005 (Armenia, Bulgaria, France, Italy and "the former Yugoslav Republic of Macedonia"). At 31 December 2006, unpaid contributions represented a not inconsiderable sum in excess of € 2.3 million, including € 425 000 for years prior to 2005.

24. Lastly, the Assembly suggests that states having observer status with the Council of Europe should also share in the Organisation's expenses and invites the Committee of Ministers to study, with these states, the possibility of determining a mandatory contribution that they should pay to the Ordinary Budget.

25. In conclusion, the Assembly requests the Committee of Ministers to set the total amount of the Council of Europe's Ordinary Budget for 2008 by taking as the starting point the amount of the Ordinary Budget approved for 2007 increased by the cost, for a full year, of the budget adjustments linked to decisions taken when that budget was adopted and of the other statutory obligations, about € 201 million, not including adjustments corresponding to the rate of inflation applied for 2008.

26. The overall increase for the member states, excluding inflation, should accordingly be 2%, which entails an increase in contributions to the Ordinary Budget of about 1 400 euros for each of the smallest contributors and € 480 000 on average for each of the five major contributors.

27. As regards resources allocated to the Court, the above amount should be increased by the additional financial resources arising from any decision by the Committee of Ministers to grant the European Court of Human Rights the supplementary funding deemed necessary to enable it to fulfil its statutory obligations.

28. The Assembly also asks the Committee of Ministers, inter alia, to:

1. adhere scrupulously to the budget time-table it has set itself so as to avert a deadlock in the budget discussions, as was the case in 2006;
2. revert to strict application of the Statute of the Council of Europe (Article 20 d) as soon as it transpires that no compromise can be reached, without waiting until the last minute;
3. consider amending the criteria for apportionment of member states' contributions by setting a minimum rate of contribution to the Ordinary Budget so as to cover at least the administrative cost of a judge at the European Court of Human Rights;
4. modify the method of calculating the scales of contributions so as to give greater weight to GDP;
5. adopt without delay a multi-annual budget framework with a view to planning the funding requirements of the Council of Europe and its organs in the short and the medium term;
6. involve the Assembly in budgetary decisions, especially those directly concerning it.

29. To give tangible form to the political will voiced at the 3rd Summit, the Assembly proposes placing the Council of Europe at the heart of a system bringing together all the promotion, observation, training and monitoring activities concerning democracy and human rights that exist in Europe, for instance by fostering closer co-operation between public institutions (universities, public foundations, government and intergovernmental agencies) and private institutions (associations and others) working in these fields.

30. The Council of Europe is a leading figure in the human rights field, with the European Court of Human Rights and the Commissioner for Human Rights, and in the field of democracy, with the three pillars of representative democracy constituted by the Parliamentary Assembly, the Congress of Local and Regional Authorities and the Conference of INGOs, plus the Forum for the Future of Democracy and the network of "schools of democracy".

31. A genuine "European centre of excellence for democracy and human rights" could thus be formed around the Council of Europe in Strasbourg. To this end, the politicians must firmly commit themselves to support such a development.