Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 1726 (2010)[1]
Final version

Effective implementation of the European Convention on Human Rights: the Interlaken process

Parliamentary Assembly

1. The Parliamentary Assembly welcomes the initiative taken by the Swiss authorities in organising the High Level Conference on the future of the European Court of Human Rights (the Court), held in Interlaken, on 18 and 19 February 2010, and the adoption, at the conference, of the Interlaken Declaration and Action Plan.

2. The Assembly associates itself with the statement recognising, in particular, the extraordinary contribution of the Court to the protection of human rights in Europe and the emphasis placed, by the conference participants, on the subsidiary nature of the supervisory mechanism established by the European Convention on Human Rights (the Convention, ETS No. 5), notably the fundamental role which national authorities, namely governments, courts and parliaments, must play in guaranteeing and protecting human rights at national level.

3. The Assembly has also noted a number of decisions recently taken by the Committee of Ministers to maintain the impetus provided by the conference, known as the "Interlaken process". It intends to closely monitor decisions that are to be taken at the forthcoming ministerial session on 11 May 2010 to help establish a clear road map for a reform process to guarantee the long-term effectiveness of the Convention system.

4. In order to ensure the long-term effectiveness of the Convention system, the principle of subsidiarity must be fully operational in all states parties to the Convention. The Interlaken process should therefore take into account, in particular, a number of matters to which the Assembly attaches particular importance and which do not require amendment of the Convention: the need to strengthen implementation of Convention rights at the national level (including the *res interpretata* authority of the Court's case law); the improvement of the effectiveness of domestic remedies in states with major structural problems, and the need to rapidly and fully execute the judgments of the Court.

5. The Assembly stresses the key role national parliaments can play in stemming the flood of applications submerging the Court by, for instance, carefully examining whether (draft) legislation is compatible with the Convention's requirements and in helping states to ensure prompt and full compliance with the Court's judgments.

6. In this connection, the Assembly reiterates its call, made in Resolution 1516 (2006) on the implementation of judgments of the European Court of Human Rights, inviting "all national parliaments to introduce specific mechanisms and procedures for effective parliamentary oversight of the implementation of the Court's judgments on the basis of regular reports by the responsible ministries"(paragraph 22.1).

7. The authority of the Court is contingent on the stature of judges and the quality and coherence of the Court's case law. In this context it is the Assembly's responsibility to elect judges of the highest calibre to the Court from a list of three candidates nominated by states parties. Recalling its Resolution 1646 (2009) on the

1. *Assembly debate* on 29 April 2010 (17th Sitting) (see Doc. 12221, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mrs Bemelmans-Videc). *Text adopted by the Assembly* on 29 April 2010 (17th Sitting).

nomination of candidates and election of judges to the European Court of Human Rights, the Assembly reaffirms its call that national selection procedures must be rigorous, fair and transparent in order to enhance the quality, efficacy and authority of the Court.

8. Finally, the Assembly welcomes the forthcoming entry into force of Protocol No. 14 to the Convention (CETS No. 194) on 1 June 2010 and in so doing, confirms its position that the nine-year term of office of a judge elected by the Assembly to the Court shall commence from the date of taking up of his or her duties, and in any event no later than three months after his or her election. However, if the election takes place more than three months before the seat of the outgoing judge becomes vacant, the term of office shall commence the day the seat becomes vacant. If the election takes place less than three months before the seat of the outgoing judge becomes vacant, the elected judge shall take up his or her duties as soon as possible after the seat becomes vacant and the term of office shall commence as from then and in any event no later than three months after his or her election.