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

Opinion 283 (2013)[1]
Final version

Draft Protocol No. 15 amending the Convention for the Protection of Human Rights and Fundamental Freedoms

Parliamentary Assembly

1. The Parliamentary Assembly is of the view that draft Protocol No. 15 amending the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5, "the Convention"), as submitted to it on 17 January 2013,[2] can be adopted by the Committee of Ministers and opened for signature and ratification as presently drafted, without amendment.

2. The Assembly has been kept fully aware of – and implicated in – the process leading up to the completion of the drafting process of the said draft protocol, and, in the light of the opinion provided on this text by the European Court of Human Rights ("the Court"), on 6 February 2013, endorses:

2.1. the insertion, in the Convention's preamble, of a reference to the principle of subsidiarity and the doctrine of the margin of appreciation, as developed in the Court's case law;

2.2. as concerns the election of judges to the Court, the replacement of the age limit of 70 by that of a requirement that candidates be below the age of 65 on the date by which the list of three candidates is to be received by the Assembly (thereby extending *de facto* the age limit to 74);

2.3. the removal, from Article 30 of the Convention, of the words "unless one of the parties to the case objects", concerning relinquishment of jurisdiction by a chamber in favour of the Grand Chamber;

2.4. the shortening, from six to four months, of the time limit within which an application can be brought before the Court after all domestic remedies have been exhausted, as stipulated in Article 35, paragraph 1, of the Convention;

2.5. the deletion of the present admissibility requirement, in Article 35, paragraph 3.*b*, of the Convention, which specifies that no case may be rejected under this provision if it has not been duly considered by a domestic court.

3. As (draft) Protocol No. 15 is an amending protocol, it must be ratified by all the High Contracting Parties to the Convention for it to enter into force. Due to the fact that the proposed changes to the text are principally of a technical and uncontroversial nature, the Assembly urges all the Parties to the Convention, and in particular their legislative bodies, to ensure this instrument's rapid signature and ratification.

1. *Assembly debate* on 26 April 2013 (18th Sitting) (see Doc. 13154, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Chope). *Text adopted by the Assembly* on 26 April 2013 (18th Sitting).
2. Doc. 13093.