Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Recommendation 2114 (2017)[1]

Defending the acquis of the Council of Europe: preserving 65 years of successful intergovernmental co-operation

Parliamentary Assembly

1. The *raison d'être* of the Council of Europe is "to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress" (Article 1 of the 1949 Statute of the Council of Europe, ETS No. 1), focusing on the three major pillars of human rights, the rule of law and democracy.

2. To that end, the Statute established the principle of intergovernmental co-operation, which has since been central to the Council of Europe's operations. This co-operation between member States focuses on the development of common standards, through conventions and their effective implementation, in member States in order to ensure continuity in the achievement of the objective set out in the Statute.

3. For almost seventy years, this convention-based system has substantially helped to improve the functioning of democratic institutions in Europe, to develop the rule of law throughout Europe and to protect and promote the rights of all European citizens and inhabitants. These conventions are the main source of the Council of Europe *acquis*. They have a direct impact on the lives of European citizens and the legal framework of member States.

4. This unique common heritage must be recognised, asserted, defended and, as necessary, further developed, to the benefit of all European citizens and inhabitants – and others to whom these conventions are or could be applied.

5. Any initiative to draft a new treaty has to be formally approved by the Committee of Ministers, the Council of Europe's executive body. The Committee of Ministers may ask the Parliamentary Assembly for an opinion on any draft treaty (Statute, Article 23.*a*). Since 1998, it has consulted the Assembly on all draft treaties. Article 15.*a* of the Statute states that conventions and agreements shall be considered by the Committee of Ministers on recommendation of the Assembly, or on the Committee's own initiative. A large number of these treaties have been drawn up at the instigation of the Assembly, often referred to as the Council of Europe's political engine.

6. The Assembly and the Committee of Ministers therefore bear – together with the member States – the responsibility for the creation, protection, implementation and further development of the convention-based system in Europe.

7. At the 3rd Summit of Heads of State and Government of the Council of Europe, in 2005 in Warsaw, the need to strengthen the effectiveness of the convention-based system was underlined and measures to achieve this goal were stipulated. Many steps have been taken since then and improvements have been made, such as a radical reform of the Organisation's activities, as well as a substantial reform of the functioning of the European Court of Human Rights (the Court) and a review of conventions.

1. *Assembly debate* on 11 October 2017 (33rd Sitting) (see Doc. 14406, report of the Committee on Rules of Procedure, Immunities and Institutional Affairs, rapporteur: Mr Tiny Kox). *Text adopted by the Assembly* on 11 October 2017 (33rd Sitting).

8. Despite these reforms, significant gaps remain between what the member States and the Organisation want to achieve and what is actually accomplished. The ratification of conventions is too often delayed, preventing their entry into force; implementation of conventions into domestic law is often slow and inaccurate and domestic legal frameworks are too often dysfunctional.

9. Throughout Europe, democracy, the rule of law and human rights are under pressure and in dire need of revitalisation. In order to help counter these developments and to continue to do what is agreed in Article 1 of the Statute of the Council of Europe, the instruments and institutions of the Organisation need to be modernised and made more effective. The next summit of heads of State and government, which is now in preparation, should therefore, on the basis of a thorough evaluation, discuss – among other issues – how to improve and reinforce the convention-based system of the Council of Europe.

10. The Assembly therefore calls on the Committee of Ministers and the Secretary General of the Council of Europe to:

10.1. add the Council of Europe convention-based system and its future to the agenda of the next summit of heads of State and government;

10.2. adequately prepare, in due time before the summit:

10.2.1. an in-depth evaluation of the effectiveness of the existing conventions and their monitoring mechanisms, and proposals to substantially strengthen the convention-based system, according to the goal stipulated in Article 1 of the Statute of the Council of Europe;

10.2.2. an evaluation of the effectiveness of the assistance programmes for the implementation of the standards set out in the conventions and an assessment of improvements needed;

10.2.3. proposals on how to strengthen the effectiveness of the European Court of Human Rights, by improving domestic judicial procedures to enable citizens to seek justice, promoting effective implementation of Court judgments in all member States, and appropriate funding of the Court, in line with the decisions taken at the 3rd Summit in Warsaw;

10.2.4. proposals on how to broaden the scope of application of the revised European Social Charter (ETS No. 163) to all member States by having them ratify it as soon as possible, how to expand its strong built-in monitoring mechanism (collective complaints system) to all member States, how to make the European Social Charter the main reference and common social rights benchmark for the European Pillar of Social Rights of the European Union and open it for signature by third Parties which are not member States of the Council of Europe;

10.2.5. a general evaluation of relations between the Council of Europe and the other main European organisations (European Union, Eurasian Economic Union, Nordic Council, Organization for Security and Co-operation in Europe, Organisation for Economic Co-operation and Development) with regard to the convention-based system;

10.2.6. an analysis of the desirability of a European Union–Council of Europe memorandum of understanding on the participation of the European Union in Council of Europe conventions which could provide for general operating rules (such as voting rights, speaking rights, reporting and financial arrangements);

10.2.7. a road map for European Union accession to the European Convention on Human Rights (ETS No. 5), in line with the obligation formulated in the Treaty of Lisbon;

10.2.8. proposals on how to reach out to citizens and let them participate more in the decision-making processes of the Council of Europe;

10.3. ensure that sufficient financial and human resources are allocated to convention-based and intergovernmental activities in which all member States should be able to participate on an equal footing;

10.4. involve the Assembly in the preparatory activities of these evaluations and (re)considerations, in accordance with Article 15.*a* of the Statute;

10.5. involve the Assembly in an appropriate way in the next summit of heads of State and government;

10.6. invite the heads of State and government, at the next summit, to recognise, assert, defend and, as necessary, further develop and properly fund the Council of Europe's convention-based system, to the benefit of all European citizens and inhabitants – and all others to whom these conventions are or could be applied.

11. The prospect of a 4th summit of heads of State and government of the Council of Europe should be an opportunity for the Committee of Ministers to undertake proper reflection on our Organisation's future, bearing in mind that defending the Council of Europe's *acquis* depends on preserving its unique system of co-operation which enables all member States to agree on common positions and co-operate on an equal footing for the benefit of all. In this context, the Assembly calls on all Council of Europe member States to abstain from any voluntary actions which would result in the weakening of the intergovernmental co-operation which has contributed so much for many decades to effectively uniting the European continent.