Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Recommendation 2129 (2018)[1]

Copenhagen Declaration, appreciation and follow-up

Parliamentary Assembly

1. The Parliamentary Assembly takes note of the Declaration adopted at the Conference on the Continued Reform of the European Human Rights Convention System o Better Balance, Improved Protection, organised in Copenhagen on 12 and 13 April 2018 by the Danish Chairmanship of the Committee of Ministers.

2. The Assembly refers to its own previous work on the reinforcement and reform of the system of the European Convention on Human Rights (ETS No. 5, "the Convention"), notably Resolution 1726 (2010) "Effective implementation of the European Convention on Human Rights: the Interlaken Process", Resolution 1856 (2012) and Recommendation 1991 (2012) on guaranteeing the authority and effectiveness of the European Convention on Human Rights, and Resolution 2055 (2015) and Recommendation 2070 (2015) "The effectiveness of the European Convention on Human Rights: the Brighton Declaration and beyond".

3. The Assembly welcomes the reaffirmation in the Copenhagen Declaration by the States parties of their commitment to the Convention, to the fulfilment of their obligations thereunder and to the right of individual application as a cornerstone of the system. It shares their recognition of the fact that the Convention has made an extraordinary contribution to the protection and promotion of human rights and the rule of law in Europe and continues to play a central role in maintaining democratic security and improving good governance.

4. The Assembly is also appreciative of the fact that the Copenhagen Declaration, as adopted, largely reflects the approach advocated by the Assembly in its declaration adopted by the Standing Committee on 16 March 2018. In particular, it fully agrees that ineffective national implementation "remains the principal challenge confronting the Convention system" and that the caseload of the European Court of Human Rights ("the Court") "still gives reason for serious concern". It also welcomes the States parties' reaffirmation of their "strong commitment to the full, effective and prompt execution of judgments".

5. The Assembly is nevertheless greatly concerned that a founding member of the Council of Europe saw fit to submit a draft declaration that would have put in question some of the fundamental principles on which the Convention system depends. This is all the more disappointing for the fact of apparently being motivated by purely domestic considerations, regardless of their consequences for Europe's core human rights protection mechanism. The Assembly trusts that future chairmanships of the Committee of Ministers will take a more constructive and supportive approach towards the Convention and the Court.

6. Despite the significant progress made in refining the initial draft text in order to arrive at the final, adopted version, the Assembly has certain concerns with regard to the Copenhagen Declaration, in particular the following:

6.1. whilst recognising that ineffective national implementation and inadequate execution of Court judgments are still the main problems facing the Convention system, the Declaration proposes very few new solutions;

1. *Assembly debate* on 26 April 2018 (17th Sitting) (see Doc. 14539, report of the Committee on Legal Affairs and Human Rights, rapporteur: Ms Thorhildur Sunna Ævarsdóttir). *Text adopted* by the Assembly on 26 April 2018 (17th Sitting).

6.2. the Declaration still contains vaguely defined and conceptually problematic ideas about "dialogue" between the States parties and the Court, including on the interpretation of Convention rights, which could be developed in ways that would threaten the Court's independence;

6.3. the Declaration fails to appreciate and encourage in an adequate manner the role and contributions of other stakeholders and actors, including the Assembly, national parliaments, the Council of Europe Commissioner for Human Rights and civil society.

7. The Assembly therefore calls on the Committee of Ministers to:

7.1. take concerted and effective action to address the problems of ineffective national implementation of the Convention, including inadequate execution of Court judgments, notably on the basis of recommendations contained in Assembly Resolutions 1726 (2010), 1856 (2012) and 2055 (2015) and Recommendations 1991 (2012) and 2070 (2015), and in the intergovernmental expert reports prepared in the course of the Interlaken reform process;

7.2. avoid any statements or actions that might undermine the independence of the Court when exercising its jurisdiction under Article 32 of the Convention, and call on States parties to seek to influence the Court's interpretation of the Convention only in the course of judicial proceedings, including through third-party interventions;

7.3. engage fully all stakeholders in the Convention system, including the Assembly, in the reform process and ensure that their roles and contributions are recognised and encouraged as part of the overall package of measures intended to reinforce the Convention system.

8. The Assembly resolves to continue following the process of reform of the Convention system, with a view to protecting its fundamental principles, including the independence of the Court, reinforcing the role of national parliaments and holding States parties to account for the fulfilment of their obligations.