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

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European Convention on Human Rights and national constitutions

Motion for a resolution
tabled by Mr George KATROUGALOS and other members of the Assembly

This motion has not been discussed in the Assembly and commits only those who have signed it

One of the aims of the Council of Europe is the achievement of greater unity between its member States, based on common values, including the creation of a common European space for human rights. Such unity is fundamental for an effective and meaningful democracy governed by the rule of law. The European Court of Human Rights is the guardian of this juris communis Europae, as it is enshrined in the European Convention on Human Rights. Article 1 of the Convention requires the States Parties to secure to everyone within their jurisdiction the rights and freedoms it protects, without making a distinction as to the type of norm concerned and without excluding any part of the member States' jurisdiction. However, Constitutional and Supreme Courts in a number of European States, following a dualist division between domestic and international law and a strict hierarchy of norms, often consider that constitution provisions take precedence over ratified international treaties, including the Convention.

We strongly believe that full respect of the Convention and the national Constitutional order is not antithetical but fully complementary. This position is reiterated in the case-law of the Court and adopted by a number of national constitutions which include clauses referring to the Convention interpretation of the rights they guarantee. Our Parliamentary Assembly should further strengthen politically and legally this position by investigating and comparing good national practices of Constitutional texts and national case-law and by proposing institutional solutions which would minimise friction between Constitutional Courts and the European Court of Human Rights.

Signed (see overleaf)

Signed[1]*:*

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1. EPP/CD: Group of the European People's Party
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