Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

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Measures for the fulfiment of the declared aim of the Council of Europe

in accordance with Article 1 of the Statute in regard to the safeguard and further realisation of Human Rights and fundamental freedoms

Conclusions[1]
Parliamentary Assembly

1. RECOMMENDATION TO THE COMMITTEE OF MINISTER[2]

1.1. SECTION I

Art. 1. — The Consultative Assembly of the Council of Europe recommends the Committee of Ministers to cause a draft Convention to be drawn up as early as possible, providing a collective guarantee, and designed to ensure the effective, enjoyment of all persons residing within their territories of the rights and fundamental freedoms referred to in the Universal Declaration of Human Rights, adopted by the General Assembly of the United Nations, and set forth in Article 2 below.

Art. 2. — In this Convention, the Member Slates shall undertake to ensure to all persons residing within their territories:

1. Security of person, in accordance with Articles 3, 5 and 8 of the United Nations Declaration;
2. Exemption from slavery and servitude, in accordance with Article 4 of the United Nations Declaration;
3. Freedom from arbitrary arrest, detention, exile, and oilier measures, in accordance with Articles 9, 10 and 11 of the United Nations Declaration;
4. Freedom from arbitrary interference in private and family life, home and correspondence, in accordance with Article 12 of the United Nations Declaration;
5. Freedom of thought, conscience and religion, in accordance with Article 18 of the United Nations Declaration;
6. Freedom of opinion and expression, in accordance with Article 19 of the United Nations Declaration;
7. Freedom of assembly, in accordance with Article 20 of the United Nations Declaration;
8. Freedom of association, in accordance with Article 20 (paragraphs 1 and 2) of the United Nations Declaration;
9. Freedom to unite in trade unions, in accordance with paragraph & of Article 23 of the United Nations Declaration;

1. See: Doc. No. 3, Motion; No. 77, Report; Nos. 80-SG, 88-95, 97-99, 103-105, Amendments and Official Reports Nos. 8, 17 and 18.
2. Adopted 8th September 1949 on the conclusion of the Debates.

10. The right to marry and found a family, in accordance with Article 16 of the United Nations Declaration;

Art. 3. — The Convention shall include the undertaking by Member States to respect the.fundamental principles of democracy in all good faith, and in particular, as regards their metropolitan territory:

1. To hold free elections at reasonable intervals, with universal suffrage and secret ballot, so as to ensure that Government action.and legislation is, in fact, an expression of the will of the people;

2. To take no action which shall interfere with the right of criticism and the right to organise a political opposition.

Art. 4- — Subject to the provisions laid down in Articles 5, 6 and 7, every Member State, signatory to the Convention, shall be entitled to establish the rules by which the guaranteed rights and freedoms shall be organised and protected within its territory.

Art. 5. .— The fundamental rights and freedoms enumerated above shall be guaranteed without any distinction based on race, colour, sex, language, religion, political or other opinion, national or social origin, affiliation to a national minority, fortune or birth.

Art. 6. — In the exercise of these rights, and in the enjoyment of the freedoms guaranteed by the Convention, no limitations shall be imposed except those established by the law, with the sole object of ensuring the recognition and respect for the rights and freedoms of others, or with the purpose of satisfying the just requirements of public morality, order and security in a democratic society.

Art. 7. — The object of this collective guarantee shall be lo ensure that the laws of each State in which are embodied the guaranteed rights and freedoms as well as the application of these laws are in accordance with "the general principles of law as recognised by civilised nations" and referred to in Article 38 (c) of the Statute of the International Court of Justice.

1.2. SECTION II

Art. 8. — To ensure the observance, in accordance with Articles 4, 5, 6 and 7, of the engagements subscribed to by the Member States in application of Articles 2 and 3, the Convention shall establish:

1. A European Court of Justice (hereafter referred to as the Court);

2. A European Commission for Human Rights (hereafter referred to as the Commission).

1.3. SECTION III

Art. 9. — There shall be as many members of the Commission as Member States, signatories to the Convention. Not more than one national of each State may be a member of the Commission.

Art. 10. — Members of the Commission shall be elected by the Committee of Ministers and by the Consultative Assembly of the Council of Europe, by a simple majority of the Votes cast in each one of these bodies.

Art. 11. — Any signatory State may appeal to the Commission on any supposed breach of the provisions of the Convention by another Member State.

Art. 12. — After all other means of redress within a State have been tried, any person, or corporate body, which claims to have been tho victim of a violation of the Convention by one of the signatory States, may petition the Commission in a request presented through legal channels.

Art. 13. — The Commission shall then undertake:

1. An investigation of tho application with the assistance of the representatives of either party;

2. If necessary, an enquiry.

Art. 14. — The Commission shall reject petitions which are irregular or manifestly ill-founded.

Art. 15. — If it does not reject the application, the Commission shall try to effect a conciliation of the opposing parties.

Art. 16. — If conciliation fails, the Commission shall set forth the facts in a Report which shall be published.

Art. 17. — The Commission may be consulted by the Committee of Ministers in regard to the application, in certain cases, of Articles 4-, 5 and 8 of the Statute.

1.4. SECTION IV

Art. 18. — If conciliation fails, the Commission may decide to refer, the documents in the case to the Court to obtain a legal ruling.

Art. 19. — If conciliation fails, any Member State, signatory of the Convention, may submit the matter to the Court for judicial decision. In that case, the Commission shall immediately pass the case over to the Court.

Art. 20. — The States concerned may also, if they prefer, petition the International Court of Justice, in accordance with their reciprocal agreements.

Art. 21. — The European Court shall consist of 9 members.

Art. 22..— It shall not include more than one national of each State.

Art. 23. — Members of the Court shall be elected by the Committee of Ministers and by the. Consultative Assembly of the Council of Europe by an absolute majority of votes cast in each of these bodies.

Art. 24. — The jurisdiction of the Court shall extend to, all violations of the obligations defined by the Convention, whether they result from legislative, executive or judicial acts. Nevertheless, where objection is taken to a judicial decision, that decision cannot be impugned unless it was finally given in disregard of the fundamental rights defined in Article 2 by reference to Articles 9, 10 and 11 of the United Nations Declaration.

Art. 25. — The deliberations of the Court, like those of the Commission, shall be secret.

Art. 26. — The findings of the Court shall be pronounced in open session.

Art. 27. — The findings of the Court shall be transmitted to the Committee of Ministers.

Art. 28. — The Commission shall function under the general supervision of the Court. This supervision shall be of a purely administrative nature, with the Commission remaining completely independent in so far as concerns the exercise of the rights laid down under Articles 13 and 16 of the present Recommendation.

Art. 29. — During the next Session, the Assembly shall have a Report from the Committee of Ministers on the steps taken to follow up this Recommendation.