

Doc. 14826
05 February 2019

Deal-making in criminal proceedings: the need for minimum standards for trial waiver systems

Reply to Recommendation¹: Recommendation 2142 (2018)
Committee of Ministers

1. The Committee of Ministers has examined Parliamentary Assembly [Recommendation 2142 \(2018\)](#) “Deal-making in criminal proceedings: the need for minimum standards for trial waiver systems”, in the light of the response of the consulted committees, namely the European Committee on Crime Problems (CDPC), the Consultative Council of European Prosecutors (CCPE) and the Consultative Council of European Judges (CCJE).

2. The right to a fair trial is a fundamental human right guaranteed by the European Convention on Human Rights and the case-law of the European Court of Human Rights. Deal-making in criminal proceedings has developed in recent years in a number of Council of Europe member States and the Committee of Ministers concurs with the Parliamentary Assembly on the importance of ensuring that trial waiver systems provide for appropriate safeguards in order to minimise the potential risks of threat to human rights, and in particular the right to a fair trial.

3. The Committee of Ministers takes note of the invitation made by the Parliamentary Assembly for the Committee “to undertake a comprehensive study on the use of trial waiver systems in Council of Europe member and observer States” and, on this basis, “to address a set of recommendations to member States”. Having noted that the existing trial waiver mechanisms in member States seem to allow maintaining the balance between the guarantees for fundamental rights and the need for a rapid and effective response to crime, the Committee of Ministers informs the Parliamentary Assembly that the preparation of such a study is not presently a priority. The competent committees will, however, continue to pay attention to this matter and to its potential impact on the right to a fair trial.

1. Adopted at the 1335th meeting of the Ministers’ Deputies (30 January 2019).

