Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

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Petitions by individual complainants under the Convention on Human Rights

Motion for a recommendation
tabled by the Committee on Legal Affairs and Human Rights

On the 22nd October, 1955, the Committee on Legal and Administrative Questions unanimously adopted the following draft Recommendation which is submitted to the Assembly.

The Assembly,

Conscious that an important step forward has been taken by virtue of the fact that the minimum number of States specified in the Convention have conferred on the European Commission of Human Rights competence to hear individual applications;

Noting, however, that several Member States have not yet made any declaration to this effect, so that the Commission has no power to discharge its responsibility for the protection of human rights in relation to those States, unless applications are referred to it by other parties to the Convention.

Considering the danger that, in practice, a single Government by itself may be reluctant to take responsibility for what might appear to bean unfriendly act, with the result that for many States the Convention on Human Rights may remain a dead letter;

Basing itself on the procedure adopted by the Council of the League of Nations in 1920 with a view to overcoming similar difficulties,

Recommends that the Committee of Ministers should agree to the following resolutions :

1. Not merely an individual Government but also a group of Governments may, in accordance with the terms of the Convention on Human Rights, refer to the Commission the petition of an individual complainant.
2. To this end, a petition by an individual complainant addressed to the European Commission of Human Rights or to the Secretary-General of the Council of Europe, which has not been judged inadmissible in accordance with the terms of Article 27 of the Convention on Human Rights, but which cannot be heard by the Commission as an individual application because it is directed against a State which has not recognised the Commission's competence in this respect, shall be forwarded to the Chairman of the Committee of Ministers for examination by a Committee of three members constituted in the manner set out below. If the Chairman is a national of the State against which the petition is directed or within whose jurisdiction the plaintiff is situated, the petition shall be transmitted to the previous Chairman of the Committee of Ministers to whom these conditions do not apply.
3. The same procedure may be used by any party to the Convention in the case of similar petitions which it does not wish to refer to the Commission or to do so alone.

4. The Chairman of the Committee of Ministers or the person replacing him shall be ex officio a member of the Committee set up to examine the petition referred to in paragraph 1. He shall appoint two other members by lot from among his colleagues in the Committee of Ministers, taking care to leave out those who are nationals either of the State against which the petition is directed or of the State of which the plaintiff is a national.

5. The Committee of Three shall decide whether it is necessary to bring the facts mentioned in the petition to the notice of the European Commission of Human Rights by means of a collective application sponsored by the three Governments. Before taking such a decision it may transmit the document received to the Government against which the petition is directed, with a view to enabling it to comment thereon.