

HUMAN RIGHTS IN EUROPE

DECISION TIME ON THE COURT

AMNESTY INTERNATIONAL

The system for the protection of human rights in Europe is under scrutiny. States are examining the European Court of Human Rights. At a Conference in February 2010 they will take decisions which could either bring welcome reform to relieve the Court's backlog of cases, or could undermine a body that has provided redress for the victims of human rights violations in Europe for 50 years.

People in Europe (future applicants to the Court) have an interest at least equal to that of the states in ensuring the long-term effectiveness to the Court. States should therefore inform the public about the debates and consult civil society in the lead-up to the Conference and throughout the reform process which follows it.

47 states in Europe have agreed to be bound by the European Convention of Human Rights. States' respect for the Convention rights of some 800 million people is monitored primarily by the European Court of Human Rights, based in Strasbourg. The Court makes binding judgments in cases where individuals claim that their Convention rights have been violated and that the state has not granted redress. The implementation of the Court's judgments is supervised by the Committee of Ministers, representing all 47 Council of Europe states.

WHAT AMNESTY INTERNATIONAL WANTS

Enhanced respect for human rights by the 47 Council of Europe member states must remain the priority -- in more than 80 per cent of its judgments, the Court has ruled that the European Convention on Human Rights had been violated. If states complied with their clearly established obligations under the Convention, the number of applications to the Court would be significantly reduced.

The Court faces difficult challenges in light of its resources, as a result of the enormous number of individual applications being lodged (more than 30,000 in 2008), coupled with the backlog of cases pending before it (more than 110,000).

Amnesty International wants the European Court of Human Rights to be a strong Court, accessible to individuals claiming violations of their Convention rights when they have had no effective redress domestically. We want a Court which will give a reasoned decision on whether a case is admissible, or a reasoned judgment on the merits of a case, without undue delay. The Court should be given the resources by states to function properly, and not at the expense of other Council of Europe human rights mechanisms.

WHAT CHANGES ARE NEEDED?

National Human Rights Protection

States must take concerted action to ensure greater respect for human rights and must provide effective domestic remedies when rights are violated.

Better implementation of the Convention at national level would mean greater respect for human rights throughout Europe and would reduce the need for individuals to apply to the Court for redress. Fewer cases would be sent to the Court if states implemented the Court's judgments by providing full reparation and take steps aimed at ensuring the violation is not repeated, and if states implemented not only judgments against them, but also all relevant

judgments against other states. There would also be fewer cases brought about issues on which the Court has already clarified how the Convention should be applied (half of the Court's judgments in the past 50 years are on "repetitive" cases).

Reform of the Court

Any reforms to the European Court of Human Rights should ensure that:

- The fundamental right of individual petition is preserved and not further curtailed.
- There should be efficient, fair, consistent, transparent and effective screening of applications received, to weed out the very high proportion (around 90 per cent) of applications that are inadmissible under the current criteria.
- Judgments are given within a reasonable time, particularly in cases where time is of the essence, or that raise repetitive issues where the Court's case law is clear and those that arise from systemic problems.
- The Court is given adequate financial and human resources, without drawing on the budgets of other Council of Europe mechanisms and bodies.
- Solutions to the problems faced by the Court are not devised without informed analysis, based on transparent evaluation of recent and future reforms.

The Committee of Ministers

The role of the Committee of Ministers in supervising states' implementation of the Court's judgments needs to be strengthened, not weakened. Its methods should be further developed and, when needed, the political pressure of the Committee must be brought to bear. The Department of Execution of Judgments, which assists with this task, urgently needs reinforcement.

What is needed is political will. Political will by the 47 Council of Europe states to respect the European Convention on Human Rights, to ensure effective domestic remedies for violations of Convention rights, to implement and ensure the implementation of the Court's judgments and to adequately resource the European Court of Human Rights and the Department of Execution of Judgments.

Amnesty International supports proposals:

- to help potential applicants to the Court to be better informed about admissibility criteria;
- aimed at ensuring better implementation of the European Convention of Human Rights by states, such as establishing and improving domestic remedies, ensuring translation and dissemination of the Court's case law and screening legislation for compliance with the Convention;
- guaranteeing the expertise and independence of the Court's judges;
- to address the backlog effectively through short-term measures.

Amnesty International opposes proposals:

- that would undermine the accessibility of the Court such as charging applicants fees, or adding new, more restrictive admissibility criteria. Lack of funds should never be an obstacle for bringing an application before the Court;
- that would give the Court discretion to decide on which admissible cases it renders judgment;
- that would lessen the powers of the Committee of Ministers and the Department of Execution of Judgments to supervise the implementation of Court judgments.

Further reflection is needed to address concerns about proposals:

- to permit national courts to request Advisory Opinions from the European Court of Human Rights;
- to simplify the procedures for amending Convention provisions relating to the Court's operating rules and procedures.