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European Court on Human Rights: Imminent reforms must not obstruct individuals' redress for human rights violations

The proposed reform of the European Court on Human Rights will curtail the possibility for individuals to gain redress for human rights violations, Amnesty International said as it urged the Parliamentary Assembly of the Council of Europe (PACE) to oppose the change at its Spring session on 26 April.

"At a time when human rights - including the right to fair trial and the absolute prohibition of torture and inhuman or degrading treatment or punishment - are under attack, it is imperative that the Council of Europe maintains the integrity of the system it has established," Amnesty International said.

Amnesty International urges PACE to express its opposition to the proposal to add a new admissibility criterion that would curtail the right of individuals to receive binding judgments on whether their rights under the European Convention for Human Rights (European Convention) have been violated.

"It is true that the increasing number of individual applications which are being lodged with the Court and the Court's current backlog have undermined its effectiveness and that, accordingly, reforms are needed", Amnesty International said.

"However, the proposal to add a new admissibility criterion would not address the two main sources of the current challenges facing the Court, namely more efficient and effective screening of the applications and; the expeditious rendering of judgements, in particular on manifestly well-founded cases concerning violations of the European Convention of Human Rights."

PACE will adopt its opinion on a series of proposed amendments to the European Convention on Human Rights (known as Protocol 14) drafted by the Committee of Ministers' Steering Committee for Human Rights (CDDH), before the draft Protocol is debated by the Committee of Ministers in May.

The organization's opposition to the proposal to add new admissibility criteria is shared by some governments, members of the PACE, Judges on the Court, as well as by numerous NGOs and representatives of civil society across the region.

Amnesty International believes that the reforms should focus on ensuring:
better implementation of the European Convention at national level;
the expeditious and effective filtering of applications and rendering of judgments on the merits;

the strengthening of monitoring of the implementation of the Court's judgments by the Council of Europe's Committee of Ministers.

"We welcome the proposals aimed at ensuring better implementation of the European Convention by member states and effective domestic remedies for violations of the European Convention. These proposals, if implemented, would lead to fewer violations and the creation or improvement of redress mechanisms in member states. Thus, the need for people to bring applications to the Court in Strasbourg would be reduced," the organization said.

Amnesty International also welcomes the proposal to create an expedited procedure to handle "manifestly well-founded" cases, concerning violations of the European Convention about which the Court's case-law is clear. However, the organization is concerned that the provision to include a judge elected on behalf of the respondent state, *if that state has contested the application of the expedited procedure*, raises serious issues about the appearance of the independence of the Court and has no place in a human rights treaty.

Background:

The European Court of Human Rights is a leading mechanism for human rights protection. Its judgments have guided not only member states of the Council of Europe, but also other countries, on what steps they must take to respect and protect fundamental human rights. The Court has ensured redress for violations of human rights of individuals when Council of Europe member states have failed to do so; in so doing the European Court of Human Rights has played a significant role in the struggle against impunity.

For the last three years, the Council of Europe has been debating reforms to the European Court of Human Rights aimed at guaranteeing its long-term effectiveness in light of the huge increase of applications it receives and the backlog of pending cases - some 96% of the applications are inadmissible under *current* criteria

The Committee of Ministers' Steering Committee for Human Rights (CDDH) was mandated to draft, among other things, a treaty that will amend the European Convention on Human Rights, incorporating proposals to reform the Court and to allow for the European Union to become a party to the European Convention, should it decide to do so.

The CDDH adopted its final report on the reform proposals on 8 April 2004. The Parliamentary Assembly of the Council of Europe will debate and adopt its Opinion on the reform proposals during its plenary session which starts on 26 April. On 12-13 May 2004, the Council of Europe's Committee of Ministers is scheduled to debate the proposals and adopt Protocol No.14, which will amend the European Convention on Human Rights.

For more information on Amnesty International's positions on the proposals currently being debated, see *Amnesty International's comments on the Interim Activity Report: Guaranteeing the long-term effectiveness of the European Court of Human Rights* (IOR 61/005/2004, link: <http://web.amnesty.org/library/index/engior610052004>).

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