

AMNESTY INTERNATIONAL

PRESS RELEASE

AI Index: IOR 30/013/2004 (Public)
News Service No: 120
11 May 2004

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

The Council of Europe must ensure that the proposed reform of the European Court on Human Rights does not curtail the possibility for individuals to gain redress for human rights violations, Amnesty International said as the Council of Europe's Committee of Ministers prepares to adopt a treaty amending the European Convention on Human Rights at its session on 12-13 May in Strasbourg.

The treaty, called Protocol 14 to the European Convention on Human Rights, will reform the regional human rights court, the European Court on Human Rights.

"The Committee of Ministers must reject proposals to add new admissibility criteria that would curtail the right of individuals to receive binding judgments on whether their rights under the European Convention have been violated," the organization said.

Amnesty International considers that the new admissibility criteria proposed is vague, could lead to arbitrary decisions, and could be applied differently in respect of different states and by different Chambers of the Court.

"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."

"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," Amnesty International said.

"At a time when human rights, including the right to fair trial and the absolute prohibition of torture and inhuman and 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 welcomes the fact that the reforms focus on ensuring:

- better implementation of the European Convention at national level which, if implemented, would lead to fewer violations and the creation or improvement of redress mechanisms in member states;
- 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.

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:

For the last three years, the Council of Europe has been debating reforms to the European Court on 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.

Amnesty International's opposition to the proposal to add new admissibility criteria is shared by some governments, Judges on the Court and the Parliamentary Assembly of the Council of Europe. The Parliamentary Assembly recently stated its opposition to the proposal to add a new admissibility criterion saying that it is vague, subjective and liable to do the applicant a serious injustice. Numerous NGOs and representatives of civil society across the region, including those assisting applicants before the European Court of Human Rights, have also expressed their opposition to the new admissibility criteria.

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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