



Brussels, 23 January 2012  
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**Open letter to members of Council of Europe Parliamentary Assembly:  
Protect authority and effectiveness of European Convention on Human Rights**

Given the forthcoming debate and vote on the draft Resolution and Recommendation on 'Guaranteeing the authority and effectiveness of the European Convention on Human Rights', and the address by the Prime Minister of the UK, which currently holds the Chairmanship of the Council of Europe Committee of Ministers, Amnesty International calls on European parliamentarians to protect the **right of individual application** to the European Court of Human Rights and ensure it is **fully preserved** in any future reforms of the Court.

Effective access to the Court by individuals claiming a violation of their rights under the Convention and respect for the right of individual application are paramount in ensuring proper protection of human rights in Europe. The Court's role is to ensure observance of the 47 Council of Europe member states' obligation to secure the rights defined in the Convention to everyone in their jurisdiction. As the Committee on Legal Affairs & Human Rights' report shows, and while the backlog of cases awaiting the Court's attention has fallen in recent months, the Court still faces major challenges given its scarce resources and the many individual applications. But it would be wrong to treat the individuals' right to apply to the Court as a problem rather than a fundamental guarantee of the effectiveness of the Convention's protection system. This right lies at the heart of the system and must be fully preserved.

Several proposals for reforming the Court, being discussed by member states, seek to address these challenges by restricting access to the Court. The UK and Switzerland, in particular, have made problematic proposals: to add an admissibility criterion which allowed the Court to examine a far more limited number of cases of alleged human rights violations; to have a sunset clause, where some types of claim could be automatically rejected before any judicial decision was made; in the longer term, to give the Court discretion to decide which cases to consider. These proposals risk denying access to justice to victims of human rights violations. The new admissibility criterion would significantly limit the Court's mandate to assess compliance with the Convention. The sunset clause would be a direct attack on the right of individual application. If the Court could pick and choose cases it would radically and adversely change the nature of the current judicial system of protecting human rights in Europe.

Rather than denying individuals access to the Court and limiting its substantive jurisdiction, member states should do far more to implement the Convention in national law, policy and practice, and ensure full and rapid compliance with Court judgments. Effective implementation of the Convention is fundamental to ensure respect for human rights in Europe and alleviate the Court's workload, as it would reduce the need for individuals to apply to the Court for redress. Moreover, as the PACE report highlights, there would be fewer cases at the Court if states implemented not only the judgments against them, but also standards developed in judgments against other states. Effective domestic implementation of the Convention, including the Court's case-law, must be all member states' main concern. Much remains to be done to encourage national authorities, including parliaments, to be more active in ensuring implementation of the Convention's rights and the Court's judgments. The Parliamentary Assembly and its individual members in their capacity as members of national parliaments can play a leading role in this, and should actively pursue better implementation without delay.

Yours sincerely,

Dr Nicolas J. Beger  
Director

**For further information on the views of Amnesty International and its partner organisations on the proposals to reform the Court, see:** *Council of Europe: Comments on follow-up to the Interlaken and Izmir Declarations on the future of the European Court of Human Rights*, AI Index: IOR 61/001/2012, 9 January 2012, <http://www.amnesty.org/en/library/info/IO61/001/2012/en>.

**On the British chairmanship's priorities and objectives, see also:** *Joint statement on the United Kingdom's priorities and objectives for its Chairmanship of the Committee of Ministers of the Council of Europe*, AI Index: IOR 61/013/2011, 4 November 2011, <http://www.amnesty.org/en/library/info/IO61/013/2011/en>.