

to: Jonas Gahr Støre, Minister of Foreign Affairs

CC: Grete Faremo, Minister of Justice

Mr Petter Wille, Ambassador Extraordinary and Plenipotentiary, coe.strasbourg@mfa.no

Oslo, 11 April 2012

Dear Minister,

We are writing to you in the context of the ongoing negotiations on the draft Brighton Declaration for the Future of the European Court of Human Rights, which is due to be adopted at the High Level Conference on the Future of the European Court of Human Rights in Brighton (18-20 April 2012).

This letter from the Norwegian Helsinki Committee is part of a joint NGO action, led by Amnesty International and other leading European human rights organizations, to campaign for safeguarding the integrity and the authority of the Court in these negotiations and to ensure that it remains effectively accessible to individuals claiming to be victims of violations of their Convention rights.

The European Court of Human Rights is at the heart of the system for the protection of human rights in Europe and member states to the Convention must do their utmost to ensure it can effectively maintain its supervisory role. For the Convention system to be sustainable, better national implementation of the Convention and proper execution of the Court's judgments are fundamental. Proposals that have been made in this regard during the Brighton negotiations should therefore be actively encouraged and supported.

However, we are concerned that a number of the reform proposals currently under discussion could seriously undermine the authority and integrity of the Court and its ability to ensure the effective protection of human rights in Europe. In particular, we are deeply concerned about damaging proposals to amend the Convention in order to:

Introduce additional admissibility requirements.

In our view, the proposed inclusion in the Convention of a new admissibility criterion relating to cases in which national Courts have taken into account the Convention rights would unduly restrict the Court's substantive jurisdiction by preventing an assessment on the merits of the states parties' observance of their engagements under the Convention.

to codify certain principles of judicial interpretation, such as the doctrine of the margin of appreciation and the subsidiarity principle.

To insert these principles in the text of the Convention, and to define their nature and content, risk undermining the interpretative role of the Court. In particular, the doctrine of the margin of appreciation, along with other equally important principles of judicial interpretation, has been developed by the Court since 1959 and it should remain for the Court to continue to do so and to adapt them to evolving circumstances and societal changes.

We therefore strongly urge the government of Norway to reject:

Any amendments to the Convention which would add new admissibility requirements and further curtail access to the Court or unduly restrict the Court's substantive jurisdiction.

Any amendments to the Convention that would restrict the interpretative role of the Court – such as those to codify the principles of judicial interpretation known as "margin of appreciation" and "subsidiarity".

We call on the government of Norway to actively support:

Proposals aimed at improving national implementation of the Convention, including the rapid and full execution of the Court's judgments.

We look forward to your response, and remain available for further discussions.

Yours faithfully,

Bjørn Engesland
Secretary General

Gunnar M. Ekeløve-Slydal
Deputy Secretary General