

# Protocol 14: How it Works

FEBRUARY 2012

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Protocol 14 is a key reform introduced by the European Court of Human Rights to manage its case-load.

## Introduction

Since Protocol 14 to the European Convention on Human Rights went into effect on June 1 2010, the European Court of Human Rights has undergone many reforms that have significantly increased its productivity and efficiency. Although the full effect of the reforms is yet to be seen, foregoing Protocol 14 in favor of additional reforms fails to recognize that lack of Member State cooperation in the area of implementation is the root cause of the Court's large case-load.

## Single Judge Formations and Filtering Section

The most effective reform introduced by Protocol 14 has been the Single Judge Formation. While three Judges had previously been required to declare applications inadmissible, a single judge can do so now. This has significantly reduced the Court's response time and its backlog of unexamined cases. In the first nine months of 2011, the twenty appointed Single Judges issued 30,779 decisions, an increase of 35% compared with the same period in 2010. The number of inadmissibility decisions increased by 15% during this period.

In 2011, a Filtering Section was introduced to ensure that the Registry processed cases quickly enough to make full use of Single Judge Formations. The Filtering Section handles cases from five countries with the highest case-count – Russia, Turkey, Romania, Ukraine and Poland – and has shown an enormous potential to improve the Court's efficiency. During its first six months in operation, it recorded 21,859 new applications, 11,369 of which were dealt with by a Single Judge. This is an increase of 42% compared with 2010. Since the five countries account for over half of the cases pending before the Court, the Filtering Section and Single Judge Formations have been instrumental in managing the Court's case load.

While the Filtering Section has already been a great success after a year in operation, additional reforms are in the works. These include: potentially refusing to register cases if a required element is missing from the case file; adding more Member States to the Filtering Section; and disseminating its best practices to other filtering lawyers in the Registry.

## Three Judge Committees

Three Judge Committees were introduced to deal with clearly well-founded cases supported by well-established case law. Before Protocol 14, seven judge chambers decided cases on the merits, while three judge committees ruled only on admissibility, and only by unanimity. Now, three judge committees consider admissibility and the merits of applications in repetitive cases.

## Priority Policy

In 2010, the Court instituted a priority policy that takes into account the importance and urgency of alleged violations in determining the order in which cases are decided. Previously, the Court considered most applications in the order they were received. The priority policy has enabled the Court to focus on cases that concern serious human rights violations or present novel questions of law.

## Friendly Settlements and Unilateral Declarations

Since 2010, the Court has increasingly relied on friendly settlements and unilateral declarations to reduce its case-load. In 2010, 1,223 decisions were disposed of on this basis, a 94% increase over 2009. In the first 8 months of 2011, 940 decisions were struck out using this method. The increase in unilateral declarations has been particularly striking: in 2010, 553 decisions were struck out, an increase of 300% over the previous year. In the first eight months of 2011, 439 decisions were struck out. In the future, the Court intends to make greater use of friendly settlements and unilateral declarations.

## New Admissibility Criterion

The new admissibility criterion, introduced by Protocol 14, encourages the Court to declare inadmissible applications that do not raise serious human rights questions or demonstrate substantial harm suffered by applicants. This enables the Court to concentrate on cases that raise important human rights issues.

## Pilot Judgment Procedure

The pilot judgment procedure, in use since 2004 but codified in the Rules of Court in 2011, helps national authorities eliminate systemic or structural problems that give rise to repetitive cases. It identifies root causes of violations, provides clear indications to Member States on how to eliminate the problems leading to the violations, and encourages domestic remedies for similar cases. The procedure allows the Court to halt the examination of repetitive cases until Member States act on the Court's recommendations.

## Education of the Public

Apart from structural and procedural reforms introduced after the Interlaken Conference, the Court has recently undertaken to reduce the tide of unmeritorious applications by educating legal professionals and the public about application requirements. It introduced a comprehensive admissibility guide for lawyers and an interactive online checklist for applicants that alert both groups to factors likely to render applications inadmissible. The Court is also considering the possibility of using interactive application forms that would make lodging an application impossible if information concerning admissibility conditions is insufficient.

## Execution of Judgments

If a Member State refuses to implement a Court's decision, Protocol 14 allows the Committee of Ministers to decide, in exceptional circumstances and with a 2/3 majority, to initiate non-compliance proceedings against that Member State in the Grand Chamber. These proceedings result in a judgment related to the lack of an effective execution, but do not involve a re-examination on the merits.

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