

Resolution 1249 (2001) ^[1]

Coexistence of the Convention on Human Rights and Fundamental Freedoms of the Commonwealth of Independent States and the European Convention on Human Rights

1. The Convention on Human Rights and Fundamental Freedoms of the Commonwealth of Independent States (CIS Convention on Human Rights) was opened for signature in Minsk on 26 May 1995, and signed by seven of the eleven CIS member states on that day (Armenia, Belarus, Georgia, Kyrgyzstan, Moldova, Russia, Tajikistan). It has since been ratified by the Russian Federation, Tajikistan and Belarus, and entered into force on 11 August 1998, the day the third instrument of ratification was deposited by Belarus.
2. The CIS Convention on Human Rights foresees a control mechanism in the form of the Human Rights Commission of the Commonwealth of Independent States (CIS Commission on Human Rights). The CIS commission monitors the execution of the convention by issuing recommendations. The members of the commission are appointed representatives of the states parties.
3. The Council of Europe has always felt concern about the legal implications for states ratifying both the European Convention on Human Rights (ECHR) and the CIS convention. In particular, concerns were expressed about the possibility that the CIS convention might jeopardise the effective use of the right to submit individual applications to the European Court of Human Rights. For this reason, the Assembly, in general, recommended to the concerned applicant states not to sign or ratify the CIS convention until further research on the compatibility of the two legal instruments had been carried out.
4. The Assembly, having carried out such research, remains concerned about the compatibility of the two conventions. The CIS convention offers less protection than the ECHR, both with regards to the scope of its contents, and with regard to the body enforcing it – the CIS commission cannot offer the guarantees of impartiality and independence offered by the European Court of Human Rights, nor do its

recommendations enjoy the same enforceable character as judgments issued by that Court.

5. The Assembly has consistently taken the view that no regional human rights mechanism – neither the CIS convention nor the European Union’s Charter of Fundamental Rights and Freedoms – should be allowed to weaken the unique unified system of human rights protection offered by the ECHR and its European Court of Human Rights. While the CIS convention may offer a minimum of human rights protection to those members of the CIS who do not or cannot aspire to Council of Europe membership, adherence to the ECHR system of protection should be mandatory and exclusive for members (and prospective members) of the Council of Europe.
6. The Assembly thus confirms the primacy and supremacy of the European Convention on Human Rights and its Court of Human Rights for all member states of the Council of Europe, and resolves to:
 - i. recommend to those Council of Europe member or applicant states which are also members of the CIS not to sign or ratify the CIS Convention on Human Rights;
 - ii. recommend to those Council of Europe member and applicant states which are also members of the CIS and have already ratified the CIS Convention on Human Rights to issue a legally-binding declaration confirming that the procedure set out in the European Convention on Human Rights shall not be in any way replaced or weakened through recourse to the procedure set out in the CIS Convention on Human Rights;
 - iii. recommend that member states of the CIS and of the Council of Europe keep their citizens informed about the difference in the legal nature of the mechanism of the European Court of Human Rights and the mechanism of the CIS convention.

[1] *Text adopted by the Standing Committee , acting on behalf of the Assembly, on 23 May 2001 (see Doc. 9075, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Holovaty).*