

Public



Scrutiny

Public challenge of the European Court of Human Rights

in each composition after 1990

this version and the Dutch version are authentic

Revision 1

Introduction

Every court is the guarantee for every citizen, being a private individual, of protection against destruction of his enjoyment of civil and human rights. The European Court of Human Rights (hereinafter: the European Court) is also such a court. It ensures the warranty.

It is authorised, primarily if composed of the prescribed persons, within a jurisdiction (a legal framework of cases) and under an authority of a law.

A judicial public pronounced judgment must meet a moral level that certainly cannot be lower than the general average level. The judgment is verifiable on the basis of essential checkpoints such as a "Fair Trial" and expressing the awareness of being the last in line.

Hereafter the European Convention for the Protection of Human Rights and Fundamental Freedoms is mentioned to as the Convention.

Introduction of the public scrutiny

The public scrutiny is the only legal control over the judiciary. It has also been recognized by the European Court in §21 in its judgment on the case "Pretto and others v. Italy, 8 December 1983". The only goal of pronouncing in public of the decision or judgment is the guarantee of public scrutiny. Each tribunal, including the European Court, is obliged to serve this goal. Compliance with the principle of legal unity, which is internationally accepted, is done by the unity in and of this scrutiny.

The European public contains approximately 450 million inhabitants minus government employees, civil servants and officials. In Article 6, §1 of the Convention, the press is also excluded from the public. Who participate in the public scrutiny is described in item 4 in the document "Manual for the Public Scrutiny" [* 1]. Why the public scrutiny is a unity and by what it is united is sufficiently clarifying explained in the same document "Manual Public Control".

Introduction of the European Court of Human Rights

The European Court has jurisdiction which extends to all matters concerning the interpretation and application of the Convention and the Protocols thereto (Article 32, §1). In the event of a dispute about the jurisdiction of the European Court, the European Court

decides (Article 32, §2). The European Court therefore has a dictatorship over the interpretation and application of the Convention.

The Court may, at the request of the Committee of Ministers, advise on legal matters concerning the interpretation of the Convention and the Protocols thereto (Article 47, §1). The Court decides whether a request for an opinion submitted by the Committee of Ministers is within its competence as defined in Article 47 (Article 48). The European Court thus has a dictatorship when it comes to giving advice on legal issues with regard to the interpretation (not the application) of the Convention.

A final judgment is published (Article 44, §3). The opinions of the Court are communicated to the Committee of Ministers (Article 49, §3). Thus, the judgments of the European Court are published and thus are within the jurisdiction of the public scrutiny, while the opinions of the European Court are secret and thus outside the jurisdiction of the public scrutiny.

Before taking up office, each elected judge shall, at the first sitting of the plenary Court at which the judge is present or, in case of need, before the President of the Court, take the following oath or make the following solemn declaration: "I swear" – or "I solemnly declare" – "that I will exercise my functions as a judge honourably, independently and impartially and that I will keep secret all deliberations." (Article 25 (d) of the Convention, refers to "Rules of Court" and here Rule 3 applies).

The obligatory principles for any scrutiny of the judiciary

Good faith is absent by default. This is sufficiently clarifying explained in the document "Precognition and international principles" [* 1]. The public scrutiny must be able to verify the truth and thus also lying and cheating.

The evidence of perjury, abuse, or violations does not alter the ability of the perpetrators to accidentally express righteous findings or conclusions. Violating courts do not change this either.

Any lawsuit is a party exercising its rights (empowerment is a right) towards another party who does not wish to endure this exercise. For example, almost all judgments of the European Court testify of a government reluctant to agree with the Commission. The human rights reason for a fair investigation is to uncover the cause for a satisfactory solution: is it an opposing right, a lack of knowledge about the right (to be exercised) or sometimes it is an abuse to make disadvantage or worse. A judge is equipped and facilitated to disclose the working documents of the legislative author so that his objects, justifications, reflections and purposes are published with the law and the articles concerned. This is a claimed obligation.

The place and importance of the Convention

The Convention is the non-tolerant and non-crossable contour boundary of the "Rule of Law", in which all activities or human effects take place. This is often indicated in the introduction. The Convention is not the same, but close comparable to safety regulations for products in society that have their own specific rules for construction and operation. So no matter how well and according to the law a product is made, if it does not pass the safety rules it is out of use and out of the human lives in a together living society.

The Convention is a regular contract, with the contracting states on the one hand and everyone on the other (Article 1 ECHR). Any breach of contract also has legal results by the Agreements Rights in the country where the offences take place.

Human Rights do not reverse roles, do not interchange with persons in their official capacity, or reverse the power differences that have arisen. Human rights are nothing more and nothing less than an equalizing power.

Precognition and international principles

Inseparable parts of the precognition are the documents "Interpretation of the Articles of the Convention (ECHR)" [*1] and "Inventory of identifiers" [*1]. The necessary precognition and international principles have been collected in the document "Precognition and international principles" [*1] and are herein sufficiently clarifying explained. All the precognition is included here.

The topics in the document include:

1. Every law is made and written for every private individual
2. Every court, tribunal or judge is always last in line, forever
3. Every interpretation has retroactive effect by law
4. Human rights concerns relies on one court: that of the first instance
5. The Convention is a regular contract
6. Every appeal (appeal) is a regular notice of default
7. The Convention also obliges the European Court and every national court, tribunal, judge or judiciary
8. Good faith is absent by default.

The challenge of the European Court

(1) **Betrayal of the democracy in the "Rule of Law"**

(a) **already convicted perjury and wrongdoing by the public scrutiny**

This challenge of the European Court stems in part from the misdeeds or violations, which the public scrutiny previously revealed in its judgments:

(*) on the case "Golder vs. the United Kingdom," February 21, 1975 [*2].

(*) on the European Court's opinion on the Treaty system, the Court's role and workload [*2].

(*) on the "Guide to Article 13" [*2].

(*) on the case "Baka vs. Hungary", 23 June 2016 [*3].

Each of these violations and misdeeds has been fully repeated here and inserted here.

(*) Due to the unmotivated inadmissible decisions, with the nos.: 11998/17, 17268/17 and 17941/17, the European Court has proven to destroy disliked matters or subjects and the data about them.

(b) **The European Court ignores persistent the public scrutiny**

This legal public scrutiny is the only democratic participant in the rule of law. The judgments of the public scrutiny have not forced the corrections that the European Court also is obliged to elaborate in its decisions when these are repaired. So that the European Court disregards the goal of the obligation to pronounce a verdict, decision or judgment in public in order to guarantee the public scrutiny. This disregard makes every judge of the European Court without jurisdiction and power, except the first judges. Also the perjury and treason, which additionally follows below and is sufficiently clearly explained.

(c) **the right to competent judges in the European Court**

The challenge of a tribunal or judge, including that of the European Court, is one of the Human Rights to the Protection of these rights, namely the effective remedy that is

established by Article 13 . The challenge immediately suspends the procedure or the handling and suspends it until the tribunal or the European Court is recomposed with the competent judges.

Almost certainly from around 1990, the European Court commits misdeeds or other crimes by non-powered judgments that make a "Fair Trial" impossible from then on. The unfair judgments destroy peace. The worst additional misdeeds are the following.

(2) Betrayal of the Convention or of the ECHR

- (*) The Convention is one of the means of achieving the goal of greater unity between the members of the Council of Europe, while upholding human and human rights and the fundamental freedoms (Preamble Convention).
- (*) The Convention reaffirms the Council of Europe's deep belief that the fundamental freedoms form the basis for justice and peace in the world and whose enforcement is mainly based on (on the other hand)
 - (I) common understanding,
 - (II) observance,of the Human Rights upon which they depend (Preamble Convention).

(a) the sheer numbers of judgments prove the absence of unity

The betrayal to the unity is the overwhelming and growing number of judgments, in particular after the 1990s. The needless and useless personalization of the judgments destroys unity in every area and establishes the supremacy of arbitrariness that, well known, suppresses freedoms and spreads fear.

(b) not enforcing the corrections in the Contracting States

It is a betrayal of the prohibition of discrimination on any ground, by each contracting state separately, and not united, to allow, and not to penalize, to accept details or the personal differences in situations as different cases. One of the examples is "Guide on Article 13 (updated on April 30, 2020)" in which approximately 392 judgments are mentioned (except for a few all from 1990) that discuss one Article of the Convention.

(c) almost nobody complies with the judgments

It is a betrayal to the goal of a greater unity (Ground 1a of the challenge) that the aimed observance (Article 46, Convention) of the ignoring of the European Court's first/preceding judgments, successively ignites that nobody observes the rules and judgments known beforehand. While the 'new' judgments are again useless because almost nobody shall observe these.

(d) almost always unacceptably unfair

Moreover, is it betrayal to the fairness of a "Fair Trial" by not complying to pre-known rules and is therefore almost always unacceptably unfair. This is sufficiently explained in the document "Inventory of identifiers" [*1].

(e) the being deliberate, of the neglect of duty

The deliberate betrayal is effused out of the being available and downloadable since a long-time, of the document "Interpretation of the Articles of the Convention" [*1]. Herein, the skilled work in the proper sense of the word "interpret" and which produces the only legal interpretation, is sufficiently clarifying explained. This has not resulted in stopping the violations, repairing the damages and compensating unrepairable damage within a reasonable period of time and making a repeat permanently impossible.

(f) creating layers of tribunals

That happens by definition to distinguish, so to discriminate. The Convention prescribes

one tribunal, which is impossible with layers of tribunals. The tribunal layers in the Contracting States are kept, in violation of the Convention. In addition, the European Court left unclear as to which layer (that of the first instance, that of appeal, that of the Supreme Court, or that of the European Court) all human rights, of the civil individual, are respected or in which layer human rights are determined in the fairest procedure and the most justly. Finally, the European Court left unclear (within the madness of layers of tribunals) why a civil private individual cannot be at the first to go to the European Court and subsequently force the cue of 'lower' tribunals to apply all Human Rights fairly.

(g) making a grab bag of the huge numbers of judgments

Identifying just no category of the equal cases and then leaving all judgments in force, creates a grab bag. Everyone fumbles through the enormous numbers of judgments for the grounds of the personal opinion without realizing the discrimination. Such a grab bag is, for example, the "Guide on Article 13 (updated on April 30, 2020)". Any judgment must be retroactive, because the implied rights are in effect at the same time as the law.

(3) Betrayal of Convention's author and his property

(*) Each author, including the Council of Europe who is the author of the Convention, owns and possesses his expressions in word, image or otherwise. But the authentic wording, the subjects and intentions with it remain his inalienable responsibility. So that any correct explanation or interpretation by another must be in line and in harmony with it. The accountability has been given, especially for this purpose, in the working documents.

(a) applying one's own opinion is not the legal interpretation

The betrayal is that, especially after about 1990, the intentions of the Council of Europe, which is the author of the ECHR, are not respected or applied and are not passed on. This contradicts Article 10, §1, Convention, which gives everyone the right to receive the information about what the author wanted with the ECHR and the subjects and its intentions. This can only come from out of the working documents. Only this information can be the considerations that lead to the necessary, legal interpretation of an Convention-article via the judgment to that effect. In combat with this, one's own solitary opinion with or in a judgment is continuously provided to everyone.

(b) the use of its own meaning is not the legal interpretation

Not only is it the duty to respect the author and to consider only from out of the working papers (case "Golder vs. United Kingdom, 21 February 1975", §35). Also, the first interpretations must derive from the generally accepted meaning of the used words, for which the correct dictionary as the source has been made public, for example in §32 in the same case "Golder vs. the United Kingdom, 21 February 1975".

(4) Betrayal of the high moral character of the first judges

(*) The judges have a high moral character and must either have the required qualifications for appointment to a high judicial office or be lawyers with recognized competence (Article 21, §1, Convention).

(a) ignoring judgments is contempt of judges and their considerations

The betrayal is that, especially after about 1990, the interpretations already established with craftsmanship and a high moral character have evidently been set

aside in order to make discriminatory pseudo-interpretations. Take as an example the useless 392 judgments for one Convention-article (Ground 1 of the challenge).

(b) drifting away from the origin and intention of Human Rights

The first judges also considered from out of their own experience of the consequences (quote) "that disregard for and disregard for human rights have led to barbaric acts, who have violated the conscience of mankind (...)" (Preamble to UN's Universal Declaration). While in the meantime, certainly after about 1990, the same Rights have been given to the public servants/officials and judges on duty for the respect of these Rights (the Public Scrutinies, Special 2 [*1]). So that, in the performance of their duties, they may claim the right to impartial colleagues, and are given, a freedom of expression to rule dictatorially with their own opinion on, among other things, the Convention (the Public Scrutinies, Special 2 [*1]).

(5) Perjury

Before taking up office, each elected judge shall, at the first sitting of the plenary Court at which the judge is present or, in case of need, before the President of the Court, take the following oath or make the following solemn declaration: "I swear" – or "I solemnly declare" – "that I will exercise my functions as a judge honourably, independently and impartially and that I will keep secret all deliberations." (Rule 3, Rules of Court).

Therefore, any wrongdoing within the scope of (a) honorably exercise or (b) independently exercise or (c) impartially exercise or (d) secret deliberations, is an act of perjury. Acts of treason are acts of perjury.

(6) Because of perjury through abuse of independence

As a consequence of the betrayal, the human right of everyone to an independent tribunal or to independent judges in the European Court is destroyed.

(a) Independence can never be or be claimed by the European Court or a tribunal by the contractual obligation under the treaty to provide independence;

(b) Independence of a tribunal or judge is solely by a civil private individual to claim and to enforce from the national authority guaranteed by Article 13 by the contracting State;

(c) Independence of any judge of high moral character in the European Court can be claimed and enforced solely by a civil private individual from the national authority guaranteed by Article 13 by the contracting State and by the Council of Europe;

(d) The independence is identified as (quote) "the actual independence of the judiciary from political interference by the executive branche and the legislature."

(General Comment No. 32 on Article 14 of the International Covenant on Civil and Political Rights (Right to Equality before Courts and Tribunals and to a Fair Trial) published on August 23 , 2007, in §19). Therefore, is the arguing by a court, its tribunal or judge or by the European Court that independence is a lifelong job with a very good salary, an act of blackmail, abuse and perjury (among more in §20 in the case "Baka vs. Hungary, 23 June 2016 ").

(7) Because of Perjury by Fueling Violence and Revolution

Almost all nations in the world, to which the members of the Council of Europe belong, founded Human Rights (quote) "Whereas it is essential that human rights are protected by the rule of law, man does not want to be forced to resort to rebellion against tyranny and oppression as a last resort." (Preamble to UN's Universal Declaration). By betrayal and perjury of, at the forefront, the European Court the rule of law has

lapsed to arbitrariness (the standard for partiality) and ruined the rule of law system. The European Court as first stirs up the rebellion as a last resort against the Court's own tyranny and oppression as explained in the grounds above.

The European Court is still not willing to realize that almost all violence in war-free countries is always evidence of the absence of Human Rights. So it is always legal to communicate by this about this absence due to the inordinately bad work of the judiciary and the European Court. So that it is always only through violence that the rule of law can be restored or the property of everyone's Human Rights can be protected. That violence is evidence, a means of communication and a means of correction is known worldwide (quote) "Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people"(Preamble to UN's Universal Declaration). It is a relentless perjury and relentless betrayal by every judge not to take any notice of this.

Note:

- [*1]: these documents are available on this site www.publicscrutiny.nl in the chapter "The Manual for Public Scrutiny (...) and more documents")
- [*2]: these documents are available on this site www.publicscrutiny.nl in the chapter "The Public Scrutinies")
- [*3]: these documents are available on this site www.publicscrutiny.nl in the chapter "The Public Scrutinies", Special 2)
- [4] Any document covered by this challenge mentioned or referred to is not attached but available for download and is an inseparable part of this challenge.
- [5] Evidence of perjury, violations or wrongdoing by the Dutch judicial authorities, courts, tribunals and judges are gathered in the internet-dossier www.de-openbare-zaak.nl and are available for download, and this file is an inseparable part of this challenge.
- [6] The internet site www.publicscrutiny.nl is an inseparable part of this challenge.

Making facts, legal consequences and other conclusions in documents via the internet available for download, to serve the international public scrutiny is a necessary consequence of the deletion of these facts and legal consequences by the Dutch judiciary, courts, tribunals and judges and by the European Court. There is still not one judgment on these crimes in a "Fair Trial" since 2010. An example is the totally unmotivated and fact-less decision of inadmissibility with number 11998/17 by the European Court on 13 April 2017.