

4.3 THE EUROPEAN SYSTEM

As detailed in Chapter 3, the European system includes a number of avenues through which both patients' and providers' rights can be vindicated. This section provides basic information to help the user navigate through the European system.

EUROPEAN COURT OF HUMAN RIGHTS

MANDATE

The European Court of Human Rights (ECtHR) is a body of the Council of Europe (COE) that enforces the provisions of the European Convention on Human Rights (ECHR). The ECtHR adjudicates both disputes between states and complaints (known as "applications") submitted by individuals and groups alleging violations of human rights protected under the ECHR against a state or states, provided that they have exhausted all other options available to them domestically, and issues decisions which are binding on the respondents states. The ECtHR's procedural process is further elaborated below.

The COE's Committee of Ministers is responsible for monitoring the implementation of judgments made by the ECtHR.

CIVIL SOCIETY PARTICIPATION

Civil society may submit applications on behalf of individuals or groups of individuals before the ECtHR. NGOs can also file briefs on particular cases either at the invitation of the president of the court or, with permission of the ECtHR, as amici curiae ("friends of the court") if they can show that they have an interest in the case or have special knowledge of the subject matter and can also show that their intervention would serve the administration of justice. The hearings of the ECtHR are generally public.

An application form and more information on lodging applications before the ECtHR may be obtained from the ECtHR website (<http://www.echr.coe.int/Pages/home.aspx?p=applicants&c=>).

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EUROPEAN COMMITTEE OF SOCIAL RIGHTS

MANDATE

The European Committee of Social Rights (ECSR) is a body of the Council of Europe (COE) that conducts regular legal assessments of state compliance with provisions of the European Social Charter (ESC) (adopted in 1961 and revised in 1996). These assessments are based on reports submitted by States parties at regular two- to four-year intervals, known as "supervision cycles." The governmental committee and the COE's Committee of Ministers also evaluate state reports under the ESC.

The ECSR publishes its conclusions every year and also receives collective complaints alleging widespread failures of compliance with the ESC, against states which have accepted the procedure under the Additional Protocol to the ESC.

CIVIL SOCIETY PARTICIPATION

Reports submitted by States parties under the ESC are public and may be commented upon by individuals or NGOs. International NGOs with COE consultative status and national NGOs recognized by their state may also submit collective complaints to the COE alleging violations of the ESC.

Instructions for NGOs seeking to obtain or renew entitlement for lodging collective complaints with the ECSR are available at: www.coe.int/t/dghl/monitoring/socialcharter/OrganisationsEntitled/Instructions_en.asp.

CONTACT INFORMATION

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COMMITTEE OF MINISTERS

MANDATE

The Committee of Ministers (CM) is the decision-making body of the Council of Europe (COE) composed of foreign ministers of all COE Member States (or their permanent representatives). The CM provides a forum for discussion on problems facing the region and their solutions.

The CM monitors the implementation of judgments of the ECtHR and evaluates reports produced by the European Committee of Social Rights (ECSR). The CM also makes separate recommendations to Member States on matters for which the CM has agreed to a “common policy”—including matters related to health and human rights.

Some of these recommendations are provided by the Parliamentary Assembly of the Council of Europe, a consultative body composed of representatives of Member States’ parliaments.

CIVIL SOCIETY PARTICIPATION

International non-governmental organizations may be granted participatory status by the COE. Similarly, NGOs may enter into concluding partnership agreements with the COE. In this manner, organizations are able to support the work of the COE, including the CM, through their work.

With respect to the implementation of ECtHR judgments, NGOs may participate in the proceedings before the CM. They are allowed to submit communications to the CM at any time while the case is pending before the CM. Such communications may regard the respondent state’s level of compliance, demand that a state present an action plan/report, submit suggestions on how action plans/reports should be executed, call for a public debate on the

judgment during a human rights meeting (reserved for certain cases), call for a change in the standard of review by the CM, and the like.

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ADVISORY COMMITTEE

MANDATE

The Advisory Committee (AC) is the independent expert committee responsible for evaluating the implementation of the Framework Convention for the Protection of National Minorities (FCNM) in States parties and advising the Committee of Ministers (CM). It monitors country progress on implementing the FCNM by examining periodic reports submitted by States parties.

In addition to examining country reports, the AC may hold meetings with states and request additional information from other sources. The AC then prepares an opinion, which is submitted to the CM. Based on this opinion, the CM issues conclusions concerning the adequacy of measures taken by each State party. The CM may involve the AC in monitoring the follow-up to these conclusions and recommendations.

CIVIL SOCIETY PARTICIPATION

NGOs can submit “shadow reports” to the AC on any aspect of a State party’s compliance with the FCNM. Shadow reports should be submitted through the FCNM’s Secretariat. NGOs may also submit written information outside the monitoring status of a state that regards the implementation of the FCNM, encourage states to ratify the FCNM, liaise with state officials during the preparation of the state report, participate in follow-up meetings after the AC publishes monitoring results, and contribute to the AC’s preparation of commentaries on specific issues.

For more information on civil society participation, visit:

www.coe.int/t/dghl/monitoring/minorities/2_monitoring/ngO_intro_en.asp

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