

Resolution DH (70) 1 of the Committee of Ministers of the Council of Europe (15 April 1970)

Caption: Having had interstate applications from Denmark, Norway, Sweden and the Netherlands against Greece lodged with it in September 1967, the European Commission for Human Rights transmits in November 1969 a report to the Committee of Ministers on the violation by the Greek Government of several articles of the European Convention on Human Rights. Agreeing with the opinion of the Commission, and despite the denunciation of the Convention by Greece, the Committee of Ministers decides on 15 April 1970 that the respondent Government has violated the Convention.

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The Greek case

Applications No. 3321/67, Denmark v. Greece; No. 3322/67, Norway v. Greece; No. 3323/67, Sweden v. Greece; No. 3344/67, Netherlands v. Greece

The Committee of Ministers,

1. Having regard to Article 32 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter called "the Convention") ;
2. Having regard to the report drawn up by the European Commission of Human Rights (hereinafter called "the Commission") in accordance with Article 31 of the Convention and relating to the Applications lodged on 20 September 1967 by the Governments of Denmark, Norway and Sweden against the Government of Greece (Nos. 3321/67, 3322/67, 3323/67) and on 27 September 1967 by the Government of the Netherlands against the Government of Greece (No. 3344/67) ;
3. Whereas the said report was transmitted to the Committee of Ministers on 18 November 1969 and the period of three months provided for in Article 32, paragraph 1 of the Convention has elapsed without the case having been brought before the European Court of Human Rights in pursuance of Article 48 of the Convention ;
4. Whereas in their Applications, which were joined by the Commission, the four Applicant Governments alleged that the respondent Government had violated Articles 5, 6, 8, 9, 10, 11, 13 and 14 of the Convention, and that it had failed to show that the conditions set out in Article 15 of the Convention for measures of derogation were satisfied ;
5. Whereas the Governments of Denmark, Norway and Sweden on 25 March 1968 extended their original allegations to Articles 3 and 7 of the Convention and Articles 1 and 3 of the First Protocol ;
6. Whereas the Commission on 24 January 1968 declared the original applications admissible and on 31 May 1968 declared the new allegations also admissible ;
7. Whereas the Commission in its report has expressed the opinion :
 - that legislative measures and administrative practices of the respondent Government have contravened Articles 5, 6, 8, 9, 10, 11, 13 and 14 of the Convention and Article 3 of the First Protocol ;
 - that these measures and practices were and are not justified under Article 15 of the Convention ;
 - that, by promulgating Constitutional Act "Eta", which was later interpreted by Constitutional Act "Lambda", the respondent Government has not violated Article 7 of the Convention or Article 1 of the First Protocol ;
 - that the respondent Government has violated Article 3 of the Convention ;
8. Considering that the Government of Greece has denounced on 12 December 1969, the European Convention on Human Rights and the First Protocol and that, in accordance with Article 65, paragraph 1 of the Convention, this denunciation will become effective on 13 June 1970 ;

9. Considering paragraph 2 of Article 65 of the Convention which provides that the denunciation "shall not have the effect of releasing the High Contracting Party concerned from its obligations under this Convention in respect of any act which, being capable of constituting a violation of such obligations, may have been performed by it before the date at which the denunciation became effective" ;
10. Voting in accordance with the provisions of Article 32, paragraph 1 of the Convention ;
11. Agreeing with the opinion of the Commission,
12. Decides :
 - (a) that the Government of Greece has violated Articles 3, 5, 6, 8, 9, 10, 11, 13 and 14 of the Convention and Article 3 of the First Protocol ;
 - (b) that the Government of Greece has not violated Article 7 of the Convention and Article 1 of the First Protocol ;
13. Having regard to the denunciation of the Statute of the Council of Europe by the Government of Greece on 12 December 1969 ;
14. Having regard to the denunciation on the same date by the same Government of the European Convention on Human Rights and of its First Protocol, mentioned above ;
15. Having regard to Resolution (69) 51 of 12 December 1969 ;
16. Having considered the proposals made by the Commission in accordance with paragraph 3 of Article 31 of the Convention ;
17. Considering that the Greek Government has declared on 7 December 1969 that it considers the report of the Commission as "null and void" and that it "does not consider itself legally bound by the conclusions of the said report" ;
18. Considering that the Greek Government was given an opportunity to take part in the discussions of the Committee of Ministers when it was examining the report of the Commission, but in a letter of 19 February 1970 the Government stated that it had no intention whatsoever of doing so and that such a participation would be "inconsistent with Greece's formal denunciation of both the Commission's report and the European Convention" ;
19. Considering that these circumstances and communications clearly established that the Greek Government is not prepared to comply with its continuing obligations under the Convention and thus with the system of collective protection of human rights established thereby, and that accordingly the Committee of Ministers is called upon to deal with the case in conditions which are not precisely those envisaged in the Convention ;
20. Concludes that in the present case there is no basis for further action under paragraph 2 of Article 32 of the Convention ;
21. Concludes that it must take a decision, in accordance with paragraph 3 of Article 32 of the Convention, about the publication of the report of the Commission ;
22. Decides to make public forthwith the report drawn up by the Commission on the above-mentioned Applications ;

23. Urges the Government of Greece to restore, without delay, human rights and fundamental freedoms in Greece, in accordance with the Convention and the First Protocol, taking into account, inter alia, the proposals made by the Commission which are attached hereto ;
24. Also urges the Government of Greece, in particular, to abolish immediately torture and other ill-treatment of prisoners and to release immediately persons detained under administrative order ;
25. And accordingly resolves to follow developments in Greece in this respect.