

WRITTEN MINISTERIAL STATEMENT

Tuesday 28 October 2014

MINISTRY OF JUSTICE

Protocols 15 and 16 to the Convention on the Protection of Human Rights and Fundamental Freedoms

The Minister of State for Justice and Civil Liberties (Simon Hughes):

In accordance with the Constitutional Reform and Governance Act 2010 and as part of the United Kingdom of Great Britain and Northern Ireland's ratification process, the Government is laying before Parliament the text of Protocol 15 to the Convention for the Protection of Human Rights and Fundamental Freedoms, commonly known as the European Convention on Human Rights, under Command Paper No. 8951 with an explanatory memorandum which explains the effects of the Protocol, ministerial responsibility for its implementation, and financial implications resulting from ratification.

The key objective of the United Kingdom's Chairmanship of the Committee of Ministers of the Council of Europe was to secure agreement to further reforms to the European Court of Human Rights. That objective was achieved. The resulting Brighton Declaration on the Future of the Court, agreed on 20 April 2012, was a comprehensive package of reforms to tackle the excessive backlog of cases pending before the Court, and made clear that the primary responsibility for guaranteeing human rights rests with national governments, parliaments and courts. Together, these reforms help to ensure that the Court focuses on allegations of serious violations or major points of interpretation of the Convention. Refocusing the role of the Court should reduce its backlog and thus deliver swifter justice for the fewer cases before it.

The Brighton Declaration was the result of a hard won – and ongoing – negotiation on the future role of the European Court of Human Rights. It therefore represented a significant step towards realising the goals set out by the Prime Minister, David Cameron, in Strasbourg in January 2012, to ensure that the Court does not function as a “court of fourth instance”. It was not however the end of the reform process: as mandated by the Brighton Declaration, work continues at the Council of Europe to consider further reforms in the context of the longer-term future of the Court and the Convention system.

As part of the package of reforms, the Brighton Declaration included agreement in principle to amend the Convention in five respects. Protocol 15, the text of which will be laid here today, makes these amendments. Since it was opened for signature on 24 June 2013, Protocol 15 has been ratified by 10 States and signed by 29 others. It will come into force once ratified by all High Contracting Parties to the Convention, and will represent an important part of the implementation of the Brighton Declaration.

The Brighton Declaration also included agreement in principle to the drafting of Protocol 16 to the Convention. This creates an optional system by which the highest national courts can choose to seek advisory opinions on the interpretation of the Convention from the European Court of Human Rights. It will come into force once it has been ratified by 10 High Contracting Parties to the Convention, and will apply only to those countries that have ratified it.

Although the Government was pleased that it could help secure agreement on advisory opinions in the Brighton Declaration, it has long made clear that it is unconvinced of their value, particularly for addressing the fundamental problems facing the Court and the Convention system. The Government will therefore neither sign nor ratify Protocol 16 at this time. It will instead observe how the system operates in practice, having regard particularly to the effect on the workload of the Court, and to how the Court approaches the giving of opinions.