

CAJ's submission no. S381

**CAJ's Submission to Ms Eleanor Fuller,
Ambassador Extraordinary and Plenipotentiary
on going negotiations of the draft Brighton Declaration
on the future of the Court**

April 2012

What is the CAJ?

The Committee on the Administration of Justice (CAJ) was established in 1981 and is an independent non-governmental organisation affiliated to the International Federation of Human Rights. CAJ takes no position on the constitutional status of Northern Ireland and is firmly opposed to the use of violence for political ends. Its membership is drawn from across the community.

The Committee seeks to ensure the highest standards in the administration of justice in Northern Ireland by ensuring that the government complies with its responsibilities in international human rights law. The CAJ works closely with other domestic and international human rights groups such as Amnesty International, Human Rights First (formerly the Lawyers Committee for Human Rights) and Human Rights Watch and makes regular submissions to a number of United Nations and European bodies established to protect human rights.

CAJ's activities include - publishing reports, conducting research, holding conferences, campaigning locally and internationally, individual casework and providing legal advice. Its areas of work are extensive and include policing, emergency laws and the criminal justice system, equality and advocacy for a Bill of Rights.

CAJ however would not be in a position to do any of this work, without the financial help of its funders, individual donors and charitable trusts (since CAJ does not take government funding). We would like to take this opportunity to thank Atlantic Philanthropies, Barrow Cadbury Trust, Hilda Mullen Foundation, Joseph Rowntree Charitable Trust, Oak Foundation and UNISON. The organisation has been awarded several international human rights prizes, including the Reebok Human Rights Award and the Council of Europe Human Rights Prize.

**Letter for Ms Eleanor Fuller, Ambassador Extraordinary and Plenipotentiary
ongoing negotiations of the draft Brighton Declaration on the future of the
Court**

16 April 2012

Dear Ambassador,

We are writing to you in the context of the ongoing negotiations on the draft Brighton Declaration for the Future of the European Court of Human Rights, which is due to be adopted at the High Level Conference on the Future of the European Court of Human Rights in Brighton (18-20 April 2012).

We call on you to protect the integrity and the authority of the Court in these negotiations and to ensure that it remains effectively accessible to individuals claiming to be victims of violations of their Convention rights.

The European Court of Human Rights is at the heart of the system for the protection of human rights in Europe and member states to the Convention must do their utmost to ensure it can effectively maintain its supervisory role. For the Convention system to be sustainable, better national implementation of the Convention and proper execution of the Court's judgments are fundamental. Proposals that have been made in this regard during the Brighton negotiations should therefore be actively encouraged and supported.

However, we are concerned that a number of the reform proposals currently under discussion could seriously undermine the authority and integrity of the Court and its ability to ensure the effective protection of human rights in Europe. In particular, we are deeply concerned about damaging proposals to amend the Convention in order to:

- introduce additional **admissibility requirements**.
In our view, the proposed inclusion in the Convention of a new admissibility criterion relating to cases in which national Courts have taken into account the Convention rights would unduly restrict the Court's substantive jurisdiction by preventing an assessment on the merits of the states parties' observance of their engagements under the Convention.
- to codify certain principles of judicial interpretation, such as the doctrine of the **margin of appreciation** and the **subsidiarity** principle.
To insert these principles in the text of the Convention, and to define their nature and content, risk undermining the interpretative role of the Court. In particular, the doctrine of the margin of appreciation, along with other equally important principles of judicial interpretation, has been developed by the Court and it should remain for the Court to continue to do so and to adapt them to evolving circumstances and societal changes.

We therefore strongly urge the government of the United Kingdom to reject:

- any amendments to the Convention which would add new admissibility requirements and further curtail access to the Court or unduly restrict the Court's substantive jurisdiction.
- any amendments to the Convention that would restrict the interpretative role of the Court – such as those to codify the principles of judicial interpretation known as "margin of appreciation" and "subsidiarity".

We call on the government of the United Kingdom to actively support:

- proposals aimed at improving national implementation of the Convention, including the rapid and full execution of the Court's judgments.

Yours faithfully,

Brian Gormally
Director
Committee on the Administration of Justice (CAJ)



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