

## **HISTORICAL BACKGROUND OF THE ECHR**

The ECHR was drafted in the aftermath of the 2nd World War under the auspices of the Council of Europe. It was conceived for two purposes: To ensure the protection of certain fundamental rights and freedoms and to contribute to the establishment of stable democracies governed by the rule of law across Europe. These objectives are reflected in the possibility to submit individual applications to the European Court of Human Rights seeking protection of individual rights (article 34 ECHR) and the possibility to file inter-state applications, which is accorded to states by article 33 ECHR.

Until the 2nd World War, the protection of human rights had been considered a matter between states and persons under their jurisdiction; the concept of national sovereignty had prevented states or the international community from interfering with the way human rights were safeguarded in other states. Where such interference had taken place, it was in the form of diplomatic protection of own citizens under the jurisdiction of another state. The atrocities committed in the first half of the century across Europe and in particular the terror of the holocaust had shown that this form of protections was not adequate.

In addition to this, it had become clear that the rule of law was a pre-condition for peaceful cohabitation of peoples – and that states which were disrespectful of human rights represented a threat not only to their own citizens, but also to neighbouring countries.

After the 2nd World War, a new order had to be established in Europe. In 1948, a number of groups advocating for European unity organized a congress – the Congress of Europe – in The Hague, Netherlands, during which concepts for future co-operation of peoples in Europe were discussed. One of the resolutions adopted at the conference was to establish a commission mandated to draft a charter of fundamental rights to be respected by all European states and to set out requirements of a democratic state.

Following the ‘Congress of Europe’, several European nations joined to found the Council of Europe, an international organization created ‘order to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress’ (Statute of the Council of Europe). According to the Statute, membership in the Council of Europe required acceptance of the principle of rule of law and securing of fundamental rights and freedoms to all citizens within the jurisdiction of a state.

The Consultative Assembly, an organ of the Council of Europe which was later on baptized Parliamentary Assembly, took up the idea of a human rights charter discussed during the Congress of Europe. It set up a commission charged to draft a catalogue of human rights all Council of Europe member states should commit to. After the document had been discussed and revised in several committees and bodies of the Council of Europe, the Committee of Ministers, the executive organ of the Council of Europe, adopted a text in August 1950. This document was the basis of the European Convention on Human Rights. The ECHR was signed on 4 November 1950 in Rome and entered into force on 3 September 1953.