

Dialogue with the European Court of Human Rights – Seminar on Protocol No.16

16/10/2023



On 13 October 2023 in Strasbourg, the Cour de cassation took part in a seminar on "Judicial dialogue through the advisory opinion mechanism under Protocol No. 16" organised by the European Court of Human Rights.

The First President spoke about France's experience - the first - in implementing this Protocol.



At the initiative of the President of the European Court of Human Rights, this seminar brought together several delegations from the supreme courts of contracting States to the Convention, whether or not they had signed Protocol No. 16, as well as the ambassadors to the Council of Europe.

The meeting, attended by Christophe Soulard, First President of the Court of Cassation, and Rémy Heitz, Public Prosecutor at the Court of Cassation, provided an opportunity for an exchange of views on the use of Protocol No. 16, both from the point of view of the judges of the European Court of Justice and from that of the judges of supreme courts that have already made use of the opinion procedure. The dialogue was also enriched by contributions from judges of supreme courts in States that have not yet ratified the Protocol.

The discussions between the participants enabled an initial assessment to be made of the use of this procedure, based on the first eight requests for opinions based on Protocol No. 16.

Everyone agreed that the effectiveness of the protocol was not measured by the number of referrals but by the scope of the opinions, which become part of the case law of the European Court and therefore have a major impact on both the signatory states of the protocol and the others.



The First President of the Court of Cassation spoke about France's experience of implementing the Protocol, as the Court of Cassation was the first court to make use of Protocol No. 16 in a case concerning the legal situation of children born from surrogate motherhood abroad.

On the basis of this concrete example, Christophe Soulard was able to formulate an outline of the possible uses of the procedure, emphasising that the opinion issued by the European Court of Human Rights gave greater authority to the ruling of the Court of Cassation, and ultimately provided the legislature with clear guidelines for developing domestic legislation.





CEDH

Droits de l'Homme

Europe

International

convention européenne de sauvegarde des droits de l'homme et des libertés

convention européenne des droits de l'homme