

AMICUS CURIAE BRIEFS OF HUMAN RIGHTS NGOs BEFORE
THE EUROPEAN COURT OF HUMAN RIGHTS

A THESIS SUBMITTED TO THE STANFORD PROGRAM IN
INTERNATIONAL LEGAL STUDIES AT THE STANFORD LAW
SCHOOL, STANFORD UNIVERSITY IN PARTIAL
FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE
OF MASTER OF THE SCIENCE OF THE LAW

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MAY 2011

ABSTRACT

This thesis explores the practice of third intervention by human rights NGOs before the European Court of Human Rights. Although allowed since over two decades, the practice has not been comprehensively and empirically explored so far. Most likely because the primary data is not readily available, the majority of existing studies rely almost solely on the judgments to discuss the *amicus curiae* device.

The approach adopted here has been to collect and review the *amicus curiae* briefs themselves (from 1986 to 2011), allowing for this activity before the Court to be accurately pictured. First, this research confirms the increase in terms of numbers of *amicus* participation. In addition to UK-based charities and large transnational human rights organizations, the Court witnesses more and more the presence of smaller and more specialized groups, as well as, recently, a few conservative groups. The briefs cover almost all issues under scrutiny of the Court, although cases involving the prohibition of torture and inhuman or degrading treatment, the right to family and private life, the right to free expression and the prohibition of discrimination attract a higher concentration of briefs. Finally, the most recent numbers expose that the findings of a violation by the Court in cases involving third parties is not higher than for the general docket, on the contrary.

The content analysis of 200 briefs submitted to the Court has revealed that they largely adopt the language of the Court and the concepts it has developed over time (such as the ‘consensus’ element). Most of the arguments they contain resort from the legal field and the briefs provide the Court with many comparative elements (as well from member States as from other democratic States). The analysis further suggests that they provide other types of information (such as factual information, policy considerations and potential consequences) to a lesser degree than could be inferred from the existing literature.

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