

Conference of European Justice and Peace Commissions NEWSLETTER ON THE COUNCIL OF EUROPE

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Introduction

● In a speech on the 25th of January 2010, the opening day of the winter session of the Parliamentary Assembly of the Council of Europe (PACE), the Secretary General of the Council of Europe (CoE) **Thorbjørn Jagland** said that the CoE should be "a lighthouse for Europe" by anticipating social and political crises, and by providing solutions".

He said that the planned reform of the CoE aims to revitalize the organization as a political and innovative body, to make it more flexible and visible, and to concentrate on high added value projects.

Two days later as he addressed the Conference of NGOs he said that the entering into force of the Lisbon Treaty opens up new possibilities to reinforce the overall architecture of Europe. One of the most far-reaching implications of the new treaty is the accession of the European Union to the European Convention on Human Rights.

"Thus one single room will be created for human rights all over Europe, with the exception of Byelorussia."

He added that this will lead to a better cooperation between the CoE and the EU, and he saw few risks the two overlapping each other.

● During its opening session on the 25th of January the PACE also elected **Mevlüt Çavusoglu** from Turkey as its new President. Mr Çavusoglu succeeds Lluís Maria de Puig from Spain as the Assembly's 25th President. He is the first Turk to hold the office since Turkey's accession to the CoE in August 1949.

Human Rights

- In his speech to the PACE on the 25th of January the Secretary General of CoE, Mr Thorbjørn Jagland, said: "It only takes a quick look at the problems, which our societies are facing today to understand that social stability is not guaranteed. **We are facing increased mistrust and intolerance within practically all our countries**, with convergence of economic problems, social issues and migration.

I am deeply worried when I hear that "if we also could cast our vote in a referendum about the rights of the Muslims, we would have done as the people in Switzerland".

More and more people seem to forget that majority rule does not give the majority the right to harm the legitimate rights of minorities. The Universal Declaration of Human Rights and the European Convention of Human rights restrain the majority.

I have always believed that social rights and human rights are closely linked. If we look at the social conditions in many of the large cities in Europe, one can easily understand why integration is failing, and tolerance is lacking, and why young people find ways to convey their frustration.

The danger is that extreme forces can exploit the situation to promote intolerance and hatred. A negative dynamic may develop, one, which will be difficult to control.

I make this point because we need to recognize human rights and social rights as an integral part of the same struggle

to create democratic stability.

And I strongly believe that the Council of Europe can, and should be, a forum for better understanding of how we can live together, to prevent the emergence of new dividing lines within European countries."

To read Mr Jagland's entire speech, go to:

www.coe.int/t/secretarygeneral/sg/speeches/2010/20100125_ap_en.asp

- Mr Jagland reiterated this worry two days later in his address to the Conference of INGOs (International NGOs): "There is a clear risk that xenophobia is on the increase, and it threatens to destabilize Europe".

"Resisting the rise of discrimination: tasks for human rights INGOs" was then the theme of the meeting of the Human Rights Committee of the INGOs. Ms Carole Reich, coordinator of the CoE's ongoing campaign **"Speak out against discrimination"**, visited this meeting and presented the campaign. The message of the campaign is that fighting discrimination and promoting intercultural dialogue is a collective responsibility but it is also down to individuals.

The campaign targets mainly media professionals and the treatment of news relating to discrimination and intercultural dialogue. But it wants to help people with a minority background to make their voices heard, and it also wants to inform the public opinion about policies that combat discrimination.

This campaign has its mandate from the CoE White Paper on intercultural dialogue "Living together as equals in dignity", which was published in 2009.

To learn more on the campaign and to order material, including the White Paper, go to: www.coe.int/t/DG4/ANTI-DISCRIMINATION-CAMPAIGN/

- Both Greece and Turkey should treat all their citizens who are members of religious minorities according to the standards of the European Convention on Human Rights - rather than invoking "reciprocity" under the 1923 Treaty of Lausanne as a basis for refusing to implement some rights.

Approving a Report on the 27th of January 2010 on "**Freedom of religion and other human rights for non-Muslim minorities in Turkey and for the Muslim minority in Thrace (Eastern Greece)**", the PACE acknowledged that the question was "emotionally very highly charged".

But it also said the two countries should "treat all their citizens without discrimination, without taking into account the way in which the neighboring state might treat its own citizens". In a Resolution, the Assembly said the recurrent invoking by Greece and Turkey of the principle of reciprocity as a basis for refusing to implement the rights guaranteed to the minorities concerned by the Treaty of Lausanne was "anachronistic" and could jeopardize each country's national cohesion.

However, it also welcomed "a degree of new awareness by the authorities of both countries, which have demonstrated their commitment to finding appropriate responses to the difficulties facing the members of these minorities".

The parliamentarians urged both governments to recognize the "freedom of ethnic self-identification" and to make a series of changes in minority, education and religious policy. They were also asked to report back to the Assembly on progress made within a year.

To read the Report, go to:

<http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc09/EDOC11860.htm>

To read the Resolution, go to:

<http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta10/eRES1704.htm>

- In a Resolution adopted on the 27th of January 2010 the PACE urges **countries where justice is seen as the most corrupt institution that they must deal with the problem urgently.** The Resolution underlines the fact that a corrupt judicial system undermines the rule of law, which is the backbone of a pluralistic democracy. A corrupt judicial system furthermore calls into question equal treatment before the law and the right to a fair trial, and erodes the legitimacy of all the public authorities.

The PACE underlined that judges,

prosecutors and police should be recruited and promoted only on merit, paid a reasonable wage.

The CoE should also draft a model code of conduct for judicial officials.

To read this Resolution, got to:
<http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta10/ERES1703.htm>

- A new issue of the CoE's "**Human rights information bulletin**", which covers the period July to October 2009, was published in January 2010.

It is published three times per year and contains information not only about on the CoE's work with Human Rights, but also that of other European human rights institutes.

The "Human rights information bulletin" can be downloaded in PDF format. Paper copy is distributed free of charge within Europe.

To download the bulleting, got to:
http://www.coe.int/t/dghl/publications/index_publications_EN.asp?

On the same site it is possible to subscribe to the bulletin and to receive back-copies.

Migration

- The detention of asylum seekers and irregular migrants in CoE member states has increased substantially in

recent years. On the 28th of January 2010 the PACE therefore set down **guiding principles on the legality of detention and put forward a number of European rules governing minimum standards for conditions in detention centers**, which should be guaranteed by member states and adopted by the Committee of Ministers as European rules.

The parliamentarians encouraged the CoE member states to use alternatives to detention, such as placement in special establishments, release on bail/surety or electronic monitoring.

To read the Recommendation, go to:
<http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta10/EREC1903.htm>

To read the Resolution, go to:
<http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta10/eRES1707.htm>

The **underlying Report** concludes that the legal framework governing detention is frequently misunderstood. Furthermore, the automatic use of detention gives rise to a long list of serious problems including that, too frequently, detention is used as the option of first resort and not last resort. Alternatives to detention are too infrequently used.

The Report also states that conditions and safeguards afforded to immigration detainees, who have committed no crime, are often worse than those in respect of prisoners in criminal custody. The Report seeks to clarify ten guiding principles on the legality of detention of

asylum seekers and irregular migrants. It also puts forward, as a starting point, 15 European rules governing minimum standards of conditions in detention centers for migrants and asylum seekers, which should be guaranteed by member states and adopted by the Committee of Ministers as European rules.

To read the Report, go to:

<http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc10/EDOC12105.htm>

● **The displacement of millions of people worldwide is a key human rights and humanitarian challenge.** For both refugees and internally displaced persons (IDPs), **the loss of homes and land presents a serious obstacle to durable solutions and the restoration of justice.** The destruction, occupation and confiscation of abandoned property violate the rights of such persons, prolong their displacement and complicate peace-building efforts. In an underlying Report is stated that the restoration of legal rights and physical possession of properties through restitution, or the provision of equivalent properties or value through compensation, are essential forms of redress. The failure to provide such redress is a central factor perpetuating the displacement of over 2.5 million people in Europe.

On the basis of this Report the PACE adopted a Recommendation on this issue on the 28th of January 2010. In it the PACE recommends that the Committee of Ministers instructs the relevant body of the Council of Europe to undertake a

study that would examine existing standards and practice related to redress for the loss of access and rights to housing, land and property in favor of refugees and IDPs in European post-conflict settings, and the procedures and mechanism with which such redress is sought and implemented.

IDPs and refugees should be fully involved in the study. The study should provide the basis for detailed guidelines and should focus on the issues of particular relevance in the European context.

To read the Report, go to:

<http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc10/EDOC12106.htm>

To read the Recommendation, go to:

<http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta10/ERES1708.htm>

Trafficking

● In a resolution adopted in the 26th of January 2010 the PACE called on CoE member states, which have not yet done so, to sign and/or ratify the CoE **Convention on action against trafficking in human beings.** The underlying Report states that PACE's Committee on Equal Opportunities for Women and Men is firmly committed to combating trafficking. The Committee intends to keep up the pressure on CoE member states and beyond in order to ensure that action against trafficking becomes a political priority, accompanied by effective

implementation on the ground.

In adopting the Resolution the PACE also encouraged the European Union to accede to the Convention. It also spoke out in favor of intensified co-operation with other international organizations, taking special care to avoid all risk of duplication between the different monitoring mechanisms.

The parliamentarians also asked that the GRETA - the Group of independent experts responsible for looking after the implementation of the convention - be able to command the financial and human resources needed for its activity. Finally, PACE proposed to organize a conference in 2010 on action against trafficking, involving all partners.

To read the Report, got to:

<http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc09/EDOC12096.htm>

To read the Resolution, got to:

<http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta10/eRES1702.htm>

How to Find a Document

- The number of documents produced at the CoE during the sessions of the Parliamentary Assembly of the Council of Europe (PACE) or the Committee of Ministers or the Congress of Local and Regional Authorities is impressive. A Newsletter like this one can only skim the surface of all these initiatives.

To better inform yourself on the variety of proposals and adopted texts you can **consult the CoE website**.

First go to www.coe.int. Choose e.g. *Parliamentary Assembly* on the top left-hand side of the page. A new page will open up.

On this second page you will find the heading *Documents* in the left margin of the page. Then choose to look at the list of either *Adopted Texts* or *Working Documents*.

To find a document choose *Search* on top left-hand side of the page and click on *Documents*. A new side will open up. Stay on the left-hand side and go three headings down. Under *Documents* you will find the heading *How to search?* Click and follow the instructions.

On the *Committee of Ministers* site you will find the heading *Search help* on the opening page on the left-hand side. Click and follow the instructions.

On the sites of the *Congress of Local and Regional Authorities*, as well as that of the *Commissioner for Human Rights* you will find the heading *Search* on the left-hand side of the opening pages.

Proposals and Contact

- To get you get in contact with the J&P Europe representative to the CoE, Henrik Alberius, please send questions, remarks, ideas, and demands for aid to: henrik.alberius@cef.fr
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