

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

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Editor: Henrik Alberius OP, Sweden/France



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Introduction

● On January the 27th 2009 the Justice and Peace Europe art exhibition *Poverty Has a Face* was inaugurated in the Council of Europe (CoE) in Strasbourg. These are the opening words of the address of the Secretary General of the CoE, Mr Terry Davis, at this occasion:

"Statistics are a very useful tool, but they can also be misused for deception or self-deception. Sometimes, there is no ill intent - only the instinctive reaction of the human mind to protect itself from what is disturbing and painful. When confronted with bad news, be it about victims of a natural catastrophe or an accident - or poverty

- and poverty is not an accident - we have an instinctive reaction to look at the numbers, the statistical data, instead of accepting the fact that behind every number there is a human being and a human story.

Today we are faced with a global economic crisis, which affects virtually every country in the world including all the member states of the CoE ... We are all affected, but we are not all affected in the same way. Most people will have to adapt and tighten their belts, but some people have no more holes left on their belts.

At least for a period of time, some people are being thrown into poverty, and those who were poor already, are becoming even poorer. That is why it is important for us to remember that poverty has a face - and I thank the association Justitia and Pax Europa and its President, Bishop Gérard Defois, for organizing this exhibition and bringing its message to us."

To read the entire speech, go to:
<http://justice-paix.cef.fr/La-pauvrete-a-un-visage-Justice-et.html?artsuite=3>

Human Rights

- The new *Human Rights Information Bulletin* covering July to October 2008 is now available. It treats all the different aspects of the work of the CoE in the field of human rights. This includes the European Commission against Racism and Intolerance (ECRI), as well as other European human rights institutes.

To order the new bulletin and/or to subscribe to it, go to:

http://www.coe.int/t/E/Human_Rights/hribe.asp

- The 4th quarterly activity report 2008 of the Commissioner for Human Rights, Mr Thomas Hammarberg, is also available now. It lists and comments the Commissioner's missions and visits, his reports, and so on.

To read this report, go to:

<https://wcd.coe.int/ViewDoc.jsp?id=1396449&Site=CommDH&BackColorInterne=FEC65B&BackColorIntranet=FEC65B&BackColorLogged=FFC679>

- CoE governments should closely regulate private military and security companies to ensure that in practice their personnel meet the human rights standards which apply to regular armies and state security services, according to the Council of Europe Parliamentary Assembly (PACE).

After debating a report by Wolfgang Wodarg (Germany), the parliamentarians called for a convention which would require such firms to be more transparent: They also called for

parliamentary approval for any foreign missions they carried out. Any laws and rules applying to the regular army or police should also apply to them.

Some areas of security were "inherently governmental", the Assembly said in its resolution, and should remain exclusive to sovereign states, which act in the public interest. Private firms, by contrast, had an interest in the outbreak or maintenance of conflict: "The more conflicts there are, the more the market for their services becomes profitable."

There were real human rights abuses committed by personnel from these companies, the parliamentarians said - yet there were difficulties in bringing them to justice. Their influence on political choices and policy orientations was also a concern.

Presenting his report, Mr Wodarg said the global turnover of such firms in 2006 was estimated at 200 billion dollars.

To read the report, go to:

<http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc08/EDOC11787.htm>

To read the Recommendation, go to:

<http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta09/EREC1858.htm>

- In a report the PACE confirms its firm commitment to the International Criminal Court (ICC). The ICC is the first permanent independent judicial institution with jurisdiction over individuals accused of genocide, crimes against humanity and war crimes. The ICC is based on complementarity,

seeking to empower national states to investigate and prosecute such crimes, assuming jurisdiction only as a last resort.

It also reiterates its belief that the universal ratification of the Rome Statute and its effective implementation into national systems as well as close cooperation by states and non-States Parties in providing practical and judicial assistance to the ICC is of key importance for the fight against impunity.

The Rome Statute of the ICC is the treaty that established the ICC. It was adopted at a diplomatic conference in Rome on 17 July 1998, and it entered into force on 1 July 2002. Among other things, the statute establishes the court's functions, jurisdiction and structure.

It welcomes the fact that since its adoption in 1998, the Rome Statute of the ICC has been ratified by 108 states across the world. Regrettably, eight Council of Europe member states (Armenia, Azerbaijan, the Czech Republic, Moldova, Monaco, Russia, Turkey and Ukraine), one Council of Europe observer state (the United States) and one observer state with the Parliamentary Assembly (Israel) have not yet ratified the Rome Statute.

The PACE calls on all member states and those having observer status with the CoE or the PACE to ratify themselves and/or actively promote universal ratification of the Rome Statute and the Agreement on Privileges and Immunities of the ICC, and to fully cooperate with the ICC in the fight against impunity for the most serious crimes of international concern.

To read the report, go to:

<http://assembly.coe.int/Mainf.asp?link=/Documents/WorkingDocs/Doc08/EDO C11722.htm>

To read the Resolution, go to:

<http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta09/ERES1644.htm>

- In December 2008 the Commissioner for Human Rights, Mr Thomas Hammarberg, published a document called "*Protecting the right to privacy in the fight against terrorism*".

The document commences thus:

"The right to privacy is an integral part of the right to respect for private life, as guaranteed by Article 8 of the European Convention on Human Rights.

It also encompasses a more special right, usually referred to in terms of "data protection". This special right does not only concern protecting individuals from intrusions into their privacy or private life, but also more broadly is about guarding against the improper collecting, storing, sharing and use of their data.

It addresses the central issue in the "information society" of the extent of control by data controllers over individuals - tellingly referred to as "data subjects" - through possession of their data. The increasing importance given to this right is reflected in the case law of both the European Court of Human Rights and the European Court of Justice."

To read the entire document, go to:
<https://wcd.coe.int/ViewDoc.jsp?id=1380905&Site=CommDH&BackColorInterne t=FEC65B&BackColorIntranet=FEC65B&BackColorLogged=FFC679>

- The Commissioner for Human Rights regularly publishes *Viewpoints* on topics of general interest and concerning human rights in particular.

To read these *Viewpoints*, go to:
http://www.coe.int/t/commissioner/default_en.asp

Look on the left hand side. You will find the heading *Viewpoints* in the *Library* box.

- At the end of an urgent debate on the consequences of the global financial crisis, the PACE reminded the European governments on the 29th of January 2009 of "their responsibility to protect citizens' social and human rights". The disastrous impact of the crisis "could possibly threaten to undermine the very foundations of democracy". According to the parliamentarians, it is vital that economic solidarity, coordination and co-operation should be exercised not only among the CoE member states and between the industrialized states, but also vis-à-vis the developing countries. The adopted resolution considers that the financial institutions have failed in their duty to provide information and "the public authorities have not lived up to their responsibilities in regard to supervision of the risks posed by the spread of financial instruments". They have not "protected citizens and

financial players engaging in high-risk transactions".

Following the proposals in the underlying report the parliamentarians listed a dozen principles designed to soften the recession and reform the financial system, notably ensuring the stability of the financial markets by providing liquidity, enabling markets to be made more transparent, fostering a sense of morality among economic players and improving rules governing the financial markets, including rules of accountability, so as "to ensure better coverage of the rule of law". In that context, they concluded governments must do "everything possible to restore the public's confidence in the functioning of the economy".

To read the Resolution, go to:
<http://www.assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta09/ERS1651.htm>

Migration

- On the 30th of January 2009 PACE called for an international convention, which clearly defines environmentally induced migration for the first time. More cross-disciplinary research is needed to understand the complex links between population movements and climate, the parliamentarians said. The Assembly said that above all, governments must tackle the root cause of this looming problem through coordinated and swift action at all levels to deal with dangerous environmental degradation.

The underlying report states that the

impacts of climate change on the environment and human mobility are becoming increasingly worrying. The number of natural disasters has doubled over the past two decades. Every year 30 million people worldwide are forced to move because of serious degradation of environmental conditions, natural disasters and depletion of natural resources. This figure is expected to soar by the middle of this century. Moreover, international protection and operational frameworks are deficient, leaving several categories of people forced to flee or seeking safer existence without effective national or international protection.

Therefore the report calls for Europe to take a pioneer role in this area. The CoE should contribute by elaborating its own Framework Convention for the Recognition of Status and Rights of Environmental Migrants and introduce an additional Protocol on the right to a healthy and safe environment to the European Convention on Human Rights. Meanwhile, member states are encouraged to interpret and apply the obligation of *non-refoulement* under Articles 2 and 3 of the European Convention of Human Rights in an inclusive manner and grant complementary or temporary protection to environmental migrants.

Non-refoulement is a principle in international law, specifically refugee law, that concerns the protection of refugees from being returned to places where their lives or freedoms could be threatened.

To read to report, go to:
<http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc08/EDOC1>

[1785.htm](#)

To read the Resolution, got to:
<http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta09/ERES1655.htm>

- In response to a report called "*Migration and Mobility in the Eurasian Region - Prospects for the future*" PACE adopted a Recommendation on the 28th of January 2009. This Recommendation calls, among other things, for the strengthening of regional and bilateral co-operation in Eastern Europe and the Euro-Asian region. It also wants to see the role of public employment services in the management of short-term migration and the protection of migrants' rights strengthened, including protection against traffickers and smugglers.

The Report states that throughout centuries migration movements and human mobility have played an important role in the common history and socio-economic and cultural development of both Europe and Asia. It makes an overview of recent migration trends in the Commonwealth of Independent States (CIS) region and migration flows between Russia (Siberia) and China. In terms of prospects for the future, the report focuses on shifts from survival strategy towards development strategy, the new migration strategy of the Russian Federation, the potential for the CIS common labor market and prospects for regional co-operation in the field of migration management.

To read the Report, go to:

<http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc08/EDOC1747.htm>

To read the Recommendation, got to:
<http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta08/EREC1852.htm>

- In a Resolution called "*Europe's boat people: mixed migration flows by sea into southern Europe*" PACE calls for action to address the worsening migration situation in the south of Europe.

The large-scale arrival of irregular migrants, refugees and asylum seekers on Europe's southern shores has become a regular phenomenon, with the number of arrivals climbing substantially in recent years. In 2006 these numbers reached a peak, but fell back in certain regions in 2007. Over 72 000 persons arrived in Spain, Italy, Greece and Malta in 2006 and over 51 000 persons arrived in these countries in 2007.

This mixed migration flow includes refugees and asylum seekers, towards whom states have special responsibilities under international law, including the obligation to safeguard against *refoulement*.

The Resolution recalls the many thousands of lives are lost as irregular migrants, refugees and asylum seekers take to sea in boats that are not seaworthy and undertake longer and more perilous journeys to reach Europe. They leave for a multitude of different reasons, including escaping violent conflicts, human rights abuses, persecution, abject poverty and environmental degradation. They lack legal avenues to enter Europe and often

pass through countries, which offer no effective international protection. The level of exploitation by traffickers and smugglers of persons seeking to enter Europe by irregular means is particularly alarming with, for example, regular reports from Libya of private detention, systematic extortion of money, and sexual and other violence. Furthermore the Resolution states that there are an increasing number of reports of ships' masters ignoring distress signals from vessels in trouble. The Resolution lists a number of actions to be taken. To read it, go to:
<http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta08/ERES1637.htm>

Extreme Poverty

- In November 2008 the Recommendation on the rights of the poor, voted by the Conference of NGOs recognized by the CoE in June 2008, received the support of the Vice Secretary General of the CoE, Mrs Maud de Boer-Buquicchio.

This Recommendation:

1. Welcomes the draft *Guiding Principles on "Extreme poverty and human rights: the rights of the poor"* of the United Nations Sub-Commission on the Promotion and Protection of Human Rights, which were drawn up in consultation with people living in poverty and are therefore a particularly appropriate tool for increasing the effectiveness of governments' efforts to eradicate extreme poverty worldwide.
2. Encourages Council of Europe member states to take part in the consultation process on the *Guiding Principles* being

conducted by the Office of the United Nations High Commissioner for Human Rights until February 2009.

3. Urges Council of Europe member states to work to bring about the adoption of the *Guiding Principles* by the United Nations Human Rights Council in 2009.

To read the *Draft United Nations Guiding Principles on Human Rights and Extreme Poverty*, go to:

http://en.wikisource.org/wiki/Draft_United_Nations_Guiding_principles_on_Human_Rights_and_Extreme_Poverty

Conference of INGOs

- At their plenary session on January the 28th 2008 the 417 NGOs recognized by the CoE, and who together make up the Conference of INGOs, voted in favor for the 2008 Activity Report presented by the Bureau.

To read this report, got to:

http://www.coe.int/t/e/ngo/public/CONF_2008_RAPACT_en.asp#TopOfPage

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.

Practical Proposals and Contact

- This very important paragraph will let you get in contact with the JP Europe representative to the CoE Henrik Alberius.

Send any questions, remarks, ideas, initiatives, and demands for aid to:

Henrik Alberius

henrik@dominikan.nu

+33 (0)1 72 36 69 05