

## Aangenomen aanbevelingen en resoluties PACE *24-28 januari 2011*

### **1. Promoting active ageing – capitalising on older people’s working potential**

Against the backdrop of an ageing population in Europe, the Parliamentary Assembly discusses the role played by older people in contributing to society, workplace culture, employers’ and older workers’ attitudes, and the concept of active ageing from a human rights perspective.

Policies which are designed to promote active ageing require action in a variety of policy areas. In addition to labour-market policies, action is required in particular with regard to age discrimination, social protection measures, flexible working arrangements, life-long learning, health promotion and volunteering. Encouraging people to be more active and to lead healthier lifestyles is not a substitute for social security systems based on solidarity; an adequate safety net should be available for those for whom employment is an unrealistic option.

28/01/2011  Resolution 1793  
[Promoting active ageing – capitalising on older people’s working potential](#)

### **2. Preventive health care policies in the Council of Europe member states**

This report is based on the necessity to explain the reluctance of the Council of Europe member states to develop policies to make preventive health care a high priority. Inequalities in access to health education, information and care still exist, with a well educated part of the population who enjoy easy access to the resources allocated and disadvantaged groups who experience greater difficulties. The real issue is therefore how to secure access to the available resources by all population groups, irrespective of their origin or socio-economic status.

International data indicate that the cost/effectiveness ratio of health care systems can be improved. However, it is not sufficient to reduce costs; it is also necessary to spend money differently and to look at health policy from an overall perspective, incorporating an ethical, social and human rights dimension in the reforms to be undertaken.

28/01/2011  Recommendation 1959  
[Preventive health care policies in the Council of Europe member states](#)

### **3. Monitoring of commitments concerning social rights**

The present period when the 1961 European Social Charter and the 1996 revised European Social Charter will respectively celebrate their 50th and 15th anniversaries (18 October 2011 in Strasbourg), seems to be a particularly good time to take stock of the implementation of this instrument and its monitoring mechanisms. It is necessary to enhance the impact of the Charter on national legislative and political processes, to set its monitoring mechanisms on a more democratic basis and to stimulate the debate on social rights in order to present substantial proposals with regard to their future development.

In this respect, the Parliamentary Assembly's role in monitoring the Charter should be reinforced by allowing it to elect nine of the fifteen members of the European Committee of Social Rights as stipulated by the Amending Protocol of 1991 ("Turin Protocol"). Furthermore, it is suggested that the Assembly hold joint biennial debates on the state of social rights and on the state of human rights, with a first such debate in June 2011.

28/01/2011



Resolution 1792

[Monitoring of commitments concerning social rights](#)

#### **4. The protection of journalists' sources**

The protection of journalists' sources of information is a basic condition for both the full exercise of journalistic work and the right of the public to be informed on matters of public concern. In a large number of cases, public authorities have forced, or attempted to force, journalists to disclose their sources, despite the clear standards set by the European Court of Human Rights and the Committee of Ministers of the Council of Europe.

The disclosure of information identifying a source should therefore be limited to exceptional circumstances where vital public or individual interests are at stake and can be convincingly established. The confidentiality of journalists' sources must not be compromised by the increasing technological possibilities for public authorities to control the use by journalists of mobile telecommunication and Internet media. Member states which do not have legislation specifying the right of journalists not to disclose their sources of information should pass such legislation in accordance with the case-law of the European Court of Human Rights and the Committee of Ministers' recommendations.

25/01/2011



Recommendation 1950

[The protection of journalists' sources](#)

#### **5. Challenge on procedural grounds of the still unratified credentials of the parliamentary delegations of Montenegro, San Marino and Serbia**

On 24 January 2011, at the opening of the Parliamentary Assembly session, the still unratified credentials of the parliamentary delegations of Montenegro, San Marino and Serbia were challenged on procedural grounds in accordance with Rule 7 of the Rules of Procedure, on the ground that they comprised no female representative in violation of Rule 6.2.a.

In accordance with the Assembly's Rules of Procedure, these credentials were referred to the Committee on Rules of Procedure, Immunities and Institutional Affairs. The committee proposes that the Assembly ratify the credentials of the parliamentary delegations concerned but suspend the voting rights of its members in the Assembly and its bodies in accordance with Rule 7.3.c, with effect from the beginning of the Assembly's April 2011 part-session, until the composition of these delegations is brought into conformity with the Rules of Procedure.

26/01/2011



Resolution 1789

[Challenge on procedural grounds of the still unratified credentials of the parliamentary delegations of Montenegro, San Marino and Serbia](#)

#### **6. The situation in Belarus in the aftermath of the presidential election**

The violent repression of the political protests that followed the presidential election in Belarus on 19 December 2010 and the targeted crackdown on political opponents, human rights defenders, media workers and citizens constitute not only a

disproportionate response to the action of the protesters but also an outright disregard for the core values upheld by the Council of Europe.

The Political Affairs Committee strongly condemns the recent events in Belarus and resolves to strengthen dialogue with the country's democratic forces, civil society, opposition groups, free media and human rights defenders.

In view of the current serious setbacks, the committee proposes that the Parliamentary Assembly calls on its Bureau not to lift the suspension of the special guest status for the Parliament of Belarus until a moratorium on the execution of the death penalty has been decreed by the competent authorities and until there is substantial, tangible and verifiable progress in terms of respect for the democratic values and principles upheld by the Council of Europe.


27/01/2011  [Resolution 1790](#)  
[The situation in Belarus in the aftermath of the presidential election](#)

## **7. The protection of witnesses as a cornerstone for justice and reconciliation in the Balkans**

Nearly two decades have elapsed since the start of the conflicts in the former Yugoslavia, which were marked by gross violations of international humanitarian law, including crimes against humanity and genocide. The International Criminal Tribunal for the former Yugoslavia (ICTY) has been able to bring justice to thousands of people by sentencing some of the worst criminals for the atrocities committed during the wars. The mandate of the ICTY is due to expire imminently and national courts of the countries concerned are continuing this fundamental work of justice.

The testimonies of witnesses have been indispensable to the ICTY and the national courts. By providing their testimonies, witnesses make an essential contribution to justice and reconciliation in the region, since their testimonies not only form the basis of courts' judgments but also reveal the truth about the crimes committed to those who live in the region and to the international community. Witnesses who stand up for the truth are owed reliable and durable support and protection. Significant progress has been made in the region in implementing protection and support structures for witnesses who provide their testimonies before national courts. Nevertheless, there is a need for serious improvement in this regard as, due to threats, intimidation and even murder, potential witnesses decide not to testify before national courts of the countries concerned, as they fear for their lives and that of their families. Moreover, many witnesses have not been given the protection and support they deserve, which deters others from coming forward.

26/01/2011  [Recommendation 1952](#)  
[The protection of witnesses as a cornerstone for justice and reconciliation in the Balkans](#)

26/01/2011  [Resolution 1784](#)  
[The protection of witnesses as a cornerstone for justice and reconciliation in the Balkans](#)

## **8. Inhuman treatment of people and illicit trafficking in human organs in Kosovo**

According to the information gathered, numerous concrete and convergent indications confirm that some Serbians and some Albanian Kosovars were held prisoner in secret places of detention under KLA control in northern Albania and were subjected to inhuman and degrading treatment, before ultimately disappearing. Numerous indications seem to confirm that, during the period immediately after the end of the armed conflict, before international forces had been able to take control

of the region and re-establish law and order, organs were removed from some prisoners at a clinic on Albanian territory, near Fushë-Krujë, to be taken abroad for transplantation. Although some concrete evidence of such trafficking already existed at the beginning of the decade, the international authorities in charge of the region did not consider it necessary to conduct a detailed examination of these circumstances, or did so incompletely and superficially.

The international organisations in place in Kosovo favoured a pragmatic political approach, taking the view that they needed to promote short-term stability at any price, thereby sacrificing some important principles of justice. Insufficient investigation has been carried out into the connection of KLA members with war crimes committed against Serbians and Albanian Kosovars. The team of international prosecutors and investigators within EULEX which is responsible for investigating allegations of inhuman treatment, including those relating to possible organ trafficking, has made progress, particularly in respect of proving the existence of secret KLA places of detention in northern Albania where inhuman treatment and even murders are said to have been committed.

We must fight uncompromisingly against impunity for the perpetrators of serious human rights violations. The fact that these were committed in the context of a violent conflict could never justify a decision to refrain from prosecuting anyone who has committed such acts. There cannot and must not be one justice for the winners and another for the losers.

The member states of the European Union and the other contributing states should set EULEX a clear objective and give it the necessary political support to combat organised crime uncompromisingly, to ensure that justice is done, without any considerations of political expediency; Albania and the Kosovo administration should co-operate unreservedly with ongoing and future investigations.

25/01/2011



Resolution 1782

[Investigation of allegations of inhuman treatment of people and illicit trafficking in human organs in Kosovo](#)

## **9. Preventing harm to refugees and migrants in extradition and expulsion cases: Rule 39 indications by the European Court of Human Rights**

Rule 39 of the Rules of the European Court of Human Rights enables the Court to indicate at any stage of the proceedings, interim (including urgent) measures to be taken by member states which are in the interests of the parties or the proper conduct of proceedings.

These have been used predominantly to prevent harm to refugees, asylum seekers and irregular migrants under threat of being sent back to their countries of origin. In these cases, the interim measures often call upon the states concerned to halt a removal pending a decision of the Court on the issue at stake.

Rule 39 is a procedural rule of the Court which is legally binding. Notwithstanding that most of the requests are made against surprisingly few countries, their numbers have increased rapidly in recent years. This is attributable to increased numbers of removals and corresponding decreases in the number of persons granted international protection. However, the number of requests for Rule 39 is likely to increase further as access to the procedure becomes better known and available in other member states of the Council of Europe.

Whilst cases of non-compliance with interim measures ordered by the Court are still relatively rare, the growing number of breaches of Rule 39 measures, which also result in violations of the Convention, is of grave concern because the individual involved is subject to irreparable harm and the integrity of the Convention system as a whole is undermined. States cannot act with impunity.

The challenges faced by the Court and by governments in dealing with requests for interim measures should not be underestimated. The report recommends that member states implement their Convention obligations and ensure that they provide real access to the Court, including the possibility to request interim measures, to all persons within their jurisdiction. The report also recommends that the Court, the Committee of Ministers and other Council of Europe bodies work together to respond to the changing practice of Rule 39 measures and cases of non-compliance. Important steps must be taken to prevent vulnerable individuals from being harmed and to maintain the integrity of the Convention system.

26/01/2011  Recommendation 1956  
[Preventing harm to refugees and migrants in extradition and expulsion cases: Rule 39 indications by the European Court of Human Rights](#)

26/01/2011  Resolution 1788  
[Preventing harm to refugees and migrants in extradition and expulsion cases: Rule 39 indications by the European Court of Human Rights](#)

## **10. The situation in Tunisia**

The report pays tribute to the courage and determination of the Tunisian people who, despite violent repression, have shown the will to transform Tunisia into a free, open and democratic country.

Political forces in Tunisia must not fail the people's expectations and should quickly start political reforms. Tunisians expect full democratisation of the society and demand comprehensive political reforms which would make the changes irreversible. The report encourages all political forces to contribute in a constructive way to the setting up of an agenda for reform and it suggests some elements that could be considered by the Tunisian authorities in this process. It also encourages the Tunisian authorities to intensify and broaden co-operation with the Council of Europe and to take advantage of its experience in the transition of their country towards democracy.


27/01/2011  Resolution 1791  
[The situation in Tunisia](#)

## **11. Follow-up to the reform of the Council of Europe**

The report recalls the commitment of the Parliamentary Assembly to a politically relevant and effective Council of Europe. The Assembly had already welcomed the intention of the Secretary General to reform the Organisation in order to make it more political, more flexible and more geared to the needs of European citizens. This report indicates a number of lines along which these aims should be pursued. As the second phase of the reform, which is being prepared now, should cover strategic aims for the forthcoming decade, the report stresses that the Assembly should be fully informed and consulted on the political decisions to be taken. The Council of Europe must remain the privileged framework for political co-operation in a Greater Europe in dealing with problems which threaten the cohesion and stability of society.

While supporting the goal of making the Council of Europe a more efficient instrument capable of providing practical answers to member states, the report expresses concern at the decline in member states' commitment to the Organisation. It suggests holding a Council of Europe Summit in order to give it fresh political impetus, make member states more responsible towards the Organisation and, if need be, redefine its role.

25/01/2011  Resolution 1783  
[Follow-up to the reform of the Council of Europe](#)

25/01/2011  Recommendation 1951  
[Follow-up to the reform of the Council of Europe](#)

## **12. Implementation of judgments of the European Court of Human Rights**

For several years the Parliamentary Assembly has tried to contribute to the effective implementation of the judgments of the European Court of Human Rights, by bringing parliamentary pressure to bear on governments where worrying delays in complying with judgments have arisen. In this 7th report, the Committee on Legal Affairs and Human Rights has given priority to the situation in nine states where major structural problems have led to many repeat violations.

The main problems continue to be excessive length of judicial proceedings (endemic notably in Italy), chronic non-enforcement of domestic judicial decisions (widespread, in particular, in Russia and Ukraine), deaths and ill-treatment by law enforcement officials and lack of effective investigations into them (particularly apparent in Russia and Moldova) and unlawful or over-long detention on remand (a problem notably in Moldova, Poland, Russia and Ukraine).

These problems are a matter for grave concern and seriously undermine the rule of law in the states concerned. The committee makes a series of recommendations to each state where it detects outstanding problems, as well as some general recommendations. In particular, it calls for national mechanisms, including oversight by national parliaments, to ensure the implementation of Court judgments. If these problems are not dealt with, the committee warns, the future of the Convention system – and even the Council of Europe itself – are in jeopardy.

26/01/2011  Resolution 1787  
[Implementation of judgments of the European Court of Human Rights](#)

26/01/2011  Recommendation 1955  
[Implementation of judgments of the European Court of Human Rights](#)

## **13. Reconciliation and political dialogue between the countries of the former Yugoslavia**

The recent efforts of reconciliation between the countries of the former Yugoslavia and their commitment to constructing new relationships with each other and enhancing regional co-operation indicate a greater willingness to overcome the legacy of the conflict. However, the goal of full reconciliation between these countries depends on the successful resolution of a number of outstanding issues which still jeopardise efforts for stabilisation in the region, notably missing persons, prosecution of war crimes, refugees and internally displaced persons and border disputes.

Renewed efforts are needed by all governments in the region with a view to their full reconciliation and Euro-Atlantic integration: finding a solution to the constitutional deadlock in Bosnia and Herzegovina, resolving to settle any outstanding border disputes through binding arbitration mechanisms, continuing to provide support for the return and reintegration of refugees, establishing a Regional Commission for Establishing the Facts about the War Crimes in the former Yugoslavia (RECOM), strengthening inter-parliamentary dialogue and fostering cultural change are among the recommended actions.

The report stresses the importance of strengthening the role of the national parliaments of the countries of the former Yugoslavia in any endeavours aimed at full reconciliation in the region. The Parliamentary Assembly could, for its part, offer a

platform for such a dialogue, where appropriate in co-operation with the European Parliament.

26/01/2011  Recommendation 1954  
[Reconciliation and political dialogue between the countries of the former Yugoslavia](#)

26/01/2011  Resolution 1786  
[Reconciliation and political dialogue between the countries of the former Yugoslavia](#)

#### **14. The obligation of member states of the Council of Europe to co-operate in the prosecution of war crimes**

Justice and accountability for war crimes committed in the conflicts that occurred on the territory of the states of the former Yugoslavia are essential to regional reconciliation. In light of the Completion Strategy of the International Criminal Tribunal for the former Yugoslavia (ICTY), the states concerned have, since 2005, borne the primary obligation to ensure accountability for both persons and crimes not addressed by the ICTY. Co-operation between the states concerned is essential to combat impunity.

Co-operation of third states is also needed, in particular when war crime suspects are found on their territory. The European Convention on Extradition and its three Protocols articulate procedures and standards for extradition requests. All member states have ratified the Convention, but not all have ratified the Protocols. No observer states have ratified either the Convention or its Protocols. The Convention's general rule of compulsory extradition is subject to significant exceptions and conditions, as well as numerous declarations and reservations lodged by states. The most frequent reason for rejection of extradition requests for war crime suspects is the suspect's citizenship. Reasons for denial also include fair trial concerns, diplomatic immunity, refugee status, concerns about discriminatory punishment and prosecution, and lapse of time.

The number of extradition requests for war crime suspects from the states of the former Yugoslavia will increase in the future, raising additional questions about implementation of the Convention and its Protocols. The Committee of Ministers should therefore ensure that the above concerns be taken into account by Council of Europe bodies engaged in revision of the Convention, especially with regard to co-operation with third countries and other international organisations.

26/01/2011  Resolution 1785  
[The obligation of member and observer states of the Council of Europe to co-operate in the prosecution of war crimes](#)

26/01/2011  Recommendation 1953  
[The obligation of member and observer states of the Council of Europe to co-operate in the prosecution of war crimes](#)



## **15. Violence against Christians in the Middle East**

The Parliamentary Assembly expresses concern at the rise in the number of attacks against Christian communities in the Middle East and strongly condemns the tragic events in Baghdad in October 2010 and in Alexandria in January 2011.

The co-existence of religious groups is a sign of pluralism and of an environment favourable to the development of democracy and human rights. The Assembly is convinced that the loss of Christian communities in the Middle East would also endanger Islam as it would signal the victory of fundamentalism.

It addresses member states, states in the Middle East, religious leaders and the European Union and recommends that the Committee of Ministers take a certain number of measures concerning the state of freedom of religion and related rights.

27/01/2011



Recommendation 1957

[Violence against Christians in the Middle East](#)