

Nyt fra E u r o p a r å d e t

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Thomas Hammarberg ny europæisk menneskerettighedskommissær

Strasbourg, 5. oktober 2005 - Europarådets parlamentariske forsamling valgte onsdag Thomas Hammarberg til ny europæisk menneskerettighedskommissær for en 6-årig periode fra 1. januar 2006. Hammarberg fik 104 stemmer mod 93 stemmer til Marek Antoni Nowicki fra Polen og 33 stemmer til Marc Verwilghen fra Belgien. De tre kandidater var udvalgt af Europarådets ministerkomite på grundlag af indstillinger fra medlemsstaterne.

Den nye menneskerettighedskommissær er 63 år og har siden 2002 været chef for Oluf Palme International Center i Stockholm. Forinden var han regional FN-rådgiver for menneskerettigheder i Europa, Centralasien og Kaukasus. Samtidig var han særlig rådgiver om humanitære spørgsmål for det svenske udenrigsministerium. Fra 1980-86 var han generalsekretær for Amnesty International.

Hammarberg efterfølger den spanske jura-professor Alvaro Gil-Robles, der som den første europæiske menneskerettighedskommissær har opbygget embedet med stor autoritet og politisk opbakning siden 1999.

Menneskerettighedskommissærens arbejdsfelt er beskyttelsen af menneskerettighederne i Europarådets 46 medlemsstater, der tilsammen har mere end 800 millioner indbyggere. Hans primære opgave er at fremme uddannelse og bevidsthed om menneskerettigheder, samt at sikre medlemsstaternes fulde og effektive efterlevelse af Europarådets konventioner og rekommandationer om menneskerettigheder.

I modsætning til Den Europæiske Menneskerettighedsdomstol har menneskerettighedskommissæren ingen juridisk myndighed. Til gengæld gennemfører han besøg i de enkelte medlemsstater og udarbejder efterfølgende landerapporter med forslag til forbedringer, der kan forebygge krænkelser af menneskerettighederne.

Når Den Europæiske Menneskerettighedskonventions protokol nr.14 træder i kraft, vil menneskerettighedskommissæren få mulighed for at afgive skriftlige kommentarer til verserende sager ved menneskerettighedsdomstolen. Han vil desuden kunne deltage i Domstolens høringer. Protokollen ventes at træde i kraft i løbet af 2006.

På et pressemøde i Strasbourg umiddelbart efter valget sagde Thomas Hammarberg, at specielt børns, psykisk handicappedes og nationale mindretals, herunder Romaernes, menneskerettigheder vil få opmærksomhed i hans kommende arbejde. Desuden vil han sætte fokus på bekæmpelsen af racisme og fremmedhad.

Ukraine er på rette vej, men der er langt igen

Strasbourg, 5. oktober 2005 – Efter 10 års medlemskab af Europarådet og knap et år efter Orange-revolutionen, der bragte præsident Viktor Jusjtjenko til magten, er der begyndt at ske fremskridt i Ukraine. Meget skal imidlertid gøres før det ukrainske samfund får udbytte af de planlagte reformer. Det fastslår Europarådets to Ukraine-rapportører Hanne Severinsen (Danmark, ALDE) og Renate Wohlwend (Liechtenstein, EPP/CD) i en omfattende monitoreringsrapport, der onsdag blev debatteret i Europarådets parlamentariske forsamling.

En særlig anstødssten for de europæiske parlamentarikere er, at de ukrainske myndigheder har lukket efterforskningen af omstændighederne i forbindelse med mordet på journalisten Georgiy Gongadze for fem

år siden. Efter at de tre formodede mordere blev tiltalt i marts, er undersøgelsen af, hvem der beordrede og planlagde mordet, blevet stoppet. ”De der stod bag mordet skal findes og retsforfølges”, sagde Hanne Severinsen ved fremlæggelsen af rapporten.

Rapportens mange forslag kan i følge Hanne Severinsen tjene som et vejkort for reformprocessen i den kommende tid, hvor blandt det juridiske system skal bringes i overensstemmelse med de europæiske standarder. Det var i den forbindelse bemærkelsesværdigt, at alle de ukrainske medlemmer kunne støtte den tilhørende resolution, der blev vedtaget. Forsamlingens næste skridt bliver observation af forberedelsen og gennemførelsen af parlaments- og lokalvalgene i marts næste år.

Vedtægelse under Den Parlamentariske Forsamlings efterårs-session (3.-7. oktober)

Res. 1462 + Rec. 1718	Co-development policy as a positive measure to regulate migratory flows
Res. 1463 + Rec. 1719	Enforced disappearances
Res. 1464	Women and religion in Europe
Rec. 1720	Education and religion
Res. 1465 + Rec. 1721	Functioning of democratic institutions in Moldova
Res. 1466 + Rec. 1722	Honouring of obligations and commitments by Ukraine
Res. 1467	The OECD and the world economy
Res. 1468 + Rec. 1723	Forces marriages and child marriages
Rec. 1724	The Council of Europe and the European Neighbourhood Policy of the European Union
Rec. 1725	Europe and bird flu - preventive measures in the health field
Rec. 1726	Serious human rights violations in Libya - inhuman treatment of Bulgarian medical staff
Res. 1469	Language problems in access to public health care in the Brussels-Capital region in Belgium
Res. 1470	The costs of the Common Agricultural Policy
Res. 1471 + Rec. 1727	Accelerated asylum procedures in Council of Europe member states.

A Council of Europe Convention on the value of cultural heritage for society

Strasbourg, 13.10.2005 – The Council of Europe Ministers’ Deputies has just adopted a Framework Convention on the Value of Cultural Heritage for Society. This new text reflects a shift from the question “How and by what procedure can we preserve the heritage?” to the question “Why should we enhance its value, and for whom?” It is based on the idea that knowledge and use of heritage form part of the citizen’s right to participate in cultural life as defined in the Universal Declaration of Human Rights.

The text presents heritage both as a resource for human development, the enhancement of cultural diversity and the promotion of intercultural dialogue, and as part of an economic development model based on the principles of sustainable resource use. In this respect it falls within the scope of the Council of Europe’s priorities as set by the 3rd Summit of Heads of State and Government in May 2005.

The Framework Convention will be opened for signature on the occasion of the Conference of Ministers of Culture to be held in Faro, Portugal, on 27-28 October 2005 marking the end of the celebrations for the 50th anniversary of the European Cultural Convention. The adoption of this text is one of the priorities in the programme of the Portuguese Chairmanship of the Council of Europe’s Committee of Ministers, which is due to end on 17 November.

Ny talsmand for generalsekretær Terry Davis

Matjaz Gruden er tiltrådt som ny pressetalsmand for Terry Davis. Matjaz Gruden er slovensk, men taler perfekt dansk. Han kan kontaktes på tlf. nr. +33 3 88 41 21 18, e-mail: matjaz.gruden@coe.int

Interview with Professor Emmanuel DECAUX, Professor of public law at the Panthéon-Assas University (Paris II), and member of the United Nations Sub-Commission on the promotion and protection of Human Rights

A seminar was held on October 11, at the initiative of the Committee of Experts for the Development of Human Rights, to mark the entry into force, on 1 April 2005, of Protocol No. 12 to the European Convention on Human Rights. It examined the challenges raised by the effective application of this Protocol with a view to promoting further ratifications.

Professor Emmanuel DECAUX, presented the conclusions reached by the seminar.

Question: *Professor DECAUX, why did the Council of Europe consider it necessary to adopt a protocol enshrining the principle of non-discrimination while the European Convention on Human Rights already contains a provision prohibiting discrimination?*

Professor DECAUX: It is true that the principle of non-discrimination is already enshrined in Article 14 of the Convention. However, this provision prohibits discrimination only with regard to the enjoyment of one of the rights or freedoms encompassed in the Convention. Protocol No. 12 goes further and fills an important gap by promoting equality through a general prohibition of discrimination, as is already the case in the framework of the United Nations and the European Union. It was necessary for the European Convention on Human Rights to catch up on its delay, to close this gap.

Question: What concrete changes does the entry into force of the Protocol entail?

Professor DECAUX: Applicants will be able to bring a complaint before the Court in respect of a discrimination without having necessarily to rely on another right encompassed in the Convention. The breadth of the application of the principle of non-discrimination will thus be wider, covering “any rights set forth by law” or any act or omission of the public authorities. Therefore, its application could include access to services and to public places.

Question: *To date, 34 States parties have signed the Protocol, and only 11 have ratified it. What arguments can be put forward to overcome current hesitations?*

Professor DECAUX: The fight against inequality and discrimination has become an important political objective, but it is also a legal imperative and a moral obligation for all States. This is particularly true in today’s context, where discrimination on grounds such as race, gender, disability and sexual orientation remains prevalent. It is difficult to imagine the European Convention being deprived of this new tool for a long period of time, and it is difficult to see what acceptable reasons could be raised against the implementation of such a fundamental principle.

States need not fear the Court’s scrutiny. Protocol No. 12 refers to the notion of discrimination as consistently interpreted by the Court since its very first judgment on this, more than 37 years ago! Of course, the application of the principle in concrete cases cannot always be predicted with certainty, since not all distinctions amount to discrimination. But this element of uncertainty in fact exists for all rights in the European Convention – one could even say it is inherent in all legal provisions. It is for European judges, as well as to national courts, to shed the necessary light on it. The Court will find a violation only in respect of discriminations which do not have an objective and reasonable justification.

An insufficient number of ratifications would also have the paradoxical consequence of establishing a two-speed system in which equality would not be as well protected for all European applicants, depending on whether they benefit from the general protection under Protocol No. 12 or the more limited protection of Article 14 of the Convention.

Constitutional reform in Armenia: Declaration by the Chair of the Council of Europe Committee of Ministers

Strasbourg, 10.10.2005 - Diogo Freitas do Amaral, Minister for Foreign Affairs of Portugal and Chairman of the Council of Europe Committee of Ministers, made the following statement:

“After several months of intense debate, Armenia's National Assembly has just adopted a number of constitutional amendments, in line with the country's commitment undertaken when joining the Council of Europe. The referendum to be held on 27 November on this reform will be vital for Armenia. By turning out to vote during the referendum, the people of Armenia will indeed be deciding on changes of fundamental importance for their future. The expertise of the constitutional amendments by the Council of Europe's Venice Commission has shown that the reform will allow the alignment of the Constitution with European standards by enhancing the independence of the judiciary, providing a more balanced distribution of power between the executive and the legislative branches, as well as promoting local democracy and freedom of the media.

I appeal to the sense of responsibility and concern for the common good of Armenia's political parties, beyond their differences, in order to support this reform, which is essential to the country's future as a democracy. By participating in the referendum and showing their attachment to the values of freedom and democracy, the people of Armenia will show their desire to see Armenia fully assume its part in the European construction.”

European Day of Civil Justice: Finnish project wins inaugural "Crystal Scales of Justice" award

Strasbourg, 25.10.2005 – To mark the third European Day of Civil Justice, the Council of Europe and the European Commission has announced the winners of the Crystal Scales of Justice Award, a new competition to encourage more efficient practices in the justice system. The winning project was an initiative of courts in the jurisdiction of the Court of Appeal of Rovaniemi (Finland). Two other projects, proposed by the Ministry of Justice of Austria, and the Supreme Court of Slovenia, were shortlisted by the competition jury.

Møder i november

(hvor intet andet er nævnt, holdes mødet i Strasbourg)

- 2. Ministerkomitéen
- 3.-4. 1. møde i Demokrati-forum: Civic participation (Warszawa)
- 6. Valgobservation i Azerbajjan
- 7.-9. Efterårsmøde: Kongressen af Lokale og Regionale Myndigheder
- 9. Ministerkomiteen
- 16.-17. Udenrigsministermøde
- 17. Rumænien overtager formandskabet i ministerkomitéen
- 17.-18. Social cohesion - forum 2005: Reconciling labour flexibility with social cohesion
- 21.-23. Ministerkomiteen
- 25. Standing Committee møde: Den Parlamentariske Forsamling (Bukarest)
- 27. Fact finding mission fra Den Parlamentariske Forsamling i forbindelse med afholdelsen af valg i Tjetjenien
- 27. Observation af folkeafstemning om ny forfatning i Armenien
- 29.-30. Ministerkomitéen

**”Nyt fra Europarådet” udgives 11 gange om året af
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