

Nyt fra E u r o p a r å d e t

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115th Session of the Committee of Ministers (Strasbourg, 16-17 November 2005) **- “Conclusions of the Chair”**

(Uddrag)

Under the chairmanship of the Minister for Foreign Affairs of Portugal, Mr Diogo Freitas do Amaral, the 115th Committee of Ministers session, six months on from Warsaw, had follow-up to the Third Council of Europe Summit as its central theme.

In considering the question on the basis of a report prepared by their Deputies, the Ministers concentrated on the following four political priorities:

- consolidating the Council of Europe human-rights protection system
- reinforcing Council of Europe action on behalf of democracy
- building a more humane Europe
- intensifying co-operation between the Council of Europe, the European Union and the OSCE.

The question of relations between the Council of Europe and the European Union was prominent in the discussions. The exchange of views with the Prime Minister of Luxembourg, Mr Jean Claude Juncker, at the informal ministerial meeting that same evening, advanced the process launched at the Warsaw summit of achieving closer co-operation and more intensive political dialogue between the Council of Europe and the European Union. The Ministers noted that the opening of the negotiations for the future memorandum of understanding between the two organisations might take place before the end of the year, on the basis of the guidelines agreed in Warsaw. They noted that the European Union would shortly be submitted proposals in this connection.

Just before the Session, in the afternoon of 16 November, a ceremony was held to launch the joint Council of Europe and European Union campaign commemorating the 50th anniversary of the European flag. It was attended, on the European Union side, by the President of the European Commission, Mr Barroso, and the President of the European Parliament, Mr Borell, and on the Council of Europe side by the Secretary General, Mr Davis, the President of the Parliamentary Assembly, Mr van der Linden, and the Chairman of the Ministers’ Deputies, Ambassador Duarte. The aim of this campaign is to draw public attention to the progress made in building a united, peaceful and prosperous Europe, symbolised by the flag which was designed in 1955 by the Council of Europe (and adopted in 1986 by the European Union).

Another question of major importance was the future of the system of human-rights protection in Europe as guaranteed by the European Convention on Human Rights. In addition to the work by the Group of Wise Persons responsible for considering the long-term future of the Convention, a crucial issue in this connection is speedy, effective implementation of the reforms approved in May 2004, in particular bringing Protocol No.14 to the Convention into force in the next six months. On the occasion of the 115th Session, 3 additional member states ratified the Protocol, bringing the total number of ratifications to 20. 25 member states have signed the Protocol but not yet ratified it. A report on implementation of all the decisions taken at the 114th session, including measures to be taken at national level, will be drawn up for the 116th Committee of Ministers session.

The 116th Committee of Ministers session will be held in Strasbourg on 18 and 19 May 2006.

Council of Europe launches democracy forum in Warsaw

Warsaw, 04.11.2005 - The Council of Europe has launched a new forum to find ways of strengthening and developing democracy in its 46 member states. The Forum for the Future of Democracy held its launch meeting from 3-4 November at the Royal Castle in Warsaw, which was also the venue for the Council of Europe's Third Summit in May. The Summit's Action Plan called for the setting up of the Forum to address challenges to democracy through the exchange of ideas, information and examples of best practices.

The Forum, which will meet on a regular basis, normally visiting a different country for each meeting, is made up of representatives of governments, parliaments, local and regional authorities and civil society from all over Europe. The second day of the launch meeting was devoted to exchanging ideas on how to reverse the decline in civic participation. In particular it looked at ways of:

- increasing trust in democratic institutions and elected representatives
- making electoral systems more user friendly and better adapted to modern lifestyles
- harnessing the Internet and other new technologies to increase democratic deliberation and participation
- better integrating and engaging foreigners and immigrants in public life, particularly at local level
- encouraging young people to take part in public life

Speaking at the end of the meeting, Council of Europe Secretary General Terry Davis expressed his hope that thanks to the Forum's work in the coming years "the Council of Europe will come to be recognised as the 'home of democracy in Europe', much as it has come to be seen as the "conscience of Europe" with regard to the protection of human rights".

Reports of illegal detention and "rendition flights" in Council of Europe member states – the Secretary General activates the procedure under Article 52 of the European Convention on Human Rights

Strasbourg, 23.11.2005 – Terry Davis, the Secretary General of the Council of Europe today informed the organisation's Committee of Ministers of his decision to open a formal inquiry into recent reports suggesting that terrorist suspects may have been secretly detained in or transported through a number of Council of Europe member states with the possible involvement of foreign agencies.

"Considering the very serious nature of the allegations, Europe's response should go beyond political statements and inquiries. I have therefore decided to use my legal powers under Article 52 of the European Convention on Human Rights and formally request information from all forty-five governments of the High Contracting Parties (*). This is the eighth time that this procedure is being used since the Convention entered into force in 1953. My objective is to find out what, if anything, happened, how it happened and who was involved. This should allow us to have a close look at the ways in which the governments are ensuring respect for the Convention in the context of the fight against terrorism, and, if necessary, propose further measures to prevent future violations."

In a letter dated 21 November 2005 the governments have been requested to provide, by 21 February 2006, explanations of the manner in which their internal laws ensure the effective implementation of the Convention regarding the following specific issues:

- the manner in which their internal law ensures that acts by officials of foreign agencies within their jurisdiction are subject to adequate controls;
- the manner in which their internal law ensures that adequate safeguards exist to prevent unacknowledged deprivation of liberty of any person within their jurisdiction, whether such deprivation of liberty is linked to an action or an omission directly attributable to the High Contracting Party or whether that Party has aided or assisted the agents of another State in conduct amounting to such deprivation of liberty, including aid or assistance in the transportation by aircraft or otherwise of persons so deprived of their liberty;

– the manner in which their internal law provides an adequate response to any alleged infringements of Convention rights of individuals within their jurisdiction, notably in the context of deprivation of liberty, resulting from the conduct of officials of foreign agencies. In particular, explanation of the availability of effective investigations that are prompt, independent and capable of leading to the identification and sanctioning of those responsible for any illegal acts, including those responsible for aiding or assisting in the commission of such acts, and the payment of adequate compensation to victims;

In the context of the foregoing explanations, an explanation is requested as to whether, in the period running from 1 January 2002 until the present, any public official or other person acting in an official capacity has been involved in any manner – whether by action or omission - in the unacknowledged deprivation of liberty of any individual, or transport of any individual while so deprived of their liberty, including where such deprivation of liberty may have occurred by or at the instigation of any foreign agency. Information is to be provided on whether any official investigation is under way or has already been completed.

(*) Monaco, as the 46th member state of the Council of Europe has not yet ratified the European Convention on Human Rights but is expected to do shortly.

Alleged secret detention centres in Council of Europe member states: roadmap for the PACE inquiry

Strasbourg, 25.11.2005 – In an information memorandum published today, Dick Marty, the rapporteur of the Parliamentary Assembly of the Council of Europe (PACE) who is investigating allegations about secret detention centres in Council of Europe member states, refers to suspicious movements by 31 aircraft allegedly belonging to entities with direct or indirect links to the CIA, and believed to have been used by the CIA to transport prisoners in the “war against terrorism”.

According to the rapporteur, it should be possible, with the help of Eurocontrol, to establish a pattern of the movements of the aircraft concerned, which could be compared with information on, for example, the departure from Kabul of aircraft carrying prisoners. In the rapporteur’s view, co-operation from Eurocontrol is vital in order to obtain, if not evidence of the existence of secret detention centres, then at least fairly clear indications that airports located in Council of Europe member states have been used for purposes which require more detailed explanations from the United States.

Mr Marty says that, using the precise co-ordinates in his possession, it should be possible to obtain, with the help of bodies such as the European Union’s Satellite Centre, satellite images taken at intervals between early 2002 and the present. “This would show any new work that may have been undertaken (renovation of shacks, installation of barbed-wire fencing, watch towers etc), which could lead one to conclude that prisoners had been held there. Such a series of images could also show any recent attempts to remove traces of earlier development of facilities,” explains Mr Marty. To this end, he emphasises the need for a clear statement from the governments of the member states concerned, confirming that they would have no objection to such technical methods being used in his investigation.

Mr Marty also feels that the inquiry should cover all alleged secret detention centres in Council of Europe member states. It should look not just at the issue of alleged secret detention centres of the CIA but also, for example, the situation in the North Caucasus. It should cover other aspects, too, such as the alleged use – or misuse – by the United States of facilities located in Council of Europe member states for the purposes of illegal detention, such as during the transportation of persons who have been unlawfully abducted or of prisoners to countries where they may be subjected to torture or other inhuman treatment. The inquiry, he says, will be conducted in close co-operation with the judicial authorities of the member states in which criminal investigations are under way; with the European Union and more specifically the European Parliament; with members of the US Congress, in particular Senator Kerry, who has initiated an information request by the American Senate to the Government on this issue; and with journalists and NGOs, notably Human Rights Watch.

In a [declaration adopted today](#) at the PACE Standing Committee meeting in Bucharest, the Parliamentary Assembly stressed that the purpose of the inquiry was to establish the truth, not to "accuse" or to "sanction" one or more countries. "A clear and strong message must be sent: even in the name of the 'war on terror', illegal and inhuman practices in relation to the arrest, transportation and detention of persons, even if they are suspected of terrorism, cannot and will not be tolerated in any member or observer country of the Council of Europe", states bound by the European Convention on Human Rights and international treaties on the prevention of torture. [Full text of the information memorandum](#)

Elections in Azerbaijan did not meet international standards despite some improvements

BAKU, 07.11.2005 – The 6 November parliamentary elections in Azerbaijan did not meet a number of OSCE commitments and Council of Europe standards for democratic elections. While there were improvements in some respects during the pre-election period, uncertainty was evident with regard to key aspects of the process such as voter registration, and continued restrictions on the freedom of assembly, a fundamental right, marred the campaign period.

Voting was generally calm, but the election day process deteriorated progressively during the counting and, in particular, the tabulation of the votes, concluded the International Election Observation Mission in a preliminary statement released today in Baku. The mission deployed 665 observers from 42 countries for the election, visiting more than half of all polling stations in the country.

“The shortcomings that were observed, particularly during election day, have led us to conclude that the elections did not meet Azerbaijan’s international commitments on elections. It pains me to report that progress noted in the pre-election period was undermined by significant deficiencies in the count”, said Alcee L. Hastings, President of the OSCE Parliamentary Assembly and the Special Co-ordinator for the short-term observers.

Despite an inclusive candidate registration, which provided for a competitive election in most constituencies and enhanced voter choice, interference from executive authorities and media bias favoring incumbents resulted in a failure to provide equitable conditions for all candidates during the campaign period. At times, civil and political rights were infringed upon and there was harassment and intimidation of some candidates and their supporters. The complaints and appeals process overall did not provide redress for these shortcomings.

The Head of the delegation from the Parliamentary Assembly of the Council of Europe, Leo Platvoet, said: “The Council of Europe is the guardian par excellence of democratic principles. These were not fully respected in this election.”

Shortcomings of the elections included interference of local authorities, disproportionate use of force to thwart rallies, arbitrary detentions, restrictive interpretations of campaign provisions, unbalanced composition of election commissions and the failure of those commissions to effectively address a number of issues.

Improvements were noted regarding allocation of free airtime on state-funded media to candidates, the possibility to hold numerous rallies, inking of voters’ fingers to prevent fraud, a voter education campaign, distribution of new identification documents, the reinstating of a candidate who was wrongfully denied registration and transparency in the work of many election commissions.

Marie Anne Isler Beguin, Head of the European Parliament delegation added: “I welcome the inking of voters’ fingers for this election, which despite the late decision to introduce this measure, was a credible attempt to guard against possible multiple voting.”

“The role of domestic observers is crucial in any election in order to promote transparency and increase confidence in the voting process”, said Michael Clapham, Head of the NATO Parliamentary Assembly

delegation. “It was encouraging to see so many local observers present in polling stations but this was undermined by consistent reports that many faced problems, including intimidation, being expelled from polling stations and not receiving protocols and other information.”

On election day, observers assessed voting negatively in 13 per cent of polling stations visited. Observers witnessed attempts to influence voter choices, unauthorized persons interfering in, or directing, the process, as well as cases of ballot stuffing. Inking procedures, in particular the checking of voters’ fingers for traces of ink, were not followed in 11 per cent of polling stations visited, with several polling stations not applying the procedure at all. There were observations of domestic observers and even members of polling station commissions being expelled from polling stations.

The observers assessed the ballot counting as bad or very bad in 43 per cent of counts observed. They noted a wide range of serious violations, including tampering with result protocols, intimidation of observers, and unauthorized persons directing the process.

Ambassador Geert-Hinrich Ahrens, Head of the OSCE/ODIHR’s long-term observation mission, concluded: “Having read the presidential decree of 11 May, I had very much hoped for a better election and consequently a more positive assessment of the International Election Observation Mission. Unfortunately, the results of our observation made this impossible.”

A final report will be released approximately six weeks after the completion of the electoral process.

Constitutional Referendum in Armenia: general compliance marred by incidents of serious abuse

Yerevan, 28.11.2005 - The Council of Europe observers to the Constitutional Referendum held on 27 November 2005 in Armenia regret the decision taken by the authorities which precluded the attendance of any other international observers. The transparency of the referendum was further hampered by the decision of the parliamentary opposition to call on their members to withdraw from the electoral commissions. It is also regrettable that political pluralism inside polling stations was not better assisted by a greater number of domestic observers.

The 14-member delegation from the Parliamentary Assembly and the Congress of Local and Regional Authorities noted that the Referendum generally reflected the free will of those who voted. However, on voting day the observers witnessed serious abuse in several polling stations which cast a shadow over the credibility of the officially announced turn-out.

On 25 and 26 November the delegation had meetings with the authorities, opposition members, NGOs, media representatives and the international community. The observers’ impression was that during the campaign leading to the Referendum there was not equal access to the media. This was to the disadvantage of the opposition to the constitutional changes and hampered genuine democratic debate.

The Council of Europe observers visited around 150 polling stations in the capital and across the country on voting day. The general atmosphere was calm and no incidents of public disorder were witnessed. In the majority of the polling stations visited the conduct of the poll was in compliance with international standards.

However, in a significant number of polling stations in Yerevan and other regions this was not so. The extremely low voting activity did not correspond to the high figures provided by the electoral commissions. There were also clear instances of forged additional signatures on the voters register and of ballot stuffing. The electoral regulations, requiring the stamping of the ballot after completion, created numerous situations where the secrecy of the vote was not respected. Military voting appeared to lack the voluntarism which is the hallmark of democratic participation.

In conclusion, the delegation considers that the abuses that marred the referendum were against the intent and interest of the Armenian people. It expects that the Central Electoral Commission investigate thoroughly

all the allegations brought to its attention and that all the necessary measures will be taken against those responsible for fraud.

Elections in the Chechen Republic

[28/11/05] An eight-member delegation from the Council of Europe was present in the Chechen Republic from 26 to 28 November 2005 on the occasion of the 27 November elections. The delegation – composed of five members of the Organisation's Parliamentary Assembly (heriblandt Morten Messerschmidt,DF) and three members of its Congress of Local and Regional Authorities – gathered information on the situation in the Republic and will report back to these two bodies with its conclusions. It did not observe the elections.

New Registrar elected

Erik Fribergh has today been elected Registrar* of the European Court of Human Rights in Strasbourg. Mr Fribergh, a Swedish national, was born in 1950. Elected by the Court's Judges sitting in plenary session, he takes up his duties with immediate effect for a five-year term of office. Mr Fribergh has been Deputy Registrar of the Court since October 2002 and before that was one of the Court's four Section Registrars. He was Deputy Secretary to the European Commission of Human Rights from 1997-1998.

*) The registrar er domstolens øverste tjenestemand. Han er bl.a. ansvarlig for informationen om domstolens arbejde, herunder forespørgsler fra pressen.

Domme afsagt af Den Europæiske Menneskerettighedsdomstol i nordiske sager

8. november Bader and others v. Sweden (no. 13284/04): the applicants' deportation to Syria would amount to a violation of Articles 2 (rights to life) and Article 3 (prohibition of inhuman or degrading treatment).

15. november Lammi v. Finland (no. 53835/00): No violation of Article 6 § 1 (right to a fair trial within a reasonable time).

Andre domme med stor presseomtale: 8. november Gongadze v. Ukraine; og 10. november Layla Sahin v. Turkey (se listen over pressemeddelelser på www.coe.int).

Møder i december

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

1. Ministerkomitéen
7. Ministerkomitéen
- 12.-13. Konference: "Cybercrime - a global challenge, a global response" (Madrid)
14. Ministerkomitéen

**REDAKTIONEN ØNSKES
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