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**COMMITTEE OF LEGAL ADVISERS**  
**ON PUBLIC INTERNATIONAL LAW**  
**CAHDI**

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**ACTIVITIES OF THE COMMISSIONER FOR HUMAN RIGHTS OF THE COUNCIL  
OF EUROPE, Mr. GIL-ROBLES**

Secretariat memorandum  
prepared by the Office of the Commissioner for Human Rights  
of the Council of Europe

## ACTIVITIES OF THE COMMISSIONER: AN OVERVIEW

The following division of activities is inevitably somewhat artificial. It should be noted that the different activities inevitably overlap and influence each other.

### **1. The promotion of the effective respect of human rights:**

#### ***- General Country Visits :***

The Commissioner aims to visit officially all member States of the Council of Europe within the 6 years of his mandate. (**Appendix I**) The purpose of such visits, which typically include meetings with Heads of State, Ministers, representatives of the judiciary, civil society and other human rights protections mechanisms, is to examine the human rights situation in general and to identify possible areas and means of improvements. The Commissioner's reports containing a series of recommendations are subsequently presented to the Committee of Ministers and the Parliamentary Assembly of the Council of Europe.

#### ***- Crisis, or specific issue, visits :***

Visits focusing on crisis situations, for instance to the Chechen Republic (Russian Federation), or elsewhere where conflicts may result in the large-scale violation of human rights, are necessarily difficult to plan for. The Commissioner may also visit a country, or region thereof, for the purpose of examining a single issue of particular concern. Such was the case, for instance, with the Commissioner's visit to the Basque Country, Spain, to examine the human rights concerns resulting from the actions of the separatist terrorist organisation ETA.

#### ***- Contact visits :***

Where a member State is already the focus of other Council of Europe monitoring mechanisms, the Commissioner may visit the country not for the purposes of elaborating a general report, but with the aim of establishing contacts with the authorities concerned and discussing one or a number of issues, which are not being examined by other bodies. Such is often the case with the more recent member States.

### **2. Identification of shortcomings in the law and practise of member States:**

#### ***- Reports***

The Commissioner may present general reports on certain issues, independently of such visits as he might undertake. Such reports may or may not give rise to recommendations.

#### ***- Recommendations***

The Commissioner may make such recommendations, whether addressed to all, several or a single member State, as he considers appropriate, on the basis of reports and seminars he may present or organise.

**- Opinions**

The Commissioner may give opinions, whether on the request of national bodies or on his own initiative, whether relating to draft laws or specific practises, which will tend to be more technical in nature than recommendations.

**3. The promotion of education in and awareness of human rights:**

To this end the Commissioner organises annually a number of high-profile seminars

**- On Thematic Issues** such as the rights of the elderly persons or the rights of foreigners arriving at the borders of member States, which will unite experts, NGO representatives, Government officials for the purposes of identifying current problems, considering solutions and elaborating standards.

**- As part of an ongoing dialogue** with the most prominent monotheistic faiths in Council of Europe member States and, as of last year, with the armed forces, to examine human rights related concerns relating to their activities and functions.

**4. Promotion of national human rights protection mechanisms:**

The Commissioner is required by his mandate to work with and promote national rights protection mechanisms. To this end, he organises, in addition to ad hoc events on specific issues of concern, separate bi-annual round-tables with the Ombudsmen and National Human Rights Institutions of the Council of Europe member States.

The Commissioner will also begin a two-year programme in 2003 on the promotion of regional ombudsmen in the Russian federation with the aim of strengthening existing institutions and encouraging their establishment in other regions.

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It is the advantage of the Commissioner's mandate that he is able to react rapidly to new crises or developments. The Commissioner is also subject to requests from external sources, whether for opinions by Governments, or other national bodies, or for reports and expertise from other organs of the Council of Europe. The institutions capacity to respond to urgent human rights crises has expanded and it is anticipated that external requests will multiply as the institution evolves.

## Appendix I

RESOLUTION (99) 50  
**ON THE COUNCIL OF EUROPE**  
**COMMISSIONER FOR HUMAN RIGHTS**  
*(Adopted by the Committee of Ministers on 7 May 1999,  
 at its 104<sup>th</sup> Session, Budapest)*

The Committee of Ministers,

Considering that the aim of the Council of Europe is the achievement of greater unity between its Members and that one of the methods by which that aim is to be pursued is the maintenance and further realisation of human rights and fundamental freedoms;

Having regard to the decisions taken by the Heads of State and Government of the Member States of the Council of Europe at their Second Summit (Strasbourg, 10-11 October 1997);

Considering also that the 50<sup>th</sup> Anniversary of the Council of Europe provides an occasion to enhance further the work undertaken since its creation,

Decides to institute the office of Council of Europe Commissioner for Human Rights ("the Commissioner") with the following terms of reference:

### *Article 1*

1. The Commissioner shall be a non-judicial institution to promote education in, awareness of and respect for human rights, as embodied in the human rights instruments of the Council of Europe.

2. The Commissioner shall respect the competence of, and perform functions other than those fulfilled by, the supervisory bodies set up under the European Convention of Human Rights or under other human rights instruments of the Council of Europe. The Commissioner shall not take up individual complaints.

### *Article 2*

The Commissioner shall function independently and impartially.

### *Article 3*

The Commissioner shall:

- a. promote education in and awareness of human rights in the member States;
- b. contribute to the promotion of the effective observance and full enjoyment of human rights in the member States;
- c. provide advice and information on the protection of human rights and prevention of human rights violations. When dealing with the public, the Commissioner shall, wherever possible, make use of and co-operate with human rights structures in the member States. Where such structures do not exist, the Commissioner will encourage their establishment;
- d. facilitate the activities of national ombudsmen or similar institutions in the field of human rights;
- e. identify possible shortcomings in the law and practice of member States concerning the compliance with human rights as embodied in the instruments of the Council of Europe, promote the effective implementation of these standards by member States and assist them, with their agreement, in their efforts to remedy such shortcomings;

- f.* address, whenever the Commissioner deems it appropriate, a report concerning a specific matter to the Committee of Ministers or to the Parliamentary Assembly and the Committee of Ministers;
- g.* respond, in the manner the Commissioner deems appropriate, to requests made by the Committee of Ministers or the Parliamentary Assembly, in the context of their task of ensuring compliance with the human rights standards of the Council of Europe;
- h.* submit an annual report to the Committee of Ministers and the Parliamentary Assembly;
- i.* co-operate with other international institutions for the promotion and protection of human rights while avoiding unnecessary duplication of activities.

#### *Article 4*

The Commissioner shall take into account views expressed by the Committee of Ministers and the Parliamentary Assembly of the Council of Europe concerning the Commissioner's activities.

#### *Article 5*

1. The Commissioner may act on any information relevant to the Commissioner's functions. This will notably include information addressed to the Commissioner by governments, national parliaments, national ombudsmen or similar institutions in the field of human rights, individuals and organisations.
2. The gathering of information relevant to the Commissioner's functions shall not give rise to any general reporting system for member States.

#### *Article 6*

1. Member States shall facilitate the independent and effective performance by the Commissioner of his or her functions. In particular, they shall facilitate the Commissioner's contacts, including travel, in the context of the mission of the Commissioner and provide in good time information requested by the Commissioner.
2. The Commissioner shall be entitled, during the exercise of his or her functions, to the privileges and immunities provided for in Article 40 of the Statute of the Council of Europe and in the agreements made thereunder.

#### *Article 7*

The Commissioner may directly contact governments of member States of the Council of Europe.

#### *Article 8*

1. The Commissioner may issue recommendations, opinions and reports.
2. The Committee of Ministers may authorise the publication of any recommendation, opinion or report addressed to it.

#### *Article 9*

1. The Commissioner shall be elected by the Parliamentary Assembly by a majority of votes cast from a list of three candidates drawn up by the Committee of Ministers.
2. Member States may submit candidatures by letter addressed to the Secretary General. Candidates must be nationals of a member State of the Council of Europe.

*Article 10*

The candidates shall be eminent personalities of a high moral character having recognised expertise in the field of human rights, a public record of attachment to the values of the Council of Europe and the personal authority necessary to discharge the mission of the Commissioner effectively. During his or her term of office, the Commissioner shall not engage in any activity which is incompatible with the demands of a full-time office.

*Article 11*

The Commissioner shall be elected for a non-renewable term of office of six years.

*Article 12*

1. An Office of the Commissioner for Human Rights shall be established within the General Secretariat of the Council of Europe.
2. The expenditure on the Commissioner and the Office of the Commissioner shall be borne by the Council of Europe.