

# “Implementation of human rights in Europe”

Presentation by Thomas Hammarberg, Commissioner for Human Rights  
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There was a time when European governments regarded human rights monitoring as something relevant for others, not for themselves. Typically, it was the Foreign Minister within the cabinet who was in charge of human rights. Problems on the domestic scene were seldom described in human rights terms.

This has changed with the increased understanding of the human rights concept. The complacency has decreased after reports from non-governmental organizations and international and regional human rights machineries. Monitoring has shown that there indeed are problems also in Europe. Let me mention some of the problems.

A report just published by the Council of Europe’s Parliamentary Assembly highlights the cooperation between European security agencies and the American CIA in a policy of so-called renditions of suspects to known or unknown places of detention for the purpose of interrogation. Individual rights have been violated in the process – in some cases very severely.

Terror has struck Europe several times during recent years - we still remember the horrible scenes in Istanbul, Madrid, London and Beslan. Our governments are wrestling with the dilemma of how to combat terrorism without infringing on the agreed human rights standards.

This is terribly difficult - which makes it even more important that governments are self-critical. The mistakes committed should be reviewed and steps be taken to avoid repetition. Terrorism should be countered with legal means and respect for human rights principles – too many innocent people have been victimized since eleven September, also in Europe.

Another major problem in Europe today is xenophobia, antisemitism and islamophobia. In the anti-terror campaign, persons from the Middle East and South Asia have been “profiled” and suffered harassment. Prejudices against Muslims have spread in several European countries.

Immigrants and refugees face discrimination on the labor and housing markets and the treatment of Roma in parts of Europe is still shameful. The relevant laws are there, but popular opinions are not consistent with such legal protection and this seems to delay implementation.

In reality, human rights protection is often a question of *preventing discrimination*. One group whose rights have been largely ignored is people with disabilities – physical or mental. I have received reports about so-called *cage beds* still being used in institutions in

some European countries and that persons in wheelchairs were prevented from voting because they had no physical access to the polling station. This is unacceptable.

Organizations defending the rights of sexual minorities have become more active and, for instance, planned Gay Pride marches. However, they have been denied permission to demonstrate by local authorities in some cities. This is unfortunate; homosexuals have of course the same right as everyone else to exercise freedom of assembly and expression.

The efforts for gender equity and children's rights have given significant results, but these social revolutions need to be continued. Women are still deprived of equal pay for equal work, still underrepresented in political assemblies and still not sufficiently protected from domestic violence. Only a third of the countries of the Council of Europe have banned corporal punishment of children.

These are some of the human rights concerns in today's Europe. We have learnt that building a human rights society is anything but a quick fix. It requires political will, popular support and some resources. It requires a legislation influenced by human rights principles; a competent, non-corrupt judiciary; a disciplined police force; a system for independent monitoring through an ombudsman or a human rights institution; a political culture which is open for criticism and ready to initiate reform.

It also requires free media which seek and publish critical information; free space for the non-governmental community; and finally, concerted efforts for human rights education with schools in which all pupils will learn about their own rights and respect those of others.

In these efforts the interplay between the national and European levels is of great interest. The national ombudsmen are in the forefront in the defense of the rights of individuals and this has been recognized by my office in the Council of Europe. The cooperation between your offices and mine has gradually improved and could progress further.

The European Convention on Human Rights is now part of the law in all member states of the Council of Europe. The Court judgments are therefore interesting not only in the concrete cases but also as authoritative interpretations of provisions in the national law based on the Convention.

The Court thereby functions harmonizing between the member states - which is interesting at a time when human rights problems increasingly have a cross-border dimension.

There is one problem, however. The Court is too "popular"- it cannot cope with the number of complaints coming in. Last year it received more than 40.000 submissions, while the accumulated backlog was more than 70.000.

This has been discussed in depth within the Council of Europe. A special protocol to the Convention, Protocol No 14, has been agreed in order to rationalize procedures. When it

enters into force the filtering at the first admissibility stage, for instance, will be more effective.

However, the crisis is deeper than that and a Group of Wise Persons was appointed last year to propose further measures. Recently it delivered a preliminary report which now is under discussion.

Both your offices and mine have been mentioned in these deliberations. It has been pointed out that the complaints, when genuine, may reflect *structural* problems in the state system of justice. The Group of Wise Persons suggested that the national ombudsmen, with the active support of the Commissioner, could seek to identify problems which are likely to trigger a large number of applications to the Court – and suggest necessary changes.

The Group also referred to the possibility that we inform the public about the right to apply to the Court by distributing application forms and disseminating information about the mandate of the Court and its admissibility criteria. The purpose would be to reduce the number of misplaced complaints and thereby give place for the urgent and necessary ones.

I do realize that these suggestions may be problematic for some of the national ombudsmen – also considering that there are differences in your specific mandates. I invite your comments and hope IOI can organise this consultation. I hope we can respond to these ideas as constructively as possible. We have a mutual interest in a well functioning Court.

The Group of Wise Persons were right – there is a need of joint efforts to improve the human rights protection in Europe.