



CONFERENCE OF INGOs
OF THE COUNCIL OF EUROPE

CONFERENCE DES OING DU
CONSEIL DE L'EUROPE

HUMAN RIGHTS COMMITTEE CONF/HR(2018)SYN2

SYNOPSIS OF THE MEETING OF TUESDAY 26 JUNE 2018 9.30 a.m. – 1 p.m., ROOM G03 - Agora

1. Opening of the meeting by the Chair of the Committee, Simon Matthijssen, focusing on the 5th report by the Secretary General of the Council of Europe, "Role of Institutions – Threats to institutions"

Heard the Chair state that the Secretary General of the Council of Europe had highlighted the following key issue for the committee: "on freedom of assembly and freedom of association: human rights non-governmental organisations (NGOs) and defenders have experienced a clampdown as a number of countries have drafted or passed oppressive legislation or undermined them by a range of other means. In an increasing number of states, the space for civil society is shrinking, and peaceful public events are viewed and treated as dangerous".

Heard the Chair's report on the discussion led by the Standing Committee on the organisation of the Conference sessions in 2019. It had been proposed that one session should be held in April, at the same time as the Parliamentary Assembly, and the other in October, at the same time as the Congress of Local and Regional Authorities.

2. **Adopted** the meeting agenda and **appointed** Maritchu Rall as Rapporteur for the session. The Chair **stated** at the outset that André Clavert, representative of the Conference to the Committee on Bioethics, had apologised for his absence.

3. Unanimously **adopted** the synopsis of the meeting of January 2018
[CONF/HR(2018)SYN1]

4. Activities of the Chair and the Vice-Chairs since the January session

Heard a report by Miguel Cabral de Pinho, Vice-Chair of the Committee, on the many exchanges relating to:

- his participation in April in the meeting of the ad hoc Committee responsible for drafting proposals relating to the Rules of Procedure, or other statutory provisions of the Conference of INGOs, on the revision of the Conference's Rules of Procedure; and
- the outline of the future work of the Transversal Working Group on Poverty.

Heard lamvi Totsi, Vice-Chair, report on her activities, in particular:

- her participation in the international high-level conference held in Strasbourg on 21 June 2018 on the future of Council of Europe Convention 108+ on data protection;
- her participation in a meeting on migration in Paris;

- the preparation of a report on the implications of artificial intelligence for data protection, resulting in recommendations on means of limiting their impact on human dignity and individual freedoms and the importance of taking into account the ethical dimension of the use of these technologies.

Heard the Chair's report on his activities since January 2018, focusing in particular on:

- his participation with Anna Rurka in the high-level conference held by the Danish Chairmanship of the Committee of Ministers on 12 and 13 April 2018 on the reform of the European Convention on Human Rights system, at the end of which the Copenhagen Declaration had been adopted. He stressed that many conferences had been held on this subject since 2010 and this is what had resulted in this positive outcome today;
- his work with many INGOs, helping them in particular with the drafting of statutes;
- his meeting in May with Turkish INGOs;
- finalisation of the 2018-2020 Roadmap.

Announced that the INGO "European Implementation Network" had proposed a seminar on Article 9.2. The European Court of Human Rights could require a State Party to honour its commitments. It was also possible for NGOs to submit observations to the Committee of Ministers on the failure to comply with a judgment of the Court.

Heard confirmation from Jean-Bernard Marie that the Conference of INGOs had exercised authority and had influenced the drafting of the Copenhagen Declaration.

5. Progress report on the Steering Committee for Human Rights (CDDH) by Jean-Bernard Marie

Heard a statement from the representative of the Conference to the Steering Committee for Human Rights pointing out that the Steering Committee was the main human rights body under the authority of the Committee of Ministers.

Pointed out that the Conference of INGOs was a "participant". As a result, it took a very active part in the drafting and adoption of texts.

Said that the CDDH had 5 drafting groups – on social rights, female genital mutilation, forced work (up to September 2017), freedom of expression, migration, and civil society and national human rights institutions.

Activities over the biennium:

- Social rights: this group had prepared an analysis of the legal framework of the Council of Europe for the protection of social rights in Europe. This had been adopted as a basic handbook.
Current work: a second report on improving social rights guarantees in Europe and a recommendation on safeguarding social rights in Europe. The Conference of INGOs was invited to contribute.
- Alternatives to detention in the context of migration: this group had prepared a study on the legal and practical aspects of effective alternatives to detention. This contained useful practices for our INGOs.
Current work: a practical handbook on the effective implementation of alternatives to detention for migrants
- Freedom of expression and its impact on other human rights
Current work: drafting of a good practice guide on ways of reconciling freedom of expression with other human rights. This document was being finalised.

- Civil society and national human rights institutions: this group had prepared an analysis on the impact of current national legislation, policies and practices on civil society activities. The document had just been adopted and related both to civil society organisations and to human rights defenders and national human rights institutions. A draft declaration on the need to strengthen the promotion and protection of the civil society space had been adopted by the Steering Committee and submitted to the Committee of Ministers.
- Current work: preparation of a good practice guide on ways for states to use legislation to protect the civil society space. An event on this theme would be held by the Finnish Chairmanship.

The CDDH continued to work on the reform of the European Convention on Human Rights system.

In conclusion, **offered** to provide the Steering Committee for Human rights with contributions on the themes covered by the drafting groups. These proposals would be analysed and taken into account.

6. Progress report on the Committee on Bioethics by Marie-José Schmitt (replacing André Clavert)

Heard information from Marie-José Schmitt on the Protocol to the Oviedo Convention. She raised the question as to whether there was a need to add a protocol to the Oviedo Convention of 1997 on “Human Rights and Biomedicine”. Article 7, on the protection of persons who had a mental disorder, left a legal vacuum with regard to the involuntary hospitalisation and treatment of persons who were temporarily incapable of consenting but posed a threat to themselves or others requiring immediate and effective action. In such cases, who should take the decision regarding treatment and hospitalisation?

The Committee of Ministers had made two recommendations on the need to provide better protection for the human rights and dignity of persons with mental disorders, one in 2004 (Rec(2004)10) and the other more recently, recommending an additional protocol to the Oviedo Convention (CM/AS(2016)Rec2091-final). The DH-BIO had decided to resume drafting work on a protocol in December 2016 but there had been opposition to this from the Parliamentary Assembly of the Council of Europe and some INGOs. The controversy seemed to arise from two differing ideas of the role of the state:

- some thought that states should be closing segregational institutions and promoting alternatives to hospitalisation where necessary;
- others wished to encourage states to fill the current legal gap in Europe with regard to treatment and hospitalisation without consent, and protect the human rights and dignity of persons when they were suffering from an acute phase of their illness and they temporarily needed intensive care, even if it was impossible to gain their consent.

The whole of civil society was affected by this question, which related to the protection of the human rights and dignity of persons, for whom, at a very particular moment of their lives, such measures could prove absolutely essential. To address the issue, the Standing Committee had proposed to organise a major consultation on this draft protocol covering all the INGOs in September 2018. It would be based on an on-line questionnaire to be sent to all the member INGOs of the Conference. A committee would be appointed to prepare the questionnaire and the results would be forwarded to the Committee on Bioethics in time for its autumn session.

7. Introduction by Marie-José Schmitt of a recommendation to the Committee of Ministers on the suspension of the activities of the Ad Hoc Committee of experts on the Rights of Persons with Disabilities (CAHDPH)

Unanimously **adopted** a proposal for a Recommendation to the Committee of Ministers to continue work on the implementation of the Council of Europe's "human rights for all" strategy with regard to persons with disabilities. These activities had been suspended as part of the Organisation's budgetary restraint measures.

8. Break (10 minutes)

9. Presentation of the working group on freedom of expression by Gulnara Akhundova

The working group members have identified two issues of most urgent concern at the moment – protection of journalists AND mis/disinformation. The list of the WG activities has been finalised and approved by the Human Rights Committee. It was agreed that the following activities should be the focus:

- Facilitation of the panel/expert discussion on the issues of mis/disinformation in the CoE area, with the possible participation of the Goethe Institute.
- Analysis of the protection mechanisms for endangered journalists.
- It was agreed to increasingly demonstrate solidarity with journalists in the most problematic CoE countries (Azerbaijan, Turkey, and Russia) and continue raising awareness at the CoE level.
- Gender and diversity are of huge importance and should be constantly monitored and addressed by the WG.

10. Presentation on “data protection” by Harmonie Vo Viet Anh, legal expert. Moderator, Iamvi Totsi, Vice-Chair

Heard a statement by Iamvi Totsi, Vice-Chair, on the implementation by the European Union of the General Data Protection Regulation on 25 May 2018. The three main focuses of the regulation were:

1. strengthening and harmonising the protection of individuals;
2. promoting responsible behaviour among all companies and other stakeholders processing data;
3. increasing the power of the authorities to regulate.

Its aims were:

- to make it possible for citizens to supervise their data themselves;
- to harmonise company-level regulations.

Was introduced to Harmonie Vo Viet Anh, a legal expert specialising in private law and Chair of the Libre Software Meeting. A world conference on free software was to be held in Strasbourg from 7 to 12 July 2018, focusing on the topic of digital education.

Heard a presentation by Harmonie Vo Viet Anh, legal expert, in which she talked about the new EU regulation on personal data protection, whose aim was to standardise the rules in this area throughout the EU member states. Penalties had been increased to encourage companies and associations to fall into line with the new rules on personal data protection.

Since 1978 France had been a pioneer in the field of personal data protection. This was a fundamental right because it involved rights that were attached to individual persons and their private lives. In 2016, the turnover of database companies had outstripped that of oil

companies for the first time. Major issues were at stake such as targeted advertising and targeted news. Facebook's users were not Facebook's clients.

The regulation applied to personal data, which included a person's name, address, opinions, state of health and the sound of their voice. Any firm or association comprising five people or more was required to comply with data protection rules or face heavy penalties.

Free and informed consent had to be given and the purpose for which data was being collected had to be announced. Storage was not allowed and all data collected had to serve the purpose announced. The body in charge of checks had changed; this had formerly been the French Data Protection Agency, the CNIL. No prior declaration was required; companies had to prove how they processed the data and dealt with the persons concerned.

Data subjects had the right to consult data. They could ask what type of data was being held and what it said, demand that it be corrected, refuse to allow certain entries and insist that information was withdrawn.

There was now a one-month notification deadline.

The Chair of the Committee highlighted the work done by Iamvi Totsi and by the Transversal Group on Digital Citizenship, which addressed this subject from a human rights perspective.

11. Presentation of the Transversal Group on Poverty by Miguel Cabral

Heard a statement by Miguel Cabral Pinho, Vice-Chair, in which he explained that the "Poverty" working group had been converted into a transversal group because this theme needed to be addressed from several angles, namely human rights, education and democracy. This proposal had been approved by the INGOs involved. There was now a further proposal to be adopted, however, namely that the group should focus on three areas of work corresponding to the Conference's three thematic committees:

1. Increasing the enjoyment of social rights, centring on the European Social Charter
2. Promoting access to proper education as a means of curbing systemic poverty
3. Helping to thwart social and cultural exclusion

The aim is to combat poverty by working with the persons concerned so that they can escape poverty (empowerment) and be better integrated into society.

12. Round table on monitoring, short introduction by Simon Matthijssen (25 minutes)

As Introduction: NGOs are probably the first to see what goes wrong on a grass root level. Regrettably it is shown time and again that the monitoring function of NGOs is not recognised by others within the Council of Europe. This denial of this important function of the INGOs, jeopardises the INGO credibility. It is a denial of the fact that NGOs emerge where public authorities fail to see a need for help, and enterprises do not see opportunities to offer profitable services.

In various states third-party monitoring is considered "unnecessary" because the state provides its own "inspections", or there are mechanisms of "self-reporting". In the long run all these systems appear to be susceptible to undesirable government influence or witness to a naïve assumption that institutions / states will give sincere, timely and complete openness about cases where they have failed.

We notice that NGOs that actively monitor are sometimes hindered and intimidated, possibly because they are uninvited (self-proclaimed) countervailing powers.

We want NGOs that monitor, to be heard by the responsible authorities. The information given to the relevant organisations by the monitoring NGOs should be impeccable: concise, complete and relevant. Effective monitoring is a skill that needs to be developed. Not only for the better of the NGOs, but most and for all for the protection of vulnerable groups whose well-being may depend on mature and realistic monitoring capabilities.

Monitoring in Turkey by Mrs Evin Baris Altintas

Monitoring by Civil Society Organizations

“The Media and Law Studies Association (MLSA) is a civil society organization based in Turkey which seeks to bring together journalism and lawyers. Our co-founders are journalist Barış Altıntaş and lawyer Veysel Ok. We are @mlsaturkey on Twitter and our website is www.medyavehukuk.org

Our Legal Team, headed by Veysel Ok, who has defended many journalists including Die Welt reporter Deniz Yücel, is one of the most prominent ones in Turkey. We are the organization that legally represents the largest number of imprisoned journalists in Turkey. Our priority in selecting cases is whether the accusations fall under the scope of the European Convention on Human Rights (ECHR) and we defend any journalist who was unjustly imprisoned without regards to ideological backgrounds. We believe in solidarity.

In addition to providing pro-bono support to journalists in court processes, we file appeals processes, Constitutional Court applications and European Court of Human Rights (ECtHR) applications. Currently, we represent more than 50 journalists, 10 of whom are imprisoned.

We also have journalism programmes to help the profession stay strong. We are open to supporting journalism trainings and projects in any field but we concentrate on financial investigative journalism and science journalism -- two fields where Turkish journalism has been traditionally weak.

Dozens of trials monitored under State of Emergency

In addition to our Legal Defense + Journalism Units we have been involved significantly in trial monitoring, monitoring the numbers of journalist in prison to systematically report on violations of fair trial rights such as problems with access to lawyers, lengthy pre-trial detention or suspects' right to facing the judges in courtrooms.

We basically keep track of what the Turkish government doesn't monitor, but should be monitoring. We keep detailed lists of journalists in prison, lists of people detained for social media posts or detained for “insulting the president,” lists of foundations or associations shut down under Cabinet decrees etc.

However, as any other NGO we need improvement in systematic documentation. We are now taking steps in that direction. In our daily work, we come across huge violations that have never been reported about.

Here are two examples:

The judge who tried novelist and former editor-in-chief of the Taraf newspaper, Ahmet Altan, was particularly hostile. On 16 February he and 5 others, including three journalists, were

sentenced to life without parole for statements they made on a TV show and published articles.

In one of the hearings before the verdict session, the judge interrupted the defense lawyer speaking on behalf of one of the suspects in the case. The lawyer giving evidence was referring to the night of the 15 July coup attempt in Turkey. She said: 250 people died that night on that bridge,” referring to the deaths that occurred on the Bosphorus bridge on the night of the coup attempt. The judge interrupted, saying, “I don’t understand. Did those people die in a traffic accident?”

The word “martyr” is used in Turkey for people who have died in situations of war, defending the country.

The lawyer stuttered, and “corrected” her sentence, saying “250 people were martyred on the night.” The judge interrupted her again, this time, saying, very politely, “Oh no, you misunderstood me. I didn’t ask you to correct your words. I was just trying to make sure that we understand everything very clearly,” a very irritating attack on the defense lawyer as it was obvious that he had chastised her for not using the word “martyr.”

Case II: SEGBİS violations: Case of İdris Sayılğan

<https://freeturkeyjournalists.ipi.media/analysis-use-of-courtroom-video-link-violates-turkey-journalists-rights/> (for more details on this).

During our work, we have also uncovered many violations that nobody even knew that were occurring. On 23 May 2018, we were in Muş province to defend one of the journalists we represent. The journalist, İdris Sayılğan, wasn’t brought to court because he is being kept at a prison in the city of Trabzon, 453 kilometers away from Muş. Our lawyers gave testimony, but the suspect wasn’t connected to the courtroom via video-link. We were told that there was a “technical error.” However, when the journalist called from prison the next day, we found out that he was never called to the video room to connect via video-link. Our queries in the cities that are mostly Kurdish populated show that this is common practice. Not being brought to the courtroom and the systematic placement of journalists in prisons far away from the cities where their trials are ongoing is of course a major violation, but denying them the right to appear via video-link -- just arbitrarily even though of course this is unacceptable even if it really occurred due to a technical issue -- appears as a systematic violation especially in Kurdish populated areas.

What needs to be supported? What we are doing

Since the date of the presentation, we have started a more systematic trial monitoring phase with our partners International Press Institute (IPI) where monitors tick boxes that list fair-trial right violations on a form. We hope to present this data at the end of this project.

Further, Turkish NGOs should be supported in training lawyers, in creating websites and databases to help freedom of expression lawyers have access to similar or relevant cases.

Another major problem area is the monitoring of torture and maltreatment incidents or accounts. Civil society needs training on finding evidence for and reporting on such violations more effectively”.

Monitoring in the Netherlands (Simon Matthijssen)

In his contribution, Mr Matthijssen elaborated on the phenomenon “monitoring” (see link to powerpoint presentation). Starting with what monitoring is, what organisations are monitoring, why these organisations monitor and what skills are needed for monitoring.

Some Dutch examples are presented:

- The Dutch Safety Council admits that independence is a menace when it comes to monitoring state activities by the many organisations that are responsible for that in the Netherlands.
- Significant is the failure of the Dutch authorities to organize a credible and independent national preventive mechanism (NMP) for the subcommittee on the prevention of torture (SPT) which is an instrument of the optional protocol to the Convention against torture (OPCAT). When the National Ombudsman and the Council for the Administration of Criminal Justice and Protection of Juveniles detected political interference (from the Ministry of Justice) they both withdrew from the NMP.
- The Dutch State-realtor does the maintenance of ammunition depots; Defense is responsible for any calamities. The result of that construction: numerous inspection fines and a lot of mutual frustration and unsafe depots.

Some non-Dutch examples of failing government (self) monitoring (state inspections) are mentioned:

- Horrible footage of animal abuse and filthy conditions, evidently in breach of rules and regulations, are recorded by secret video apparatus in Belgian slaughterhouse.
- A sharp and mysterious rise in emissions of a key ozone-destroying chemical has been detected by scientists, despite its production being banned around the world. And no single government agency mentioned this breach of treaty obligations.
- Staunch, repeated and mendacious denial of Russian state monitoring authorities of a Ruthenium 106 spike — in the Chelyabinsk region near the border with Kazakhstan — that has been identified by French and German nuclear safety institutions as a potential source for a concentration of a radioactive isotope detected in the air in late September above several European countries.

The contribution ended with some questions for the public:

- What is the essence of monitoring?
- Are we, INGOs, truly the sensory nerves of the territory of the Council of Europe?
- Is there a responsibility / obligation of INGOs with participatory status to report on breaches of Human Rights, the democratic process and institution or the Rule of Law?
- How can we help to improve Monitoring, reporting and the follow-up?

13. Adoption of the Committee's Roadmap for 2018-2020
Unanimously **adopted** the roadmap.

14. Conclusions by the Chair

In conclusion, **invited** Brigitte Kahn, President of the Association "Regards d'enfants", to describe the work of her association.

15. Presentation of the association [Regards d'enfants](#)

Heard a statement by Brigitte Kahn, accompanied by a teacher and pupils from the Lixenbuhl school in Illkirch Graffenstaden, in which she highlighted the work that the association was doing on the ground to introduce human rights to children and young people. A video on "Sport and human rights" was presented.