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State of human rights and democracy in Europe

Opinion¹
Committee on Culture, Science and Education
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Introduction

The Committee on Culture, Science and Education is pleased to contribute to this complex survey of Council of Europe activity and to indicate the significance of its current work and that of the Council of Europe as a whole, on education, culture, science and media.

The Council of Europe is indeed the Organisation of human rights and democracy. Our Assembly however is not equipped to undergo an exhaustive monitoring of their state in Europe. This Committee's contribution will not attempt more than an indication of the range of human rights it covers, the problems in its areas of competence and how both the Committee and the intergovernmental sector address such problems.

We have a contribution to make to both the "democracy" and the "human rights" parts of the two reports being prepared by the Political Affairs Committee and the Committee on Legal Affairs and Human Rights. The boundary between these parts is however not clear: freedom of expression, for example, is a major human right but is also indispensable for democracy and a good yardstick against which democracy is measured.

Cultural rights

The right of everyone to freely participate in cultural life is not equally accessible throughout Europe: small towns are less likely to see major exhibitions than major cities. Not all people have received appropriate education to understand and "read" the cultural heritage. Private ownership or financial considerations can be further obstacles. The Sub-Committee on the Cultural Heritage has raised these questions.

The Council of Europe has been encouraging access to culture and cultural heritage through its legal instruments and specific field programmes.

The Council of Europe Framework Convention on the Value of Cultural Heritage for Society (Faro Convention), open for signature since 2005, 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.

¹ See Doc. 11203 tabled by the Political Affairs Committee and Doc. 11202 tabled by the Committee on Legal Affairs and 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 principle of sustainable use of resources.

Access to cultural heritage is a general objective of the European Heritage Days – a programme to open buildings and monuments throughout Europe during the weekends of September, the European Heritage Days open the doors of numerous monuments and sites, many of them usually closed to the public, allowing Europe's citizens to enjoy and learn about their shared cultural heritage and encouraging them to become actively involved in the safeguard and enhancement of this heritage for present and future generations.

Today, the European Heritage Days (EHDs) can be considered an essential instrument for fostering a tangible experience of European culture and history, in addition to raising the awareness of the public about the multiple values of our common heritage and the continuous need for its protection. All 49 states parties to the European Cultural Convention actively take part in the initiative and the number of annual visitors is now estimated to be around 20 million at more than 30 000 participating monuments and sites. The EHDs have succeeded in stimulating civil society's participation, the specific involvement of youth, voluntary work and cross-border cooperation, thereby promoting the core principles of intercultural dialogue, partnership and civic responsibility. The Sub-Committee on the Cultural Heritage was present in St Petersburg for the launching of the 2006 EHDs and expects to be present in Belgrade this year.

The Council of Europe has been running its Cultural Routes programme for 20 years, which was launched on the initiative of our Committee, starting with the pilgrim's route to Santiago de Compostela. Dozens of projects for European cultural routes have been examined by the Cultural Routes Institute and 24 Council of Europe labels have been awarded.

The Cultural Routes programme enables the Council of Europe not only to encourage civil society engagement with heritage directly on the ground, but also to establish a highly practical form of transfrontier, pan-European and cross-cultural co-operation, capable of harnessing the theoretical debate on the concept of Europe to the business of cultural and heritage interpretation, and to social and development tasks.

The cultural routes have a number of complementary functions: protecting cultural values, acting as an observatory for the exchange of research and historic information, encouragement of civil society activities enabling the preservation and public knowledge of lesser-known heritage sites and the formation of transversal, multidisciplinary networks; encouragement of the application of Council of Europe heritage treaties.

Right to education

Education for democratic citizenship and human rights education is an area within education where the Council of Europe continues to be active. 2005 was the European Year of Citizenship through Education.

After having developed concepts and tools in the field of education for democratic citizenship, human rights education and intercultural education, and as a follow-up to the "Year", the Directorate of Education has worked on improving sustainability in the member states, through networking and dissemination of material. A feasibility study on the possible setting up of a resource centre for democratic citizenship and human rights, with special emphasis on intercultural education and the dimension of religious diversity, has been produced and is being discussed by the Committee of Ministers. Following proposals by our committee a feasibility study for a framework policy document in the field of education for democratic citizenship and human rights has been prepared. Draft proposals on indicators for active citizenship in co-operation with the European Commission have been developed. One field which will be considerably developed in coming years is democratic school governance.

Following a report on education for Europe (in 2004) the Committee on Culture, Science and Education is considering the question of teacher training. Council of Europe activities continue in this area.

Efforts have been made to align the training programme for education professionals, as well as other target groups, to the priorities of the Third Summit: the training programme for education professionals has been redesigned and is now known as the "Pestalozzi programme". European workshops have been refocused on the Council of Europe's priorities in education. A new strand dedicated to the training of trainers has been added. The current resources for this strand allow dealing with four projects per year.

Mother tongue education is a right which is still very far from being respected throughout the member states of the Council of Europe. The Kurds in Turkey, Finno-Ugric populations in Russia, the Aromanians in Greece, Bulgaria, Albania, and the Csangos in Romania are examples on which the Committee has worked lately. The situation of migrants should also be considered.

The assistance to member states in reviewing their policies (Language Education Policy Profiles) offered by the Education Directorate has contributed to a change of approach to national policy making. Whereas the countries concerned had previously tended to plan and implement policies for different languages separately, they now appreciate the benefit of developing education policies for all languages (national/official, minority and foreign languages) in a coherent, integrated manner.

The standards are made available to the learners through the European Language Portfolio, a personal document for a lifelong and autonomous learning. It allows the learner to reflect on his/her language skills and learning methods, to set clear and attainable objectives, to include diplomas and certificates and to present his/her language profile in recognised European standards. The portfolio is part of the European Union Europass, a comprehensive scheme for the transparency of qualifications.

The Education Directorate is developing a common European framework of reference to describe strategic policy options and minimum standards for the languages used as the medium of instruction in schools. A key aim is to promote social inclusion by assisting states in responding to the needs of vulnerable groups such as migrant children and early school leavers.

Academic freedom

The Assembly adopted Recommendation 1762 on academic freedom and university autonomy in June 2006. It recalled "the vital role universities played in the development of the European humanist tradition and in the development of civilisations". It also reiterated "that the fundamental principles and rights of academic freedom and institutional autonomy are essential for universities".

Academic freedom is a key value in the Bologna Process aiming at establishing a European Higher Education Area by 2010. Although the Education Directorate is a major player in this process, its action is much broader. In particular, action has been taken to ensure that this key value remains at the heart of our changing societies. This work has led to a draft recommendation on public responsibility for higher education and research that is now being submitted to the Committee of Ministers for adoption, to the design and implementation of a project on the roles and functions of higher education in modern societies and to the possible setting-up of a university network or forum on intercultural dialogue.

Assembly Recommendation 1787 (2007) on the precautionary principle and responsible risk management, adopted in January 2007, underlines the need to ensure freedom of research.

Discrimination against Hungarian-speaking Romanians in the Babes-Bolyai University in Cluj-Napoca was raised during the January 2007 Assembly part-session and a motion for a resolution on discrimination against the Hungarian minority in the Romanian higher education system was tabled.

Science and ethics

Everyone has the right to share in scientific advancement and its benefits, but not at any price. The Convention on Human Rights and Biomedicine, adopted in 1997 further to the work of the Assembly Committee on Science and Technology, and its additional protocols on which our Committee was consulted, develop the principles of the European Convention on Human Rights in fields such as the doctor-patient relationship, biomedical research, organ transplantation, medically- assisted procreation and genetics.

On a fair number of these subjects, the situation of the fundamental rights of the person seems relatively satisfactory in Europe. It will however be advisable to redouble efforts so that the number of ratifications of the Convention on Human Rights and Biomedicine (20 to date) continues to increase, and so that health professionals adopt in their practice the principles of the convention through the development of suitable tools.

Recently, concerns were voiced concerning organ trafficking. The Parliamentary Assembly echoed them. In 2002 the Secretary General had addressed to all member states a questionnaire asking them to specify the ways in which their national law prevented and punished organ trafficking. The great majority of governments answered this questionnaire in 2003. Several of them have since ratified the Convention on Human Rights and Biomedicine and its Additional Protocol on the Transplantation of Organs and Tissues of Human Origin. From this point of view, the situation improved in several central and eastern European countries, their governments having become aware of the problem. It is advisable nevertheless to remain vigilant because the factors which condition trafficking in organs – poverty on one side, shortage of organs of the other – remain present.

The Additional Protocol concerning Biomedical Research sets out clear rules and provides a framework for protecting the basic rights of the person undergoing research. Situations of obvious abuse in this field have not been detected. However, it is advisable to reinforce, particularly in eastern Europe, the role of research ethics committees, which are the key institution to ensure the effective respect of ethical and legal rules. The number of bio banks as well as the amount of research using biological material is increasing and, on this point also, it is advisable to monitor the evolution of the situation in several countries.

The Committee on Culture, Science and Education follows the Council of Europe's work in this field, for which the Steering Committee on Bioethics (CDBI) is responsible.

Freedom of expression and information

Freedom of expression and information and freedom of the media are crucial for genuine democracy and democratic processes. Assembly Resolution 1510 (2006), for instance, states clearly that "freedom of expression as protected under Article 10 the European Convention on Human Rights should not be further restricted to meet increasing sensitivities of certain religious groups".

More generally, freedom of expression and information are an essential component and basic need for people in the context of democratic citizenship and sustainable development.

The question arises as to whether the outcome of electoral processes can be considered to be in line with the basic requirements of democracy in the absence of an environment conducive to the exercise of freedom of expression and information or in the absence of pluralistic spaces for free public debate in respect of matters of general importance and interest.

Legislation on historical subjects and sanctions against divergence from the "official views", be it on the Holocaust, on the Armenian genocide or on "*turkishness*", are attacks on freedom of expression and the question should be asked as to whether their possible positive outcomes can be outbalanced by their negative consequences. The current proposal by the German Chairmanship of the European Union to make Holocaust denial a crime in the 27 member states of the European Union, for instance, could become a dangerous precedent and is questionably an appropriate solution to combat racism and anti-Semitism.

The vast majority of member states do not apply criminal or other punitive sanctions available for defamation, at least when media are concerned. On occasion, positive measures have been adopted with a view to ensuring that the application of existing legal provisions is consistent with the relevant case-law of the European Court of Human Rights.

However, in many other member states, criminal or punitive administrative sanctions are applied or sought frequently in respect of media professionals (as regards conduct performed in that capacity) or media entities. Further, in some countries, including in those that have decriminalised defamation,

journalists appear often to be confronted with civil proceedings for defamation which, in certain cases, results in the award of very high or disproportionate damages.

Even in countries reputed for respect of freedom of expression and information, journalists sometimes face criminal prosecution and, on occasion, criminal sanctions (including as harsh as deprivation of liberty) for failing to disclose their sources or for having access to, or disseminating, classified information in cases where it is clearly in the general interest to make that information available to the public.

However, the Council of Europe does not dispose of a mechanism for systematically gathering and processing information on the respect by member states of their obligation to respect freedom of expression and information and freedom and pluralism of the media and actively to promote the conditions needed for the exercise of those rights.

With the exception of countries subject to follow-up in respect of fulfilment of their commitments upon acceding to the Council of Europe and other very punctual cases, the Organisation has to rely on piecemeal information, admittedly very often from very reputed civil society sources. It seldom has the possibility to engage in first-hand verification of related information and in direct and constructive dialogue with relevant authorities with a view to promoting compliance with their freedom of expression-related obligations.

It may fairly be said that there is a lack of attention to shortcomings which can seriously flaw democratic processes or compromise people's basic rights and needs.

A satisfactory response would therefore require an upstream mechanism in the form of a credible watchdog or early warning system, for instance on the model of the European Committee for the Prevention of Torture or Inhuman or Degrading Treatment or Punishment, that would bring shortcomings to light and propose concrete action for remedying them.

Against this background, in a number of Council of Europe member states the situation as regards respect of freedom of expression and information and freedom and pluralism of the media is far from satisfactory. In certain of them it is the very life of journalists that is at stake.

The recent murders of journalists Anna Politkovskaya in Russia and Hrant Dink in Turkey, in particular, prompted our Committee to propose that the Assembly hold an urgent debate on "Threats to the lives and freedom of expression of journalists" at its January 2007 part-session. The debate concluded with the unanimous adoption of a resolution and a recommendation where the Assembly: condemns attacks on journalists; calls on member states to investigate thoroughly such attacks; resolves to establish a specific monitoring mechanism; and recommends that the Committee of Ministers take a clear stance on the matter.

The Steering Committee on the Media and New Communication Services has started consideration of the proposed mechanism.

With the aim of looking further into other questions essential for the generalisation of freedom of expression and communication, the Committee on Culture, Science and Education has just adopted a report on the professional education and training of journalists and is currently working on reports on the role of the media for democracy and on electronic media without frontiers in Europe.

Conclusions

The Committee on Culture, Science and Education will decide, in the light of the texts to be adopted by the Political Affairs Committee and the Committee on Legal Affairs and Human Rights, of the advisability of presenting amendments.

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