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## State of human rights and democracy in Europe

Opinion  
Committee on Culture, Science and Education  
Rapporteur for opinion: Mrs Maria Manuela MELO, Portugal, SOC

### I. Introduction

When the Committee adopted on 27 February 2007 its contribution on the state of human rights and democracy (Doc. 11218), the reports of the Political Affairs Committee and the Committee on Legal Affairs and Human Rights were not yet available.

The present paper presents amendments to the draft texts that have subsequently emerged.

Human rights and democracy are the concern of all Assembly committees and therefore the present Assembly exercise was planned to involve them all. It is only normal that the texts adopted by the Political and Legal Committees focus on the aspects of democracy and human rights that fall in their respective remits. It is also normal that these aspects are complemented by those more closely followed by other Assembly committees.

As it is clear from our contribution, with regard to human rights the Committee on Culture, Science and Education pays particular attention to cultural rights, the right to education, academic freedom, science and ethics and, last but not least, freedom of expression, including media freedom.

The Committee has also interest in the promotion of democracy through education and in democratic approach to education, culture and scientific choice.

**II. Amendments to the draft resolution (Doc. 11203):**

**1. Add the following sentence to §8 of the draft Resolution:**

Human rights can most effectively be maintained when they are embedded in the culture of its citizens, which requires affirmative cultural and education policies by all member states and the Council of Europe.

*[Explanation: The Council of Europe's programme on human rights education is an essential element in raising human rights awareness and respect for human rights.]*

**2. Add a new paragraph after §21 of the draft Resolution:**

Cultural rights are part of human rights, in particular the right to education under Article 2 of the first Protocol to the ECHR and the right of everyone to take part in cultural life under Article 15 of the International Covenant on Economic, Social and Cultural Rights. Member states must respect these rights and those enshrined in the Council of Europe Framework Convention on the Value of Cultural Heritage for Society as well as academic freedom and university autonomy.

*[Explanation: The right to education is contained in the first Protocol to the European Convention on Human Rights as well as the International Covenant on Economic, Social and Cultural Rights. It is therefore important to refer to cultural rights as human rights.]*

**3. Add a new paragraph after §21 of the draft Resolution:**

The Council of Europe has also drawn up the only comprehensive international standards for bioethics in the Convention on Human Rights and Biomedicine as well as its Protocols.

*[Explanation: A reference to the Convention on Human Rights and Biomedicine must not be forgotten in an Assembly text on human rights.]*

**4. Delete §25 of the draft Resolution**

*[Explanation: Limited resources should not become an excuse for the Council of Europe to discontinue activities in its areas of excellence. The areas of excellence of the Council of Europe are much wider than an exclusively legal approach to human rights and democracy. It has developed leading instruments and action for instance in the areas of legal co-operation and cultural co-operation. When speaking of areas of excellence, none should be forgotten. Therefore, if the paragraph is not deleted, it should mention all those areas or none]*

**5. Delete §31 of the draft Resolution**

*[Explanation: Human rights are already at the top of the priority list of the Assembly. After a specific debate on its priority action in the light of the decision of the Third Summit, the Assembly adopted a number of Recommendations, including Rec. 1758 on "Follow up to the 3<sup>rd</sup> Summit: priority for cultural cooperation". These decisions should not be thrown over board without a renewed and detailed debate on priority action. In addition, the Committee of Ministers should not be addressed in Assembly Resolutions, but in Assembly Recommendations: this reference is therefore in the wrong place here.]*

**6. Add a new sub-paragraph after §32.6 of the draft Resolution:**

Develop human rights education as a basic requirement of school education and life-long learning.

*[Explanation: As in §8 of the draft Resolution, human rights education must be part of the protection of human rights.]*

**7. Amend §32.14 of the draft Resolution as follows:**

sign and/or ratify the revised European Social Charter, as well as the Charter's collective complaints procedure and fully uphold and apply social rights, notably as regards access to facilities for vocational guidance and training education, housing, health care and pensions, with a view to building a more human and inclusive Europe;

*[Explanation: The European Social Charter does not contain the right to education, but the right to "access to facilities for vocational guidance and training".]*

**8. Add a new sub-paragraph after §32.14 of the draft Resolution:**

fully respect the right to education under Article 2 of the first Protocol to the ECHR and the right to take part in cultural life under the International Covenant on Economic, Social and Cultural Rights and become party to the Council of Europe Framework Convention on the Value of Cultural Heritage for Society;

*[Explanation: The right to education is contained in the first Protocol to the European Convention on Human Rights as well as the International Covenant on Economic, Social and Cultural Rights. It is therefore important to refer to cultural rights as human rights.]*

**9. Add a new sub-paragraph after §32.14 of the draft Resolution:**

become party to the Convention on Human Rights and Biomedicine as well as to its Protocols;

*[Explanation: A reference to the Convention on Human Rights and Biomedicine must not be forgotten in an Assembly text on human rights.]*

**10. Add the following at the end of §38 of the draft Resolution:**

Democracy can best flourish and succeed when it is embedded in the culture of its citizens, which requires affirmative cultural and education policies by all member states and the Council of Europe.

*[Explanation: 2005 was the European Year of Citizenship through Education, and the Council of Europe launched a programme on education for democratic citizenship from 2006-2009 in this field as a priority action identified at the Third Summit. It should be mentioned here.]*

**11. Amend §49 of the draft Resolution as follows:**

~~The increasing role of the media, which in many cases tend functionally to replace political parties by in setting the political agendas, monopolising transmitting political debates and creating and choosing forming opinions about political leaders, is a matter of concern underlines the importance of independent, pluralist and responsible media for a democratic society. Media are too often primarily business-driven institutions and, by prioritising their business interests over the service to the citizens and their democracy, they inevitably contribute to the distortion of democracy.~~

*[Explanation: As currently formulated, this paragraph is too negative towards the media. Due to the importance of the media for democracy, the Assembly should encourage media independence, pluralism, quality and accountability and not before the state but before the public at large.]*

**12. Amend the first sentence of §78 of the draft Resolution as follows:**

All disproportionate restrictions on freedom of expression must be eliminated ~~should be~~ in accordance with the ECHR.

*[Explanation: Disproportionate restrictions cannot be in accordance with the ECHR, which requires proportionality of any restriction. All disproportionate restrictions must therefore be eliminated.]*

13. **Amend §80 of the draft Resolution as follows**

~~Civic education and e~~ Education for democratic citizenship and human rights is an important condition for the effective protection and promotion of human rights and democracy. The Council of Europe should step-up ~~the elaboration of specific projects and programmes at a pan-European level aimed at increasing civic awareness~~ its work in this field in accordance with the outcomes and the evaluation of the 2005 European Year of Citizenship through Education. This should be reinforced by the elaboration and implementation of national programmes in this area.

*[Explanation: Education for democratic citizenship and human rights is the correct title of this activity. Its aim is much wider than civic education and awareness.]*

III. **Amendments to the draft Recommendation (Doc. 11202):**

14. **Add the following at the end of §2.3:**

and its work on Education for democratic citizenship and human rights.

*[Explanation: As already mentioned, 2005 was the European Year of Citizenship through Education, and the Council of Europe launched a programme on education for democratic citizenship from 2006-2009 in this field as a priority action identified at the Third Summit. It should be mentioned here.]*

15. **Amend §9 of the draft Recommendation as follows:**

Diversity in Europe needs to be better accepted and respected. The Assembly invites the Committee of Ministers to strengthen its political support for activities referring to cultural diversity and intercultural dialogue (including the religious dimension), for action by the European Commission against Racism and Intolerance (ECRI) and for the work under ~~of the Advisory Committee of the Framework Convention for the Protection of National Minorities and the European Charter for Regional and Minority Languages,~~ and to reinforce its activities in the fight against all forms of discrimination, as well as its activities related to the protection of the rights of persons belonging to minorities and the integration of minority groups in society.

*[Explanation: When speaking of diversity in Europe, cultural diversity and intercultural dialogue must not be overlooked. In addition, this paragraph should include reference to the European Charter for Regional and Minority Languages, which is also a major Council of Europe instrument in this context.]*

16. **Add a new paragraph after §13 of the draft Recommendation:**

The Assembly recommends that the Committee of Ministers:

- (i) call on all member states, which have not yet done so, to become party to the Convention on Human Rights and Biomedicine as well as to its Protocols,
- (ii) invite non-member states to become party to this Convention and its Protocols and
- (iii) call on all member states, which have not yet done so, to become party to the Framework Convention on the Value of Cultural Heritage for Society.

*[Explanation: As said before, the Council of Europe has taken an international lead with its Convention on Bioethics. The standards set in this convention are part of human rights. Non-member states may become party to this Convention. The Faro Convention was also already mentioned and the Committee of Ministers should engage itself more actively on its signature.]*

17. **Amend §17.1 of the draft Recommendation as follows:**

to ensure ~~that any restrictions on the~~ freedom of expression ~~are~~ in accordance with the ECHR and the case-law of the Strasbourg Court, safeguarding pluralism of the media and that measures are taken to prevent and dismantle media concentration;

*[Explanation: The original text reads like a recommendation to restrict freedom of expression, which is not helpful in a text on human rights and democracy.]*

18. **Add a new sub-paragraph after §18.1 of the draft Recommendation:**

To pursue its work on a new framework policy document on Education for democratic citizenship and human rights education.

*[Explanation: In its Rec. 1682 the Assembly had called for a new framework convention and in its reply the Committee of Ministers indicated that it was working on it.]*

\* \* \*

*Reporting committee:* Political Affairs Committee and Committee on Legal Affairs and Human Rights

*Committee for opinion:* Committee on Culture, Science and Education

*Reference to committee:* Reference No. 3283 of 6 October 2006 and Reference No. 3217 of 29 May 2006

*Opinion approved by the committee on 16 April 2007*

*Head of the Secretariat:* Mr Grayson

*Secretariat of the committee:* Mr Ary, Mr Dossow