



Aangenomen aanbevelingen en resoluties PACE 26 - 30 januari 2015

1. Terrorist attacks in Paris: together for a democratic response

The Committee on Political Affairs and Democracy considers that, more than an assault on freedom of expression, aimed at silencing and intimidating critical voices, or yet another act of anti-Semitic violence – which they also were – the terrorist attacks in Paris in January 2015 were attacks against the very values of democracy and freedom in general. They were based on hatred which no arguments can justify. There must be no “but”.

Freedom of expression, in particular that of journalists, writers and other artists, must be protected and governments of member States should not interfere with its exercise be it in printed or electronic media, including the social media.

Europe must continue to show that it is not afraid and keep using humour and satire. Not to do so in the name of political correctness would mean that terrorists had won. The principle of the separation of State and religion must also be protected.

The report underlines that any security responses aimed at reinforcing the fight against terrorism and jihadism in full respect of human rights must be accompanied by preventive measures aimed at eradicating the root causes of radicalisation and the rise of religious fanaticism. Therefore, it proposes specific recommendations to the member States of the Council of Europe for these purposes.

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2. Challenge, on substantive grounds, of the still unratified credentials of the delegation of the Russian Federation

The Monitoring Committee reasserts that the illegal annexation of Crimea by the Russian Federation is a gross violation of international law, including of the United Nations Charter, the Helsinki Final Act of the OSCE as well as the Statute of the Council of Europe and Russia’s accession commitments to this Organisation. In addition, the committee is extremely concerned about the developments in eastern Ukraine and condemns Russia’s role in instigating and escalating these developments, including with arms supplies to insurgent forces and covert military action by Russian troops inside eastern Ukraine, which are a gross violation of international law, including the Statute of the Council of Europe as well as of the Minsk protocol, to which Russia is party. In addition, the committee expresses its dismay about the participation of large numbers of Russian “volunteers” in the conflict in eastern Ukraine without any apparent action of the Russian authorities to



stop this participation, despite it being in violation of the Criminal Code of the Russian Federation itself.

In the view of the committee, no solution to the conflict in Ukraine will be possible without the full participation and commensurate political will of the Russian Federation. The Parliamentary Assembly therefore needs to maintain a constructive dialogue with the Russian delegation on this issue as well as on the honouring of its obligations and commitments to the Council of Europe. However, it emphasises that such dialogue can only take place if the Russian authorities are willing to participate, in good faith and without preconditions, in a constructive and open dialogue with the Assembly. The committee therefore proposes ratifying the credentials of the Russian delegation, but, at the same time, as a clear expression of its condemnation of the continuing grave violations of international law, suspending a number of the delegation's rights and privileges. In addition, the committee proposes that the Assembly annul the credentials of the Russian delegation at its June 2015 part-session if no progress is made with regard to the implementation of the Minsk protocols and memorandum as well as the demands and recommendations of the Assembly, as expressed in the draft resolution.

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3. Protection of the right to bargain collectively, including the right to strike

Across Europe, the right of workers to organise, to bargain collectively with employers and to strike has long been part of the continent's social contract, enshrined in the European Convention on Human Rights and the European Social Charter.

Yet, with Europe facing prolonged economic financial crisis and persistent austerity policies in some States, these basic rights are coming under threat. As a result, inequalities have grown, there has been a trend towards lower wages, and working conditions have been affected. Without the appropriate means of defending social rights in a globalised world, the life chances of whole generations could be at risk. The exclusion of some groups from economic development and wealth could end up damaging democracy itself.

Council of Europe member States should protect and strengthen the rights to organise, bargain collectively and strike, revising their labour laws where necessary – in line with the European Social Charter (revised) – and reinforcing labour inspections to supervise them properly. Trade unions and others should have the possibility of "collective redress" if businesses break the law. Finally, States should end austerity policies and instead emphasise proactive investment policies.

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4. Equality and the crisis

The economic crisis has hit the majority of Council of Europe member States with consequences reaching beyond the economic sphere, such as higher unemployment, greater poverty, widening income gaps, rising discrimination and intolerance, social tensions and increasing support for populist political parties and movements. Austerity measures have been the main response to the crisis. They have undoubtedly had a negative impact on the enjoyment of human rights and equality and have affected disproportionately vulnerable categories of people, including women, young people, people with disabilities, older people and migrants.

Human rights standards include a positive obligation for States to identify potentially vulnerable groups and take into account their vulnerabilities when formulating policies. They imply that budgetary cuts should not be blind to human rights and equality. In this regard, human rights and equality impact assessments are essential in order to take informed decisions and mitigate, as far as possible, the impact of austerity measures on vulnerable categories of people.

The Parliamentary Assembly should call on member States to invest in equality as a way of tackling the crisis, to facilitate increased co-operation with social partners and organise regular consultations with representatives of national human rights institutions, social partners and civil society to discuss a co-ordinated approach to the economic crisis and to carry out human rights and equality impact assessments. The Assembly should also ask national parliaments to scrupulously exercise parliamentary oversight over governmental responses to the economic crisis.

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5. The implementation of the Memorandum of Understanding between the Council of Europe and the European Union

The Committee on Political Affairs and Democracy supports the strengthening of the partnership between the Council of Europe and the European Union and welcomes the enhanced political dialogue, more sustainable joint co-operation programmes and increased legal co-operation between the two organisations, in a spirit of shared responsibility.

It urges all parties to act speedily and constructively to conclude the negotiations and complete the ratification process to ensure a rapid accession of the European Union to the European Convention on Human Rights.

Finally, the report addresses a number of recommendations to the European Union, as well as to the Committee of Ministers of the Council of Europe and the Par-



liamentary Assembly's leadership, with a view to pursuing further the building of a common space for human rights protection, ensuring complementarity and coherence of standards, and the monitoring of their implementation.

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6. The honouring of obligations and commitments by Montenegro

The Monitoring Committee notes that Montenegro is a reliable and constructive partner to the Council of Europe, that it plays a positive role in the stabilisation of the region and has made progress in fulfilling its commitments and obligations since its accession in 2007. The country has moved forward in the five "key issues" identified by the Parliamentary Assembly in 2012, namely the independence of the judiciary, the situation of the media, the fight against corruption and organised crime, the rights of minorities and the fight against discrimination, and the situation of refugees and internally displaced persons.

However, the committee invites Montenegro to pursue policies focusing on democratic standards, consolidation of the rule of law, enhanced transparency and accountability of public institutions and the equitable representation of minorities.

Given Montenegro's determination to continue its reform process in the framework of the accession negotiations to the European Union, the committee proposes closing the monitoring procedure in respect of Montenegro and engaging in post-monitoring dialogue.

But it also underlines the importance of implementing the adopted legislation, and therefore expects the country to implement a series of reforms – concerning the electoral process, the independence of the judiciary, the fight against corruption and organised crime and the situation of the media – by the end of 2017, failing which the committee will propose considering reopening the full monitoring procedure in respect of Montenegro.

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7. The humanitarian situation of Ukrainian refugees and displaced persons

The situation of all the people affected by the conflict in the south-eastern regions of Ukraine, including internally displaced persons and refugees and those living in the areas controlled by separatist forces, is particularly worrying. Numerous reports of serious human rights violations allegedly committed during the armed hostilities require objective investigation and the perpetrators must be brought to justice. The human rights situation in Crimea has also deteriorated. As a result,



hundreds of thousands of people have been displaced within Ukraine or have fled to the Russian Federation, and thousands more have sought protection in other European countries. More than two million people remain in the areas controlled by separatist forces, exposed to insecurity, serious human rights violations and inadequate living conditions.

The report welcomes certain efforts made by the Ukrainian and Russian authorities to respond to the needs of displaced persons and expresses appreciation for the work of international organisations such as the UNHCR, whilst underlining that only a sustainable political solution based on respect for Ukraine's independence, sovereignty and territorial integrity can lead to the improvement of the humanitarian situation.

The report calls for specific action by all parties to the conflict in relation to the ongoing fighting and its consequences for those affected by it. It also calls on the Ukrainian and Russian authorities to take specific measures for the protection of displaced persons, and on the international community to continue its assistance and support to them. Finally, the report invites the Council of Europe Development Bank to consider taking appropriate action.

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8. Protection of media freedom in Europe

Media freedom constitutes an important index for democracy, political freedoms and the rule of law in a country or region. In view of the deterioration of the safety of journalists and media freedom in Europe, Council of Europe member States must step up their domestic and multilateral efforts for the respect of the human rights to freedom of expression and information as well as to the protection of the life, liberty and security of those working for and with the media.

With reference to alleged targeted attacks on journalists in the armed conflict in eastern Ukraine, as well as alleged targeted physical attacks by police or security forces against journalists covering demonstrations and other manifestations of popular protest, full judicial investigations into those attacks are necessary by member States in view of their respective obligations under the European Convention on Human Rights.

National parliaments are invited to hold annual public debates on the state of media freedom in their respective countries, and Council of Europe action should be taken in accordance with United Nations General Assembly Resolution 68/163.

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9. Tackling intolerance and discrimination in Europe with a special focus on Christians

Freedom of religion is a fundamental right and one of the foundations of a democratic and pluralist society. Intolerance and discrimination on the grounds of religion or belief affect minority religious groups in Europe as well as people belonging to majority religious groups. However, acts of hostility, violence and vandalism targeting Christians and their places of worship are insufficiently taken into consideration and condemned.

Council of Europe member States should be invited to promote a culture of living together. Freedom of expression should be protected, as well as the peaceful exercise of freedom of assembly. The principle of reasonable accommodation should be resorted to in order to respect people's religious beliefs, in particular in the workplace and in the field of education. By doing so, States should ensure that the rights of others are equally protected.

It is crucial that States condemn and punish hate speech and any act of violence, including against Christians.

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10. Post-electoral shifting in members' political affiliation and its repercussions on the composition of national delegations

Changes in political affiliation by a parliamentarian – or a group of parliamentarians – in the course of their national electoral mandates – also known as “political nomadism” – are a common phenomenon in many national parliaments in Europe. However, its magnitude remains underestimated and its impact on the functioning of the parliamentary institutions has been little studied.

In the case of members of the Parliamentary Assembly, changes in party affiliation during a parliamentary term may influence the balance of political representation within the national delegations to the Assembly and constitute a ground for challenging credentials.

In view of the great differences in positions regarding floor-crossing and in the regulatory approach thereto, the present report does not seek to determine whether or not switching political affiliation is a right of parliamentarians – which is inherent in the nature of their mandates – or needs to be authorised or, on the contrary, prohibited. However, in order to promote the principles of transparency, integrity, accountability and trust on which the contract between elected members and voters is based, greater account should be taken of the phenomenon of switches in political affiliation and their consequences in national parliaments. The same approach should be followed as regards the Assembly's political groups.



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11. Witness protection as an indispensable tool in the fight against organised crime and terrorism in Europe

People who “stand up for truth” and are prepared to risk their lives and livelihoods to testify against wrongdoing deserve robust, reliable and long-term protection, both before and after any trial. Especially in the case of “insiders” who decide to uncover the activities of organised crime or terrorist networks, keeping them safe – and feeling safe – can be critical to successful prosecutions and play a vital role in dismantling such networks, while giving other potential witnesses the confidence to come forward.

In Council of Europe member States, there are numerous discrepancies in existing witness protection schemes, especially those that involve relocation of “collaborators of justice” from small countries. This potentially puts such people at risk and undermines crucial investigations by law-enforcement agencies.

Witness protection teams should be fully independent of investigative and prosecuting bodies, adequately resourced, and more open to international co-operation. States should also be ready to look at creating greater incentives for “insiders” to co-operate with the authorities in cases involving organised crime or terrorism, by offering them reduced sentences or granting them immunity from prosecution.

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12. Equality and inclusion for people with disabilities

There are more than 80 million people with disabilities in Europe and with the ageing of the population, this number is likely to increase in the years ahead. Numerous international legal instruments and programmes of action have been developed. However, the international standards are not reflected in the actual situation of people with disabilities.

People with disabilities are often invisible to the rest of society and are confronted with multiple forms of discrimination. Accessibility is a prerequisite for the enjoyment by people with disabilities of their right to independent living and full participation in public life. Access to employment is limited despite the measures taken at national level. In addition, in times of economic crisis, people with disabilities are made especially vulnerable by the combined effect of the low rate of employment and austerity measures. Legal capacity is also a key issue because it determines the enjoyment of fundamental rights. However, substitute decision-making mechanisms remain in the vast majority of the member States. Lastly, violence



against people with disabilities, in particular women and children, are of major concern. This phenomenon is often taboo and overlooked by the national authorities.

The member States should develop policies for people with disabilities by closely involving them in the process. They should also put an end to the culture of institutionalisation and start introducing supported decision-making mechanisms. Disability should be mainstreamed in national policies against violence. Likewise, measures should be taken to encourage access to employment. Finally, the Committee of Ministers should assess the Council of Europe Action Plan 2006-2015 and define a new road map on this basis.

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