

STATE OF DEMOCRACY, HUMAN RIGHTS AND THE RULE OF LAW IN EUROPE

Report by the Secretary General
of the Council of Europe

An analysis of democracy,
human rights and the rule
of law in Europe,
based on the findings of
the Council of Europe
monitoring mechanisms
and bodies.

Thorbjørn Jagland
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Preface

Thorbjørn Jagland
Council of Europe Secretary General

Dear Ministers,

Human rights, democracy and the rule of law in Europe now face a crisis unprecedented since the end of the Cold War. Serious violations – including corruption, immunity from prosecution, impunity, human trafficking, racism, hate speech and discrimination – are on the rise throughout the continent. People's rights are also threatened by the impact of the economic crisis and growing inequalities. The Council of Europe and its member States must act urgently to stop this erosion of fundamental rights.

■ Drawn up at the request of the Committee of Ministers, this report provides an in-depth analysis of the state of human rights, democracy and the rule of law in Europe. It also critically examines the Council of Europe's capacity to assist member States in complying with the European Convention on Human Rights and the standards derived from it.

■ As a result of recent reforms, the Council has achieved significant progress in several areas. The number of cases pending at the European Court of Human Rights has been reduced. The individual right to petition to the Court, which five years ago was threatened by an overload of cases, is being safeguarded. More focused project-based co-operation programmes are being implemented in several member States. The accession of the European Union to the European Convention on Human Rights is on track.

■ But the crisis in Ukraine illustrates, all too clearly, the dangers that we face. In Ukraine the absence of an independent judiciary, and lack of the checks and balances which a functioning parliament and free media should provide, allowed endemic corruption and misuse of power to thrive unchecked. This caused mistrust, social unrest and ultimately a revolution. The annexation of Crimea into the Russian Federation by a unilateral action clearly in contradiction with the Constitution of Ukraine provoked a fully-fledged crisis in Europe.

■ In order to prevent a recurrence of new crises, all member States must fully and unequivocally re-commit themselves to the European Convention on Human Rights and other core conventions of our Organisation.


■ I call on Europe's leaders to seize the opportunity offered by this report to strengthen our unique Convention system. I consider as a very encouraging sign the constructive bilateral dialogue with member States in the context of this report.

■ Protecting the rule of law, democratic principles and human rights must become an integrated part of a pan-European security system. I therefore propose a Council of Europe Summit in 2015 devoted to Democratic Security.

■ Ten years after the Warsaw Summit in 2005, the concept and action plan adopted then need comprehensive updating. New international and societal challenges have emerged. Technological development alone requires new tools to uphold human rights. The issues of protecting privacy, fighting hate speech on the Internet, the relationship between different freedoms - such as the freedom of expression and freedom of religion - are some of the new problems necessitating reflection and action.

■ The substantial reform process over the last few years has achieved results and led to a leaner and more efficient Organisation. Whilst these efforts should be continued, it is clear that for the Council of Europe to be able to address all the challenges effectively, member States have to decide whether they are ready to provide the Council of Europe the means to do so. This implies a qualitative leap in the political engagement of the member States at the highest level. The Summit would elaborate a new strategic concept and new benchmarks for the human rights agenda for the coming years.

■ Together, we can put Europe back on the path of unity and co-operation, based on common values, standards and legal obligations.



Executive summary

This report lists a large number of concrete challenges to human rights, democracy and the rule of law in Europe, and recommends actions to meet them.

■ The number and magnitude of challenges, which are based on the analysis of findings by Council of Europe monitoring bodies, are very worrying. The following are some of the most serious:

- Ethnic discrimination/national minorities (39 member States),
- Conditions of detention, including overcrowding in prisons (30 member States),
- Corruption (26 member States),
- Ill-treatment by law enforcement officers (23 member States),
- Social exclusion and discrimination of Roma (23 member States),
- Set-up and functioning of the judiciary (20 member States),
- Shortcomings in migrants' and asylum seekers' rights (20 member States),
- Excessive length of proceedings (11 member States),
- Trafficking in human beings (11 member States),
- Lack of freedom of expression and media freedom (8 member States).

■ The three main challenges for each member State have been identified on the basis of this analysis and are the subject of an ongoing and confidential dialogue.

■ The report draws the following major conclusions for the three main areas of Council of Europe action – monitoring, assistance and standard-setting:

• MONITORING:

■ Monitoring is an essential tool for helping member States to identify and remedy shortcomings in their compliance with Council of Europe standards.

■ It also serves as the basis for dialogue in establishing priorities for co-operation and for Council of Europe assistance to our member States.

■ However, the analysis revealed two main problems:

1. Some Council of Europe standards are not monitored because no specific monitoring mechanisms exist (e.g. in the area of freedom of expression).
2. Some standards are monitored by two or more separate monitoring bodies (e.g. the Framework Convention for the Protection of National Minorities - FCNM; the European Charter for Regional or Minority Languages - ECRML; and the European Commission against Racism and Intolerance – ECRI); whose competences partly overlap.

■ In addition, better co-ordination is needed between the different bodies involved, including the Parliamentary Assembly and the Committee of Ministers.

■ The Council of Europe has on several occasions been able to respond rapidly to crisis situations, most recently for example in Ukraine, where the Committee of Ministers decided to deploy a mission under the Framework Convention for the Protection of National Minorities (FCNM), while the European Committee for the Prevention of Torture and Inhumane or Degrading Treatment or Punishment (CPT) and the Commissioner for Human Rights also monitored the situation in the country.

■ But in general the impact of Council of Europe monitoring activities is limited by the following constraints:

- Monitoring cycles are occasionally too long
- In some of the monitoring bodies capacities for rapid reaction either do not exist or are rarely used.

■ The operational practices of several monitoring mechanisms – such as the Group of States against Corruption (GRECO), the Framework Convention for the Protection of National Minorities (FCNM), the European Charter for Regional or Minority Languages (ECRML), and the European Commission against Racism and Intolerance (ECRI) – need to be amended, so that the Council can respond faster and more effectively to emergency situations and urgent requests from member States.

■ Steps should be taken to ensure that, when serious human rights violations persist, monitoring visits become more frequent.

■ Monitoring mechanisms and other bodies should be able to operate in unresolved conflict zones. In such situations, in order to avoid pre-judging any questions of status or recognition, monitoring reports could be submitted directly to the Secretary General.

■ A specific monitoring mechanism is needed to prevent violations of Articles 10 (Freedom of Expression) and 11 (Freedom of Assembly and Association). Such a mechanism should be able to react rapidly to urgent challenges, report back to the Committee of Ministers, and make recommendations.

■ As human rights are also being threatened by the economic crisis and growing inequalities across Europe, the European Social Charter (ESC) should be given higher priority and its monitoring mechanism should be strengthened.

■ Mechanisms with similar aims (“kin mechanisms”) - such as the Advisory Committee of the FCNM and the Committee of Experts of the ECRML, or other Convention mechanisms, including the Group of Experts on Action against Trafficking in Human Beings (GRETA), the new Committee of Experts of the Convention on Preventing and Combating Violence against Women and Domestic Violence (GREVIO), and the Committee of the Parties to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (T-ES) – must closely co-ordinate their operations, and whenever possible organise their visits jointly.

• ASSISTANCE TO MEMBER STATES:

■ Council of Europe co-operation and assistance programmes should be made available to all member States which need, and wish, to receive advice and assistance.

■ Such programmes do exist, but are not as yet fully reaching their objectives, for the following reasons:

- Some programmes are not, or not fully, supported by the findings of monitoring and evaluation mechanisms. In some cases this is because no such convention-based monitoring exists.
- Co-operation and assistance activities are not always planned, agreed and implemented in a strategic and targeted manner.
- Some countries which are clearly interested and require co-operation are hesitant to engage because they fear a negative impact on their reputation - the existence of an Action Plan being perceived by some as a sign that the country in question is falling short of agreed standards of democracy, human rights and the rule of law.

■ The first two issues can and should be resolved in part through better targeting and co-ordination, which is already under way. The issue of reputation requires a political response by all 47 governments. No European country is without human rights problems, and Europe is not divided into countries which have such problems and those which do not. It may, on the other hand, be divided between those which acknowledge their challenges, and are ready to co-operate with the Council of Europe in addressing them, and those which do not.

■ Co-operation programmes, or plans of action, should therefore in principle be applicable to all member States, but adjusted to their specific needs in the light of the findings of the monitoring and evaluation mechanisms. This follows logically from the expressed wish of all member States to work together to ensure respect for human rights, democracy and the rule of law.

■ The analysis of monitoring data outlined in this report has enabled the Council of Europe to identify the three most important challenges to human rights, democracy and the rule of law in each of the 47 member States. In November 2013 each member State was informed of these findings, and asked to respond.

■ In view of the replies received, the Council of Europe will, in a confidential and constructive dialogue with each government, offer its expertise and assistance to help each member State address its three main human rights challenges, as identified in the preparation of this report.

■ To ensure that co-operation is effective, the Council of Europe needs to develop a minimal financial capacity of its own to engage in co-operation activities in its priority fields, irrespective of the availability of donor contributions.

■ Action Plans and other co-operation activities with member States must fully respond to the shortcomings identified by the Council of Europe's monitoring mechanisms and the Court's judgments.

• STANDARD-SETTING:

■ In general, Council of Europe legal standards are those which are set by the European Convention on Human Rights - as interpreted by the European Court of Human Rights – and by other Council of Europe treaties which regulate specific areas within the Council's mandate, as defined in Article 1b of the Statute.

■ In addition to legal standards, there are also recommendations and guidelines adopted by the Committee of Ministers, by the Parliamentary Assembly and by other institutions such as the Congress of Local and Regional Authorities, the Commissioner for Human Rights and the Venice Commission. These documents are not legally binding, but do nevertheless form part of the Council of Europe compendium of standards.

■ Disregard for Council of Europe standards ultimately reflects a lack of political will, which allows core European values – human rights, rule of law and democracy – to be compromised in favour of other priorities such as economic growth, stability, or even short-term electoral considerations.

■ The report argues that the Council of Europe must become much more assertive in holding member States to their commitments on matters of fundamental principle. It also highlights areas where our human rights standards are incomplete, as well as areas where standards exist but are not applied to all 47 member States, because some of them have not ratified key conventions. In addition, it points out that, for political reasons, Council of Europe standards and monitoring mechanisms are not applied in certain geographical areas, particularly those affected by so-called “frozen conflicts”.

■ Member States which have not yet done so, should sign and ratify key Council of Europe conventions, including notably:

- Protocol No.12 to the European Convention on Human Rights (non-discrimination)
- The Revised Social Charter and the Additional Protocol to the European Social Charter of 1995 providing for a system of collective complaints
- The Framework Convention for the Protection of National Minorities (FCNM) and the European Charter for Regional or Minority Languages (ECRML)
- Convention on Preventing and Combating Violence against Women and Domestic Violence
- Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse
- Convention on Action Against Trafficking in Human Beings
- Convention on Cybercrime, and its Protocol on Xenophobia and Racism
- Convention for the protection of individuals with regard to automatic processing of personal data
- Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism.

■ The recommendations in this report must be properly reflected in the Council of Europe's Programmes of Activities and Budget, as well as Joint Programmes, including through the allocation of appropriate resources by member States, so that the Council can give real and effective help to member States as they continue with their efforts to reform.

PART ONE

RESPECT FOR PHYSICAL INTEGRITY AND HUMAN DIGNITY

Chapter A

Death penalty, torture and ill treatment

Part one - Respect for physical integrity and human dignity

MAIN CHALLENGES

- Torture and ill-treatment by law-enforcement
- Absence of effective investigations leading to impunity

The Council of Europe member States form a death penalty-free region. On the European continent, only Belarus persists in applying this barbaric practice. We should continue to advocate for its complete abolition.

Regrettably, torture still occurs on our continent despite its prohibition under Article 3 of the European Convention on Human Rights and despite on-site monitoring by bodies such as the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). The CPT continues to report cases of law-enforcement officials using torture to extract confessions or obtain information. Judges and prosecutors often place too much emphasis on confessions, turning a blind eye to the methods used to obtain them. The European Court of Human Rights has highlighted in numerous judgments the inadmissibility of evidence obtained under torture. Non-binding instruments, such as the guidelines of the Committee of Ministers on eradicating impunity for serious human rights violations, provide crucial support.

Many member States have developed safeguards against acts of torture committed on people deprived of their liberty. These include the right to inform a third person of one's detention and access to a lawyer and a doctor from the moment of detention. However, despite the legal backing of these safeguards, member States often do not rigorously implement them.

The reports of the CPT show ineffective investigations into allegations of ill treatment. Often, investigations are not thorough, independent or prompt, and prosecutors hastily dismiss allegations. Even in the face of overwhelming evidence and a guilty verdict, sanctions are far too mild, and politicians pardon law-enforcement officials after they have been sentenced by a court of law.

■ The European Court of Human Rights has issued numerous judgments laying out the criteria for effective investigations. All member States must ensure that their procedures conform to these criteria and to the standards outlined by the CPT.

■ Member States are increasingly establishing independent and impartial bodies that investigate, at their own initiative, the use of force by police. They prosecute or recommend prosecution when necessary.

■ The Council of Europe has long advocated the establishment of national monitoring bodies. In the last few years, 31 Council of Europe member States have established National Preventive Mechanisms under the Optional Protocol to the United Nations Convention against Torture, and more are expected in the near future.

RECOMMENDATIONS

■ **Promote professional policing culture**

■ **Establish specialised, independent bodies to investigate allegations of ill treatment**

■ **Promote effective national Preventive Mechanisms under the Optional Protocol to the UN Convention against Torture and encourage all Council of Europe member States to ratify the Optional Protocol**

Chapter B

Conditions of detention

Part one - Respect for physical integrity and human dignity

MAIN CHALLENGES

- Chronic prison overcrowding
- Inadequate treatment of specific categories of prisoners (remand, life-sentenced, foreign nationals)
- Excessive use of solitary confinement

The Council of Europe continues its work to improve conditions of detention in police stations, prisons, immigration detention centres, psychiatric hospitals and social care homes. In recent years, the Council of Europe Development Bank has provided financing for a number of police and prison infrastructure projects, often in conjunction with co-operation projects, to address problems identified by the CPT in its country reports. Currently, co-operation programmes operate in four countries, at a total cost of €9.5 million, and projects in two other countries worth €5.2 million have recently finished. The Organisation provides technical support in four other member States, and several additional member States have requested co-operation programmes.

■ The conditions of detention in many prisons across Europe urgently need improvement. The reports of the CPT confirm this, as does the increasing number of judgments of the Court, which have found that some prison conditions constitute violations of Article 3 of the Convention.

■ Poor detention conditions often include chronic overcrowding. Inadequate living conditions and a lack of basic hygiene prevail, and facilities fall into rapid deterioration. Overcrowding can lead to the use of older, unsuitable prison establishments, as documented in several CPT country reports.

■ Prison overcrowding also negatively impacts the daily regime of prisoners. As detention facilities devote more resources to providing basic accommodation, they have fewer resources to provide meaningful out-of-cell activities. Consequently, prisoners have fewer or no purposeful activities or programmes to facilitate their rehabilitation and return to society.

■ To reduce prison overcrowding, member States must take steps to reduce the number of people sent to prison. They must find more alternatives to imprisonment and invest in prison infrastructure. The Council of Europe has developed a number of tools to assist countries in these areas.

■ Some facilities deliberately keep certain categories of prisoners from purposeful activities or association with other prisoners. The Committee of Ministers' Recommendation (2003)23 on the management of life-sentenced and other long-term prisoners supports the principle of non-segregation. The CPT has consistently advocated that prisoners sentenced to life in prison be integrated into the general prison population, but it continues to find them held in solitary confinement. This can severely damage prisoners' mental, physical and social health. Member States should adopt strict criteria to keep its use to an absolute minimum; ensure that cells used meet the same minimum standards as those of other prisoner accommodations; avoid using solitary confinement for juveniles; and guarantee prison accountability. The CPT addressed the issue of solitary confinement in detail in its 21st General Report in 2011. Member States have made some positive developments, but some still resort to using solitary confinement for periods that are excessive and in material conditions that exacerbate the punishment.

■ Member States should only put restrictions on remand prisoners when necessary to maintain order or for the administration of justice and for the shortest time possible. They should also conduct regular reviews of the necessity of remand custody. According to the case law of the European Court of Human Rights, the longer the detention continues, the more stringent the test of necessity becomes.

■ Nelson Mandela said, "A nation should not be judged by how it treats its highest citizens, but its lowest ones." Improving prisoners' conditions of detention should remain a high priority.

RECOMMENDATIONS

- **Adjust prison sentencing policies and increase use of alternative sanctions**
- **Review the necessity and restrict the length of remand custody, taking into account recommendations put forward by the Council of Europe's Committee of Ministers**
- **Implement Council of Europe standards related to specific categories of prisoners (remand, life-sentenced, foreign nationals)**

Chapter C

Trafficking

Part one - Respect for physical integrity and human dignity

MAIN CHALLENGES

- Impact of prevention measures not systematically assessed
- Increasing trafficking related to labour exploitation, forced begging and forced crime
- Lack of effective, proportionate and dissuasive sanctions against traffickers

The Council of Europe's work in combating human trafficking reached an important milestone with the adoption of the Convention on Action against Trafficking in Human Beings. It establishes a special monitoring mechanism, the Group of Experts on Action against Trafficking in Human Beings (GRETA) and the Committee of the Parties to the Convention. To date 40 member States have ratified the Convention, which entered into force in February 2008. In 2013, Belarus became the first non-member State to accede to the Convention.

■ Evaluation reports show that a vast majority of states have adopted anti-trafficking action plans and set up co-ordination structures to ensure their implementation. We must take further steps to ensure that they fully apply the human rights-based, victim-centred approach that underpins the Convention in the fields of prevention, protection of victims and prosecution of offenders. Stakeholders must systematically examine the impact of any action, adapting it to newly emerging forms of trafficking.

■ Although trafficking for sexual exploitation remains predominant, the reports show an increase in cases of trafficking for labour exploitation. Other types of exploitation, such as forced begging and forced criminality, also appear to be on the rise, and they require an adequate response from member States.

■ Member States face significant challenges in identifying the victims of trafficking. Victims who are not identified are often mistaken for irregular migrants, which can lead to deportation and often to re-trafficking. According to GRETA, proper identification requires the creation of a national referral mechanism that ensures co-ordination of those involved in victim identification. All relevant professionals (including law enforcement personnel, social services staff, border officials and labour inspectors) must receive proper training, and member States must provide assistance and protection for all victims.

■ In most countries, authorities do not punish traffickers adequately. They often fail to prosecute for the offence of human trafficking, and, in some cases, the definition of the offence in national criminal law does not comply with the standards set down by the Convention. In addition, punishment provided under domestic law and sentences imposed by courts do not sufficiently dissuade potential offenders.

■ Governments that formalise partnerships with civil organisations, particularly non-governmental organisations (NGOs) that specialise in assisting victims, can make valuable headway. This can also enhance their involvement in defining anti-trafficking policies. States have the responsibility to ensure funding for assistance and accommodation to victims of trafficking, especially when this task is delegated to competent NGOs.

RECOMMENDATIONS

- **Systematically assess the impact of prevention measures**
- **Set up national referral mechanisms to facilitate the identification of trafficking victims**
- **Bring national legislation criminalising human trafficking into full conformity with the Convention and ensure its effective application**

Chapter D

Fundamental rights of migrants including asylum seekers

Part one - Respect for physical integrity and human dignity

MAIN CHALLENGES

- Unjustified, excessive or inadequate detention of migrants
- Lack of basic protection for migrants who are not detained

The Council of Europe lays out migrants' and asylum seekers' rights, such as the right to respect of physical integrity and human dignity, in various conventions. However, many face challenges including discrimination, inhumane and degrading living conditions, and lack of access to minimum health care.

Irregular immigrants often do not report crimes committed against them because they fear authorities or are unaware of rights and remedies. ECRI, the Commissioner for Human Rights and others advocate for a safe space where irregular migrants can exercise basic rights without risking expulsion.

The Human Rights Commissioner and others have called for investigations into "push-backs" of asylum seekers in territorial waters and at land borders. Recent legislation adopted to target smugglers in some countries deters civil sailors from offering humane gestures to people in danger.

Under international law, authorities may not prevent their citizens from leaving the country to claim asylum abroad. When asylum seekers enter a territory, they must receive a fair and timely examination of their request, access to interpreters and legal aid. The Court, the Commissioner, the CPT, the ECRI, and others indicate that a number of member States have difficulties granting these rights.

The policies under which irregular migrants are detained, sometimes for lengthy periods, should be reviewed. The Court has ruled that detention for the purpose of deportation becomes illegal when deportation is not possible.

■ Authorities should not use police stations or prisons as places for detention of irregular migrants or asylum seekers. These persons have not committed a crime, and authorities should take into account their vulnerability and needs. Authorities should not detain children or families with children. In 2013, the Court found many cases where migrants' rights had been violated in detention.

■ The Commissioner, the Parliamentary Assembly and others have called for the creation of clear rules about the deportation of irregular migrants, regular monitoring and efficient complaints procedures for alleged cases of ill treatment. The Committee of Ministers has issued 20 guidelines on this issue, and the CPT has begun monitoring return flights.

RECOMMENDATIONS

■ **Codify European immigration detention rules**

■ **Provide legal, administrative and practical safeguards that enable irregular migrants to exercise basic rights without risking expulsion and protect those providing humanitarian aid from the risk of criminal sanctions**

PART TWO

JUSTICE AND THE RULE OF LAW

Chapter A

Set-up and function of the judiciary

MAIN CHALLENGES

- Executive interference in the functioning of the judiciary
 - Corruption within the judiciary
 - Lack of public trust in the judiciary
 - Excessive length of proceedings
- Chronic non-enforcement of judicial decisions

As the cornerstone of the rule of law, an independent and efficient court system ensures the fair adjudication of legal disputes and effective remedies, particularly in cases of human rights violations. The separation of powers between the legislature, the executive and the judiciary branches of government guarantees judiciary independence.

Senior members of the executive branch in some member States have publically criticised court decisions. This undermines public confidence and may compromise the impartiality of judges, particularly in legal systems that lack a tradition of judicial independence, or where there are deep political divides. The executive branch and the legislature should respect and protect the authority of the judiciary and of individual judges, and judges should refrain from political comment and criticism, except in the context of legal rulings.

As judicial councils—independent bodies that regulate the judiciary and safeguard its independence—become more common, we must ensure that they remain free of political influence. The Committee of Ministers, the Consultative Council of European Judges and the Venice Commission have given clear guidance on the composition and powers of these councils. Unfortunately, some councils have succumbed to inappropriate influence from other state powers, particularly the Ministry of Justice and Parliament. In several cases, the executive branch has taken control of these bodies, notably in the areas of nominations and disciplinary proceedings against judges.

In addition to independence from other state powers, judges should enjoy professional independence so that they can interpret laws without instruction from higher-level judges. We have seen cases of compromised impartiality and independence raised in cases of the Court, reports of the Consultative Council of European Judges and GRECO, opinions of the Venice Commission and in legislative proposals for strengthening disciplinary procedures for judges.

In 2010, the Parliamentary Assembly reported deeply embedded judicial corruption in many member States and, in some states, the justice system is completely corrupt. The Global Corruption Barometer published by Transparency International in 2013 shows that, in nearly one quarter of all member States of the Council of Europe the judiciary was perceived to be among the institutions most affected by corruption.

The European Court of Human Rights continues to find violations of the right to a trial within a reasonable amount of time, and it remains the main ground for cases filed. This persistent problem affects many people in several member States. In 2011, the Parliamentary Assembly expressed concern over systemic problems with excessive length of judicial proceedings and the chronic non-enforcement of judicial decisions. Member States must remedy these problems without adding to the existing congestion of cases in the courts.

Alleviating the congestion in the courts should not come at the expense of access, particularly for vulnerable groups. For persons with serious mental illness, member States may permit procedural restrictions, but they may not prohibit direct access.

Some member States fail to enforce court decisions, especially those rendered against the state. Member States must set up remedies for those who are adversely affected.

The rule of law suffers if the public does not have ready access to courts or if the courts manage their business inefficiently. Over the past few years, member States have increased funding for the courts, legal aid, public prosecution, and the computerisation of court systems.

Member States should give greater priority to funding the training of judges, given their important role in guaranteeing a fair trial. Judges with a high level of professional competence will more likely maintain their independence in instances of inappropriate pressure. Unfortunately, some member States predict major funding reductions in the future.

Certain actions by member States have undermined public trust in the court system. In some member States, public prosecutors exercise powers that are too broad and lack transparency. Prosecutors should have the right and obligation to refuse instructions on whether or not to prosecute. In the courtroom, the prosecutor should be physically separated from the judge or judicial panel, and ideally should sit at the same level as the other parties to the proceedings.

An improved gender balance within the judiciary will contribute to public confidence in the court system and its representation of society. While the percentages for judiciaries in all member States show a relative balance, we see a much lower proportion of women judges in the higher courts, particularly in supreme courts. Whilst four supreme courts show an exception to this trend, with a higher proportion of women judges than in first-instance courts, two such courts are over 90% male.

Court systems increasingly decide on cases involving serious and complex crimes, particularly terrorist crime. Courts are sometimes requested to keep evidence from public disclosure. In these cases, the court must compensate for the disadvantages to the defendant before agreeing to non-disclosure. The protected evidence must not be the sole or decisive piece of evidence on which the conviction is based, as recent cases before the European Court of Human Rights demonstrate.

Litigants should not be denied a public hearing simply because the state has classified essential parts of the evidence as secret. A state may wish to protect the public interest or the interests of the parties to the case. However, secret hearings, such as those conducted in secret locations with results that are not published, run contrary to human rights and the rule of law.

Problems also arise when the executive branch invokes national security to engage in secret surveillance, impose restraining orders, expel aliens or refuse hiring for sensitive posts. These decisions should be subject to judicial review with appropriate court access to any pertinent material.

Courts may accept evidence acquired by *agents provocateurs* subject to clear restrictions and safeguards. However, the European Court of Human Rights has found that the public interest does not justify the use of evidence obtained as a result of police incitement to commit a crime.

RECOMMENDATIONS

Introduce effective measures to shorten the length of judicial proceedings and enforce court decisions

Strengthen transparency within the judicial system and respect for judicial independence

Improve the quality of the training of judges

Improve gender balance in the senior judiciary

Chapter B

Corruption

Part two - Justice and the rule of law

MAIN CHALLENGES

- Disguised or corrupt political financing
 - Immunity from prosecution
- Lack of parliamentary and judicial integrity
 - Corruption in public administration

The Council of Europe has developed comprehensive standards to prevent and fight corruption. All but three member States have ratified one of its core instruments, the 1999 Criminal Law Convention on Corruption. The Committee of Ministers adopted six instruments in pursuance of its 1996 Programme of Action against Corruption, including a ground-breaking recommendation on political financing.

■ We have seen many achievements over the last 10 to 15 years resulting from the implementation of these standards and monitoring by GRECO, targeted technical assistance and the assistance of other actions and bodies of the Organisation. Attitudes in many member States have become less tolerant of corruption, and even countries that previously believed they were virtually free of corruption now acknowledge the need to reinforce safeguards against it. Many countries are making preventative efforts, which they often implement through special anti-corruption commissions and more vigorous law enforcement.

■ However, concerns over corruption are increasing, as indicated in reports by GRECO, the Parliamentary Assembly and others, including widely used corruption indices produced by Transparency International and the World Bank Institute. The latest figures of the Transparency International corruption perception scale show that the 49 member States of GRECO rank between 1 (least corrupt) and 144 (corruption on a par with Nigeria or Iran). According to the Commission's first European Union Anti-Corruption Report, released in February 2014, one in twelve Europeans has experienced or witnessed corruption in the last twelve months, and they estimate the cost to EU member States at no less than €120 billion each year.

■ The current economic crisis, with its negative impact on prosperity, social equality and employment, reinforces the climate of unethical behaviour. A constant flow of corruption allegations and scandals has eroded institutional credibility in a number of member States, creating public disillusionment and significant social and political tension. In several member States, citizens have held demonstrations protesting corruption and bad governance. Political parties score consistently low on widely publicised measures of public trust in Europe and pollsters frequently point to citizens' concern about their institutions and representatives.

GRECO's current 4th evaluation round focuses on preventing the corruption of parliamentarians (and includes judges and prosecutors). Recent reports suggest that parliaments must earn public trust. It will not improve only as a result of sharing more information about parliament's activities or monitoring or controlling the activity of MPs, as important as these may be. Instead, MPs must demonstrate their commitment to corruption prevention in their own conduct and in public duty, and ensure that an ethos of prevention takes hold. In a number of cases, GRECO has established that the judiciary and the prosecution service must ensure that public distrust does not negatively impact their functioning. This often requires the establishment or strengthening of integrity policies and enforcement mechanisms, in addition to reinforcing judicial independence.

Disguised or corrupt political financing threatens democracy in a number of countries. GRECO peer evaluations note lax or ineffectual financial transparency requirements for political parties and candidates, the absence of truly independent monitoring bodies, and the insufficient pursuit of violations of political finance rules. This issue falls largely outside direct governmental control and is influenced by the political parties and parliaments themselves. Parties and parliaments will need encouragement to generate the political will to address this matter.

Corruption in public administration persists, and directly and continuously affects citizens. Public officials and elected representatives often enjoy immunity from investigation, adjudication and prosecution in countries with widespread corruption. Member States must ensure transparency by protecting those who report wrongdoing (whistle-blowers), helping to manage conflicts of interest and providing those who fight against corruption with the requisite independence and resources. Civil society and the media must also fulfil their watchdog role without undue influence from the state.

RECOMMENDATIONS

- Reinforce integrity in the judiciary, law enforcement and prosecutorial bodies
- Further MPs' commitment to corruption prevention in their own ranks
- Set up independent monitoring bodies for political financing
- Protect whistle-blowers

Chapter C

Money laundering

Part two - Justice and the rule of law

MAIN CHALLENGES

- **Low rates of serious money laundering convictions and confiscations**
 - **Insufficient international co-operation**
 - **Insufficient access to reliable information on the real owners of companies and trusts**

The Council of Europe was the first international Organisation to warn of the dangers of dirty money entering the financial system. We have continued to set standards, monitor and provide technical assistance on this issue for over 30 years.

Successful money laundering provides criminals with the incentive to commit more crime. Most money laundering worldwide is undertaken by or on behalf of organised crime. Major proceeds-generating offences that frequently involve organised crime include human trafficking, drug trafficking, counterfeiting, fraud in all its forms (including tax fraud) and corruption. The Council of Europe's work to combat money laundering complements our activities against corruption, human trafficking and other economic crime.

The Committee of Ministers' Recommendation (80)10 was followed by the landmark Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime 1990, (CETS: 141), which all member States have ratified. It creates domestic legal regimes for prosecuting money launderers and divesting criminals of their profits. In 2005 the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (Warsaw Convention) (CETS: 198), was opened for signature. This comprehensive treaty equips prosecutors and law enforcement with tools to fight money laundering and the profitability of crime. It addresses many of the problems identified by our primary anti-money laundering monitoring mechanism, MONEYVAL.

MONEYVAL is a leading Associate Member of the Financial Action Task Force (FATF) and a key partner in the global network of anti-money laundering and countering the financing of terrorism (AML/CFT) assessment bodies. All MONEYVAL states and territories now have similar preventive and criminal legislation, which they constantly upgrade based on MONEYVAL recommendations and targeted technical assistance from the Organisation. Although member States are generally achieving formal compliance with international standards, the implementation of the standards proves more challenging.

■ The private sector puts enormous resources into expensive “know your customer” systems and the reporting of suspicious activity on accounts. However, these efforts only achieve modest results in terms of serious money laundering convictions and confiscation of proceeds. We see few major prosecutions or convictions of third parties (including professionals such as lawyers and accountants) who launder on behalf of organised crime. Despite existing legislation, many countries give insufficient priority and resources to achieving deterrent confiscation orders, which directly impact criminals’ lifestyles. Member States must continue working to create a law-enforcement culture that routinely conducts proactive financial investigations along with traditional criminal investigations in major proceeds-generating offences. Improved asset recovery and major convictions in professional laundering cases would better complement private sector preventative measures.

■ Major money laundering and confiscation investigations frequently require transnational enquiries, which take time, resources and effective international co-operation. Despite treaty obligations, international judicial co-operation does not work well in practice. Often, law enforcement will not trace assets in other countries if there are no asset-sharing agreements between them. Therefore we should pursue more asset-sharing agreements between states.

■ More countries should ratify the Warsaw Convention to take advantage of its provisions for obtaining information on bank accounts and improve domestic investigations and international co-operation. Until all member States ratify this instrument, consistent law-enforcement measures will not be available for international co-operation in tracing assets across member States.

■ Organised crime regularly hides its profits behind complex, multinational corporate structures. Many major investigations come to a halt because of inaccurate, delayed or unavailable information about the real owners of the companies. Member States should commit to core transparency principles to prevent the misuse of companies and trusts for money laundering and tax evasion.

RECOMMENDATIONS

- **Increase use of proactive financial investigations and deterrent confiscation orders**
- **Ratify relevant international treaties, including the Warsaw Convention**
- **Increase transparency of information on the real owners of companies and trusts**

PART THREE

DEMOCRACY

Chapter A

Political freedoms

Part three - Democracy

MAIN CHALLENGES

- Threats to freedom of expression and media freedom, including violence against journalists
- Disproportionate restrictions to freedom of assembly, including excessive use of force in policing and dispersing demonstrations
- Abuse of procedural requirements for NGOs

Articles 10 and 11 of the European Convention on Human Rights guarantee the rights to freedom of expression, information, association and assembly. Exercised collectively, these freedoms form the checks and balances necessary to a democratic society.

However, the democratic regulation of these rights has proved challenging, since such freedoms frequently conflict with other fundamental rights, and they can threaten the interests of those in power.

In several member States, recurring threats to the freedom of expression arise, including interference with journalists' rights on grounds of national security, overzealous recourse to defamation laws and violence against journalists. Governments can misuse laws against hooliganism, extremism or incitement to violence to curtail the freedom of expression. A climate of impunity in cases of violence against journalists exists in certain member States, which further hinders the freedom of expression and eases the way for more attacks. Other factors that undercut media freedoms include weak regulations (notably of broadcasting rights), deficient or arbitrary application of laws and a lack of transparency of media ownership, which poses a threat to media pluralism and, in consequence, to political pluralism.

Emerging legislation and practices in some member States limit Internet freedom. While the declared objectives are mostly laudable, the measures themselves present risks of misuse or abuse. Revelations about mass surveillance by security services have led to strong pressure for democratic oversight.

Several member States, with the assistance of the Venice Commission, have made significant legislative improvements to guarantee the freedom of assembly. The most comprehensive domestic laws now require mere notification (rather than authorisation) of planned demonstrations, permit spontaneous and urgent assemblies and contain neither blanket restrictions nor excessive sanctions.

However, the restrictive approach of authorities and ineffective judicial review has sometimes resulted in disproportionate restrictions. These include targeting social media users who use the Internet to organise protests; restricting demonstrations to areas out of the “sight and sound” of their target audience; and imposing excessive sanctions, including prison sentences. The Commissioner for Human Rights has noted in several reports that the use of excessive force by law-enforcement officials in policing and dispersing demonstrations, notably following elections, has increased in some countries.

Member States should uphold the right to peaceful assembly and the principles of proportionality and non-discrimination. Governments should reverse legislation that does not follow these standards. The Council of Europe can play an important role in promoting these principles.

NGOs continue their watchdog work in monitoring state action and exposing human rights abuses. However, some states target these organisations, curtailing their existence or activities with excessive formalities, financial reporting obligations, limits on foreign funding, and sanctions. Member States must not claim the protection of public order or prevention of extremism, terrorism or money laundering to control NGOs or restrict their ability function.

Human rights defenders also play an important role in the promotion and protection of human rights. The Committee of Ministers’ declaration to improve the situation of human rights defenders, adopted in February 2008, is important in this regard.

All Council of Europe member States have agreed that, in a democracy, critical voices must be allowed to speak. They must also uphold this ideal in practice. A democratic, committed and responsible attitude will ensure that dialogue prevails over confrontation.

RECOMMENDATIONS

Ensure the legislation respects the right to freedom of expression and media freedom as guaranteed by the European Convention on Human Rights

Ensure that legislation respects the right to peaceful assembly and the principles of proportionality and non-discrimination as guaranteed by the European Convention on Human Rights

Simplify and make transparent and fair the registration and reporting requirements for NGOs

Ensure unimpeded legal and transparent NGO access to resources, including foreign and local funding

Chapter B

Elections

Part three - Democracy

MAIN CHALLENGES

- Lack of equal opportunities for political contestants (biased public services and media)
- Lack of independence, impartiality, professionalism and/or transparency of the electoral administration
- Gender imbalance and insufficient minority participation
- Lack of professional and credible domestic observation
 - Inaccuracies in electoral lists

A number of recurrent problems appear in the implementation of the standards of the European electoral heritage, as defined in the Code of Good Practice in Electoral Matters.

■ Electoral legislation should be easy to understand. A number of legislations need revision, since they still include restrictions on the right to vote and to be elected, which do not fully conform to the case law of the Court. An effective appeal system will ensure proper implementation of election legislation.

■ To promote confidence in the electoral process, governments should ensure the accuracy of voters' lists. This problem warrants legal measures. Centralised, computerised registers have helped the situation, but a number of countries can still improve the quality of voters' registers.

■ Governments must ensure equal opportunities for political contestants in the pre-election period through neutrality of the public service and eliminating the misuse of administrative resources. Legislative amendments can help with access to and coverage by the media; public funding of parties and campaigns; campaign regulation; transparency of funding of parties and campaigns; and ownership of private media involved in campaign coverage. Governments must also establish a strong implementation mechanism.

■ Member States should continue to advance women's and minorities' involvement in the electoral process, and eliminate remaining inequalities in representation.

■ Governments should improve legislation to prevent electoral fraud and the buying of votes, even though the problem is rare in most countries. The most serious problems arise in the counting of votes and the transmission of results, rather than during the voting process. Some technical improvements could limit the risks, for example, in the case of mobile or proxy voting.

■ To ensure public confidence, democratic elections require the independence, professionalism and transparency of the electoral administration. The composition of the election administration must not favour (or be seen as favouring) specific political parties. The training and stability of the electoral administration must be ensured. Proper election observation (including through international bodies) makes election violations public and therefore more difficult to accomplish. Reciprocal election observation provides the opportunity for member States to learn from each other. Lack of transparency of funding for political parties and campaigns remains a problem, and we should promote clearer legal provisions.

RECOMMENDATIONS

- **Ensure professionalism of electoral administration**
- **Provide guarantees for the impartiality of public administration and media in the electoral process**
- **Address gender imbalance and low minority participation in elections**
- **Improve quality of domestic observation of electoral process**

Chapter C

Democratic institutions

Part three - Democracy

MAIN CHALLENGES

- Insufficient separation of powers between legislative and judiciary branches and/or between central and local governments
- Lack of genuine political competition and a culture of political dialogue
- Weakening of democratic governance due to economic crisis
- Growing influence of extremist and populist agendas

The European Convention on Human Rights states that “fundamental freedoms...are best maintained...by effective political democracy”. However, no monitoring mechanism exists to assess member States’ compliance with the standards of democracy. Nevertheless, bodies within the Council of Europe issue reports on the overall status of democratic institutions or on specific aspects of their functioning.

■ In some member States, insufficient oversight by the legislative branch over the executive branch or undue influence of the executive branch over the judiciary has seriously undermined the separation of powers. We also see an uneven balance of powers between central and local tiers of government in some countries.

■ Local and regional authorities play an essential role in providing services and interaction between citizens and institutions. However, some member States fail to recognise their importance for democracy. The Commissioner for Human Rights found that the economic crisis undermines “the capacity of central and local authorities to ensure human rights protection”. In some countries, imbalances among different tiers of government have led to separatist/secessionist movements, with demands that range from increased territorial autonomy to full independence. This poses a serious challenge to democracy.

■ In some member States, political parties lack an internal democratic structure and transparency of financing, as reported by GRECO. The lack of genuine political competition also hampers democracy. In some member States, majority parties view political opponents as enemies, rather than as an integral part of democratic life. Election victories frequently result in abuse of power and the replacement of those in non-elective offices, which threatens the principle of “neutrality of administration”.

■ In established democracies, the economic crisis has revealed structural deficiencies in governance that have undermined the proper functioning of democratic institutions. Severe budget cuts and external pressure from international financial institutions have resulted in a considerable weakening of democratic and human rights protection in some member States. This has affected good governance as well as the administration of justice and public services, leading to the devaluation of trust in institutions.

■ The increasing influence of political parties with extreme-right agendas challenges the principles of democracy. In some member States, such parties have won seats in parliament. Although in most cases their presence has not called into question democratic institutions, their influence can push governments into decisions that weaken rather than strengthen democracy.

RECOMMENDATIONS

- **Secure the presence of oppositional parties**
- **Work with political parties to minimise spoils system and increase internal democracy and transparency**
- **Reinforce governance structures**

Chapter D

Democratic culture

Part three - Democracy

MAIN CHALLENGES

- Declining electoral participation
- Low investment in democratic culture and education
- New forms of marginalisation and discrimination

The waning participation of the electorate indicates a loss of trust in democracy. We have seen a long-term decrease of voter turnout in practically all member States.

■ The member States widely supported the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education, adopted in 2010. However, two years after its adoption, one third of countries had not yet begun its implementation. In many cases, this results from a lack of financial support due to the economic crisis. However, we often see political prioritization on “education for employability”. If this is not balanced with education on democratic citizenship, it can promote a concept of students as a labour force, rather than as active citizens.

■ Recent international studies show that, while school students may possess good academic knowledge of political systems, they do not acquire the skills to engage themselves as citizens in the community. This may be because school governance often does not encourage democratic involvement, or because of deficiencies in teacher training.

■ We also witness shrinking financial support for vulnerable groups, which may affect democracy and the long-term security of the continent. The Commissioner for Human Rights warned that in most states, austerity measures threaten people with disabilities, who are often marginalised because of fear and prejudice. They suffer from legal or regulatory discrimination and inadequate access to justice. They have low-paying jobs or are unemployed, their poverty rate is high, and they often cannot access buildings or transport.

■ The Court and the Commissioner have stated that governments cannot conduct secret surveillance on individuals without democratic oversight based on strict rules. The Internet offers enormous opportunities for increased political knowledge and participation. However, it raises the spectre of massive privacy violations and new forms of marginalisation and discrimination. The Commissioner stated that the Internet “can represent a threat...when state and non-state actors use information available on the Internet and social network sites to harass and threaten human rights defenders and activities”. Available data show that member States also need to make significant progress in improving media literacy.

■ Decades after women’s right to vote was achieved throughout the continent, serious issues still arise concerning gender and democratic culture. Council of Europe standards include ensuring that the public representation of women or men does not fall below 40%.

RECOMMENDATIONS

- **Reinforce efforts to eliminate attitudinal, physical and regulatory barriers for full and equal participation of people with disabilities in society**
- **Strengthen media literacy, intercultural skills and other democratic competences**
- **Encourage a culture of citizen participation**
- **Adapt governance structures and public services to increasing diversity**

PART FOUR

SOCIAL RIGHTS

Chapter A

Dignity, participation and solidarity

Part four - Social rights

MAIN CHALLENGES

- Austerity policies that undermine social rights
- Inconsistency between EU law and principles of the European Social Charter

Europe has made significant achievements in the social domain over the last decades. In the past, even in times of economic crisis, solidarity has played an important role in ensuring stability. However, European societies have suffered the effects of the recent economic crisis, which has deeply affected social cohesion in many member States, and which may eventually threaten both the rule of law and democracy.

■ Certain austerity measures adopted in response to the economic crisis, or the cumulative effect of those measures, breached the European Social Charter. While the Charter does not prevent changes, for example, towards greater employment flexibility to combat unemployment or reductions in spending on social security, these changes should not deprive broad categories of the working population of their fundamental rights.

■ In 2013 the monitoring body of the Charter, the European Committee of Social Rights, completed its examination of rights relating to healthcare, social security and social protection. Conclusions reflect the negative effects of the crisis and austerity policies, with a higher proportion of violations than in 2009, when these rights were last examined.

■ Poverty and inequality have increased since the onset of the economic crisis. More people are becoming poor, poor people are becoming poorer, and climbing out of poverty is becoming more difficult. The Committee states that “living in a situation of poverty and social exclusion violates the dignity of human beings”. Poverty and social exclusion present obstacles to the enjoyment of a wide range of fundamental rights—economic, social, civil and political. Therefore, the Council of Europe must make reducing and ending poverty an urgent priority.

■ Violations take the form of inadequate levels of social security benefits and social assistance, which disproportionately affect those who are most vulnerable—the unemployed, the elderly and the sick. Social security is generally recognised as one of the cornerstones of the European social model. It not only plays a key role in achieving social cohesion and safeguarding against poverty, but it supports labour markets and thus economic prosperity. The necessity of protecting members of society against social risks has become acute in the current economic crisis; therefore collective funding and solidarity have become increasingly important.

■ The Committee found numerous violations of the Charter (Article 12§1) due to inadequate levels of income-substituting benefits (pension, unemployment, sick pay). It also found violations on grounds of the social security system not providing sufficient protection against risks or not covering enough of the population.

■ A major feature of Article 13 of the Charter guarantees of the right to assistance and to legal remedy. Social and medical assistance crucially protect those in need against poverty. No fewer than 25 out of 31 countries were found to be in breach of this provision.

■ A large majority of violations concern inadequate levels of social assistance and the discrimination of foreigners in accessing social assistance. On the first point, the Committee holds that public assistance should not condemn beneficiaries to poverty, and that cash benefits, including supplements, must not fall below 50% of median equalised income (the poverty threshold as applied by the Committee). An increasing number of states Parties, both EU and non-EU, fail to meet this threshold. On the second point, violations can take the guise of combating “social benefit tourism”.

■ The conclusions also reflect that austerity measures put increasing pressure on health care systems. Article 11 of the Charter complements Articles 2 and 3 of the European Convention on Human Rights by imposing a range of obligations designed to secure the right to health care.

■ Persisting high infant and maternal mortality rates and insufficient measures for improvement, breach the Charter. In addition, waiting lists for health care are increasing in a number of states, which poses a serious public health challenge.

■ The European Social Charter provides a unique mechanism for timely identification of challenges and risks posed by new legislative and practical measures. This mechanism should be strengthened to increase its impact.

■ In 2013 the European Committee of Social Rights found a breach, inter alia, of the right to bargain collectively and the right to strike important corollaries of the right to organise. The measures in question had been adopted as a result of a judgment of the Court of Justice of the European Union. The decisions of the States Parties (resulting directly or indirectly from EU law) must conform to the rights enshrined in the Charter. Therefore we see an urgent need to find pragmatic solutions to settle conflicts between the two sets of standards.

RECOMMENDATIONS

■ **Ratify the Revised Social Charter and the Additional Protocol providing for a system of collective complaints**

■ **Fully implement the accepted provisions of the Charter and follow up the findings of the European Committee of Social Rights**

■ **Enhance co-operation in the field of social rights, including creating national action plans and ensuring the inclusion of social rights, particularly for the training of legal practitioners**

PART FIVE

NON-DISCRIMINATION AND EQUALITY

Chapter A

Ethnic discrimination and national minorities

Part five - Non-discrimination and equality

MAIN CHALLENGES

- Increased nationalistic and racist ideologies
- Inter-ethnic conflicts that endanger democratic stability
- Hate speech, hate crime and ethnic discrimination

Recently, member States have made significant advances towards overcoming ethnic divisions. However, immigrants, persons from a migration background, non-nationals, asylum seekers, refugees, stateless persons and members of national minorities still experience hate crime, hate speech, discrimination and other forms of intolerance.

People with a different ethnic background often perform worse than the majority in many areas, including employment, education, housing, health and participation in public life. Sometimes they have difficulty accessing goods and services that should be generally available. Studies also show ethnic discrimination in policing and the administration of justice.

Technology facilitates the dissemination of racist and xenophobic messages. Their authors have easy, anonymous access to virtually unsupervised online platforms. Hate crime remains underreported due to lack of victim assistance and victims' negative perception of law enforcement. Most states have comprehensive anti-discrimination legislation and good criminal laws punishing hate crime. However, these need to be applied properly, which is not always the case.

Some forms of ethnic discrimination constitute violations of the European Convention on Human Rights, but only 18 member States have ratified Protocol No. 12, which contains a general prohibition of discrimination. The European Social Charter addresses other forms of ethnic discrimination. ECRI assists national authorities in their fight against ethnic discrimination, reviewing countries' policies and making recommendations. As long as all member States have not committed to a general prohibition of discrimination under Protocol 12, the Council of Europe's capacity to identify and remedy ethnic discrimination will remain underexploited.

After violent ethnic conflicts in several parts of Europe in the early 1990s, member States committed to establishing special mechanisms for protecting national minorities. Two binding instruments, the Framework Convention for the Protection of National Minorities (FCNM) and the European Charter for Regional or Minority Languages (ECRML), entered into force to ensure that persons belonging to national minorities were not only protected from ethnic discrimination, but actively encouraged to maintain and develop their identities, cultures, languages and traditions. Today however, reports from monitoring bodies show that serious obstacles to minority rights persist in many parts of Europe.

Most member States have developed tools to assist minority populations in preserving their identities. These tools include special schools with instruction in minority languages, bilingual topographical signs and reserved seats in Parliament to ensure that minority representatives participate in political life. The financial crisis, however, has resulted in the cutting of support programmes. National minorities are frequently used as scapegoats for unemployment and broader economic hardships. Moreover, new nationalistic and racist ideologies are emerging, further jeopardising minority rights.

The expressions of nationalism circulating in schools, the media, and even some political circles discourage persons belonging to national minorities from revealing their identities or using their languages because they fear disadvantage and hostility. In some countries this leads to resentment and suspicion between ethnic groups. This endangers democratic stability and may trigger inter-ethnic conflict. Many reports of the Advisory Committee on the Framework Convention for the Protection of National Minorities and the Committee of Experts of the European Charter for Regional or Minority Languages underline the need to raise awareness about the positive contributions of national minorities to European society. We must promote and value diversity as an asset rather than a burden.

Our conventions on national minorities are globally recognised and considered significant achievements of the Council of Europe. However, eight member States have not yet ratified the Framework Convention, and only 25 member States have ratified the European Language Charter.

RECOMMENDATIONS

- **Ratify Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms, the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages**
- **Fully implement the obligations under these conventions and ensure proper follow-up to the Committee of Ministers' Resolutions**
- **Take active part in the No Hate Speech Campaign of the Council of Europe**

Chapter B

Roma

Part five - Non-discrimination and equality

MAIN CHALLENGES

- Roma integration not seen as beneficial for all of society
 - Lack of recognition of anti-Gypsyism as racism and as the root obstacle to progress on Roma policy
 - Lack of will and/or capacity nationally and locally to use available resources
- Absence of the self-confidence and empowerment necessary for socially excluded Roma to claim their equal rights

Ten to twelve million Roma¹ live in Europe, spread throughout most of the member States. Roma constitute the largest ethnic minority in Europe, and most of them face social exclusion, extreme poverty and discriminatory attitudes of authorities and the public. Several member States do not recognise them as a national minority and do not protect them through national and European standards.

Many Roma live at the margins of society, with limited access to education, housing, employment, health care and other social services, and do not participate in democratic processes. This undermines their human rights and impedes their social inclusion, full participation in society and exercise of civic responsibilities. It also propagates prejudice and stereotypes, and particularly affects Roma women, children and youth. The Council of Europe has the task of promoting the equality of all persons regardless of their ethnic background.

Monitoring bodies, the Court and the European Committee of Social Rights have addressed racial violence; ill treatment by police and lack of proper investigation; hate speech in the media and in politics; inadequate and segregated housing; lack of health care; enrolment of Roma children in schools for children with mental disabilities and other forms of segregated schooling; forced sterilisation of Roma women; vulnerability to trafficking; ethnic profiling by police; forced evictions without prior consultation or alternative accommodation; and restrictions on freedom of movement and the right to leave one's own country.

Member States adopted the Strasbourg Declaration on Roma in 2010 and agreed on a list of priorities for more focused and consistent efforts in this area. The Declaration builds on the Committee of Ministers' recommendations providing standards and guidance to achieve social inclusion of Roma and full respect of their human rights.

¹ The term "Roma" used at the Council of Europe refers to Roma, Sinti, Kale and related groups in Europe, including Travellers and the Eastern groups (Dom and Lom), and covers the wide diversity of the groups concerned, including persons who identify themselves as Gypsies.

■ The main challenge for many member States lies in implementing existing standards set by the Organisation's human rights instruments and their supervisory and monitoring systems and in guidelines laid down by the Committee of Ministers. This is illustrated by the fact that some important decisions of the Court and the European Committee of Social Rights regarding the Roma still await full implementation.

■ Most importantly, many member States lack the political will to implement Council of Europe and national standards. They lack the confidence that they can achieve progress because of factors such as hostile public opinion toward Roma integration; prejudice and stereotypes perpetuated by media and political discourse; mutual distrust between Roma and public institutions; the absence of the self-confidence and empowerment necessary for them to claim their equal rights; and a lack of awareness among authorities and Roma that they must all participate and co-operate to improve the situation.

■ While national policies and action plans for Roma inclusion exist in most member States, they do not always receive sufficient funding or include measures to combat anti-Gypsyism. The success of national integration policies depends on follow-through at regional and local levels, where lack of know-how and sustained policy engagement often hamper implementation.

RECOMMENDATIONS

■ **Generate change locally, regionally and nationally and within Roma communities, promote good practices and grass-roots initiatives**

■ **Recognise and address anti-Gypsyism, combat discrimination and hate speech towards Roma**

■ **Promote empowerment and participation of Roma, especially women, children and youth**

■ **Invest in education as the most effective, long-term investment to improve the situation of Roma**

Chapter C

Gender equality

Part five - Non-discrimination and equality

MAIN CHALLENGES

- Widespread violence against women
- Barriers to women's access to justice
- Gender stereotyping—a serious obstacle to gender equality

Sustainable progress on gender equality requires equal participation of women and men in all spheres of public and private life. Despite gains over the recent decade in areas such as education, employment and political representation, gender gaps persist in many areas. Women are frequently victims of multiple discrimination and are among those hardest hit by the effects of the financial crisis and austerity measures.

Violence against women is the most pronounced expression of gender inequality and remains perhaps the most widespread human rights violation in Europe. It carries devastating consequences for women, society and the economy. Important gaps persist in all areas¹ –prevention, protection, prosecution and co-ordinated policies. Member States only criminalise one of the nine forms of violence against women. Only four member States have national policies that address all forms of violence against women, and five states only target domestic or family violence. The vast majority of member States cannot provide figures regarding the allocation of funds used to address the problem. One third of member States provide far fewer shelter beds than the standards recommend. The provision of specialised services for victims of sexual violence lags well behind the provisions for victims of domestic violence. Less than half of the 46 reporting member States have a national policy regarding female genital mutilation. Training for professionals is uneven across member States and varies with the availability of resources.

Opened for signature in May 2011, the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention) is the first legal instrument in Europe to offer a comprehensive set of legally binding standards. Governments, civil society and international organisations eagerly await its entry into force.

The right to justice is an important component of gender equality. Several persistent barriers limit women's opportunities in this area, including fear, shame, lack of awareness of procedures and assistance, economic dependence, concern for children, impact of austerity measures, lack of trust in the justice system, lengthy criminal proceedings, high attrition, corruption and low conviction rates. The Council of Europe works with member States to address such obstacles and facilitate women's access to the justice system.

¹ Analytical study of the results of the 4th round of monitoring the implementation of Recommendation Rec (2002) 5 on the protection of women against violence in Council of Europe member States.

Gender stereotyping and sexism also hinder gender equality. They feed discrimination and are used to justify historical power relations between men and women. Sexist attitudes hold back the advancement of women and limit the development of both sexes. Sexism is a form of hate speech and must be treated as such. Most importantly, overtly sexualised images of women incite sexual harassment and violence by trivialising it and making it acceptable.

The Council of Europe promotes the training of a broad range of professionals to raise the general awareness of gender equality and address stereotyping. We also promote curricula and teaching practices free of gender stereotypes, positive and non-stereotyped images in the media and balanced gender participation in media decision-making.

RECOMMENDATIONS

- **Ratify the Council of Europe Convention on Preventing and Combating Violence against Women and domestic violence (Istanbul Convention)**
- **Apply zero tolerance to violence against women and domestic violence**
- **Ensure women's equal access to justice**
- **Promote positive, non-stereotyped images of women and men**

Chapter D

Discrimination on grounds of sexual orientation or gender identity

Part five - Non-discrimination and equality

MAIN CHALLENGES

- Inadequate and uneven implementation of human rights standards for LGBT persons
- Prejudice, hostility, hate speech and violence towards LGBT persons
- Restrictions on freedom of assembly and freedom of expression

The Council of Europe's standards and mechanisms aim to ensure respect for the human rights of every individual including lesbian, gay, bisexual and transgender persons. However, we still see widespread homophobia and intolerance towards LGBT persons. Recent worrying developments in the member States include restrictions to freedom of assembly; hate speech and violence towards LGBT persons and LGBT human rights defenders; and legislation restricting activities to raise public awareness about issues regarding sexual orientation or gender identity. All member States should make better use of Council of Europe standards and mechanisms to combat these issues.

— Last year, we saw the successful completion of the first support project on the implementation of Recommendation CM/Rec(2010)5 of the Committee of Ministers on measures to combat discrimination on grounds of sexual orientation or gender identity. Six countries took part in activities including awareness raising, capacity building, exchange of good practices, legal assistance and policy reviews. The project involved government authorities, national human rights structures, NGOs and civil representatives. A questionnaire on the implementation of the recommendation received replies from 39 member States, which illustrates the growing political commitment to make progress on this issue.

RECOMMENDATIONS

- **Ensure the equal application of human rights standards to LGBT persons in all Council of Europe member States**
- **Combat stereotyping, discrimination and hate crime motivated by sexual orientation and gender identity**
- **Share good practices and set measures to ensure freedom of assembly and freedom of expression for LGBT persons**

MAIN CHALLENGES

- Lack of protection and prevention of violence against children
 - Lack of child-friendly services and systems
- No guarantee of children's right to be heard and participate

Member States face challenges in guaranteeing the protection of children from violence, encouraging their participation and ensuring their access to public services. We have developed a wide range of standards and tools to protect children, promote their rights and ensure they understand their rights and inclusion in decision-making.

■ Violence against children deprives them of their human rights and dignity. Experience has shown that we can only solve this problem through co-operation and a holistic approach. The Council of Europe Policy Guidelines on Integrated National Strategies for the Protection of Children from Violence provides a basis for putting legal and practical measures in place. Member States increasingly use it to address violence against children in schools, institutions, sports activities and at home. Although a number of countries have not yet banned corporal punishment, 23 states have done so, supporting parents in educating their children in a positive and empowering manner.

■ Available data shows that about 20% of children in Europe will likely become victims of sexual violence during childhood. About 70-80 % of the perpetrators are part of the child's circle of trust, which can include parents, step-parents, brothers, sisters, aunts, uncles, grandparents, friends, teachers and sports coaches. The Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) outlines measures to help states prevent sexual violence and protect victims. It lists a wide range of offences for which perpetrators can be brought to justice. The Lanzarote Committee, recently set up to monitor the situation in states party to the Convention, promotes good practices and generates opportunities for in-depth discussion. The Council of Europe's ONE in FIVE Campaign to stop sexual violence against children has also raised the profile of this crime and contributed to breaking taboos around sexual abuse of children throughout Europe.

Children's rights include their right to participate when decisions that concern them arise—whether those decisions are made in the home, in care facilities, in the community, at school, by public services or during judicial procedures. Children must feel free to express themselves, they must receive age-appropriate information and they must be listened to and taken seriously. Governments should facilitate children's access to complaint mechanisms and participation on issues that concern them. While some countries consider child participation to be beneficial, ensuring that right continues to be a challenge. The Council of Europe provides guidance on this through the Recommendation (2012)² of the Committee of Ministers on participation of children and young people under the age of 18.

Member States are recognising that children hold real human rights and deserve access to child-friendly services in the areas of justice, health and social services. We have seen the most impressive progress in the area of justice because of the Council of Europe Guidelines on Child-Friendly Justice. The Guidelines call for an accessible, age-appropriate, speedy, diligent justice system that adapts to and focuses on the needs and rights of the child. These rights include the rights to due process, to participate in and understand proceedings, to respect of their private and family life and to integrity and dignity.

RECOMMENDATIONS

- **Ratify the Lanzarote Convention**
- **Build public services to ensure effective, child-sensitive justice, and social and health services to all children**
- **Share good practice and establish systems to protect children from violence**

Other forms of discrimination

Part five - Non-discrimination and equality

MAIN CHALLENGES

- Weakening of national human rights and equality bodies
- Harsher immigration policies replace integration policies
- Exclusion and deprivation of people with disabilities of their rights to participate in society and make personal decisions

Member States' concerns about discrimination initially focused on gender, race, colour, language, religion, citizenship and national or ethnic origin. Recently, governments have put more focus on discrimination on grounds of gender identity, sexual orientation, age and disability.

Most European states have set up equality bodies and human rights authorities. During the economic crisis, ECRI has noted a growing trend to merge these institutions. The powers given to the newly merged bodies and the expertise they build could increase their impact in promoting equality and fighting all types of discrimination. However, they also could suffer from the merging, especially if member States do not provide them with additional resources.

ECRI has noted a general increase in religious intolerance. Websites, such as those focusing on Muslim immigration and allegations of a worldwide "Jewish conspiracy", amplify extremism and fuel tensions. Religion is increasingly used as a pretext for discrimination on other grounds.

While many European countries have abolished blasphemy laws, publication of anti-Islam material has re-opened an international debate on the criminalisation of religious defamation.

ECRI has also noted increasing discrimination affecting women and girls wearing the Islamic veil or headscarves. They often cannot find jobs, adequate housing or attend school. Anti-Semitism is also on the rise, and smaller Christian groups experience discrimination in some countries.

Recent years have seen a steady increase in the number of migrants and asylum seekers arriving in Europe. Their reception conditions and access to assistance, housing, jobs and education remain problematic. ECRI has stressed the need to respect the *non-refoulement* principle, in line with articles 2 and 3 of the Convention.

Statelessness undermines the human rights of around 700 000 people across Europe. Sometimes, legislative changes carry the unintended effect of causing statelessness. In some cases, the persons concerned become illegally residing aliens.

■ The policing of migration flows has resulted in discussions that fuel the xenophobic debate. ECRI also noted that some member States use their anti-terrorism legislation to remove non-nationals who had obtained interim protection from the Court. As a result of the economic crisis, most member States prioritise restrictive immigration policies at the expense of integration policies, restricting family reunification while tightening citizenship laws.

■ Cases of discrimination occur when non-nationals try to access public schooling, unemployment benefits, citizenship or residence. The ECSR has found a significant number of countries in violation of the prohibition of discrimination in employment.

■ Older persons also experience barriers to their human rights, and, as the population of Europe ages, we see the need to eliminate these barriers. The Convention and the European Social Charter include provisions on this subject. The Committee of Ministers has prepared a recommendation on the promotion of the human rights of older persons.

■ People with disabilities—the world’s largest minority group—face discrimination on a daily basis. Many European countries segregate them in large-scale institutions, where they remain deprived of fundamental rights and subject to degrading practices. Too often, authorities put people with cognitive disabilities under guardianship, which leads to involuntary placement, lack of access to a fair trial and the inability to participate in elections, get married or manage property.

■ The implementation of the Council of Europe Disability Action Plan 2006-2015 has resulted in some positive changes. However, member States must respond to challenges such as accessibility, independent living, inclusive education and employment. We can improve the lives of the approximately 120 million Europeans with disabilities if we empower every person without discrimination and guarantee equal opportunities in line with Council of Europe standards.

RECOMMENDATIONS

■ **Reinforce equality authorities in member States**

■ **Review national legislation, rules and practices towards people with disabilities, especially regarding their legal capacity**

PART SIX

THE COUNCIL OF EUROPE AND UNRESOLVED CONFLICT ZONES

Promotion and protection of Council of Europe standards in unresolved conflict zones

Part six - The Council of Europe and unresolved conflict zones

MAIN CHALLENGES

- In conflicts and post-conflict situations, democratic institutions and the rule of law tend to be disrupted. Human rights are often the first victims of such situations
- Thus, almost 3 million people in Europe today do not have access to European standards of human rights protection
- Protecting the human rights of people living in unresolved conflict zones is often not the first priority of the international community when coping with the difficulties of trying to settle these conflicts

Deep security – resulting from compliance with human rights, democratic and rule of law standards – is not yet a reality throughout the whole of our continent. There are still areas in Europe known as “grey zones” or “black holes”, where democratic institutions and the rule of law are not firmly rooted and sometimes even blatantly ignored. The increasing self-isolation of some of these zones, as witnessed recently in Georgia through *borderisation* – the installation of permanent fences between South Ossetia and the rest of Georgia, only worsens this situation.

Individuals living in these areas do not enjoy the same level of protection as other Europeans regarding their fundamental rights. They do not benefit from the protection afforded by the European Convention on Human Rights (ECHR) and its control mechanism. Although no exact figures are available, one can estimate on the basis of various sources that almost 3 million people in Europe today do not have access to European standards and mechanisms of human rights protection.

Furthermore, the painstaking efforts of the international community to settle frozen conflicts focus primarily, if not exclusively, on status or hard security issues. Their mandates and formats often do not include protecting the human rights of people living in these areas, and as a result they are not part of the negotiation process.

The Council of Europe could make a distinct contribution to the improvement of the situation of people living in unresolved conflict zones by conducting awareness-raising, capacity building and monitoring activities in the fields of human rights, democracy and the rule of law. In doing so, it may also contribute to easing the efforts deployed in relevant international fora to settle these conflicts.

In order for the Council of Europe to fully play such a role, it is essential that its human rights instruments and monitoring mechanisms can be deployed and operate without any hindrance in unresolved conflict zones. From this perspective, two of the main challenges are 1) physical access to such territories and 2) the possibility to establish and maintain contacts with people living in these areas as well as with civil society organisations working there.

Assuming that all necessary conditions and safeguards for the effective conduct of the activities are in place, another extremely sensitive issue concerns the contacts with the *de facto* authorities in unresolved conflict zones: while such contacts are necessary to be able to carry out activities on the ground, it is essential at the same time to avoid that such relations be perceived as implying, or indirectly contributing to, international recognition. In this context, a particular question which arises when a visit from a monitoring mechanism has been organised is to which authorities the report on this visit should be addressed and with whom a dialogue about implementing its recommendations should subsequently be engaged.

One practical solution could be that the reports prepared as a result of visits of the monitoring mechanisms to unresolved conflict zones be sent to the Secretary General of the Council of Europe, who would then put them at the disposal of all relevant authorities, on the understanding that this would be made for the sole purpose of ensuring the full and effective protection of the human rights of people living in these areas, without prejudging in any way issues of recognition.

These measures geared towards improving the situation of people living in unresolved conflict zones should be complemented by confidence-building activities (CBMs) aimed at promoting reconciliation as part of the international efforts to settle post-conflict situations.

The Council of Europe has acquired substantial expertise in this field through CBM programmes aimed at facilitating dialogue across dividing lines among the population in post-conflict regions, including professional groups, and at raising awareness of and respect for human rights principles as contained in the Organisation's relevant texts. They seek especially to engage civil society and local decision makers, as people who are best placed to maximise the programmes' impact in spreading best Council of Europe practice across dividing lines, because of their contact with other citizens and knowledge of local needs.

The CBM activities cover a variety of fields such as education, media, culture, youth and social issues. Based on a strictly legal approach, they offer a neutral framework and a flexible methodology which, being easily adapted to the requirements of a particular context, can help establish relations of mutual trust among the various actors involved.

In the past few years, the Council of Europe has been implementing a series of CBMs, with the involvement of local people, in the following geographical areas: between the two banks of the River Nistru/Dniestr; in Abkhazia and South Ossetia; and by facilitating dialogue between civil society groups in Armenia and Azerbaijan. This effort should continue and even be amplified.

RECOMMENDATIONS

There is a clear need to fill "territorial gaps" and to ensure that Council of Europe standards are fully applied throughout Europe. This requires that the Organisation's monitoring mechanisms are in a position to identify shortcomings in their implementation

It is proposed that the reports prepared by monitoring mechanisms as a result of visits to unresolved conflict zones be submitted to the Secretary General of the Council of Europe, who will then put them at the disposal of all the relevant authorities, it being understood and agreed that such contacts will be used only for the purposes of the full protection of the human rights of all Europeans and without prejudging in any way issues of recognition

The Council of Europe could make a distinct contribution by bringing its standards and the findings of its monitoring mechanisms to the relevant international fora aimed at settling these conflicts, addressing human rights issues in line with its mandate and in a status-neutral way

The Organisation should also pursue its confidence-building activities in order to contribute to international efforts aimed to overcome post-conflict situations

APPENDIX: SUMMARY OF CHALLENGES AND RECOMMENDATIONS

Appendix: Summary of challenges and recommendations

Part one - Respect for physical integrity and human dignity

Chapter A Death penalty, torture and ill treatment

• MAIN CHALLENGES:

- Torture and ill treatment by law-enforcement
- Absence of effective investigations, leading to impunity

• RECOMMENDATIONS:

- Promote professional policing culture
- Establish specialised, independent bodies to investigate allegations of ill treatment
- Promote effective national Preventive Mechanisms under the Optional Protocol to the UN Convention against Torture and encourage all Council of Europe member States to ratify the Optional Protocol

Chapter B Conditions of detention

• MAIN CHALLENGES:

- Chronic prison overcrowding
- Inadequate treatment of specific categories of prisoners (remand, life-sentenced, foreign nationals)
- Excessive use of solitary confinement

• RECOMMENDATIONS:

- Adjust prison sentencing policies and increase use of alternative sanctions
- Review the necessity and restrict the length of remand custody, taking into account recommendations put forward by the Council of Europe's Committee of Ministers
- Implement Council of Europe standards related to specific categories of prisoners (remand, life-sentenced, foreign nationals)

Part one - Respect for physical integrity and human dignity

Chapter C Trafficking

• MAIN CHALLENGES:

- Impact of prevention measures not systematically assessed
- Increased trafficking related to labour exploitation, forced begging and forced crime
- Lack of effective, proportionate and dissuasive sanctions against traffickers

• RECOMMENDATIONS:

- Systematically assess the impact of prevention measures
- Set up national referral mechanisms to facilitate the identification of trafficking victims
- Bring national legislation criminalising human trafficking in full conformity with the Convention and ensure its effective application

Chapter D Fundamental rights of migrants including asylum seekers

• MAIN CHALLENGES:

- Unjustified, excessive or inadequate detention of migrants
- Lack of basic protection for migrants who are not detained

• RECOMMENDATIONS:

- Codify European immigration detention rules
- Provide legal, administrative and practical safeguards that enable irregular migrants to exercise basic rights without risking expulsion and protect those providing humanitarian aid from the risk of criminal sanctions

Part two - Justice and the rule of law

Chapter A Set-up and function of the judiciary

• MAIN CHALLENGES:

- Executive interference in the functioning of the judiciary
- Corruption within the judiciary
- Lack of public trust in the judiciary
- Excessive length of proceedings
- Chronic non-enforcement of judicial decisions

• RECOMMENDATIONS:

- Introduce effective measures to shorten the length of judicial proceedings and enforce court decisions
- Strengthen transparency within the judicial system and respect for judicial independence
- Improve the quality of the training of judges
- Improve gender balance in the senior judiciary

Chapter B Corruption

• MAIN CHALLENGES:

- Disguised or corrupt political financing
- Immunity from prosecution
- Lack of parliamentary and judicial integrity
- Corruption in public administration

• RECOMMENDATIONS:

- Reinforce integrity in the judiciary, law enforcement and prosecutorial bodies
- Further MPs' commitment to corruption prevention in their own ranks
- Set up independent monitoring bodies for political financing
- Protect whistle-blowers

Part two - Justice and the rule of law

Chapter C Money laundering

- MAIN CHALLENGES:

- Low rates of serious money laundering convictions and confiscations
- Insufficient international co-operation
- Insufficient access to reliable information on the real owners of companies and trusts

- RECOMMENDATIONS:

- Increase use of proactive financial investigations and deterrent confiscation orders
- Ratify relevant international treaties, including the Warsaw Convention
- Increase transparency of information on the real owners of companies and trust

Part three - Democracy

Chapter A Political freedoms

• MAIN CHALLENGES:

- Threats to freedom of expression and media freedom, including violence against journalists
- Disproportionate restrictions to freedom of assembly, including excessive use of force in policing and dispersing demonstrations
- Abuse of procedural requirements for NGOs

• RECOMMENDATIONS:

- Ensure that legislation respects the right to freedom of expression and media freedom as guaranteed by the European Convention on Human Rights
- Ensure the legislation respects the right to peaceful assembly and the principles of proportionality and non-discrimination as guaranteed by the European Convention on Human Rights
- Simplify and make transparent and fair registration and reporting requirements for NGOs
- Ensure unimpeded legal and transparent NGO access to resources, including foreign and local funding

Chapter B Elections

• MAIN CHALLENGES:

- Lack of equal opportunities for political contestants (biased public services and media)
- Lack of independence, impartiality, professionalism and/or transparency of the electoral administration
- Gender imbalance and insufficient minority participation
- Lack of professional and credible domestic observation
- Inaccuracies in electoral lists

• RECOMMENDATIONS:

- Ensure professionalism of electoral administration
- Provide guarantees for the impartiality of public administration and media in the electoral process
- Address gender imbalance and low minority participation in elections
- Improve quality of domestic observation of electoral process

Part three - Democracy

Chapter C Democratic institutions

• MAIN CHALLENGES:

- Insufficient separation of powers between legislative and judiciary branches and/or between central and local governments
- Lack of genuine political competition and a culture of political dialogue
- Weakening of democratic governance due to economic crisis
- Growing influence of extremist and populist agendas

• RECOMMENDATIONS:

- Secure the presence of oppositional parties
- Work with political parties to minimise spoils system and increase internal democracy and transparency
- Reinforce governance structures

Chapter D Democratic culture

• MAIN CHALLENGES:

- Declining electoral participation
- Low investment in democratic culture and education
- New forms of marginalisation and discrimination

• RECOMMENDATIONS:

- Reinforce efforts to eliminate attitudinal, physical and regulatory barriers for full and equal participation of people with disabilities in society
- Strengthen media literacy, intercultural skills and other democratic competences
- Encourage a culture of citizen participation
- Adapt governance structures and public services to increasing diversity

Part four - Social rights

Chapter A Dignity, participation and solidarity

- MAIN CHALLENGES:

- Austerity policies that undermine social rights
- Inconsistency between EU law and principles of the European Social Charter

- RECOMMENDATIONS:

- Ratify the Revised Social Charter and the Additional Protocol providing for a system of collective complaints
- Fully implement the accepted provisions of the Charter and follow up the findings of the European Committee of Social Rights
- Enhance co-operation in the field of social rights, including creating national action plans and ensuring the inclusion of social rights, particularly for the training of legal practitioners

Part five - Non-discrimination and equality

Chapter A Ethnic discrimination and national minorities

• MAIN CHALLENGES:

- Increased nationalistic and racist ideologies
- Inter-ethnic conflicts that endanger democratic stability
- Hate speech, hate crime and ethnic discrimination

• RECOMMENDATIONS:

- Ratify Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms, the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages
- Fully implement the obligations under these conventions and ensure a proper follow-up to the Committee of Ministers' Resolutions
- Take active part in the No Hate Speech Campaign of the Council of Europe

Chapter B Roma

• MAIN CHALLENGES:

- Roma integration not seen as beneficial for all of society
- Lack of recognition of anti-Gypsyism as racism and as the root obstacle to progress on Roma policy
- Lack of will and/or capacity nationally and locally to use available resources
- Absence of the self-confidence and empowerment necessary for socially excluded Roma to claim their equal rights

• RECOMMENDATIONS:

- Generate change locally, regionally and nationally and within Roma communities, promote good practices and grass-roots initiatives
- Recognise and address anti-Gypsyism, combat discrimination and hate speech towards Roma
- Promote empowerment and participation of Roma, especially women, children and youth
- Invest in education as the most effective, long-term investment to improve the situation of Roma

Part five - Non-discrimination and equality

Chapter C Gender equality

• MAIN CHALLENGES:

- Widespread violence against women
- Barriers to women's access to justice
- Gender stereotyping—a serious obstacle to gender equality

• RECOMMENDATIONS:

- Ratify the Council of Europe Convention on Preventing and Combating Violence against Women and domestic violence (Istanbul Convention)
- Apply zero tolerance to violence against women and domestic violence
- Ensure women's equal access to justice
- Promote positive, non-stereotyped images of women and men

Chapter D Discrimination on grounds of sexual orientation or gender identity

• MAIN CHALLENGES:

- Inadequate and uneven implementation of human rights standards for LGBT persons
- Prejudice, hostility, hate speech and violence towards LGBT persons
- Restrictions on freedom of assembly and freedom of expression

• RECOMMENDATIONS:

- Ensure the equal application of human rights standards to LGBT persons in all Council of Europe member States
- Combat stereotyping, discrimination and hate crime motivated by sexual orientation and gender identity
- Share good practices and set measures to ensure freedom of assembly and freedom of expression for LGBT persons

Part five - Non-discrimination and equality

Chapter E Children's rights

• MAIN CHALLENGES:

- Lack of protection and prevention of violence against children
- Lack of child-friendly services and systems
- No guarantee of children's right to be heard and participate

• RECOMMENDATIONS:

- Ratify the Lanzarote Convention
- Build public services to ensure effective, child-sensitive justice, and social and health services to all children.
- Share good practice and establish systems to protect children from violence

Chapter F Other forms of discrimination

• MAIN CHALLENGES:

- Weakening of national human rights and equality bodies
- Harsher immigration policies replace integration policies
- Exclusion and deprivation of people with disabilities of their rights to participate in society and make personal decisions

• RECOMMENDATIONS:

- Reinforce equality authorities in member States
- Review national legislation, rules and practices towards people with disabilities, especially regarding their legal capacity

Part six - The Council of Europe and unresolved conflict zones

Promotion and protection of Council of Europe standards in unresolved conflict zones

• MAIN CHALLENGES:

- In conflicts and post-conflict situations, democratic institutions and the rule of law tend to be disrupted. Human rights are often the first victims of such situations
- Thus, almost 3 million people in Europe today do not have access to European standards of human rights protection
- Protecting the human rights of people living in unresolved conflict zones is often not the first priority of the international community when coping with the difficulties of trying to settle these conflicts

• RECOMMENDATIONS:

■ There is a clear need to fill “territorial gaps” and to ensure that Council of Europe standards are fully applied throughout Europe. This requires that the Organisation’s monitoring mechanisms are in a position to identify shortcomings in their implementation

■ It is proposed that the reports prepared by monitoring mechanisms as a result of visits to unresolved conflict zones be submitted to the Secretary General of the Council of Europe, who will then put them at the disposal of all the relevant authorities, it being understood and agreed that such contacts will be used only for the purposes of the full protection of the human rights of all Europeans and without prejudging in any way issues of recognition

■ The Council of Europe could make a distinct contribution by bringing its standards and the findings of its monitoring mechanisms to the relevant international fora aimed at settling these conflicts, addressing human rights issues in line with its mandate and in a status-neutral way

■ The Organisation should also pursue its confidence-building activities in order to contribute to international efforts aimed to overcome post-conflict situations

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The European Court of Human Rights oversees the implementation of the Convention in the member states.