



12/06/2010

CONCLUSIONS

Excellencies, dear colleagues,

During these days we have addressed two themes which are central to the work of national parliaments and the Parliamentary Assembly of the Council of Europe: rights and responsibilities of the opposition in parliament, and the role of parliaments in the implementation of the principle of non-discrimination.

These themes are particularly topical at the present moment, when European democracies are faced with a multitude of challenges, not least the impact of the economic crisis, globalisation and the need to react with swift decisions. The response to these challenges can be found only through a fully inclusive democratic process, the exercise of good judgement and sense of responsibility by all political forces and the courage to support unpopular choices.

At the same time, the vulnerability of some disadvantaged groups, which risks increasing in the context of the economic crisis together with intolerance and discrimination, needs to be addressed through a renewed commitment to implement international human rights law.

I therefore hope that, thanks to the insight, knowledge and political vision of the esteemed participants in this conference, we can reach some conclusions and define a number of recommendations which will help us enhance the capacity of our parliaments to respond to the challenges of our time.

RIGHTS AND RESPONSIBILITIES OF THE OPPOSITION IN A PARLIAMENT

'Every country has a government but only democracies have an opposition'. This quote from Assembly Resolution 1601 (2008) was the starting point for the discussion under the first theme, and a statement that found unanimous support.

The fairness and freedom of the electoral process, including the availability of pluralist information for the electorate through the media, are a prerequisite for democracy and the existence of an opposition. However, the level of representation of the opposition depends on many factors, including the voting system, the presence of electoral thresholds and political traditions.

Democracy implies a difficult balancing exercise: who wins the elections should be able to govern but a system in which the winner takes it all cannot be considered as a good example of democracy; similarly, the opposition should oppose the government but its engagement in the political process and its readiness to act as a shadow government improve the quality of democracy and its long-term stability.

It is not possible to separate the rights of the opposition from its responsibilities: ensuring oversight of the government and scrutinising the work of other key institutions, initiating and participating in the legislative process and participating in the functioning of parliament are rights that must be protected. However, they are also duties which must be carried out by priming the public interest over short-term party concerns and political differences. In fact, the best way to ensure that the opposition lives up to its responsibilities is expanding its rights and defining them clearly.

Only a few Council of Europe member states, however, have constitutional or law provisions explicitly referring to the role of the opposition: in the great majority of countries, rights and responsibilities of the opposition stem from parliamentary procedures or parliamentary practice and, in some cases, agreements between the political groups represented in parliament. There is scope for improving the consistency and fairness of this framework and take it away from the realm of political negotiation to turn it into clear rules.

Unfortunately, the opposition often does not make full use of its potential, by attaching excessive importance to scoring points against the government instead of formulating an alternative political vision which could win the support of the electorate and increase its chances of coming to power. In particular, the systematic recourse to parliamentary boycott cannot be considered as a constructive contribution to the democratic process.

Participants gave **examples of good practice** drawn from their experience. For instance, in some Council of Europe member states:

- *members of opposition political parties and those from the majority are entitled to receive the same information from the government;*
- *members of the opposition are given at least the same opportunity to ask parliamentary questions as representatives of majority parties, and to obtain replies;*
- *the chairmanship of key oversight committees, such as the budget and the defence committees, enquiry committees and committees exercising control over security services is held by members of opposition parties, on a rota basis;*
- *members of the opposition have the right to annex dissenting opinions to reports considered in committees;*
- *membership in parliamentary committees reflects the proportionality of political forces;*
- *the bureaux of the parliament and committees include members of opposition parties;*
- *financial resources are allocated to the opposition, to make it able to carry out its tasks;*
- *the opposition is given the possibility to choose subjects for debate on certain days ('opposition time');*
- *the quorum for initiating urgent or current affairs debates can be as low as 1/5 of the members of the chamber;*
- *the schedule for the adoption of legislation is set in advance.*

These examples of good practice, as well as other guidelines and measures, have been recommended by the Assembly in its *Resolution 1601 (2008) on procedural guidelines on the rights and responsibilities of the opposition in a democratic parliament*, whose relevance as a blueprint for action was recognised by all participants.

I believe that a number of **recommendations** have emerged from our debate, which will help us enhance the capacity of our parliaments to respond to the challenges of our time:

- 1) *The legitimacy of parliament is based on the free and fair character of the electoral process and on the possibility of the electorate to express a free and informed choice. There is no unique model of electoral system that could be recommended as the best one. However, excluding large sections of the population from the right to be represented is detrimental to the democratic process.*
- 2) *There is scope for improving the legal framework and material conditions enabling opposition parties in parliament to have the means to fulfil their functions.*
- 3) *In particular, the capacity of the opposition to exercise its oversight role could be enhanced; the opposition could also be given more opportunities to influence the parliament's agenda and take part in the management of parliamentary business.*
- 4) *In the light of their mediation role and their duty of impartiality, Presidents of parliament hold primary responsibility in ensuring that opposition representatives are given the possibility to fully participate in the functioning of parliament and discharge their responsibilities. Consistent with the different constitutional and political traditions of each country, there is scope for expanding the powers and latitude of Presidents of parliament in this regard.*
- 5) *Opposition parties should not limit themselves to criticising the government but formulate alternative proposals and policies, in order to prepare themselves for taking up governmental responsibilities.*
- 6) *Opposition parties are strongly encouraged to establish a constructive dialogue with the government, in order to contribute to the good functioning of the political system for the benefit of the public interest. Obstructionism should be an exceptional measure, to be used as a last resort.*

- 7) *The government should seek to establish a process of consensus-building, in particular when matters of national interest are at stake.*
- 8) *The adoption of electoral legislation should involve the broadest spectrum of political forces; similarly, all political forces should play a role in the context of electoral institutions.*
- 9) *National parliaments should ensure that delegations engaged in inter-parliamentary activities reflect a pluralist composition and that opposition members can actively and effectively take part in them.*
- 10) *Participation in international parliamentary bodies and other international fora should be encouraged, as a way to increase knowledge, exchange information and good practice, and secure access to information.*
- 11) *Parties supporting the government and those opposing it share a joint responsibility in consolidating the citizens' trust in the political system and democratic institutions, ensuring their good functioning and offering the public an informed choice.*

NATIONAL PARLIAMENTS AND INTERNATIONAL HUMAN RIGHTS LAW: IMPLEMENTATION OF THE PRINCIPLE OF NON-DISCRIMINATION

Democracy must respect the principle of non-discrimination on the grounds of gender, race, ethnicity, age, disability, religion, political opinion, social origin or sexual orientation.

This principle is embedded in international human rights law, namely in Article 7 of the Universal Declaration of Human Rights and a number of universal instruments stipulating that individuals should be entitled to equal protection of the law without any discrimination.

In the European context, the principle of non-discrimination is enshrined in Article 14 of the European Convention on Human Rights (ECHR) and, with a broader scope, in Protocol 12 ECHR. Unfortunately, the latter has so far been ratified only by 17 out of the 47 Council of Europe member states, and signed by 20. It is also embodied in other Council of Europe instruments, such as the Framework Convention for the Protection of National Minorities (FCNM) and the European Social Charter (ESC).

Parliaments have a crucial role to play to ensure that non-discrimination becomes a reality, by promoting the ratification of such international instruments, through a constant political activity aimed at preventing and eradicating discrimination in society, the promotion of positive action in order to ensure effective equality, an important legislative effort and attentive scrutiny of the government's policies.

In addition, parliaments have primary responsibility in ensuring the implementation of the principle of non-discrimination in the context of their own work. **Examples of good practice** in this field include:

- *the introduction of gender quotas as transitional measures to redress the lack of factual equality in the context of the electoral process;*
- *reserving a fixed number of seats in Parliament to representatives of ethnic minorities, who would otherwise suffer disadvantages due to the voting system;*
- *in the context of states with sizeable ethnic minorities, a double majority (of the chamber and the representatives of ethnic minorities) is required to pass legislation affecting minority rights.*

I believe that the following **recommendations** have emerged from the debate:

- 1) *National parliaments should promote the signing and/or ratifying of Protocol 12 ECHR by the competent national authorities, in order to ensure the full respect of the principle of non-discrimination.*
- 2) *In countries which are still not parties to the FCNM and the ESC, members of national parliaments could support ratification.*

- 3) *National parliaments should also adopt robust and comprehensive anti-discrimination legislation, in line with international standards.*
- 4) *To assist with the implementation of such legislation, national parliaments could support the setting up of specialised national bodies for the elimination of discrimination and the promotion of equality, independent of the executive and provided with adequate resources.*
- 5) *Parliaments could play an important role in promoting the main-streaming of non-discrimination in all activities of public authorities.*
- 6) *Parliamentary mechanisms could be devised to screen the domestic legislation, so as to abolish laws based on discrimination or amend laws having discriminatory effects.*
- 7) *National parliaments should be encouraged to take or promote positive measures in favour of disadvantaged groups whose members are prevented from the full enjoyment of their rights due to discrimination, so as to remedy factual inequalities (positive discrimination).*
- 8) *They could support activities aimed at fostering inter-cultural dialogue, including its religious dimension.*
- 9) *In the context of the adoption of the state's budget, parliaments should ensure that adequate resources are allocated to counter discrimination and to meet the needs of disadvantaged groups, to promote effective equality.*
- 10) *National parliaments should attentively scrutinise the government's policy and call governments to account in regard to policies which might have discriminatory effects. They could also encourage governments to adopt anti-discrimination plans and strategies.*
- 11) *National parliaments could have a prominent role in promoting compliance with the judgments of the European Court of Human Rights, and could take legislative or policy initiatives to remedy any deficiencies of domestic legislation highlighted by the Court.*

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Participants finally expressed the firm hope that a lasting and comprehensive solution for a peaceful and united Cyprus would be found which would guarantee the legitimate rights of both Greek and Turkish Cypriots, in full compliance with the values and principles of the Council of Europe.

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Finally, on behalf of all the participants, I wish to thank wholeheartedly our Cypriot hosts, in particular the House of Representatives, and its President, Mr Marios Garoyian, for the excellent organisation of this Conference and their admirable hospitality.