

**Summary of the Online Event “The Final Three for Human Rights”
with the shortlisted candidates to the post of Council of Europe Commissioner for Human Rights**

17 January 2024, 2pm–3.30pm

with

Meglana Kuneva, Ambassador of the European Union to the Council of Europe (2018-2022)
Manfred Nowak, UN Expert, Secretary General at the Global Campus for Human Rights
Michael O’Flaherty, Director at FRA - European Union Agency for Fundamental Rights (2015-2023)

Please find CVs of the three candidates at this [link](#).

Moderation: **Ioulietta Bisiouli**, Director at the European Implementation Network, a CURE and CINGO member organisation

200+ participants from civil society organisations, academia and public institutions attended the event.

The candidates had been asked by the organisers before the event to provide written input on a number of questions. Their [replies](#) were made available to the participants before the event.

The full recording of the online session is available [here](#).

I. Introductory statements by the candidates

Meglana Kuneva: Remembering what it means for a country and people to be outside the EU and the Council of Europe, Meglana Kuneva cites her experience in building democratic institutions in Bulgaria. She introduced legally binding participation processes for NGOs and fought for women’s and environmental rights. She has experience in holding EU member states accountable and mentions the backsliding of democracy, human rights in the context of conflicts and artificial intelligence as main challenges facing the mandate holder.

Manfred Nowak: Citing his lifelong experience as an expert for international organisations in the field of human rights, he intends to build trust between people and states to be able to tackle the upcoming challenges together: backsliding of democracy and rule of law, polarisation and radicalisation, the war of aggression in Europe, triple planetary crisis, artificial intelligence and fake news; with rising economic inequality as underlying cause for many of them.

Michael O’Flaherty: Presents himself as the ideal candidate, being an expert in human rights with experience in their implementation. He names as the key challenges the backsliding of democracy, war in Ukraine, AI and the spread of hate in society, having worked on all of these in the last eight years as director of the European Union Agency for Fundamental Rights (FRA). He presents himself as an advocate for discriminated groups: Roma, elderly, transgender community. He wants to stand up for human rights defenders and apply a gendered approach to all human rights issues and plans to meet affected people all over Europe, work in close cooperation with civil society and address the states violating human rights.

II. Questions by the organisers and the candidates' replies

- a) **How are you planning to tackle the systemic weaknesses in the CoE human rights protection, such as the poor implementation of ECtHR judgements as well as long-standing threats of populism and human rights scepticism, threats to minority groups, discrimination and hatred?**
- b) **How do you intend to raise awareness and increase public support for human rights?**

Manfred Nowak: While the implementation of judgements mostly falls within the mandate of the Committee of Ministers, the Commissioner has an important role to play by traveling to the countries concerned and offering quiet diplomacy. Polarisation shall be tackled by trust building.

He has always worked in human rights education, which should start in primary schools, and he wants to advocate for human rights becoming a school subject in the member states. As he sees economic inequality as the underlying reason for polarisation and hate, social and economic rights must be taken more seriously by the Council of Europe. New rights must be established and strengthened: the right to a clean and healthy environment, as well as the rights of future generations.

Michael O'Flaherty: The Reykjavik Declaration foresees a role for the Commissioner in the implementation of judgements, and this should be a priority. He wants to work for capacity-building of all CoE bodies to better assist in implementation of judgements and recommendations of monitoring bodies. The Commissioner should advocate for strengthening the capacities of national human rights institutions and support human rights defenders and civil society. He pledges for subsidiarity where national actors can be more powerful than the Commissioner.

While he sees general openness of societies for human rights, there is not enough understanding of what that means in practice. The Commissioner shall take part in societal debates on human rights matters and assist member states in showing how public measures (for housing, social welfare, etc.) are efforts for the advancement of human rights. Sustainable development goals are a chance to increase visibility of human rights during the mandate.

Meglana Kuneva: The Commissioner shall speak up at the Committee of Ministers for the implementation of judgements. PACE should be involved more actively in addressing the implementation from the beginning. She plans to raise the issue on every country visit and considers forming the public opinion for the execution of judgements vital.

She wants to increase the media outreach of the Commissioner. Having introduced civic education as a Minister for Education, she underlines its importance for human rights education. Positive human rights stories must be put to the forefront.

- c) **Besides Russia's aggression against Ukraine, other conflicts in Europe put human rights at danger. Which avenues will you be using to protect human rights during armed conflict?**
- d) **Which synergies with other international organisations do you detect, and how will you tackle challenges by other organisations to CoE standards, undermining human rights for certain groups, as we have recently seen with the EU agreement on the reform of the Common European Asylum System?**

Michael O'Flaherty: He underlines that the Commissioner has an explicit mandate to stand up for human rights during conflict. Having contributed to setting up monitoring operations in armed conflict, he finds monitoring critically important for the present (information/ awareness-raising/ advocacy) and future (accountability and justice). In fulfilling this task, contacts with remaining civil society actors and diaspora are vital. Building trust after conflict is an intergenerational task that the Commissioner should contribute to.

The Council of Europe as a guardian of human rights must insist that the EU does nothing to violate rights and actively call out if that happens. He is disappointed by EU migration policy. He wants to get involved at early stages to influence decision-making and has done so as FRA Director. Furthermore, he wants to strengthen cooperation between CoE and UN.

Meglana Kuneva: The Commissioner should actively address human rights in conflict, and she is confident to have access to the relevant channels. She wants to work together with and protect human rights defenders in the conflict zones. She wants to communicate with both the de jure and the de facto authorities and acknowledge the realities on the ground, to best be able to assist the people in meeting their basic needs, receiving education and protection.

Citing her experience in enabling cooperation between the EU and CoE, building confidence between authorities and international organisations is crucial to her.

Manfred Nowak: He equally cites his experience in working in conflict areas, such as his current involvement in the task force to bring back Ukrainian children. He promises that his first visit if elected would be to Ukraine. He also wants to enable displaced Armenians to go back to Nagorno-Karabakh/ Artsakh. Moreover, he wants to put "frozen conflicts" in Georgia, Moldova and Kosovo high on his agenda.

He wants to seek close cooperation with the UN and EU bodies and insists on the EU becoming party to the European Convention on Human Rights. Asylum and migration are high on his agenda, and he wants to work together with the EU to apply the same standards.

III. Questions by the audience and the candidates' replies

- a) **After Russia's exclusion from the CoE, how to proceed with gross violations of the CoE standards by member states?**
- b) **What is your approach to social rights and the European Social Charter?**

Meglana Kuneva: She underlines again the importance of pushing for the execution of judgements as a way to prevent dramatic deterioration of the situation leading to the start of aggression and expulsion of a member state.

To be relevant for the people's everyday lives and for gaining their trust, she considers the implementation of social rights crucial. This will equally help to stop the backsliding of democracy. She suggests drafting a clear roadmap for the implementation of social rights in the entire region.

Manfred Nowak: While considering it correct that Russia has been excluded, exclusion as the strongest tool of CoE punishment must be used only as a measure of last resort. First, other ways of pressure should be considered, and countries should, if possible, be held accountable within the

CoE so that the standards and obligations remain binding to them. The Commissioner shall contribute with early warning mechanisms to identify rising conflicts.

Social rights did not receive enough attention in the CoE, and the Commissioner shall raise awareness for the full justiciability of these rights, as they involve the major difficulties in peoples' everyday lives. He demands that social rights should receive the same attention in the ECtHR judgements.

Michael O'Flaherty: He demands that everything must be done to bring back Ukrainian children, guarantee accountability for the criminal acts committed during the war, and support civil society in Russia. He is worried about the situation at the Finnish-Russian border and how it might block access to asylum for those in need. Early warning on human rights and conflict has often failed in the past and must therefore be more loudly put forward by the Commissioner.

He wants to hold the states accountable for organising a High Level Conference on Social Rights that was promised in Reykjavík. Social rights must be embedded in all political decisions, e.g. when tackling the climate crisis, regulating AI or addressing the rebuilding of Ukraine. Concretely, he wants to increase data collection on social problems and improve the housing situation of Roma.

- c) **How would you address the backlash in gender equality and LGBTQ+ and women's rights in the CoE region?**
- d) **How do you react to an uneven implementation of freedom of expression and assembly rights in the member states?**
- e) **Which human rights issues have in your opinion not been sufficiently addressed in the Commissioners' work so far and shall be focus of your mandate?**

Manfred Nowak: As states are criticising and withdrawing from the Istanbul Convention, the rights of women must be protected. He underlines that he has been together with Michal O'Flaherty drafting the Yogyakarta Principles on LGBTQ+ rights, and the ECtHR judgements have advanced that cause. However, he still sees a lot of discrimination and hate crimes. He finds that time has come for the CoE to draft a binding treaty on the rights of the LGBTQ+ community.

He stresses that the CoE should do more on tackling fake news on social media, while at the same time strengthening independent and pluralistic public media. Freedom of expression should be understood as an obligation to protect and ensure. Small quality media shall be supported by the member states.

In his eyes, human rights issues that have not been sufficiently addressed yet are the right to a healthy environment and the impact of artificial intelligence.

Meglana Kuneva: In her view, PACE did a good step forward by establishing a general rapporteur on the rights of LGBTQ+ people, and she would like to work in good cooperation with them. Gender equality has not yet been achieved; it must be tackled in all member states. Women in politics are facing smear campaigns, and young female politicians must be especially supported. Disabled people, too, must be supported and better included.

According to her, all democratic rights are connected to media freedom and hate speech. Events outside Europe, such as the war in Gaza, may affect the situation inside the CoE region: Islamophobia, antisemitism and restrictions to the right to assembly have been rising. The Commissioner could apply an early warning mechanism in this regard.

She thinks that the democracy dimension of the Commissioner's mandate must be strengthened to better address backsliding.

Michael O'Flaherty: He shows himself concerned about the backsliding of gender rights and stresses that the Commissioner must be gendered in everything they do. The Commissioner shall closely cooperate with GREVIO and urge the member states to collect data on violence against women. He mentions his contribution to the Yogyakarta Principles and on LGBTQ+ rights within the UN Human Rights Committee. Transgender and intersex people have been instrumentalised in a culture war, which is unacceptable, and the Commissioner must do all possible to protect them.

Legislation against the freedom to protest after the unfolding of the war in the Middle East is beyond what is justifiable, especially in the UK and France. Investment must be made into public media and investigative journalism, with journalists often being human rights defenders.

During his mandate, he would like to intensify engagement on human rights in conflict areas and on the transnational nature of many human rights violations, such as online crimes. Further, the EU must be subjected to more critique by the Commissioner in case of human rights violations.

f) How can you ensure the rights and participation of underrepresented groups: youth, migrants, people with disabilities, Roma?

g) What is your experience in engaging with the business sector on human rights? How can you reinforce legal responsibility of businesses for human rights violations?

Meglana Kuneva: She sees great enthusiasm in youth advocating for human rights and engaging with the Commissioner. She wants to advocate for the right to vote at 16 and engage with NGOs working with youth. In the past, she has cooperated with the Roma community and has strengthened their rights in Bulgaria.

Moreover, she has cooperated with the business sector at the EU level and wants to increase legal accountability of the digital business sector.

Manfred Nowak: He wants to strengthen the political participation of underrepresented groups, citing the example of a children's advisory council that he has built at the Global Campus for Human Rights. He considers future generations as the most affected by the current human rights challenges and thinks that children must be listened to. According to him, Roma still face a lot of discrimination and hatred, and migrants' rights must urgently be respected in Europe. He shows himself unhappy with the developments at the EU level in this regard and demands that the CoE must show that Europe can do better.

He has been advising large companies on how to implement human rights standards but thinks that more must be done from the official side to hold them legally accountable by a binding treaty. The CoE could be a pioneer in creating binding human rights obligations for transnational corporations (TNCs).

Michael O'Flaherty: He insists that the Commissioner should be a champion of human rights of the groups at the margins of our societies. He considers it key to work directly with the affected groups, according to the realities on the ground and together with local authorities. He has set up a youth advisory group at the FRA and underlines that he has a clear position on migration and that there are clear political measures that can and must be done, starting with rescue at sea.

He has worked with the business sector on business and human rights frameworks, human rights in the value chain and in AI. More can be done on the implementation of standards by small and medium-sized enterprises (SMEs) and on increasing the knowledge about these, as well as on access to remedies. He plans to both hold businesses accountable and cooperate with them to advance the implementation of standards.

IV. Final question by the organisers and the candidates' replies

What is your experience in cooperating with civil society, and what concrete avenues do you consider to cooperate with civil society (NGOs, CURE, CINGO, NHRIs) when elected?

Manfred Nowak: Civil society must be the main actor in setting the agenda of international institutions in the field of human rights. He quotes his experience of close cooperation with civil society actors in his different functions, e.g. as the UN Special Rapporteur on Torture. When on a mission, the respective NHRI has been his first place to visit.

Michael O'Flaherty: He has been active in the NGO Coalition for the International Criminal Court (ICC) and chair of numerous NGOs himself. At FRA, he sought close cooperation with NGOs. As a Commissioner, defence of civil society would be a core priority for him, and he intends to cooperate with civil society for gathering evidence, guidance and data, and would set up a "civil society observatory."

Meglana Kuneva: CINGO would be her main interlocutor when elected. She demands having civil society included into the procedures of public decision-making, which she worked on in Bulgaria. She contributed to important legislation strengthening the rights of civil society, such as the Aarhus Convention and the Right to Information Act. She wants to be a bridge between civil society and governments.

Closing Statements

Michael O'Flaherty: He again emphasises that the Commissioner should be a human rights expert with experience in implementing them way beyond human rights law. He presents himself hopeful that achievements can be made.

Manfred Nowak: After complimenting the other two candidates for being very qualified, he presents himself as experienced both in law and practice, having worked with NGOs and intergovernmental organisations. He shows himself optimistic and happy to be able to contribute to change.

Meglana Kuneva: The 75th anniversary of CoE is approaching, and she sees this as the moment to address the current challenges. Finally, she reminds to consider gender equality and mentions that both Michael and Manfred also give her hope that all three can achieve this together.

Annex I. The full list of questions asked by the audience at the online session.

1. How can the commissioner's office ensure more effective implementation of policy and the various commitments states have signed up to, i.e. FCPNM, ECRI, etc.?
2. What will you do to ensure that the EU develops a comprehensive policy on the enabling environment for civil society in EU Member States?
3. What is your position on the decisions of the Court that are not transposed in multiple states, concerning those decisions in favour of recognising the positive obligations of states to ensure a form of effective protection for same-sex family life, given the Fedotova precedent, as well as Buhuceanu case or Maymulahin case?
4. There is no mention of social rights in your response to the written questions, so what will be your approach to ensuring that social rights are also guaranteed? Do you consider social partners and in particular trade unions to be an important partner (and indeed human rights defender, as is the case of Belarus that has been mentioned in your responses) in ensuring human rights are guaranteed? And if so, how do you intend to engage with them?
5. How do you see Turkey's future in the Council of Europe?
6. How would you address the growing backlash against gender equality, LGBTIQ+ and women's rights, and freedom from gender-based violence and discrimination?
7. How would you seek to address the backslide or uneven application in the exercise of freedom of expression and assembly rights? I'm specifically referring to responses to the war in Ukraine and the conflict in Gaza. We have seen vastly different responses to protests, boycotts, etc.
8. How will you ensure that the rights of victims of crime are prioritised under the Council of Europe work? How will you ensure that Member States effectively implement victims' rights in practice (in particular the CoE recommendation from March 2023 on the Rights, Services and Support for Victims of Crime)?
9. The European Committee of Social Rights is monitoring the implementation of the European Social Charter. It has therefore two instruments, the collective complaints procedure and the national reporting system. Do you see a role for you as Commissioner making sure that the observations and decisions of the ECSR are implemented by member states and if so, in which way?
10. Which has been your experience with civil society? How do you plan to interact with the Conference of NGOs, if elected?
11. How do you see the cooperation with Civil Society if elected as HRC?
12. What will you do to protect reproductive rights, women's rights, LGBTIQ+ rights in the CoE region; as well as protect SRHR and Women Human Rights Defenders; given the anti-gender and anti-choice backlash?
13. In the second half of the current decade, what developments on climate and environmental rights would you not only foresee but actually push for as Commissioner?
14. Can you say something about your experience engaging with business and the for-profit sector, how would you engage with the sector, including in reinforcing legal responsibilities of business for human rights violations?
15. In line with the Helsinki Process and the Reykjavik Declaration Commitments taken by heads of state and governments, as well as in line with the long-standing partnership with ENNHRI and NHRIs of the office of the Commissioner, what are your expectations for the future collaboration with NHRIs and what avenues you envisage to increase meaningful engagement with NHRIs and protect NHRIs and CSOs from the increasing threats they are facing in Europe?

16. Which human rights issues in Europe do you think have not been sufficiently highlighted in the work of the CoE Commissioner so far?
17. How will the Human Rights Commissioner ensure young people's access to their rights, across all policy areas, not just youth-specific policies, given that there is no binding legal framework for the transition from childhood to adulthood?
18. How will you link the Human Rights Commissioner's role to the European Social Charter?
19. How will you ensure that the CoE holds accountable its member states that flout ECtHR judgements and their CoE rights commitments, such as Turkey, Azerbaijan, Hungary?
20. What would be your actions to restore international justice and provide restorations to victims of grave human rights violations in the light of the military aggression going on in the territory of Europe?
21. How will you envision young people's access to rights in Europe and the role young people play in upholding and defending the core values of the Council of Europe: Democracy, Human Rights and the Rule of Law?
22. CoE is not a branch of the EU. Where do you see the special role of the Commissioner of Human Rights of the CoE in difference to the EU instruments in place to deal with Human Rights?
23. How do you intend to deal with the infringement of the freedom of Religion and freedom of conscience for medical personnel and Hospitals that are under pressure to perform Acts that do not heal People, but put an end to their lives? How do you intend to protect women from Exploitation by surrogacy and egg harvesting, in view of a fast growing market for such reproductive procedures that use women as commodities to produce children? How do you intend to protect the Rights of Children that are conceived in such a way?
24. Do you have a strategy on how to tackle resistance of the Member States to implement judgments, they believe to be too intrusive to their political agenda? For example, Article 3 (migrants suspected in terrorism) or 18 violations.
25. How can we make governments more willing to properly integrate non-nationals, given issues such as placing immigrants into particular areas to the exclusion of others, national desperation due to desperation being fuel for backlash against minorities, etc.?
26. How will you ensure that the rights of persons with disabilities who are currently institutionalised or at risk of institutionalisation are monitored and aligned with the UN Convention on the Rights of Persons with Disabilities?
27. At the fourth Council of Europe Summit in Reykjavik, the Heads of States and Governments committed themselves to strengthening the institution of the Commissioner for Human Rights. A few months later, they agreed to increase the financial and human resources of the Commissioner's Office. However, they also set quantitatively ambitious targets. In your opinion, how should the institution of the Commissioner be strengthened? Do you think that the additional resources allocated for 2024 and 2025 are sufficient to implement your plans? If not, what kind of strategies could be considered for obtaining more resources?
28. How do you see the role of CoE and your own in the future, when so much was lost at EU level with respect to the rights of people on the move?
29. What do you believe to be the most pressing issues related to the protection and promotion of economic and social rights, and how would you support CoE efforts to improve the enjoyment of these rights specifically?
30. How can we elevate the level of awareness about human rights in Europe, are human rights embedded in the education system well enough? If not, how can we ensure that?

31. How will you as Council of Europe's Commissioner for Human Rights promote the rights of national minorities, such as linguistic, cultural and self-determination rights? This question applies especially to those minorities unrecognised by their state governments, but internationally recognised.
32. What would you do differently in comparison to the action and policy by the actual Commissioner for Human Rights, Dunja Mijatovic?
33. Do you have any views about how we might make the CoE human rights system more effective in so-called unresolved conflict zones?
34. How can we effectively pressure governments who refuse to implement measures despite "finger-wagging" being employed against them?
35. How do you plan to support the resilience of our system of fundamental rights protection based on ECtHR and ECHR vis à vis the national migration policies and practices?
36. Could you provide your view/ evaluation of the impact of Russia's refusal to comply with the ECtHR's judgements following its withdrawal from CoE, despite its obligations to do so? Specifically, how might this refusal affect the Court's and the CoE overall reputation? Do you think the issue of Russia's non-compliance with already issued Court's judgements should be included in your future working agenda?
37. What role do you see for the Council of Europe in ensuring accountability for crimes committed by Russia in Ukraine, beyond the establishment of the Register of Damage?
38. How will you continue and indeed improve efforts to ascertain the right to Housing as a fundamental human right, including a zero-tolerance policy towards homelessness, especially in the face of the increasing crisis of supply, affordability and displacement across Europe?
39. Mr O'Flaherty mentioned the plight of older persons in institutions. They have neither spokesperson nor lobbying bodies. And their situation is getting worse day by day in all member states. The legislation exists, but it remains a dead letter. What will you do to force states to go beyond empty rhetoric?
40. What is your position concerning the migration policy, your future role regarding the respect of the rights of refugees and the pushback instruments used by many states?
41. Yesterday, at the University of Tartu (Estonia), Professor Viacheslav Morozov was suspected of collaboration with Russian special services. Because of the full-scale Russian invasion, Russia was excluded from the Council of Europe. BUT what is your stand with Russian nationals, professionals who are still working at the CoE with long-term contracts? Allegedly dozens of them are in the system. Should CoE renew their security clearances? Of course, no witch hunt is proposed, but such spy scandals and such instances once again remind us that security risks are REAL.
42. Human Rights are Women's Rights and Women's Rights are Human Rights. In this sense, what will you do to support Women's Rights and Gender Equality stronger at the CoE, and specifically to make member states ratify the Istanbul Convention, what would you do influence and urge the Governments of member states to do so?
43. Equality between Women and Men is a fundamental universal value. How to defend this value and remedy to an historical backlash in women's rights and impunity of violence against women and their defenders' associations?
44. Over the past 10 years, the Council of Europe has been rocked by corruption scandals that have seriously undermined trust in both individual institutions and the organisation itself as a whole. Have you ever been a member of government in your countries that was involved in corruption, and have you publicly denounced corruption and its negative impact on human rights? Do you

have a vision of how corruption in the Council of Europe can create problems in the observance of human rights both in individual countries and undermine trust in the organisation as a whole?

45. How would you see your role in terms of Environmental Human Rights Defenders and other mandates in that area, and what do you see as the core issues and trends of concern in this area and key actions needed?
46. How will Travellers' and Roma issues be supported in EU and protecting those right against minorities ethnic groups in Europe?
47. How would you Approach the issue of the EU's financial and logistical support for detention centres in Lybia - in which there is evidence of severe human Rights violations and torture?

Annex II. Profile of the CoE Commissioner for Human Rights.

The Committee of Ministers Resolution [Res\(99\)50](#), Article 10 says that: "The candidates shall be eminent personalities of a high moral character having recognised expertise in the field of human rights, a public record of attachment to the values of the Council of Europe and the personal authority necessary to discharge the mission of the Commissioner effectively." Below is an attempt to suggest a more detailed interpretation/ checklist of these criteria on the basis of analysis of the actual profiles of previous and current Commissioners:

1. "Eminent personalities of a high moral character":

- high profile/ recognition not only within their own country, but at the European/ international level;
- no known allegations of any misconduct.

2. "Recognised expertise in the field of human rights":

- not purely theoretical/ academic experience but also practical, i.e. track record with prominent human rights NGOs and/ or official human rights structures (ombudspersons, NHRIs, equality bodies, etc.);
- not only at national but also at international level – ideally, previous work with other international human rights mandates (e.g., UN treaty bodies and/ or special procedures, CoE monitoring and advisory bodies, OSCE independent institutions, etc.).

3. "Public record of attachment to the values of the Council of Europe":

- publications/ speeches reflecting this and/ or some previous involvement in the CoE-related work;
- absence of public statements/ actions undermining CoE values in any possible way.

4. "Personal authority necessary to discharge the mission of the Commissioner effectively":

- independence from the authorities of their country (not being a civil servant, not occupying any leading posts in the government/ ruling party or coalition at the moment of nomination, etc.);
- at least some experience in leading teams and/ or managing organisations;
- previous diplomatic background and/ or strong experience of dialogue/ negotiations with state authorities on human rights issues;
- necessary skills and ability to maintain partnership relations with a wide range of stakeholders, including civil society organisations/ human rights defenders;
- absence of clear ambitions for the continuation of their career in national or international politics after the end of the Commissioner's mandate (as a guarantee of their outspokenness and public criticism).