

Answers to the Questions by the Three Candidates for the Post of CoE Commissioner for Human Rights

The following seven questions have been raised ahead of the upcoming online event on the new Council of Europe's Commissioner for Human Rights and have been answered by all three candidates to the post: **Meglana Kuneva**, **Manfred Nowak** and **Michael O'Flaherty**.

Their answers will be the basis for engagement with the candidates during the event organised by CURE – Campaign to Uphold Rights in Europe and the Council of Europe's Conference of INGOs. The event will take place on **17 January 2024, 2–3:30PM CET** and focus on the human rights challenges and priorities in the region, and how the candidates would address these if elected as the Commissioner.

1. What are the most important human rights problems Europe is currently facing? How would you stimulate an effective role of the Council of Europe in addressing these challenges? What would your own contribution be vis-à-vis these problems?

Meglana Kuneva:

The well-established system of Human Rights protected by ECHR for 75 years is under new threats - war, pandemic, climate change, which require adaptation, prevention and resolute action.

Furthermore, failure to execute the judgements of the European court of human rights undermines the credibility of this multilateral system.

The backsliding of democracy provides ground for the rise of extremists' ideologies eroding democracy and human rights in Europe. The war in Ukraine provides the most striking example of the consequences of a political authoritarianism and the failing of multilateralism to overcome expansionist nationalism.

As agreed at the Fourth Summit, the Council of Europe (CoE) Members States are called to address the systematic challenges, to enhance their shared commitments, to uphold pluralism, tolerance and respect for diversity, and reject all forms of racism and intolerance, hate speech and racial hatred. As a CoE independent institution, the Commissioner for Human Rights should play a crucial role in supporting member states, civil society and the Organisation in delivering those Summit commitments. The Commissioner has a distinctive voice and institutional tools to defend democracy and rule of law, urging stakeholders for actions.

I will strive to build close relations with civil society and use the talents of public voices in democratic and political processes.

To reverse backsliding trends, I will engage constructively with Member States regarding specific implementation issues, providing guidance, mediation and prevention. I will stay vigilant and ready to react promptly against extremism. I will advocate for the adoption of measures to protect the most vulnerable groups from discrimination, harassment, and violence.

Manfred Nowak:

The most urgent global human rights problems and challenges, for which Europe bears a considerable responsibility, are the results of the triple planetary crisis. The mandate of the next CoE Commissioner for Human Rights ends in 2030, the year in which the SDGs, including the environment-related goals, should be fully implemented. In other words, these six years will be decisive for achieving a major change of the current economic, political and social world order aimed at securing the survival of our

planet, and Europe could and should lead by example. In line with the Reykjavik Declaration, I would strengthen the efforts of the CoE to solving the challenges of climate justice, loss of biodiversity and pollution by applying a human rights based approach. I am an advocate for human rights of children and future generations, as outlined in the recently adopted Maastricht Principles. Notwithstanding the many positive developments in the field of digitalisation and artificial intelligence, I am also highly concerned by the threats emanating from new and emerging digital technologies on human dignity and would fully support all efforts towards adopting a Framework Convention on Artificial Intelligence as another example of the CoE's pioneering role in addressing contemporary human rights challenges. I would further give priority to addressing and remedying the gross and systematic human rights violations resulting from Russia's war of aggression against Ukraine. This includes full support to all efforts towards the establishment of a special tribunal for the crime of aggression and to the Register of Damage for Ukraine as important first step towards an international compensation mechanism for victims of Russian aggression. In this context, I would also focus my efforts on the release and repatriation of children who were forcefully transferred or deported to territory under the control of the Russian Federation and Belarus.

Michael O'Flaherty:

The principal human rights challenge is the embedding of human rights at the heart of responses to the great issues of our day. Principal of these is to keep the human rights of the people of Ukraine uppermost when addressing the Russian aggression. Others include adopting a rights-based approach to tackling the climate crisis, ensuring strong human rights oversight of artificial intelligence, and remaining ever vigilant in protecting the rule of law. Furthermore, we must acknowledge the extent of conflict and post-conflict environments requiring support for human rights, respectful confidence-building, reconstruction and transitional justice.

It is equally important to stand up for people who are pushed to the margins of our societies. Foremost among these is the Roma community. Others include people in disputed or occupied territories, migrants, and people in institutional care.

We must stand up for human rights defenders and their essential role. More broadly we must keep investing in national and regional human rights architectures, including, national human rights institutions and equivalent bodies.

With regard to every issue and group we need to be gendered, recognising and addressing the distinct experiences of women and men.

Every one of the organs of the Council of Europe is a human rights actor and must so act, strategically engaging the diversity of mandates to lever change. Common to them all is the underlying body of Council of Europe law and recommendations and the necessity to work for the implementation of judgements of the European Court of Human Rights.

The role of the Commissioner is to be a human rights leader. That role should be exercised in a nimble, flexible and speedy manner. The Commissioner's interventions should engage rights-holders, duty-bearers, all relevant human rights actors, and the other agents of change. The Commissioner also has a role to accompany the victims of human rights violations. To be effective, the Commissioner must be highly visible, much present in the Member States, and in constant engagement with civil society.

2. How do you think the different aspects and elements of the Commissioner's mandate should develop? Please also consider additions to your mandate that have been added since the creation of the post of the Commissioner on:

- a. the protection of human rights during armed conflict, adopted by the Committee of Ministers in January 2004;**
- b. human rights defenders, adopted by the Committee of Ministers in February 2008;**
- c. making submissions to the European Court of Human Rights (ECtHR);**
- d. making submissions to the Committee of Ministers on the implementation of ECtHR judgements.**

Meglena Kuneva:

The mandate of the Commissioner provides the necessary flexibility to attune to new challenges and allows a rapid reaction. Specifically:

- Protection of human rights during armed conflict - I will conduct fact-finding missions and issue targeted recommendations for restoring as far as possible the rights of the victims suffering from the consequences of the war of aggression against Ukraine.
- Prevention and early warning/ flagging the potential risks, providing guidance in cooperation with CoE relevant bodies thus improving domestic implementation of human rights standards.
- Promotion of human rights education - I will engage directly with networks of organisations and educators, schools and academia.

Manfred Nowak:

In light of these major global and European human rights problems and challenges (triple planetary crisis, digitalisation and artificial intelligence, armed conflicts, migration etc.), the mandate of the Commissioner should shift to a certain extent from tackling specific human rights problems in CoE member States, which are also addressed by the ECtHR and other CoE bodies. Instead, it should put a strong focus on addressing the root causes of these challenges, overcoming divisiveness, building trust among member States and developing a common European approach towards these problems and challenges, based upon the core values of pluralist democracy, human rights and the rule of law. In case of serious human rights violations, above all during armed conflicts or related to the non-implementation of ECtHR judgements, the country-specific approach of the Commissioner, including visiting all member States, remains, however, a highly important tool.

Michael O'Flaherty:

The mandate of the Commissioner is strong and, in terms of human rights, comprehensive. It is imperative to undertake thematic and geographical prioritisation, based on the actual or potential gravity of situations. I have already indicated what I consider to be current priorities. In addressing these, the Commissioner should draw on the full toolbox contained in the mandate. Tools such as submissions to the Court and the Committee of Ministers need to be deployed strategically where the added value of the intervention is clear. I consider that the elements of the mandate regarding human rights education are best implemented through the Commissioner supporting a fully joined up approach across the diverse education-related initiatives of the Council of Europe.

3. How would you engage with member states neglecting or refusing to implement your or other CoE bodies' recommendations, or ECtHR judgements? What would be your preferred approach – outspoken or discreet diplomacy?

Meglana Kuneva:

Being a CoE team player, I will complement the efforts of CoE supervisory bodies to achieve an effective implementation of CoE standards. Conducting a confidential and constructive dialogue with all stakeholders, I will use positive narrative to remind MS of their obligations. I will support technical assistance to the State in difficulty of execution, so as to find together an appropriate solution. That being said, I will never hesitate to react publicly to grave and serious human rights issues, being outspoken when fundamental values are undermined and where the victims remain voiceless. On sensitive political issues and in case of a stalemate, I will privilege discreet diplomacy and make full use of my diplomatic and political set of skills.

I will also focus on preventive diplomacy in existing and emerging situations of tension or conflict.

Manfred Nowak:

My preferred approach is human rights diplomacy. If all efforts of discreet diplomacy fail, I would, however, also be very outspoken in criticising governments for their failure to implement judgements of the ECtHR or recommendations of other CoE bodies.

Michael O'Flaherty:

In addressing human rights concerns, the Commissioner must vigorously engage with the Member States. The goal is to ensure better respect for human rights and every method employed must serve this end. My only 'preferred approach' would be to be scrupulously independent and to be law- and evidence-based. Different methods of public or private engagement, working with or through national, regional, international or other actors, etc., should be deployed as appropriate.

4. What is your vision for your relationship with the Committee of Ministers and the Parliamentary Assembly?

Meglana Kuneva:

We have witnessed the results of the impeccable cooperation between the Committee of Ministers and the Parliamentary Assembly in answering the Russia's war of aggression against Ukraine. The Commissioner could streamline the political dialogue and support the cooperation between the CM and the Assembly, contributing to building an institutional link between them specifically in relation to the execution of ECtHR judgements and encouraging a stronger involvement of PACE in this process.

I would appreciate an increase of the interaction with PACE and its Committees on a regular basis.

Manfred Nowak:

In times of crisis, the Commissioner must closely cooperate with the CM, PACE, the Secretary General of the CoE and other relevant bodies to find a common approach, overcome divisiveness and strengthen the role of the CoE as a pioneer in human rights protection. My aim is to make use of PACE sessions and CM meetings for dialogues with PACE Rapporteurs, the CM Presidencies and delegates, be they formal or informal.

Michael O'Flaherty:

We need a strengthened engagement of the Commissioner with the Committee of Ministers, the Parliamentary Assembly and other organs of the Council of Europe, including the monitoring bodies and the directorates-general. There is much underdeveloped scope for dialogue, mutual support and complementary action. As I mentioned earlier, the entire of the Council of Europe is a human rights actor, and the Commissioner can play an important role in better supporting the realisation of that reality in an integrated manner.

5. Who do you think would be your main partners in your work as the Commissioner? Which ways do you intend to engage with them in? How do you see your future relations with the civil society sector and with human rights defenders?

Meglana Kuneva:

I intend to pursue a constructive dialogue with all stakeholders, while strictly observing the independence and impartiality inherent to my mandate. Working relations of trust and my convincing power with governments and parliaments are indispensable to deliver implementation of the highest standards of human rights.

Human rights defenders and civil society will be my strongest allies, given their momentous input to the protection of human rights in Europe. In this framework, the role of the Conference of INGOs should be highlighted, with a more structured dialogue with the Commissioner.

I will engage extensively with all relevant interlocutors – UN Human Rights Council and Special Procedures, OSCE Special Representatives, UNESCO and OIF, NHRIs, universities and think tanks. I will use my diplomatic skills and personal network of contacts to promote the Commissioner's international outreach.

I intend to devote special attention to the protection of human rights defenders from Russia and Belarus who share the values of the organisation.

Manfred Nowak:

The current and future human rights problems and challenges can only be solved if all stakeholders at the global and European level (UN, OSCE, CoE, EU) are cooperating closely. This includes governments, international and European human rights bodies (OHCHR, ODIHR, EUSR on Human Rights, EP, PACE, CM, etc.), civil society, human rights defenders, academia, national human rights institutions, Ombuds institutions and individual experts. NGOs and other actors of civil society are crucial in raising awareness about current and future human rights problems and influencing the agenda of IGOs. As CoE Commissioner, I would continue my approach in various former functions as independent expert to listen carefully to concerns of civil society and raising these concerns with governments and inter-governmental bodies in a solution-oriented manner.

Michael O'Flaherty:

Externally, the Commissioner must engage with every entity capable of supporting or upholding human dignity. Foremost among these are governments, parliaments, courts and national human rights bodies, not forgetting sub-national and local authorities.

Civil society plays a key role, as a defender of core values, provider of information, advice and analysis, as well as in its demands for delivery and accountability. As I said earlier, it is an indispensable partner to the Commissioner.

The Commissioner must also play a protective role for human rights defenders, who are increasingly under threat. Other important partners include the media, the business world, cultural and sports practitioners and youth groups.

6. If elected, what communication strategy would you adopt to increase the mandate's visibility and impact?

Meglana Kuneva:

I will focus on or I will start with

- organising media briefings with major media outlets during the EP sessions in Strasbourg;
- maintaining steady and dynamic presence of my Office in the social media platforms and collaborating with tech companies;
- reaching out to Euroimage in order to explore possible cooperation on joint media products;
- seeking cooperation with ARTE headquarters in Strasbourg for possible broadcast of the Office activities;
- organising an annual meeting in Strasbourg of the respective Commissioners of UN, OSCE and CoE dealing with human rights.

I will engage with human rights NGOs and civil society organisations to promote widely Council of Europe's standards.

Following the example of OHCHR, I will create a youth advisory panel of young human rights activists from CoE MS and organise online consultations and surveys to gather young people's views on human rights topics.

Manfred Nowak:

It is essential that the CoE Commissioner has at its disposal a professional and active communication and media team to follow relevant discussions in traditional and social media channels. I would strengthen the capacities of the Commissioner as an early warning mechanism to identify certain trends of backsliding as soon as possible in order to enable the Commissioner to react swiftly with the aim of preventing future human rights violations that might otherwise escalate into conflicts. In increasing the mandate's visibility and impact, I would use all possible means of communication, from public reports, press conferences, statements and interviews in traditional and social media to presence on digital platforms, podcasts and video channels. The 75th anniversary of the founding of the CoE provides an excellent opportunity for raising public awareness of European human rights achievements and a shared vision for a peaceful future in Europe.

Michael O'Flaherty:

Effective communication is essential to the work of the Commissioner. An effective strategy requires clear and consistent communication objectives, adaption of distinct messages and formats for different audiences, use of accessible language as well as of images as appropriate, giving voice to rights-holders, invoking the range of human values and encouraging action on the part of message recipients. It is important to develop strong communication partnerships across organisations and societies. One essential partner is young people who need to be persistently engaged on communications and every other aspect of the work of the Commissioner.

7. What would be the greatest changes in the role of the Commissioner at the end of your period in office? Please identify three points max.

Meglana Kuneva:

- Strengthening the Commissioner's early warning and preventive role on major human rights and rule of law violations.
- Including a youth dimension in the work of the Commissioner.
- Magnifying the impact of the CoE Commissioner's voice.

Manfred Nowak:

The current and future human rights problems and challenges are of a different nature than earlier problems and challenges. They can only be solved by decisive and joint action of all relevant global and regional stakeholders. Rather than focusing on too many specific human rights problems in CoE Member States, we need to shift our focus to jointly addressing the root causes of major human rights violations of current and future generations at the global and European level, from the triple planetary crisis to digital transformation, economic inequality, polarisation, radicalisation, divisiveness, organised crime, terrorism and armed conflicts. The post-WWII global and European architecture, based upon, peace, prosperity, democratisation, the rule of law and human rights, is under threat. We need a major shift to a new economic, political and social world order, based upon peace, sustainable development and a legally binding human rights framework. As in the past, the CoE should lead by example as the pioneer of a human rights based world order. If elected, I would consider my mandate as CoE Commissioner for Human Rights successful if the current Russian war of aggression against Ukraine and other possible threats to peace and security, above all so-called "frozen conflicts" in Europe, will be solved, if the CoE will have found a reasonable way to deal with migration and refugee challenges and if the CoE and its Member States will have played a decisive role in addressing the triple planetary crisis and threats emanating from digital technology and artificial intelligence.

Michael O'Flaherty:

My goal as Commissioner would not, per se, be to change the role of the Office – change may be needed but only in service of the ultimate objective of protecting human rights. In this spirit, if elected, I would aim to

- get consideration of human rights at the heart of discourse and decision-making on our continent and bring visibility and attention to the most marginalised and forgotten of our people;
- offer a realistic but hope-filled vision of how we can realise a world that honours human rights;
- in service of these goals, make the Commissioner much better known as Europe's principled, empathetic and effective conscience; its champion of human rights.