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Analysis of the Organization of the Council of Europe from a Historical Perspective

Loredana TEREC-VLAD[1]

[1] Ștefan cel Mare University in Suceava, Romania, Titu Maiorescu University in Bucharest, Romania, Romanian Academy - Institute of Sociology, Bucharest, Romania, loredana.vlad@fdsa.usv.ro

Abstract: Before the start of the first world conflagration, the problem of the organization of the European territory was perceived as being stringent, and two main directions were advanced: on the one hand, by "simple cooperation, that respected the existing state sovereignties", and on the other hand, by "overcoming sovereignties through a process of unification, followed by integration" (Manolache, 2018). The two World Wars, that caused millions of victims in a relatively short time, and the establishment of totalitarian regimes, fascist ideology and communist tendencies determined the creation of systems for the protection of human rights.

Keywords: *Council of Europe; history of the European Union; European law.*

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1. Introduction

The vulnerability of the policy of force during the Warld Wars period highlighted the need to strengthen relations between states, both diplomatically and from a political and cultural point of view (Carpinschi & Mărgărit, 2011). Starting with 1941, when the Atlantic Charter was adopted, "the 4 freedoms" were proclaimed. It continuing with the "Declaration of the United Nations", in 1948, in The Hague, when the Congress of Europe proclaimed: "we want a united Europe", "we want a charter of human rights", "we want a court of justice", "we want an European assembly". The birth act of the Council of Europe was signed on May 5, 1949, and it became effective on August 3, 1949. The constitutive act consists of a preamble, nine chapters and forty-two articles, where, from the first article, the purpose and the way in which the Council of Europe interferes with other international commitments of the member states was highlighted (Carpinschi & Mărgărit, 2011). The Hague Congress remained in the collective mind as an important moment in terms of the development of Europe, as it highlighted the relinquishment of one's own interests in favor of a common cause (Carprinshi & Mărgărit, 2011). Europe and, more than that, the whole world had to learn from the mistakes of the past and promote the inherent worth and dignity of the human being (Barbu, 2015a, 2015b; Huidu, 2019).

The Council of Europe was created with the aim of defending human rights and freedoms and obtaining a greater unity among its members, in order to achieve "the ideals and principles that form their common spiritual heritage and to facilitate economic and social progress" (Selejan-Guțan, 2018).

2. Council of Europe - bodies

The Committee of Ministers is the decision-making body of this structure, made up of the foreign ministers of the member states or of the representatives from Strasbourg, considered both a governmental body and a collective forum, where discussions are held regarding the problems of the European society, while also proposing solutions on how to solve them (Selejan-Guțan, 2018), meeting at least twice a year. The recommendations and decisions taken by the Council materialize through conventions and agreements - with legal force for the states that ratify them (Selejan-Guțan, B., 2018). Intergovernmentalism is evident and manifests itself through the Committee of Ministers (art. 14 of CoE), its attributions aiming at: "a) [...]

examining, on the recommendation of the Consultative Assembly or on its own initiative, the appropriate measures to achieve the purpose of the Council of Europe, including the conclusion of conventions and agreements and the adoption by governments of a common policy on specific matters; b) the conclusions of the Committee of Ministers can be formulated, if necessary, as recommendations addressed to governments. The Committee may invite member governments to inform it of the actions taken based on a recommendation" (art. 15 of CoE).

3. The Parliamentary Assembly

On February 1st, 2018, the Parliamentary Assembly had 324 members and 324 alternate members elected by the national parliaments, and each country had between 2 and 18 representatives, depending on the population of the respective country; at the same time, the Parliamentary Assembly has 5 political groups: the Group of the European People's Party, the Socialist Group, the European Democratic Group, the Liberal, Democratic and Reform Group, the United European Left Group, but there are also members who do not belong to any group.

4. The Secretary General

The third institution mentioned in the constitutive act is the Secretary General, an administrative body headed by a general secretary, a deputy general secretary and which has a specialized staff. The Secretary General and the Deputy Secretary General are appointed by the Consultative Assembly, as stated in article 36 of the CoE Statute: „ a) The Secretariat shall consist of a Secretary General, a Deputy Secretary General and such other staff as may be required. b) The Secretary General and Deputy Secretary General shall be appointed by the Consultative Assembly on the recommendation of the Committee of Ministers. c) The remaining staff of the Secretariat shall be appointed by the Secretary General, in accordance with the administrative regulations. d) No member of the Secretariat shall hold any salaried office from any government or be a member of the Consultative Assembly or of any national legislature or engage in any occupation incompatible with his duties. e) Every member of the staff of the Secretariat shall make a solemn declaration affirming that his duty is to the Council of Europe and that he will perform his duties conscientiously, uninfluenced by any national considerations, and that he will not seek or receive instructions in connexion with the performance of his duties from any government or any authority external to the Council and will refrain

from any action which might reflect on his position as an international official responsible only to the Council. In the case of the Secretary General and the Deputy Secretary General this declaration shall be made before the Committee, and in the case of all other members of the staff, before the Secretary General. f) Every member shall respect the exclusively international character of the responsibilities of the Secretary General and the staff of the Secretariat and not seek to influence them in the discharge of their responsibilities".

The General Secretariat plays a crucial role in the protection of human rights; thus, it can ask any state to give explanations on how "domestic law ensures the effective application of all the provisions of the Convention" (Guțan-Selejan, 2018).

5. Congress of Local and Regional Authorities in Europe

CLRAE is a body created in 1993 by the Vienna Summit which aims to represent local and regional communities in Europe that "apply the provisions of the Charter of Local Autonomy, adopted by the Committee of Ministers in 1985. At the beginning of 1994, it became a body with full rights within the Council of Europe" (Selejan-Guțan, 2018).

6. Commissioner for Human Rights

In art 3 of Resolution (99) 50 Concerning the Commissioner for Human Rights of the Council of Europe: „a) promote education in and awareness of human rights in the member States; b) contribute to the promotion of the effective observance and full enjoyment of human rights in the member States; c) provide advice and information on the protection of human rights and prevention of human rights violations. When dealing with the public, the Commissioner shall, wherever possible, make use of and cooperate with human rights structures in the member States. Where such structures do not exist, the Commissioner will encourage their establishment; d) facilitate the activities of national ombudsmen or similar institutions in the field of human rights; e) identify possible shortcomings in the law and practice of member States concerning the compliance with human rights as embodied in the instruments of the Council of Europe, promote the effective implementation of these standards by member States and assist them, with their agreement, in their efforts to remedy such shortcomings; f) address, whenever the Commissioner deems it appropriate, a report concerning a specific matter to the Committee of Ministers or to the Parliamentary Assembly and the Committee of Ministers; g) respond, in

the manner the Commissioner deems appropriate, to requests made by the Committee of Ministers or the Parliamentary Assembly, in the context of their task of ensuring compliance with the human rights standards of the Council of Europe; h) submit an annual report to the Committee of Ministers and the Parliamentary Assembly; i) co-operate with other international institutions for the promotion and protection of human rights while avoiding unnecessary duplication of activities".

The Commissioner for Human Rights has played a crucial role in promoting the inherent human rights and values by which any state should be guided.

7. European Commission against Racism and Intolerance (ECRI)

It is better than known that after the Second World War the problem of racism, xenophobia and intolerance had to be solved. Given the racial criteria on which death sentences were based during the Holocaust, it was necessary to promote values and rights for all human beings regardless of race, gender, ethnicity etc. In this context, the European Commission against Racism and Intolerance played a crucial role, as it was created following the Vienna Summit, but in 2002 a new statute was issued, according to which the Commission was given attributions such as "combating racism, xenophobia, anti-semitism and intolerance at the pan-European level and from the point of view of the protection of human rights" (European Commission against Racism and Intolerance, 1993), examining the specific situation of each country regarding racism and intolerance for each member state of the Council of Europe, but also developing proposals and suggestions for overcoming the identified problems.

8. Other specialized bodies

Other specialized bodies were created with the agreement of some member states, like: the Group of States against Corruption (GRECO), the European Commission for Democracy through Law (Venice Commission), the Group of Experts on the Fight against Trafficking in Human Beings (GRETA), European Broadcasting Observatory, Advisory Committee for the Protection of Minorities, European Center for Interdependence and Global Solidarity (Selejan-Guţan, 2018).

9. Conclusions

The importance of European institutions in the promotion of human rights, the administration of justice, the promotion of democratic

values is indisputable; even more so that of the Council of Europe, as it played a crucial role in the abolition of the death penalty, this being one of the conditions for membership. It follows that since 1947 no execution has been carried out in any of the member states of this organization. (Council of Europe, n.d.).

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