

Statement by Walter Schwimmer (26 March 2003)

Caption: On 26 March 2003, Walter Schwimmer, Secretary General of the Council of Europe, makes a statement on the role of the Council of Europe in the 'One Europe' and its relationship with the European Union (EU).

Source: Statement by the Secretary General of the Council of Europe, Mr Walter Schwimmer (Strasbourg, 26.03.2003).

The role of the Council of Europe in the One Europe: the relationship with the enlarged European Union. [ON-LINE].

[Strasbourg]: Council of Europe, [18.06.2003]. Available on

http://www.coe.int/T/e/Communication_and_Research/Press/News/2003/20030326_disc_SG.asp#TopOfPage.

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URL: http://www.cvce.eu/obj/statement_by_walter_schwimmer_26_march_2003-en-b6a47300-1080-40c8-8e10-39dbf4f701c5.html

Publication date: 04/09/2012

Statement by Walter Schwimmer, Secretary General of the Council of Europe, (Strasbourg, 26 March 2003)

«The role of the Council of Europe in the One Europe : the relationship with the enlarged European Union»

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Today, and unfortunately surely for some time to come, international politics are being dominated by the issue of military action in Iraq. European partners and Euro-Atlantic allies are deeply divided on the legality and the morality of this action, or on regional implications, etc. At the outset of this conference, let me limit myself to three comments.

Firstly, the Parliamentary Assembly of the Council of Europe, as the political forum for both the representations of the "old" and "new" Europe took a very clear stand when the parliamentarians from our 44 member States discussed the issue on 30 January 2003. With an overwhelming majority, they called on all Council of Europe member states, observer states and candidate states to "refrain from any action detrimental to the authority and role of the UN and to exclude any use of force outside the international legal framework and without an explicit decision of the UN Security Council."

Secondly, tremendous efforts are necessary to limit the suffering of the Iraqi population, to repair any damage to an international system based on multilateralism and respect for international law and to contain negative effects both on regional stability and trust between cultures and religions in the widest sense. All responsible politicians should be committed to these efforts.

Thirdly, serious and tragic as it is, this crisis does not transform international affairs into a business with a single-item agenda.

As a matter of fact, this crisis and the many questions raised about the future of security after September 11, call, in my view for more Europe.

Co-ordination and co-operation between the different institutions and action groups are indispensable in a Europe which has undergone historical changes over the last 13 years and which will move ahead with increased integration. The decision for an EU-enlargement from 15 to 25 will fundamentally change Europe's political architecture.

In this new architecture, the proper definition of the Council of Europe's place and role will be our most important challenge for the coming years. With 800 million Europeans, at present, in our 45 member States – the new State of Serbia and Montenegro will join us next week – we are the Organisation of the One Europe.

I would, therefore, wish to share with you some thoughts as regards to both the special partnership between the EU and the Council of Europe, and our ongoing enlargement, as well as the consolidation of our past enlargement.

Consequences of the enlargement of the European Union

The European Union will soon have 25 members. Others are hoping to join too. However, many European states will not join for the moment.

This fact should not create new dividing lines! There is only One Europe: the continent with its over 800 million Europeans. Since 1989, the Council of Europe, which was founded forty years earlier to overcome conflicts, has made it possible for the One Europe, based on common values, to come about.

As I stated in my contribution to the Convention on the future of Europe, I consider that the European Union should make full use of the Council of Europe's instruments and institutions. I, therefore, was very pleased to note in the report, submitted by Mr Giscard d'Estaing to the Copenhagen European Council, that there is now a very strong tendency in favour of accession by the European Union to the European Convention on Human Rights. Furthermore, the Praesidium submitted to the Convention on the future of Europe draft articles for the future constitutional treaty which would provide a legal basis for the accession by the EU to the ECHR. Such an accession is indeed essential.

The Human Rights Convention is the Council of Europe's quality seal – the heart and basis of the European community of peace-loving states. All of the Council's 44 member states have ratified it, and all of them – a unique and unprecedented point – accept the jurisdiction of the European Court of Human Rights.

There is still, however, one serious gap in human rights protection. It is true that the Convention and the case law of the Court protect our human rights against violation by any of those 44 states. But what happens if, as is perfectly possible, the European institutions violate those rights? The only possible way of involving the Court in such a case would be to invoke the liability of an individual EU state, relying on its incorporation of EU law into domestic law – an approach which is clearly indirect, laborious and not always likely to succeed.

If we commit ourselves to this European community of values, then the EU must commit itself to those values as well, and it can do that by formally undertaking to respect them itself – and not simply requiring would-be members to satisfy the Copenhagen criteria, which embody them. There must be no double standards.

The EU and its institutions must also subscribe to these values and accept that there may be cases in which a court finds that they themselves have violated the rights of an EU citizen or a person living on EU territory. This is why I regard EU accession to the European Convention on Human Rights, and EU acceptance of the European Court's jurisdiction, as a wholly logical consequence of developments in Europe since 1950.

The European Union has adopted the Council of Europe's flag and the Council of Europe's anthem. It should also adopt the Council of Europe's fundamental Convention. Who shares our symbols should also share our commitments!

As a next step, accession to the European Cultural Convention should take place. I firmly believe that 800 million Europeans do have a culture in common. Tolstoy is as European as Voltaire, Shostakovich as European as Mozart or Vivaldi.

The third step would be the accession to the European Social Charter, acknowledging that the One Europe is built on social cohesion and a spirit of solidarity.

The Council has approximately 190 European conventions and agreements, replacing some 20 000 – 25 000 bilateral agreements between European states. The EU has already accepted eight of those instruments, a small percentage.

Like the Council of Europe, the EU wants to create a common legal area in Europe, and we are backing its efforts to promote harmonisation of law and legal co-operation throughout our continent.

But the EU is already being led to admit that there are problems which cannot be solved at EU level alone. Some problems indeed are genuinely and fully European. Schengen, for example, cannot solve all the problems of migration in Europe. These problems need pan-European solutions – and probably solutions even broader than that, since we must have the non-European countries, the countries where migration starts, at the table before we can tackle them properly.

Drug trafficking and organised crime are important issues for both the EU and the Council of Europe – and

these, too, are problems we need to tackle together. Money laundering is not restricted to the 15 or 25, but is far more widespread than that. Sometimes involving multinational companies, this, like corruption, has become a major problem – and one which, again, we must tackle together.

The Council of Europe has instruments and agreements in all these areas, and the EU must play a part – a vital, and possibly even preponderant part – in them too. In all events, this is a field where we must have institutionalised co-operation between the two European institutions. This goes also for the fight against terrorism and human trafficking.

But I want to go a step further than that. I have always been convinced that we need to get Europe and nearly all its states involved in political debate, in political dialogue – in short, what we need is a pan-European political forum.

Much reflection is currently going on on how to structure the European Union's foreign policy with regard to those European States that are either unable, or unwilling, to join the European Union at present. To all those involved, I have a very clear message: Do use what is there and what has proved its value. There is no need to invent new structures for political cooperation, or set up elaborate new mechanisms for consultation.

The Council of Europe brings together, as equal partners, all the states of the One Europe. Its Parliamentary Assembly and Committee of Ministers are the natural fora for political dialogue and cooperation. For over 50 years, they have proven their effectiveness.

We should be imaginative in structuring our relationship, and dare to break new ground. We should reflect on the possibilities of how to make the European Union an "associated member" of the Council of Europe by taking into account the "sui generis" status of the EU as a supra-national entity with competences and sovereign rights, which are normally carried out by a state, but without (yet) being a state and certainly not having all the rights and competences of a sovereign state. So, as an "associate member" the EU would represent the 25 together in those areas where they have transferred the competence to the supra national level.

Council of Europe's ongoing enlargement

With regard to the Council of Europe's own enlargement, we are very happy to be able to welcome, on 3 April next, the new State of Serbia and Montenegro. Its natural place is amongst us. Recent worrying signals are best tackled together. The assassination of the Prime Minister of Serbia, Zoran DJINDJIC, has shown the fragility of democratic institutions and of the state of law. In the common search for a consolidated democracy of the union of Serbia and Montenegro and of its definitive integration into Europe, I cannot stress enough the extreme importance that the Council of Europe and the European Union attaches to full cooperation with the International Criminal Tribunal for the Former Yugoslavia in The Hague.

As regards Kosovo, we have responded favourably to the request of the Special Representative of the UN Secretary General and head of UNMIK, Mr Steiner, to take the lead for the presentation of a concept of decentralising local authorities. It offers real possibilities to promote further democratisation and reconciliation. In our contacts with UNMIK, we are also putting much emphasis on the importance of the applicability of Council of Europe human rights standards in Kosovo. There should be no human rights gap in Europe.

Concerning Belarus, the recent agreement on the re-establishment of an OSCE mission in Minsk is encouraging, however, real progress has yet to be demonstrated, notably in the protection of human rights and freedom of the media, if closer contacts with the Council of Europe are to be established.

Consolidation of enlargement

As regards the consolidation of our past enlargement, I welcome the positive developments in "the former Yugoslav Republic of Macedonia". The success of the parliamentary elections and the holding of the census

must now be consolidated by the full implementation of the "Ohrid Agreement", which created a new basis for equitable cohabitation between the principal communities of the country.

In Bosnia and Herzegovina, the first elections under full responsibility of the country's authorities took place. The results of the elections present a challenge to the major communities to confirm the policy of national and European integration. In this respect, the creation of a multi-ethnic government in the Republika Srpska is encouraging. I am convinced that Council of Europe membership contributed to this development. We remain by the sides of the authorities, with a programme of co-operation and assistance, determined to advance the reforms under their own authority.

However, in the last six or seven years, we have also often had to ask ourselves whether we were not over-hasty in admitting certain countries to the Council of Europe. This is an old question – as old as the one about glasses being half-full or half-empty. If we had not admitted Russia to the Council of Europe, there would be no Council experts present in Chechnya today. These experts are on the spot and poised to help. Of course, much remains to be done to restore the rule of law and the power of the judiciary, and this is an area where the Council's Anti-Torture Committee is extremely active. The Chechen People deserve a normal life, in peace, like everybody else in Europe. We hope that the referendum of last Sunday will initiate a real political process, followed by a veritable reconstruction, in which our experts will be fully associated. In any event, we will continue to insist that there can be no tolerance for violations of human rights, no impunity for perpetrators, whoever they are. Therefore, it was important to let Russia into the Council of Europe.

What about Azerbaijan? If we had not admitted Azerbaijan, many political prisoners would still be behind bars. We have already secured the release of 400, but there are still 250 unresolved cases, and we know for certain that some of those prisoners are political.

2003 is a crucial Presidential elections' year in Azerbaijan and Armenia, as well as parliamentary elections in Georgia. All these are of vital importance for the strengthening of democracy and the peaceful development of a region full of frozen conflicts. The Council of Europe actively contributes to the preparation, organisation and observation of these events. We do this with the direct involvement of the Venice Commission for Democracy through Law, and in close co-ordination and co-operation with our partners in the EU and the OSCE. I shall not hide that we are very concerned about the unsatisfactory Presidential elections in Armenia a few days ago. We expressed our concerns to the authorities and we hope that, with our assistance, the parliamentary elections next May will take place in accordance with European standards.

There is deep concern at the lack of progress concerning the situation of media in Ukraine, a country which has now been a member of our Organisation for seven years. In close contact with the Ukrainian authorities, we are working with the EU to secure freedom of opinion and the media, which is a key component of any democracy.

A few words on the forthcoming Chair of the Council of Europe's Committee of Ministers, Moldova. This is a new, young State, only created after the break-up of the Soviet Union. A year ago, we were very preoccupied by the political situation in the country. An overwhelming parliamentary majority hampered the development of a constructive dialogue between the executive power and the opposition. It also endangered the progress of legal and democratic reform by attitudes reminding us of the political practices of the past.

Therefore, we have provided high-level expertise to make an existing Round Table of representatives of all political parties and NGOs an effective instrument for dialogue, compromise and mutual recognition in a developing pluralist democracy. Last Monday, 24 March, the President of Moldova opened the new-formula Round Table. Important legislation in the fields of media and local and regional administration has been revised with the help of Council of Europe experts.

Final remarks

In the early 1990s, following the fall of the Berlin Wall, the Council of Europe successfully adapted its

agenda to the challenges of the time. Today, at the beginning of this new millennium, we are again at a crossroads. The Council of Europe has the required know-how. We are already addressing many of the major challenges of today, including those which appeared on and since September 11. However, we should do so faster and with more results.

To this end, closer partnership with the EU is a political necessity. I hope that the Convention on the Future of Europe really comes to something, for the sake, not just of the EU and the European institutions, but also for the sake of the One Europe united under the blue flag with the twelve gold stars, and for which the Council of Europe provides the perfect forum. We at the Council are planning to settle these issues with the EU at a third Summit of Heads of State and Government, which will probably be held some time between the end of 2003 and the beginning of 2005. Europe is bigger than the Europe of the 25, and Europe is also bigger than the Europe of the 45 – the Europe we have at the Council of Europe today. Together, we are assuming pan-European responsibility for all the 47 states which make up our continent, and I hope that we shall – with the EU – do full justice to it.