

Vitaly Portnov. The first question that I would like to ask you is why Europe (that is citizens living in the Eurasian continent) needs the Council of Europe?

Thorbjørn Jagland. Well, because the Council of Europe is guaranteeing human rights to all citizens on the continent and we have the instruments to enforce it, we have monitoring bodies and we have a human rights committee. On the whole we can say that the Council of Europe is the only body which guarantees equal rights to everybody.

Vitaly Portnov. How interaction between the Council of Europe and the European Union is structured?

Thorbjørn Jagland. Well, we can say that the Council of Europe is establishing the same standards with regard to human rights for all Member States engaged in the European Union. We can say that the European Union could not have been established or expanded without common standards that we have in the Council of Europe. So we are working together although there are many places in Europe where there are human rights problems. Without the Council of Europe countries like the Russian Federation, Turkey and eighteen other countries outside of the European Union would not be able to share the same standards. They would not have been connected by the common rules and standards that we have in the Council of Europe because the European Union would not of course be able to reach up to these countries. And we have a number of common projects with the European Union — in Kosovo, in Caucasus, so we are working very much hand in hand.

Vitaly Portnov. And in this case, why the European Union has to become a member of the Council of Europe and the European Court?

Thorbjørn Jagland. Currently the European Union as such, as an organisation, is not represented in the Council of Europe or in the Court, but the Lisbon Treaty provides for the European Union's accession to the Convention on Human Rights and also the European Court.

Vitaly Portnov. And will there be a dual membership because the States of the European Union are members of the Council of Europe, and they will become a collective member of the Council of Europe through the European Union?

INTERVIEW OF THE EDITOR-IN-CHIEF OF THE «HUMAN RIGHTS. CASE-LAW OF THE EUROPEAN COURT» JOURNAL



WITH MR THORBJØRN JAGLAND, THE SECRETARY GENERAL OF THE COUNCIL OF EUROPE

Thorbjørn Jagland. We are not talking about dual membership but we are talking about the fact that the European Union has become a legal body as a consequence of the Lisbon Treaty. It is this legal body that will become a member of the European Convention of Human Rights and also of the European Court of Human Rights. And this is very important because the European Union is such a big power, and we cannot take it for given that this big power would never make decisions that can harm human rights. This is why it is so important to bring all this big power under the same rules and standards of the same Court of Human Rights.

Vitaly Portnov. What kind of the Court do the Europeans need?

Is there any need to change the procedure and terms of election of judges of the European Court (inter alia, those terms that regard their age, gender, etc.)? Currently there are age limits. A judge of the Court continues in the office until he/she reaches the age of 70. At the same time the lower age limit for being elected a judge of the Court is not fixed. Perhaps there should be a procedure fixed to elect to the Court candidates of 45–50 years of

age having removed the upper age limit? Neither there is a direct reference to mandatory inclusion of three candidates on the list, both men and, by all means, women. So, what the criterion of election should be? Perhaps it is advisable to set more clearly criteria for selection of judges? It seems that the criterion for election should be first of all life experience and wisdom?

Is there a need for a procedure to re-examine judgments by the Grand Chamber of the European Court? Lately many controversial decisions are delivered, but there is no instance to appeal against them. What to do? Perhaps it is advisable to revert to former practice, when all judges of the European Court *en banc* were examining most important cases? It is meant the situation of 47 judges and not 17 judges, how it happens now?

Thorbjørn Jagland. I am not going to go into discussion of the age because I do not think that this is the most important issue. What I think is important is to get the best judges regardless of their age. I am in favour of having a kind of filtering mechanism when electing the judges. One can have for instance a committee of experts that could have a say before the list of candidates is forwarded to the Parliamentary Assembly. I mean we have to be absolutely sure that the judges elected to the Court will be of the best peo-

ple in Europe. I think this is one of the keys to safeguarding impartiality of the Court. As you know, it is not sufficient to have high intelligence — a judge also needs to have wisdom. I say this because the Court always needs to have wisdom in order to be accepted by the people of Europe. So I think that the Court always needs to think about what kind of issues and problems arise because I think that the Court always needs to look at the most important issues and not at all the details that could be taken care of. This is, of course, up to the Court to decide. But this is a very important discussion to have in all Member States.

The Court needs to be independent, respect the principles, but of course it also has to be sensitive to national traditions. It is very important for a judge to exercise some wisdom as to what kind of issues it is absolutely necessary to go into and what kind of issues one could easily leave to national judges.

Vitaly Portnov. Thank you very much. If you would like to say something else to the Russian reader — not the ordinary reader, but the professional one, you are welcome.

Thorbjørn Jagland. First of all, I appreciate very much that you have this publication. It is very important to spread information because one of the problems that the Court has is the lack of information about the Court in the Member States. Not only among the public or among the ordinary people but also among lawyers. So I appreciate very much what you are doing. And I think that the Court is very important for the Russian population as we act for those in the Russian Federation who want to reform the judicial system.

Vitaly Portnov. I thank you very much indeed.

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