

## **Pierre-Yves Le Borgn'**

### **Responses to the questionnaire of the Human Rights working group of the Civil Society Forum of the Eastern Partnership**

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#### **1. What are the main qualities a Council of Europe Human Rights Commissioner needs?**

Firmness, impartiality and loyalty are the main qualities I believe a Commissioner should display. Availability, ability to react swiftly and readiness to engage into immediate dialogue with all interested stakeholders are critical elements too. So much relies on trust, personal interactions and joint problem-solving. This is the robot-portrait of the ideal Commissioner in my opinion.

#### **2. Which human rights advocacy and diplomatic tools in the Commissioner's mandate do you consider most useful and how would you intend to use them taking into account that human rights are under pressure in Council of Europe member states and the space for civil society is shrinking?**

I would primarily rely on country reports and hence on regular country visits throughout the 47 Member States. This is the number one mission of the Commissioner. Depending on topical developments or a burning situation in Member States of the Council of Europe, I would step into the public debate through op-eds and TV interviews. I also intend to use the third party intervention procedure before the European Court of Human Rights in some critical cases not only for the country concerned but for the Council of Europe as a whole, especially on the protection of human rights defenders and the protection of the rights of children at large.

#### **3. Which are the most important human rights problems which Europe currently faces and how would you propose to address them? And what would be your preferred approach - outspoken or discreet diplomacy?**

The Commissioner should be as transparent (and therefore public) as possible, yet as discreet as possible when circumstances require. To take one example, I see a growing role for the Commissioner to reach out to relevant ministerial authorities while on a mission in a country to obtain the execution of ECtHR judgements pending before the Committee of Ministers. This exercise certainly requires lengthy talks and some discretion as a consequence. Therefore, I would always privilege flexibility as to what needs to be made public and what should be kept discreet for the sake of efficiency.

One-on-one discussions with relevant authorities is my preferred approach to address the most important human rights issues: fighting intolerance and hate speech; combating antisemitism, genocide denial and islamophobia; protecting the rights of refugees and asylum seekers; protecting children's rights; protecting women's rights, especially on the access to sexual health services and on the prevention of violence against women; ensuring the rights of LGBTI people to a private life, freedom of expression and freedom of demonstration; protecting media freedom; defending the independence of the judiciary; combating prison overcrowding; fighting all discriminatory restrictions to the registration and/or funding of NGOs.

**4. How would you engage with member states which refuse to follow your or the Council's recommendations or judgements of the European Court of Human Rights?**

I would keep all channels of dialogue opened, especially the informal ones with government authorities and permanent representatives in Strasbourg. I would of course make my reactions public but abstain from using any punitive tone as the munitions of the Commissioner are words, proposals, convictions and influence. For these munitions to be effective, it is critical to keep working with a positive vision of rights and freedoms. From my past experience as PACE rapporteur on the execution of EctHR judgements, I know that the reality behind the non-execution is both diverse and complex. This is to be factored in by the Commissioner. Yet, nothing is impossible as the recent solution found on the execution of the *Hirst* case showed. I was born optimistic (but not naive) and I believe that dialogue, even over a long period of time, yields positive results.

**5. What is your vision of your relationship with the Committee of Ministers and the Parliamentary Assembly? Will you see your role as that of a free actor in the Council or rather one who has to take the interests of other Council institutions into account.**

I would be available for all institutions of the Council of Europe. This is the privilege of an independent organ such as the Commissioner for human rights: neither de jure nor de facto hierarchy. My hope regarding the relationship with the Committee of Ministers would be for the Commissioner to be invited to topical debates on burning issues (for example, the independence of the judiciary) in addition to delivering a quarterly report to the representatives of Member States. Regarding PACE, I would make myself available for all invitations to address committee meetings and plenary sessions. I believe that the presentation of the Commissioner's yearly report once a year in plenary is not enough. The Commissioner should be seen more often by parliamentarians. Parliamentarians should be able to reach out easily to the Commissioner. This is a commitment that I want to take: to be available for all parliamentarians, especially during part sessions in Strasbourg. The same commitment applies to the Conference of INGOs and to the Congress of Local and Regional Authorities.

**6. Who do you think would be your main partners in your work as the Human Rights Commissioner and in which ways do you intend to engage with them? What will be your policy towards independent civil society organizations operating in the Council of Europe member states?**

The Commissioner has numerous partners, notably the human rights defenders. This is why I would engage heavily in order to protect them, including through third party interventions before the ECtHR. Yet, I would consider Member States authorities as partners too. I would not work in opposition to States, but with them as solutions most often than not require their buy-in and active participation. To sum up, independence, trust and openness should be the hallmark of the result-oriented dialogue that I would like to promote with all partners.

**7. If elected, what communication strategy would you adopt to increase the visibility and impact of the High Commissioner?**

I would build up solid country reports and distribute them widely through the Commissioner's web site and its access to social networks. I would market them through press and TV interviews in the countries concerned. I would also consider shooting short movies illustrating the activities

of the Commissioner. One of my ideas would be to set up a Youtube channel for the Commissioner to boost visibility.