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CAHDI (2012) 2

COMMITTEE OF LEGAL ADVISERS ON PUBLIC INTERNATIONAL LAW (CAHDI)

**Committee of Ministers' decisions of relevance to the CAHDI's
activities, including requests for CAHDI's opinion**

43rd meeting
Strasbourg, 29-30 March 2012

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1. CAHDI

1.a 1131st meeting – 18 January 2012 – Item 10.3

Committee of Legal Advisers on Public International Law (CAHDI) – Abridged report of the 42nd meeting (Strasbourg, 22-23 September 2011) – (CM(2011)167)

Decision

“The Deputies took note of the abridged report of the 42nd meeting of the Committee of Legal Advisers on Public International Law (CAHDI), as it appears in document CM(2011)167.”

1.b 1127th (Budget) meeting – 22-24 November 2011 – Item 11.1, Part 1

COUNCIL OF EUROPE BUDGETS – Financial Years 2012-2013

Ordinary Budget, Subsidiary Budgets – Services Budgets, Subsidiary Budget of the European Youth Centres, Subsidiary Budget for Publications and adjustment of the scales of contributions of member states to the Budgets of the Council of Europe

(CM(2011)130, CM(2011)130 corr, CM(2011)130 corr2, CM(2011)130 corr3, CM(2011)123, CM(2011)95, CM(2011)163 rev, CM(2011)163 revcorr, CM(2011)131 rev3)

Decisions

“The Deputies

[...]

12. approved the terms of reference of the steering and ad hoc committees, and their subordinate groups, as they appear in document CM(2011)131 final¹;

[...]”

* * *

¹ The terms of reference of the CAHDI for 2012-2013 appear in document CAHDI (2012) 1.

2. PRIORITIES OF THE UNITED KINGDOM CHAIRMANSHIP OF THE COMMITTEE OF MINISTERS (7 November 2011 – 14 May 2012) – (CM/Inf(2011)41)

Priorities and objectives

The United Kingdom is proud to be assuming the Chairmanship of the Committee of Ministers of the Council of Europe from 7 November 2011. As a founder member of the organisation and the first country to ratify the European Convention on Human Rights, the UK takes the responsibility of the Chairmanship, which it last held in 1993, very seriously. We see it as an opportunity for the UK to play a leading role in the vital work of the Council of Europe in promoting human rights, democracy and rule of law across the continent.

The overarching theme of our Chairmanship will be the promotion and protection of human rights. We will have a particular focus on developing practical measures in the following areas:

- a. reforming the European Court of Human Rights and strengthening implementation of the European Convention on Human Rights;
- b. supporting Secretary General Thorbjørn Jagland's programme of reform of the Council of Europe as an organisation;
- c. strengthening the rule of law;
- d. internet governance, including freedom of expression on the internet;
- e. combating discrimination on the grounds of sexual orientation and gender identity;
- f. streamlining the Council of Europe's activities in support of local and regional democracy.

In addition to these priorities, the UK Chairmanship will of course work to progress other areas of important Council of Europe business.

A – Reform of the European Court of Human Rights and strengthening implementation of the European Convention on Human Rights

The Court is an essential part of the system for protecting human rights across Europe. But it is struggling with its huge, growing backlog of applications – now 155,000. This is undermining the Court's efficiency and authority.

Reform is more urgent than ever before: we cannot wait any longer before taking concrete and effective action. The UK will give this issue the highest political importance. The entry into force of Protocol 14 in 2010 had a positive effect but it is insufficient.

We must learn from that and ensure that this time we are sufficiently forward looking and agree effective and enduring solutions. The UK Chairmanship will seek consensus on a package of measures in the following areas, agreed at Interlaken and Izmir:

- **a set of efficiency measures**, which will enable the Court to focus quickly, efficiently and transparently on the most important cases that require its attention;
- **strengthening the implementation of the Convention at national level**, to ensure that national courts and authorities are able to assume their primary role in protecting human rights;
- measures to **strengthen subsidiarity** – new rules or procedures to help ensure that the Court plays a subsidiary role where member states are fulfilling their obligations under the Convention;
- improving the procedures for nominating suitably qualified **judges to the Court**, and ensuring that the Court's **case law is clear and consistent**.

The UK will aim for a package of measures to be agreed by means of a Declaration at a Ministerial conference in the UK on reform of the Court. Further details of this conference will be presented in

due course. The Declaration will provide the basis of a Decision of the Committee of Ministers to be adopted at its annual meeting on 14 May 2012.

In accordance with the deadline set by the Interlaken declaration, the package should include proposals for reform which require amendment of the Convention. In addition we will aim to provide the Court with political support from the Committee of Ministers for the measures it is already taking to prioritise and better manage its workload, and to provide a wide margin of appreciation to member states' authorities in its judgments.

In response to the call in the Izmir High level Conference on the future of the European Court of Human Rights to pursue 'long term strategic reflections on the future role of the court', the UK will host a conference at Wilton Park on a "2020 Vision for the European Court of Human Rights" on 17-19 November 2011.

B – Supporting Secretary General Thorbjørn Jagland's programme of reform of the organisation

The UK will actively support Secretary General Thorbjørn Jagland's programme of reforms of the Council of Europe. We will work towards implementation of measures which will help to deliver more focused, streamlined and effective organisation and a more efficient use of resources.

C – Strengthening the rule of law

The UK chairmanship attaches great importance to strengthening the rule of law in Europe. The UK will host a meeting of the Venice Commission and member state representatives to discuss the recently adopted Venice Commission report on the Rule of Law. The UK chairmanship will present the conclusions of the meeting to the Committee of Ministers, thereby providing an opportunity for their concrete follow up.

D – Internet governance, including freedom of expression on the Internet

The UK strongly supports an open internet, not only in terms of access and content but also freedom of expression. Our Chairmanship will work towards the adoption of the Council of Europe Internet governance strategy by the Committee of Ministers. We will also give impetus to the principles that the Council of Europe has developed to uphold freedom of expression on the internet and provide support to other initiatives, to ensure that all member states live up to their international obligations in this area.

E – Combating discrimination on the grounds of sexual orientation and gender identity

Too many people still suffer outdated prejudices, discrimination and violence because of their sexual orientation or gender identity. The United Kingdom Chairmanship will work to maintain the momentum generated by the Council of Europe recommendation on measures to combat discrimination on grounds of sexual orientation or gender identity, and will work with the Secretariat on their implementation. We will encourage steps to end acts of violence, criminal sanctions and related human rights violations committed against individuals because of their sexual orientation or gender identity.

F – Streamlining the Council of Europe's activities in support of local and regional democracy

The UK Chairmanship will work towards a more effective and efficient role for the Council of Europe in supporting local and regional democracy. The UK supports the Council of Europe's significant programme of activities in this area, including monitoring and sharing of expertise, but wants to see it streamlined and more carefully targeted as a result of the work being led by the Spanish Deputy Prime Minister, Manuel Chaves.

Our aim is to reach agreement on the creation of a Single Programme of Council of Europe activity on local and regional democracy during our Chairmanship. The activities of the numerous actors in the field of local and regional democracy should be streamlined into a single coherent programme of work, overseen by the Committee of Ministers. This will provide greater value for money, and enable a targeted and focussed approach, eliminating the potential for duplication and inefficiency and delivering the outcomes member states want. The Single Programme will have one pooled budget and will be supported by a single unified Secretariat.

Shared priorities of the Ukrainian, United Kingdom and Albanian chairmanships on reform

Reform of the European Court of Human Rights

Ukraine, the United Kingdom and Albania agree that our consecutive Chairmanships of the Committee of Ministers will each continue to support and drive forwards the Interlaken process on the future of the European Court of Human Rights, building on the accomplishments of the Turkish and preceding Chairmanships, including the agreements as set out in the Izmir Declaration.

The Court is an essential part of the system for protecting human rights across Europe. However, there is a clear case for reform to ensure it works as effectively as possible. To ensure the momentum of reform is maintained and any additional issues are identified and addressed as soon as possible, the three Chairmanships will cooperate to ensure timely delivery of the reports required under points 3, 4 and 5 of the Implementation section of the Interlaken Action Plan.

Council of Europe reform

Ukraine, the United Kingdom and Albania agree that our consecutive Chairmanships will each strive to prioritize, with Secretary General Thorbjørn Jagland, the implementation of the ongoing programme of institutional and operational reform of the Council of Europe. It is appropriate that the Committee of Ministers is reviewing and rationalizing the Organisation's structure, work and budgetary priorities. This will ensure the Organisation is best placed to have maximum impact through its unique pan-European work protecting and promoting human rights, democracy and the rule of law.

Local and regional government

The Ukrainian, UK and Albanian chairmanships in the Committee of Ministers of the Council of Europe will work together to deliver the local and regional government initiatives agreed at the Conference of Ministers for Local and Regional Government in Utrecht in November 2009, following the report by Mrs Mari Kiviniemi. The overall objective is to raise the efficiency of the Council of Europe work on local and regional democracy and good governance, and to ensure it meets the expectations of citizens in the member states.

We look forward to the report on the working arrangements between Governments and the Congress, and on the reviews of Congress's assessments of local and regional democracy, to be presented by Spanish Deputy Prime Minister, Mr Manuel Chaves, at the Kyiv ministerial conference in November 2011. The three Chairmanships will deliver the agreed outcome to ensure that Council of Europe work on local and regional democracy is more cost effective, visible and has impact, focussing on good governance, effective transfrontier cooperation and delivering the best possible outcomes for citizens in Europe.

Calendar of events

- 7 November 2011: Meeting of the Committee of Ministers – handover ceremony from Ukraine to the United Kingdom, Strasbourg

-
- **17-19 November 2011**: Experts' conference on a 2020 Vision for the European Court of Human Rights. Wilton Park.
 - **March 2012** (date to be confirmed): Meeting of the member states and the Venice Commission on the Rule of Law. Foreign and Commonwealth Office, London.
 - **April 2012** (date and venue to be confirmed): Ministerial meeting on Reform of the European Court of Human Rights.
 - **14 May 2012**: Committee of Ministers meeting – handover from United Kingdom to Albania, Strasbourg

* * *

3. PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE AND REPLIES OF THE COMMITTEE OF MINISTERS TO THE PARLIAMENTARY ASSEMBLY'S REQUESTS

3.a 1124th meeting – 26 October 2011 – Item 3.1

Parliamentary Assembly – 4th part of the 2011 Session (Strasbourg, 3-7 October 2011) – Texts adopted

(2011 Session (Provisional Compendium of texts adopted))

Decisions

“The Deputies

[...]

4. concerning Recommendation 1982 (2011)² – “The impact of the Lisbon Treaty on the Council of Europe”

a. invited their Rapporteur Group on External Relations (GR-EXT) to prepare a draft reply for adoption at one of their forthcoming meetings;

5. concerning Recommendation 1983 (2011)³ – “Abuse of state secrecy and national security: obstacles to parliamentary and judicial scrutiny of human rights violations”

a. agreed to communicate it to the Steering Committee for Human Rights (CDDH), the Steering Committee on the Media and New Communication Services (CDMC) and the European Committee on Crime Problems (CDPC), for information and possible comments by 31 December 2011;

b. agreed to communicate it to the European Commission for Democracy through Law (Venice Commission) and to the Council of Europe Commissioner for Human Rights for information;

c. in the light of possible comments, invited their Rapporteur Group on Human Rights (GR-H), in consultation with their Thematic Co-ordinator on Information Policy (TC-INF), to prepare a draft reply for adoption at one of their forthcoming meetings;

[...]

8. took note of the following resolutions:

[...]

Resolution 1830 (2011)⁴ – “Request for Partner for Democracy status with the Parliamentary Assembly submitted by the Palestinian National Council”

Resolution 1831 (2011)⁵ – “Co-operation between the Council of Europe and the emerging democracies in the Arab world”

² Recommendation 1982 (2011) appears as **Appendix I** to the present document.

³ Recommendation 1983 (2011) appears as **Appendix II** to the present document.

⁴ Resolution 1830 (2011) appears as **Appendix III** to the present document.

⁵ Resolution 1831 (2011) appears as **Appendix IV** to the present document.

Resolution 1832 (2011)⁶ – “National sovereignty and statehood in contemporary international law: the need for clarification”

[...]

3.b 1134th meeting – 15-16 February 2012 – Item 3.1

Parliamentary Assembly – 1st part of the 2012 Session (Strasbourg, 23-27 January 2012) – Texts adopted

(2012 Session (Provisional Compendium of texts adopted))

Decisions

“The Deputies

[...]

5. took note of the following resolutions:

[...]

Resolution 1863 (2012)⁷ – “Enforced population transfer as a human rights violation”

[...]

NOTE OF THE SECRETARIAT (Extract from the website of the Parliamentary Assembly of the Council of Europe):

The Assembly can adopt three different types of texts: recommendations, resolutions and opinions.

- **Recommendations** contain proposals addressed to the Committee of Ministers, the implementation of which is within the competence of governments.
- **Resolutions** embody decisions by the Assembly on questions, which it is empowered to put into effect or expressions of view for which it alone is responsible.
- **The Assembly mostly expresses opinions** on questions put to it by the Committee of Ministers, such as the admission of new member states to the Council of Europe, but also on draft conventions, the budget, the implementation of the Social Charter.

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⁶ Resolution 1832 (2011) appears as **Appendix V** to the present document.

⁷ Resolution 1863 (2012) appears as **Appendix VI** to the present document.

4. TREATY LAW

4.a 1123rd meeting – 12 October 2011 – Item 10.2

European Committee on Crime Problems (CDPC)

a. Abridged report of the 60th plenary session (Strasbourg, 14-17 June 2011)

b. Draft Fourth Additional Protocol to the European Convention on Extradition and its Explanatory Report – Transmission to the Parliamentary Assembly for opinion (CM(2011)118 and CM(2011)118 add)

Decisions

“The Deputies

1. agreed to transmit the draft Fourth Additional Protocol to the European Convention on Extradition (ETS No. 24) and its Explanatory Report⁸, as they appear in documents CM(2011)118, Appendix and CM(2011)118 add, to the Parliamentary Assembly and invited the Assembly to give an opinion on the draft Additional Protocol;

2. in the light of the decision above, took note of the abridged report of the 60th plenary session of the European Committee on Crime Problems (CDPC), as it appears in document CM(2011)118, as a whole.”

4.b 1122nd meeting – 28 September 2011 – Item 10.2

Council of Europe’s Convention on Cybercrime (ETS No. 185) – Request by Senegal to be invited to accede (GR-J(2011)13)

Decisions

“The Deputies

1. took note of the request of Senegal to be invited to accede to the Convention on Cybercrime (ETS No. 185)⁹ and noted that the Committee of Ministers agreed in principle to granting this request;

2. instructed the Secretariat to consult the non-member state which is a Contracting State to the Convention, i.e. the United States of America, and set 10 November 2011 as the deadline for a reply;

3. agreed that, if there was no objection from the United States of America, the decision to invite Senegal to accede to the Convention on Cybercrime (ETS No. 185) would be regarded as adopted on 16 November 2011 (1126th meeting of the Deputies);¹⁰

4. agreed to resume consideration of this item if the United States of America raised an objection concerning the accession of Senegal to the Convention.”

⁸ The draft Fourth Additional Protocol to the European Convention on Extradition (ETS No. 24) and its Explanatory Report are available on the website of the Parliamentary Assembly of the Council of Europe: <http://assembly.coe.int/Documents/WorkingDocs/Doc12/EDOC12818.pdf>

⁹ As of 28 February 2012, Senegal has not yet acceded to the Convention.

¹⁰ No objection from the United States of America was registered regarding the decision to invite Senegal to accede to the Convention on Cybercrime (ETS No. 185).

4.c 1130th meeting – 11 January 2012 – Item 2.4**Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197) – Request by Belarus to be invited to accede (GR-DEM(2011)14)***Decisions*

“The Deputies

1. invited Belarus to accede to the Council of Europe Convention on Action against Trafficking in Human Beings¹¹;
2. approved the agreement between the Republic of Belarus and the Council of Europe concerning the privileges and immunities of the members of the Group of Experts on Action against Trafficking in Human Beings and other members of country visit delegations, as it appears in document GR-DEM(2011)14¹², and authorised the Secretary General to sign it;
3. agreed that the signature of this agreement should take place, at the latest, at the time of deposit of the instrument of accession by Belarus to the Council of Europe Convention on Action against Trafficking in Human Beings.”

* * *

¹¹ As of 28 February 2012, Belarus has not yet acceded to the Convention.

¹² The herementioned agreement appears as **Appendix VII** to the present document.

5. RELATIONSHIP BETWEEN THE COUNCIL OF EUROPE AND THE EUROPEAN UNION

5.a 1126th meeting – 16 November 2011 – Item 2.3

Co-operation between the Council of Europe and the European Union – Summary report (GR-EXT(2011)7 rev)

Decisions

“The Deputies

1. took note of the summary report on co-operation between the Council of Europe and the European Union which appears in document GR-EXT(2011)7 rev¹³;
2. instructed their Rapporteur Group on External Relations (GR-EXT) to prepare a report on co-operation between the Council of Europe and the European Union enabling them to conduct a yearly review of this co-operation.”

5.b 1126th meeting – 16 November 2011 – Item 4.1

Steering Committee for Human Rights (CDDH) – Report to the Committee of Ministers on the elaboration of legal instruments for the accession of the European Union to the European Convention on Human Rights (CM(2011)149)

Decisions

“The Deputies

1. took note of the report of the CDDH on the elaboration of legal instruments for the accession of the European Union to the European Convention on Human Rights¹⁴;
2. agreed to resume discussion on this issue at their 1129th meeting (7 December 2011), in the light of possible developments¹⁵.”

5.c 1129th meeting – 7 December 2011 – Item 4.6a

Steering Committee for Human Rights (CDDH)

a. Abridged report of the extraordinary meeting (Strasbourg, 12-14 October 2011) (CM(2011)152)

Decisions

“The Deputies

1. agreed to extend the terms of reference of the Committee of Experts on a simplified procedure for amendment of certain provisions of the European Convention on Human Rights (DH-PS) to 31 May 2012;

¹³ The summary report on co-operation between the Council of Europe and the European Union appears as **Appendix VIII** to the present document.

¹⁴ The report of the CDDH to the Committee of Ministers is available on the website of the CDDH-UE, under “Meeting reports”: www.coe.int/t/dghl/standardsetting/hrpolicy/CDDH-UE

¹⁵ At their 1129th meeting, the Deputies agreed to resume consideration of this item at their 1131st meeting (18 January 2012). At the 1131st meeting, no decision was taken in this regard.

2. took note of the calendar of CDDH meetings and of those of the bodies answerable to it for 2012, as it appears in document CM(2011)152, Appendix II;

3. in the light of decisions 1 and 2 above, took note of the abridged report of the extraordinary meeting of the CDDH as a whole, as it appears in document CM(2011)152¹⁶.”

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¹⁶ The complete report of the Extraordinary Meeting of the Steering Committee for Human Rights (CDDH) appears as a working document under item 9 of the agenda of the 43rd meeting of the CAHDI and is available on the website of the CAHDI.

6. REFORM OF THE COUNCIL OF EUROPE

6.a 1116th meeting – 15-16 June 2011 – Item 1.5b

Conferences of specialised ministers

b. Revision of the legal framework

(CM(2011)24 corr3)

Decisions

“The Deputies

1. adopted Resolution CM/Res(2011)7¹⁷ on Council of Europe conferences of specialised ministers, as it appears at Appendix 4 to the present volume of Decisions;
2. agreed that this resolution would not apply for the organisation of conferences already scheduled at the time of this decision, as they appear in document CM/Inf(2011)19;
3. recalling CEMAT Resolution No. 3 and their own decision of 8 December 2010,¹ invited the GR-C to resume examination of the invitation to organise the 16th and 17th sessions of the CEMAT in the light of the present Resolution CM/Res(2011)7 and report back.”

6.b 1123rd meeting – 12 October 2011 – Item 2.4

“The reform of the Congress of Local and Regional Authorities within the Council of Europe reform” – Recommendation 299 (2011) of the Congress of Local and Regional Authorities of the Council of Europe

(Congress REC_299 (2011) and CM/Cong(2011)Rec299 prov2)

Decision

“The Deputies adopted the reply¹⁸ to Recommendation 299 (2011) of the Congress of Local and Regional Authorities of the Council of Europe on “The reform of the Congress of Local and Regional Authorities within the Council of Europe reform”¹⁹, as it appears at Appendix 8 to the present volume of Decisions.”

6.b 1125th meeting – 9 November 2011 – Item 1.7

Draft Resolution CM/Res(2011)... on intergovernmental committees and subordinate bodies, their terms of reference and working methods

(CM(2011)138 corr2)

Decision

“The Deputies adopted Resolution CM/Res(2011)24²⁰, as it appears at Appendix 2 to the present volume of Decisions.”

¹⁷ Resolution CM/Res(2011)7 appears as **Appendix IX** to the present document.

¹⁸ The reply of the Committee of Ministers to Recommendation 299 (2011) appears as **Appendix X** to the present document.

¹⁹ Recommendation 299 (2011) appears as **Appendix XI** to the present document.

²⁰ Resolution CM/Res(2011)24 appears as a working document under item 4 of the agenda of the 43rd meeting of the CAHDI and is available on the website of the CAHDI.

6.c 1131st meeting – 18 January 2012 – Item 1.8**“Follow-up to the reform of the Council of Europe” – Parliamentary Assembly Recommendation 1951 (2011)**

(Parliamentary Assembly REC_1951 (2011) and CM/AS(2012)Rec1951 prov)

Decision

“The Deputies adopted the reply²¹ to Parliamentary Assembly Recommendation 1951 (2011) on the “Follow-up to the reform of the Council of Europe”²², as it appears at Appendix 2 to the present volume of Decisions.”

6.d 1135th meeting – 22-23 February 2012 – Item 4.4**Reform of the system of the European Convention on Human Rights****b. Review of the work conducted by the Steering Committee for Human Rights (CDDH)**

(CM(2010)161, CM(2012)39, CM(2012)39 add1, CM(2012)39 add2 and CONF/PLE(2012)REC1)

Decisions

“The Deputies

1. took note of the CDDH’s current work on the reform of the Court, including the adoption by the CDDH of a final report on measures requiring amendment of the Convention (document CM(2012)39 add1)²³ and of a contribution (document CM(2012)39 add2)²⁴ to the high-level conference to be organised by the United Kingdom Chairmanship of the Committee of Ministers (18-20 April 2012, Brighton);
2. agreed to take into account the above-mentioned documents in the context of the preparation of the declaration to be adopted at the high-level conference;
3. invited their Ad hoc Working Party on Reform of the Human Rights Convention System (GT-REF.ECHR) to examine the draft Committee of Ministers’ Guidelines on the selection of candidates for the post of judge at the European Court of Human Rights and their explanatory memorandum and to report back before the high-level conference;
4. in the light of decisions 1 to 3 above, took note of the abridged report of the 74th meeting of the CDDH, as contained in document CM(2012)39, as a whole.”

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²¹ The reply of the Committee of Ministers to Recommendation 1951 (2011) appears as **Appendix XII** to the present document.

²² Recommendation 1951 (2011) appears as **Appendix XIII** to the present document.

²³ The CDDH final report is available on the website of the CDDH, under “Meeting Reports”: http://www.coe.int/t/dghl/standardsetting/cddh/Meetings_2012_en.asp

²⁴ The CDDH contribution to the high-level conference is available on the website of the CDDH, under “Meeting Reports”: http://www.coe.int/t/dghl/standardsetting/cddh/Meetings_2012_en.asp

7. NEIGHBOURHOOD COOPERATION

1130th meeting – 11 January 2012 - Item 2.5

Policy of the Council of Europe towards neighbouring regions – Draft neighbourhood co-operation priorities for Kazakhstan and for Morocco (DGProg/Inf(2011)3 and DGProg/Inf(2011)4)

Decisions

“The Deputies

1. endorsed the priorities for co-operation with Kazakhstan and Morocco for the period 2012-2014, as set out in documents DG/Prog(2011)3 and DG/Prog(2011)4 respectively;
2. asked the Secretariat to update these documents in due course and to elaborate, in close co-operation with the countries concerned and in co-ordination with other relevant actors, specific proposals for activities and modalities for their implementation, including operational presence, on the basis of these priorities, with a view to starting their implementation as soon as possible;
3. invited their Rapporteur Group on External Relations (GR-EXT) to continue to follow this matter and to report in due course on progress made.”

* * *

APPENDICES

APPENDIX I

RECOMMENDATION 1982 (2011)¹ OF THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE – “THE IMPACT OF THE LISBON TREATY ON THE COUNCIL OF EUROPE”

1. The Parliamentary Assembly, referring to its Resolution 1836 (2011) on the impact of the Lisbon Treaty on the Council of Europe, notes that the entry into force of the Lisbon Treaty has opened up new opportunities for a reinforced partnership between the Council of Europe and the European Union, based on their respective *acquis* and comparative advantages.

2. In the Assembly's view, such a partnership should aim to ensure coherence between the pan-European project promoted by the Council of Europe and the integration process initiated by the European Union, and ultimately lead to a common space for human rights protection across the continent, in the interest of all people in Europe.

3. While welcoming the steps already taken in the right direction, the Assembly recommends that the Committee of Ministers:

3.1. further consolidate the recently reinforced partnership between the two organisations, building on the 2007 Memorandum of Understanding, on the opportunities created by the Lisbon Treaty and on the perspectives opened up by the ongoing reform of the Council of Europe;

3.2. ensure that regular policy co-ordination between the Council of Europe and the European Union is further developed at all levels, including through the Council of Europe Liaison Office in Brussels and the European Union delegation to the Council of Europe in Strasbourg;

3.3. strengthen the role of the Council of Europe as “the guardian for human rights, the rule of law and democracy in Europe” and, in so doing, promote this fundamental role in its relations with the institutions of the European Union.

4. For the purpose of building a common space for human rights protection at the pan-European level and ensuring coherence of standards and the monitoring of their implementation throughout the continent, the Assembly asks the Committee of Ministers to:

4.1. take all measures necessary to ensure the rapid conclusion of the accession agreement of the European Union to the European Convention on Human Rights (ETS No. 5), its endorsement and entry into force;

4.2. promote and facilitate European Union accession to other key Council of Europe conventions, monitoring mechanisms and bodies, in particular through the ongoing review of Council of Europe conventions, while preserving the essence of each convention system and without prejudicing the effective functioning of each mechanism and body;

4.3. co-ordinate action with the European Union in the areas of migration and asylum and jointly ensure appropriate follow-up to the high-level meeting on Roma issues organised by the Council of Europe in October 2010;

4.4. promote coherence of normative activities within the two organisations, in particular through prior consultations at as early a stage as possible and at a high political level, in addition to inter-secretariat information sharing at operational level;

4.5. develop appropriate synergies between Council of Europe monitoring mechanisms and bodies and any new evaluation mechanisms to be set up by the European Union.

¹ Assembly debate on 5 October 2011 (33rd Sitting) (see Doc. 12713, report of the Political Affairs Committee, rapporteur: Ms Lundgren; Doc. 12743, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Omtzigt; Doc. 12741, opinion of the Committee on Culture, Science and Education, rapporteur: Mr Flego; and Doc. 12746, opinion of the Committee on Equal Opportunities for Women and Men, rapporteur: Mr Mendes Bota). Text adopted by the Assembly on 5 October 2011 (33rd Sitting).

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5. The Assembly further notes that the Lisbon Treaty, as well as recent events throughout the southern Mediterranean, have created new opportunities for co-operation between the two organisations in the context of a revised European Union European Neighbourhood Policy and a new Council of Europe policy towards neighbouring regions that proposes a demand-driven co-operation with the countries concerned, of which an important element is the partnership for democracy status created by the Assembly for parliaments in these regions.
 6. Building, *inter alia*, on these opportunities, the Assembly asks the Committee of Ministers to enhance the Council of Europe's expertise and standard-setting and advisory role in the context of the European Neighbourhood Policy, in particular to the extent that this policy applies to countries which are either Council of Europe member states or belong to its neighbourhood.
 7. Welcoming recent positive examples, the Assembly recommends that the Committee of Ministers further develop joint actions and joint programmes with the European Union and seek, in this context, a broader and more stable financial partnership with the European Union which would allow for increased strategic co-operation and joint long-term planning.
 8. The Assembly asks the Committee of Ministers to promote a better understanding and visibility of the reinforced partnership between the Council of Europe and the European Union in the present post-Lisbon Treaty period and raise public awareness about the need to further consolidate such a partnership in the interest of all people in Europe.
 9. The Assembly believes that the entry into force of the Lisbon Treaty and the ongoing reshaping of the European architecture give fresh topicality to the perspective of European Union accession to the Council of Europe Statute (ETS No. 1), already recommended in 2006 by the Juncker report, "Council of Europe – European Union: 'a sole ambition for the European continent'", and thus invites the Committee of Ministers to give further consideration to this question.

APPENDIX II

RECOMMENDATION 1983 (2011)¹ OF THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE – “ABUSE OF STATE SECRECY AND NATIONAL SECURITY: OBSTACLES TO PARLIAMENTARY AND JUDICIAL SCRUTINY OF HUMAN RIGHTS VIOLATIONS”

1. The Parliamentary Assembly refers to its Resolution 1838 (2011) on abuse of state secrecy and national security: obstacles to parliamentary and judicial scrutiny of human rights violations, and recalls its Recommendation 1916 (2010) on the protection of “whistle-blowers”, its Recommendation 1876 (2009) on the state of human rights in Europe: the need to eradicate impunity, and its Recommendation 1950 (2011) on the protection of journalists’ sources.

2. It calls on the Committee of Ministers to:

2.1. draw up a recommendation on the notion of state secrecy and the use to be made of it, specifying that the legislation of a member state cannot rely on state secrecy and national security in a way which would prevent an independent, effective and impartial investigation of alleged human rights violations, prevent perpetrators from being held accountable, prevent victims from having an effective remedy and from receiving an effective reparation, or prevent public disclosure of the truth about the alleged human rights violations;

2.2. invite all member states to review or, if necessary, set up suitable and effective parliamentary and other independent mechanisms for the oversight of the secret services and to ensure that they have the requisite power, resources and expertise to initiate and conduct their own investigations, as well as full and unhindered access to the information, officials and installations necessary to fulfil their mandates. Member states should ensure that these oversight mechanisms receive the full co-operation of intelligence services and law enforcement authorities in hearing witnesses, as well as in obtaining documentation and other evidence;

2.3. invite all member states to review or, as appropriate, set up special procedures in the criminal and civil courts to permit proper conduct of proceedings involving the handling of information of a sensitive nature covered by secrecy, taking into account the state’s legitimate interests and its security.

¹ Assembly debate on 6 October 2011 (34th Sitting) (see Doc. 12714, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Marty). Text adopted by the Assembly on 6 October 2011 (34th Sitting).

APPENDIX III

RESOLUTION 1830 (2011)¹ OF THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE – “REQUEST FOR PARTNER FOR DEMOCRACY STATUS WITH THE PARLIAMENTARY ASSEMBLY SUBMITTED BY THE PALESTINIAN NATIONAL COUNCIL”

1. In adopting Resolution 1680 (2009) on the establishment of a “partner for democracy” status with the Parliamentary Assembly, the Parliamentary Assembly resolved to establish a new status for institutional co-operation with parliaments of non-member states in neighbouring regions wishing to benefit from the Assembly’s experience in democracy building and to participate in the political debate on common challenges which transcend European boundaries. A new Rule 60 of the Assembly’s Rules of Procedure, setting out the conditions and methods for granting such a status, including formal political commitments that the parliament concerned must undertake, came into force in January 2010.

2. The Assembly considers that by explicitly referring in its Resolution 1680 (2009) to the eligibility of the Palestinian Legislative Council to request partner for democracy status, it implicitly stated that such status was independent from recognition of a Palestinian state.

3. In September 2009, the Speaker of the Palestinian National Council (PNC) had already expressed interest in the status and, after the Assembly had decided on the admissibility of such a request in October 2010, the Speaker of the PNC conveyed the official request of the PNC to be granted the status of partner for democracy with the Parliamentary Assembly of the Council of Europe on 3 November 2010.

4. The Assembly takes note that, in his letter, the Speaker of the PNC, in line with the requirements set out in Rule 60.2 of the Rules of Procedure, reaffirmed that “the Palestinian National Council is committed to the same values as those of the Council of Europe, namely pluralist and gender parity-based democracy, the rule of law and respect for human rights and fundamental freedoms”, and committed itself to:

4.1. “continuing [its] efforts to raise the awareness of the public authorities and the main players in politics and civil society of the need to make progress in the discussion of issues relating to the abolition of the death penalty and to encourage the authorities concerned to maintain the de facto moratorium that has been established on executions ... since 2005”;

4.2. “making full use, in [its] institutional and legislative work, of the experience of the Parliamentary Assembly of the Council of Europe, as well as the expertise of the European Commission for Democracy through Law (Venice Commission), bearing in mind that the Palestinian National Authority has an observer status with the Venice Commission”;

4.3. “continuing [its] efforts to create favourable conditions for holding free, fair and transparent elections in compliance with relevant international standards”;

4.4. “encouraging equal participation of women and men in public life and politics”;

4.5. “encouraging the competent authorities of the Palestinian National Authority to accede to relevant Council of Europe conventions and partial agreements that are open for signature and ratification by non-member states, in particular those dealing with human rights, the rule of law and democracy issues”;

4.6. “inform[ing] the Assembly regularly on the state of progress made in the implementation of the principles of the Council of Europe”.

5. The Assembly therefore considers that the request by the PNC meets the formal conditions set out in its Rules of Procedure.

6. The Assembly acknowledges that the Palestinian society at all levels – political parties, trade unions, human rights organisations, organisations for women, universities, religious communities and others – has high expectations about the PNC becoming a partner for democracy with the Parliamentary Assembly of the

¹ Assembly debate on 4 October 2011 (30th Sitting) (see Doc. 12711, report of the Political Affairs Committee, rapporteur: Mr Kox; Doc. 12738, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Ms Türköne; and Doc. 12736, opinion of the Committee on Equal Opportunities for Women and Men, rapporteur: Ms Hägg). Text adopted by the Assembly on 4 October 2011 (30th Sitting).

Council of Europe. Acquiring this status is considered to be an important incentive to further develop democracy, the rule of law and protection of human rights in the Palestinian territories.

7. The Assembly recalls that both the presidential election of 2005 and the parliamentary elections of 2006 in the Palestinian territories were observed by the Assembly and were considered to be free and fair. The Assembly also notes that new elections for the presidency and parliament are foreseen before June 2012.

8. The Assembly notes that important progress is being made in the parts of the Palestinian territories which are under the authority of the Palestinian National Authority towards the development of an independent judiciary and an efficient fight against corruption, and in favour of public transparency.

9. Further development of the core values upheld by the Council of Europe in the Palestinian territories is much hindered by the fact that the larger part of these territories is still under Israeli military occupation. Any progress in finding a peaceful solution to the Israeli–Palestinian conflict would open many new opportunities in the Palestinian territories to develop and strengthen democracy, the rule of law and the protection of human rights.

10. At a time when the people in a number of Arab and Mediterranean countries have clearly expressed the wish to enjoy fundamental political and social rights, the Assembly deems it important that Palestinians, with their emerging political institutions, continue firmly on the path of democratic transformation.

11. The Assembly welcomes the PNC's commitment to deep constitutional, institutional, political and legal reforms, and encourages the national authorities to make full use of the Council of Europe expertise and adhere to and promote Council of Europe standards in carrying out such reforms. It further welcomes the announcement of a reconciliation between those in charge in the West Bank and in the Gaza Strip. It considers that the partner for democracy status provides an appropriate framework for a stronger involvement of the PNC in the process of reforms.

12. Against this background, the Assembly considers that the following specific issues are of key importance for strengthening democracy, the rule of law and the respect of human rights and fundamental freedoms in the Palestinian territories:

12.1. rapidly concluding the negotiations for the formation of a government of national unity and setting universally acceptable dates for the presidential, parliamentary and local elections;

12.2. holding such elections in accordance with relevant international standards in the whole of the Palestinian territories;

12.3. taking definite and significant steps in the direction of the three pleas made by the Quartet: to refrain from violence; to recognise the right of the State of Israel to exist; to abide by all the agreements signed by the Palestinian representatives in recent years;

12.4. reforming the structure of the PNC so that it becomes, to the largest possible extent, a democratically elected body;

12.5. actively promoting equal opportunities for women and men in political and public life; fighting all forms of discrimination (in law and in practice) based on gender; ensuring effective equality between women and men, including as regards marriage, divorce, polygamy and inheritance law and, where necessary, initiating a process of legislative revision; fighting all forms of gender-based violence;

12.6. abolishing the death penalty set out in the Penal Code, going beyond the de facto moratorium on executions which has been effective, at least in the West Bank, since 2005;

12.7. explicitly rejecting the use of terrorism and combating it actively with measures respecting human rights and the rule of law;

12.8. freeing the soldier Gilad Shalit;

12.9. ending all illegal smuggling of weapons into the Gaza Strip and the West Bank;

12.10. adhering to and effectively implementing relevant international instruments in the field of human rights, including full co-operation with United Nations special mechanisms and implementation of the United Nations Universal Periodic Review recommendations;

12.11. guaranteeing freedom and pluralism of the media;

12.12. eradicating and preventing torture and inhuman or degrading treatment of persons deprived of their freedom; fighting impunity for crimes of torture and ill-treatment;

12.13. improving conditions of detention, in line with the United Nations prison-related norms and standards; the conditions under which the Israeli soldier Gilad Shalit has been detained since 2006 are particularly unacceptable;

12.14. fighting racism, xenophobia and all forms of discrimination;

12.15. fighting corruption;

12.16. strengthening local and regional democracy;

12.17. ensuring full respect for freedom of conscience, of religion and of belief, including the right to change one's religion;

12.18. guaranteeing and promoting freedom of association and of peaceful assembly.

13. The Assembly expects the Palestinian National Authority to accede in due course to relevant Council of Europe conventions and partial agreements, in particular those dealing with human rights, the rule of law and democracy, in accordance with the commitment contained in the letter of 3 November 2010 from the Speaker of the PNC.

14. The Assembly calls on the PNC to enhance its contribution to solving the Israeli–Palestinian conflict, in accordance with the relevant resolutions of the United Nations Security Council and as stressed in the relevant Assembly resolutions.

15. Furthermore, the Assembly expects the Palestinians to seek the settlement of international disputes by peaceful means in accordance with the Charter of the United Nations.

16. Noting that the PNC has reiterated its determination to work to ensure full implementation of the political commitments contained in Rule 60.2 of the Rules of Procedure and entered into by the letter of its Speaker on 3 November 2010, the Assembly resolves to:

16.1. grant partner for democracy status to the Palestinian National Council as from the moment of the adoption of the present resolution;

16.2. invite the PNC to appoint, from among its democratically elected members, a partner for democracy delegation consisting of three representatives and three substitutes to be composed in accordance with Rule 60.4 of the Assembly's Rules of Procedure.

17. The Assembly believes that progress in taking forward reforms is the prime aim of the partnership for democracy and should constitute the benchmark for assessing the efficiency of this partnership.

18. It accordingly resolves to review, no later than two years from the adoption of this resolution, the state of progress achieved in implementing the political commitments undertaken by the PNC, as well as in carrying forward the specific issues mentioned in paragraph 12 above.

19. The Assembly stresses the importance of free and fair elections as a cornerstone of a genuine democracy. It therefore expects to be invited to observe parliamentary elections in the Palestinian territories as from the general elections expected before June 2012.

20. The Assembly is confident that granting partner for democracy status to the PNC will contribute to intensifying co-operation between the Palestinians and the Council of Europe and promoting Palestine's accession in due course to Council of Europe conventions. It therefore encourages the Secretary General of the Council of Europe, in co-ordination, as appropriate, with the European Union, to mobilise the Organisation's expertise, including that of the Venice Commission, with a view to contributing to the full implementation of democratic reforms in the Palestinian territories.

APPENDIX IV

RESOLUTION 1831 (2011)¹ OF THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE – “CO-OPERATION BETWEEN THE COUNCIL OF EUROPE AND THE EMERGING DEMOCRACIES IN ARAB WORLD

1. The Parliamentary Assembly has been following with great interest and concern the evolution of the “Arab spring”: the popular protest movements, which have been breaking out throughout the Arab world since the beginning of the year and which have already brought about the most dramatic changes in the region since the 1950s. Referring also to its Resolution 1791 (2011) and Resolution 1819 (2011) on the situation in Tunisia, the Assembly welcomes, in particular, the encouraging developments in Tunisia and Egypt and fully supports the process of democratic transition in these countries.

2. The Assembly pays tribute to the memory of Mohammed Bouazizi, whose desperate act of protest instigated the uprisings taking place in the Arab world, and to that of the victims of repression who have lost their lives in the struggle for democracy. It deeply regrets the significant loss of human life and extends its sympathy to the families of those killed and to those injured.

3. The Assembly welcomes the success of the democratic forces in Libya. It supports United Nations Security Council Resolution 2009 aimed at assisting the transitional authorities in Libya and is ready to assist the authorities if they so wish. It calls on the National Transitional Council to do its utmost to prevent human rights abuses by the forces under its control and to bring to account those responsible for alleged abuses.

4. The Assembly is particularly disturbed by the situation in Syria, where the authorities have launched brutal repression against their own people resulting in thousands of deaths. It unequivocally condemns the use of violence against the populations and urges its immediate cessation. It calls on the authorities of the Council of Europe member states to impose firm and effective sanctions on those who have contributed or are contributing to violence against the people. There must be no impunity for crimes against humanity, whoever committed them. The Assembly therefore calls on the international community, including, as appropriate, the International Criminal Court, to ensure that all such crimes are investigated and punished.

5. The Assembly calls for the release of all those arrested for their political support for democratic changes. It also urges the de facto and de jure authorities in the countries experiencing unrest to facilitate the departure of foreigners wishing to leave. It asks them to allow medical relief teams and representatives of humanitarian organisations to have free access to the areas where clashes occur.

6. The Assembly regrets the tragic fate of refugees who drown in the Mediterranean and calls on all member states to provide additional aid in this humanitarian emergency situation and to honour their commitment to the Geneva Conventions.

7. The Assembly also regrets that the countries of the Arab world have failed to take advantage of the important oil-generated resources to ensure the implementation of social progress, either for their home state or to assist their neighbours, in a spirit of solidarity. However, it recognises that some part of the responsibility for past failures rests with Europe which, in its dealings with the Arab world, has given excessive weight to factors affecting short-term stability to the detriment of those affecting longer-term development consistent with the values upheld by the Council of Europe.

8. Today, Europe must help bring about a peaceful transition to democracy and respect of human rights in the Arab countries concerned, some of which are its immediate neighbours, with humility and mutual respect, and prevent the emergence of military or theocratic regimes, or degeneration into chaos following a prolonged absence of authority. In particular, it is essential to:

8.1. engage in a dialogue with the democratic forces in the countries concerned;

8.2. encourage respect for public liberties, including freedom of religion and the right to change one's religion, and allow all religions to be practised openly;

8.3. implement paragraph 15 of Assembly Recommendation 1957 (2011) on violence against Christians in the Middle East;

¹ Assembly debate on 4 October 2011 (31st Sitting) (see Doc. 12699, report of the Political Affairs Committee, rapporteur: Mr Gardetto). Text adopted by the Assembly on 4 October 2011 (31st Sitting).

8.4. review and, if necessary, reform national laws, including family law, so that they comply with international law on gender equality guaranteeing that women have equal rights and opportunities, and ensure that women are able to exercise these rights and to participate fully and equally in social and political life, particularly in the democratic processes of transition, in voting and standing for elections, and in the setting up of businesses;

8.5. assist the countries concerned in developing regional and local democracy;

8.6. take into account the opinions of those civil society bodies which promote democracy, human rights and the rule of law, develop a dialogue with them and help them become stronger.

9. The Assembly believes that the stability of the Arab world aspiring to democracy would be facilitated by finding a solution to the main conflicts which remain in the region; it calls, in particular, on the Israelis and the Palestinians to take advantage of the opportunity brought about by the Arab revolutions to reopen peace negotiations, on the basis of the principles it already set out in its Resolution 1700 (2010) on the situation in the Middle East.

10. The Assembly takes this opportunity to call on the members of the United Nations Security Council – and in particular on France, Russia, the United Kingdom, Bosnia and Herzegovina, Germany and Portugal, all Council of Europe member states – to support the Palestinian formal request to join the United Nations as a fully fledged member.

11. The Arab countries in the vicinity of Europe can benefit from the Council of Europe's experience in the field of democratic transition and in particular from the status of partner for democracy with the Parliamentary Assembly, recently established for the parliaments of these countries. In this respect, the Assembly refers to its Resolution 1818 (2011) whereby it granted this status to the Parliament of Morocco on 21 June 2011 and expects to be fully accredited to observe the parliamentary elections to be held in Morocco on 25 November 2011 in accordance with the terms of this resolution. It also notes that the Palestinian National Council was granted the status of partner for democracy on 4 October 2011.

12. The Assembly undertakes to continue its close monitoring of political developments in each of the Arab countries in Europe's neighbourhood and to strengthen its co-operation with the parliaments of the countries engaged in the democratic process. In particular, it is ready to invite parliamentarians representing the democratic movements in the countries on the southern shores of the Mediterranean to take part in the Forum for the Future of Democracy, the next session of which will be held in Cyprus in October 2011.

13. The Assembly calls on the authorities of Tunisia and Egypt to create a climate of trust before and during the forthcoming elections in their countries, so that the populations go to vote, and to take all adequate measures to ensure that these elections are free and fair in order to give appropriate legitimacy to the new institutions.

14. It encourages the authorities of the Arab countries in the neighbourhood of Europe, which are engaged in the democratic process, to intensify and broaden their co-operation with the Council of Europe, and in particular to:

14.1. be guided by the standards of Council of Europe conventions in the field of human rights and consider acceding to the Council of Europe legal instruments open to non-member states and enlarged partial agreements, in particular the European Centre for Global Interdependence and Solidarity (North-South Centre) and the European Commission for Democracy through Law (Venice Commission);

14.2. promote dialogue and co-operation between their parliaments and the Assembly, particularly in the light of the recently established partner for democracy status;

14.3. abolish the death penalty and, in the meantime, introduce or maintain a moratorium on executions.

15. The Assembly welcomes the Council of Europe policy towards its immediate neighbourhood aimed at promoting dialogue and co-operation with the countries and regions in the vicinity of Europe, proposed by the Secretary General of the Council of Europe, and calls on him to:

15.1. establish contacts with the authorities of Arab countries in Europe's neighbourhood which are engaged in the democratic process, and to consider measures to support civil society in those countries;

15.2. consider ways in which representatives of young people in those countries can be involved in Council of Europe activities in the youth field;

15.3. consider ways of involving representatives of those countries in the Summer University for Democracy and in the Strasbourg International Forum for Democracy, the setting up of which was proposed by the Assembly, in particular by promoting initiatives such as the schools of political studies;

15.4. co-ordinate his action with that of Council of Europe member states and the European Union;

15.5. establish contacts with the League of Arab States and explore the possibilities to share the experience of the Council of Europe with Arab countries in the fields of democracy, human rights and the rule of law.

16. The Assembly calls on the Council of Europe Development Bank to examine the possibility of helping emerging democracies in the Arab world in Europe's neighbourhood and civil society in the countries concerned to the fullest extent possible and on the basis of specific arrangements.

17. The Assembly urges the principal international partners of the southern Mediterranean countries engaged in a process of democratisation, the European Union and the Union for the Mediterranean, international organisations with a financial remit and the member states of the Council of Europe to provide support for their recovery. It particularly urges Arab countries with substantial financial resources to contribute to this effort.

18. It is essential to follow the welcomed initiative of the European Bank for Reconstruction and Development to encourage and facilitate investment in the countries of the Arab world on the path towards democracy, facilitate their access to European markets, in particular agricultural markets, trade, enterprise start-up, as well as the creation of infrastructures and jobs. In this perspective, and taking into account the Euro-Mediterranean association agreements with the Maghreb and Mashreq countries, it is important to call for the establishment of funds specifically designed for investment in the Arab countries in the neighbourhood of Europe which are evolving towards democracy.

19. It is also imperative to create de facto solidarity between the two shores of the Mediterranean and to meet the needs of young people of the south in terms of communication with the outside and of belonging to the community by:

19.1. facilitating a greater number of exchanges between young people from the north and the south, as well as mobility, through the granting of visas and facilitating the acquisition of experience by students who will have demonstrated their skills;

19.2. turning to good account the diaspora networks of the countries of the southern shore of the Mediterranean that have been successful abroad and enabling young people from the south to look to them for support;

19.3. allowing the youth of the south to benefit from the European institutions and programs and helping them realise projects;

19.4. building connections between universities and between NGOs on both sides of the Mediterranean;

19.5. developing networks of entrepreneurs;

19.6. assisting civil society and facilitating access to information, in particular through opening access to the Internet and giving journalists and bloggers the opportunity to be heard.

20. The economic recovery and expansion of the countries concerned, and consequently their transition to democracy, will not be sustainable unless there are resolute efforts to combat corruption at all levels of society, to remove bureaucracy, which stifles energy, and to put a stop to the distribution of advantages based on tribal or religious affiliation.

21. Europe must realise that reducing the gap in development between the countries in the north and the south of the Mediterranean should be a priority, in the interest of Europeans themselves and of course of the populations of the south, the aim being to enable the men and women of the south who so wish to remain in their countries, find employment there and enjoy fundamental freedoms and a good quality of life.

22. The Assembly wishes to prompt discussion with all parties concerned on the desirability of convening a summit of heads of state and government of the democracies of Europe and the southern Mediterranean to discuss co-operation between the Council of Europe and the emerging democracies in the Arab countries in Europe's neighbourhood.

APPENDIX V

RESOLUTION 1832 (2011)¹ OF THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE – “NATIONAL SOVEREIGNTY AND STATEHOOD IN CONTEMPORARY INTERNATIONAL LAW: THE NEED FOR CLARIFICATION”

1. The Parliamentary Assembly observes that a number of territorial entities in Council of Europe member states are aspiring to be recognised as independent states.

2. It notes that the criteria for statehood remain a contentious issue in contemporary international law.

3. The lack of clear criteria for statehood and for lawful secession on the one hand, and violations of minority and human rights as well as the lack of democracy and participation on the other hand, have encouraged the emergence of numerous secessionist movements and thereby threaten peace, stability and the territorial integrity of existing states, including in Europe.

4. The Assembly notes that the notions of national sovereignty and statehood have evolved in recent years. Key developments were summed up in 2001 by the high-level International Commission on Intervention and State Sovereignty (ICISS) under the aegis of the United Nations and supported by Canada. Its findings were taken up by the United Nations General Assembly.

5. A multilateral approach to the “responsibility to protect”, as advocated by the ICISS, is taking the place of arbitrary unilateral interventions and bilateral guarantees:

5.1. military interventions such as those by Turkey in Cyprus in 1974, by the North Atlantic Treaty Organization (NATO) in the Federal Republic of Yugoslavia in 1999 and by the Russian Federation in Georgia in 2008, whilst motivated – justifiably or not – by the need to stop serious human rights violations, have themselves led to numerous human rights violations and have not produced lasting solutions for the underlying problems;

5.2. bilateral guarantees such as those in the context of the independence of Cyprus have not prevented conflicts. On the contrary, in the case of Cyprus they were used as an excuse for unilateral military intervention, conflicting with Article 2.4 of the Charter of the United Nations and a peremptory norm of international law prohibiting the use of force.

6. European integration and co-operation have led to a voluntary transfer of certain aspects of national sovereignty, in particular:

6.1. the rights and freedoms of individuals are protected by the supervisory mechanism of the European Convention on Human Rights (ETS No. 5 – the Convention); States Parties to the Convention have accepted the duty to implement the judgments of the European Court of Human Rights, with considerations of national sovereignty being of secondary importance;

6.2. European integration, in particular the introduction of the euro, the official currency of the eurozone, has entailed the transfer to the European Union of a number of sectors which were traditionally under national sovereignty, particularly in matters of economic and monetary policies, and is increasingly affecting choices of fiscal and social policies. Increasing economic integration is having similar effects even on countries which are not members of the eurozone or the European Union.

7. The Assembly considers that even if international law were to recognise a right of national or ethnic minorities or even, in some cases, national majorities, to self-determination, such a right would not give rise to an automatic right to secession. The right to self-determination should first and foremost be implemented by way of the protection of minority rights as foreseen in the Council of Europe Framework Convention for the Protection of National Minorities (ETS No. 157) and Assembly Resolution 1334 (2003) on positive experiences of autonomous regions as a source of inspiration for conflict resolution in Europe, as well as in other relevant instruments of international law.

8. The Assembly therefore:

¹ Assembly debate on 4 October 2011 (31st Sitting) (see Doc. 12689, report of the Committee on Legal Affairs and Human Rights, rapporteur: Ms Schuster). Text adopted by the Assembly on 4 October 2011 (31st Sitting).

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- 8.1. reiterates its invitation to those member states which have not yet done so to sign, ratify and implement the aforementioned framework convention and to respect the basic principles set out in Assembly Resolution 1334 (2003) as soon as possible;
 - 8.2. will continue to analyse the origin and trends of self-determination movements by addressing the most salient factors, in particular instances of growing tensions among minority or ethnic groups, and to support national parliaments in addressing these demands for self-determination through dialogue and reconciliation, in order to prevent recourse to violence and secession;
 - 8.3. invites all member states to refrain from recognising or supporting in any way the de facto authorities of territories resulting from unlawful secessions, in particular those supported by foreign military interventions;
 - 8.4. notes that conflicts should be solved exclusively by peaceful means on the basis of international law;
 - 8.5. proposes that the criteria for statehood, including those for the emergence of new states by legal secession, and the modalities of protection of national sovereignty and territorial integrity of states be examined thoroughly in the framework of a follow-up conference to the International Commission on Intervention and State Sovereignty.

APPENDIX VI

RESOLUTION 1863 (2011)¹ OF THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE – “ENFORCED POPULATION TRANSFER AS A HUMAN RIGHTS VIOLATION” (PROVISIONAL EDITION)

1. Population transfer is a practice or policy having the purpose or effect of moving persons into or out of an area, either within or across an international border, or within, into or out of an occupied territory, without the free and informed consent of the transferred population and any receiving population. It involves collective expulsions or deportations and often ethnic cleansing.
2. Enforced population transfers have not only occurred in history, the practice and its consequences still affects present conflicts such as those in the Western Balkans, Cyprus and the Caucasus region.
3. Enforced population transfer traumatises the populations concerned, causes much individual suffering and leads to political instability.
4. Acts of enforced population transfer have been declared illegal several times since the Allied Resolution on German War Crimes, adopted in 1942. The strongest and most recent condemnation is found in the Rome Statute of the International Criminal Court, which clearly defines deportation, forcible transfer of population and implantation of settlers as war crimes.
5. Deportation on political and ethnic grounds of groups of populations occurred before, during and after the Second World War and their consequences still remain.
6. There is currently no single legal principle applicable to population transfers, which take many forms. But enforced population transfers violate international human rights law (in particular the European Convention on Human Rights (ETS No. 5) and its Protocols), international criminal law and international humanitarian law, as well as public international law principles such as the principle of self-determination.
7. The Parliamentary Assembly:
 - 7.1. expressly condemns any form of enforced population transfer, in Europe and elsewhere in the world;
 - 7.2. invites the member states of the Council of Europe to condemn any such practice, including in their international relations with states outside Europe;
 - 7.3. invites the member states of the Council of Europe to properly investigate their own past with regard to enforced population transfers and to promote knowledge thereof among their populations;
 - 7.4. calls on the member states of the Council of Europe to promote, in international fora, the adoption of an international, legally binding instrument which consolidates the existing standards set out in different international law instruments and defines and outlaws all forms of enforced population transfers.
8. The Assembly recalls its Resolution 1522 (2006) on the establishment of a European remembrance centre for victims of forced population movements and ethnic cleansing.
9. In the case of a conflict between two countries regarding the existence of enforced population transfer or its consequences, both countries will open their archives and will form a committee that consists of academics or history professors from both countries. If needed, they will be provided full access to the archives of third- party countries. This matter will be investigated scientifically and a consensus will be reached in a more objective way by historians rather than politicians. The political exploitation of history is by no means acceptable.

¹ Assembly debate on 27 January 2012 (9th Sitting) (see Doc. 12819, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Vareikis; Doc. 12853, opinion of the Committee on Migration, Refugees and Displaced Persons, rapporteur: Mr Türkeş). Text adopted by the Assembly on 27 January 2012 (9th Sitting).

APPENDIX VII

DRAFT AGREEMENT BETWEEN THE REPUBLIC OF BELARUS AND THE COUNCIL OF EUROPE CONCERNING THE PRIVILEGES AND IMMUNITIES OF THE MEMBERS OF THE GROUP OF EXPERTS ON ACTION AGAINST TRAFFICKING IN HUMAN BEINGS AND OTHER MEMBERS OF COUNTRY VISIT DELEGATIONS

The Republic of Belarus and the Council of Europe, hereinafter referred to as "the Parties",

Considering the invitation made by the Committee of Ministers of the Council of Europe to the Republic of Belarus to accede to the *Council of Europe Convention on Action against Trafficking in Human Beings* (hereinafter referred to as "the Convention"),

Considering that the *Group of Experts on Action against Trafficking in Human Beings* (hereinafter referred to as "GRETA") monitors the implementation of this Convention, including by country visits,

Having in mind the importance for the members of GRETA and the other members of the country visit delegations to enjoy privileges and immunities when traveling to the Republic of Belarus in connection with their functions,

Having regard to the decision of the Committee of Ministers of the Council of Europe of approving this agreement,

Have agreed as follows:

Article 1

1. This Agreement shall apply to the members of GRETA mentioned in Article 36 of the Convention, as well as to other members of the country visit delegations. For the purpose of this Agreement, the term "other members of the country visit delegations" shall include the specialists and the independent national experts mentioned in Article 38 of the Convention, staff members of the Council of Europe and interpreters employed by the Council of Europe accompanying GRETA during its country visits as mentioned in Rule 8 of the *Rules of procedure for evaluating implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the parties*.

2. Privileges and immunities are granted to the persons mentioned in paragraph 1 of this Article in order to safeguard the independent exercise of their functions in the interests of GRETA and not for their personal benefit. The waiver of immunities of the persons mentioned in paragraph 1 of this Article shall be made by the Secretary General of the Council of Europe. Such a waiver shall be made in cases where, in the opinion of the Secretary General of the Council of Europe, the immunity of the person concerned would impede the course of justice and can be waived without prejudice to the interests of GRETA.

Article 2

The members of GRETA and the other members of the country visit delegations shall, while exercising their functions relating to the preparation and the carrying out of country visits as well as the follow-up thereto and traveling in connection with those functions, enjoy the following privileges and immunities:

- a. immunity from personal arrest or detention and from seizure of their personal baggage, and immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in their official capacity;
- b. exemption from all restrictions relating to their freedom of movement in the Republic of Belarus, including the freedom to leave and to enter the Republic of Belarus, as well as from all aliens' registration formalities in the Republic of Belarus. This does not include exemption from the special authorisation for entry or stay which is required with respect to those facilities and locations, access to which by foreigners or stateless persons is subject to special authorisation under the legislation of the Republic of Belarus.

Article 3

1. The independent national experts mentioned in Article 38 of the Convention enjoy the privileges and immunities indicated in Article 2 of this Agreement to the extent that these privileges and immunities are necessary for the implementation of their functions in assisting GRETA when carrying out visits to the Republic of Belarus within the competence of GRETA. Belarus exercises its jurisdiction over national experts, mentioned in Article 38 of the Convention, so as not to interfere improperly in the implementation of GRETA's functions.

2. For the purpose of this Agreement, the role of the independent national expert, as mentioned in Article 38 of the Convention and Rule 8 of the Rules of Procedure for evaluating implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the parties, is to assist GRETA in the organisation of the country visit notably by providing information on the legal and policy framework for action against trafficking in human beings and on its implementation in the country concerned.

Article 4

1. The Republic of Belarus shall, in accordance with such laws and regulations as it may adopt, permit importation of and grant exemption from all customs duties, taxes, and related charges other than charges for storage, cartage and similar services on:

- a. articles for the official use of the members of GRETA and the other members of the country visit delegations;
- b. articles for the personal use of the members of GRETA and the other members of the country visit delegations.

2. The personal baggage of the members of GRETA and the other members of the country visit delegations shall be exempt from inspection, unless there are serious grounds for presuming that it contains articles not covered by the exemptions referred to in paragraph 1 of this Article, or articles the import or export of which is prohibited by the law or controlled by the quarantine regulations of the Republic of Belarus.

Such inspection shall be conducted only in the presence of the members of GRETA and the other members of the country visit delegations or their authorised representatives.

Article 5

The documents relating to the evaluation of the implementation of the Convention by the Republic of Belarus carried by members of GRETA and other members of the country visit delegations shall be inviolable insofar as they concern the activity of GRETA. No stoppage or censorship shall be applied to the official correspondence of GRETA and official communications of members of GRETA and other members of the country visit delegations.

Article 6

In order to secure for the members of GRETA and the other members of the country visit delegations complete freedom of speech and complete independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts performed by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer the members of GRETA or the members of the country visit delegations.

Article 7

This Agreement may be amended by written consent of the Parties.

Article 8

In any dispute or disagreement over the interpretation or the implementation of this Agreement, a settlement shall be reached through consultations or negotiations between the Parties.

Article 9

The denunciation of the Convention by the Republic of Belarus in pursuance of Article 46 of the Convention shall cause this Agreement to be revoked *ipso facto*.

Article 10

1. This Agreement shall enter into force on the date of receipt by the Secretary General of the Council of Europe of the written notification of the fulfillment by the Republic of Belarus of all necessary domestic procedures.

2. The copies of this notification, duly certified, shall be sent by the Secretary General of the Council of Europe to the Council of Europe Member States and other parties to the Convention.

In witness whereof, the respective representatives have signed this Agreement.

Done in Strasbourg on in Russian, English and French, all texts being equally authentic, in two copies, one of which will be deposited in the archives of the Council of Europe and the other handed to the Representative of the Republic of Belarus. In case of any divergence of interpretation, the English text shall prevail.

For the Republic of Belarus

For the Council of Europe

APPENDIX VIII

SUMMARY REPORT ON CO-OPERATION BETWEEN THE COUNCIL OF EUROPE AND THE EUROPEAN UNION

1. The entry into force of the Lisbon Treaty in 2009 has created new opportunities to enhance co-operation between the Council of Europe and the European Union. Since then, the partnership has developed, driven by the common will at the highest level to combine forces to better address relevant challenges facing Europe and its neighbourhood.

2. High-level political consultations between the Council of Europe and the European Union have taken place, focusing on topical issues of mutual interest. They included high-level Meetings, under the chairmanship of Turkey and Ukraine, with the High Representative of the Union for Foreign Affairs and Security Policy¹, as well as regular consultations between the Secretary General and the President of the European Commission, several Commissioners, the President of the European Council, the President of the European Parliament and representatives of the EU rotating presidency. These consultations have resulted in increased policy co-ordination and set a framework for intensified collaboration at operational level, including in the field. With a view to further consolidating this new dynamic, formal annual 'High Level Political Dialogue Meetings', replacing the former 'Quadripartite' meetings, will be complemented by informal *ad hoc* agenda-driven meetings between the Secretary General and leaders of the European Union.

3. Co-operation has been significantly facilitated by the reinforcement of the Council of Europe Liaison Office in Brussels and the opening of a Delegation of the European Union to the Council of Europe in Strasbourg. Inter-institutional relations have also increased, in particular through exchanges between the Parliamentary Assembly and the European Parliament, between the Congress of Local and Regional Authorities and the Committee of the Regions, and between the European Court of Human Rights and the European Court of Justice.

4. Negotiations at expert level on accession of the European Union to the European Convention on Human Rights (ECHR), launched in July 2010, led to the elaboration of a Draft Accession Agreement in October 2011. However, at this stage, the timeframe for its conclusion, endorsement and then ratification at national level remains difficult to predict. In that respect, leaders of the Council of Europe and the European Union have repeatedly expressed their strong commitment to a rapid accession of the European Union to the ECHR, stressing *inter alia* that accession would offer a unique opportunity to complete the construction of a coherent area of human rights protection across Europe. From an institutional point of view, it might be useful to recall that accession will also significantly change the nature of relations between the Council of Europe and the European Union since it will ultimately lead to a stronger participation of the European Union in the Council of Europe's human rights protection system².

5. Contacts have also intensified at political and operational levels in areas such as the fight against terrorism, cybercrime, corruption, trafficking in human beings and the protection of children's rights, with a view to ensuring "coherence of European Union law and Council of Europe standards"³ and synergies between the European Union and monitoring mechanisms of the Council of Europe. Discussions are ongoing, for instance on participation of the European Union in GRECO. In this framework, synergies have also been established between the Council of Europe and the Agency for Fundamental Rights of the European Union (FRA).

6. Joint Programmes⁴ between the Council of Europe and the European Union have remained a useful tool to promote human rights, democracy and the rule of law in Europe. They represent the largest source of funding sustaining Council of Europe technical assistance and cooperation projects in support of

¹ - In Brussels, on 4 March 2011, with the Chairman-in-Office of the Committee of Ministers of the Council of Europe, Ahmet Davutoğlu, the Secretary General of the Council of Europe, Thorbjørn Jagland, and the High Representative of the Union for Foreign Affairs and Security Policy and Vice-President of the Commission, Catherine Ashton.

- In Strasbourg, on 5 July 2011, with the Chairman-in-Office of the Committee of Ministers of the Council of Europe, Kostyantyn Gryshchenko, the Secretary General of the Council of Europe, Thorbjørn Jagland, and the High Representative of the Union for Foreign Affairs and Security Policy and Vice-President of the Commission, Catherine Ashton.

² In the Court; in the Parliamentary Assembly (which elects judges sitting in the Court); and in the Committee of Ministers (which supervises the execution of the Court's judgments).

³ 2007 Memorandum of Understanding.

⁴ For details on Joint Programmes, see Doc DPA/Inf(2011)18 add and <http://jp.coe.int>

democratic stability in the countries of South-Eastern and Eastern Europe, the South Caucasus and Turkey. A € 4 million EU-financed “Facility” was also concluded in December last year for the Council of Europe to implement multilateral activities with the countries of the Eastern Partnership of the European Union. In addition, a link is currently being established between the new Neighbourhood Policy of the European Union and the Policy of the Council of Europe towards neighbouring regions in order to jointly support reform processes of countries of the Mediterranean area and Central Asia, based on a demand-driven and targeted approach. Areas for joint support to Morocco and Tunisia have already been identified⁵, leading in practice to the preparation of a € 4 million “South Facility”, financed by the European Union, for the Council of Europe to implement activities with these countries. Possible interactions with other countries of the Mediterranean area and Central Asia are also currently being explored.

7. Other new practical initiatives, such as jointly organised training courses on the Council of Europe for the staff of the European Commission and the European External Action Service, have also contributed to raising the visibility of the Organisation and will be further developed.

⁵ Independence and efficiency of the judiciary; good governance; protection of human rights and the fight against trafficking in human beings; and promotion of democratic values, notably their youth component.

APPENDIX IX

RESOLUTION CM/RES(2011)7¹ ON COUNCIL OF EUROPE CONFERENCES OF SPECIALISED MINISTERS

The Committee of Ministers,

Considering that the aim of the Council of Europe is to achieve greater unity among its members;

Considering that the efforts of the Council of Europe in pursuit of this aim can be facilitated by direct consultation within the framework of Council of Europe conferences of specialised ministers;

Considering the need to ensure that the work of conferences of specialised ministers be co-ordinated with that of the Council of Europe, particularly with regard to the choice of subjects dealt with and the convening and preparing of a conference;

Considering in particular that the proceedings and the texts agreed at such conferences can make a particularly useful contribution to the achievement of the objectives of the Council of Europe and of its Programme of Activities;

Recalling the ongoing reform of the Organisation aimed at focusing its activities on areas where it plays a leading role and at enhancing the Organisation's flexibility and responsiveness in the face of a rapidly changing world;

Considering, in this respect, that a Council of Europe conference of specialised ministers should meet in order to facilitate the action of the Council of Europe in accordance with its priorities, to provide high level input for intergovernmental activities in its particular field or to react to particularly serious events having repercussions for human rights, the rule of law or democracy;

Considering that there is no longer any need to draw a distinction between Council of Europe conferences of specialised ministers with which the Council of Europe has a special working relationship and other conferences,

Decides to repeal Resolutions Res(71)44 and Res(89)40 as well as the conclusions on Council of Europe Conferences of Specialised Ministers adopted by the Ministers' Deputies at their 1055th meeting (22-23 April 2009),² and to replace them with the present resolution;

Agrees on the principles set out in the appendix to the present resolution, intended as guidance for the organisation of Council of Europe conferences of specialised ministers.

Appendix to Resolution CM/Res(2011)7

1. When the government of a member state of the Council of Europe or the Secretary General considers that a high-level political meeting (hereinafter "Council of Europe conference of specialised ministers" or "the conference") might significantly contribute to the achievement of the Organisation's strategic objectives or is necessary so as to react to important events having repercussions for human rights, the rule of law or democracy, they shall submit, at any time, a proposal for such a conference to the Committee of Ministers, stating the dates, location, budgetary implications for the Organisation,³ subject, objectives and expected results of the conference and the link with the Organisation's priorities.

2. The Committee of Ministers shall examine the proposal and decide on the holding of such a conference taking into account the Council of Europe's priorities, programmes and budgetary resources.

3. The government of the member state hosting a conference of specialised ministers shall bear the costs of organising and holding the conference. When a Council of Europe conference of specialised ministers is convened upon the proposal of the Secretary General, the corresponding costs shall be met out of the budget of the Council of Europe. Each delegation shall bear the costs of its participation in the conference.

¹ Adopted at the 1116th meeting of the Ministers' Deputies (15 June 2011).

² CM/Del/Dec(2009)1055/1.8.

³ To be provided by the Secretary General.

4. When a government hosts a conference, invitations to the conference shall be signed jointly by the host government and the Secretary General of the Council of Europe. When a Council of Europe conference of specialised ministers is convened in Strasbourg upon the proposal of the Secretary General, invitations shall be signed jointly by the Chairman of the Committee of Ministers and the Secretary General of the Council of Europe.
5. The Secretariat General is authorised to provide secretariat services for the conference.
6. Ministers of Council of Europe member states having responsibility for the matters to be discussed at the conference shall automatically be invited to participate in the conference. Council of Europe institutions having specific expertise in the matters to be discussed shall also be invited.
7. High representatives of the European Union having responsibility for the matters to be discussed at the conference shall be invited to participate in the conference.
8. Ministers of states enjoying observer status with the Council of Europe shall also be invited to participate in the conference as observers, as shall high representatives of international organisations already participating, by right or as observers, in activities in the field covered by the conference, unless the Committee of Ministers decides otherwise. Ministers of any other non-member state or high representatives of any other international intergovernmental or non-governmental organisation may be invited to participate in the conference as observers after having obtained the consent of the Committee of Ministers, which shall determine the conditions of such participation.
9. The preparation of the conference shall be entrusted to the relevant intergovernmental committee or committees set up under Article 17 of the Statute of the Council of Europe in the fields covered by the conference, the membership of which may be modified in the light of paragraphs 6, 7 and 8 relating to participants, or to the Secretary General. The Committee of Ministers may decide to entrust the preparation of a conference to any other competent body.
10. The committees or, as the case may be, the Secretary General or any other body referred to in the previous paragraph shall ensure that each conference they are responsible for organising is consistent with the Programme and Budget of the Council of Europe and provide the Committee of Ministers with an analysis of the impact that the conference would have for the future Programme and Budget of the Organisation. In due time, they shall present to the Committee of Ministers a progress report on the preparations for the conference, which shall also include information on the criteria set out in paragraph 1 and indicate the draft agenda of the conference.
11. The Committee of Ministers shall hold an exchange of views on this report and address any observations to the relevant committees, the Secretary General or any other body referred to in paragraph 9, as the case may be, who shall take them into account without prejudice to the conference's prerogatives.
12. The Secretary General shall submit to the Committee of Ministers as early as possible (normally four to six weeks before the conference) any draft document to be submitted to the conference for consideration. The Committee of Ministers shall hold an exchange of views on such documents and address its observations to the Secretary General, the relevant committees or any other body referred to in paragraph 9, who shall take them into account without prejudice to the conference's prerogatives.
13. The Secretary General shall present to the Committee of Ministers, in a timely manner, a report on the holding of the conference and the texts agreed by it. The Committee of Ministers shall decide on the follow-up actions, including those with budgetary implications, to be given by the Council of Europe to the texts agreed at the conference, which it shall forward, as appropriate, to all relevant bodies including intergovernmental committees, other international organisations and other Council of Europe bodies for information.
14. The above provisions shall apply *mutatis mutandis* to ministerial level meetings to be held under the partial agreements of the Council of Europe without prejudice to the prerogatives of such agreements.

APPENDIX X

REPLY OF THE COMMITTEE OF MINISTERS¹ ON RECOMMENDATION 299 (2011) OF THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES OF THE COUNCIL OF EUROPE – “THE REFORM OF THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES WITHIN THE COUNCIL OF EUROPE REFORM”

1. On 19 January 2011, the Committee of Ministers adopted a revised version of the Statutory Resolution and Charter of the Congress of Local and Regional Authorities of the Council of Europe. In so doing, the Committee was attesting its support for the reform process initiated by the Congress in order to reinforce the effectiveness of its action to promote local and regional democracy in Europe. The Committee reiterates its encouragement to pursue these reforms so as to ensure that the Congress’s activity is fully in line with the Organisation’s strategic priorities.
2. The Committee welcomes the opportunity to co-operate closely with the Congress in addressing issues which affect the interests of local and regional authorities. It attaches great importance to the work of the Congress, which, by working towards the emergence of solid, efficient local and regional democracy in Europe, is helping to achieve the Organisation’s statutory aim.
3. The Committee recalls that it holds regular exchanges of views with the President of the Congress, as well as with its Secretary General. These exchanges of views keep it informed of the state of preparation and results of the Congress’s sessions and help it monitor the progress of its work. Furthermore, members and representatives of the Congress directly contribute to the Council of Europe’s intergovernmental activities by participating in conferences of specialised ministers as members of or observers in various bodies or committees for which the Committee of Ministers is responsible, such as its Rapporteur Groups and steering committees, like the CDLR, the CDMC, the CDMG, the CDMS and the CDEG. Moreover, they are occasionally invited to take part in Ministers’ Deputies’ meetings at rapporteur group level. For example, the President of the Congress himself attended the meeting of the Rapporteur Group on Democracy on 13 January 2011, and the Chair of the Congress Monitoring Committee took part in the meeting of the Rapporteur Group on Human Rights on 17 March 2011. Conversely, the chairmanship of the Committee of Ministers participates in Congress Sessions.
4. The Committee takes note of the Congress’s wish to further reinforce their mutual dialogue. It is open to such a reinforcement, and invites its rapporteur groups to bear this in mind whenever their work could benefit from Congress input.
5. The Committee of Ministers encourages the member states concerned to sign and ratify the instruments mentioned in paragraphs *e* to *h*, and, where appropriate, to reconsider their reservations to these instruments.
6. Lastly, the Committee recalls that on the occasion of its 1090th meeting (7 July 2010), it took note of Budgetary Recommendation 289 adopted by the Congress, and brought it to the attention of the governments of member states.

¹ Adopted at the 1123rd meeting of the Ministers’ Deputies (12 October 2011).

APPENDIX XI

RECOMMENDATION 299 (2011)¹ OF THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES OF THE COUNCIL OF EUROPE – “THE REFORM OF THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES WITHIN THE COUNCIL OF EUROPE REFORM”

1. In agreement with the other bodies of the Organisation, the Congress regards the existence of solid, effective local and regional democracy as one of the foundations of a true democratic society.
2. It emphasises the essential role of local and regional authorities in European integration, and recalls that the Council of Europe has always fully endorsed the principle of subsidiarity.
3. As the political assembly of the local and regional elected representatives of the 47 member states, it considers itself vested with a special responsibility in the development and the proper functioning of local and regional government in Europe.
4. It also recalls that the Warsaw Summit in 2005 instructed “the Congress of Local and Regional Authorities [to] continue to promote local democracy and decentralisation, taking into account the internal organisation of the countries concerned, so as to reach all levels of European society”.
5. It welcomes the decision of the Committee of Ministers to adopt the revised Charter and Statutory Resolution of the Congress, and notes the undertaking of the Ministers’ Deputies “to enhance and develop the role of local and regional authorities within the institutional structure of the Council of Europe”.
6. In that respect, beginning in 2008, then in depth in 2009 and 2010, the Congress made an examination of its working structures and methods, in order to improve the effectiveness of its action, its impact and its transparency, and to refocus its activities on the promotion and protection of local and regional democracy in Europe.
7. It placed this reflection in the more general context of the Council of Europe reform process undertaken in 2010 by the Secretary General, Thorbjørn Jagland, with the backing of the Committee of Ministers.
8. It thereby signified its resolve to found its action on the essential values championed by the Council of Europe and the priority fields of activity identified in the context of the reform, so as to build up the best possible synergy within the Organisation.
9. It is convinced that by improving its transparency, responsiveness and effectiveness and the targeting of its activities, the Congress will be able to guarantee real consistency of its action with that of the Organisation and will represent an asset in the Council of Europe reform apparatus.
10. The Congress recommends that the Committee of Ministers:
 - a. continue giving the Congress support in its current reform process and encouragement in its new political and institutional orientations;
 - b. reaffirm the specific role of the Congress and its place in the work programme and priority actions of the Organisation;
 - c. consult the Congress on all questions with a local or regional dimension and avail itself more extensively and systematically of the resources, information, expertise and networks available to the Congress;
 - d. carry on the dialogue established when preparing its monitoring visits and its recommendations on the situation of local and regional democracy in the member states, by means which might include holding exchanges of views on the outcomes of these visits when circumstances require; this type of exchange of views could also be held on the reports on the observation missions of local and regional elections led by the Congress;
 - e. invite the member states to consider the validity of their reservations to the European Charter of Local Self-Government and the expediency of lifting them;

¹ Debated and adopted by the Congress on 22 March 2011, 1st sitting (see document CG(20)12, rapporteurs: K.-H. Lambertz, Belgium (R, SOC) and Anders Knape, Sweden (L, EPP/CD)).

- f.* invite states which have not yet done so to ratify the European Charter of Local Self-Government;
- g.* invite states to sign the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority;
- h.* invite states to sign and ratify the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities and the protocols thereto;
- i.* continue assuring the Congress of appropriate means to perform its tasks and its specific role in accordance with Budgetary Recommendation 289 (2010) adopted by the Congress, under the present budgetary policy of the Council of Europe.

APPENDIX XII

REPLY OF THE COMMITTEE OF MINISTERS¹ ON RECOMMENDATION 1951 (2011) OF THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE – “FOLLOW-UP TO THE REFORM OF THE COUNCIL OF EUROPE”

1. The Committee of Ministers has carefully examined Recommendation 1951 of the Parliamentary Assembly of the Council of Europe on “Follow-up to the reform of the Council of Europe”. It shares the Parliamentary Assembly’s attachment to a politically relevant and effective Council of Europe and its support for the reform initiated by the Secretary General. It appreciates the Parliamentary Assembly’s proposals to this end. It also welcomes the Parliamentary Assembly’s initiative of launching its own reform process in order to strengthen its political relevance and effectiveness.

2. The Committee of Ministers has taken note of the Parliamentary Assembly’s wish to launch a debate on the need for a Council of Europe Summit in order to give the Organisation fresh political impetus (paragraph 2.1 of the recommendation). On this subject, the Committee of Ministers recalls that the reform of the Organisation is above all a political reform, which has focused on strategic changes and has put in place the appropriate governance tools for these changes to be feasible; all these actions are contributing to improve the place of the Council of Europe in the European architecture. The 121st Session of the Committee of Ministers (Istanbul, 10-11 May 2011) firmly backed the reform of the Organisation and the efforts to optimise its political potential in the interests of European citizens. On this occasion, the Committee of Ministers agreed to take stock of the progress in the Organisation’s reform process at its next Session. It would therefore seem appropriate to await the first results of the reform process before considering convening a Council of Europe Summit.

3. The other proposals set out in paragraphs 2.2 to 2.6 of the recommendation have been taken into account in the framework of the Secretary General’s proposed reforms. We should mention in this context the new structure of the intergovernmental committees² approved by the Committee of Ministers in April 2011, that of the Secretariat approved in June 2011, the June 2011 Resolution on Council of Europe conferences of specialised ministers³, and the action taken to set up a Strasbourg Democracy Forum. Furthermore, as regards synergy among policy makers, citizens and civil society, the Secretary General has provided a number of pointers⁴ to revitalise Council of Europe co-operation with civil society. He will be making proposals for follow-up, which will be considered by the Committee of Ministers at one of its forthcoming meetings. All these measures, together with other reform actions such as the ongoing reform of the European Court of Human Rights or the reform of the external presence, are intended to reinforce the Organisation’s coherency and impact.

4. In connection with allowing the specialised ministries to contribute to the financing of certain Council of Europe activities (paragraph 2.7 of the recommendation), the Committee of Ministers recalls that the member States are responsible for the financing of the Organisation’s activities. Each government is therefore free to decide whether or not its specialised ministries contribute to the financing of any of the Organisation’s activities, notably by means of voluntary contributions or under partial agreements. As for the choice of priorities for Council of Europe intergovernmental action, the Committee of Ministers recognises the high level input of specialised ministries, even though this remains a prerogative of the Committee of Ministers.

5. In line with the proposal set out in paragraph 2.8 of the recommendation and in the framework of the discussions on the Programme and Budget 2012-2013 of the Organisation, which was adopted on 24 November 2011, the Secretary General made additional proposals reallocating new savings made to priority programme lines.

6. Lastly, the exchange of views on 12 January 2012 between the Committee of Ministers’ Working Party on Institutional Reforms (GT-REF.INST) and Mr Jean-Claude Mignon (Rapporteur on the follow-up to the reform of the Council of Europe), Mr Egidijus Vareikis (Chair of the Assembly’s Rules Committee) and Mr Serhiy Holovaty (Rapporteur on the follow-up by the Committee of Ministers to the work of the Parliamentary Assembly) represents a further positive development in strengthening working relations between the two bodies.

¹ Adopted at the 1131st meeting of the Ministers’ Deputies (18 January 2012).

² See document SG/Inf(2011)9 final.

³ See resolution CM/Res(2011)7.

⁴ See document SG/Inf(2011)12 rev.

APPENDIX XIII

RECOMMENDATION 1951 (2011)¹ OF THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE – “FOLLOW-UP TO THE REFORM OF THE COUNCIL OF EUROPE”

1. The Parliamentary Assembly reaffirms its commitment to a politically relevant and effective Council of Europe as a natural guarantor of “soft security” in a Europe based on the fundamental values and principles of democracy, respect for human rights and the rule of law. It supports the reform started by the Secretary General, which is intended to revitalise the Council of Europe and make it more political, more flexible and more geared to the needs of Europeans.

2. In a spirit of a strengthened dialogue between the two statutory organs of the Council of Europe, the Assembly is keen to share with the Committee of Ministers the ideas, concerns and proposals contained in its Resolution 1783 (2011) on follow-up to the reform of the Council of Europe. In this context, it urges the Committee of Ministers, *inter alia*, to:

2.1. engage in joint discussion with the Assembly on the need to hold a Council of Europe summit to give the Organisation fresh political impetus, make its member states more responsible towards it and, if need be, redefine its current role;

2.2. give thought to the proposals on a grouping together of the structures which support monitoring mechanisms and on the Congress of Local and Regional Authorities contained in its Resolution 1783 (2011);

2.3. ensure that there is, within the Council of Europe, synergy between decision makers, citizens and civil society;

2.4. take account of its previous proposals with a view to the setting up of a “Strasbourg democracy forum”, as a generic structure grouping together the various relevant activities on this subject, so as to consolidate and make more visible the Council of Europe’s democracy pillar;

2.5. increase the scope of the Council of Europe conferences of specialised ministers and strengthen their link with and impact on the Organisation’s day-to-day activities;

2.6. examine the idea of organising sessions of the Committee of Ministers at the level of specialised ministers;

2.7. consider the possibility for the specialised ministries to contribute to the financing of certain Council of Europe activities in exchange for some of the Committee of Ministers’ powers being delegated to them, notably with regard to the choice of priorities for the Council of Europe’s intergovernmental activities, as proposed in Committee of Ministers Resolution (89) 40 on the future role of the Council of Europe in European construction;

2.8. call on member states to reinvest in the Organisation’s activities the savings achieved on its functioning thanks to reform, in order to help member states to implement reforms and comply with their commitments and obligations.

¹ Assembly debate on 25 January 2011 (4th Sitting) (see Doc. 12458, report of the Political Affairs Committee, rapporteur: Mr Mignon; and Doc. 12487, opinion of the Committee on Rules of Procedure, Immunities and Institutional Affairs, rapporteur: Mr Choqe). Text adopted by the Assembly on 25 January 2011 (4th Sitting).