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COMMITTEE OF LEGAL ADVISERS ON PUBLIC INTERNATIONAL LAW

(CAHDI)

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

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APPENDIX I

RECOMMENDATION 1995 (2012)[1] OF THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE – "THE INTERNATIONAL CONVENTION FOR THE PROTECTION OF ALL PERSONS FROM ENFORCED DISAPPEARANCE"

1. The Parliamentary Assembly refers to its Resolution 1868 (2012) and, in particular, congratulates the Committee of Ministers on the adoption of the Guidelines on Eradicating Impunity for Serious Human Rights Violations.

2. The Assembly reiterates its support for the United Nations International Convention for the Protection of all Persons from Enforced Disappearances and invites the Committee of Ministers to urge all the Council of Europe member States which have not yet done so to sign, ratify and implement this convention.

3. The Assembly nevertheless recalls that the United Nations Convention notably:

3.1. fails to fully include in the definition of enforced disappearances the responsibility of non-State actors;

3.2. remains silent on the need to establish a subjective element (intent) as part of the crime of enforced disappearance;

3.3. refrains from placing limits on amnesties or jurisdictional and other immunities;

3.4. severely limits the temporal jurisdiction of the Committee on Enforced Disappearances.

4. The Assembly therefore invites the Committee of Ministers to consider launching the process of preparing the negotiation, in the framework of the Council of Europe, of a European convention for the protection of all persons from enforced disappearance.

[1] Text adopted by the Standing Committee, acting on behalf of the Assembly, on 9 March 2012 (see Doc. 12880, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Pourgourides).

APPENDIX II

REPLY OF THE COMMITTEE OF MINISTERS[1] TO RECOMMENDATION 1982 (2011) OF THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE – "THE IMPACT OF THE LISBON TREATY ON THE COUNCIL OF EUROPE"

1. Like the Parliamentary Assembly, the Committee of Ministers considers that the entry into force of the Lisbon Treaty in 2009 has created new opportunities for a reinforced partnership between the Council of Europe and the EU, based on their respective *acquis* and comparative advantages[2] and with due regard for their respective mandates. In addition, the Committee of Ministers points out that the strengthening of the partnership between the Council of Europe and the EU is part of the reform of the Organisation, which shall enable the Council of Europe to fully play its role in Europe, notably as the benchmark for human rights, the rule of law and democracy, in line with the Memorandum of Understanding concluded between the two organisations in 2007.

2. The Committee of Ministers considers that the Council of Europe and the EU need to join forces in order to better address relevant challenges facing Europe and its neighbourhood. It agrees with the Assembly that this values-based partnership should also aim to "ensure coherence between the pan-European project promoted by the Council of Europe and the integration process initiated by the EU" and considers that it should ultimately lead to a Europe without dividing lines. The Committee of Ministers further points out that the EU is a key partner for the achievement of Council of Europe aims. The consolidation of this partnership remains a priority.

3. Against this background, the Committee of Ministers recalls that political consultations between the Council of Europe and the EU are regularly taking place at the highest level. These consultations have already resulted in increased policy co-ordination and set a framework for intensified collaboration at operational level, including in the field. This new dynamic has been further consolidated through "high-level political dialogue meetings" between, on the one hand, the chairmanship of the Committee of Ministers and the Secretary General and, on the other hand, the EU High Representative for Foreign Affairs and Security Policy, as well as informal ad hoc meetings between the Secretary General and leaders of the EU on current European affairs.

4. The Committee of Ministers also recalls that co-operation between the Council of Europe and the EU is regularly on its agenda. On 16 November 2011, the Ministers' Deputies were seized of a summary report on co-operation between the Council of Europe and the EU and instructed their Rapporteur Group on External Relations (GR-EXT) to further report on this matter to enable them to conduct a yearly review of this co-operation.

5. Contacts have also intensified with a view to further ensuring coherence between the EU legislation and Council of Europe standards, the promotion of these standards and synergies with monitoring mechanisms of the Council of Europe. In particular, leaders of the Council of Europe and the EU have repeatedly expressed their strong commitment to a swift and successful conclusion of the accession of the EU to the ECHR. EU accession to the ECHR will also significantly change the nature of relations between the Council of Europe and the EU, since it will ultimately lead to a stronger participation of the EU in the Council of Europe's human rights protection system[3]. The Committee of Ministers hopes that all outstanding issues will be satisfactorily resolved soon and it will be closely involved in the process.

6. As to the accession of the EU to other Council of Europe conventions, the Committee of Ministers recalls that one of the objectives of the ongoing review of conventions of the Organisation is to identify ways of facilitating EU accession to existing and future Council of Europe conventions, ensuring coherence between the Council of Europe and the EU in the areas of human rights, the rule of law and democracy. Like the Parliamentary Assembly, the Committee of Ministers shares the view set out in the resolution of the European Parliament of 19 May 2010, in which accession by the EU to the ECHR is seen as an essential first step which could be complemented by accession by the Union to other Council of Europe instruments and bodies. In that respect, the Committee of Ministers notes with satisfaction that discussions are ongoing

[1] Reply adopted by the Committee of Ministers on 28 March 2012 at the 1138th meeting of the Ministers' Deputies.
[2] See decisions of the Committee of Ministers on relations between the Council of Europe and the European Union, adopted on 11 May 2010 (120th Ministerial Session).
[3] 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).

on participation of the EU in GRECO and the Conference of the Parties to the Warsaw Convention[4]. The Commission also works together with the Council of Europe on the ongoing revision of the Council of Europe's Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108) in order to ensure coherence with the reform of the EU data protection framework. In addition, consultations are regularly taking place with various EU institutions in the course of the elaboration of new EU legal instruments, particularly those covering human rights, as in the case of the measures set out in the Roadmap for strengthening procedural rights of suspected or accused persons in criminal proceedings. The Committee of Ministers further notes with satisfaction that an Informal Mutual Information Mechanism has been set up to provide more early information on respective normative initiatives. It also recalls that MONEYVAL's monitoring processes uniquely include an assessment of members' compliance with the EU anti-money laundering directive and related implementing measures. The use of and support for the Venice Commission's expertise by the EU is another particularly good example of co-operation.

7. On the basis of the agreement concluded in 2008 between the Council of Europe and the European Community, synergies have also been established between the Organisation and the Agency for Fundamental Rights of the EU (FRA) and will be further developed, including in the areas of children's rights, migration and asylum. Progress made in this respect is regularly reviewed by the GR-EXT. On Roma issues, co-operation and co-ordination have been further developed with the EU by means of the signature on 6 July 2011 of a partnership agreement in respect of the European Training Programme for Roma Mediators (ROMED), active participation by the EU and the Council of Europe in each other's Roma-related activities and through the Informal Contact Group and EU Platform for Roma Inclusion. The EU has also expressed clear support for the Council of Europe's work on freedom of expression and the protection of human rights in the field of Internet governance. Finally, the two organisations will continue their dialogue on the issues raised in the report of the Group of Eminent Persons of the Council of Europe.

8. Concerning joint actions and "financial partnership" with the EU, the Committee of Ministers notes that joint programmes between the Council of Europe and the EU have remained an important tool for promoting human rights, democracy and the rule of law in Europe, in line with the Council of Europe's standards and findings of its monitoring mechanisms. They represent the largest source of funding sustaining Council of Europe technical assistance and co-operation projects in support of democratic stability in Europe. It will be important to ensure that Council of Europe access to EU funding within these core areas of the Organisation is maintained.

9. A €4 million EU-financed "Facility" is being implemented with the countries of the Eastern Partnership of the EU through a series of multilateral activities. In addition, a link is currently being established between the new Neighbourhood Policy of the EU and the Policy of the Council of Europe towards neighbouring regions, in order to jointly support reform processes in countries of the Mediterranean area based on a demand-driven and targeted approach. A €4.8 million EU-financed "Council of Europe Programme for strengthening democratic reform in the Southern Neighbourhood" was concluded on 17 January 2012 for the Council of Europe to implement activities with Morocco and Tunisia, as well as a number of regional activities, in the framework of its "Neighbourhood co-operation priorities" with these countries. Possible interactions with other countries of the Mediterranean area are also explored and EU-financed joint programmes with Kazakhstan are being prepared. These joint actions and the regular consultations between the Council of Europe and the EU with respect to countries participating in the EU's Neighbourhood Policy illustrate the increasing benchmarking role of the Council of Europe in the context of the EU's external policies.

10. The Committee of Ministers further points out that the opening of a delegation of the EU to the Council of Europe in Strasbourg, as a consequence of the entry into force of the Lisbon Treaty, and the reinforcement of the Council of Europe Liaison Office in Brussels, which is part of the reform of the Organisation, have significantly facilitated the reinforcement of the co-operation. In addition, recent 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, as well as public events facilitated by the Liaison Office in Brussels, have significantly contributed to raising the visibility of the Organisation and the partnership with the EU and shall be further developed.

11. The Committee of Ministers welcomes the improved co-operation of the Assembly with the European Parliament, and its resolve to further enhance their relations, including pursuing the work of their Joint Informal Body created to improve information sharing between the two bodies. It takes note of the

[4] 2005 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198) to which the European Union is a signatory since 2 April 2009.

Assembly's intention to further pursue exchanges of views, joint activities and information exchange between members of the Assembly and of the European Parliament at committee level.

12. Finally, the Committee of Ministers takes note of the Assembly's proposal to give further consideration to the question of EU accession to the Council of Europe's Statute, already recommended in 2006 by the Juncker report on "Council of Europe – European Union: A sole ambition for the European continent". The Committee recalls that this was considered a long-term objective by Mr Juncker, which would need to be discussed in due time.

APPENDIX III

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.

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

[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).

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 IV

RECOMMENDATION 1994 (2012)[1] OF THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE – "AN ADDITIONAL PROTOCOL TO THE EUROPEAN CONVENTION ON HUMAN RIGHTS ON NATIONAL MINORITIES"

1. Referring to its Resolution 1866 (2012) on an additional protocol to the European Convention on Human Rights on national minorities, the Parliamentary Assembly recommends that the Committee of Ministers:

1.1. consider drafting an additional protocol to the European Convention on Human Rights providing for minimum rights for national minorities; such a protocol could contain the minimum rights mentioned in paragraph [6] of Resolution 1866 (2012);

1.2. pursue co-operation with other international organisations, in particular the Organisation for Security and Co-operation in Europe (OSCE) and the United Nations, with a view to maintaining coherent standards for the protection of national minorities.

[1] Text adopted by the Standing Committee, acting on behalf of the Assembly, on 9 March 2012 (see Doc. 12879, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Frunda).

APPENDIX V

REPLY OF THE COMMITTEE OF MINISTERS[1] TO RECOMMENDATION 1978 (2011) OF THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE – "TOWARDS A EUROPEAN FRAMEWORK CONVENTION ON YOUTH RIGHTS"

1. The Committee of Ministers attaches great importance to the integration and participation of young people in society, as well as to their access to rights. It supports the work carried out by the Council of Europe's youth sector to this end. In the reform of intergovernmental structures, the Committee of Ministers has retained the sector's distinctive co-management system and ensured the allocation of the resources necessary for it to operate effectively.

2. The youth sector's activities cover the recommendations put forward by the Assembly, particularly in the field of education for democratic citizenship through non-formal learning and the provision to young people of information on instruments, programmes and policies relating to the rights of young people in Europe. In this context, particular mention should be made of the information available on the youth sector's web portals, as well as of the close co-operation of the Council of Europe with the European Youth Card Association (EYCA) and the European Youth Information and Counselling Agency (ERIYCA), both organisations being highly specialised in this area.

3. The Committee of Ministers has taken due note of the principles laid down by the Assembly as a basis for a possible European framework convention on youth rights. It underlines that several provisions of the European Social Charter are of particular relevance as they protect the rights of young people in different areas. It also wishes to point out that the Council of Europe has instruments and mechanisms other than conventions at its disposal. The Committee of Ministers considers that in the present situation priority should be given to the effective implementation of existing instruments. The study recommended by the Assembly should therefore rather lay emphasis on the systematic encouragement of policies to improve the access of young people to their rights. These policies could include making more effective use of the tools the Council of Europe offers, and developing further activities and programmes that take into account the specific needs of young people as manifested in society. Recommendation 1978 (2011) could serve as an important reference document in this context.

4. Recommendation 1978 (2011) will also be included in the file for the 9th Council of Europe Conference of Ministers responsible for Youth (St Petersburg, September 2012). The title of this conference will be "Young people's access to rights: development of innovative youth policies". The Committee of Ministers informs the Assembly that, in the context of the preparation of this conference, the parameters of a systematic approach to policies aimed at promoting young people's access to rights at local, national and European level are currently under discussion among the member States. The Assembly will be invited to address the conference.

5. The Committee of Ministers recalls and appreciates the work of the youth sector in co-operation with the European Union under the Youth Partnership Framework Programme, which is in place until 2013. The co-operation arrangements could be reviewed in due course in consultation with the bodies concerned. The youth sector was also involved in certain aspects of the International Year of Youth 2010 and could, if appropriate, play a part in the regional follow up to the International Year, within the limits of the available resources. Finally, the Council of Europe and the European Commission are co-operating in a joint programme designed to devise policies to facilitate young people's transition to active life through employment, entrepreneurship, education and active citizenship. The final conference of this programme will take place in June 2012 and will point to possible follow-up action to strengthen young peoples' rights by finding solutions for problems such as unemployment, youth indebtedness and social unrest.

[1] Reply adopted by the Committee of Ministers on 28 March 2012 at the 1138th meeting of the Ministers' Deputies.

APPENDIX VI

RECOMMENDATION 1978 (2011)[1] OF THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE – "TOWARDS A EUROPEAN FRAMEWORK CONVENTION ON YOUTH RIGHTS"

1. The Parliamentary Assembly has long given high priority to issues of youth rights and policies. In its Recommendation 1585 (2002) on youth policies in the Council of Europe, as well as in its Recommendation 1844 (2008) and Resolution 1630 (2008) on refreshing the youth agenda of the Council of Europe, the Assembly encouraged the Committee of Ministers to step up intergovernmental co-operation in youth matters and support the activities of the Council of Europe's youth sector. The resolution called upon "young people in general and on youth organisations in particular to insist on the possibilities that exist for interaction with the Council of Europe and in particular with the Parliamentary Assembly".

2. Other texts adopted by the Assembly concern specific aspects of youth policies, such as Recommendation 1552 (2002) on vocational training of young asylum seekers in host countries, Recommendation 1632 (2003) on teenagers in distress: a social and health-based approach to youth malaise, Recommendation 1717 (2005) on education for leisure activities, as well as a series of recommendations and resolutions concerning higher education and training. Most recently, Recommendation 1930 (2010) on prohibiting the marketing and use of the "Mosquito" youth dispersal device called on governments to ban the use of this high-frequency sound device used to chase young people from places where they might gather.

3. With respect to the present European context, the Assembly acknowledges that, due to the demographic and cultural changes that have taken place in Europe over the last few years, young people face increasing difficulties in accessing and exercising their rights. Their autonomy is increasingly threatened as a consequence of economic, geographical and socio-cultural inequalities. Youth policies are also particularly vulnerable to economic recession, as they are often relegated to a secondary place in governmental priorities and resource allocation.

4. Young people have often been at the centre of action for democratic change and progress, as illustrated by the recent popular uprisings in Tunisia, Egypt and in other countries on the African continent. In the above-mentioned Recommendation 1585 (2002) , the Assembly calls on the Committee of Ministers to re-launch the Euro-Arab youth dialogue, and work in this area has been brought forward by the Council of Europe's Centre for Global Interdependence and Solidarity (North-South Centre), in partnership with the European Commission and youth organisations, since the 1st Africa-Europe Youth Summit in 2007. Young people's energy and ideas should be used to the full by giving young people better access to personal autonomy and democratic participation, including voting rights.

5. It is therefore necessary to provide opportunities for youth to effectively benefit from their rights, while raising awareness of them in society and among young people themselves. Positive and tangible measures should be taken at national and international levels to help young people take advantage of existing possibilities and to build upon them, as well as to harmonise access to rights.

6. Many of the rights to which young people are entitled are covered by existing legislation, but a stronger legal basis allowing for systematic implementation and monitoring is needed to protect them. It is necessary to find direct, rapid and effective solutions. Young people all over Europe are expecting policy makers to produce concrete visible results, a change of reality that will make all the difference.

7. The Assembly is convinced that the transition period between childhood and adult life is crucial for the development and self-fulfilment of individuals and that the specific challenges of this period require specific solutions. Therefore, the Assembly adopts the principles in the appendix to the present recommendation and calls on member states to:

7.1. take measures to facilitate young people's access to fundamental rights as enshrined in the European Convention on Human Rights (ETS No. 5) and the revised European Social Charter (ETS No. 163), in particular opposing multiple discrimination against young people;

7.2. sign and ratify, if they have not yet done so, the Council of Europe Convention on the Promotion of a Transnational Long-Term Voluntary Service for Young People (ETS No. 175);

[1] Assembly debate on 24 June 2011 (27th Sitting) (see Doc. 12629 , report of the Committee on Culture, Science and Education, rapporteur: Ms Kovács). Text adopted by the Assembly on 24 June 2011 (27th Sitting).

7.3. step up measures in their countries to implement:

7.3.1. the Revised European Charter on the Participation of Young People in Local and Regional Life;

7.3.2. the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education;

7.3.3. Committee of Ministers Recommendation Rec(2006)1 on the role of national youth councils in youth policy development and Recommendation CM/Rec(2010)8 on youth information;

7.4. prioritise measures allowing young people individual autonomy and full European citizenship by promoting their rights to:

7.4.1. take part in democratic processes and in cultural life;

7.4.2. participate in and contribute to intercultural dialogue, thereby enhancing the cohesion of multicultural societies;

7.4.3. free access to information and to the Internet;

7.4.4. non-discrimination;

7.5. consider adopting the new “youth centre label” for national youth centres, thereby ensuring that these centres become multipliers of the fundamental values upheld by the Council of Europe.

8. National parliaments of member states have an essential responsibility. The Assembly therefore calls on them to:

8.1. encourage and give added value to the participation of young parliamentarians in parliamentary work, enhancing their status and public awareness of their contribution, and submit the present recommendation to national youth parliaments or their equivalents, and constituent organisations for their consideration and comment;

8.2. promote the participation of young people in democratic processes and in real decision making, especially by offering opportunities for dialogue between the national representatives of youth associations and the relevant parliamentary committees, and by encouraging the establishment of youth parliaments;

8.3. encourage the participation of young people in society by giving them better access to personal autonomy and democratic participation and by considering lowering the voting age;

8.4. follow closely the Council of Europe’s “Youth Peace Ambassadors” project and respond positively to requests for support for projects which will be led by these young people at local levels.

9. The Assembly welcomes the Committee of Ministers’ support for the activities of the Council of Europe’s youth sector, particularly its unique model of co-management by representatives of governments and youth non-governmental organisations, and current youth projects such as ENTER! and Youth Peace Ambassadors. It calls on the Committee of Ministers to:

9.1. continue its support for the work of the youth sector, as well as other Council of Europe activities such as education for democratic citizenship and the work of the North-South Centre on global citizenship education and on Euro-African co-operation;

9.2. include the present recommendation and its appendix in the documents submitted to the participants in the 9th Council of Europe Conference of Ministers responsible for Youth to be held in 2012 on the themes of the social inclusion of young people, democracy, participation and living together in diverse societies;

9.3. instruct the co-management bodies of the Council of Europe's youth sector to compile a comprehensive handbook of instruments, programmes and policies for the use of young people, youth leaders and organisations, as well as policy makers, as a guide to youth rights;

9.4. step up Council of Europe co-operation with the European Union and its flagship initiative "Youth on the Move" beyond the successful Youth Partnership joint programme, and with the United Nations, in particular in the context of the International Year of Youth 2010-2011 and its follow-up;

9.5. instruct the relevant intergovernmental authorities to study the possibility of drafting a framework convention on the rights of young people, based on the ten principles below, which include common indicators as tools for monitoring the implementation of youth rights.

Appendix - Ten principles for a European framework convention on youth rights

Youth rights are those rights which enable young people to successfully make the transition between childhood and adulthood, to become informed, independent, autonomous, responsible and committed citizens at local, national and international levels. Ensuring young people's access to their rights is a means of ensuring cohesive, sustainable societies and is an investment in the future of the European construction. An instrument for the implementation of youth rights should serve as a framework for modelling national youth policies and should be based on the following ten principles.

1. Definitions

What is missing at the moment is a clear and comprehensive definition of the meaning of youth. Member states should define the age groups covered by their youth policies, which should be coherent with other legal provisions concerning young people, and as far as possible correspond to those of other European countries. A framework convention on youth rights should seek to provide common definitions to facilitate the implementation of rights and the monitoring of their implementation through statistics.

2. Education and training

States should provide education that is universal, free and accessible. Beyond economic considerations, education should be valued as a means of self-fulfilment and of empowerment for young people. As well as equipping young people for employment, education should promote values. Education systems need to be reorganised to better correspond to rapid economic changes and the skills and sectors of the economy of the future. Moreover, educational policies should be characterised by flexibility and allow for vocational retraining and mobility.

Member states should adopt measures which enable the mobility of students in higher education and establish validation procedures for recognition of academic achievements and professional qualifications across Europe. To this end, they should promote the effective use of the European Higher Education Area, and implement the Bologna Process and other mechanisms for recognition of qualifications.

Non-formal education, intercultural learning and volunteer work should be more recognised as an integral part of young people's qualifications. Quality vocational training should be provided as an alternative or accompaniment to university education. Young people also need to be given opportunities to gain language proficiency throughout their education, especially when their mother tongue is other than that spoken in their community.

3. Employment

Employment is the primary means of ensuring young people's autonomy. Across Europe, the highest unemployment rates are among young people. Member states should take concrete measures to facilitate the entry of young people into employment (active employment policies and tax and financial incentives to encourage companies to recruit young people into agreed training programmes with on-the-job certification), thereby facilitating the transition between education establishments and the labour market and preventing the excessive use of unpaid work experience or low paid employment. Policies should aim to encourage businesses to assist young people's transition from insecure contracts to stable jobs. National systems and bilateral agreements should ensure that gaps in social security protection systems and problems with labour market integration are identified and closed.

4. Housing

Young people have a right to decent, affordable housing of a quality in line with European standards, to enable them to achieve a stable environment for their development as adults and their relations with the community. The ability to become independent by leaving one's parental home should be enabled through access to housing of an adequate standard.

Member states should ensure that higher education institutions provide affordable student lodgings, especially in areas with high rents; social housing should enable young people to live independently at the beginning of their professional career and states should insist on the implementation of percentage quotas for such housing in all regions. Secure and sustainable financial facilities should be made available to aid the granting of mortgages and loans to young individuals and families and ensure that low-interest opportunities are open to them.

5. Health and the right to a healthy environment

Health education must be taught at all educational levels. There must also be policies in place to prevent and protect against sexually transmitted diseases, undesired pregnancies, sexual abuse or violence, alcoholism, nicotine poisoning and drug abuse. Comprehensive and age-appropriate sexual and reproductive health education should be provided as part of the school curriculum. Member states should conduct health-awareness campaigns directed at young people about health risks and their avoidance, including practical information such as on access to treatment and guarantees of confidentiality.

Young people should also be involved in environmental policies as they are directly affected by their consequences, and are a more certain source of forward-thinking, idealistic and creative ideas concerning environmental preservation and sustainable development. Young people can serve as highly efficient multipliers of good individual and group practices.

6. Participation

In order for young people to understand their rights, accept the accompanying responsibilities and be given opportunities to express themselves, full and effective participation of young people in the life of society and in decision making must be encouraged from an early age. States should promote the implementation of the Revised European Charter on the Participation of Young People in Local and Regional Life of the Congress of Local and Regional Authorities of the Council of Europe, and Recommendation Rec(2006)1 of the Committee of Ministers on the role of national youth councils in youth policy development. The Council of Europe's 2010 Charter on Education for Democratic Citizenship and Human Rights Education should also serve as a policy guideline for training youth leaders and member states should foster the role of non-governmental organisations (NGOs) and youth organisations in education for democratic citizenship and human rights education.

Youth parliaments serve to emphasise the importance of developing the capacity of youth for the purpose of preparing them to assume responsibilities, to engage in dialogue, exchange ideas and introduce them to democratic processes. Young people should not, however, be relegated into youth parliamentary structures to the detriment of their participation in core decision-making procedures.

It is important that young people participate in democracy by voting. Therefore, member states should consider lowering the voting age.

7. Culture and sport

Cultural policies must ensure young people's access to cultural activities and exchanges, as well as the right to maintain their cultural and personal identity; state spending on culture should not be sacrificed during periods of economic downturn. Universities should recognise the need for students' cultural development and cultural institutions should have the means to use modern, interactive methods of communication and awareness raising. Spaces for artistic creation need to be made available to young people for all cultural activities, including art and music.

Everyone should have the right to maintain their cultural heritage. School students speaking a minority language should be offered lessons in the language in question. Optional courses on minority language and culture should also be offered to students from the majority population.

Particular attention should be paid to ensuring the right to freedom of expression for every young person without interference by public authorities and regardless of frontiers. Appropriate measures should be adopted in order to facilitate the access of young people to the media and, in particular, to the Internet.

Sport is an important way for young people to explore and use their physical capacities, and a potential factor of greater social cohesion and integration. Sports facilities should be provided free of charge in all regions and in both rural and urban areas. Young people must be allowed to develop their personal abilities and identities as they wish.

8. Non-discrimination

Member states should ensure that young people are not discriminated against because of their age, for instance in assuming political or professional responsibilities. The specific problems of young people in vulnerable population groups such as Roma, migrants and refugees, or other minority groups in society should also be addressed, as well as discrimination based on gender and nationality and homophobia, to which young people are particularly exposed.

Positive measures adopted by member states in order to promote, in all areas of economic, social, political and cultural life, full and effective implementation of youth rights, taking due account of the specific conditions of young people within society and their particular needs in relation to their age, should not be considered to be discriminatory as regards the rest of the population.

9. Communication on youth policies

It is necessary to raise awareness of the existence and importance of youth rights by increasing, centralising and harmonising the information available to policy and decision makers and to the general public. Youth policies in member states should be disseminated through the most up-to-date communication channels, and be made available in as many languages as are necessary to ensure they are understood by all. In order for young people to be able to act in accordance with their rights, these rights should be recognised, protected and implemented.

10. Implementation

A European framework convention on youth rights would serve as a tool for the effective implementation of national and international provisions applicable to young people. The instrument should contain a set of common indicators, based on concrete statistics for the age groups concerned in each of the above areas. It should also provide guidelines for co-operation between member states in the same areas and common goals to be attained, and regular shared stocktaking exercises should be part of the follow-up to the convention. A new arrangement should be found to allow national youth parliaments or their equivalents to undertake an assessment of progress on youth rights and give further guidance on future programmes. What is needed is better recognition and implementation of the rights of young people in Europe.

APPENDIX VII

REPLY OF THE COMMITTEE OF MINISTERS[1] TO RECOMMENDATION 1953 (2011) OF THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE – "THE OBLIGATION OF MEMBER AND OBSERVER STATES OF THE COUNCIL OF EUROPE TO CO-OPERATE IN THE PROSECUTION OF WAR CRIMES"

1. The Committee of Ministers has carefully studied Parliamentary Assembly Recommendation 1953 (2011) on "The obligation of member and observer States of the Council of Europe to co-operate in the prosecution of war crimes" (hereinafter referred to as Assembly recommendation), and has transmitted it to the European Committee on Crime Problems (CDPC) and the Steering Committee for Human Rights (CDDH), for information and possible comments. It shares the Assembly's opinion that member and observer States of the Council of Europe must co-operate to counter impunity and to ensure that those accused of war crimes are brought to justice.

2. The Committee of Ministers notes that all Council of Europe member States have ratified the European Convention on Extradition. It invites the member States which have not yet done so to sign and ratify the other relevant Council of Europe treaties, and in particular the three Additional Protocols to the European Convention on Extradition (ETS No. 86, ETS No. 98 and CETS No. 209), without declarations and reservations limiting their applicability. It also encourages observer States to take the necessary steps with a view to their accession to the above-mentioned instruments.

3. The Committee recalls that Article 1 of the Additional Protocol to the European Convention on Extradition (ETS No. 86), provides that war crimes and crimes against humanity cannot be qualified as political offences and, consequently, that war crimes constitute extraditable offences. In view of the fact that to date, 37 member States of the Council of Europe have ratified the Protocol, and given the pertinence of Article 1 regarding the subject matter of Recommendation 1953 (2011), it is not only important that all member States ratify this Protocol, but also that they withdraw any reservations with respect to Article 1.

4. In October 2011, the Committee of Ministers transmitted a draft Fourth Additional Protocol to the European Convention on Extradition, to the Parliamentary Assembly for an opinion. It has taken note of the Assembly's positive opinion and has adopted the instrument which modernises a number of the Convention's provisions. When elaborating the draft protocol, the CDPC was fully aware of the Assembly's concerns on this subject (paragraph 1.3 of the Assembly recommendation).

5. With respect to the Assembly's recommendation that the Committee of Ministers instruct the European Committee on Crime Problems and the Committee of Experts on the Operation of European Conventions on Co-operation in Criminal Matters to assess – in transparent consultation with civil society – the application of the aut dedere aut iudicare principle (extradite or prosecute) and arrangements to transpose into domestic law the principle of universal jurisdiction over war crimes and crimes against humanity, the Committee of Ministers recalls that the principle "extradite or prosecute" is already enshrined in the European Convention on Extradition. According to Article 6 paragraph 2 of the Convention, a requested Party that refuses to extradite a national, shall at the request of the requesting Party submit the case to its competent authorities in order that proceedings may be taken.

6. The Committee of Ministers furthermore notes that several member States of the Council of Europe have acknowledged the principle of universal jurisdiction. However, there is no international consensus on the definition and scope of this principle, as the exercise of universal jurisdiction is in practice often subject to legal limitations defined in national legislation. Considerable challenges therefore remain for domestic legal systems to ensure the exercise of universal jurisdiction efficiently and effectively.

7. The Committee of Ministers therefore considers that the Council of Europe could reinforce the application of the principle of aut dedere aut judicare as a means of prosecuting war crimes effectively in cases where universal jurisdiction cannot be exercised. It also encourages enhancing co-operation between the member and observer States. The Committee considers that the standard-setting work in progress on the subject is already addressing the criminal law and criminal procedural law questions which arise in relation to the prosecution of war crimes.

8. With regard to paragraph 1.4 of the Assembly recommendation, the Committee of Ministers draws the attention of the Assembly to the fact that the terms of reference of the Committee of Experts on Impunity

[1] Reply adopted by the Committee of Ministers on 13 June 2012 at the 1145th meeting of the Ministers' Deputies.

(DH-I) of the Steering Committee for Human Rights expired on 31 December 2010 and that the Guidelines on eradicating impunity for serious human rights violations were adopted by the Committee of Ministers on 30 March 2011. The subject of Recommendation 1953 (2011) is taken into account in Guideline XII, which states that "International co-operation plays a significant role in combating impunity. In order to prevent and eradicate impunity, States must fulfil their obligations, notably with regard to mutual legal assistance, prosecutions and extraditions, in a manner consistent with respect for human rights, including the principle of "non-refoulement", and in good faith. To that end, States are encouraged to intensify their cooperation beyond their existing obligations." The Committee of Ministers observes that even in those exceptional circumstances when the "non-refoulement" principle may not be claimed, the asylum seeker cannot be expelled, when such expulsion would put him or her at risk of death penalty, or torture or inhuman or degrading treatment, or other serious violations of human rights in accordance with the case law of the European Court of Human Rights.

9. The Committee of Ministers observes that even though these Guidelines do not replace other international standards relating to impunity, such as international criminal law standards, the text also makes reference to issues such as "Accountability of subordinates" (Guideline XIII) and "Restrictions and limitations" (Guideline XIV). Moreover, the reference texts used for the preparation of the guidelines make reference, with respect to Guideline XII, to States' obligations under the European Convention on Extradition and the European Convention on Mutual Assistance in Criminal Matters, as well as to the United Nations General Assembly Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

10. The Committee of Ministers notes that effective prosecution of war crimes must be based on lessons of the past, and is a condition for the tragedy of totalitarian regimes, in any of their forms and ideologies, never to be repeated. The Committee of Ministers notes the unacceptability of all attempts aiming at denial of totalitarian regimes, their crimes or glorification of their perpetrators and collaborators and attempts to review history. In this context the Committee of Ministers would like to welcome all initiatives aiming at enhancing awareness of totalitarian crimes and protecting the memory of their victims.

APPENDIX VIII

RECOMMENDATION 1953 (2011)[1] OF THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE – "THE OBLIGATION OF MEMBER AND OBSERVER STATES OF THE COUNCIL OF EUROPE TO CO-OPERATE IN THE PROSECUTION OF WAR CRIMES"

1. The Parliamentary Assembly, referring to its Resolution 1785 (2011) on the obligation of member and observer states of the Council of Europe to co-operate in the prosecution of war crimes, recommends that the Committee of Ministers:

1.1. urge member and observer states to sign and ratify the conventions mentioned in paragraphs 7 and 8 of the resolution and review declarations and reservations limiting their applicability;

1.2. instruct the European Committee on Crime Problems and the Committee of Experts on the Operation of European Conventions on Co-operation in Criminal Matters to assess – in transparent consultation with civil society – the application of the aut dedere aut iudicare principle (extradite or prosecute) and arrangements to transpose into domestic law the principle of universal jurisdiction over war crimes and crimes against humanity;

1.3. inform the group of experts in charge of revising and modernising the European Convention on Extradition (ETS No. 24) of the Assembly's concerns with respect to co-operation of the member states in the prosecution of war crimes and invite it to take proper account of them in its work, and invite civil society to contribute to the consideration of this point;

1.4. invite the Committee of Experts on Impunity of the Steering Committee for Human Rights to take this subject into account in its draft guidelines on eradicating impunity for serious human rights violations.

[1] Assembly debate on 26 January 2011 (5th and 6th Sittings) (see Doc. 12454, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Dorić). Text adopted by the Assembly on 26 January 2011 (6th Sitting).

APPENDIX IX

REPLY OF THE COMMITTEE OF MINISTERS[1] TO RECOMMENDATION 1983 (2011) 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 Committee of Ministers has examined with interest Recommendation 1983 (2011) of the Parliamentary Assembly on "Abuse of State secrecy and national security: obstacles to parliamentary and judicial scrutiny of human rights violations". It has transmitted it to a number of intergovernmental bodies[2] for comments, and to the European Commission for Democracy through Law (the Venice Commission) and the Council of Europe Human Rights Commissioner for information.

2. The Parliamentary Assembly recommendation is a convincing reminder that where the cloak of secrecy is used to cover violations of human rights, not only have State authorities failed to live up to their duty to protect the rights of their citizens but also democracy and rule of law are seriously in danger. This is not less so when extensively broad assertions of the notions of State secrecy extend to information or data on which the public has a legitimate interest of disclosure.

3. The Committee of Ministers has taken note of the Parliamentary Assembly's request that it draw up a recommendation on the notion of State secrecy and the use to be made of it. The Committee notes that some of the concerns of the Assembly are met in its Guidelines on eradicating impunity for serious human rights violations, adopted on 30 March 2011. It draws attention to the fact that these guidelines provide, *inter alia*, that "States are to combat impunity as a matter of justice for the victims" (Chapter I, paragraph 3) and that they "are addressed to States, and cover the acts or omissions of States, including those carried out through their agents" (Chapter II, paragraph 2). However, the Committee of Ministers considers that the issues raised by the Assembly are of importance and it will continue to take them into consideration in its work.

4. With regard to the Parliamentary Assembly's recommendation that all member States be invited to review or, if necessary, set up suitable and effective parliamentary and other independent mechanisms for the oversight of the secret services, the Committee of Ministers would again draw attention to the Guidelines on eradicating impunity for serious human rights violations. These guidelines invite States to "consider establishing non-judicial mechanisms, such as parliamentary or other public inquiries, ombudspersons, independent commissions and mediation, as useful complementary procedures to the domestic judicial remedies guaranteed under the Convention"[3] (Chapter XV) and suggest that they "should also establish mechanisms to ensure the integrity and accountability of their agents" (Chapter III, paragraph 7).

5. Furthermore, in line with the Assembly's recommendation, the Committee of Ministers invites member States to review, where necessary, criminal and civil justice procedures aimed at facilitating the establishment of 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.

6. Finally, the Committee of Ministers underlines the importance of the public's participation in governance, which is essential to both judicial and parliamentary scrutiny of recourse to State secrecy. Consequently, the Committee encourages member States to ratify the Council of Europe Convention on Access to Official Documents (CETS No. 205), stipulating that limitations to the right of access to public documents must be set down precisely in law, be necessary in a democratic society and proportionate.

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[1] Reply adopted by the Committee of Ministers on 20 June 2012 at the 1146th meeting of the Ministers' Deputies).
[2] Steering Committee on Human Rights (CDDH), Steering Committee on the Media and New Communication Services (CDMC) and European Committee on Crime Problems (CDPC).
[3] European Convention on Human Rights.

APPENDIX X

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 XI

OPINION NO. 282 (2012)[1] OF THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE ON THE DRAFT FOURTH ADDITIONAL PROTOCOL TO THE EUROPEAN CONVENTION ON EXTRADITION (ETS NO. 24)

1. The Parliamentary Assembly fully supports the draft fourth Additional Protocol to the European Convention on Extradition (ETS No. 24) and sees no need to propose any changes.

[1] Text adopted by the Standing Committee, acting on behalf of the Assembly, on 25 May 2012 (see Doc. 12905 , report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Panţiru).

APPENDIX XII

FOURTH ADDITIONAL PROTOCOL TO THE EUROPEAN CONVENTION ON EXTRADITION (ETS NO. 24)[1]

The member States of the Council of Europe, signatory to this Protocol,

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

Desirous of strengthening their individual and collective ability to respond to crime;

Having regard to the provisions of the European Convention on Extradition (ETS No. 24) opened for signature in Paris on 13 December 1957 (hereinafter referred to as "the Convention"), as well as the three Additional Protocols thereto (ETS Nos. 86 and 98, CETS No. 209), done at Strasbourg on 15 October 1975, on 17 March 1978 and on 10 November 2010, respectively;

Considering it desirable to modernise a number of provisions of the Convention and supplement it in certain respects, taking into account the evolution of international co-operation in criminal matters since the entry into force of the Convention and the Additional Protocols thereto;

Have agreed as follows:

Article 1 – Lapse of time

Article 10 of the Convention shall be replaced by the following provisions:

"**Lapse of time**

1. Extradition shall not be granted when the prosecution or punishment of the person claimed has become statute-barred according to the law of the requesting Party.

2. Extradition shall not be refused on the ground that the prosecution or punishment of the person claimed would be statute-barred according to the law of the requested Party.

3. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that it reserves the right not to apply paragraph 2:

a. when the request for extradition is based on offences for which that State has jurisdiction under its own criminal law; and/or

b. if its domestic legislation explicitly prohibits extradition when the prosecution or punishment of the person claimed would be statute-barred according to its law.

4. When determining whether prosecution or punishment of the person sought would be statute-barred according to its law, any Party having made a reservation pursuant to paragraph 3 of this article shall take into consideration, in accordance with its law, any acts or events that have occurred in the requesting Party, in so far as acts or events of the same nature have the effect of interrupting or suspending time-limitation in the requested Party."

Article 2 – The request and supporting documents

1. Article 12 of the Convention shall be replaced by the following provisions:

"**The request and supporting documents**

1. The request shall be in writing. It shall be submitted by the Ministry of Justice or other competent authority of the requesting Party to the Ministry of Justice or other competent authority of the requested Party. A State wishing to designate another competent authority than the Ministry of Justice shall notify the Secretary General of the Council of Europe of its competent authority at the time of signature or when

[1] Adopted by the Committee of Ministers on 13 June 2012 at the 1145th meeting of the Ministers' Deputies.

depositing its instrument of ratification, acceptance, approval or accession, as well as of any subsequent changes relating to its competent authority.

2. The request shall be supported by:

a. a copy of the conviction and sentence or detention order immediately enforceable or of the warrant of arrest or other order having the same effect and issued in accordance with the procedure laid down in the law of the requesting Party;

b. a statement of the offences for which extradition is requested. The time and place of their commission, their legal descriptions and a reference to the relevant legal provisions, including provisions relating to lapse of time, shall be set out as accurately as possible; and

c. a copy of the relevant enactments or, where this is not possible, a statement of the relevant law and as accurate a description as possible of the person claimed, together with any other information which will help to establish his or her identity, nationality and location."

2. Article 5 of the Second Additional Protocol to the Convention shall not apply as between Parties to the present Protocol.

Article 3 – Rule of speciality

Article 14 of the Convention shall be replaced by the following provisions:

"**Rule of speciality**

1. A person who has been extradited shall not be arrested, prosecuted, tried, sentenced or detained with a view to the carrying out of a sentence or detention order, nor shall he or she be for any other reason restricted in his or her personal freedom for any offence committed prior to his or her surrender other than that for which he or she was extradited, except in the following cases:

a. when the Party which surrendered him or her consents. A request for consent shall be submitted, accompanied by the documents mentioned in Article 12 and a legal record of any statement made by the extradited person in respect of the offence concerned. Consent shall be given when the offence for which it is requested is itself subject to extradition in accordance with the provisions of this Convention. The decision shall be taken as soon as possible and no later than 90 days after receipt of the request for consent. Where it is not possible for the requested Party to comply with the period provided for in this paragraph, it shall inform the requesting Party, providing the reasons for the delay and the estimated time needed for the decision to be taken;

b. when that person, having had an opportunity to leave the territory of the Party to which he or she has been surrendered, has not done so within 30 days of his or her final discharge, or has returned to that territory after leaving it.

2. The requesting Party may, however:

a. carry out pre-trial investigations, except for measures restricting the personal freedom of the person concerned;

b. take any measures necessary under its law, including proceedings by default, to prevent any legal effects of lapse of time;

c. take any measures necessary to remove the person from its territory.

3. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession or at any later time, declare that, by derogation from paragraph 1, a requesting Party which has made the same declaration may, when a request for consent is submitted pursuant to paragraph 1.*a*, restrict the personal freedom of the extradited person, provided that:

a. the requesting Party notifies, either at the same time as the request for consent pursuant to paragraph 1.*a*, or later, the date on which it intends to apply such restriction; and

b. the competent authority of the requested Party explicitly acknowledges receipt of this notification.

The requested Party may express its opposition to that restriction at any time, which shall entail the obligation for the requesting Party to end the restriction immediately, including, where applicable, by releasing the extradited person.

4. When the description of the offence charged is altered in the course of proceedings, the extradited person shall only be proceeded against or sentenced in so far as the offence under its new description is shown by its constituent elements to be an offence which would allow extradition."

Article 4 – Re-extradition to a third State

The text of Article 15 of the Convention shall become paragraph 1 of that article and shall be supplemented by the following second paragraph:

"2. The requested Party shall take its decision on the consent referred to in paragraph 1 as soon as possible and no later than 90 days after receipt of the request for consent, and, where applicable, of the documents mentioned in Article 12, paragraph 2. Where it is not possible for the requested Party to comply with the period provided for in this paragraph, it shall inform the requesting Party, providing the reasons for the delay and the estimated time needed for the decision to be taken."

Article 5 – Transit

Article 21 of the Convention shall be replaced by the following provisions:

"**Transit**

1. Transit through the territory of one of the Contracting Parties shall be granted on submission of a request for transit, provided that the offence concerned is not considered by the Party requested to grant transit as an offence of a political or purely military character having regard to Articles 3 and 4 of this Convention.

2. The request for transit shall contain the following information:

a. the identity of the person to be extradited, including his or her nationality or nationalities when available;

b. the authority requesting the transit;

c. the existence of an arrest warrant or other order having the same legal effect or of an enforceable judgment, as well as a confirmation that the person is to be extradited;

d. the nature and legal description of the offence, including the maximum penalty or the penalty imposed in the final judgment;

e. a description of the circumstances in which the offence was committed, including the time, place and degree of involvement of the person sought.

3. In the event of an unscheduled landing, the requesting Party shall immediately certify that one of the documents mentioned in Article 12, paragraph 2.*a* exists. This notification shall have the effect of a request for provisional arrest as provided for in Article 16, and the requesting Party shall submit a request for transit to the Party on whose territory this landing has occurred.

4. Transit of a national, within the meaning of Article 6, of a country requested to grant transit may be refused.

5. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that it reserves the right to grant transit of a person only on some or all of the conditions on which it grants extradition.

6. The transit of the extradited person shall not be carried out through any territory where there is reason to believe that his or her life or freedom may be threatened by reason of his or her race, religion, nationality or political opinion."

Article 6 – Channels and means of communication

The Convention shall be supplemented by the following provisions:

"**Channels and means of communication**

1. For the purpose of the Convention, communications may be forwarded by using electronic or any other means affording evidence in writing, under conditions which allow the Parties to ascertain their authenticity. In any case, the Party concerned shall, upon request and at any time, submit the originals or authenticated copies of documents.

2. The use of the International Criminal Police Organization (Interpol) or of diplomatic channels is not excluded.

3. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that, for the purpose of Article 12 and Article 14, paragraph 1.*a*, of the Convention, it reserves the right to require the original or authenticated copy of the request and supporting documents."

Article 7 – Relationship with the Convention and other international instruments

1. The words and expressions used in this Protocol shall be interpreted within the meaning of the Convention. As regards the Parties to this Protocol, the provisions of the Convention shall apply, *mutatis mutandis*, to the extent that they are compatible with the provisions of this Protocol.

2. The provisions of this Protocol are without prejudice to the application of Article 28, paragraphs 2 and 3, of the Convention concerning the relations between the Convention and bilateral or multilateral agreements.

Article 8 – Friendly settlement

The Convention shall be supplemented by the following provisions:

"**Friendly settlement**

The European Committee on Crime Problems of the Council of Europe shall be kept informed regarding the application of the Convention and the Additional Protocols thereto and shall do whatever is necessary to facilitate a friendly settlement of any difficulty which may arise out of their interpretation and application."

Article 9 – Signature and entry into force

1. This Protocol shall be open for signature by the member States of the Council of Europe which are Parties to or have signed the Convention. It shall be subject to ratification, acceptance or approval. A signatory may not ratify, accept or approve this Protocol unless it has previously ratified, accepted or approved the Convention, or does so simultaneously. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

2. This Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the deposit of the third instrument of ratification, acceptance or approval.

3. In respect of any signatory State which subsequently deposits its instrument of ratification, acceptance or approval, this Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit.

Article 10 – Accession

1. Any non-member State which has acceded to the Convention may accede to this Protocol after it has entered into force.

2. Such accession shall be effected by depositing an instrument of accession with the Secretary General of the Council of Europe.

3. In respect of any acceding State, the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of accession.

Article 11 – Temporal scope

This Protocol shall apply to requests received after the entry into force of the Protocol between the Parties concerned.

Article 12 – Territorial application

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Protocol shall apply.

2. Any State may, at any later time, by declaration addressed to the Secretary General of the Council of Europe, extend the application of this Protocol to any other territory specified in the declaration. In respect of such territory the Protocol shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.

3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of such notification by the Secretary General.

Article 13 – Declarations and reservations

1. Reservations made by a State to the provisions of the Convention and the Additional Protocols thereto which are not amended by this Protocol shall also be applicable to this Protocol, unless that State otherwise declares at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession. The same shall apply to any declaration made in respect or by virtue of any provision of the Convention and the Additional Protocols thereto.

2. Reservations and declarations made by a State to any provision of the Convention which is amended by this Protocol shall not be applicable as between the Parties to this Protocol.

3. No reservation may be made in respect of the provisions of this Protocol, with the exception of the reservations provided for in Article 10, paragraph 3, and Article 21, paragraph 5, of the Convention as amended by this Protocol, and in Article 6, paragraph 3, of this Protocol. Reciprocity may be applied to any reservation made.

4. Any State may wholly or partially withdraw a reservation or declaration it has made in accordance with this Protocol, by means of a notification addressed to the Secretary General of the Council of Europe, which shall become effective as from the date of its receipt.

Article 14 – Denunciation

1. Any Party may, in so far as it is concerned, denounce this Protocol by means of a notification addressed to the Secretary General of the Council of Europe.

2. Such denunciation shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of the notification by the Secretary General of the Council of Europe.

3. Denunciation of the Convention automatically entails denunciation of this Protocol.

Article 15 – Notifications

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe and any State which has acceded to this Protocol of:

a. any signature;

b. the deposit of any instrument of ratification, acceptance, approval or accession;

c. any date of entry into force of this Protocol in accordance with Articles 9 and 10;

d. any reservation made in accordance with Article 10, paragraph 3, and Article 21, paragraph 5, of the Convention as amended by this Protocol, as well as Article 6, paragraph 3, of this Protocol, and any withdrawal of such a reservation;

e. any declaration made in accordance with Article 12, paragraph 1, and Article 14, paragraph 3, of the Convention as amended by this Protocol, as well as Article 12 of this Protocol, and any withdrawal of such a declaration;

f. any notification received in pursuance of the provisions of Article 14 and the date on which denunciation takes effect;

g. any other act, declaration, notification or communication relating to this Protocol.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at […], this […] day of […], in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe and to the non-member States which have acceded to the Convention.

APPENDIX XIII

EXPLANATORY REPORT TO THE FOURTH ADDITIONAL PROTOCOL TO THE EUROPEAN CONVENTION ON EXTRADITION (ETS NO. 24)

I. The Fourth Additional Protocol to the European Convention on Extradition, drawn up within the Council of Europe by the Committee of Experts on the Operation of European Conventions on Co-operation in Criminal Matters (PC-OC), under the authority of the European Committee on Crime Problems (CDPC), has been opened for signature by the member states of the Council of Europe, in …., on …., on the occasion of the ….

II. The text of this explanatory report, prepared on the basis of that Committee's discussions and submitted to the Committee of Ministers of the Council of Europe, does not constitute an instrument providing an authoritative interpretation of the text of the Additional Protocol although it may facilitate the understanding of its provisions.

Introduction

1. Under the authority of the European Committee on Crime Problems (CDPC), the Committee of Experts on the Operation of European Conventions on Co-operation in Criminal Matters (PC-OC) is entrusted, in particular, with examining the functioning and implementation of Council of Europe conventions and agreements in the field of international co-operation in criminal matters, with a view to adapting them and improving their practical application where necessary.

2. The need for the modernisation of the legal instruments of the Council of Europe in the criminal justice field, including the European Convention on Extradition (hereinafter referred to as "the Convention"), in order to enhance international co-operation, has been highlighted on several occasions. In particular, the "New Start" report (PC-S-NS (2002) 7), presented to the CDPC by the Reflection Group on developments in international co-operation in criminal matters and approved by the CDPC in June 2002, pointed to the necessity of realising a European area of shared justice. The Warsaw declaration and the Plan of Action adopted by the Third Summit of Council of Europe Heads of State and Government of the member states of the Council of Europe (Warsaw, 16-17 May 2005) underlined the commitment, at the highest political level, to making full use of the Council of Europe's standard-setting potential and to promoting implementation and further development of the Organisation's legal instruments and mechanisms of legal co-operation.

3. At the High-Level Conference of the Ministries of Justice and of the Interior entitled "Improving European Co-operation in the Criminal Justice Field" held in Moscow (Russian Federation) on 9 and 10 November 2006, the Council of Europe was encouraged to continue its efforts to improve the operation of the main conventions regulating international co-operation in criminal matters, in particular those regarding extradition, in order to identify the difficulties encountered and to consider the need for any new instruments.

4. At its 52nd meeting (October 2006), the PC-OC put forward a number of proposals relating to the modernisation of the European Convention on Extradition, as amended by the two additional protocols thereto of 1975 and 1978. The Convention, which dates from 1957, is indeed one of the oldest European conventions in the criminal law field and has a direct impact on individuals' rights and freedoms, to which the CDPC asked the PC-OC to pay particular attention.

5. In this context, the PC-OC suggested, on the one hand, to complement the Convention in order to provide a treaty basis for simplified extradition procedures, and, on the other hand, to amend a number of provisions of the Convention in order to adapt it to modern needs. These provisions concerned, *inter alia*, the issues of lapse of time, rule of speciality and channels and means of communication.

6. The CDPC, at its 56th plenary session (June 2007), decided to mandate the PC-OC, to draft the necessary legal instruments for this purpose. Having studied various options, the PC-OC agreed to draw up two additional protocols to the Convention, a Third Additional Protocol providing for simplified extradition procedures by complementing the Convention, and a Fourth Additional Protocol amending and supplementing certain provisions of the Convention. The present Fourth Additional Protocol was finalised by the PC-OC at its 60th meeting (17 to 19 May 2011) and submitted to the CDPC for approval.

7. The drafts of the Fourth Additional Protocol and the Explanatory Report thereto were examined and approved by the CDPC at its 60th plenary session (14 to 17 June 2011) and submitted to the Committee of Ministers.

8. At the …th meeting of their Deputies on [date], the Committee of Ministers adopted the text of the Fourth Additional Protocol and decided to open it for signature, in [place] on [date].

Commentaries on the Articles of the Fourth Additional Protocol

Article 1 – Lapse of time

9. This Article is intended to replace the original Article 10 of the Convention which established lapse of time, under the law either of the requested Party or the requesting Party, as a mandatory ground for refusal. The current text takes account of changes that occurred as regards international co-operation in criminal matters since the opening to signature of the Convention in 1957, and notably the relevant provision of the Convention of 23 October 1996 relating to extradition between the member states of the European Union (Article 8).

10. The modified Article draws a distinction concerning immunity by reason of lapse of time from prosecution or punishment, depending on whether it obtains according to the law of the requesting or the requested Party.

11. As regards the law of the requesting Party, lapse of time remains a mandatory ground for refusal in accordance with paragraph 1 of this Article. The drafters considered excluding this as a ground for refusal, given that the requesting Party should, as a matter of course, not request the extradition of a person whose prosecution or punishment is statute-barred under its own law. However, they decided to keep this ground for refusal for the rare cases where a Party fails to withdraw an extradition request, despite this immunity.

12. Thus, the requested Party has an obligation to consider whether there is lapse of time under the law of the requesting Party before deciding on extradition. However, in order to allow the requested Party to fulfil this obligation, the requesting Party should provide the requested Party with a motivated statement specifying the reasons for which there is no lapse of time and including the relevant provisions of its law. In the rare cases that the requested Party has reasons to believe that immunity by reason of lapse of time might have been acquired, it should request information on this question from the requesting Party itself.

13. The requesting Party should provide this information together with the extradition request, without an explicit request to that effect from the requested Party being necessary (see also Article 12, paragraph 2, sub-paragraphs b and c of the Convention, as amended by the present protocol).

14. As regards the law of the requested Party, paragraph 2 of the modified Article 10 provides that lapse of time shall not serve as a ground for refusal in principle. This is in line with developments in international law[1], as well as European Union law[2], which have taken place since 1957.

15. Paragraph 3 qualifies the principle established under paragraph 2, by allowing the requested Party to invoke lapse of time under its own law as an optional ground for refusal in two hypotheses:

- the requested Party has jurisdiction on the relevant offences under its own criminal law;

- its domestic legislation explicitly prohibits extradition in case of lapse of time under its own law.

However, the possibility of doing so is conditional on a reservation to that effect having been made at the time of signature or when depositing the instrument of ratification, acceptance, approval or accession.

16. This reservation may concern either one of the two sub-paragraphs of paragraph 2, or both. The latter case would allow a Party to make a partial withdrawal of its reservation as regards the more far-reaching ground for refusal of sub-paragraph b, while maintaining the more limited ground for refusal of sub-paragraph a.

[1] For example, the UN Model Treaty on Extradition and its revised Manual.

[2] Notably, the Convention implementing the Schengen Agreement (19 June 1990) and the Convention of 23 October 1996 drawn up on the basis of Article K.3 of the Treaty on European Union, relating to extradition between the member states of the European Union.

17. Paragraph 4, is intended to apply only in respect of Parties having made a reservation under paragraph 3. The principle reflected in this provision follows from the Resolution (75) 12 of the Committee of Ministers on the practical application of the European Convention on Extradition.

18. As reflected in the wording "in accordance with its law", it is the law of the requested Party which determines if, and to what extent, acts and events in the requesting Party interrupt or suspend time-limitation in the requested Party.

Article 2 – The request and supporting documents

19. Article 12, paragraph 1 of the Convention provides that requests for extradition shall be communicated through the diplomatic channel. Chapter V of the Second Additional Protocol to the Convention simplified this system by providing for extradition requests to be sent by the Ministry of Justice of the requesting Party to the Ministry of Justice of the requested Party. However, for a number of countries the competent authority for sending and receiving extradition requests is not the Ministry of Justice, but another authority such as the Office of the Prosecutor General. The present wording is designed to accommodate this practice.

20. Any Party wishing to designate a competent authority other than the Ministry of Justice shall notify the Secretary General of the Council of Europe accordingly. The drafters agreed that any such authority shall be competent at the national level to send and receive extradition requests. In the absence of such notification, the competent authority with respect to that state is understood to be the Ministry of Justice.

21. The drafters took note of the practice of some Parties to the Convention to designate more than one competent authority. In such cases, the declaration of the Party concerned should make it clear how competences of the different authorities are apportioned in extradition cases.

22. It is important to note that Article 2, paragraph 2 of this Additional Protocol provides that Article 5 of the Second Additional Protocol shall not apply as between Parties to the Fourth Additional Protocol[3].

23. Channels and means of communication are now dealt with in Article 6 of this Fourth Additional Protocol so as to create a common system in this respect.

24. It is important to note that although Article 5 of the Second Additional Protocol will not apply, it will still be possible to conclude agreements between Parties in accordance with Article 28, paragraph 2 of the Convention, as foreseen in Article 7, paragraph 2, of the Fourth Additional Protocol.

25. As regards paragraph 2 of Article 12 of the Convention as amended by this Fourth Additional Protocol, contrary to the Convention which requires an original or authenticated copy of the documents mentioned under sub-paragraph a, this Additional Protocol only refers to "a copy". This is in line with the possibility introduced under Article 6 of the Fourth Additional Protocol to use modern means of communication. However, sub-paragraph a should also be read in conjunction with the reservation provided for under Article 6, paragraph 3 of this Additional Protocol. In cases where the requested Party has made such a reservation, the requesting Party would still have to send the originals or authenticated copies of these documents.

26. In addition, the Fourth Additional Protocol completes the original wording of paragraph 2 of Article 12 of the Convention in two respects. Firstly, Under sub-paragraph b, an explicit reference to provisions relating to lapse of time is included, with the understanding that the appraisal of lapse of time according to the law of the requesting Party, pursuant to Article 10, paragraph 1 of the Convention as amended by the Fourth Additional Protocol, should be based on the assessment made by that Party of lapse of time according to its own law. Secondly, under sub-paragraph c, the relevant information to be sent is completed with a reference to the location of the person, due to practical considerations.

Article 3 – Rule of speciality

27. The rule of speciality corresponds to the principle that an extradited person may not be arrested, prosecuted, tried, sentenced or detained for an offence other than that which furnished the grounds for his or her extradition. In this context, it is important to underline the responsibility of the requesting Party to ensure

[3] Article 5 of the Second Additional Protocol will continue to apply in relations between Parties to the Second Additional Protocol and Parties to the Fourth Additional Protocol having ratified the Second Additional Protocol.

that the initial request for extradition is as complete as possible and based on all available information, in order to avoid future requests for the extension of extradition to other offences committed prior to the initial request.

28. This article rewords Article 14 of the Convention, by introducing the following amendments:

1. in paragraph 1, the words “proceeded against” are replaced by the words “arrested, prosecuted, tried” and a new sub-paragraph is inserted under paragraph 2, in order to clarify the scope of the rule of speciality;

2. In paragraph 1, the sentence containing the words “nor shall he or she be for any other reason restricted in his or her personal freedom”, has been restructured in order to align the English and French versions;

3. in paragraph 1, sub-paragraph a, a time limit of 90 days is introduced for the formerly requested Party to communicate its decision on the extension of the extradition to other offences;

4. in paragraph 1, sub-paragraph b, the period of 45 days is reduced to 30 days;

5. a new paragraph 3 is introduced, creating the possibility for the requested Party to authorise the requesting Party to restrict the personal freedom of the extradited person pending its decision on extension of the extradition.

29. As regards point 1, the reason for the change is the fact that there had been many different and sometimes conflicting interpretations of the words “proceeded against” in different legal systems. The replies to a questionnaire sent by the PC-OC indicated notably that the authorities of some Parties to the Convention had interpreted the words “proceeded against” to cover any measure taken by the authorities of the requesting Party, even before a case is brought to trial. This had made it impossible for those Parties to investigate and collect evidence in relation to offences committed prior to a person’s extradition and which are discovered after her/his surrender. This has created significant difficulties in some Parties or led to the rejection of evidence collected on such offences by courts.

30. The drafters of the Fourth Additional Protocol were of the view that such an interpretation did not reflect the intention of the drafters of the Convention, as the requesting Party should not be barred from doing whatever is necessary in order to organise the file for a request to be addressed to the Party which surrendered the person in accordance with paragraph 1, sub-paragraph a, seeking the consent of that Party to the extension of the extradition to offences not covered in the initial extradition request. Such a request for consent should notably be accompanied by the documents mentioned in Article 12, which implies that the requesting Party may initiate or continue proceedings up to the point where it obtains the necessary documents for requesting the other Party’s consent, such as a new warrant of arrest.

31. The new wording of paragraph 1, in combination with the new paragraph 2, sub-paragraph a, makes it clear that the rule of speciality does not bar the requesting Party from conducting pre-trial investigations and doing what is necessary in order to obtain the documents mentioned under paragraph 1, sub-paragraph a, while still ruling out the possibility for the requesting Party to bring the case to trial or restrict the personal freedom of the extradited person, solely based on these newly discovered offences. In this context, pre-trial investigations are to be understood to comprise intrusive measures such as wiretapping or house searches with regard to the extradited person, as well as confrontation and interrogation of persons other than the extradited person in connection with these additional offences. The extradited person may be interrogated or confronted insofar as this investigative measure does not imply coercion, i.e. the restriction of the personal freedom of the extradited person. Article 14 of the Convention, as revised by this Fourth Additional Protocol, should also not prevent the requesting Party from summoning the extradited person for the purpose of gathering evidence in order to institute proceedings against other persons who are not covered by the rule of speciality.

32. The concept of “restriction of personal freedom” is to be interpreted so as to include not only deprivation of liberty in accordance with Article 5 of the European Convention of Human Rights, but also restrictions on “liberty of movement”, in accordance with Article 2 of Protocol No. 4 thereto. Thus, a ban to leave the territory of the requesting Party would for example qualify as a restriction of personal freedom.

Paragraph 1, sub-paragraph a

33. As regards point 3, the PC-OC considered that the introduction of a time limit for the requested Party would be an added value in the context of the modernisation of the Convention. This is linked to the observation of the PC-OC that extension of extradition to new offences is sometimes characterised by co-operation which is less prompt compared to the initial request and can cause significant delays, which causes problems in the criminal procedures of requesting Parties and may also have negative consequences for the defendant. The PC-OC therefore agreed that the introduction of such a time limit would have a clear added value.

34. Even though some Parties to the Convention follow the same procedure for giving consent to the extension of the extradition decision as they do for the initial extradition request, the PC-OC observed that certain elements, such as the presence of the person already in the requesting Party or the technical nature of many extension requests, may allow for a speedy decision on extension. The drafters thus agreed that 90 days would be sufficient for the requested Party to take its decision on consenting to the extension of extradition.

35. However, in certain cases, it might not be possible for the requested Party to treat the request for consent within 90 days, in which case this period can be extended. This nonetheless constitutes progress vis-à-vis the mother Convention, as in such cases the requested Party would have an obligation to inform the requesting Party of the reasons for the delay and the time needed for reaching a decision. This would reduce uncertainty for the requesting Party and limit the disruption to its criminal procedure.

Paragraph 1, sub-paragraph b

36. The amendment to paragraph 1, sub-paragraph b concerns the delay following the final discharge of the extradited person after which the rule of speciality ceases to apply. The Convention provides that the rule of speciality shall not apply if the person has not left, having had the opportunity to do so, the territory of the requested Party within 45 days of the person's discharge or if the person has returned to that territory after leaving it. The drafters considered that the 45-day period had no objective justification 50 years after the adoption of the Convention, given that it has become much easier to travel and leave the territory of Parties. They therefore agreed to restrict this delay to 30 days.

37. This provision also contains two conditions which have to be fulfilled for the rule of speciality to cease to apply. The person must have been "finally discharged" and had the "opportunity to leave the territory".

38. The term finally discharged should be interpreted in line with the meaning attributed to that term under the Additional Protocol to the Convention on the Transfer of Sentenced Persons. Paragraph 32 of the explanatory report to that Protocol provides that:

> "The expression "final discharge" (in French: "élargissement définitif") means that the person's freedom to leave the country is no longer subject to any restriction deriving directly or indirectly from the sentence. Consequently, where, for instance, the person is conditionally released, that person is finally discharged if the conditions linked to release do not prevent him or her from leaving the country; conversely, that person is not finally discharged where the conditions linked to release do prevent him or her from leaving the country."

39. With regard to the words "opportunity to leave the territory", and as clarified in the explanatory report to Article 14 of the original Convention, the person must not only be free to leave the territory, but also not be hindered from doing so for other reasons (for example, for serious health reasons).

Paragraph 3

40. The rule of speciality prohibits any restriction of the personal freedom of the extradited person for offences committed prior to his or her extradition, other than those which furnished the grounds for this extradition. However, there might be rare cases where this principle could potentially create an impediment to the pursuit of the ends of justice, even where there is no oversight on the side of the requesting Party.

41. A typical example would be a situation where the requesting Party discovers new elements after the extradition implicating the extradited person in connection with an offence not included in the original extradition request, on the basis of new evidence or new links to existing evidence. Another example would

be the situation where a third country submits a request for re-extradition after the surrender of a person. If the release of that person from custody for the initial offence is imminent, the requesting Party may have to release the person before it can obtain the consent from the requested Party to extend the extradition to the new offence.

42. Paragraph 3 contains an optional provision which will only apply between Parties to this Protocol having made a declaration to that effect. The provision introduces a special procedure within the rule of speciality for such exceptional cases, which allows the requesting Party to continue restricting the personal freedom of the extradited person until the requested Party takes its decision on consent pursuant to paragraph 1, sub-paragraph a.

43. According to this procedure, in order to restrict the personal freedom of the extradited person on the basis of new offences, the requesting Party must notify its intention to do so to the requested Party. This notification must take place either at the same time as the request for consent pursuant to paragraph 1, sub-paragraph a, or at a later stage. No restriction on the basis of new offences can take place outside the knowledge of the requested Party and before its acquiescence, which is tacitly given by the competent authority acknowledging the receipt of the notification of the requesting Party of its intention to proceed to such a restriction. The competent authority is the authority referred to in Article 12, paragraph 1 of the Convention as modified by Article 2, paragraph 1, of the present Protocol. Parties making a declaration in favour of this optional provision are encouraged to indicate, by the notification foreseen under Article 12, paragraph 1, of the Convention as modified, who will be the competent authority delivering the acknowledgment of receipt. In the absence of such notification, the competent authority will be the Ministry of Justice (reference is made to paragraphs 19 to 21 of this Explanatory Report). An automatically generated receipt of acknowledgment can not be regarded as an explicit acknowledgment of the receipt by the competent authority.

44. This acquiescence allows the requesting Party to take measures on the basis of its warrant of arrest for new offences, according to its own law and subject to its procedural guarantees and to the control of its domestic courts. However, the requested Party may at any time express its opposition to such a restriction of personal freedom, either simultaneously with its acknowledgement of receipt or at a later stage. The requesting Party must comply with this opposition, in the former case by abstaining from taking the measure restricting the personal freedom of the extradited person, and in the latter case by putting an immediate end to the measure in question.

45. The drafters considered that the opposition of the requested Party pursuant to this paragraph may be only limited to certain types of restriction. For example, the requested Party could inform the requesting Party that the latter may not detain the person in question, but use alternative measures restricting her or his personal freedom, such as a house arrest or a ban to leave the country.

46. The drafters of the Additional Protocol considered that the changes to the rule of speciality have no impact on surrender procedures between EU member states on the basis of the EU Framework Decision on the European Arrest Warrant.

Article 4 – Re-extradition to a third state

47. The changes to Article 15 of the Convention are in line with the amendments to Article 14 of the Convention, and concern the introduction of a time limit not exceeding 90 days for the requested Party to decide whether or not it consents to a re-extradition of the person surrendered to another Party or to a third state.

Article 5 – Transit

48. This article, which was inspired by Article 11 of the Third Additional Protocol to the Convention, simplifies considerably the transit procedure foreseen in Article 21 of the Convention. The drafters of the Additional Protocol noted that, for an effective and speedy transit procedure, the request for transit should be sent as soon as possible. The drafters also took note of Recommendation No. R (80) 7 of the Committee of Ministers of the Council of Europe concerning the practical application of the European Convention on Extradition.

49. In accordance with paragraph 2, the request for transit does not have to be accompanied by the documents referred to in the new Article 12, paragraph 2 of the Convention. Accordingly, the information listed in this paragraph may be considered sufficient for the purposes of granting transit. Nevertheless, in

exceptional cases where this information is not sufficient for the state of transit to reach a decision on granting transit, Article 13 of the Convention would apply and allow that Party to request supplementary information from the Party requesting transit. While information concerning lapse of time is not included in this list, the drafters agreed that such information should also be provided in cases where lapse of time is likely to be of concern, for example due to the time of commission of the offence.

50. Pursuant to Article 6 of this Fourth Additional Protocol, communications for transit purposes may be made through electronic or any other means affording evidence in writing (such as fax or electronic mail), and the decision of the Party requested to grant transit may be made known by the same method. Parties can also make use of these means of communication for practical arrangements. Thus, the Party requesting transit is encouraged to communicate, to the extent possible, information such as the intended time and place of transit, the route, flight details, or the identity of the escorting officers, as soon as this information becomes available.

51. The drafters of this Fourth Additional Protocol considered that the new Article 21 of the Convention could also cover cases where only the Party requesting transit and the Party requested to grant transit are Parties to the Convention, and extradition has been granted on a legal basis other than the Convention.

52. It is no longer an obligation under this Fourth Additional Protocol to notify a Party whose air space will be used during transit when it is not intended to land. However, paragraph 3 foresees an emergency procedure in the event of an unscheduled landing. As soon as the requesting Party is informed of such an event, it shall notify to the Party on whose territory the unscheduled landing occurs that one of the documents mentioned in Article 12, paragraph 2, sub-paragraph a exists. While this Additional Protocol does not specify the form this notification should take, the relevant documentation carried by the escorting officers, or information contained in the INTERPOL or Schengen Information Systems could, for example, be considered sufficient in this respect.

53. Similarly to the original wording of Article 21, paragraph 4 of the Convention, the Party on whose territory the unscheduled landing occurs shall consider this notification as a request for provisional arrest, pending the submission of an ordinary request for transit in accordance with paragraphs 1 and 2.

Article 6 – Channels and means of communication

54. This Article, which is based on Article 8 of the Third Additional Protocol to the Convention, provides a legal basis for speedy communication, including electronic means of communication, while ensuring the authenticity of the documents and information transmitted. It would affect means of communication in relation to several provisions of the Convention, including Articles 12, 13, 14, 15, 16, 17, 18, 19 and 21. The Parties may also request to obtain the original document or an authenticated copy, in particular by mail.

55. The drafters of this Fourth Additional Protocol agreed that the current trend was towards a more intensive use of electronic means of communication, and that the text of the Convention should be open to future developments in this respect, including the possibility of sending all extradition documents using electronic means. However, some delegations considered that for the most essential documents, namely those referred to in Article 12, paragraph 2 and Article 14, paragraph 1, sub-paragraph a of the Convention as amended, it would be premature in the current circumstances to abolish the requirement for transmission by mail, until more reliable electronic means, such as communication with secure electronic signatures, are more widespread.

56. In order to accommodate these concerns, paragraph 3 of this Article allows states to declare that they reserve the right to require the original or authenticated copy of the request and supporting documents for these specific Articles in all cases. This reservation can be withdrawn as soon as circumstances permit.

Article 7 – Relationship with the Convention and other international instruments

57. This article clarifies the relationship between the Protocol on the one hand, and the Convention and other international agreements on the other hand.

58. Paragraph 1 ensures uniform interpretation of this Additional Protocol and the Convention by providing that the words and expressions used in the Protocol shall be interpreted within the meaning of the Convention. The Convention should be understood as the European Convention on Extradition of 1957 (ETS No. 24), as amended between Parties concerned by the Additional Protocol (ETS No. 86), the Second Additional Protocol (ETS No. 98) and/or the Third Additional Protocol (CETS No. 209) thereto.

59. Paragraph 1 further clarifies the relationship between the provisions of the Convention and those of this Fourth Additional Protocol, i.e. as between the Parties to this Protocol, the provisions of the Convention shall apply to the extent that they are compatible with the provisions of this Additional Protocol, in accordance with general principles and norms of international law.

60. Paragraph 2 is designed to ensure the smooth co-existence of this Fourth Additional Protocol with any bilateral or multilateral agreements concluded in pursuance of Article 28, paragraph 2 of the Convention. It states that the Additional Protocol does not alter the relation between the Convention and such agreements or the possibility for Parties to regulate their mutual relations with regard to extradition exclusively in accordance with a system based on a uniform law (Article 28, paragraph 3 of the Convention).

61. This implies in particular that declarations made by EU member states in relation with the European Union Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between member states (2002/584/JHA) would automatically apply to this Fourth Additional Protocol and would make it unnecessary for the states concerned to make new declarations to that effect.

Article 8 – Friendly settlement

62. This article recognises the important role of the European Committee on Crime Problems in the interpretation and application of the Convention and the Additional Protocols thereto, and follows the precedents established in other European conventions in the criminal justice field. It also follows Recommendation Rec (99) 20 of the Committee of Ministers, concerning the friendly settlement of any difficulty that may arise out of the application of the Council of Europe conventions in the penal field. The reporting requirement which it lays down is intended to keep the European Committee on Crime Problems informed about possible difficulties in interpreting and applying the Convention and the Additional Protocols thereto, so that it may contribute to facilitating friendly settlements and proposing amendments to the Convention and the Additional Protocols thereto which might prove necessary.

Articles 9 to 15 – Final clauses

63. Article 11 has been introduced to ensure clarity about the application in time between Parties to this Fourth Additional Protocol. The Protocol will only apply to new requests, received after the entry into force in each of the Parties concerned. The word “requests” covers requests for extradition, additional requests for consent and requests for transit.

64. The remaining Articles are based both on the "Model final clauses for conventions and agreements concluded within the Council of Europe" which were approved by the Committee of Ministers at the 315th meeting of their Deputies in February 1980, and the final clauses of the European Convention on Extradition.

65. Since Article 12 concerning territorial application is mainly aimed at overseas territories, it was agreed that it would be clearly against the philosophy of this Additional Protocol for any Party to exclude parts of its main territory from the application of this instrument, and that there would be no need to lay this down explicitly in this Fourth Additional Protocol.

66. Reservations and declarations made by a state with regard to any provision of the Convention or the Additional Protocols thereto, which is not amended by this Fourth Additional Protocol, shall also be applicable to this Additional Protocol, unless that state declares otherwise in accordance with Article 13, paragraph 1.

67. It is underlined that under the provisions of Article 13, no reservation may be made with regard to the provisions of this Additional Protocol except for the reservations provided for under Article 10, paragraph 3, and Article 21, paragraph 5 of the Convention as amended by this Protocol, and Article 6, paragraph 3 of this Fourth Additional Protocol.

APPENDIX XIV

RESOLUTION CM/RES(2012)4 ON THE APPOINTMENT TO THE POST OF DEPUTY SECRETARY GENERAL[1]

The Committee of Ministers, under the terms of Article 36.b of the Statute of the Council of Europe,

Having regard to the Regulations relating to the appointment of the Secretary General, Deputy Secretary General and Secretary General of the Assembly having the rank of Deputy Secretary General;

Having regard to Resolution CM/Res(2012)1 on the duration of the term of office of the Deputy Secretary General;

Having examined the two candidatures submitted by the governments of Switzerland and Italy;

Having interviewed the two candidates;

Having consulted the representatives of the Parliamentary Assembly in the Joint Committee on 25 April 2012,

Decides to submit to the Parliamentary Assembly, for appointment to the post of Deputy Secretary General, for a three-year term starting on 1 September 2012, the following candidatures in alphabetical order, with the names of the sponsoring governments in brackets:

- Ms Gabriella Battaini-Dragoni (Italy);

- Mr Gérard Stoudmann (Switzerland).

[1] Adopted by the Committee of Ministers on 2 May 2012 at the 1141st meeting of the Ministers' Deputies.

APPENDIX XV

REPORT BY THE SECRETARY GENERAL ON THE IMPLEMENTATION OF THE COUNCIL OF EUROPE REFORM - 122ND SESSION OF THE COMMITTEE OF MINISTERS

We are at the mid-term of my mandate as the Secretary General of the Council of Europe. This is a very opportune moment to assess the implementation of the reform, which has been, and remains, the central point of my term in office.

The overall objective of the reform is to restore the ability of the Council of Europe to solve problems – to act and produce results which our governments and populations need and have the right to expect. The key is in improved implementation of our standards and principles – across Europe, and in each and every one of our member states.

The reform of the Council of Europe is therefore about four following strategic priorities:

- to sharpen our tools to implement the rule of law, based on democratic and human rights standards, throughout the entire continent;

- to build a culture of living together;

- to broaden our interaction with our neighbourhood;

- to exploit the full potential of co-operation with our partners.

The reform of the European Court of Human Rights is an integral part of the overall reform process. I decided not to include it in this report as it is well covered by the point of the agenda on the follow-up to the Conference in Brighton.

Efficiency and accountability

A political reform requires impact, which, in return, requires maximum efficiency and accountability in the use of available resources. Efforts in this respect have been further reinforced against the background of the economic and financial crisis. The Council of Europe is not immune from the difficulties confronted by the public sector in its member states and has undergone a very rigorous review of its costs and expenses. A number of structural changes have been introduced in order to ensure that money is spent where it matters, with maximum added value.

The cost of staff is now declining in proportion to activities. Staff-related savings for the period 2009-2013 are already approaching € 15 Million.

The network of Council of Europe external presence has been rationalised by closing one third of offices and reinforcing the ones in priority locations with regard to assistance and co-operation programmes and liaising with other international partners. Moreover, structures at the headquarters have been reorganised in order to provide better co-ordination and maximum support for operational activities on the ground.

The Intergovernmental Committee Structure has been rationalised, effectively halving the number of committees and providing new terms of reference adapted to the biennial programme of activities. A review of over 200 Council of Europe Conventions, as well as the Conferences of Specialised Ministers and the framework for cooperation with civil society, are underway, adapting the structures and the procedures to the new realities and priorities of the organisation in the 21st century.

New structures for strategic planning and early warning as well as internal oversight, management and control have been set up.

The creation of the Office of the Director General of Programmes has ensured the necessary transversal co-ordination, improving our capacity to plan, mobilise, pool and deploy our resources for maximum impact on the ground.

In the past two and a half years we have merged the budget and programme in order to improve transparency and governance with regard to what the organisation does, how, and how much it costs. Our activities are summarised in three operational pillars.

The annual budget has become a biennial budget and programme, starting with 2012-2013. It allows for more strategic planning and implementation of activities, with the necessary structural adaptations.

The examples above clearly demonstrate the Council of Europe has set an example to other international organisation when it comes to reviewing structures for greater efficiency and reducing costs. But it must be made clear that the overall objective is not simply to make the organisation cost less. Its contribution to deep stability and security in Europe cannot come on the cheap.

Impact

In the past, the Council of Europe has been doing too much and achieving too little. A thorough and selective reorientation of priorities was therefore an imperative. Fewer and clearer priorities have been set, responding to the needs of the member states and today's rapidly evolving circumstances, with a critical mass of resources required to achieve concrete and measurable results. The number of programmes has been reduced by 20%.

The ultimate yardstick to measure the success of the Council of Europe reform is concrete and quantifiable achievements in terms of the four strategic objectives described above.

This interim assessment of the reform over the past two and a half years comes at the moment when the different strains of the reform are converging and producing results in terms of our operational impact and political relevance.

The key to political impact and relevance is a better use of relevant Council of Europe instruments. A cumulative effect of co-ordinated efforts and actions by the Committee of Ministers, the Assembly, the Congress, the Commissioner, building on the jurisprudence of the European Court of Human Rights and using the output and the advice of the Venice Commission, ECRI, CPT and others, is creating the critical mass of expertise and influence.

My role is focused on bringing them together in a targeted political action, supported by concrete assistance, carried out in co-ordination with our partners and especially the European Union – and in close dialogue and co-operation with the authorities of the member states concerned.

This is the approach which has, over the past two years, produced concrete results. As an illustration, I would mention in particular:

- Council of Europe work on Roma, transforming a quick political response to an emergency into a long-term, concrete activity, already training more than 500 Roma mediators in partnership with the European Union.

- Mediation in the efforts to resolve Constitutional crises in Moldova.

- The successful launch of a policy towards countries in Council of Europe neighbourhood, within weeks of the last years' events, providing solid bases for dialogue and co-operation aimed at reinforcing deep security and stability at Europe's borders.

- Producing a Report on Living Together in 21st Century Europe as a blueprint for reinforcing common values, combating intolerance and discrimination and transforming Europe's diversity from a potential liability into an asset.

- Responding to the request by the Turkish Prime Minister and providing concrete assistance in the reform of the judiciary with particular focus on the freedom of expression, based on the case-law of the European Court of Human Rights.

- Working with the Hungarian government on changes to constitutional and legislative provisions related to, in particular, the judiciary and media.

- Engaging in dialogue and targeted co-operation with Ukraine, in the framework of a joint Action Plan, and against the background of persisting international concern regarding the functioning of the judiciary in the country.

- Closely co-ordinating efforts with the European Union in view of the constitutional reform in Bosnia and Herzegovina based on the Sejdić and Finci judgment of the European Court of Human Rights.

One of the key components of this new approach is the new quality in relations between the Council of Europe and the European Union, based on regular dialogue, close co-ordination at all levels and mutual respect.

The list above is not exhaustive, but it is illustrative of a new *modus operandi* in the Council of Europe, aimed at producing a positive, tangible and measurable difference, in the interest and in co-operation with the authorities of the countries concerned.

APPENDIX XVI

REPLY OF THE COMMITTEE OF MINISTERS[1] TO WRITTEN QUESTION NO. 615 BY LORD BOSWELL: "IMPLEMENTATION OF THE PROVISIONS OF THE BRIGHTON DECLARATION"

Question:

"How many amendments to the European Convention on Human Rights and related Protocols will be required in order to implement the Brighton Declaration on the future of the European Court of Human Rights; what mechanism is in place to consider and draft detailed amendments; and what is the intended timetable for their implementation?"

1. The Committee of Ministers decided at its 122nd Session on 23 May 2012 to ask the Steering Committee for Human Rights (CDDH) to submit by 15 April 2013 a draft protocol amending the European Convention on Human Rights on the questions dealt with in paragraphs 12b, 15a, 15c, 25d and 25f of the Brighton Declaration. This draft protocol should then be adopted by the Committee of Ministers by the end of 2013.

2. Furthermore, following up paragraph 12d of the Brighton Declaration, the Committee of Ministers has asked the CDDH to prepare, also by 15 April 2013, a draft optional protocol to the Convention relating to advisory opinions. The Committee of Ministers will thereafter decide whether to adopt it.

3. Other points dealt with in the Brighton Declaration may, if necessary, give rise to the drafting of amendments to the Convention if, having considered the matter, the Committee of Ministers deems this appropriate.

[1] Adopted on 20 June 2012 at the 1146th meeting of the Ministers' Deputies.

APPENDIX XVII

GUIDELINES OF THE COMMITTEE OF MINISTERS[1] ON THE SELECTION OF CANDIDATES FOR THE POST OF JUDGE AT THE EUROPEAN COURT OF HUMAN RIGHTS

The Committee of Ministers,

Underlining the fundamental importance of the High Contacting Parties' role in proposing candidates of the highest possible quality for election as judges of the European Court of Human Rights (hereinafter "the Court"), so as to preserve the impartiality and quality of the Court, thereby reinforcing its authority and credibility;

Recalling Articles 21 and 22 of the European Convention on Human Rights (hereinafter "the Convention", ETS No. 5), which, respectively, set out the criteria for office and entrust the Parliamentary Assembly with the task of electing judges from a list of three candidates nominated by each High Contracting Party;

Recalling the Declaration adopted at the High Level Conference on the Future of the European Court of Human Rights (Interlaken, Switzerland, 18 and 19 February 2010), which stressed the importance of maintaining the independence of the judges and of preserving the impartiality and quality of the Court;

Recalling also the Declaration adopted at the High Level Conference on the Future of the European Court of Human Rights (Izmir, Turkey, 26 and 27 April 2011), which cited the need to encourage applications by good potential candidates for the post of judge at the Court, and to ensure a sustainable recruitment of competent judges, with relevant experience, and the impartiality and quality of the Court;

Recalling Committee of Ministers Resolution CM/Res(2010)26 on the establishment of an Advisory Panel of Experts on Candidates for Election as Judge to the European Court of Human Rights (hereinafter the "Advisory Panel"), which reiterated the responsibility of the High Contracting Parties to the Convention to ensure a fair and transparent national selection procedure;

Recalling Recommendation 1649 (2004) of the Parliamentary Assembly on candidates for the European Court of Human Rights and the Committee of Ministers' reply thereto;

Taking note of the various resolutions of the Parliamentary Assembly on the matter, including Resolution 1646 (2009) on the nomination of candidates and election of judges to the European Court of Human Rights,

Adopts the following guidelines and encourages High Contracting Parties to implement them and ensure that they are widely disseminated, along with their explanatory memorandum, in particular among all authorities involved in the selection of candidates for the post of judge at the Court, and, if necessary, translated into the official language(s) of the country.

I. Scope of the Guidelines

The present guidelines address selection procedures at national level for candidates for the post of judge at the Court, before a High Contracting Party's list of candidates is transmitted to the Advisory Panel and thereafter to the Parliamentary Assembly of the Council of Europe.

II. Criteria for the establishment of lists of candidates

1. Candidates shall be of high moral character.

2. Candidates shall possess the qualifications required for appointment to high judicial office or be jurisconsults of recognised competence.

3. Candidates must, as an absolute minimum, be proficient in one official language of the Council of Europe (English or French) and should also possess at least a passive knowledge of the other, so as to be able to play a full part in the work of the Court.

4. Candidates need to have knowledge of the national legal system(s) and of public international law. Practical legal experience is also desirable.

[1] Adopted by the Committee of Ministers on 28 March 2012 at the 1138th meeting of the Ministers' Deputies.

5. If elected, candidates should in general be able to hold office for at least half of the nine-year term before reaching 70 years of age.

6. Candidates should undertake not to engage, if elected and for the duration of their term of office, in any activity incompatible with their independence or impartiality or with the demands of a full-time office.

7. If a candidate is elected, this should not foreseeably result in a frequent and/or long-lasting need to appoint an ad hoc judge.

8. Lists of candidates should as a general rule contain at least one candidate of each sex, unless the sex of the candidates on the list is under-represented on the Court (under 40% of judges) or if exceptional circumstances exist to derogate from this rule.

III. Procedure for eliciting applications

1. The procedure for eliciting applications should be stable and established in advance through codification or by settled administrative practice. This may be a standing procedure or a procedure established in the event of each selection process. Details of the procedure should be made public.

2. The call for applications should be made widely available to the public, in such a manner that it could reasonably be expected to come to the attention of all or most of the potentially suitable candidates.

3. States should, if necessary, consider taking additional appropriate measures in order to ensure that a sufficient number of good applicants present themselves to allow the selection body to propose a satisfactory list of candidates.

4. If the national procedure allows or requires applicants to be proposed by third parties, safeguards should be put into place to ensure that all applicants are considered fairly and impartially, and that suitable applicants are not deterred or prevented from putting themselves forward.

5. A reasonable period of time should be given for the submission of applications.

IV. Procedure for drawing up the recommended list of candidates

1. The body responsible for recommending candidates should be of balanced composition. Its members should collectively have sufficient technical knowledge and command respect and confidence. They should come from a variety of backgrounds, be of similar professional standing and be free from undue influence, although they may seek relevant information from outside sources.

2. All serious applicants should be interviewed unless this is impracticable on account of their number, in which case the body should draw up, based on the applications, a shortlist of the best candidates. Interviews should generally be based upon a standardised format.

3. There should be an assessment of applicants' linguistic abilities, preferably during the interview.

4. All members should be able to participate equally in the body's decision, subject to the requirement that its procedures ensure that it is always able to reach a decision.

V. Finalisation of the list of candidates

1. Any departure by the final decision-maker from the selection body's recommendation should be justified by reference to the criteria for the establishment of lists of candidates.

2. Applicants should be able to obtain information concerning the examination of their application, where this is consistent with general principles of confidentiality in the context of the national legal system.

3. The final list of candidates to be presented to the Parliamentary Assembly should be made public by the High Contracting Party at national level.

APPENDIX XVIII

RECOMMENDATION CM/REC(2012)3[1] OF THE COMMITTEE OF MINISTERS TO MEMBER STATES ON THE PROTECTION OF HUMAN RIGHTS WITH REGARD TO SEARCH ENGINES

Search engines play a pivotal role in the information society

1. Search engines enable a worldwide public to seek, receive and impart information and ideas and other content in particular to acquire knowledge, engage in debate and participate in democratic processes.

2. Recommendation CM/Rec(2007)16 of the Committee of Ministers to member States on measures to promote the public service value of the Internet emphasises the importance of access to information on the Internet and stresses that the Internet and other information and communication technologies (ICTs) have high public service value in that they serve to promote the effective exercise and enjoyment of human rights and fundamental freedoms for all who use them. The Committee of Ministers is convinced of the importance of search engines for rendering content on the Internet accessible and the World Wide Web useful for the public and therefore considers it essential that search engines be allowed to freely crawl and index the information that is openly available on the Web and intended for mass outreach.

3. Suitable regulatory frameworks, compliant with human rights requirements, should be able to give adequate responses to legitimate concerns in relation to referencing by search engines of content created by others. Further consideration is necessary as to the extent and the modalities of application of national legislation, including on copyright, to search engines as well as related legal remedies.

Human rights and fundamental freedoms can be threatened by the operation of search engines

4. The action of search engines can affect freedom of expression and, given their role in facilitating access to information, can bear even more on the right to seek, receive and impart information; similarly, their action has an impact on the right to private life and the protection of personal data. Such challenges may stem, *inter alia* from the design of algorithms, de-indexing and/or partial treatment or biased results, market concentration and lack of transparency about both the selection process and ranking of results.

5. The impact on private life may result from the pervasiveness of search engines or their ability to penetrate and index content which, although in the public space, was not intended for mass communication (or mass communication in aggregate), and from data processing generally and data retention periods. Moreover, search engines generate new kinds of personal data, such as individual search histories and behaviour profiles.

6. There is a need to protect and promote access, diversity, impartial treatment, security and transparency in the context of search engines. Media literacy and the development of skills that enable users to have informed access to the greatest possible variety of information, content and services should be promoted having regard to Recommendation CM/Rec(2011)7 on a new notion of media.

7. The Committee of Ministers therefore, under the terms of Article 15.*b* of the Statute of the Council of Europe, recommends that member States, in consultation with private sector actors and civil society, develop and promote coherent strategies to protect freedom of expression, access to information and other human rights and fundamental freedoms in relation to search engines in line with the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5, hereinafter referred to as the "Convention"), especially Article 8 (Right to respect for private and family life) and Article 10 (Freedom of expression) and with the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108, hereafter referred to as "Convention No. 108"), in particular by engaging with search engine providers to carry out the following actions:

– enhance transparency regarding the way in which access to information is provided, in order to ensure access to, and pluralism and diversity of, information and services, in particular the criteria according to which search results are selected, ranked or removed;

– review search ranking and indexing of content which, although in the public space, is not intended for mass communication (or for mass communication in aggregate). This could include listing content sufficiently low in search results so as to strike a balance between the accessibility of the content in question and the

[1] Adopted by the Committee of Ministers on 4 April 2012 at the 1139th meeting of the Ministers' Deputies.

intentions or wishes of its producer (for example having different accessibility levels to content which is published seeking broad dissemination as compared to content which is merely available in a public space). Default settings should be conceived taking account of this objective;

– enhance transparency in the collection of personal data and the legitimate purposes for which they are being processed;

– enable users to access easily, and, where appropriate, to correct or delete their personal data processed by search engine providers;

– develop tools to minimise the collection and processing of personal data, including enforcing limited retention periods, adequate irreversible anonymisation, as well as tools for the deletion of data;

– ensure accessibility to their services to people with disabilities, thereby enhancing their integration and full participation in society.

8. In addition, member States should:

– ensure that suitable legal safeguards are in place when access to users' personal data is granted to any public or private entity, thus securing the full enjoyment of the rights and freedoms enshrined in the Convention;

– encourage search engine providers to discard search results only in accordance with Article 10, paragraph 2, of the Convention. In this event, the user should be informed as to the origin of the request to discard the results subject to respect for the right to private life and protection of personal data;

– promote media literacy with regard to the functioning of search engines, in particular on the processes of selecting, ranking and prioritising of search results and on the implications of the use of search engines on users' right to private life and the protection of their personal data;

– consider offering users a choice of search engines, in particular with regard to search outputs based on public value criteria;

– promote transparent self- and co-regulatory mechanisms for search engines, in particular with regard to the accessibility of content declared illegal by a court or competent authority, as well as of harmful content, bearing in mind the Council of Europe's standards on freedom of expression and due process rights;

– take measures with regard to search engines in line with the objectives set out in the appendix to this recommendation;

– bring this recommendation and its appendix to the attention of all relevant public authorities and private actors.

Appendix to Recommendation CM/Rec(2012)3

I. Helping the public make informed choices when using search engines

Context and challenges

1. Search engines play a crucial role as one of the first points of contact on the Internet in exercising the right to seek and access information, opinions, facts and ideas, as well as other content, including entertainment. Such access to information is essential to building one's personal opinion and participating in social, political, cultural and economic life. Search engines are also an important portal for citizens' access to mass media, including electronic newspapers and audiovisual media services.

2. There is some concern that users tend to use a very limited number of dominant search engines. This may raise questions regarding the access to and diversity of the sources of information, especially if one considers that the ranking of information by search engines is not exhaustive or neutral. In this regard, certain types of content or services may be unduly favoured.

3. The process of searching for information is strongly influenced by the way that information is arranged; this includes the selection and ranking of search results and, as applicable, the de-indexing of content. Most search engines provide very little or only general information about these matters, in particular regarding the criteria used to qualify a given result as the "best" answer to a particular query.

Action

4. While recognising that full disclosure of business models and methods or business-related decisions may not be appropriate because algorithms are highly relevant for competition and that related information might also result in increased vulnerability of search engine services (for example in the form of search manipulation), member States, in co-operation with the private sector and civil society, should:

– encourage search engine providers to enhance transparency as regards general criteria and processes applied to the selection and ranking of results. This should include information about search bias, such as in presenting results based on apparent geographic location or on earlier searches;

– encourage search engine providers to clearly differentiate between search results and any form of commercial communication, advertisement or sponsored output, including "own content" offers;

– promote research on the dynamic market for search engines, to address issues including the public value dimension of search engine services, the increasing concentration of the search engine market and the risk of abuse, manipulation and restriction of search results.

II. Right to private life and to the protection of personal data

Context and challenges

5. Search engines process large amounts of personal data on the search behaviour of individuals, varying from cookies and IP addresses to individual search histories, as highlighted by a number of relevant texts already adopted at both European and international levels.[2]

6. An individual's search history contains a footprint which may reveal the person's beliefs, interests, relations or intentions. Individual search histories may also disclose sensitive data (revealing racial origin, political opinions or religious or other beliefs, or data concerning health, sexual life or relating to criminal convictions) that warrant special protection under Article 6 of Convention No. 108.

7. The processing of personal data by search engines acquires an additional dimension due to the proliferation of audiovisual data (digital images, audio and video content) and the increasing popularity of mobile Internet access. Specialised search engines that allow users to find information on individuals, location-based services, the inclusion of user-generated images into general-purpose search indexes and increasingly accurate face-recognition technologies are some of the developments that raise concerns about the future impact of search engines on fundamental rights such as the right to private life, and its potential bearing on the exercise of freedom of expression or the right to seek, receive and impart information of one's choice.

8. By combining different kinds of information on an individual, search engines create an image of a person that does not necessarily correspond to reality or to the image that a person would want to give of her- or himself. The combination of search results creates a much higher risk for that person than if all the data related to her on the Internet remained separate. Even long-forgotten personal data can resurface as a result of the operation of search engines. As an element of media literacy, users should be informed about their right to remove incorrect or excessive personal data from original web pages, with due respect for the right to freedom of expression. Search engines should promptly respond to users' requests to delete their personal data from (extracts of) copies of web pages that search engine providers may still store (in their "cache" or as "snippets") after the original content has been deleted.

9. Overall, it is vital to ensure compliance with applicable privacy and data protection principles, starting with Article 8 of the Convention and Article 9 of Convention No. 108, that foresee strict conditions to ensure

[2] Article 29 Working Party Opinion 1/2008 (adopted on 4 April 2008) on data protection issues related to search engines; the 28th International Data Protection and Privacy Commissioners' Conference Resolution on Privacy Protection and Search Engines (London, 2-3 November 2006).

that individuals are protected from unlawful interference in their private life and abusive processing of their personal data.

Action

10. Member States (through the designated authorities) should enforce compliance with the applicable data protection principles, in particular by engaging with search engine providers to carry out the following actions:

– ensure that the collection of personal data by search engine providers is minimised. No user's IP address should be stored when it is not necessary for the pursuit of a legitimate purpose and when the same results can be achieved by sampling or surveying, or by anonymising personal data. Innovative approaches promoting anonymous searches should also be encouraged;

– ensure that retention periods are not longer than strictly necessary for the legitimate and specified purposes of the processing. Search engine providers should be in a position to justify with demonstrable reasons the collection and the retention of personal data. Information in this connection should be made publicly available and easily accessible;

– ensure that search engine providers apply the most appropriate security measures to protect personal data against unlawful access by third parties and that appropriate data breach notification schemes are in place. Measures should include "end-to-end" encryption of the communication between the user and the search engine provider;

– ensure that individuals are informed with regard to the processing of their personal data and the exercise of their rights, in an intelligible form, using clear and plain language, adapted to the data subject. Search engines should clearly inform users up front of all intended uses of their data (emphasising that the initial purpose of such processing is to better respond to their search requests) and respect the user's right with regard to their personal data. They should inform individuals if their personal data has been compromised;

– ensure that the cross-correlation of data originating from different services/platforms belonging to the search engine provider is performed only if unambiguous consent has been granted by the user for that specific service. The same applies to user profile enrichment exercises as also stated in Recommendation CM/Rec(2010)13 on the protection of individuals with regard to automatic processing of personal data in the context of profiling.

11. In addition, member States should:

– encourage search engine providers further to develop tools that allow users to gain access to, and to correct and delete, data related to themselves that have been collected in the course of the use of services, including any profile created, for example for direct marketing purposes;

– ensure that requests from law-enforcement authorities to search engine providers for users' data are based on appropriate legal and judicial procedures, and that transparent mechanisms of co-operation are in place. This should include strong legal safeguards and the observance of due process requirements before individuals' data and search records are disclosed to public authorities or private parties. The above-mentioned procedures should not represent an undue burden for the providers in question.

III. Filtering and de-indexing

Context and challenges

12. A prerequisite for the existence of effective search engines is the freedom to crawl and index the information available on the Web. The filtering and blocking of Internet content by search engine providers entails the risk of violation of freedom of expression guaranteed by Article 10 of the Convention in respect to the rights of providers and users to distribute and access information.

13. Search engine providers should not be obliged to monitor their networks and services proactively in order to detect possibly illegal content, nor should they conduct any *ex ante* filtering or blocking activity, unless mandated by court order or by a competent authority. However, there may be legitimate requests to remove specific sources from their index, for example in cases where other rights outweigh the right to

freedom of expression and information; the right to information cannot be understood as extending the access to content beyond the intention of the person who exercises her or his freedom of expression.

14. In many countries, search engine providers de-index or filter specific websites at the request of public authorities or private parties in order to comply with legal obligations or at their own initiative (for example in cases not related to the content of websites, but to technical dangers such as malware). Any such de-indexing or filtering should be transparent, narrowly tailored and reviewed regularly subject to compliance with due process requirements.

Action

15. Member States should:

– ensure that any law, policy or individual request on de-indexing or filtering is enacted with full respect for relevant legal provisions, the right to freedom of expression and the right to seek, receive and impart information. The principles of due process and access to independent and accountable redress mechanisms should also be respected in this context.

16. In addition, member States should work with search engine providers so that they:

– ensure that any necessary filtering or blocking is transparent to the user. The blocking of all search results for certain keywords should not be included or promoted in self- and co-regulatory frameworks for search engines. Self- and co-regulatory regimes should not hinder individuals' freedom of expression and right to seek, receive and impart information, ideas and content through any media. As regards the content that has been defined in a democratic process as harmful for certain categories of users, member States should avoid general de-indexation which renders such content inaccessible to other categories of users. In many cases, encouraging search engines to offer adequate voluntary individual filter mechanisms may suffice to protect those groups;

– explore the possibility of allowing de-indexation of content which, while in the public domain, was not intended for mass communication (or mass communication in aggregate).

IV. Self- and co-regulation

Context and challenges

17. Self-regulatory initiatives by search engine providers aiming at protecting individuals' fundamental rights should be welcomed. It is important to recall that all self- and co-regulation may amount to interference with the rights of others and should therefore be transparent, independent, accountable and effective, in line with Article 10 of the Convention. A productive interaction between different stakeholders, such as State actors, private actors and civil society, can significantly contribute to the setting up of standards protecting human rights.

18. Member States should:

– take actions to promote the protection of individuals' fundamental rights meeting the Convention's standards, in particular the right to due process, the right to freedom of expression and the right to private life, through the development of co-regulation with search engine providers, when such measures are found appropriate;

– encourage the industry to develop self-regulatory codes of conduct guaranteeing the protection of individuals' fundamental rights, in the due respect of the Convention, in particular the right to due process, the right to freedom of expression and the right to privacy.

V. Media literacy

Context and challenges

19. Users should be informed and educated about the functioning of different search engines (search engine literacy) in order to make informed choices about the sources of information provided, in particular that a high ranking search does not necessarily reflect the importance, relevance or trustworthiness of the source. As search engines play an increasingly important role with regard to the accessibility of media and

information online, media and information literacy strategies should be adapted accordingly. Users should be made aware of the implications of the use of search engines, both with regard to personalised search results, as well as to the impact on their image and reputation of combined search results about them, and of the available tools to exercise their rights.

Action

20. Member States should:

– take appropriate steps to include the topic of search engine literacy in their national media literacy strategies;

– take appropriate actions to enable users to be aware of and to manage their online identity, in particular with respect to the impact that search results can have on their image and reputation and to the effective tools to exercise their rights.

APPENDIX XIX

RECOMMENDATION CM/REC(2012)4[1] OF THE COMMITTEE OF MINISTERS TO MEMBER STATES ON THE PROTECTION OF HUMAN RIGHTS WITH REGARD TO SOCIAL NETWORKING SERVICES

Social networks as human rights enablers and catalysts for democracy

1. Social networking services are an important part of a growing number of people's daily lives. They are a tool for expression and communication between individuals, and also for direct mass communication or mass communication in aggregate. This complexity gives operators of social networking services or platforms a great potential to promote the exercise and enjoyment of human rights and fundamental freedoms, in particular the freedom to express, to create and to exchange content and ideas, and the freedom of assembly. Social networking services can assist the wider public to receive and impart information.

2. The increasingly prominent role of social networking services and other social media services also offer great possibilities for enhancing the potential for the participation of individuals in political, social and cultural life. The Committee of Ministers has acknowledged the public service value of the Internet in that, together with other information and communication technologies (ICTs), it serves to promote the exercise and enjoyment of human rights and fundamental freedoms for all who use it. As part of the public service value of the Internet, these social networking services can facilitate democracy and social cohesion.

Human rights may be threatened on social networks

3. The right to freedom of expression and information, as well as the right to private life and human dignity may also be threatened on social networking services, which can also shelter discriminatory practices. Threats may, in particular, arise from lack of legal, and procedural, safeguards surrounding processes that can lead to the exclusion of users; inadequate protection of children and young people against harmful content or behaviours; lack of respect for others' rights; lack of privacy-friendly default settings; lack of transparency about the purposes for which personal data are collected and processed.

4. Users of social networking services should respect other people's rights and freedoms. Media literacy is particularly important in the context of social networking services in order to make the users aware of their rights when using these tools, and also help them acquire or reinforce human rights values and develop the behaviour necessary to respect other people's rights and freedoms.

Social networking providers should respect human rights and the rule of law

5. A number of self- and co-regulatory mechanisms have already been set up in some Council of Europe member States in connection with standards for the use of social networking. It is important that procedural safeguards are respected by these mechanisms, in line with the right to be heard and to review or appeal against decisions, including in appropriate cases the right to a fair trial, within a reasonable time, and starting with the presumption of innocence.

6. The Committee of Ministers, under the terms of Article 15.*b* of the Statute of the Council of Europe, recommends that member States, in consultation with private sector actors and civil society, develop and promote coherent strategies to protect and promote respect for human rights with regard to social networking services, in line with the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5, hereinafter referred to as "the European Convention on Human Rights"), especially Article 8 (Right to respect for private and family life), Article 10 (Freedom of expression) and Article 11 (Freedom of assembly and association) and with the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108), in particular by engaging with social networking providers to carry out the following actions:

− provide an environment for users of social networks that allows them further to exercise their rights and freedoms;

− raise users' awareness, by means of clear and understandable language, of the possible challenges to their human rights and the ways to avoid having a negative impact on other people's rights when using these services;

[1] Adopted by the Committee of Ministers on 4 April 2012 at the 1139th meeting of the Ministers' Deputies.

− protect users from harm without limiting freedom of expression and access to information;

− enhance transparency about data processing, and refraining from illegitimate processing of personal data;

− set up self- and co-regulatory mechanisms where appropriate, in order to contribute to the respect of the objectives set out in the appendix to this recommendation;

− ensure accessibility to their services to people with disabilities, thereby enhancing their integration and full participation in society.

7. Member States should:

− take measures in line with the objectives set out in the appendix to this recommendation;

− bring this recommendation and its appendix to the attention of all relevant public authorities and private sector actors, in particular social networking providers and civil society.

Appendix to Recommendation CM/Rec(2012)4

I. Essential information and measures needed to help users deal with social networks

Context and challenges

1. Social networking services offer the possibility both to receive and to impart information. Users can invite recipients on an individual basis, but in most cases the recipients are a dynamic group of people, sometimes even a "mass" of unknown people (all the members of the social network). In cases where users' profiles are indexed by search engines, there is potentially unlimited access to parts of or all information published on their profiles.

2. It is important for users to be able to feel confident that the information they share will be processed appropriately. They should know whether this information has a public or private character and be aware of the implications that follow from choosing to make information public. In particular, children, especially teenagers, and other categories of vulnerable people, need guidance in order to be able to manage their profiles and understand the impact that the publication of information of a private nature could have, in order to prevent harm to themselves and others.

Action

3. Member States should co-operate with the private sector and civil society with a view to upholding users' right to freedom of expression, in particular by committing themselves, along with social networking providers, to carry out the following actions:

− help users understand the default settings of their profiles. The default setting for users should limit access by third parties to self-selected contacts identified by the user.[2] Users should be able to make an informed decision to grant wider public access to their data, in particular with regard to indexability by external search engines. In this connection, the social networking service should:

− inform users of the consequences of open access (in time and geographically) to their profiles and communications, in particular explaining the differences between private and public communication, and the consequences of making information publicly available, including unrestricted access to, and collection of, data by third parties;

− make it clear to the users – offering accessible tools – that they retain the right to limit access to their data, including the right to remove data from archives and search engine caches;

[2] See Article 29 Data Protection Working Party Opinion 5/2009 on online social networking (12 June 2009); 30th International Conference of Data Protection and Privacy Commissioners, Resolution on Privacy Protection in Social Network Services (Strasbourg, 17 October 2008); International Working Group on data Protection in Telecommunications (IWGDPT) "Rome Memorandum" (Rome, 3-4 March 2008).

− offer adequate, refined possibilities of enabling the user to "opt in" in order to consent to wider access by third parties;

− enable users to control their information. This implies that users must be informed about the following: the need to obtain the prior consent of other people before they publish their personal data, including audio and video content, in cases where they have widened access beyond self-selected contacts; how to completely delete their profiles and all data stored about and from them in a social networking service, and how to use a pseudonym. Users should always be able to withdraw consent to the processing of their personal data. Before terminating their account, users should be able to easily and freely move the data they have uploaded to another service or device, in a usable format. Upon termination, all data from and about the users should be permanently eliminated from the storage media of the social networking service. When allowing third party applications to access users' personal data, the services should provide sufficiently multi-layered access to allow users to specifically consent to access to different kinds of data;

− help users make informed choices about their online identity. The practice of using pseudonymous profiles offers both opportunities and challenges for human rights. In its Declaration on Freedom of Communication on the Internet (adopted on 28 May 2003), the Committee of Ministers stressed that "in order to ensure protection against online surveillance and to enhance the free expression of information and ideas, member States should respect the will of users of the Internet not to disclose their identity". The right to use a pseudonym should be guaranteed both from the perspective of free expression and the right to impart and receive information and ideas and from the perspective of the right to private life. In the event that a social networking service requires real identity registration, the publication of that real identity on the Internet should be optional for users. This does not prevent law-enforcement authorities from gaining access to the user's real identity when necessary and subject to appropriate legal safeguards guaranteeing the respect of fundamental rights and freedoms;

− provide users with concise explanations of the terms and conditions of social networking services in a form and language that is geared to, and easily understandable by, the target groups of the social networking services;

− provide users with clear information about the editorial policy of the social networking service provider in respect of how it deals with apparently illegal content and what he considers inappropriate content and behaviour on the network.

4. In addition, member States should:

− foster awareness initiatives for parents, carers and educators to supplement information provided by the social networking service, in particular in respect of much younger children when they participate in social networks.

II. Protection of children and young people against harmful content and behaviour

Context and challenges

5. Freedom of expression includes the freedom to impart and receive information which may be shocking, disturbing and offensive. Content that is unsuitable for particular age groups may well also be protected under Article 10 of the European Convention on Human Rights, albeit subject to conditions as to its distribution.

6. Social networking services play an increasingly important role in the life of children and young people, as part of the development of their own personality and identity, and as part of their participation in debates and social activities.

7. Against this background, children and young people should be protected because of the inherent vulnerability that their age implies. Parents, carers and educators should play a primary role in working with children and young people to ensure that they use these services in an appropriate manner.

8. While not being required to control, supervise and/or rate all content uploaded by its users, social networking service providers may be required to adopt certain precautionary measures (for example, comparable to "adult content" rules applicable in certain member States) or take diligent action in response to complaints (ex-post moderation).

9. Age verification systems are often referred to as a possible solution for protecting children and young people from content that may be harmful to them. However, at present there is no single technical solution for online age verification that does not infringe on other human rights and/or is not exposed to age falsification.

Action

10. In co-operation with the private sector and civil society, member States should take appropriate measures to ensure children and young people's safety and protect their dignity while also guaranteeing procedural safeguards and the right to freedom of expression and access to information, in particular by engaging with social networking providers to carry out the following actions:

− provide clear information about the kinds of content or content-sharing or conduct that may be contrary to applicable legal provisions;

− develop editorial policies so that relevant content or behaviour can be defined as "inappropriate" in the terms and conditions of use of the social networking service, while ensuring that this approach does not restrict the right to freedom of expression and information in the terms guaranteed by the European Convention on Human Rights;

− set up easily accessible mechanisms for reporting inappropriate or apparently illegal content or behaviour posted on social networks;

− share best practices on ways to prevent cyber-bullying and cyber-grooming. In this connection, age-differentiated access should be treated carefully where age is provided by children and young people themselves. Social networking providers should take diligent action in response to complaints of cyber-bullying and cyber-grooming.

11. In addition, member States should:

− encourage the establishment of transparent co-operation mechanisms for law-enforcement authorities and social networking services. This should include respect for the procedural safeguards required under Article 8, Article 10 and Article 11 of the European Convention on Human Rights;

− ensure respect for Article 10, paragraph 2, of the European Convention on Human Rights. This includes refraining from the general blocking and filtering of offensive or harmful content in a way that would hamper its access by users. In this connection, the Committee of Ministers' Recommendation CM/Rec(2008)6 on measures to promote the respect for freedom of expression and information with regard to Internet filters should be implemented with a view to ensuring that any decision to block or delete content is taken in accordance with such principles. Transparent voluntary individual filtering mechanisms are also to be encouraged.

III. Personal data and trust in social networks

Context and challenges

12. Social networking services process large amounts of personal data, including users' profiling data and data on their Internet use. Publishing personal data in a profile can lead to access by third parties, including, amongst others, employers, insurance companies, law enforcement authorities and security services.

13. Social networking services should not process personal data beyond the legitimate and specified purposes for which they have collected it. They should limit processing only to that data which is strictly necessary for the agreed purpose, and for as short a time as possible.

14. Social networking services should seek the informed consent of users if they wish to process new data about them, share their data with other categories of people or companies and/or use their data in ways other than those necessary for the specified purposes they were originally collected for. As stated in Recommendation CM/Rec(2010)13 on the protection of individuals with regard to automatic processing of personal data in the context of profiling, users should be informed where their personal data is used in the context of profiling. The user's decision (refusal or consent) should not have any effect on the continued availability of the service to him or her. When allowing third party applications to access users' personal data,

the services should provide sufficiently multi-layered access to allow users to specifically consent to different kinds of data being accessed.

Action

15. In co-operation with the private sector and civil society, member States, in addition to the measures stated in section I of this appendix, should take appropriate measures to ensure that users' right to private life is protected, in particular by engaging with social networking providers to carry out the following actions:

− promote best practices for users. This includes default privacy-friendly settings that limit access to contacts selected by users themselves, the application of the most appropriate security measures, informed consent of users before personal data is disseminated, the sharing of personal data with other categories of people or companies and/or the use of their data in other new ways;

− ensure that users are able to effectively exercise their rights by offering, amongst other things, a clear user interface, and sufficiently multi-layered access to allow users to specifically consent to different kinds of data being accessed by third parties;

− ensure that sensitive data have enhanced protection. The use of techniques that may have a significant impact on users' privacy − where for instance processing involves sensitive or biometric data (such as facial recognition) − requires enhanced protection and should not be activated by default;

− ensure that the most appropriate security measures are applied to protect personal data against unlawful access by third parties. This should include measures for the end-to-end encryption of communication between the user and the social networking services website. In the absence of applicable legislation relating to the security of personal data and foreseeing the obligation to report data breaches, social networking services should nevertheless inform their users of breaches, to enable them to take preventive measures, such as changing their password and/or keeping a close eye on their financial transactions (where the providers are in possession of bank or credit card details);

− implement "privacy by design". Social networking services should be encouraged to address data protection needs at the stage of conception of their services or products and continuously assess the privacy impact of changes to existing services with a view to strengthening security and users' control of their personal data;

− protect third parties who are associated with the users of social networks. Non-users of the social network may also be affected by the disclosures of users of social networking services or by use of their data by the social networking service itself. They should have effective means of exercising their rights without having to become a member of the service in question and/or otherwise providing excessive personal data. Social networking service providers should refrain from collecting and processing personal data about non-users, for example e-mail addresses and biometric data (such as photographs). Users should be made aware of the obligations they have towards other individuals and, in particular, that the publication of personal data related to other people should respect the rights of those individuals;

− ensure that processing of personal data stemming from social networks for law enforcement purposes respects Article 8 of the European Convention on Human Rights. Enforcing applicable data protection standards is essential. This includes ensuring that the processing of personal data stemming from the use of social networking services for law enforcement purposes is carried out only within an appropriate legal framework, or following specific orders or instructions from the competent public authority made in accordance with the law;

− provide clear information about applicable law and jurisdiction. Users should be informed as to what law is applicable in the execution of the social networking services and the related processing of their personal data. Provisions contained in the terms and conditions of use or service involving a choice of forums or applicable jurisdictions made for opportunistic or convenience reasons should be regarded as void if there is no reasonable link to the forum or jurisdiction in question; the user's forum or jurisdiction would be preferable in cases where a significant number of users are present in a particular territory;

− ensure that users are aware of the threats to their human rights and able to seek redress when their rights have been adversely affected. Users should be informed about possible risks to their right to private life, not only in the social networking services' core conditions (including when changes are made to general terms of

service), but every time such a challenge may arise, for example, when the users make information on their profile available to new (groups of) users or when they install a third party application.

Users should be informed about the processing of their personal data, including the existence of, and means of exercising their rights (such as access, rectification, deletion), in a clear and understandable manner and in language geared to the target audience.

In addition to applicable legal provisions, appropriate complaint handling mechanisms should be guaranteed against abusive behaviour of users, in particular with regard to identity theft.

APPENDIX XX

DECLARATION OF THE COMMITTEE OF MINISTERS ON THE DEATH PENALTY[1]

The Committee of Ministers re-affirms its unequivocal opposition to the death penalty in all places and in all circumstances. We are convinced that its abolition contributes to the enhancement of human dignity and progressive development of human rights, of which the Council of Europe is the guarantor in Europe.

The Committee of Ministers recalls the Council of Europe's pioneering work to promote the abolition of capital punishment through the adoption of Protocols No. 6 and No. 13 to the European Convention on Human Rights and the designation of 10 October as "European Day against the Death Penalty".

The creation of a death penalty-free area in Europe and beyond is an objective shared by the 47 member States. The Committee of Ministers welcomes the fact that no executions have been carried out on the territory of its member States for the last fifteen years. At a global level, it also welcomes the fact that the number of countries resorting to capital punishment continued to decrease in 2011.

The Committee of Ministers calls on all countries which still apply the death penalty, including those holding observer status with the Council of Europe, to immediately apply a moratorium on executions as a first step towards abolition. The Committee of Ministers reaffirms its commitment to continue its efforts to promote abolition in Europe and throughout the world.

[1] Adopted by the Committee of Ministers on 2 May 2012 at the 1141st meeting of the Ministers' Deputies.

APPENDIX XXI

RESOLUTION 1878 (2012)[1] OF THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE – "THE SITUATION IN SYRIA"

1. The Parliamentary Assembly is appalled by the situation in Syria, where, in the last thirteen months, more than 11 000 persons have been killed, tens of thousands have fled the country and hundreds of thousands are internally displaced, as a direct result of the brutal repression by the Syrian autocratic leadership of an uprising with democratic aspirations.

2. The Assembly firmly condemns the widespread, systematic and gross human rights violations amounting to crimes against humanity committed by Syrian military and security forces such as: the use of force against civilians, arbitrary executions, the killing and persecution of protesters, enforced disappearances, torture and sexual violence, including of and against children. It equally condemns the human rights violations committed by some of the armed groups combating the regime.

3. The Assembly reiterates that there can be no impunity for those who commit crimes against humanity, whoever they are. All allegations of violations and crimes must be properly investigated and their perpetrators brought to justice, including, as appropriate, before the International Criminal Court.

4. Two draft resolutions of the United Nations Security Council condemning the violence in Syria were vetoed by Russia and China in October 2011 and March 2012. Following the international community's failure, for more than a year, to agree on action on Syria, the Assembly notes that, today, a common position is gradually emerging: two resolutions were unanimously adopted by the United Nations Security Council on 14 and 21 April 2012 authorising the deployment of United Nations unarmed military observers to Syria to report on the implementation of a full cessation of armed violence. This emerging unity can at last constitute the basis for effective action by the international community in a situation, the emergency and gravity of which cannot accommodate individual countries' geopolitical considerations.

5. The Assembly fully supports the six-point peace plan proposed by the joint envoy of the United Nations and the League of Arab States, Mr Kofi Annan, and calls for its full implementation by all parties to the conflict. Although violence levels have dropped markedly since the ceasefire began on 12 April, the Assembly regrets the continuing violations of the ceasefire and the increasing number of deaths. It calls for the immediate withdrawal of government troops and weapons from population centres.

6. Kofi Annan's peace plan should be given every chance of success in order to avoid fully fledged civil war. The Assembly thus welcomes the deployment of United Nations observers on the ground and calls on the Syrian authorities and the international community to ensure that observers are granted full freedom of movement and access to the whole territory of the country, as well as all the means necessary to monitor respect both of the ceasefire and of the right to demonstrate peacefully.

7. The Assembly stresses, however, that Kofi Annan's peace plan is not solely about establishing a UN-supervised ceasefire and ensuring urgently needed humanitarian assistance. Its implementation and the total cessation of violence should ultimately guarantee the creation of a space where democratic changes can be brought about in Syria in a peaceful manner. The conditions should thus be gradually created to allow for a "Syrian-led political process", as advocated by the peace plan, and eventually for free and fair elections. The Syrian people should be free to build their own future. To facilitate this objective, the Assembly calls on the United Nations Security Council to urgently put in place an embargo on the importation of all weapons and supporting material into Syria.

8. The member States of the Council of Europe should deploy every effort to ensure respect of the agreed peace plan, including sanctions agreed by the European Union, the Arab League and some individual States, the implementation of which is being co-ordinated by the Group of Friends of the Syrian people. The Assembly emphasises that these are directed not against the Syrian people but against individuals and institutions associated with the repression or supporting or benefitting from the regime.

9. The dictatorship which has oppressed the Syrian people for decades has no future. It is impossible to anticipate how much time it will take and how much more suffering it will cause, but it seems clear that

[1] Assembly debate on 26 April 2012 (16th Sitting) (see Doc. 12906 , report of the Committee on Political Affairs and Democracy, rapporteur: Mr Marcenaro; and Doc. 12911, opinion of the Committee on Migration, Refugees and Displaced Persons, rapporteur: Mr Santini). Text adopted by the Assembly on 26 April 2012 (16th Sitting).

Assad's regime is coming to an end. This puts a heavy responsibility on both the international community and the domestic opposition.

10. The Syrian population is a mosaic of ethnic, cultural and religious groups and this diversity, together with the territorial integrity of Syria, must be preserved in a future post-Assad Syria. The Assembly calls on the various groups of domestic opposition to unite in order to be considered as a legitimate alternative offering all Syrian citizens, irrespective of their ethnic origin, culture or religion, the prospect of a peaceful, democratic and pluralist Syria. Noting the under-representation of Christians in the Syrian National Council, any post-Assad future must guarantee the religious tolerance that Christians have enjoyed until now.

11. The Assembly underlines that respect for human rights, the recognition of ethnic, cultural and religious minorities and the choice in favour of dialogue and democracy are not mere declarations of principle but the prerequisites for uniting and strengthening the opposition. The latter is currently divided due to lack of clarity on these fundamental principles and the ensuing fear, among various minority groups, of a change which they perceive as a threat.

12. The Assembly therefore insists that human rights must be respected now and any violations, also on the side of the opposition, must be firmly denounced and stopped so as to give credible evidence that human and minority rights will be effectively respected in a new Syria. Building this new Syria will require the active engagement of all parts of Syrian society in a sincere effort of pacification and reconstruction after a dramatic year of division and violence.

13. The Assembly supports all efforts, both at international and domestic level, to help build a new, democratic and pluralist Syria, respectful of human rights and the rights of ethnic, cultural and religious minorities. It appeals to the international community to support initiatives aimed at uniting the opposition with a view to bringing about democratic change in Syria. It urges caution vis-à-vis those forces which, because of specific geopolitical interests or for sectarian reasons - in Syria as in other countries of the Arab Spring - are providing political and financial support to extremist groups.

14. As an immediate priority, with one and a half million people in need of urgent humanitarian assistance, the Assembly urges the provision of unhindered humanitarian assistance to the wounded, the refugees, the displaced persons and all those in need. Humanitarian supplies and services must be made available under conditions which protect civilians and aid workers. The Assembly, welcoming the hospitality extended by Turkey and congratulating the Turkish authorities, considers it important to build, where appropriate, possible future refugee camps further away from the border with Syria so as to allow for the better safety of refugees.

15. The Assembly calls on the Council of Europe member States to respond positively to the appeals launched by the relevant agencies of the United Nations in order to address the humanitarian needs of the tens of thousands refugees fleeing from Syria into Turkey, Lebanon, Iraq and Jordan, as well as of the estimated one million and a half people affected by the crisis in Syria itself. The Assembly urges all bordering countries to allow persons fleeing Syria access to their territory and access to protection without fear of refoulement and calls on all member States of the Council of Europe to provide individual Syrian asylum seekers with appropriate protection, whether this be asylum or subsidiary protection.

APPENDIX XXII

RECOMMENDATION CM/REC(2010)4[1] OF THE COMMITTEE OF MINISTERS TO MEMBER STATES ON HUMAN RIGHTS OF MEMBERS OF THE ARMED FORCES

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its member states, inter alia, by promoting the adoption of common rules;

Bearing in mind notably the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5), in the light of the relevant case law of the European Court of Human Rights, the European Social Charter (ETS No. 35) as well as the Revised European Social Charter (ETS No. 163), taking into account the relevant case law of the European Committee on Social Rights, and the standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment;

Taking into consideration the relevant United Nations instruments, in particular the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the observations and decisions of the monitoring bodies established under the aforementioned instruments;

Taking into account the Committee of Ministers' Recommendation No. R (87) 8 regarding conscientious objection to compulsory military service, as well as the Parliamentary Assembly's Recommendations 1742 (2006) on "Human rights of members of the armed forces", 1714 (2005) on the "Abolition of restrictions on the right to vote", 1572 (2002) on the "Right to association for members of the professional staff of the armed forces", 1518 (2001) on the "Exercise of the right of conscientious objection to military service in Council of Europe member states" and 1380 (1998) on "Human rights of conscripts";

Having regard to the "Handbook on human rights and fundamental freedoms of armed forces personnel", published by the Organisation for Security and Co-operation in Europe/Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and the Centre for the Democratic Control of Armed Forces (DCAF) in 2008,

Recommends that the governments of the member states:

1. ensure that the principles set out in the appendix to this recommendation are complied with in national legislation and practice relating to members of the armed forces;

2. ensure, by appropriate means and action, including, where appropriate, translation, a wide dissemination of this recommendation among competent civil and military authorities and members of the armed forces, with a view to raising awareness of the human rights and fundamental freedoms of members of the armed forces, and to providing training aimed at increasing their knowledge of human rights;

3. examine within the Committee of Ministers the implementation of this recommendation two years after its adoption.

Appendix to Recommendation CM/Rec(2010)4

1. This recommendation concerns the enjoyment of human rights and fundamental freedoms by members of the armed forces in the context of their work and service life.

General principles

2. Whilst taking into account the special characteristics of military life, members of the armed forces, whatever their status, shall enjoy the rights guaranteed in the Convention for the Protection of Human Rights and Fundamental Freedoms (hereafter, "the Convention") and the European Social Charter and the

[1] Adopted by the Committee of Ministers on 24 February 2010 at the 1077th meeting of the Ministers' Deputies.

European Social Charter (revised) (hereafter, "the Charter"), as well as other relevant human rights instruments, to the extent that states are bound by them.

3. According to Article 15 of the Convention and Article 30 of the European Social Charter, in time of war or other public emergency threatening the life of the nation, states may derogate from certain of their obligations under the Convention and the Charter to the extent strictly required by the exigencies of the situation and provided that such measures are not inconsistent with their other obligations under international law.

4. Derogations under Article 15 of the Convention shall not be permitted in relation to the following rights: the right to life, except in respect of deaths resulting from lawful acts of war, the prohibition of torture and inhuman or degrading treatment or punishment, the prohibition of slavery and servitude, the principle that no punishment can be inflicted without a law and the right not to be tried or punished twice.

5. The following rights and freedoms should be respected and implemented in accordance with the accompanying principles:

A. Members of the armed forces have the right to life.

6. Members of the armed forces should not be exposed to situations where their lives would be avoidably put at risk without a clear and legitimate military purpose or in circumstances where the threat to life has been disregarded.

7. There should be an independent and effective inquiry into any suspicious death or alleged violation of the right to life of a member of the armed forces.

8. Member states should take measures to encourage the reporting of acts which are inconsistent with the right to life of members of the armed forces and to protect from retaliation those reporting such acts.

9. Members of the armed forces should never be sentenced to death or executed.

B. No member of the armed forces shall be subjected to torture or to inhuman or degrading treatment or punishment.

10. Member states should take measures to protect members of the armed forces from being subjected to torture or inhuman or degrading treatment or punishment. Particular attention should be given to more vulnerable categories such as, for example, conscripts.

11. Where members of the armed forces raise an arguable claim that they have suffered treatment in breach of Article 3 of the Convention, or when the authorities have reasonable grounds to suspect that such treatment has occurred, there should promptly be an independent and effective official investigation.

12. Member states should take measures to encourage the reporting of acts of torture or ill-treatment within the armed forces and to protect from retaliation those reporting such acts.

13. Members of the armed forces, notably when deprived of their liberty should be treated with humanity and with respect for the inherent dignity of all human beings.

C. Members of the armed forces shall not be used for forced or compulsory labour.

14. Military service or service exacted instead of compulsory military service should not be considered as constituting forced or compulsory labour. The nature and duration of service exacted instead of compulsory military service should not be punitive, disproportionate or unreasonable compared to that of military service.

15. Members of the armed forces should not be used to perform tasks incompatible with their assignment to the national defence service, with the exception of emergency and civil assistance carried out in accordance with the law.

16. The authorities should not impose on professional members of the armed forces a length of service which would constitute an unreasonable restriction on their right to leave the armed forces and would amount to forced labour.

D. Military discipline should be characterised by fairness and procedural guarantees should be secured.

17. Each member state is competent to organise its own system of military discipline and enjoys a certain margin of appreciation in the matter. However, only conduct likely to constitute a threat to military discipline, good order, safety or security may be defined as a disciplinary offence. The severity of any punishment should be proportionate to the offence.

18. Collective punishment should be prohibited.

19. The acts or omissions by members of the armed forces which constitute disciplinary offences, the procedures to be followed at disciplinary hearings, the types and duration of punishment that may be imposed, the authority competent to impose such punishment and any right of appeal should be provided for in law.

20. Any allegation of infringement of the disciplinary rules by a member of the armed forces should be reported promptly to the competent authority, which should investigate it without undue delay.

21. Members of the armed forces charged with disciplinary offences should be informed promptly, in detail, of the nature of the accusations against them. Where Article 6 of the Convention applies, they should have the right to a fair hearing. They should also be given the opportunity to appeal to a higher and independent body.

E. Members of the armed forces enjoy the right to liberty and security.

22. No member of the armed forces should be deprived of his or her liberty except in cases provided for under Article 5, paragraph 1, of the Convention, and in accordance with a procedure prescribed by law.

23. For as long as recruitment of persons under the age of 18 into military service continues, these persons should be detained only as a measure of last resort and for the shortest possible appropriate period of time. Furthermore, if detained, they should be held separately from adults, unless this is against their best interests.

24. Members of the armed forces who are arrested or detained should be informed promptly of:

− the reasons for their arrest or detention;
− any charge against them;
− their procedural rights.

25. When members of the armed forces are arrested or detained in relation to a criminal offence, they should be brought promptly before a judge or other official authorised by law to exercise judicial power and be entitled to trial within a reasonable time or to release pending trial.

26. Members of the armed forces who are deprived of their liberty should be entitled to take proceedings by which the lawfulness of the detention should be decided speedily by a court and their release ordered if the detention is not lawful.

27. Any disciplinary penalty or measure which amounts to deprivation of liberty within the meaning of Article 5, paragraph 1, of the Convention should comply with the requirements of this provision.

F. Members of the armed forces enjoy the right to a fair trial.

In criminal matters

28. The guarantees of a fair trial should apply to all proceedings that qualify as criminal under the Convention on account of the nature of the offence and the seriousness of the potential penalty as well as its purpose, be they qualified as disciplinary or criminal in national law.

29. In order to safeguard the independence and impartiality of judicial authorities acting in criminal proceedings, there should be a clear separation between the prosecuting authorities and those handing down the court decision.

30. Members of the armed forces charged with a criminal offence should be given full access, to the same extent as in criminal proceedings against civilians, to the criminal case file and have the right to present their defence.

31. Members of the armed forces who are found guilty of an offence should, to the same extent as in criminal proceedings against civilians, be able to appeal to a competent and independent higher authority which ultimately should be an independent and impartial tribunal that fully complies with the requirements of Article 6 of the Convention.

In civil matters

32. Any exclusion of the right to have access to a tribunal for the determination of members of the armed forces' civil rights and obligations should be expressly provided for by law and should also be justified on objective grounds in the public interest.

Procedural safeguards of military courts

33. The organisation and operation of military courts, where they exist, should fully ensure the right of everyone to a competent, independent and impartial tribunal at every stage of legal proceedings.

34. Members of the armed forces should have the right to a public hearing at a competent court. The holding of sessions in camera should be exceptional and be authorised by a specific, well-grounded decision the lawfulness of which is subject to review.

G. Members of the armed forces have the right to respect for their private and family life, their home and correspondence. Any interference by a public authority with the exercise of this right shall comply with the requirements of Article 8, paragraph 2 of the European Convention on Human Rights.

35. Where states rely on national security in order to impose restrictions on the right to respect for private and family life, they should only do so where there is a real threat to national security.

36. Members of the armed forces should not be subjected to investigations into the most intimate aspects of their private life unless there is a suspicion of a criminal offence having been committed or it is required for the purposes of highest-level security clearance.

37. Conscripts should as far as possible be posted near their family and home. Postings of professional members of the armed forces far from those close to them and their homes should not be imposed as a disciplinary punishment, but only for reasons of operational effectiveness.

38. Where members of the armed forces are posted abroad, they should, as far as possible, be able to maintain private contacts and reasonable means should be provided to this end. Where those close to them accompany the members of the armed forces who are posted abroad, assistance programmes for them should be organised before, during and after deployment.

39. Members of the armed forces who are parents of young children should enjoy maternity or paternity leave, appropriate childcare benefits, access to nursery schools and to adequate children's health and educational systems.

H. Members of the armed forces have the right to freedom of thought, conscience and religion. Any limitations on this right shall comply with the requirements of Article 9, paragraph 2 of the European Convention on Human Rights.

40. Members of the armed forces have the right to freedom of thought, conscience and religion, including the right to change religion or belief at any time. Specific limitations may be placed on the exercise of this right within the constraints of military life. Any restriction should however comply with the requirements of Article 9, paragraph 2, of the Convention. There should be no discrimination between members of the armed forces on the basis of their religion or belief.

41. For the purposes of compulsory military service, conscripts should have the right to be granted conscientious objector status and an alternative service of a civilian nature should be proposed to them.

42. Professional members of the armed forces should be able to leave the armed forces for reasons of conscience.

43. Requests by members of the armed forces to leave the armed forces for reasons of conscience should be examined within a reasonable time. Pending the examination of their requests they should be transferred to non-combat duties, where possible.

44. Any request to leave the armed forces for reasons of conscience should ultimately, where denied, be examined by an independent and impartial body.

45. Members of the armed forces having legally left the armed forces for reasons of conscience should not be subject to discrimination or to any criminal prosecution. No discrimination or prosecution should result from asking to leave the armed forces for reasons of conscience.

46. Members of the armed forces should be informed of the rights mentioned in paragraphs 41 to 45 above and the procedures available to exercise them.

I. Members of the armed forces have the right to freedom of expression. Any restrictions on the exercise of this freedom shall comply with the requirements of Article 10, paragraph 2, of the European Convention on Human Rights.

47. The right to freedom of expression includes freedom to hold opinions and to receive and impart information and ideas. The exercise of these freedoms by everyone, including members of the armed forces, carries with it duties and responsibilities. It may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and necessary in a democratic society in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority or impartiality of the judiciary. Such measures should be proportionate, should not be arbitrary and should be reasonably foreseeable.

48. Any restrictions on freedom of expression which are imposed where there is a real threat to military discipline, given that the proper functioning of the armed forces is not possible without legal rules designed to prevent members of the armed forces from undermining it, should respect the above-mentioned requirements. These restrictions may concern, for example, how military duties are performed or whether the political impartiality of the armed forces is affected.

J. Members of the armed forces have the right to have access to relevant information.

49. Potential recruits should be provided with full and detailed information about all aspects of recruitment, the induction process and the specific nature of the commitments involved in enlisting in the armed forces. In the case of potential recruits who are under the age of 18, this information should also be provided to their parents or legal guardians.

50. Former and current members of the armed forces should have access to their own personal data, including medical records, upon request.

51. Current and, where applicable, former members of the armed forces should have access to information with regard to their exposure during service to situations, either past or present, which were or are potentially hazardous to their health.

52. Access to information may however be restricted if the documents requested are objectively considered to be classified, or if the restrictions aim to protect national security, defence or international relations. Such restrictions should be duly justified.

K. Members of the armed forces have the right to freedom of peaceful assembly and to freedom of association with others. Any restrictions placed on the exercise of this right shall comply with the requirements of Article 11, paragraph 2 of the European Convention on Human Rights.

53. No restrictions should be placed on the exercise of the rights to freedom of peaceful assembly and to freedom of association other than those that are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.

54. Members of the armed forces should have the right to join independent organisations representing their interests and have the right to organise and to bargain collectively. Where these rights are not granted, the continued justification for such restrictions should be reviewed and unnecessary and disproportionate restrictions on the right to assembly and association should be lifted.

55. No disciplinary action or any discriminatory measure should be taken against members of the armed forces merely because of their participation in the activities of lawfully established military associations or trade unions.

56. Members of the armed forces should have the right to join political parties, unless there are legitimate grounds for certain restrictions. Such political activities may be prohibited on legitimate grounds, in particular when a member of the armed forces is on active duty.

57. Paragraphs 53 to 56 should not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces.

L. Members of the armed forces enjoy the right to vote and to stand for election.

58. Any restrictions on the electoral rights of members of the armed forces which are no longer necessary and proportionate in pursuit of a legitimate aim should be removed.

59. Member states may impose restrictions on membership in the armed forces during a member's candidacy or, following election, during the term of office.

M. Members of the armed forces have the right to marry.

60. Members of the armed forces should have the right to marry and to form civil partnerships in accordance with the rights of civilians.

N. All members of the armed forces enjoy the right to protection of their property.

61. The property of members of the armed forces, in particular conscripts, retained upon joining the armed forces should be returned at the end of military service.

O. Members of the armed forces should be provided with accommodation of an adequate standard.

62. Where accommodation is provided for members of the armed forces and their families, in particular sleeping accommodation, this should allow, as far as possible, for some privacy. It should also meet basic requirements of health and hygiene.

P. Members of the armed forces should have the right to receive fair remuneration and a retirement pension.

63. Professional members of the armed forces should receive remuneration for their work such as will give them a decent standard of living. This remuneration should be paid on time.

64. Men and women in the armed forces should be entitled to equal pay for equal work or work of equal value.

65. Full-time professional members of the armed forces should be entitled to an adequate retirement pension, which should be paid on time, without any discrimination.

Q. Members of the armed forces should have the right to dignity, health protection and security at work.

66. Members of the armed forces should have the right to the protection of their dignity at work, including the right not be subjected to sexual harassment.

67. Members of the armed forces should be entitled to periods of rest. Periods of rest should, as far as possible, also be included in military training and planning of operations. Professional members of the armed forces should be entitled to paid holiday.

68. Where members of the armed forces may or have been exposed to epidemic, endemic or other diseases, appropriate measures should be taken to protect their health.

69. Member states should take appropriate measures to prevent accidents and health problems arising out of, linked with or occurring in the course of members of the armed forces' work, particularly by minimising the causes of hazards inherent in the military working environment.

70. Members of the armed forces should enjoy access to health care and the right to receive medical treatment.

71. Medical care should be provided as quickly as possible to members of the armed forces during military operations.

72. Where members of the armed forces are injured in service, adequate health care and, where appropriate, allowances should be provided to them. There should also be a system of compensation and, where appropriate, allowances in cases of death in service of members of the armed forces.

73. An appropriate compensation scheme should be available to persons leaving the armed forces who have been injured or become ill as a result of service.

74. Professional members of the armed forces leaving the armed forces should be provided with appropriate benefit packages and programmes preparing them for civilian life.

R. Members of the armed forces should have the right to decent and sufficient nutrition.

75. Members of the armed forces should be provided with an appropriate diet that takes into account as far as possible their age, health, religion, and the nature of their work.

76. Clean drinking water should be available to members of the armed forces at all times.

S. Members of the armed forces enjoy rights and freedoms without any discrimination.

77. In the context of the work and service life of members of the armed forces, as well as with respect to access to the armed forces, there should be no discrimination in relation to their human rights and freedoms based on any grounds such as sex, sexual orientation, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. The principle of non-discrimination will not be violated if the distinction between individuals in analogous situations has an objective and reasonable justification in the pursuit of a legitimate aim, such as maintaining combat effectiveness, and if the means thus employed are reasonably proportionate to the aim pursued.

78. Members of the armed forces should have the right to bring allegations of discrimination in relation to their rights and freedoms before the relevant national authorities.

T. Special attention should be given to the protection of the rights and freedoms of persons under the age of 18 enlisted in the armed forces.

79. States should ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces. Where member states recruit persons under the age of 18 they should maintain safeguards to ensure, as a minimum, that:

− such recruitment is genuinely voluntary;
− such recruitment is carried out with the informed consent of the person's parents or legal guardians;
− such persons and their parents or legal guardians are fully informed of the duties involved in such military service;
− such persons provide reliable proof of age prior to acceptance into national military service.

80. Persons under the age of 18 within the armed forces should have the right to such protection and care as is necessary for their well-being and may make representations about their welfare, including the conditions of their employment or military service.

81. Every person under the age of 18 within the armed forces should have the right to maintain on a regular basis a personal relationship and direct contact with both of his or her parents or legal guardian(s).

82. Member states should take all feasible measures to ensure that members of the armed forces who have not attained the age of 18 do not take part in combat situations.

U. Members of the armed forces should receive training on human rights and international humanitarian law.

83. Members of the armed forces should receive training to heighten their awareness of human rights, including their own human rights.

84. During training, military members of the armed forces should be informed that they have a duty to object to a manifestly unlawful order amounting to genocide, a war crime, a crime against humanity or torture.

V. Members of the armed forces should have the possibility of lodging a complaint with an independent body in respect of their human rights.

85. Members of the armed forces who claim to have been victims of harassment or bullying should have access to a complaint mechanism independent of the chain of command.

APPENDIX XXIII

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

On 16 November 2011, the Ministers' Deputies were seized of a summary report on co-operation between the Council of Europe and the EU and instructed their Rapporteur Group on External Relations (GR-EXT) to further report on this matter to enable them to conduct a **yearly review** of this co-operation.

In March 2012, the Committee of Ministers adopted its **reply to the Parliamentary Assembly recommendation 1982 (2011)** on "The impact of the Lisbon treaty on the Council of Europe"[1] in which it stressed that both organisations need to join forces in order to better address relevant challenges facing Europe and its neighbourhood. It also reiterated its commitment to the consolidation of the partnership between the Council of Europe and the EU, based on their respective *acquis* and comparative advantages and with due regard for their respective mandates. In addition, the Committee of Ministers recalled, *inter alia,* that the strengthening of the partnership is part of the reform of the Organisation, which shall enable the Council of Europe to fully play its role in Europe, notably as the benchmark for human rights, the rule of law and democracy, in line with the Memorandum of Understanding concluded between the two organisations in 2007.

Political consultations on issues of common interest have continued at the highest level. The Secretary General had, in particular, regular contacts with José Manuel Barroso, the President of the European Commission, monthly exchanges of views with Štefan Füle, Commissioner for Enlargement and European Neighbourhood Policy, a meeting with Martin Schulz, the President of the European Parliament and an exchange of views with the Foreign Affairs Committee of the European Parliament, together with Commissioner Füle. The discussions, which focused on countries covered by the EU Neighbourhood Policy and co-operation in this context, highlighted*, inter alia,* the growing importance of the benchmarking role of the Council of Europe in this respect.

These high-level political exchanges were also the occasion for Council of Europe and EU leaders to reiterate their strong commitment to a successful conclusion of the negotiations on accession by the EU to the European Convention on Human Rights. There was an agreement on the usefulness of taking full advantage of instruments and experience of the Council of Europe in the context of the new EU human rights strategy and to establish even closer relations in this framework, especially in view of the future appointment of an EU Special Representative on Human Rights. More generally, these contacts illustrated the continuous intensification of relations between the Council of Europe and the EU both in qualitative and quantitative terms[2] and opened new avenues for further policy coordination and joint actions.

Joint programmes between the Council of Europe and the EU have remained the largest source of funding sustaining Council of Europe technical assistance and co-operation projects in support of democratic stability throughout Europe[3]. A €4 million EU-financed "Facility" is currently being implemented with the countries of the Eastern Partnership of the EU through a series of multilateral activities. The latest months were also marked by the development of joint activities to support reform processes in countries of the Mediterranean area and Central Asia in the framework of the policy of the Council of Europe towards neighbouring regions. On 17 January 2012, the Secretary General signed with Commissioner Füle a three-year €4.8 million EU-financed programme supporting the process of democratic transition in the Southern Mediterranean. Joint Programmes are also being finalised for Kazakhstan. The partnership with the EU is therefore of vital importance for the success of the policy of the Council of Europe towards its neighbouring regions.

Co-operation has also further developed at the level of **field representations**. As it was the case last year, the Delegation of the EU to the Council of Europe in Strasbourg and the Council of Europe Liaison Office in Brussels have significantly facilitated the reinforcement of the partnership. Recent 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, as well as public events organised by the Liaison Office in Brussels, have contributed to raising the partnership with the EU and the visibility of the Organisation and shall be further developed.

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[1] See CM/AS(2012)Rec1982final "The impact of the Lisbon treaty on the Council of Europe"- Parliamentary Assembly recommendation 1982 (2011); Reply adopted by the Committee of Ministers on 28 March 2012 at the 1138th meeting of the Ministers' Deputies.

[2] For details, see the annual Overview of activities in DER/INF(2012)3

[3] For details on Joint Programmes, see ODGProg/Inf(2012)9 and http://jp.coe.int

Contacts have continued with a view to further ensuring **coherence between the EU legislation and Council of Europe standards and synergies with monitoring mechanisms of the Council of Europe.** In this context, an Informal Mutual Information Mechanism has been set up to provide information on respective normative initiatives at an early stage. As regards EU accession to the ECHR, negotiations in view of the finalisation of relating instruments are now expected to resume shortly. Discussions are also ongoing on participation of the EU in GRECO and the Conference of the Parties to the Warsaw Convention[4]. The Commission works together with the Council of Europe on the ongoing revision of the Council of Europe's Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108) in order to ensure coherence with the reform of the EU data protection framework. In addition, consultations are regularly taking place with various EU institutions in the course of the elaboration of new EU legal instruments, particularly those covering human rights, as in the case of the measures set out in the Roadmap for strengthening procedural rights of suspected or accused persons in criminal proceedings.

The use of and support for the Venice Commission's expertise by the EU is another particularly good example of co-operation.

The strengthening of relations between the Council of Europe and the EU has also resulted in a **stronger support of the latter for a number of Council of Europe instruments**, such as the Cybercrime Convention, the Convention on preventing and combating violence against women and domestic violence and the Convention for the protection of children against sexual exploitation and sexual abuse.

On the basis of the agreement concluded in 2008 between the Council of Europe and the European Community, closer ties have been further established between the Organisation and the **Agency for Fundamental Rights of the EU (FRA)**, in particular through joint projects with the European Court of Human Rights. A new independent person to sit in the bodies of the Agency will soon be appointed by the Committee of Ministers.

In addition, co-operation with the **European Parliament** has significantly developed over the last year, notably through participation of Council of Europe representatives in events of the European Parliament and through the Joint Informal Body between the Parliamentary Assembly and the Parliament created to improve information sharing between the two bodies.

In sum, the further intensification of co-operation and coordination of actions between the two Organisations has been successfully achieved on the basis of the existing **Memorandum of Understanding** which will continue to remain in the foreseeable future a sound basis to guide and structure this co-operation.

[4] 2005 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198) to which the European Union is a signatory since 2 April 2009.

APPENDIX XXIV

DRAFT RESOLUTION ON CO-OPERATION BETWEEN THE UNITED NATIONS AND THE COUNCIL OF EUROPE FOR THE AGENDA OF THE 67TH SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY

The General Assembly,

Recalling the Agreement between the Council of Europe and the Secretariat of the United Nations signed on 15 December 1951 and the Arrangement on Co-operation and Liaison between the Secretariats of the United Nations and the Council of Europe of 19 November 1971,

Recalling also its Resolution 44/6 of 17 October 1989, in which it granted the Council of Europe a standing invitation to participate as an observer in its sessions and work, as well as its previous resolutions on co-operation between the United Nations and the Council of Europe,[1]

Acknowledging the contribution of the Council of Europe to the protection and strengthening of human rights and fundamental freedoms, democracy and the rule of law through its standards, principles and monitoring mechanisms, as well as to the effective implementation of relevant international legal instruments of the United Nations,

Acknowledging also the contribution of the Council of Europe to the development of international law, and noting the openness of the Council of Europe to the participation of States of other regions in its legal instruments,

Welcoming the role of the Council of Europe in building a united Europe without dividing lines and the contribution of the Council of Europe to cohesion, stability and soft security in Europe,

Commending the Council of Europe's increasing contribution, including at the parliamentary level, to democratic transition in its neighbouring regions aimed at promoting democratic institutions and procedures and welcoming the readiness of the Council of Europe to further share its experience in democracy-building with interested countries, based on a demand-driven approach,

Welcoming the increasingly close relations between the United Nations and the Council of Europe and the opening of the Permanent Delegations of the Council of Europe to the United Nations at Geneva and Vienna and commending the contribution of these delegations to the enhancement of co-operation and the achievement of greater synergy between the United Nations and the Council of Europe,

Taking note with appreciation of the report of the Secretary-General on co-operation between the United Nations and the Council of Europe,

1. *Reiterates its call for* the reinforcement of co-operation between the United Nations and the Council of Europe regarding the protection of human rights and fundamental freedoms, the promotion of democracy and the rule of law, *inter alia*, the prevention of torture, action towards the abolition of the death penalty, the fight against terrorism and trafficking in human beings, the fight against racism, discrimination, xenophobia and intolerance, the promotion of religious freedom and defence of religious minorities, the protection of the rights and dignity of all members of society, including children, elderly people, migrants and persons belonging to minorities, the promotion of gender equality and the promotion of human rights education;

2. *Confirms its recognition* of the key role of the European Court of Human Rights in ensuring effective human rights protection under the European Convention for the Protection of Human Rights and Fundamental Freedoms for the 800 million citizens in the 47 member States of the Council of Europe, and notes with interest the efforts to guarantee the long-term effectiveness of the Court system and to ensure rapid and effective execution of Court judgments, as well as the ongoing work aiming at accession of the European Union to the Convention;

3. *Recognises* the important role of the Council of Europe to uphold the rule of law and to fight impunity, including by strengthening the capacity of the national judiciaries of its member States to carry out their work in accordance with relevant international standards, in particular, where applicable, international criminal law standards including but not limited to the Rome Statute of the ICC;

[1] Resolutions 55/3, 56/43, 57/156, 59/139, 61/13, 63/14 and 65/130.

4. *Recognises* the role of the revised European Social Charter and the European Committee of Social Rights in protecting economic and social rights, noting the complementarities of the United Nations Convention on the Rights of Persons with Disabilities and the Council of Europe Disability Action Plan 2006-2015, and confirms its support for co-operation between the two organisations with respect to the eradication of poverty, the protection and promotion of the rights and dignity of persons with disabilities, the fight against maternal and child mortality, the prevention of prenatal sex selection, encouraging the integration of migrants and refugees, strengthening social cohesion and ensuring the protection of economic, social and cultural rights for all;

5. *Encourages* further co-operation between the United Nations, including the Human Rights Council and the Office of the United Nations High Commissioner for Human Rights, as well as the Special Rapporteur on the situation of human rights defenders, and the Council of Europe, including its Commissioner for Human Rights, regarding promoting respect for human rights;

6. *Welcomes* the active contribution of the Council of Europe to the enhancement of co-operation between international and regional mechanisms for the promotion and protection of human rights, and in this context welcomes in particular the contribution of the Council of Europe to the Universal Periodic Review regarding the situation of human rights in member States of the Council of Europe;

7. *Encourages also* further co-operation, where appropriate, between the United Nations and the Council of Europe through their mechanisms on the prevention of torture and inhuman or degrading treatment or punishment, and supports the development of co-operation in the penitentiary field, namely with regard to the updating of the United Nations Standard Minimum Rules for the Treatment of Prisoners and in combating prison overcrowding;

8. *Encourages* the Council of Europe to continue co-operation with the United Nations in the fight against trafficking in persons, recalling that the Council of Europe Convention on Action against Trafficking in Human Beings is open for accession by all States, and takes note with interest of the results of the monitoring activities carried out by the Group of Experts on Action against Trafficking in Human Beings and by the Committee of the Parties to the Convention; in this context, invites the Council of Europe to contribute to the review of progress achieved in the implementation of the United Nations Global Plan of Action to Combat Trafficking in Persons, due in 2013;

9. *Welcomes* the ongoing elaboration by the Council of Europe of a Convention against Trafficking in Human Organs and a possible Protocol thereto against trafficking in human tissues and cells, as a follow-up to the joint Council of Europe/United Nations study entitled “Trafficking in organs, tissues and cells and trafficking in human beings for the purpose of the removal of organs”, and encourages further co-operation in this field;

10. W*elcomes and encourages* the close collaboration between the United Nations Children’s Fund, the Special Representative of the Secretary-General on violence against children, the Office of the United Nations High Commissioner for Human Rights, the United Nations Committee on the Rights of the Child and the Council of Europe to protect and promote the rights of the child, taking note of the Council of Europe Strategy on the Rights of the Child (2012-2015) promoting the implementation of the United Nations Convention on the Rights of the Child in its member States; in this context recalls that the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse is open for accession by all States and supports the Council of Europe ONE in FIVE campaign to stop sexual violence against children;

11. *Welcomes* the reinforced action of the Council of Europe to promote the social inclusion and respect for human rights of the Roma, and encourages further co-operation between the two organisations in this field;

12. *Welcomes* the strengthening of agreed and specified co-operation between the Council of Europe and the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), encourages both organisations to pursue the development of a fruitful collaboration in eliminating violence against women and the achievement of *de facto* gender equality, and in this context, recognises the important contribution which the new Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, which is open for accession by all States, will make in eradicating this scourge;

13. *Encourages* continuing co-operation between the Office of the United Nations High Commissioner for Refugees and the Council of Europe, in particular in the protection and promotion of the rights of refugees, asylum seekers and internally displaced persons, and in the prevention and reduction of statelessness and recognises the importance of the interface offered by the presence at the Council of Europe of the United Nations High Commissioner for Refugees Representation to the European Institutions in Strasbourg, as well as by the Permanent Delegation of the Council of Europe to the United Nations Office at Geneva;

14. *Recognises* the continuing close liaison and fruitful co-operation between United Nations missions and the field offices of the Council of Europe;

15. *Encourages* further co-operation between the United Nations and the Council of Europe in the area of democracy and good governance, including by active participation in the Strasbourg World Forum for Democracy and through engagement with youth representatives and civil society, as appropriate, and the strengthening of the links between the United Nations Decade of Education for Sustainable Development and the Council of Europe Project on Education for Democratic Citizenship and Human Rights; in this context, welcomes the contribution of the Conference of INGOs of the Council of Europe to these activities;

16. *Notes* the important role of the United Nations Development Programme and the Council of Europe in supporting good local democratic governance, as well as the fruitful co-operation between them, encourages further deepening of the co-operation following the signature in February 2010 of the Memorandum of Understanding between the United Nations Development Programme Regional Bureau for Europe, the Commonwealth of Independent States and the Council of Europe in this field, and calls for enhanced co-operation between the Council of Europe and UN Habitat in the field of sustainable urban governance;

17. *Underlines* the need for persistent efforts to protect and promote freedom of expression and its corollaries, freedom of the media and safety of journalists, welcomes the Council of Europe's work in these areas and encourages further co-operation between the latter organisation and relevant United Nations agencies, in particular as regards the implementation of the United Nations Plan of Action on the Safety of Journalists and the Issue of Impunity;

18. *Reaffirms* that the development of the information society and the Internet must protect and respect freedom of expression, as well as the rights to privacy and data protection, whilst recognising lawful restrictions as set out in international human rights law, acknowledges the importance of the work of the Council of Europe in protecting those rights, notably through its contribution to the Internet Governance Forum and the promotion of its Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, which is open for accession by all States, and encourages further co-operation in these areas between relevant United Nations agencies and the Council of Europe;

19. *Welcomes and encourages* the close co-operation between the two organisations on the fight against transnational organised crime, cybercrime and money laundering, as well as on the protection of the rights of victims of such crime, and recalls that the Convention on Cybercrime and the Additional Protocol thereto, the recently adopted Council of Europe Convention on the Counterfeiting of Medical Products and Similar Crimes Involving Threats to Public Health, as well as several other relevant Council of Europe conventions are open for accession by all States;

20. *Welcomes and supports* the co-operation between the respective mechanisms concerning the prevention of and the fight against corruption, notably by reviewing and mutually reinforcing the implementation of international anti-corruption standards;

21. *Welcomes* the commitment of the Council of Europe to the promotion of the implementation of the United Nations Global Counter-Terrorism Strategy and the collaboration between their respective mechanisms regarding the fight against terrorism (including the financing of terrorism) in full respect of human rights and the rule of law, and recalls that the Council of Europe Conventions on the Prevention of Terrorism and on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism are open for accession by all States;

22. *Further encourages* the Council of Europe to continue co-operation with the United Nations on the fight against drug abuse and drug trafficking, and welcomes the joint initiatives undertaken on the establishment of national drug strategies, joint programmes on drugs in prisons and the fight against drug

precursor diversion by the Pompidou Group and the United Nations Office on Drugs and Crime and the International Narcotics Control Board;

23. *Welcomes* the contribution of the Council of Europe to the Sixth Committee of the General Assembly and the International Law Commission;

24. *Notes* the co-operation established between the Alliance of Civilisations and the Council of Europe following their signature of a Memorandum of Understanding on 29 September 2008 and the accession of the Alliance of Civilisations to the Faro Platform, and encourages the United Nations Educational, Scientific and Cultural Organisation and the Alliance of Civilisations on the one hand, and the Council of Europe and its North-South Centre on the other, to pursue their developing and fruitful collaboration in the field of intercultural dialogue;

25. *Also notes* the co-operation between the Council of Europe and the United Nations Educational, Scientific and Cultural Organisation in the field of education, and encourages the extension of this co-operation, which should continue to focus on the role of education in developing just and humane societies characterised by the participation of individuals and the ability of individuals and societies to conduct intercultural dialogue, as well as on the encouragement of the diversity of cultural expressions;

26. *Requests* the Secretaries-General of the United Nations and the Council of Europe to combine their efforts in seeking answers to global challenges within their respective mandates, and calls upon all relevant United Nations bodies to support the enhancement of co-operation with the Council of Europe;

27. *Decides* to include in the provisional agenda of its sixty-ninth session the sub-item entitled “Co-operation between the United Nations and the Council of Europe”, and requests the Secretary-General to submit to the General Assembly at its 69th session a report on co-operation between the United Nations and the Council of Europe in the implementation of the present resolution.