ISSN 0252-0656

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

PARLIAMENTARY ASSEMBLY

2001 ORDINARY SESSION

(Fourth part)

24-28 September 2001

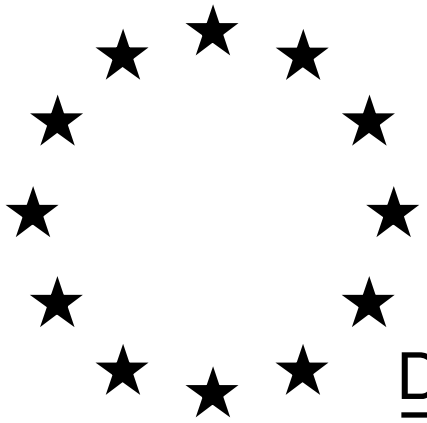
DOCUMENTS

WORKING PAPERS

VOLUME VIII

DOCUMENTS 9155-9241

Strasbourg
2001



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Council of Europe Publishing
F-67075 Strasbourg Cedex

ISBN 92-871-4739-6
Printed at the Council of Europe

Documents (Working Papers) *comprise the agenda of Assembly sessions, requests for opinion and communications from the Committee of Ministers, motions for resolutions, recommendations and orders, and written questions tabled by Representatives, reports of the committees and any amendments that have been tabled, the statutory reports from the Committee of Ministers to the Assembly and other periodical reports and communications addressed to the Assembly by international organisations.*

These documents are numbered in the order in which they are tabled, and the numbering is continuous from session to session.

A classified index of the documents contained in all eight volumes of the 2001 Ordinary Session is found at the back of this volume.

Opinions, recommendations, resolutions and orders adopted by the Assembly at the conclusion of the debates on the reports of committees and the list of references to committees are published in a separate volume which is entiled Parliamentary Assembly – Texts adopted.

The publications of the Assembly also include the Official Report *of debates,* Orders of the Day and Minutes of Proceedings.

Abbreviations used by political groups

SOC – Socialist Group
EPP/CD – Group of the European People's Party
EDG – European Democratic Group
LDR – Liberal, Democratic and Reformers' Group
UEL – Group of the Unified European Left

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Written Declaration No. 327[1]
Doc. 9155 – 3 July 2001

Freedom of movement for the inhabitants of the Lei Valley (Italy)

The undersigned, members of the Parliamentary Assembly,

Denounce the intolerable relations between the inhabitants of the Lei Valley, Valtelina, Italy, and the Swiss company Kraftwerke Hinterrein (KHR), which has a franchise on a dam and hydroelectric power station in Graubünden Canton, on the border with this valley;

Denounce, in particular, the tense relations that have developed between, on the one hand, the two families permanently resident in the valley, which earn their living by milk production and by managing a mountain refuge, and, on the other hand, the said company. Owing to this tense climate, the families are now under-supplied with electricity and, worse still, the company has taken upon itself the right to block in winter, without prior notice, the only road leading to the properties of the two families, which has had a harmful effect on their economic activities;

Invite the Swiss Government and Graubünden Canton to remove all obstacles to freedom of movement by the inhabitants of the Lei Valley, in view of the fact that the Council of Europe has always advocated the enhancement of mountain agriculture. They consider it unacceptable for a private company to be allowed arbitrarily to close roads which, even if the company constructed them, have been declared public by Graubünden Canton.

Signed:

Besostri, Italy, SOC
Bockel, France, SOC
Akçali, Turkey, EDG
Briane, France, EPP/CD
Brunetti, Italy, UEL
Chapman, United Kingdom, EDG
Davis, United Kingdom, SOC
Gross, Switzerland, SOC
Hegyi, Hungary, SOC
Iwiński, Poland, SOC
Kurucsai, Hungary, EPP/CD
Lauricella, Italy, SOC
Olivo, Italy, SOC
Pinggera, Italy, EPP/CD
Provera, Italy, LDR
De Puig, Spain, SOC
Risari, Italy, EPP/CD
Robol, Italy, EPP/CD
Schicker, Austria, SOC
Squarcialupi, Italy, SOC
Vella, Malta, EPP/CD
Vermot-Mangold, Switzerland, SOC

1. This written declaration commits only the members who have signed it.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Motion for a recommendation[1]
Doc. 9156 – 3 July 2001

Protection of sign languages in member states

presented by Mr BRUCE and others

The Assembly,

Recalling paragraph 12.xiii of its Recommendation 1492 (2001) which recommended that the Committee of Ministers "give the various sign languages utilised in Europe a protection similar to that afforded by the European Charter for Regional or Minority Languages, possibly by means of a recommendation to member states",

Recommends that the Committee of Ministers report to the Assembly on the action that it has taken to protect sign languages and on the specific measures it has proposed or proposes to recommend to member states to ensure the protection of minorities.

Signed:

Bruce, United Kingdom, LDR
Gülek, Turkey, SOC
Jansson, Finland, LDR
Jařab, Czech Republic, LDR
Jaskiernia, Poland, SOC
Magnusson, Sweden, SOC
Marty, Switzerland, LDR
McNamara, United Kingdom, SOC
Olteanu, Romania, SOC
Tabajdi, Hungary, SOC
Tallo, Estonia, SOC

1. Referred to the Committee on Legal Affairs and Human Rights and, for opinion, to the Social, Health and Family Affairs Committee, for report to the Standing Committee: Reference No. 2635 (see 26th Sitting, 25 September 2001).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Motion for a resolution[1]
Doc. 9157 – 3 July 2001

Contribution of the Council of Europe to the future constitution-making process of the European Union

presented by Mr GROSS and others

The Assembly,

Taking into consideration that:

1. the European Parliament and the new European Union Presidency want to replace the intergovernmental "conference model" (behind closed doors) by a "convention" model, which has been successfully applied in the elaboration of the European Charter of Fundamental Rights 1999-2000 and in which the Council of Europe was represented by two observers, one from the Secretariat and one from the European Court of Human Rights;

2. the Treaty of Nice envisages the construction of a "new architecture of Europe" until 2004;

3. the Belgian Presidency of the European Union wants to establish the new "convention plus" model at the end of this year at the summit in Laeken;

4. the member states of the Council of Europe and particularly those who aspire to EU membership have a great interest in the emerging new European constitution;

5. the political and constitutional-based integration of Europe from the Atlantic to the Caspian Sea was the original project of the pioneers of European integration and the founding fathers of the Council of Europe,

The Assembly decides to ensure the participation of a delegation of the Parliamentary Assembly of the Council of Europe in the constitution-making body designed as the "convention plus model", giving it the right to speak and to make contributions, without the right to vote, and to see to it that this proposition is taken up by the presidents of the political groups in the European Parliament and in the Parliamentary Assembly of the Council of Europe.

Signed:

Gross, Switzerland, SOC
Atkinson, United Kingdom, EDG
Bartoš, Czech Republic, EDG
Bindig, Germany, SOC
Björck, Sweden, EDG
Cilevičs, Latvia, SOC
De Puig, Spain, SOC
Derycke, Belgium, SOC
Hornhues, Germany, EPP/CD
Iwiński, Poland, SOC
Jansson, Finland, LDR
Judd, United Kingdom, SOC
Jurgens, Netherlands, SOC
Landsbergis, Lithuania, EDG
Marty, Switzerland, SOC
Ragnarsdóttir, Iceland, EDG
Shakhtakhtinskaya, Azerbaijan, EDG
Stoisits, Austria, SOC
Van der Linden, Netherlands, EPP/CD
Varela i Serra, Spain, LDR
Vermot-Mangold, Switzerland, SOC
Zapfl-Helbling, Switzerland, EPP/CD

1. Referred to the Political Affairs Committee and, for opinion, to the Committee on Legal Affairs and Human Rights: Reference No. 2636 (see 26th Sitting, 25 September 2001).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Motion for a recommendation[1]
Doc. 9158 – 3 July 2001

Tax incentives for cultural heritage conservation

presented by Mr LEGENDRE and others

1. The cultural heritage has universal significance, but responsibility for the conservation of any particular object or site rests first with the immediate owner. Where necessary that owner should be given whatever support and encouragement the wider community might be able to offer.

2. Direct public funding is increasingly unavailable for conservation. However, too much cannot be demanded of the private sector. The middle path of fiscal encouragement of heritage conservation is therefore urgently needed.

3. Fiscal encouragement can be a part of cultural policy and linked to economic development (housing, tourism, etc.).

4. Its application may be restricted to specific areas, such as the upkeep of churches in western Europe, or it may be much wider, as for the conservation of denationalised historic property in central and eastern Europe.

5. Tax relief may apply differently to property in public, institutional or private hands. As with direct grants, it should carry with it some provision for public access in return.

6. The management of conservation by fiscal policy should also take account of inheritance rules in an increasingly open European economy.

7. The Assembly has pressed in the past for fiscal incentives for heritage conservation. The latest European ministerial conference (Portorož, March 2001) made a similar appeal.

8. The European Union is itself currently experimenting with reduced VAT for labour-intensive work and five countries are applying this to buildings. This move towards a cultural exception is to be welcomed.

9. The conservation lobby is already active in this field and notably Europa Nostra. The tourist and building industries should also be involved.

10. The Assembly recommends that the Committee of Ministers:

– review existing systems for tax relief and fiscal encouragement relating to heritage protection;

– make outline proposals for ways in which fiscal incentives might be used to encourage heritage protection (survey and maintenance, actual restoration work, inheritance, etc.) and on a pan-European level;

– engage in a direct dialogue with the relevant European Union authorities so as to ensure that future EU legislation on VAT includes recognition of heritage protection along with other possible exceptions for the cultural field;

– give immediate encouragement to member countries that are free to do so to take advantage of fiscal policies to encourage the participation of the private sector in the conservation of the cultural heritage;

– recognise and encourage the role being played by non-governmental organisations in this area.

Signed:

Legendre, France, EDG
Billing, Sweden EDG
Birraux, France, EPP/CD
Cherribi, Netherlands, LDR
Cryer, United Kingdom, SOC
Debono Grech, Malta, SOC
Duka-Zólyomi, Slovakia, EPP/CD
Hancock, United Kingdom, LDR
Hegyi, Hungary, SOC
Isohookana-Asunmaa, Finland, LDR
Jäger, Germany, SOC
Kalkan, Turkey, GDE
Kofod-Svendsen, Denmark, EPP/CD
Martelli, Italy, EPP/CD
McNamara, United Kingdom, SOC
O'Hara, United Kingdom, SOC
De Puig, Spain, SOC
Reimann, Switzerland, LDR
Roseta, Portugal, EPP/CD
Štěpová, Czech Republic, SOC
Varela i Serra, Spain, LDR

1. Referred to the Committee on Culture, Science and Education and, for opinion, to the Committee on Economic Affairs and Development: Reference No. 2637 (see 26th Sitting, 25 September 2001).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Motion for a recommendation[1]
Doc. 9159 – 3 July 2001

Situation of lesbians and gays in sports in member states

presented by Mr CHERRIBI and others

1. Recent studies show that (young) gays and lesbians in Council of Europe member states are at a disadvantage when it comes to their participation in sports activities in their regular local sports organisation or in sport at school.

2. This fact is regrettable given the aims of the European Sports Charter, in particular Articles 1 and 4 respectively on participation and on non-discrimination.

3. The Assembly recalls that, on 30 May 2000 in Bratislava, the Secretary General of the Council of Europe, Mr Walter Schwimmer, on the occasion of the informal 9th Conference of European Ministers responsible for Sport, declared that "sport is a key factor in social integration and training".

4. The Assembly adopted Recommendation 1474 (2000) on the situation of lesbians and gays in Council of Europe member states. Amongst other recommendations the member states are called upon to take positive measures to combat homophobic attitudes, including in sports (paragraph 11).

5. The Assembly therefore recommends that the Committee of Ministers ask the steering committee and the committee of experts concerned to conduct a survey on existing research studies (as according to Article 11 of the European Sports Charter) and also on existing good practices within this field in member states.

Signed:

Cherribi, Netherlands, LDR
Blaauw, Netherlands, LDR
Debono Grech, Malta, SOC
Hancock, United Kingdom, LDR
Jansson, Finland, LDR
Martelli, Italy, EPP/CO
O'Hara, United Kingdom, SOC
Reimann, Switzerland, LDR
Van't Riet, Netherlands, LDR
Vermot-Mangold, Switzerland, SOC
Zwerver, Netherlands, SOC

1. Referred to the Committee on Culture, Science and Education: Reference No. 2638 (see 26th Sitting, 25 September 2001).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Motion for a resolution[1]
Doc. 9160 – 3 July 2001

Social implications of enlargement of the European Union

presented by Mr HEGYI and others

Accelerated globalisation of economies and the political and economic processes of enlargement of the European Union are both opportunities and threats for social cohesion in Europe. The two parallel processes call for adequate responses and the strengthening of the roles of central governments, regional and local authorities as well as social partners in order to offset market pressures for deregulation of social norms, weakening of social policies and social infrastructure.

In this context, the challenge remains even stronger to pursue the goal of building up a European model that would combine economic growth with widely shared prosperity and social justice, as a basis for political, economic and social stability on our continent.

The process of enlargement of the European Union raises some concern while social issues have been given rather low priority, in contrast to the extremely challenging task faced by the candidate countries of bringing social policy and social protection in line with that of the member states of the European Union.

The negotiation processes mainly focus on legal compliance with the social *acquis* of the European Union, which is rather limited and could not be seen to reflect the full scope of social models towards which the candidate countries should aspire in transition. The fundamental issues of building up viable social security systems, reform of health systems, reform of pension systems, strengthening the roles of social partners, institutional reform, etc., are to a large extent left out of the enlargement debate.

The Assembly, in co-operation with the European Parliament, ought to follow this process more closely in order to facilitate an open dialogue and exchange of knowledge between the candidate countries and the member states of the European Union and to assist the candidate countries in their fundamental task of developing effective social policies, new social instruments and redefining the respective roles of social partners, following the principles contained in the social instruments of the Council of Europe.

Signed:

Hegyi, Hungary, SOC
Biga-Friganović, Croatia, SOC
Coifan, Romania, LDR
Gross, Switzerland, SOC
Hancock, United Kingdom, LDR
Kirilov, Bulgaria, SOC
Lotz, Hungary, LDR
Markovic-Dimova, “the former Yugoslav Republic of Macedonia”, LDR
Mikaelsson, Sweden, UEL
Pollozhani, “the former Yugoslav Republic of Macedonia”, EDG
Ponsonby, United Kingdom, SOC
Ragnarsdóttir, Iceland, EDG
Vermot-Mangold, Switzerland, SOC

1. Referred to the Social, Health and Family Affairs Committee: Reference No. 2639 (see 26th Sitting, 25 September 2001).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Motion for a recommendation[1]
Doc. 9161 – 3 July 2001

Policies for the integration of immigrants in Council of Europe member states

presented by Ms ZWERVER and others

1. Legal migrants have become a permanent feature of European societies. The number of long-term immigrants, including asylum seekers, who have been granted refugee status in Council of Europe member states is on the rise.

2. The presence of immigrants can be an enriching and positive factor for the development of a host country. Active contribution of migrants to a country's prosperity should be encouraged and stimulated. This cannot be separated from the successful integration of migrants into a host society. Such integration is a precondition of mutual benefit. Its lack can be a potential source of social tension and conflict.

3. The integration of immigrants can be considered from many aspects (for example, legal, political, economic, social, cultural) and at different levels (national, regional, local). Although in some countries much progress has been achieved in numerous areas of integration, much still has to be done and many obstacles exist in Council of Europe member states.

4. In general these obstacles can be put into three categories: discriminatory legal measures (laws, regulations); inadequate social structures (access to social rights, administrative practices); hostile attitude of host population (racism, discrimination, etc.).

5. The Assembly is convinced that immigration policies in Council of Europe member states should facilitate the process of integration from the earliest stage of the status determination procedure.

6. The Assembly is concerned by the fact that many Council of Europe member states have no comprehensive and consistent migration policies.

7. The Assembly recommends, therefore, that the Committee of Ministers:

i. include in the intergovernmental work of the Council of Europe relevant activities in this area;

ii. call on the member states to:

a. review their immigration policies with a view to making them more compatible with the integration of immigrants;

b. examine the possibility of speeding up the status determination procedure and making it more compatible with the process of integration.

Signed:

Zwerver, Netherlands, SOC
Aguiar, Portugal, EPP/CD
Bušić, Croatia, EPP/CD
Cilevičs, Latvia, SOC
Connor, Ireland, EPP/CD
Einarsson, Sweden, UEL
Jařab, Czech Republic, LDR
Lörcher, Germany, SOC
Ouzký, Czech Republic, EDG
Soendergaard, Denmark, UEL
Stoisits, Austria, SOC
Tkác, Slovakia, EDG

1. Referred to the Committee on Migration, Refugees and Demography: Reference No. 2640 (see 26th Sitting, 25 September 2001).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Motion for a resolution[1]
Doc. 9162 – 3 July 2001

Candidates to the European Court of Human Rights

presented by Mr McNAMARA and others

1. By its Order No. 519 (1996) on the procedure for examining candidatures for the election of judges to the European Court of Human Rights, the Assembly instructed its Committee on Legal Affairs and Human Rights to examine the question of the qualifications and manner of appointment of judges to the European Court of Human Rights, with a view to achieving a balanced representation of the sexes.

2. In order to fulfil this task, the Committee on Legal Affairs and Human Rights set up a Sub-Committee on the Election of Judges that holds hearings with all candidates. The conclusions of the sub-committee are made available to all the members of the Assembly prior to the elections.

3. Following the first elections in accordance with the European Convention on Human Rights, as amended by Protocol No 11, which took place in January 1998, April 1998 and June 1999, the Assembly adopted Recommendation 1429 (1999) on national procedures for nominating candidates for election to the European Court of Human Rights in which it recalled the criteria to be followed by governments when drawing up lists of candidates for the office of judge to the European Court of Human Rights.

4. In particular, it asked them to ensure that the candidates have experience in the field of human rights and to select candidates of both sexes in all cases. It also recommended that the governments of member states consult their national parliaments when drawing up the lists.

5. On the occasion of the partial elections held in accordance with Article 23 of the Convention in April 2001, the Assembly noted that out of eighteen lists submitted, eleven presented only men and two presented only women. It also noted that in some cases, irrespective of the size of the country, only one of the three candidates, and in some cases only two of the three, fulfilled the criteria of qualifications.

6. In view of the aforesaid, the Assembly resolves that, in the future, it will no longer consider lists of candidates where it is apparent that not all the candidates fulfil the requirement of qualifications mentioned in the Convention or when candidates of only one sex are put forward, and it instructs its Sub-Committee on the Election of Judges to act accordingly.

Signed:

McNamara, United Kingdom, SOC
Akçali, Turkey, EDG
Aliyev G., Azerbaijan, EDG
Bindig, Germany, SOC
Cilevičs, Latvia, SOC
Coifan, Romania, LDR
Demetriou, Cyprus, EPP/CD
Dimas, Greece, EPP/CD
Dreyfus-Schmidt, France, SOC
Enright, Ireland, EPP/CD
Hajiyeva, Azerbaijan, EPP/CD
Holovaty, Ukraine, LDR
Jäätteenmäki, Finland, LDR
Jaskiernia, Poland, SOC
Jurgens, Netherlands, SOC
Kresák, Slovakia, LDR
Kroupa, Czech Republic, EPP/CD
Lauricella, Italy, SOC
Lībane, Latvia, LDR
Lintner, Germany, EPP/CD
Magnusson, Sweden, SOC
Marty, Switzerland, LDR
Mikaelsson, Sweden, UEL
Olteanu, Romania, SOC
Rogozin, Russian Federation, EDG
Škrabalo, Croatia, LDR
Tevdoradze, Georgia, EDG
Vanoost, Belgium, SOC
Wohlwend, Liechtenstein, EPP/CD

1. Referred to the Committee on Legal Affairs and Human Rights and, for opinion, to the Committee on Equal Opportunities for Women and Men: Reference No. 2641 (26th Sitting, 25 September 2001)

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Motion for a resolution[1]
Doc. 9163 – 3 July 2001

Transfrontier co-operation in preserving the identity of national minorities

presented by Mr Van der LINDEN and others

One of the basic tasks of the Council of Europe and the Parliamentary Assembly is to promote the development of co-operation between member states as well as the development of transfrontier co-operation. The positive effects of this co-operation are favourable – in a direct or indirect way – for all communities living on both sides of the border, irrespective of national/ethnic origin. Transfrontier co-operation is supported by international documents.

This is a crucial element in respect of linguistic and cultural diversity in Europe and for maintaining and developing the identity of national minorities. Different Council of Europe conventions and Assembly recommendations stipulate *in concreto* the responsibilities and obligations of the states of which they are citizens, and of the kin states, as well as the obligations of persons belonging to national minorities to co-operate in this field. The co-operation should be in conformity with the provisions of the Framework Convention for the Protection of National Minorities, the European Charter for Regional or Minority Languages and other international documents.

Article 17 of the framework convention stipulates that: "The parties undertake not to interfere with the rights of persons belonging to national minorities to establish and maintain free and peaceful contacts across frontiers with persons lawfully staying in other states, in particular those with whom they share an ethnic, cultural, linguistic or religious identity or common cultural heritage."

Article 10 in the proposed additional protocol appended to Assembly Recommendation 1201 stipulates that: "Every person belonging to a national minority, while duly respecting the territorial integrity of the state, shall have the right to have free and unimpeded contacts with the citizens of another country with whom this minority share ethnic, religious or linguistic features or a cultural identity."

Furthermore, relevant United Nations and CSCE documents determine the obligations of the participating states in this specific respect. Therefore, the Assembly should study the existing legal solutions and political practices in, as well as between, the member states that promote the preservation and development of the cultural and linguistic identity of the national minorities, from the following aspects:

– bilateral treaties and conventions:

– international and domestic legal instruments:

– well-functioning models, for example between Germany and Denmark, between Sweden and Finland, between Italy and Austria:

– regional co-operation, twin communities.

Signed:

Van der Linden, Netherlands, EPP/CD
Aguiar, Portugal, EPP/CD
Bernik, Slovenia, EPP/CD
Biga-Friganović, Croatia, SOC
Braun, Hungary, EPP/CD
Brejc, Slovenia, EPP/CD
Bušić, Croatia, EPP/CD
Cilevičs, Latvia, SOC
Cox, United Kingdom, SOC
de Puig, Spain, SOC
Eörsi, Hungary, LDR
Ferić-Vac, Croatia, SOC
Gjellerod, Denmark, SOC
Hancock, United Kingdom, LDR
Hegyi, Hungary, SOC
Isohookana-Asunmaa, Finland, LDR
Judd, United Kingdom, SOC
Kurucsai, Hungary, EPP/CD
Lotz, Hungary, LDR
Podobnik, Slovenia, EPP/CD
Pokol, Hungary, EPP/CD
Robol, Italy, EPP/CD
Rogozin, Russian Federation, EDG
Schieder, Austria, SOC
Škrabalo, Croatia, LDR
Štěpová, Czech Republic, SOC
Surján, Hungary, EPP/CD
Szinyei, Hungary, EPP/CD
Tabajdi, Hungary, SOC
Toshev, Bulgaria, EPP/CD
Urbańczyk, Poland, SOC
Vermot-Mangold, Switzerland, SOC
Vos, Netherlands, LDR
Zwerver, Netherlands, SOC

1. This motion has not been discussed in the Assembly and commits only the members who have signed it.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Motion for a resolution[1]
Doc. 9164 – 4 July 2001

Situation of people deported from Georgia in 1944 (Meskhetians) and currently residing in Stavropol Krai (Russian Federation)

presented by Mr ADAMIA and others

In 1944, the Stalin regime deported a substantial number of local inhabitants from the Samtskhe-Javakheti region of Georgia, then part of the Soviet Union. Since then they have lived in central Asian republics, mainly in Uzbekistan, in the Fergana Valley, from where they have been forcefully expelled. Currently, they reside mainly in the Russian Federation.

Lately there has been an increase in alarming information from Stavropol Krai concerning pogroms of families of deported Meskhetians. Extremist groups of Cossacks are forcing these people to abandon places where currently they have relatively settled lives. Ethnic intolerance and tension is increasing in the region. There is a clear possibility that these people will be forcefully displaced for the third time.

It is noted that the Russian authorities do not take any steps to address the issue. Instead, they pressurise the Georgian Government in various ways to foster the repatriation process in a manner that is in danger of causing yet another conflict situation for this country, thereby destabilising the entire southern Caucasus region.

Taking into consideration the above-mentioned circumstances and the Council of Europe's wish to facilitate a fair and comprehensive repatriation process, maintaining peace and stability in the region, coupled with the lack of sufficient international attention to the situation, the Assembly resolves to study the matter and asks its Political Affairs Committee to present a report as soon as possible.

Signed:

Adamia, Georgia, SOC
Atkinson, United Kingdom, EDG
Bársony, Hungary, SOC
Cubreacov, Moldova, EPP/CD
Landsbergis, Lithuania, EDG
Ojuland, Estonia, LDR
Patereu, Moldova, EPP/CD
Pollozhani, "the former Yugoslav Republic of Macedonia", EDG
Tevdoradze, Georgia, EDG
Zarubinsky, Ukraine, EDG

1. Referred to the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe, the Political Affairs Committee and the Committee on Migration, Refugees and Demography: Reference No. 2642 (see 26th Sitting, 25 September 2001).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Motion for a resolution[1]
Doc. 9165 – 4 July 2001

Ratification of the European Code of Social Security

presented by Mrs RAGNARSDÓTTIR and others

1. The European Code of Social Security aims at encouraging the development of social security in all the member states of the Council of Europe so that they may gradually reach the highest level possible of social security. The code fixes a series of standards which parties undertake to include in their social security systems.

2. The code defines norms for social security coverage and establishes minimum levels of protection which parties must provide in such areas as medical care, sickness benefits, unemployment benefits, old age benefits, employment injury benefits, family benefits, maternity benefits, invalidity benefits, survivors' benefits, etc. The code, and its protocol which establishes an even higher standard, is thus a major instrument for social cohesion in Europe.

3. At 28 June 2001, only eighteen member states had ratified the code and two had signed but not ratified it. The figures for the protocol are seven and six respectively.

4. The Parliamentary Assembly strongly urges those member states which have not yet done so to ratify the European Code of Social Security and its protocol.

Signed:

Ragnarsdóttir, Iceland, EDG
Alís Font, Andorra, SOC
Belohorská, Slovakia, EDG
Brînzan, Romania, SOC
Dhaille, France, SOC
Flynn, United Kingdom, SOC
Hancock, United Kingdom, LDR
Kiely, Ireland, LDR
Mitterrand, France, SOC
Provera, Italy, LDR

1. Referred to the Social, Health and Family Affairs Committee: Reference No. 2643 (see 26th Sitting, 25 September 2001).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Motion for a resolution[1]
Doc. 9166 – 4 July 2001

Crimes of honour

presented by Mrs ERR and others

1. The "crime of honour", or the crime against women committed in the name of honour, is the murder of a woman by family members for a real or perceived illicit relationship and/or "immoral behaviour" in order to protect the "honour" of the family. This crime is closely connected to the "blood feud", the male counterpart of the crime of honour. Every year, thousands of women and men, girls and boys die in honour and blood-feud killings in a wide range of countries.

2. The Assembly, recalling the Convention on the Elimination of all Forms of Discrimination against Women and the United Nations Declaration on the Elimination of Violence against Women, condemns such crimes as a human rights violation. It is gravely concerned by the numerous cases of crimes of honour reported in some European countries and calls on the member states of the Council of Europe to prevent, investigate and punish the perpetrators of such crimes.

3. The elimination of crimes of honour requires deep changes in the mentality of those nations where such crimes could still be justified by traditions and customs and can be achieved only through the joint efforts of all governments and civil society, including non-governmental organisations.

4. Therefore, the Assembly recommends the member states of the Council of Europe:

– to implement effectively the laws related to these crimes and to take all necessary measures aimed at increasing knowledge of the causes and consequences of such crimes, among policy makers, police personnel, and judicial workers;

– to provide support to the actual and potential victims, including personal protection, legal aid, and physiological rehabilitation;

– to launch national awareness-raising campaigns, involving the educational system, religious institutions and the mass media, in order to prevent crimes of honour.

Signed:

Err, Luxembourg, SOC
Agudo, Spain, SOC
Aguiar, Portugal, EPP/CD
Akgönenç, Turkey, EDG
Chapman, United Kingdom, EDG
Cryer, United Kingdom, SOC
de Puig, Spain, SOC
Dromberg, Finland, EDG
Druziuk, Ukraine, UEL
Etherington, United Kingdom, SOC
Hegyi, Hungary, SOC
Holovaty, Ukraine, LDR
Jones, United Kingdom, SOC
Kiely, Ireland, LDR
López-González, Spain, SOC
Marmazov, Ukraine, UEL
Popescu, Ukraine, SOC
Rogozin, Russian Federation, UEL
Sağlam, Turkey, EPP/CD
Urbańczyk, Poland, SOC
Varela i Serra, Spain, LDR

1. Referred to the Committee on Equal Opportunities for Women and Men and, for opinion, to the Committee on Legal Affairs and Human Rights: Reference No. 2644 (see 26th Sitting, 25 September 2001).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Motion for a resolution[1]
Doc. 9167 – 4 July 2001

Situation of the Orthodox Church believers in Estonia

presented by Mr SLUTSKY and others

1. The Assembly notes that over a period of years the Estonian authorities have been refusing to register the charter of the Estonian Orthodox Church of the Moscow Patriarchy with which the overwhelming majority (more than 100 000) of orthodox believers affiliate themselves.

2. Moreover, the Estonian Parliament has recently adopted a new law on churches and parishes which contains provisions discriminatory to several churches prohibiting, in particular, the registration of churches whose decisions are to be approved by church authorities outside Estonia. A number of Estonian political parties have already appealed to the President of Estonia not to sign the law.

3. The refusal to register the Estonian Orthodox Church hinders its legitimate activity in Estonia and hurts the feelings of its followers. It also leads to unnecessary disputes over church property and can cause further division in Estonian society and confrontation between the different groups of believers. Unfortunately, this situation is closely intertwined with the unresolved issues of national minorities' rights.

4. The Assembly believes that such an attitude is in contradiction to the standards of freedom of religion set out in international documents and the resolutions adopted by the Parliamentary Assembly of the Council of Europe and runs counter to the interests of the consolidation of society and the honouring of minorities' rights.

5. The Assembly urges the Estonian authorities to register the Estonian Orthodox Church of the Moscow Patriarchy, to amend the Law on Churches and Parishes in order to make it non-discriminatory towards the various churches and to take practical steps to ensure respect for the religious rights of all national groups living in Estonia.

Signed:

Slutsky, Russian Federation, SOC
Bilovol, Ukraine, EDG
Chaklein, Russian Federation, UEL
Cilevičs, Latvia, SOC
Dmitrijevas, Lithuania, SOC
Elo, Finland, SOC
Gaber, Ukraine, SOC
Gamzatova, Russian Federation, UEL
Gostev, Russian Federation, UEL
Grachev, Russian Federation, EPP/CD
Hovhannisyan, Armenia, UEL
Ivanov S., Estonia, SOC
Iwiński, Poland, SOC
Kanelli, Greece, UEL
Luhtanen, Finland, SOC
Maltsev, Russian Federation, UEL
Manukyan, Armenia, UEL
Marmazov, Ukraine, UEL
Oliynyk, Ukraine, UEL
Popescu, Ukraine, SOC
Poroshenko, Ukraine, SOC
Rogozin, Russian Federation, EDG
Simonenko, Ukraine, UEL
Tevdoradze, Georgia, EDG
Ustiugov, Russian Federation, EPP/CD

1. Referred to the Committee on Legal Affairs and Human Rights and the Committee on Culture, Science and Education: Reference No. 2645 (see 26th Sitting, 25 September 2001).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Motion for a resolution[1]
Doc. 9168 – 4 July 2001

Freedom of movement in member states of the Council of Europe for holders of temporary residence permits in a member state

presented by Mrs AGUIAR and others

1. The Assembly has on several occasions recalled the importance of facilitating the free movement of people in Europe, in particular in Resolution 557 (73) on the responsibility of member states of the Council of Europe regarding the free movement of people in Europe and Recommendation 879 (79) on the movement of persons between the member states of the Council of Europe.

2. At the moment, there is an increasing movement of migrants, namely from eastern Europe, who settle temporarily in other European countries in the search for better economic conditions.

3. The Assembly wishes to turn its attention to the situation of those migrants who are given a temporary residence permit in a member state and who, due to a gap in legislation or a restrictive interpretation of existing legislation, cannot travel to or transit through other member states without risking being returned to their country of nationality, sometimes under expulsion procedures. The result of this situation is that – to avoid being subjected to expulsion procedures – these legal migrants cannot leave the host country for the entire duration of their stay.

4. Therefore, the Assembly calls on the member states of the Council of Europe:

i. to co-operate in order to ensure that all migrants having legal residence in a member state be allowed to travel to or via other member states;

ii. in consideration of the fact that very often the holders of temporary residence permits are not entitled to family reunification, to facilitate freedom of movement from the host country, directly or via other member states, to the country of nationality of the migrants, in compliance with a fundamental principle of humanity.

Signed:

Aguiar, Portugal, EPP/CD
Aliyev B. Azerbaijan, SOC
Cilevičs, Latvia, SOC
Gamzatova, Russian Federation, UEL
Jařab, Czech Republic, LDR
Kroupa, Czech Republic, EPP/CD
Libicki, Poland, EDG
Lörcher, Germany, SOC
Soendergaard, Denmark, UEL
Tkáč, Slovakia, EDG
Zwerver, Netherlands, SOC

1. Referred to the Committee on Migration, Refugees and Demography and, for opinion, to the Committee on Legal Affairs and Human Rights: Reference No. 2646 (see 26th Sitting, 25 September 2001).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Motion for a resolution[1]
Doc. 9169 – 4 July 2001

Lack of efficient legal protection in Ukraine (intimidation of Mr Yeliashkevich, member of parliament)

presented by Mr EÖRSI and others

1. The Assembly is concerned that intimidation against members of the Verkhovna Rada have taken place in Ukraine. Mr Oleksandr Yeliashkevich, Deputy Chairman of the Financial Committee of the Rada and member of parliament since 1994, was assaulted on the evening of 9 February 2000 and suffered serious injuries. He suspects that this incident happened for political motives, as he suggested a special investigation in the Rada into the circumstances of the last presidential elections.

2. During the last year-and-a-half, Ukrainian law enforcement agencies have failed to take any steps to solve this crime, and they intentionally misinformed the public on the nature of the member of parliament's injuries. Mr Yeliashkevich's attempt to resolve the issue by lodging complaints on the basis of the Criminal Code of Ukraine with regard to the life and health of a member of parliament has been repeatedly refused.

3. The Assembly, referring to its Resolution 1244 (2001), in which, *inter alia*, it urged "the Ukrainian authorities, notably the President, to put an end to the practice of intimidation and repression of opposition politicians" reiterates its concern as regards the independence of the judiciary in Ukraine.

4. Bearing in mind the above, the Assembly:

– calls on the Ukrainian authorities to initiate a special investigation into this matter;

– urges these authorities to make further efforts to strengthen the rule of law in that country;

– instructs its Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) to follow closely the evolution of this problem.

Signed:

Eörsi, Hungary, LDR
Besostri, Italy, SOC
Coifan, Romania, LDR
Fehr, Switzerland, LDR
Hancock, United Kingdom, LDR
Kelemen A, Romania, EPP/CD
Korkeaoja, Finland, LDR
Kresák, Slovakia, LDR
Puche, Spain, EPP/CD
Truu, Estonia, EDG
Zapfl-Helbling, Switzerland, EPP/CD

1. Referred to the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe and the Committee on Legal Affairs and Human Rights, for information: Reference No. 2647 (see 26th Sitting, 25 September 2001).

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Motion for a resolution[1]
Doc. 9170 – 4 July 2001

Euthanasia

presented by Mr MONFILS and others

1. Where terminally ill patients suffer constant, unbearable pain without hope of any improvement in their condition, some doctors are willing to conduct euthanasia: that is, to terminate the life of the patient at his or her request.

2. These practices are a fact of medical life in several Council of Europe member states and are illegal in most of them, although tolerated in some under specified conditions. However, recent legislation in the Netherlands will allow doctors who accede to a patient's request for euthanasia to escape prosecution, again under specified conditions. Such legislation is under preparation in Belgium. One of the main reasons for introducing specific legislation is to bring such practices out of the grey area of uncertainty by establishing clear criteria and procedures which doctors and nursing staff have to observe in their decision-making.

3. The Assembly considers that the trend initiated by the new legislation in the Netherlands challenges the member states of the Council of Europe to examine the important social issue of euthanasia in the light of those spiritual and moral values which they affirm in the Organisation's Statute.

4. Accordingly, the Assembly resolves to debate the subject with a view to the adoption of a recommendation to the Committee of Ministers, asking them to draw up either a recommendation to the governments of member states or a convention clearly establishing the criteria according to which doctors who perform such medical acts and the staff who assist them should be immune from prosecution.

Signed:

Monfils, Belgium, LDR
Alís Font, Andorra, SOC
Bērziņš, Latvia, NR
Brunhart, Liechtenstein, EPP/CD
Cerrahoğlu, Turkey, EDG
Flynn, United Kingdom, SOC
Hancock, United Kingdom, LDR
Luhtanen, Finland, SOC
Mitterrand, France, SOC
Provera, Italy, LDR
Vis, United Kingdom, SOC

1. Referred to the Social, Health and Family Affairs Committee and, for opinion, to the Committee on Legal Affairs and Human Rights: Reference No. 2648 (see 26th Sitting, 25 September 2001).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Report
Doc. 9171 – 25 September 2001

The OECD and the world economy

**(Rapporteur: Mr MATĚJŮ, Czech Republic,
Group of the European People's Party)**

Summary

Each year, the Assembly joins with parliamentarians from the seven OECD countries that are not members of the Council of Europe in an enlarged Assembly debate on the work of the thirty-member Organisation for Economic Co-operation and Development to further the world economy. In a special foreword to this year's report, the rapporteur expresses shock and outrage at the 11 September terrorist attacks in the United States of America, an OECD founder member and the originator of the Marshall Plan which gave rise to the organisation. "Economic activity is about so much more than just money. It is ultimately about people … and the sharing of values without which wealth is meaningless," he declares. Despite this and other recent gloomy economic news, he remains confident of an eventual improvement in the world economy, while continuing to urge structural reform in Japan and sound fiscal policies in Europe, as well as assistance for non-OECD countries such as the Russian Federation and Ukraine. Priorities for the OECD should continue to be assisting in the launching of a new World Trade Organisation round, investment in education and support for a knowledge-based economy – a central concern of the rapporteur – and sound business ethics, among others. OECD countries are strongly encouraged to find an agreement on the Kyoto Protocol on Climate Change.

I. Draft resolution

1. The enlarged Parliamentary Assembly, composed of delegations of the OECD and Council of Europe member states, has examined the recent activities of the OECD as they relate to the world economy, in the light of the report prepared by the enlarged Assembly's Committee on Economic Affairs and Development and the contributions from various other committees.

The terrorist attacks against the United States on 11 September 2001

2. The enlarged Assembly expresses its horror and revulsion over the atrocious terrorist attacks perpetrated against the United States on 11 September 2001. It shares in the grief of the families and friends of the victims. It states its total support for that country and for the international community as a whole in their fight against those associated with these acts, which it considers as having been directed against the very concept of civilisation. As far as the economic consequences for the world economy resulting from these events are concerned, the enlarged Assembly calls on the international community to do everything in its power to overcome them in unison – including, if necessary, taking exceptional measures.

General economic situation and prospects

3. The enlarged Assembly notes the recent slowdown in the world economy and the reduction in growth in the OECD area. It remains confident, however, of the likelihood of an early upturn in the economy, led by lower interest rates and tax reductions in key countries and the hoped-for prospect of economic recovery in the US with repercussions worldwide. It also counts on continued healthy world trade and inflation limited to the OECD area to support such a recovery.

4. Vigilance is called for in view of the considerable stock market correction occurring over the past year, especially in technology shares, with its potential impact on business and consumer confidence. Trade imbalances, as reflected especially in the major US current account deficit, are a further source of concern, requiring both policy and currency co-operation among the leading economies in order to maintain sustainable growth for the global economy.

5. The enlarged Assembly notes that the long-hoped-for sustainable economic recovery of Japan has not yet materialised – a situation which, if it continues, may hamper regional and worldwide growth along with deceleration of the US and European Union economies. It welcomes the reforms recently started in that country and encourages the new Japanese Government and the Diet to pursue their structural reform with renewed energy in the private sector, particularly the banking sector, as well as in the public sector.

6. In addition, weakening growth and reduced business confidence, which is also felt in Europe, show that it is not immune to outside influences. The continued weakness of the euro harbours the risk of renewed inflationary pressure and shows the urgent need for Economic and Monetary Union (EMU) countries to harmonise economic and other policies, follow fiscal policies that are in full conformity with EMU obligations and pursue structural reform in close co-operation with each other. However, this process should maintain a balance with policies put in place to promote social cohesion in Europe.

7. While OECD countries in central Europe continue to show healthy growth, they remain particularly vulnerable to any slowdown in western Europe and the world at large. The same holds for other countries in central, eastern and South-eastern Europe. It is therefore important to establish a clear and speedy timetable for European Union enlargement, accompanied by efficient measures to assist candidate countries to progressively come into line with social and economic standards established within the European Union.

8. The enlarged Assembly in this context recognises the major economic progress achieved by various transition countries aspiring to OECD membership and hopes they will also be able to join at an appropriate time. It also notes the comparatively healthy growth in Mexico and in Korea in 2000, and recognises the major economic and structural reforms which have been

undertaken in Korea in line with OECD recommendations. Furthermore, it acknowledges the benefits that these two countries have reaped from their OECD membership and hopes that OECD relations with other countries in their respective regions can continue to intensify within the context of its outreach programme of co-operation with non-member countries.

9. The enlarged Assembly welcomes the Russian Federation's strong economic growth of over 7% in 2000 and the major reforms now under way in that country. It asks the OECD to encourage and assist the Russian Federation – as well as its neighbour Ukraine, which is also introducing reforms – in the implementation of reforms, considering the importance of these countries for the surrounding region.

10. The enlarged Assembly welcomes the important role played by the OECD in preparing issues to be included in a new World Trade Organisation (WTO) round and notes OECD ministers' commitment to such a round. It is now urgently needed in order to adapt the world multilateral trading system to new realities, failing which there would be a risk of an intensification in shifts of opinion, protectionist reflexes and measures that would lead to a more fragmented world trading system. The enlarged Assembly asks the OECD to do its utmost to contribute to the launching of a new round at the WTO ministerial meeting to be held in Qatar in November 2001.

11. In the context of any future WTO negotiations, the enlarged Assembly also strongly urges OECD governments to support increased involvement by parliamentarians with a view to enhancing the transparency and democratic overview of the WTO negotiating process. The enlarged Assembly calls on the OECD to work with the WTO towards meeting these objectives and in that regard welcomes the recent publication of *WTO policy issues for parliamentarians: a guide to current trade issues for legislators.*

12. The Assembly recalls the difficult financial crises over the past few years, especially those that have recently affected Turkey and Argentina. It emphasises the need to pursue efforts to enhance the security and stability of investment, and to establish a more efficient system of support in order to protect weaker regions against the severe effects of sudden shocks caused by capital flight.

The fostering of human capital in a knowledge-based society

13. In a new world economy increasingly based on knowledge and the ability to organise people around it, the progress of the human and social capital of countries is of crucial and rapidly growing importance for their long-term development and their ability to compete internationally. Countries neglecting this truth are inexorably falling behind. OECD countries must therefore further increase investment in education at all levels. This includes basic skills, languages and the ability to use information and communication technologies (ICT). Investment in basic science is also important. Countries must remember that the flourishing of human capital and a knowledge-based society vitally depends not only on a good macroeconomic framework, but also on the maintenance of a humanistic tradition and social solidarity, both of which are necessary to uphold democracy, human rights and the rule of law.

14. Tertiary education at the cutting edge of knowledge must be a special priority. The enlarged Assembly strongly supports the 1999 Bologna Declaration of European Ministers of Education calling for a common European area of higher education, and asks that it be extended to the whole OECD-Council of Europe area. Tertiary education must be modernised so as to achieve greater compatibility and comparability between higher education systems, allowing greater student mobility. In order to speed up the applications of research and know-how generated at universities, relations between industry and science – as well as those between universities and industry – should be placed at the centre of pro-innovation policies. It is also important to strengthen co-operation and exchange between researchers in universities and those in research institutes, with a view to enhancing research activities in universities, especially in the area of basic science. This is necessary since OECD studies convincingly show that these relations and partnerships are becoming the main driving forces behind the new economy, competitiveness and sustainable economic growth. Indeed, there are signs that the funding by major corporations of basic research is being reduced.

15. Particular attention must be given to "functional literacy", that is, the ability to understand and use written information productively, since it enhances employment prospects, increases the proportion of workers in knowledge-based industries vital to economic growth, enables societies to adjust more readily to change, and permits greater involvement in social and civil life, thereby strengthening democracy.

16. The enlarged Assembly proposes a joint initiative in 2002, at parliamentary and governmental levels, involving the Council of Europe (the intergovernmental sector and the Parliamentary Assembly), the OECD, Unesco, the European Union (the Parliament and the Commission), the Inter-Parliamentary Union and the World Bank to analyse their respective education priorities and to work out the best approach for a more effective co-operation between the main international organisations dealing with education, and instructs its Committee on Culture, Science and Education to initiate a preparatory meeting early in January.

Migration, economic growth and social cohesion

17. The enlarged Assembly notes the activities conducted by the OECD in the field of migration and supports its continuation. As developed economies are increasingly characterised by rapid technological change and an ageing population, the contribution of legal migration to economic growth and long-term development becomes fundamental. To ensure that migrants represent an asset to society and an integral component of its human capital, integration policies should be implemented with a view to improving social cohesion and participation. On the legal side, reforms are necessary to clarify the status of labour immigrants as well as to facilitate their access to education, welfare and family reunion.

Ethics in economic life

18. The enlarged Assembly calls on the OECD and Council of Europe member countries to fully implement the new OECD Guidelines for Multinational Enterprises, for example with respect to environmental safeguards, human rights, child labour and other labour standards, corruption and consumer protection. In this context it welcomes the ratification by virtually all OECD member countries of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and invites non-OECD Council of Europe member states also to sign and ratify this open convention.

Taxation

19. The enlarged Assembly notes that the OECD's Committee on Fiscal Affairs has addressed those issues that have been raised with respect to its tax haven work and has determined that certain modifications that are intended to facilitate commitments by tax havens are appropriate. The Assembly also notes, however, that a public announcement by the OECD of these changes has been delayed due to procedural issues related to the status of Gibraltar. It hopes that these issues will be resolved shortly so that the modifications to the tax haven work can be officially released without further delay.

Sustainable development

20. The enlarged Assembly strongly supports the OECD's Project for Sustainable Development, and specifically its Environmental Strategy for the First Decade of the 21st Century adopted by ministers in May 2001, building on enhanced economic growth, the promotion of human and social development and the protection of the environment. Moreover, it considers equity aspects of economic growth to be of increasing importance in the context of ongoing demographic and social changes. It therefore commends the OECD for its work in the social policy field, notably on the relationship between growth, inequality and social protection, employment-oriented social policies, social policy responses to ageing, and health-care standards.

21. The enlarged Assembly notes with regret, therefore, the indication by the US Government that it no longer intends to submit the Kyoto Protocol on Climate Change for Congress ratification. In light of the agreement which was reached among other nations in Bonn, the enlarged Assembly asks the US to reconsider its position and on all sides to search for compromises capable of ensuring the speedy realisation of the aims of the Kyoto Protocol.

Food safety including the impact of genetically modified organisms

22. The enlarged Assembly asks the OECD to intensify its activities on the public health, environmental, social and economic impact of genetically modified organisms. While these could possibly increase yields and help reduce the use of pesticides and other inputs, they could also present as yet unknown risks to human health and nature, and therefore call for great circumspection. Adequate solutions such as proper labelling and indication of origin must be found. The OECD should continue to play an effective role in the international policy dialogue on food safety, engaging all stakeholders, including NGOs of both developed and developing countries

II. Explanatory memorandum, by Mr Matějů

Terrorist attacks on the world

Special foreword by Mr Matějů

On 11 September 2001, evil struck from the sky. Four US commercial airliners were hijacked. Two of them slammed into the World Trade Centre in New York, a third was rammed into the Pentagon in Washington D.C. and a fourth crashed near Pittsburgh, Pennsylvania. Around 6 000 people died, passengers, crews, office workers, fire fighters, policemen, paramedics and bystanders. We reach out to the families and friends of the victims of these barbaric acts and mourn with the American nation. We feel total solidarity with the United States against the perpetrators of these atrocious acts, which were aimed not only at that country, but against civilisation as such.

The provisionally adopted version of this report was circulated to the enlarged Assembly and placed on the Internet in July 2001. Updates of certain chapters in the explanatory memorandum were undertaken near the date in early September when a new version would have to be submitted. The events of 11 September would have required my rewriting certain portions, since many of the parameters are now fundamentally altered. For this, however, there is not sufficient time before the debate on 26 September. Besides, we may still not know for some considerable time where the world economy is actually heading.

Similarly, the tragedy makes some points raised here seem somehow less important, as we now have more serious things to consider, above all how to repulse the evil forces unleashed, vanquish those who want to cause an end to civilisation as we know it, lead us back to a new age of darkness and chaos, and undo what the world has striven so long to achieve.

I do believe, however, in the good will and determination of so many people around the world. In the immediate aftermath of the attacks I was moved to see how governments, parliaments, international organisations and innumerable economic actors gave help, while mourning missing friends and colleagues.

This spontaneous reaction, this resolution to fight on against hatred and wanton destruction, clearly shows how economic activity is about so much more than just money. It is ultimately about people and their personal fulfilment, working with each other in friendship and trust and in the sharing of values without which wealth is meaningless. Economic development is in the last analysis about peace, without which there can be no world commerce, and no prosperity to ensure peace. It is against this background that we must now do everything we can to limit the consequences for the world economy of what has happened.

This is indeed what the enlarged Assembly's debate on the OECD and the world economy has always been about. Its members – drawn from the parliaments of nearly fifty democracies around the world – have always contributed on behalf of an economic development that goes beyond its conventional limits, toward the betterment of our societies and the conditions of ordinary citizens.

1. The general world economic situation: concerns, but chances of a turn for the better

1. The debate of the enlarged Parliamentary Assembly[1] on the OECD and the world economy will be held in September 2001. The present draft report is based on the rapporteur's discussions with the Secretary General, Mr Donald Johnston, and his senior staff in February 2001 and on the meeting of the Committee on Economic Affairs and Development of the Parliamentary Assembly of the Council of Europe held at the OECD headquarters in Paris on 20 April 2001. It also takes into account the OECD Ministerial Meeting held in Paris on 16 and 17 May 2001. The draft resolution accompanying the present explanatory memorandum was provisionally adopted on 28 June 2001, to permit early despatch to delegations. The explanatory memorandum itself underwent revision in early September 2001, in time for the enlarged Assembly's debate at the end of September 2001 (see also special foreword).

2. The present draft report focuses on a limited number of themes, especially the world economic situation and the factors that can help us understand why certain countries reach lasting higher growth than others. Other subjects briefly raised will be the present difficulties of the "new economy", economic and trade implications of the "mad cow" and foot-and-mouth diseases, the new OECD Guidelines for Multinational Enterprises, OECD action against harmful tax practices and the organisation's mission and internal functioning.

3. As these lines are being written, the world economic situation looks decidedly less settled than in early 2001, when the rapporteur met with OECD officials, and certainly less certain than during the winter, when the OECD published the December 2000 edition of its "Economic Outlook". At that time, the OECD called the world economic prospects still "relatively bright, despite higher oil prices and a weakening in the equity markets". However, in its June 2001 *Economic Outlook,* the OECD recognised that "growth in the OECD area has been weakening since the autumn of 2000". Nevertheless, it asserted, in a more upbeat prediction, that the "forces damping growth are projected to dissipate during the [first half of 2001]". Growth in the OECD area is estimated to reach only 2% in 2001 (down from 4.2% in 2000). World trade is expected to grow by a still healthy 7.2% in 2001 and 8% in 2002, down from the vigorous 13% increase registered in 2000. Meanwhile, unemployment in the OECD area is forecast to remain at 6.3% in both 2001 and 2002. Finally, inflation is expected to pick up slightly, from 2.5% in 2000 to 3% in 2001, before falling again to 2.6% in 2002.

4. The OECD is therefore fundamentally optimistic about the medium-term outlook, counting on such factors as lower interest rates, declining oil prices and resumed growth in the United States to spur economic activity there and elsewhere, especially as inflation is still largely under control. However, the June 2001 *Economic Outlook* also points to a number of risks – risks that if anything seem to have grown bigger over the summer and early autumn of 2001. It notes the "significant stock market correction, especially in technology shares, that has taken place in the first half of 2001" and notes the risk that this could lead to a "more protracted and severe decline in global activity", especially if accompanied by "consumer retrenchment" owing to "rising household indebtedness and debt servicing obligations". There is also concern about the high current account deficit of the United States, which the OECD feels cannot be financed endlessly.

5. There is also concern about the state of the Japanese economy, in spite of what was believed at the time to be a moderate recovery in that country. In particular, the OECD feels that Japan would do well in adopting a more stimulative monetary policy which, in the ensuing years, would permit fiscal consolidation. Furthermore, the OECD wishes Japan to adopt a more transparent medium-term framework for macroeconomic policy. Finally, it recommends that the efficiency of the public expenditure system be enhanced and that restructuring and liberalisation of the financial sector and the overall economy be undertaken to stimulate growth.

6. The American Nasdaq (new technology share index), which reached its zenith in March 2000, is now valued at considerably less than half that level. With Americans so heavily involved in stock (25% of their net wealth), the erosion in share values may well cause them to cut down on spending, leading to lower consumption, a cooling of the domestic economy and reduced imports from other parts of a world that has become increasingly used to always having the US at its disposal as an "importer of last resort". The events of 11 September may, at least temporarily, reinforce this tendency.

7. Meanwhile, US exports have been squeezed by the strong dollar and business investment has declined. However, against these negative developments stand, firstly, the repeated lowering of the federal funds interest rate undertaken since the beginning of the year (the last, to 3%, coming in mid-September in response to the terrorist attacks of 11 September) and, secondly, the considerable tax reduction in the United States recently enacted by Congress. These measures are likely eventually to stimulate the economy in a tangible way. The hope therefore remains that the present downturn in the US economy is a mere "growth recession", which will have been overcome by early 2002. In other words, the present US slackening is more likely to observe a "V-shaped" curve rather form a longer lasting, "U-shaped" recession.

1. The enlarged Parliamentary Assembly on the activities of the OECD was established in 1992 on the joint initiative of the OECD and the Parliamentary Assembly of the Council of Europe. It involves, on a basis of equality, the parliaments of the thirty member countries of the OECD, as well as those of the forty-three member states of the Council of Europe (twenty-three of which are also members of the OECD). From 1962 to up until the year of the reform, 1992, the Parliamentary Assembly of the Council of Europe held annual debates on OECD activities with the participation, in an observer capacity, of parliamentary delegations from non-European OECD member countries. For details, see the Rules of Procedure of the Parliamentary Assembly of the Council of Europe.

8. Europe, including the European Union, now seems to be increasingly affected by the US slowdown. The European Union area is predicted to grow by 2.6% in 2001 and 2.7% in 2002, down from 3.3% in 2000. It remains to be seen to what extent critically important consumer confidence can stay intact under these circumstances and how it might be strengthened by recent tax cuts in key EU countries. It should be noted in this context that some Euroland countries, such as Ireland, show continued robust growth, even though a certain slowdown can be observed also here.

9. What helps to sustain cautious European hopes of avoiding any US recession contagion is the fact that nearly three-quarters of the EU trade is conducted among the member states, while exports to the United States account for less than 3% of economic output. Euroland core inflation – while still above the 2% limit deemed acceptable by the European Central Bank over the medium term (it is forecast at 2.6% for 2001) – is still relatively moderate and is showing signs of coming down.

10. Over the summer and early autumn of 2001, the euro strengthened against the dollar, rising from US$.85 to well over US$.90, also in response to the weakening of the dollar in the wake of the events of 11 September. The euro's strengthening lowered the risk of inflation in Euroland, especially against the prospect of a general cooling of Euroland economies. The question remains, however, whether the European Central Bank may be able to lower its short-term interest rate sufficiently (from the present 3.75% after a cut in mid-September in response to the events of 11 September) to suit Euroland countries with a weakening economy, such as Germany, especially if other EMU countries, such as Ireland, have nearly overheating economies and relatively high inflation. The risk of eventual "stagflation" – that is, "stagnation-cum-inflation", can still therefore not be entirely discarded, especially if there is a rise in oil and other commodity prices in the wake of the events of 11 September. With monetary policy unable to serve as much of a rudder for the Euroland economies, the need for them to harmonise economic and other policies, pursue structural reform and follow sound fiscal policies therefore becomes even more urgent. Another concern for Europe is that the fortunes of Europe's telecommunications and media companies, which until recently served as a prime vehicle for future economic growth, are now suffering along with "new economy" shares in general, after European companies spent US$125 billion for so-called spectrum licences and an additional US$100 billion on networks.

11. If Europe catches the US cold, this would no doubt also be due in large measure to the ever closer overall integration between the American and European economies. In 2000 alone, European companies purchased nearly 800 US companies for a total of over US$260 billion. The infusion of European funds now accounts for nearly three-quarters of all foreign direct investment in the United States. With such growing interdependence, the risk increases that all the three major world economies – the United States, Europe and Japan – may traverse more troubled economic waters in the near future – a prospect that differs from previous downturns when at least one of the three was always available to pull the others up. This is indeed what saved the world from a major recession after the financial crises in Russia and Asia in 1998, when the United States served as an importer of, indeed, last resort.

12. The state of the world's second largest economy, that of Japan, is of particular concern. The recovery hoped for by the enlarged Assembly in its report of last year's Resolution 1224 (2000) seems not yet to have materialised. The economy instead has slightly contracted over the last few months. The OECD's June 2001 *Economic Outlook* calls it "faltering and at risk of entering a downward spiral", while the May 2001 OECD Ministerial Meeting Communiqué says that "prospects for a self-sustained recovery in the short run are uncertain, while prices continue to decline and government debt is increasing". The restructuring package presented by the Japanese Government in April 2001 has so far not met with the expected success. Consumers are still reluctant to start spending their income, let alone their over time considerable savings. There is indeed deflation in Japan. Some say it is due to companies' being able to lower prices through greater competition and more imports. Others believe it results from a lack of consumer confidence in the future.

13. Japan does not seem to have much more time available, considering that its gross national debt stands at around 150% of GDP (the highest in the developed world), with a cyclically-adjusted fiscal deficit projected at around 6.5% for 2001. Large-scale investments in infrastructure and other projects – both at national and municipal level – have not yet stimulated the economy to any noticeable degree and may indeed oftentimes have lacked economic justification. We are reminded of the hope, expressed by the enlarged Assembly in its Resolution 1224 (2000), that Japan will soon be able to resume its economic recovery, "aided by greater consumer confidence, an appropriate monetary policy and fiscal structural reform, and the further opening of the economy to foreign trade and investment".

14. However, with a new government in place since April 2001 and a partially renewed parliament in place since the summer, elections due in the summer, fresh initiatives may come to be taken soon, the nature of which our Japanese colleagues will no doubt relate to the enlarged Committee on Economic Affairs and Development in the months to come. Indeed, in June the new Prime Minister of Japan, Mr Junichiro Koizumi, presented the contours of a bold programme for economic reform meant to reduce the role of the public sector in the economy, create new incentives for private commerce and help the country lastingly to overcome its present difficulties.

15. Mr Koizumi proposes to reduce the size of Japan's overall budget as well as its budget deficit, with less expenditure going to physical infrastructure and more toward investment in telecommunications, education and urban renewal. Capital gains taxes are meant to be reduced and privatisation of state-owned enterprises intensified. Banks are to be encouraged to eliminate bad loans from their balance sheets, even though it is not clear whether this would be paid for by the banks themselves, the taxpayers or the borrowers. Meanwhile, international pressure is rising for Japan to increase public spending in order to avoid deflation and instead create at least a moderate inflation that could stimulate the

economy. It remains to be seen what will eventually come out of the legislative process. There can be no doubt, however, that the fate of the world economy vitally depends on a speedy Japanese recovery and that the country is to be commended on its efforts to find a way out of the present situation.

16. The year 2000 saw a rise in oil prices to over US$30, leading to massive consumer protests in the summer of that year. At the time of writing, the oil price stands at only a slightly lower level (around US$27), with Opec having recently decided on a 4% cut-back in production to keep prices from falling below US$25. Even though a number of non-Opec members are unlikely to follow suit, Opec's move raises the fear of cost pressure in the OECD area, especially if combined with a downturn in economic activity.

2. Prospects for certain additional countries[1]

17. In its June 2001 Economic Outlook, the OECD forecast real GDP growth in the euro area in 2001 to reach 2.6% (down from 3.4% in 2000), with only a slight recovery to 2.7% in 2002. In 2000 France enjoyed robust economic growth and low inflation. This year, its economic environment will become less supportive, with a forecast GDP growth of 2.6% in 2001. With significant tax cuts under way, the OECD recommends a prudent fiscal policy, especially in view of high public indebtedness and large unfunded pension liabilities.

18. Germany's economic growth is also forecast to come down from its high level of 3% in 2000 to a more moderate 2.2% in 2001. One-off proceeds from the sale of mobile telephone licences will help public finances in 2001, while the introduction of a major business tax reform will also stimulate the economy. Higher oil prices and a more recent slowdown in economic activity are likely to affect the economy negatively, as from the second half of 2001. As with France, the OECD recommends that Germany observe strict spending control, also in view of the ongoing ageing of the population.

19. Mad cow and foot-and-mouth disease will affect the United Kingdom more seriously than most other countries in 2001. Economic growth may, for these and other reasons, including the downturn in the US economy, come down more substantially from the 2000 level of 3%, to a forecast 2.5% for 2001. Foot-and-mouth disease – although now seemingly under control – has also hurt tourism, general travel and even sporting events. It may also drive the so far moderate inflation upwards. It can only be hoped that the country's otherwise robust economy will be able to weather the disease onslaught.

20. Growth in Italy, standing at 2.9% in 2000, is expected to come down to 2.3% in 2001 and 2.5% in 2002. While inflation is relatively low, at just under 3%, it may well increase unless more competition is introduced in the sheltered sectors of the economy, says the OECD. Rising inflation would also weaken Italian competitiveness *vis-à-vis* the rest of the euro area.

21. The situation varies among OECD member countries in central Europe. The rapporteur's own Czech Republic enjoyed satisfactory growth of around 3% in 2000, with similar prospects for 2001 and 2002. In order for this to come true, however, the OECD recommends a tighter fiscal stance and reinforced structural reforms. GDP growth in Hungary in 2001 is forecast at an impressive 5.1% (unchanged since 2000), with only a modest decrease to 4.7% in 2002. Happily, this growth is predicted to be accompanied by falling unemployment, lower inflation and a reduced budget deficit. Still, the OECD recommends further cuts in budget expenditure.

22. Poland also has robust growth figures, with close to 4% forecast for both 2001 and 2002. The main difference with Hungary lies in a higher inflation, with 7.5% forecast for 2001. The OECD recommends a stricter monetary policy and further structural reform to fight the inflationary ill. The Slovak Republic, which joined the OECD in 2000, grows more slowly, at a forecast 2.8% in 2001 (from 2.2% in 2000) and an increase to 3.6% in 2002. Here, structural changes under way are expected to help sustain growth, while strict budgetary policies will have to be followed in order to avoid any rise in inflation, currently at over 5%.

23. Canada's economy likewise showed strong growth in 2000, at close to 5%, with an expected slowdown to 2.3% in 2001 and a pick-up to 3.2% in 2002. One reason for these changes is the economic situation in the United States. More recently, the Canadian dollar has depreciated considerably *vis-à-vis* the US dollar, as part of the worldwide flow into the latter currency. This will help Canadian exports to the US (80% of the total), but it will also add to inflation, especially since the economy is now operating at full capacity.

24. Growth in Mexico in 2001 and 2002 is forecast to slow to 3.7% in 2001 – before rising to 4.7% in 2002 – down from 7% in 2000. Again, this is largely attributable to developments to Mexico's north – accentuated by the growing trade with the United States resulting from a steadily maturing Nafta. The OECD recommends continued fiscal constraint, structural reform and more competition in product markets, especially in the electricity sector.

25. The Australian dollar has also recently weakened against the dollar, although for reasons more difficult to explain than in the case of Canada. The economy grew at a healthy 3.7% in 2000, with a reduction to 2% forecast for 2001 before a recovery at 3.8% predicted to take place in 2002. The OECD recommends measures to maintain the present budget surplus as well as further labour market reform.

26. Growth in New Zealand has been slower, at 3% in 2000, with a slowdown to 2.2% forecast for this year. The domestic-oriented economy remains rather lacklustre, while exports have strengthened, not least following the substantial depreciation of the New Zealand dollar. To prevent higher inflation, a tightening of monetary policies is recommended by the OECD.

27. Following its remarkable recovery from the 1997 economy crisis, Korea saw growth of close to 9% in 2000. This year and next can be expected to produce lower rates, at 4.2% and 5.5% respectively, following

1. The figures are from the OECD Economic Outlook, 2001 and are the most recent officially available. The general economic situation by mid-September 2001 has worsened, not least due to the events of 11 September. The forecasts should be interpreted accordingly.

slackening exports and domestic demand. Unemployment is low, at around 4%, while inflation stands at around 4%. The OECD now calls for effective implementation of reforms already started, especially in the financial and corporate sectors. Growth in public spending also needs to be restrained.

28. Non-OECD member Russia is another country that has recovered well since the financial crises of the late 1990s. GDP grew by 7.7% in 2000, though with an expected slowdown to 3% this year and 4% next. Russia has been particularly helped by good prices for its exports, in particular oil and gas. One result has been a current account surplus estimated to have stood at US$46 billion in 2000. Similarly, the federal and consolidated budgets experienced a surplus of between 2.5% and 3% of GDP in the same period. The OECD sees Russia's future of economic development as depending particularly on key structural reforms, including taxation, corporate governance, and competition. It also points to the favourable current political and economic situation as a window of opportunity for Russian reform.

29. The above brief discussion of the prospects for individual regions and selected countries points to the potential for slower economic growth in the OECD area and in the world as a whole in the year to come. It remains to be seen what effect the downturn in the US economy – including in its "new economy" sector – will have on that of the world. However, it is worth noting that the OECD foresees a turnaround for the better in the second half of 2001.

3. A new WTO round in the works?

30. The OECD fulfils an important role in preparing the ground for new trade initiatives subsequently to be taken within the World Trade Organisation. This is quite natural since its members between them account for the lion's share of world trade. In addition, the OECD does much to involve its new member countries, as well as various non-member transition and emerging economies, in reforms that will have the effect of ultimately facilitating membership in the WTO. Members of the Committee on Economic Affairs and Development put many questions on this issue to the OECD when they met in Paris in April. It is clear from the discussions that pressure for a new WTO round is increasing from all sides – the only problem being that each partly has areas that it wants to bring to the negotiating table and others it wants to avoid. These areas are rarely the same for all.

31. Agriculture is a main stumbling block, with subsidies worldwide amounting to some US$327 billion, according to the OECD. Here, developing countries, eager to increase exports to industrialised countries, face not only import restrictions but also competition in world markets from subsidised exports by richer nations. Even industrialised countries disagree on agriculture – whether it be the extent of subsidies, industrial versus "organic" production, genetically modified food, hormones in meat and so on. These issues were clearly brought out in the committee's discussions with the OECD and the rapporteur therefore looks forward particularly to the contribution to be made by the enlarged Assembly's Committee on the Environment and Agriculture.

32. We know, however, that – with enough pressure building up from enough sides on enough issues – a round is both possible and necessary, opening up the potential for "package deal" compromises. The thing is to get a new round right and to avoid another Seattle failure; plus to make it fair to all, including developing countries, which usually get the short end of the stick. The opportunity clearly aimed for is the WTO Ministerial Summit to be held in Qatar in November 2001.

33. Hearteningly enough, the May 2001 OECD Ministerial Communiqué says that member countries are "committed to the launch of a new global round of multilateral trade negotiations at the WTO Ministerial Conference in November". It goes on to call a new round "essential for developing countries, given the need to stimulate their economic growth, alleviate poverty and promote their integration into the multilateral trading system. We recognise that they have particular interest in a number of areas, including agriculture and textiles and clothing". The rapporteur would add that the launching of a new WTO round – and one that takes the interests of developing into particular account – is all the more essential given the new world situation that prevails after the events of 11 September.

4. A "new economy" in trouble

34. In preparing himself for the present report, your rapporteur carefully studied that presented by his predecessor, Mr Lotz of Hungary, to the enlarged Assembly in September 2000. In almost prophetic words, Mr Lotz, under a heading entitled "Market correction in sight", talked about "the day when some sort of substantial downward 'correction' will take place, whether linked or not to a downturn in the US economy".

35. Mr Lotz recognised the underlying major improvements in the functioning of the world economy brought about by the "new economy", but he also drew attention to the "irrationality" of raising the price of "new economy" shares to astronomical heights in 2000. There are productivity gains, he said, but "under the more perfect competition and information provided by the Internet, markets improve and profits tend to fall to zero. As companies realise this they try to buy up each other to create the semi-monopolies they hope will guarantee future profits. Greater indebtedness and operating losses would follow".

36. This prediction by Mr Lotz now seems to be coming true, not only in the US but in the rest of the world. The Nasdaq has lost nearly US$4 trillion dollars in market value since its peak in March 2000. This is nearly four times the losses suffered by markets in the October 1997 crash.

37. The Nasdaq fall has been continued and relentless. Buoyed by the rise in high technology shares, people spent freely, especially since their retirements savings, placed in "new economy" pension funds, soared at the same time. Mutual funds took over from traditional banks as the major depositary of savings. Carefully thought out pension plans run by experts gave way to company-specific funds run by often less knowledge-

able employees. New investment houses began to spring up, combining the issuing of new stock with retail brokerage.

38. Disregarding the resulting conflicts of interest, investors listened to high-tech analysts that kept asking new companies to offer stock to the public. Then these investors asked credulous customers to place their funds in such companies, many of which had little in the way of a business strategy and hence very limited prospects for profits. Most funds over the last few years have been directed to the increasingly congested "new economy", where prices were continuously raised due to this uncritical, unlimited inflow of funds. A misallocation of capital resulted, not only in America but across the world. Eventually, the proliferation of "new economy" companies created over-capacity in that sector. This led to ruthless price-cutting and plummeting profitability.

39. One "new economy" area with a promising future and major OECD involvement is e-commerce. Much of the recent increase in business productivity can be attributed to it. Many people do banking electronically, make travel arrangements and order goods online. As communications have become cheaper, e-commerce has brought the world's markets (and people) closer together and has opened up opportunities for growth for developing and industrialised countries alike. It can be expected to spread at an accelerating pace, as telecom deregulation and technology improvements reduce costs and enhance accessibility, and as governments come to agree on the taxation aspects involved. The OECD works to promote this growth in consultation with businesses and civil society, even outside the OECD area, such as with Dubai and Hong-Kong.

40. At their May 2001 Ministerial Meeting, OECD ministers placed the "new economy" in its necessary broader context, building *inter alia* on the OECD study "The new economy: Beyond the hype". "New technology", they said, "is only one factor behind divergences in growth patterns over the past decade. Other factors include the use and quality of labour and greater efficiency in the combination of labour and capital". The rapporteur wholeheartedly agrees and refers to a later chapter in this report where this will be discussed in greater detail.

41. It may take some considerable time before this market correction will have been overcome. There can be no doubt that, as pointed out in Resolution 1224 (2000), over the longer term "the new information and communications industries (ICTs), often referred to as the 'new economy', are … a major factor behind sustained and remarkable growth … notably in their enhancing market transparency competition and productivity". In conclusion, although the positive, long-term fall-out from the "new economy" cannot be in doubt, the market correction now under way must not be underestimated either.

5. Economic and trade implications of the "mad cow" and "foot and mouth" diseases

42. In last year's report on the OECD and the world economy, the enlarged Assembly devoted major attention to the issue of food safety (see Doc. 8804, "What are we doing to our food?"). The emphasis then was on potential risks from genetically modified foods.

43. This year that issue is of course still of relevance, but it has been pushed somewhat aside by tragic incidences of the brain-wasting Kreutzfeld-Jacobs disease in humans and their likely link with the so-called "mad cow" disease. The latter is believed to be caused by the, by now, fortunately, abandoned practice of feeding cattle with fodder made from animal carcasses (in fact, turning herbivores into carnivores and cannibals).

44. In early 2001 it was the massive outbreak of foot-and-mouth disease – mainly in Great Britain but also on mainland Europe – that brought to light the implications of animal health and food safety for economic development and trade. "Mad cow" disease has brought about a precarious situation for, especially, European farmers, as thousands of cattle in contaminated herds have had to be slaughtered. There have been follow-on effects for the entire food industry, as many consumers have turned away from meat. Agricultural trade, not only in Europe but also between Europe and other parts of the world, has also been severely curtailed in order to reduce the risk of seeing the disease spread.

45. Added to this is the distrust on the part of citizens *vis-à-vis* not only an essential part of their diet but also *vis-à-vis* governments, whom they suspect of having hushed up the problem for too long. For the European Union there is also a financial problem, in that money is running out in the reserves foreseen for this kind of emergency within the Common Agricultural Policy budget.

46. It is impossible at this stage to assess the total cost of the "mad cow" and foot-and-mouth diseases, either individually or combined. One British study estimates that foot-and-mouth will cost the country close to US$13 billion in 2001. Bans on EU meat and livestock imports imposed by the United States and Canada is expected to affect annual trade to the tune of US$400 million.

6. The central role of human capital and knowledge in fostering sustainable economic growth

a. *The three forms of capital*

47. The rapporteur will devote considerable attention to the role of human capital and knowledge in promoting lasting economic growth and competitiveness among nations. In fact, he spent practically two days in discussions with OECD officials on this subject, which is also a priority for the OECD. We know that countries differ widely in their economic growth over time. What are the factors – the formula if you like – behind the outstanding economic performance over the last decade of, say, the United States? What explains Ireland's rise from far behind to the top of the economic league in the same period? Can a "northern formula" explain the success of countries like Finland, Sweden or the Netherlands?

48. The OECD sees the basic factors driving the growth process as being the build-up of various kinds of capital. These are physical capital, human capital and knowledge capital (to which one member of the Committee on Economic Affairs and Development suggested should be added a fourth, namely "social capital"). For these types of capital to grow, investment is necessary in all three.

49. Furthermore, for accumulation to take place, there have to be good macroeconomic policies, leading to stable, low inflation and sound public finances. The latter will encourage the accumulation of physical capital in the private sector and shift investment toward projects with high return. Macroeconomic policy includes adequate public expenditure on such things as health, education, research and social transfers to help meet social goals. A society without sufficient solidarity among citizens will have difficulties growing steadily over the longer term and hence maintaining competitiveness. As long as taxes are not so high as to affect negatively the incentives to save and invest, and as long as expenditure is spent wisely, growth will not suffer.

50. Sufficient spending on research and development (R&D) is also necessary, says the OECD, since they expand the capital of knowledge. In order for knowledge to be maintained and further developed as a result of new discoveries, there has, however, to be sufficient investment in the underlying human capital. In other words, even if companies or universities make discoveries, these will fall on barren ground unless they can be taken care of – marketed and further refined – through a sufficiently large body of citizens with sufficient basic knowledge, whether general or specialised.

51. There is, more recently, a tendency to think that it is only the so-called "new economy" that underpins growth, even though the recent downturn in that sector has caused many people to rethink. In fact, "old economy" forces are still crucial if we are to understand growth. For instance, in the United States the rapid progress in information and communications technologies – ICT – has been driven by a high degree of knowledge capital in that country. The spread of the new advancements has been made possible by the country's extensive "human capital". This has led to strong capital spending on new computers, machinery, etc. and has thus caused the "physical capital", that is the "old economy" to grow. The entire process has been vastly assisted by the great number of small, innovative businesses in the United States, illustrating the importance of small- and medium-sized enterprises – SMEs – for economic growth, and for macroeconomic policies to support them.

52. Here we see how all three forms of capital come together, forming one whole. All – physical, human and knowledge capital (to which we might add "social capital") – add up to a nation's competitiveness. (Competitiveness is defined by the OECD as "the degree to which a country can, under free and fair market conditions, produce goods and services which meet the test of international markets, while simultaneously containing and expanding the real incomes of a nation's people over the long-term".)

53. As we have seen, as we look for the reasons behind competitiveness, we cannot find them only within the "new economy" based on ICT. Although the ICT sector plays an increasing role in aggregate growth, some estimates show that it accounts for only about 5% of value added. [1]

54. Another argument in favour of considering growth as depending on something wider than only the ICT sector holds that industries that use much ICT are not showing any especially rapid growth in total factor productivity (to the extent that productivity is at all measurable). It would therefore be useful to widen the concept of the "new economy" to that of the knowledge-based economy.

55. There is complementarity between the two, in the sense that investments in knowledge are a significant source of economic growth, but their effect is greater if they take full advantage of ICT. This is because ICT spreads knowledge to more people more quickly and therefore increases the "spill over effect". This points to a particular quality pertaining to knowledge and information. If a car is sold by person A to person B, then A can no longer use it. Knowledge shared, by contrast, stays with its original owner while also becoming the property of persons B, C and so on.

56. OECD and other studies show that the accumulation and efficient use of knowledge and human capital have a direct effect on productivity and competitiveness. The data in Appendix I, for example, show that countries which score high in human resources development are also the more competitive. Thus, Finland, Sweden, Iceland, the United States, the Netherlands and Switzerland score better than countries with relatively underdeveloped human resources such as the Czech Republic, Greece, Poland, Mexico and Turkey. This should in no way be construed as criticism of these latter countries, but rather as an encouragement for them to devote more attention to their human and knowledge bases of capital.

b. *Education and skills: the role of human capital*

57. A skilled workforce is the key to innovation and hence to lasting economic growth. Many OECD countries are already suffering from a shortage of skilled people. This is either because they do not "produce" enough of them or because, even though they do, they may not be able to keep them. Some OECD member countries – such as the United States, Ireland and the United Kingdom – have benefited from the immigration of skilled foreign workers, while many others – especially less developed and formerly communist countries – have suffered a "brain drain".

58. There is concern in several OECD countries about shortages of scientists and other highly skilled workers, especially in ICT. This holds particularly for countries where universities have failed to open up to a rising demand for higher education, and where highly skilled employees in education, science, research and development are less well paid than in the private sector. One country, Germany, has loosened its tight immigration laws to allow foreign ICT workers to fill what is perceived as an ever more damaging shortage of personnel in this sector.

59. In a knowledge-based economy, the opportunity to achieve higher education is for many a key to personal satisfaction and material success. It is also a precondition for a country to reach sustainable economic growth. Governments have an essential role in providing adequate education and training.

60. A knowledge-based economy will increase the demand for skilled labour, particularly people with ter-

1. OECD Economic Department working paper No. 260, page 6.

tiary education. This is not, however, to belittle the value of high quality primary and secondary schooling, without which tertiary education has no foundation on which to build. All education, but perhaps particularly at tertiary level, contributes significantly to a society's ability to remain flexible and adapt to technological change and to the demands of the information society. OECD countries show substantial differences in meeting these demands. Thus, inequality in education opportunity has consequences both at national level in the social field (especially differences in income) and internationally. Comparisons between countries as to the education opportunities they provide reveal considerable differences, with some showing a much lower adaptability than others as regards recent changes in the demand for a highly skilled and flexible labour force.

61. Some will argue that, since in today's world discoveries and information about them are so rapidly shared internationally, a country may not need to invest all that much in human capital and knowledge capital. "Why not let others do the ground work, and we will get hold of it and develop it within our borders?". This reasoning, however, overlooks the fact that the acquisition of new knowledge is not enough, for what is "new knowledge" today will be "old knowledge" tomorrow. Unless a country has invested sufficiently in knowledge capital and human capital, it will not be able to do much with the knowledge it may acquire from others.

62. With this in mind European Ministers of Education in Bologna in 1999 issued a joint declaration calling for the gradual establishment of a common European area of higher education. The goal is to increase the international competitiveness of European systems of higher education and to open channels of mobility for students, between institutions within a single nation and between different countries.

63. The Bologna Declaration (see Appendix II), as well as the OECD findings, hold a particular challenge for central European OECD member states. They will have to expand their trailing tertiary education, as they try to meet rapidly increasing demand for higher education, both among secondary school leavers and among adults. The latter may, for various reasons, not have had any possibility to study in the past due to political constraints, lack of financial resources, or the only slowly growing capacity of tertiary education institutions that resulted following the collapse of communism. Since the development of human capital plays such a crucial role in determining competitiveness and sustainable growth, institutions such as the World Bank, the European Bank for Reconstruction and Development (EBRD) and the OECD should strengthen their support for well-prepared reforms of educational systems in countries that show the greatest delay in reaching international educational standards.

c. *Literacy: more than just reading*

64. Traditionally, literacy has just meant the ability to read and write. The new concept of literacy instead emphasises understanding and using the information received, in order to adapt it to rapid social, economic and technological change in an interconnected world.

65. The OECD in its study "Literacy in the information age" examined twenty countries between 1994 and 1999. Using the broader definition of literacy given above, the study measured the ability to understand and employ printed information in daily activities – at home, at work and in the community – to achieve one's goals and develop one's knowledge and potential.

66. The study showed that literacy is a very strong indicator indeed for success in building human capital, and hence to accumulate knowledge and physical capital as discussed previously. It showed that "functional literacy" is becoming a highly important factor in predicting career success and, at the macro level, the competitiveness of countries. The OECD sees many links between the economy and functional literacy. People with higher functional literacy are more likely to find employment that pays more. Countries with higher functional literacy have a larger proportion of workers in knowledge-based industries and these are better able to adjust to change. Functional literacy and per capita income show strong correlation. Apart from helping sustainable economic growth, functional literacy has many social benefits as well. They include better health, longer life expectancy and greater participation in social and civil life, thus improving the quality of democracy.

67. OECD countries vary widely in their literacy levels. Nordic counties show the highest levels of functional literacy. The study emphasises that sustainable growth requires not only a highly competent élite, but also a work force that is well prepared, skilled and flexible. A country with a large proportion of unskilled workers who are unable to adapt to rapid technological change may be at serious disadvantage in trying to build a truly competitive economy.

68. There are OECD countries – like Portugal, Poland, Hungary, the Czech Republic, Ireland and the United Kingdom – where more than half of the adult population show a limited capacity to handle information in written form. In other countries the majority of the population show either a high or average functional literacy. They include countries like Finland and Sweden, which also rank very high in competitiveness and show steady economic growth.

69. Ireland, a country with remarkable economic growth in recent years, shows great improvements both in educational growth and functional literacy. While it has a relatively high proportion of people with low literacy proficiency, this group is, however, compensated for by a relatively high proportion of people with very high levels of proficiency. A sort of skills dichotomy, in other words, which it may take some time to eliminate. At any rate, Ireland is rapidly catching up with countries with a traditionally high proportion of well-educated people, such as the Netherlands, Belgium, Germany and the United Kingdom.

70. The rapporteur has wanted to highlight the importance of functional literacy since it is so well documented in the OECD's work and since it is of such great importance for economic development. Governments and policy makers need urgently to pay greater attention to the modernisation of their educational and teaching systems. Well-educated people are more flexible and adaptable to rapidly changing job requirements. Specialisation should not come too early in life and general education should develop learning capacities. Further-

more, teaching how to learn and work with information should take preference over simply teaching "facts".

d. *Human capital and knowledge capital: one plus one is more than two*

71. As we have seen, all forms of capital – physical, human and knowledge (to which can be added "social capital") – contribute significantly to economic growth. Evidence is mounting that for sustainable economic growth, investments in knowledge and human capital are becoming increasingly essential. The OECD's work shows that a knowledge-based economy, emphasising both human capital and knowledge, enhances the interaction between the two. There also needs to be closer co-operation between the educational system and industry. This will enhance technology transfers between them, speed up the innovation cycle and bring teachers and students closer to advanced technologies. The United States and the United Kingdom are cases in point.

72. At the same time, new technologies present educational systems with new challenges, both in terms of how to use such technologies as part of teaching and in terms of providing all participants (teachers, researchers and students) with the skills necessary to handle information by means of ICT and to master other new technologies throughout their professional careers. OECD therefore emphasises that "investment in human capital (for example, expenditures on education and training) could have a more permanent impact on the growth process if high skills and training go hand-in-hand with more intensive research development and a faster rate of technological progress or if a highly-skilled workforce eases the adoption of new technologies".[1]

e. *Innovations and R&D: universities as full partners in economic life*

73. It is especially in the interface between knowledge capital and human capital (and, beyond that, "social capital" that universities and firms must come together. In many OECD countries, a rapidly growing number of joint ventures (spin-off companies) show enormous success in speeding up the applications of research results and know-how generated at universities. Relations between industry and science, and those between universities and industry, form the pillars of the "new economy". The growth in countries like the United States, Finland, Sweden and the Netherlands show the importance for economic growth of efficient interaction between these partners in transforming knowledge into innovation. Fundamental and applied research leading to the marketing of new products or services are not only compatible, but can reinforce each other. Countries that have managed this are on the whole more competitive. Similarly, countries that lag behind in shaping incentives for the commercialisation of research results and university-firm co-operation are losing out also in terms of competitiveness and economic growth.[2]

74. The above is not meant in any way to belittle the importance of humanistic subjects at universities. Languages, history, geography and other subjects are essential for our general culture and links with our past and with the world. A rich humanistic tradition is essential for individual happiness and the ability of countries to preserve their traditions, culture and the common heritage of mankind. It is also essential for the general quality of thinking, and for ensuring that our societies continue to be built on humanistic values. The point made in the preceding discussion is simply that, in the areas that relate most directly to economic development, co-operation between universities and other actors in society should be improved.

f. *The importance of democracy for lasting economic development*

75. Social and political settings – termed "social capital" by a member of our committee – play a fundamental role in creating conditions suitable for sustainable economic growth. This is very much emphasised by the OECD (and by the Parliamentary Assembly of the Council of Europe).[1] A strong and well-functioning democracy with strong and independent institutions encourages investment, savings and the confidence of citizens in their future. Furthermore, an open and co-operative international environment permitting intensive trade and mutual investment is essential. Trade and international investment introduce new goods, services and ways of doing things. Especially in a world based on ICT, any isolation from others will inevitably lead to a loss in wealth, since new ideas and impulses will not be received.

76. By the same token, however, the international arena must ensure protection of ownership both physical and intellectual, the rule of law, and a stable framework in the legal, administrative and regulatory fields capable of promoting trust and confidence on the part of citizens. Also important are values that promote competitiveness, by rewarding hard work and innovation.

77. SMEs are of great importance to any economy. They are small enough to generate new ideas and, because of their size, are unbureaucratic enough to bring these to market. They form, or should form, the "life blood" of any nation. It is therefore vital that national policies assist them or at least not disfavour them.

78. Finally, the rapporteur recalls the suggestion, made by various committee members, for a parliamentary conference on ways to enhance the role of human capital in the economic growth process, as outlined in this chapter. It would include governments, parliaments, international organisations (notably the OECD) and the wider civil society, very much including NGOs.

7. The OECD's new Guidelines for Multinational Enterprises

79. Our discussion about the importance of ethics for economic development leads us naturally to mention the pioneering new set of Guidelines for Multinational Enterprises (MNEs) endorsed on the occasion of the OECD Ministerial Meeting in June 2001 by thirty OECD members as well as Argentina, Brazil and Chile.

1. *OECD Economic Outlook, 2000,* page 137.
2. See, for instance, bench marking industry-science relationships. Proceedings of a joint German-OECD Conference held in Berlin, 16 and 17 October 2000.

1. See for instance Assembly Resolution 1209 (2000) on "Democracy and economic development" (Doc. 8458; rapporteur: Mr Elo).

80. As many readers will remember, such guidelines were first drawn up in 1976. Now they have been expanded to cover various areas of business conduct. They include environmental safeguards, human rights, child labour and other labour standards, corruption and consumer protection. While addressed explicitly to MNEs, the guidelines are considered good practice for all enterprises. In the fight against corruption, the guidelines may be seen as complementing the OECD's Convention on Combating Bribery in International Financial Transactions.

81. We must press our member states to in turn press their companies, whether national or multinational, to mark their adhesion to these guidelines, to which a number of non-member states have already adhered, and others asking to join. The OECD MNE guidelines are part of a package. Since 1976, the OECD has promoted co-operation in the field of international investment through a balanced framework of non-binding standards addressed to governments and enterprises, known as the Declaration on International Investment and Multinational Enterprises. The other elements of the declaration contain complementary commitments by governments to:

– provide national treatment for foreign-controlled enterprises;

– avoid imposing conflicting requirements on companies; and

– co-operate regarding international incentives and disincentives for foreign investment.

82. The OECD guidelines are the only comprehensive and multilaterally endorsed code of conduct that governments are committed to promoting. Implentation procedures include a major role for government offices known as National Contact Points, which undertake promotional activities, respond to questions, look into the application of the guidelines in specific circumstances and clarify their purposes and scope, referring to the OECD when necessary.

83. The revised guidelines were developed in constructive dialogue with the business community, labour representatives and non-governmental organisations and represent an important step in addressing some of the public concerns over globalisation. Effective implementation will depend on the responsibility and good faith of all parties concerned. Governments, business and labour organisations and other interested parties all have a role to play. Ethical conduct by multinationals is all the more important since their power and influence over the world economy and political and social life is increasing, a fact very much stressed by various committee members.

8. The OECD's work against "harmful tax practices"

84. Earlier enlarged Assembly's reports have highlighted the OECD's efforts to eliminate what it calls "harmful tax practices" around the world. In June 2000, the organisation issued a report entitled "Towards global tax co-operation". That report identified forty-seven potentially harmful regimes in OECD member countries, identified thirty-five tax havens, and contained recommendations for taking the harmful tax practices work forward. OECD member countries are to eliminate the harmful features of their preferential regimes by April 2003 (31 December 2005 for taxpayers benefiting from those regimes on 31 December 2000). Tax havens are requested to make commitments to achieve transparency and effective exchange of information by 2005. Tax havens are asked to prepare an implementation plan together with the OECD detailing how they will achieve transparency and effective exchange of information. Both civil and criminal tax matters are contemplated within effective exchange of information. Transparency requires that laws should be applied on an open and consistent basis and that adequate information, including beneficial ownership and audited or filed accounts, should be available to determine a taxpayers situation. Application notes are being developed to assist member countries in identifying and eliminating any harmful tax practices (that is, lack of transparency, lack of effective exchange of information, and ring fencing) to the extent present in their preferential regimes. A potential framework of co-ordinated defensive measures may apply to those countries, both within and outside the OECD, that do not eliminate their harmful tax practices. Such a framework is not a sanction, but would merely co-ordinate measures, already in place in many countries, to counteract the deleterious effects of harmful tax practices on national tax bases.

85. However, in time for the May 2001 OECD Ministerial Meeting, countries both within and outside the OECD raised issues regarding the tax haven work. Specifically, there were concerns about the application of the "no substantial activities" criterion applicable to tax havens, the timing of a potential framework of co-ordinated defensive measures applicable to unco-operative tax havens, the amount of time required to develop implementation plans, and the time frame for making commitments.

86. These issues have been resolved by the Committee on Fiscal Affairs. Based on the G7 Finance Ministers Statement issued on 7 July 2001 and recent statements made by the US Secretary of the Treasury, the following changes appear to have been agreed:

– commitments by tax havens will be sought only with respect to transparency and effective exchange of information to determine which jurisdictions will be considered unco-operative tax havens. Jurisdictions that have already made commitments will be informed that they can choose to review their commitments in respect of the no substantial activity criterion. The OECD would, however, welcome the removal by tax havens of those practices implicated in the no substantial activities criterion insofar as they inhibit fair competition;

– a potential framework of co-ordinated defensive measures would not apply to unco-operative tax havens any earlier than it would apply to OECD member countries with harmful preferential regimes;

– the deadline for making commitments has been extended, as has the time frame for implementation plans.

These modifications do not affect the application of the 1998 and 2000 reports to member countries and non-

member economies. In addition, the factors in the 1998 report used to identify tax havens remain unchanged.

87. A Liechtenstein member of the committee made a highly interesting comment on what he saw as an incompatibility between the methods used by the OECD in its "harmful tax practices" project on the one hand, and the principles of the Council of Europe on the other. Council of Europe principles, he said, include "transparency, democratic participation and non-discrimination" However, he continued, the OECD would require, indeed force, low-tax countries to sign the relevant memorandum of understanding, or else face sanctions. A country attacked would not, however, have the right to launch an appeal with the OECD on the grounds that the condemnation was wrong. No "court", he said, exists for this purpose.

88. He therefore called on the OECD to make its activities "more transparent and democratic" and to act in harmony with the "principles of international law". Individual countries should not, he insisted, be placed in the box of the accused without being able to have their case heard before a neutral body or to participate in the decision making leading up to the "verdict". This, he said, was in complete violation of the principles of the Council of Europe. He concluded by asking the OECD if it was prepared to act in a manner that was transparent, democratic and in consistency with the principles of international law.

89. The OECD maintains that it has sought to take its work forward through a process of dialogue, consensus and openness. The OECD process has been transparent – it has set forth clear definitions of what constitute harmful tax practices in its 1998 and 2000 reports and published other documents detailing the nature of commitments sought from tax havens (see, for example, the Collective Memorandum of Understanding issued in November 2000). The OECD sought the participation of tax havens from the inception of its work and has held extensive bilateral and multilateral dialogues with all the tax havens identified in the 2000 report in order to obtain their co-operation in counteracting harmful tax practices.

90. Further, says the OECD, the work has not been discriminatory: OECD members that do not eliminate practices that inhibit transparency and effective exchange of information with respect to their preferential regimes are also subject to a potential framework of co-ordinated defensive measures. In addition, OECD member countries are required to eliminate the ring fencing aspects of their preferential regimes. Moreover, those tax havens that have committed to the principles of transparency and effective exchange of information have been involved with the OECD members in elaborating those principles in the context of the OECD's Global Forum Working Group on Effective Exchange of Information with Co-operative Jurisdictions. There are presently eleven jurisdictions that have made commitments: Aruba, Bahrain, Bermuda, Cayman Islands, Cyprus, Isle of Man, Malta, Mauritius, Netherlands Antilles, San Marino, Seychelles.

9. The OECD's project for sustainable development

91. The OECD is pursuing a project for sustainable development along three dimensions: enhancing economic growth, promoting human and social development and protecting the environment. The results are to be fed into the World Summit for Sustainable Development, to be held in Johannesburg in September 2002.

92. Apart from chapters such as making markets work better, the management of natural resources and strengthening social cohesion, the sustainable development project also contains a commitment to respond to climate change. Here, however, as in the "harmful tax practices" case, the United States became the odd man-out by declaring, shortly before the May 2001 OECD Ministerial Summit, that it would not submit the Kyoto Protocol to Congress for ratification. Not only does this deal a serious blow to the sustainable development project, but it also calls into question the entry into force of the Kyoto Protocol by 2002, with its obligation for countries to meet emission goals by various deadlines.

93. The OECD Ministerial Communiqué diplomatically notes: "While recognising our differences over the Kyoto Protocol, OECD governments are determined to work together to address climate change (…). For a large majority of OECD countries, this means seeking entry into force of the Kyoto Protocol by 2002, with timely ratification processes and with the broadest possible support of the international community. We asked the OECD to continue to contribute to the analysis and international dialogue on these issues."

94. However, all hope is not lost. Compromises may be found in time for negotiations within the UN framework in the months to come. The US will no doubt insist on wishes not met in earlier negotiations, such as the "trading" of emission reductions against monetary rewards (for instance as between industrialised and developing countries) and the planting of forests to absorb CO_2 emissions. With the US being the main fossil fuel consuming country, and also the main emitter of fossil fuel-related pollution, its participation in world efforts to combat climate change is essential.

95. A Canadian member of the enlarged Committee on Economic Affairs and Development in this connection cautioned against laying too much emphasis on growth *per se*, since this often came at the expense of the environment. Too rapid and unreflected an economic growth, he said, could harm the environment, which might then "strike back" by hurting not only the general well-being but indeed also the economy itself. The same held for the economic and environmental consequences of the widening wealth gap between the world's rich and the world's poor – as reflected for instance in the rapid deforestation in many developing countries with its major consequences for the world's climate. Parliaments, he concluded, have a duty to press government to take such concerns into greater consideration.

10. Concluding remarks: OECD "outreach". Internal functioning

96. Since the enlarged Assembly's last report in September 2000, Slovakia has joined the OECD as its

thirtieth member. Furthermore, following his first five-year mandate from June 1996, Mr Donald Johnston was reappointed Secretary General of the OECD for another five-year starting in June 2001. On this reappointment we congratulate him most warmly and look forward to continued good co-operation between us.

97. It appears as if the OECD will not undergo further enlargement in the near future. As a result of a co-operative agreement, Russia enjoys a special observer status in a number of OECD committees. There is also co-operation of differing intensity with the People's Republic of China, India, Indonesia and Brazil, even though none have shown interest in early membership. In a sign of the OECD's increasing outreach, eight non-member countries participated in the OECD Ministerial Meeting held in Paris in May, 2001. They were: Brazil, China, Indonesia, Mali, Romania, Russia, Singapore and South Africa. The OECD attaches great importance to having these countries form part of the various projects undertaken within the organisation. They should be involved in the policy setting and also respect the agreements reached.

98. When discussing the OECD's so-called "outreach" – or contacts with non-member economies – mention should also be made of its rather unique effort to embrace society at large, through its annual "OECD Forum", now in its second year. The OECD Forum 2001 was held in Paris during three days and involved about a thousand representatives from business, labour, civil society and international organisations. The theme was "Sustainable development and the new economy". No doubt initiatives of this kind are valuable in order to overcome public hostility, indifference, alienation or fear as regards the titanic forces of globalisation now sweeping the world economy. The OECD initiative is to be praised and similar ones by other international institutions are highly called for.

99. The OECD – which has almost 2 000 staff members – serves as an advisory body on economic matters and as a forum for exchanges of views for the benefit of member states. This is of particular importance for smaller OECD countries that often do not have the means to pursue such research independently. The OECD's political character is illustrated by the presence at its Paris headquarters of permanent representatives of the member states. Since unanimity is required within the OECD's Council of Ministers, internal reforms are often difficult to come by.

100. There have been calls for new accents in the OECD's work. Certain member states wonder whether it is necessary for both the International Monetary Fund and the OECD to publish economic forecasts and instead suggest that the OECD concentrate more on structural reform. However, other OECD members, in particular in Europe, consider the forecasts as essential tools for their own economic management, a view fully shared by the rapporteur. In addition, these forecasts are accompanied by policy analysis and recommendations which are of great value to all parties concerned. What is unique about these forecasts for individual countries is that they are established in co-operation between the OECD and governments (with the OECD ultimately in charge), in a kind of mutual learning process.

101. This draft report does not aspire to covering all issues that may be raised by delegations at the enlarged Assembly's debate on the OECD and the world economy in September 2001. Indeed, his more extensive coverage of the factors behind lasting economic growth and competitiveness reflects his personal conviction of their significance for policy makers – an enthusiasm which he hopes is being shared by his colleagues in the enlarged Assembly, policy makers and the general public.

102. In conclusion, the OECD has an essential "pathfinder" role when it comes to identifying and evaluating emerging policy issues, and in developing new approaches to policy concepts. Through its work the OECD adds to our understanding of where the world economy is moving, including in the consequences this holds for societal development. It thereby contributes to a more stable international system and enhances prosperity worldwide. It is in this conviction – strengthened in the course of his work – that the rapporteur submits the present report to the enlarged Committee on Economic Affairs and Development and, subsequently, to the enlarged Assembly.

APPENDIX I

Competitiveness: availability and qualifications of human resources.

Ranking of OECD countries (2000) *

	1996	1997	1998	1999	2000	1996-2000
Iceland	7	6	4	3	1	6
Finland	3	1	2	1	2	1
United States	14	11	7	5	3	11
Canada	6	2	5	6	4	2
Australia	15	12	9	10	5	10
Norway	2	4	3	4	6	-4
Austria	5	8	11	7	7	-2
Denmark	1	3	1	2	8	-7
Luxembourg	16	15	12	9	9	7
Switzerland	9	5	6	8	10	-1
Sweden	8	14	14	14	11	-3
Netherlands	10	9	8	11	12	-2
New Zealand	12	7	13	13	13	-1
Belgium	13	13	16	15	14	-1
Ireland	19	17	15	17	15	4
Japan	4	10	10	12	16	-12
Germany	11	16	17	16	17	-6
France	17	21	19	19	18	-1
Hungary	27	24	25	22	19	8
United Kingdom	22	19	20	20	20	2

Portugal	26	26	26	21	21	5
Korea	18	18	18	25	22	-4
Spain	21	22	22	18	23	-2
Italy	20	23	21	23	24	-4
Czech Republic	23	20	23	26	25	-2
Greece	24	25	24	24	26	-2
Poland	25	27	29	28	27	-2
Mexico	28	29	27	27	28	0
Turkey	29	28	28	29	29	0

* Rank based on index calculated from seven groups of forty-three indicators: population characteristics, labour force characteristics, employment, unemployment, educational structures, quality of life, attitudes and values.

Source: *The World Competitiveness Yearbook 1996-2000,* IMD, Lausanne

APPENDIX II

Bologna Declaration
Joint Declaration of the European Ministers of Education (Bologna, 19 June 1999)[1]

The European process, thanks to the extraordinary achievements of the last few years, has become an increasingly concrete and relevant reality for the Union and its citizens. Enlargement prospects, together with deepening relations with other European countries, provide even wider dimensions to that reality. Meanwhile, we are witnessing a growing awareness in large parts of the political and academic world and in public opinion of the need to establish a more complete and far-reaching Europe, in particular building upon and strengthening its intellectual, cultural, social and scientific and technological dimensions.

A Europe of knowledge is now widely recognised as an irreplaceable factor for social and human growth and as an indispensable component to consolidate and enrich the European citizenship, capable of giving its citizens the necessary competencies to face the challenges of the new millennium, together with an awareness of shared values and belonging to a common social and cultural space.

The importance of education and educational co-operation in the development and strengthening of stable, peaceful and democratic societies is universally acknowledged as paramount, the more so in view of the situation in South-east Europe.

The Sorbonne Declaration of 25 May 1998, which was underpinned by these considerations, stressed the universities' central role in developing European cultural dimensions. It emphasised the creation of European area of higher education as a key way to promote the citizens' mobility and employability and the continent's overall development.

Several European countries have accepted the invitation to commit themselves to achieving the objectives set out in the declaration, by signing it or expressing their agreement in principle. The direction taken by several higher education reforms launched in the meantime in Europe has proved many Governments' determination to act.

European higher education institutions, for their part, have accepted the challenge and taken up a main role in constructing the European area of higher education, also in the wake of the fundamental principles laid down in the Bologna Magna Charta Universitatum of 1988. This is of the highest importance, given that universities' independence and autonomy ensure that higher education and research systems continuously adapt to changing needs, society's demands and advances in scientific knowledge.

The course has been set in the right direction and with meaningful purpose. The achievement of greater compatibility and comparability of the systems of higher education nevertheless requires continual momentum in order to be fully accomplished. We need to support it through promoting concrete measures to achieve tangible forward steps. The 18 June meeting saw participation by authoritative experts and scholars from all our countries and provides us with very useful suggestions on the initiatives to be taken.

We must in particular look at the objective of increasing the international competitiveness of the European systems of higher education. The vitality and efficiency of any civilisation can be measured by the appeal that its culture has for other countries. We need to ensure that the European higher education system acquires a worldwide degree of attraction equal to our extraordinary cultural and scientific traditions.

While affirming our support to the general principles laid down in the Sorbonne Declaration, we engage in co-ordinating our policies to reach in the short term, and in any case within the first decade of the first millennium, the following objectives, which we consider to be of primary relevance in order to establish the European area of higher education and to promote the European system of higher education worldwide:

– adoption of a system of easily readable and comparable degrees, also through the implementation of the Diploma Supplement, in order to promote European citizens' employability and the international competitiveness of the European higher education system;

– adoption of a system essentially based on two main cycles, undergraduate and graduate. Access to the second cycle shall require successful completion of first cycle studies, lasting a minimum of three years. The degree awarded after he first cycle shall also be relevant to the European labour market as an appropriate level of qualification. The second cycle should lead to the master and/or doctorate degree as in many European countries;

– establishment of the system of credits – such as ECTS system – as a proper means of promoting the most widespread student mobility. Credits could also be acquired in non-higher education contexts, including lifelong learning, provided they are recognised by receiving universities concerned;

– promotion of mobility by overcoming obstacles to the effective exercise of free movement with particular attention to:

  – for students, access to study and training opportunities and to related services;

  – for teachers, researches and administrative staff, recognition and valorisation of periods spent in the European context researching, teaching and training, without prejudicing their statutory rights;

– promotion of European co-operation in quality assurance with a view to develop comparable criteria and methodologies;

– promotion of the necessary European dimensions in higher education, particularly with regards to curricular devel-

1. The Bologna Declaration has been signed by the ministers for education of twenty-nine European countries on the occasion of the CRE/Confederation of EU Rectors' Conference, held in Bologna on 18 and 19 June 1999. Twenty-nine countries are signatories: Germany, Austria, Belgium, Bulgaria, Denmark, Estonia, Spain, Finland, France, Greece, Hungary, Ireland, Iceland, Italy, Latvia, Lithuania, Malta, Norway, Netherlands, Poland, Portugal, United Kingdom, Czech Republic, Romania, Slovakia, Slovenia, Sweden, Switzerland.

opment, inter-institutional co-operation, mobility schemes and integrated programmes of study, training and research.

We hereby undertake to attain these objectives – within the framework of our institutional competencies and taking full respect of the diversity of cultures, languages, national education systems and of university autonomy – to consolidate the European area of higher education. To that end, we will pursue the ways of intergovernmental co-operation, together with those of non-governmental European organisations with competence on higher education. We expect universities to again respond promptly and positively and to contribute actively to the success of our endeavour.

Convinced that the establishment of the European area of higher education requires constant support, supervision and adaptation to the continuously evolving needs, we decide to meet again within two years in order to assess the progress achieved and the new steps to be taken.

APPENDIX III

Special communication
Prospects for the world economy in the wake of the terrorist attacks of 11 September 2001

As these lines are written – on the eve of the Enlarged Assembly's debate on the OECD and the world economy to be held on 26 September 2001 – the catastrophic events of 11 September are two traumatic weeks behind us. Slowly we awaken from the shock and sorrow that changed us and the world forever and try to concentrate on what must now be done.

The duty of your rapporteur at this moment is try to outline the immediate challenges now facing the world economy, as an input to the debate and for the benefit of a more general public. It is clear that those behind the attacks were not only seeking out symbols of American influence and nationhood as they set about killing the maximum number of people. They were seeking to cause the greatest possible collateral damage to a world economy in which the United States plays the dominant role.

The terrorists succeeded in part, but far from wholly. True, the world's stock markets have come down considerably but they have not collapsed. Financial markets have taken a heavy punch but are still standing. The destruction of the World Trade Centre does not mean the destruction of international financial markets as such, for the latter are highly decentralised in our time of modern information and communication technologies. There is considerable "redundancy" in the system, meaning that the same data are stored in many geographically separate systems. This makes it more resistant if any part of it should collapse. Indeed, stock and financial markets as well as those for goods and services may not be running, but they limp along.

This notwithstanding, the damage is mind-boggling. There is first that – running into billions of dollars – caused to buildings and infrastructure in New York city. Then there are massive production and income losses suffered during the days of paralysis. The air transport industry is on the brink of collapse, as passenger numbers decline and costs for insurance and new safety measures mount. Tourism is down. The reinsurance and real estate sectors are ailing, as is retailing.

The breakdown in many logistics systems means that goods – from computers to motor vehicles – are piling up in some places while not being delivered in others. The difficulties are particularly pronounced in the New York area, but the repercussions are or will be felt around the world and ultimately show up in the balance sheets of thousands of companies, further adding to uncertainty in financial markets. As always in times of international uncertainty there could be a flight from dollars into gold. Finally, in spite of present commitments by oil producing countries to increase production, oil prices are likely to go up, at least temporarily.

The most determining factor is, however, consumer behaviour. We have seen a heartening resolve by Americans to try to live and spend as usual. We can only hope that this attitude continues, not only in the United States but around the world. American consumption, already weakening before the events, could be reduced further if the stock market undergoes additional decline, since so many Americans own stock. Consumption could also be hurt by increasing costs of goods and services caused by the logistics and transport difficulties referred to earlier. Furthermore, to the extent that our societies should become less open as a result of the attacks, protectionist tendencies in their widest sense could become more pronounced.

Much will, of course, depend on developments in the military field in the weeks and months to come. For instance, if retaliation is exacted in important oil producing countries, the price of that commodity could rise even more. However, if military operations turn out to be of relatively brief duration, the price of oil may again come down quickly, as happened after the 1991 Gulf war.

Recovery was also rapid after the terrible earthquake that destroyed the city of Kobe in Japan in January 1995. The quake caused some 100 billion dollars' worth of damage and destroyed an important part of the Japanese economic heartland. However, massive state assistance permitted not only rapid rebuilding of Kobe but also a speedy revival of the Japanese economy as a whole. The special US$40 billion aid package voted by Congress last week could have a similar effect in the United States. Furthermore, various central banks have added liquidity and lowered interest rates significantly to stimulate economic activity in the United States and worldwide. This is likely to show effects in the months to come.

What gives this rapporteur – and he is sure the enlarged Assembly as a whole – special hope is, however, the great determination of the American people not to give up before the forces of evil. "When the going gets tough, the tough get going" goes an American expression highly characteristic of the national psyche. May that be the rallying call for us all.

Reporting committee: Committee on Economic Affairs and Development.

Budgetary implications for the Assembly: none.

Reference to committee: Standing mandate.

Draft resolution adopted by the enlarged Committee on Economic Affairs and Development on 25 September 2001 at its meeting with delegations from the Parliaments of Canada, Japan, and Korea and with representatives of other committees concerned.

Members of the committee: *Zapfl-Helbling (Chairperson),* Štěpová, *Kirilov,* Blaauw *(Vice-chairpersons), Adam,* Agius, Agramunt *(alternate: Yáñez-Barnuevo), Akgönenç,* I. Aliyev, Anusz, Arnau, Aylward, Berceanu, *Billing, Blattmann,* Braun, Brunhart, *Budin,* Budiša *(alternate: Biga-Friganović), Burbienė, Calner, Cerrahoğlu,* Clinton-Davis, Cosarciuc, Crema *(alternate: Rigoni),* Cunliffe *(alternate: Etherington),* Dokle, *Elo,* Eyskens, Felici, Freyberg, Galoyan, Gülek, Gusenbauer *(alternate: Schicker), Haupert,* Hoffmann, Hrebenciuc, Jung *(alternate: Durrieu),* Kacin, Kestelijn-Sierens, *Kosakivsky,* Leers, Liapis, *Lotz,* Makhachev, *Matějů, Mitterrand,* Mortensen, Naumov, *Patarkalishvili,* Pavlidis, Pereira Coelho *(alternate:*

Cesário), Pericleous-Papadopoulos, Pintat Rossel, Ponsonby, *Popa,* Popescu, Popovski, Prokeš *(alternate: Ošváth),* Puche *(alternate: Herrera),* Ragnarsdóttir, Ramponi, Reimann, Rivolta, Schmitz, Schoettel-Delacher, *Schreiner,* Schütz, Seyidov, *Stefanov,* Suslov, *Tallo,* Texeira de Melo, Townend, Ustiugov, Valleix *(alternate: Mariot), Wielowieyski.*

Canada: *Mrs Carroll, Senator Mahovlich, Mrs Lalonde.*

Japan: *Mr Nakayama, Dr Arima, Mr Kawamura, Mr Morioka, Mr Saito.*

Korea: *Mr Chung, Mr Shin, Mr Jong, Mr Song.*

N.B. The names of those members who were present at the meeting are printed in italics.

See 29th Sitting, 26 September 2001 (adoption of the draft resolution); and Resolution 1259.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Request from the Committee of Ministers for an opinion
Doc. 9172 – 9 July 2001

Draft recommendation of the Committee of Ministers to member states on the participation of citizens in local public life, and draft explanatory report

Letter from the Chairman of the Ministers' Deputies to the President of the Assembly, dated 18 May 2001

Dear President,

I have the honour to inform you that the Committee of Ministers, at the 738th meeting of the Ministers' Deputies (item 10.3), agreed to forward for opinion to the Parliamentary Assembly a draft recommendation on the participation of citizens in local public life.

The Assembly's opinion will be transmitted to the Steering Committee on Local and Regional Democracy (CDLR) so it may take it into consideration before submitting to the Committee of Ministers the final draft recommendation for adoption.

(…)

Signed:
Josef Wolf

Note:

This document contains the draft text and explanatory report as revised by the Steering Committee on Local and Regional Democracy in light of Opinion No. 15 (2001) of the Congress of Local and Regional Authorities of Europe. The CDLR decided to send it to the Committee of Ministers for final adoption, subject to the opinion that the Parliamentary Assembly has also been invited to adopt.

Draft explanatory report

I. Background to the recommendation

1. The present recommendation on the participation of citizens in local public life is the culmination of the work carried out by the Steering Committee on Local and Regional Democracy (CDLR) as from 1998, which has already given rise to the publication of a report on the subject.[1]

2. This work is the continuation of a debate which has been going on for over twenty-five years, for issues relating to citizens' participation in the life of their local community have been the focus of constant attention both from the Council of Europe's Committee of Ministers and the intergovernmental sector and from the Parliamentary Assembly and the Congress (Conference up until 1994) of Local and Regional Authorities of Europe (CLRAE).

3. One of the first major political and standard-setting instruments concerning these issues was Recommendation No. R (81) 18 of the Committee of Ministers to member states concerning participation at municipal level. This recommendation, adopted on 6 November 1981, was based on a resolution of the 3rd Conference of European Ministers responsible for Local Government (Stockholm, 1978) and on the conclusions of the 4th Conference (Madrid, 1980).

4. The guidelines appended to Recommendation No. R (81) 18 greatly influenced the subsequent discussions on this subject. They emphasised, *inter alia,* the need:

– to step up communication between citizens and their elected representatives;

– to improve the opportunities for participation, particularly for citizens who have greater difficulty in becoming actively involved;

– to give citizens more influence over municipal planning, decisions of strategic importance for the local community and their local environment;

– to encourage participation by foreign residents.

5. With regard to this latter subject, following the impetus provided by the Parliamentary Assembly and the CLRAE and on the basis of the conclusions adopted by the 7th Conference of European Ministers responsible for Local Government (Salzburg, 1986), the CDLR prepared the text of the Convention on the Participation of Foreigners in Public Life at Local Level, which the Committee of Ministers opened for signature on 5 February 1992. This convention entered into force on 1 May 1997. To date, it has been ratified by five states.

6. Meanwhile, in May 1991, the European Ministers responsible for Local Government meeting in Bergen (Norway) had adopted a resolution on participation and democratic control which reiterated the importance of citizens' participation in the management of local affairs and their right to be informed and consulted about any decisions affecting them.

7. On 15 February 1996, the Committee of Ministers adopted Recommendation No. R (96) 2 on referendums and popular initiatives at local level. This recommendation affirms "that the right of citizens to have their say in major decisions on long-term (…) is one of the democratic principles common to all member states of the Council of Europe". It is then stated "that this right can be most directly exercised at local level and that the management of important local affairs should involve more effective citizen participation while losing none of its efficiency".

8. Finally, in its Recommendation No. R (97) 7 to member states on local public services and the rights of their users, the Committee of Ministers called for the adoption of practical measures to improve user participation in the management of local public services.

1. *The participation of citizens in local public life,* – "Local and regional authorities in Europe", No. 72.

9. The present recommendation is wholly in keeping with these various texts, which also served as a basis for drafting it. In particular, the content of Recommendation No. R (81) 18 has been incorporated and expanded upon, so that the present recommendation replaces it.

II. Justification for the recommendation

10. The ongoing concern with issues related to citizens' participation in the life of their local community is hardly surprising. For there is a clear link between the development of democratic institutions and the growth of citizens' participation and its various forms. At the same time, the forms of direct participation and the functioning of representative democracy are also closely related to the development of society.

11. Local democracy – like any other form of democracy – is not immutable. The role and functions of local authorities develop in accordance with a living process: solutions that are deemed appropriate at one point in time must be constantly checked and if necessary challenged in the light of changes in society and in citizens' needs and expectations.

12. Thus, all the European countries are currently considering the development of local democracy. Above and beyond their differences, they share several concerns *vis-à-vis*, firstly, the actual capacity of local communities to take on their assigned role, and secondly, the quality of the relations between citizens and their local councillors and the extent of citizen participation in the political process at the local level.

13. In particular, having analysed the experiences of a number of member states of the Council of Europe, the CDLR identified the following major problems:

– declining public interest in and a general feeling of apathy about politics;

– the difficulty of increasing public involvement through direct forms of consultation and participation;

– weaknesses in the institutions of local representative democracy that decrease the effectiveness, openness and accountability of the system.

14. Of course, these problems do not exist everywhere and not to the same extent in all the concerned countries. In addition, the investigation into citizens' participation in local civic life has shown that, although there are signs of problems and constraints, there are signs of progress and experimentation too.

15. In this context, it was deemed necessary to review the issue of citizens' participation in local public life and to incorporate in a legal text the main points highlighted by the experience of the member states in this area, so as to provide common guidelines and encourage the process of adapting the forms and mechanisms of participation to modern society and to these new requirements.

16. In other words, the aim of the present recommendation is to offer policy makers a coherent, up-to-date set of principles and guidelines, as a common basis for the activities of the Council of Europe's member states in this area of vital importance to democracy.

III. Key questions on citizens' participation in local public life

17. To encourage a hard-headed assessment of the actual situation and possible future developments, it is useful to address a number of questions which provide a challenging backdrop to further deliberations.

Is local politics still relevant in a global age?

18. Might it be that local politics is in a process of long-term decline as more and more issues are determined not just at a national level but a global level? Some observers suggest that people will inevitably be less interested in participating at the local level because there are less issues decided at that level and because of new opportunities to participate at a non-local level.

19. While recognising the power of global forces, it does not seem that it makes citizen participation at the local level irrelevant.

20. Firstly, most problems have both global and local dimensions and require action as much at the global level as at the local level. The key is therefore not to see local politics in isolation but as part of a wider process: the development of local networks and their connection with regional national and international networks. Therefore, participation at the local level remains important, although its form inevitably changes.

21. Moreover, although the global forces may have come to the fore, there is evidence to suggest that for many people their identity has a local dimension. Within this context, it is nowadays a strategic issue to reinforce the awareness of belonging to a community. In addition, public safety, economic development, social welfare, environmental protection and many other matters have an important local dimension, engage local government and are still providing a basis for citizen participation.

22. The level of municipalities may not always be the appropriate focus for participation. There are times when it may be necessary to go more local by working through neighbourhood councils or community-based associations. Paradoxically, as the world goes more global there remains a case for politics to go more local.

Does more wealth in society lessen the need for participation?

23. Some people argue that, as the proportion of the population that has a relatively high level of income and wealth increases, the motivation for participation lessens. In their view, those with greater material resources and less dependence on the welfare state and, more broadly, government are opting out of the system and participation.

24. No strong evidence supports this view. There may be evidence of some young professional and wealthy individuals opting-out. However, there is also evidence of the poorest and more marginalised in society not finding the motivation to participate. Wealth and education are still reasonable predictors of a capacity and willingness to participate in many societies.

25. In any case it is clear that wealth does not allow most people to absent themselves from the collective challenges facing many communities, for example, crime or the environment. The welfare state remains central in its core services to the lives of the majority. The real challenge in many societies is how to encourage the most disadvantaged to participate.

Have people become more self-absorbed and less interested in collective action?

26. Some observers suggests that participation in local political life is on the decline as part of a wider pattern of civic disengagement, as people withdraw from collective pursuits and concentrate on more individual pursuits. The thesis of declining "social capital", as it is known, explains declining interest in local politics by reference to a wider decline in civic life. According to this thesis, people join less, trust less and care less about community problems and disinterest in politics is part of a wider opting-out of community life.

27. Again, without wishing to reject entirely the declining social capital thesis, it seems unhelpful and misleading to paint such a bleak picture of modern community life. Firstly, in many – but not all – countries it can be argued there is a vibrant and, if anything, expanding associational life. People may be less trusting especially of public authorities, but this may not be a negative development in that it may reflect a greater propensity to challenge and call government to account. People may be more diverse and more selective in the causes for which they are prepared to be mobilised, but again this may reflect not a decline in community spirit but a recognition of different interests and a greater willingness to think for themselves.

First conclusion: citizen participation in local politics is not declining but rather changing its form and this challenges the traditional political system

28. Therefore, the idea that local politics is being swept away by forces beyond its control should be rejected. Neither globalisation, rising prosperity nor declining interest and civic engagement provide over-arching explanations of what is happening to local politics. There is evidence of problems, of apathy and disengagement, but the trend should be seen as more towards a changed form of politics at the local level rather than a simple decline. The study carried out by the CDLR shows that people have become more interested in:

– direct forms of participation;

– informal and flexible participation;

– *ad hoc* participation rather than continuous engagement.

29. This shift in the pattern of politics has profound implications for the traditional institutions of local representative democracy. It also implies that local governments require an open-minded, transparent and flexible approach to engage with the public.

30. The greater challenge is to representative politics and in particular to the role of political parties. Several countries reported problems for parties in getting people to stand in local elections. Experience shows in some countries that beyond political recruitment parties cannot guarantee to organise and mobilise people in the same way as was possible a few decades ago. In some countries associations may have overtaken parties in their capacity to represent the public. These developments point to a need for political parties in some cases to reform themselves or face the prospect of becoming less and less relevant to the substance of local politics.

31. What is essential is to ensure the continued participation of citizens in public life. Governments at local level need to think through how they can best re-engage with the public and meet changing expectations. Local political systems need to be more responsive to the needs of citizens. There is evidence of exciting and interesting experiments on new ways to encourage participation and development.

32. Participation in local political life is not just possible but highly desirable. Throughout their lives, citizens should have the opportunity to make an input, to engage and to play a part, not least by means of the ballot box, as decision makers for the community. Getting in touch with local people should be considered as a core task for any local political system. A culture of consultation should be embedded into local political life. There are a variety of tools and techniques that will enable that task to be achieved.

33. In developing strategies to enhance the prospects for citizen participation in the twenty-first century, it is necessary to recognise the impact and potential of information and communication technology, the rise of a global society and shifting patterns in employment. The institutions and mechanisms of local democracy – designed often in the nineteenth century or in the middle of the twentieth century – cannot expect to survive these changes unreformed and unaltered.

IV. Tools and techniques for improving the participation of citizens in local public life

34. If participation in local politics is to be sustained in the twenty-first century, the key challenge is to adapt the decision-making processes to meet the changing expectations of citizens. There are already many experiments and initiatives under way in several member states. In others, there are debates about wider and more sweeping reforms.

35. In order to gauge the range of available options for change, it is worth looking at each form of participation in turn, so as to obtain an overview of the main tools and techniques for improving participation.

Participation through the exercise of electoral rights

36. Voting local elected representatives into office will remain a key element in making local democracy work. The vote given to all adult citizens is an expression of political equality, and organising politics through representatives remains a valuable feature of politics in a complex world. The key strategic issue for the future is how to encourage voters to exercise their rights at the local level and to ensure that voting is seen to make a difference.

37. There is a range of tools at hand for would-be reformers. Among others:

– voting could be made easier through increased use of postal votes or proxy votes and other reforms. Electronic systems of voting could give new excitement and purpose to the electoral process;

– direct voting could be extended to a greater array of public offices without resort to the filter of party lists/systems. The option of the directly elected executive, for example, is one option taken up by several countries and is being actively considered by others;

– targets could be set or incentives provided to increase the representation of those who, such as women, young persons and underprivileged groups, are currently under-represented in the machinery of political parties, electoral lists, elected decision-making bodies and executive bodies at local level. There are limits to what a government can do best, but it can remove barriers to participation and encourage those that select candidates (mainly parties) to recognise the force of arguments for social representativeness alongside the accountability that comes from public election.

Direct participation

38. In a world where citizens are better educated and where new information and communication technologies allow the rapid spread of understanding and expertise, the case for direct involvement in the political process by citizens is more substantial than before. The key strategic issue is how to organise direct participation so that it enhances rather than diminishes the quality of local decision-making and service delivery. The facilities that are available today allow citizens to have their say on various issues, every day of the week.

39. However few people see such "non-stop" democracy as either desirable or viable, as voter fatigue and disinterest would undermine it. Yet it is difficult to deny that in the twenty-first century citizens may well expect to be consulted to a greater degree than in the past and to be directly involved in making decisions to a greater extent. Direct participation can mitigate the effects of under-representation of certain social groups in elected bodies, by giving these groups the opportunity to become involved in a different way in the decision-making process and by enhancing their sense of belonging to the community.

40. There is a variety of options available for better consultation or indeed direct involvement of the public in decision-making, as the evidence provided by various countries shows. Alongside the "classic" mechanisms of referenda and citizens' or popular initiatives, there are others that take their inspiration from the impact of "new management" thinking and its emphasis on the role of the public as consumers of services (user surveys, user management, etc.).

41. Beyond these two categories of mechanisms for direct involvement, there are those that take inspiration from the politics of presence and emphasise the need to ensure the involvement of citizens who are often absent from decision-making. Youth parliaments, elderly people forums, neighbourhood forums, co-option procedures, community development and partnership schemes and a number of other mechanisms can play a role in bringing into decision-making those that are normally excluded. Another set of direct participation options attempts to create the conditions for a more deliberative democracy. Interactive websites, citizens' juries and consensus conferencing are mechanisms present in several countries.

42. Direct participation comes in a variety of forms. To recognise the scope for greater direct democracy at the local level leaves open the question of the form it should take. If the aim is to encourage the participation of those having a concrete direct interest in a given matter, the classic forms of referenda and citizens' ballot are ideal. New management-user initiatives enable a similar dialogue with citizens. If the issue is ensuring the presence of the traditionally excluded or enabling a more deliberative, reflective public debate, then other experiments in participation have some advantages. The key issue is to select the participation mechanism appropriate to the goal or perspective that is held.

Participation through associations (other than political parties and groups)

43. Associations with their base in civil society are seen as crucial to sustain a democratic culture and provide the driving force for democratic practice. Their emergence and impact are affected by wider patterns of economic and social change. There is a considerable debate among academics about whether civic engagement through associational involvements is declining or not as a result of the atomising, high-pressured economic and social environment of the late twentieth century. However, there is a recognition by both sides of the argument that governments can engage in strategic intervention that will support associational activity. The key issue is how to support associations while maintaining their distinctive qualities and independence and enabling them to make a positive contribution to local democracy.

44. Local authorities and municipalities in member states have developed a number of measures to support associations. They include: the provision of grants to support activities and projects, the offer of contracts to undertake service provision, access to specialist expertise and advice and support through provision of meeting places, photocopying facilities and other key resources.

45. There is a danger that support provided from government can create too great a dependence on government. There may be an argument for developing "arms-length" or "intermediary" institutions to manage the relationship and help sustain the independence of the associational sector. It is important to recognise the diversity of the associational world which ranges from the professionally staffed and well-resourced to the grass-root, fragile and under-resourced. Strategies to support the voluntary sector need to take this diversity into account .

Second conclusion: a wide range of approaches and measures are available for encouraging citizen participation

46. This overview leads to an extremely important conclusion: there are many different possible approaches and a wide variety of measures to promote citizens' participation. The approaches and measures must be adapted to the circumstances of each state, or even to the

different circumstances facing local communities within a particular state.

47. In order to be effective, therefore, any strategy to encourage citizens' participation in local public life cannot be based on rigid solutions and must be concerned with empowerment rather than laying down rules.

48. In addition, any effective strategy must grasp the complexity of the issue of citizens' participation and take account of the various aspects of this issue, each of which may in turn have subtle distinctions. The impact of the measures taken to encourage citizens' participation can be considerably enhanced (or diminished) by the fact that they are part of a coherent whole (or, conversely, by the fact that they are implemented in a disjointed manner).

49. Accordingly, policy makers and citizens generally should have a wide range of participation instruments at their disposal and the opportunity (and ability) to combine these various instruments and to adapt the way in which they are used, according to the circumstances.

V. Structure and content of the recommendation

50. The recommendation opens with the preamble which, to a large extent, is explained by the above considerations or borrows from previous instruments, in particular the preamble to Recommendation No. R (81) 18.

51. The recommendation then consists of four recommendations to the governments of member states of the Council of Europe.

52. It is supplemented by two appendices which set out guidelines and form an integral part of the recommendation:

– Appendix I sets out the basic principles by which policy makers should be guided;

– Appendix II outlines the various types of practical measures or steps which should be taken into consideration in order to encourage, stimulate and strengthen citizens' participation.

The recommendations to the governments of member states

First recommendation

53. This concerns the framing, in co-operation with local and, where applicable, regional authorities, of a policy designed to promote citizens' participation in local public life, based on the principles contained in Appendix I.

54. In other words, the states are asked not only to devise a strategy, a framework for their activities or a programme to encourage participation, but also to raise the level of their intervention to the level of a "policy". It should be noted that the recommendation is concerned with participation at local level; the relevant policy can (or even should) nevertheless form part of a wider policy of participation pure and simple.

55. Framing the local participation policy requires the intervention both of the government and national parliament, and of the regional and local authorities, because it is these latter authorities which will be directly affected and a number of measures lie within their competence. Accordingly, the governments are asked to involve these authorities in the framing of the policy.

Second recommendation

56. The governments are then asked to adopt, in the context of the policy thus defined, the measures within their power, while drawing inspiration from the measures listed in Appendix II to the recommendation.

57. It is expressly stated that these measures should aim, in particular, to improve the legal framework for citizens' participation in local public life.

58. Within this context, in order that local and regional authorities should be able to play an effective role in promoting participation, the governments of member states are asked to ensure that national legislation and regulations enable these authorities to employ a wide range of participation instruments.

Third recommendation

59. Framing and implementing the local participation policy is largely a matter for local and regional authorities. This policy cannot succeed, therefore, without the commitment and joint efforts of authorities at all levels.

60. In keeping with established practice, the Committee of Ministers of the Council of Europe does not address its recommendations to local and regional authorities; it can, nevertheless, as in this case, ask the governments to encourage and stimulate the activities of local and regional authorities.

61. Accordingly, these authorities should be invited:

– to subscribe to the principles contained in Appendix I to the recommendation and to undertake to actually implement the policy of promoting citizens' participation in local public life;

– to improve local regulations and practical arrangements concerning citizens' participation in local public life, and to take any other measures within their power to promote citizens' participation, with due regard for the measures listed in Appendix II to the recommendation.

Fourth recommendation

62. The governments of member states and, more broadly, public authorities at all levels have a key role to play in promoting citizens' participation in local public life.

63. Participation in the life of the local community, however, is also a matter for civil society and its various associations, including the political parties. The political parties in particular can greatly contribute to the "participation policy", for example, as regards achieving more balanced representation of certain categories of citizens, especially women, in elected bodies.

64. Participation is also, of course, primarily the concern of every citizen. While, on the one hand, it can be said that public authorities should guarantee their cit-

izens' right to participate, it can also be argued that it is up to citizens and their associations to make their local elected representatives aware of their needs and wishes as regards the instruments and practical arrangements for their participation in community life. Secondly, they should be prepared to assume the responsibility inherent in this right to participation, whose exercise can in some cases amount to a civic duty.

65. For this reason, the Committee of Ministers asks the governments of member states to ensure that the present recommendation is translated into the official language or languages of their respective countries and, in ways it considers appropriate, to publish it and to bring it to the attention of their local and regional authorities.

66. It firmly believes that this text can help strengthen the resolve of any citizen to become more involved, in one way or another, in the public life of their community.

The appendices

The key principles of a "local democratic participation policy"

67. The need for flexibility when determining the approach and measures for promoting participation explains why the Committee of Ministers chose to draft a flexible, non-binding legal instrument in this area. What matters is the end result and it is for states to chose the appropriate means, with due regard for the circumstances and the wishes of their citizens.

68. It has nevertheless been possible to identify some general principles; it is thus proposed that the states adopt these as key elements of a "local democratic participation policy". These principles constitute the hard core of the recommendation.

Practical measures and steps

69. When it comes to actually implementing a policy in keeping with these principles, states have a wide margin of discretion. This is only fitting, as the circumstances vary considerably, as do the public needs and expectations which states are required to address.

70. The experience of the states concerned, as contained in the CDLR report, shows that there are a great many instruments, mechanisms and forms of participation which have various advantages (or disadvantages), and some of which are more suited than others to encouraging, stimulating and strengthening participation, depending on the circumstances. The most significant examples of measures or steps which should be considered in order to pursue this aim are outlined in Appendix II.

VI. Glossary

71. The purpose of the following glossary is to ensure a better understanding of the text of the recommendation. At the same time, it provides a basis for standardising the terminology used in the Council of Europe's work in this area and describes the main instruments of direct participation which public authorities may use. However, in no way do the definitions below affect or modify the legal definitions and concepts embodied by national constitutions or laws.

72. Therefore, as an example, the definition of the term "citizen" for the purpose of the present recommendation does not modify the meaning or the extent given to this concept by the internal legal order of each individual member state. Moreover, the intention is not to give definitions which force states to change the terminology that they normally use. Accordingly, the terms and expressions as described below may well be known in a given state under a different name from that used in the recommendation. Likewise, the name used in the recommendation to refer to a particular instrument may mean different things to different legal systems.

73. Nevertheless, for the purpose of interpreting the present recommendation, the following definitions and explanations are the ones which should be used.

74. All definitions that follow relate to the "local" dimension of political life. However, for simplicity, "local" has not been used for qualifying the terms and expressions defined below.

Citizen – every person (including foreigners) belonging to a local community. This involves the existence of a stable link between the individual and the community.

Citizens' forums – ongoing bodies which meet on a regular basis. They may have a set membership or operate on an "open" basis. Sometimes they have the power to make recommendations to specific council committees or even to share in the decision-making process. The following forums may be distinguished:

– service user forums (which discuss issues relating to the management and development of a particular service);

– issue forums (which focus on particular questions of interest to the community);

– shared interest forums (which concentrate on the needs of a particular citizen group, for example, young people or minority ethnic groups);

– area/neighbourhood forums (whose members are – at least mainly – residents of a particular geographically-defined area or neighbourhood; they may deal with services and matters of concern to the area or neighbourhood under consideration; they may or may not have dedicated officers attached to them; they may have a close link with the relevant ward councillors or with councillors responsible for the category of services under discussion).

Citizens' juries – groups of citizens (chosen to be a fair representation of the local population) brought together to consider a particular issue set by the local authority. Citizens' juries receive evidence from expert witnesses and cross-questioning can occur. The process may last some days, at the end of which a report is drawn up setting out the views of the jury, including any differences in opinion. Juries' views are intended to inform councillors' decision-making.

Citizens' panel – ongoing body made up of a statistically representative sample of citizens whose views

are sought several times a year. They focus on specific service or policy issues, or on wider strategies.

Co-option/involvement in a council committee – co-optees are citizens who usually represent a particular community group or set of interests on local council committees or working parties. In some cases these citizens act merely in an advisory capacity but in others they play a full role in decision-making.

Council of children/youth council – assembly, established for a municipality or a neighbourhood, and made up of young people or children elected by their peers, usually co-chaired by one of its members together with the mayor or the municipal councillor responsible for youth affairs. It may discuss issues concerning most directly the category of age it represents and may draw up and implement projects, on the basis of a budget allocated by the local authority.

Decision-making process – it includes: definition and consideration of the issues to be dealt with; proposals for solutions and instigation of regulatory measures; deliberation and decision-making; implementation of decisions adopted; follow-up and assessment of measures implemented.

Direct participation – involvement of local citizens – individually or collectively – in the various stages of the decision-making process at local level, alongside or instead of their elected representatives. This involvement takes tangible forms in a number of arrangements, mechanisms and procedures associating citizens in the regulatory activity usually incumbent on the elected bodies (local councils in particular) and in the management of local public services. The various forms of such involvement go from mere information through dialogue and consultation to direct decision-making and direct users' management of certain services.

Focus group – one-off meeting of citizens brought together to discuss a specific issue. Focus groups need not be representative of the general population and may involve a particular citizen group only. Discussions (which typically last no more than two hours) may focus on the specific needs of that group, on the quality of a particular service, or on ideas for broader policy or strategy. Focus groups do not generally call expert witnesses.

Interactive website – this may be based on the Internet or on a local authority-specific intranet. "Interactive" initiatives enable the citizens to send e-mail messages on particular local issues or services for which local authorities are responsible and get an answer or open a dialogue. Therefore, these initiatives differ substantially from the mere provision of information.

Opinion polls – these are a tool of direct participation on a random basis, used to find out citizens' views on given issues, which are submitted to a sample of citizens who are representative of the various social groups of the community. A classic opinion poll is a way of obtaining citizens' immediate reactions. Deliberative opinion polls are used to compare a group of citizens' reactions before and after they have had the opportunity to discuss the issue at hand.

Participation through the mechanisms of representative democracy – it includes participation in local elections/the exercise of electoral rights (right to vote and right to stand) for determining the members of (decision-making and executive) representative bodies and the exercise of the electoral mandate within the framework of the functioning of local authority bodies.

Popular consultation – consultative referendum (see referendum, below).

Popular initiative – instrument which gives effect to a right of proposal granted to citizens to bring about a decision by the local deliberative body, if need be. The popular initiative may take the form of a proposal drawn up in general terms or a fully drafted project. It is introduced by a minimum number of persons entitled to vote. The legal value of the result of ballots may vary according to the case.

Public meeting or assembly of citizens – general meeting of the electorate of a local community, initiated by the local council or executive body, or convened at the request of citizens/of a given number of electors. It gives the opportunity to obtain public views on particular issues or facilitate debate on broad options for a specific service, a project or a policy. Its function may be advisory or decision-making. In some cases, the citizens' assembly is the deliberative body of the community, within a system of direct democracy at local level.

Question and answer sessions – these are held at the end of council or committee meetings, providing citizens with an opportunity to direct questions at elected members.

Referendum – instrument whereby a plan or decision is submitted to the judgement of the local community. According to the case, the referendum is initiated either by the local bodies (or a given number of elected representatives) or citizens themselves (through a request bearing a minimum number of signatures by residents or electors). A consultative referendum (which is not binding on the local bodies) must be distinguished from a decision-making referendum (the result of which is binding on local bodies).

Right of presenting petitions, applications, proposals or claims – in all these cases, there is a right for an individual or a group to address the relevant local body. The latter must, in general, examine the question submitted to it and reply, although it is not obliged to give a positive answer.

Satisfaction surveys – these may be one-off or regular initiatives, focusing either on specific services or on the local authority's general performance. Surveys may be carried out in a variety of ways (for example, postal or door-to-door) and may cover the entire local authority population or a particular group of service users or citizens.

User management of services – the initiatives of this kind imply direct control of citizens over the management of local services and resources. Such initiatives usually operate through an executive committee, elected by the wider group of users.

Visioning exercises – a range of methods (including focus groups) may be used within a visioning exercise, the purpose of which is to establish the "vision" participants have of the future and the kind of future they would like to create. Visioning may be used to enlighten broad strategy for a locality, or may have a more specific focus.

Ways of voting which are alternatives to the vote at the polling station – electoral arrangements seeking to facilitate the exercise of the right to vote by enabling the electors to vote in a different manner or time or place than the traditional ones. For example, they include the following:

– early ballot (the electors may vote before the official election day);

– voting at post offices (post offices operate as polling stations);

– postal ballot (the ballot-sheet is addressed to the elector, who sends it back, duly completed, in a closed envelope);

– electronic ballot (the electors fill in an electronic ballot-sheet and vote through a computer connected to the numeric network);

– home ballot and voting in hospitals, barracks, prisons (ballot-sheets are distributed, filled in and collected in these places, so that certain categories of persons facing real difficulties or who are even unable to attend the polling station may exercise their right to vote);

– proxy ballot (the elector who is unable to attend the polling station has the possibility of instructing a person who accomplishes the act of voting on his/her behalf).

Draft recommendation No. R (2001)…
of the Committee of Ministers to member states
on the participation of citizens in local public life

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

a. Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage, and to foster their economic and social progress;

b. Considering that participation of citizens is at the very heart of the idea of democracy and that citizens committed to democratic values, mindful of their civic duties and who become involved in political activity are the lifeblood of any democratic system;

c. Convinced that local democracy is one of the cornerstones of democracy in European countries and that its reinforcement is a factor of stability;

d. Noting that local democracy has to operate in a new challenging context resulting not only from structural and functional changes in local government organisation, but also from the radical political, economic and social developments that have occurred in Europe and the process of globalisation;

e. Aware that public expectations have evolved, that local politics are changing form and that this requires the enhancement of direct, flexible and ad hoc methods of participation;

f. Considering that, in certain circumstances, the level of trust people have in their elected institutions has declined and that there is a need for government institutions to re-engage with and respond to the public in new ways to maintain the legitimacy of the decision-making;

g. Recognising that a wide variety of measures are available to promote citizen participation and these can be adapted to the different circumstances of local communities;

h. Considering that the right of citizens to have their say in major decisions entailing long-term commitments or choices which are difficult to reverse and concern a majority of citizens is one of the democratic principles common to all member states of the Council of Europe;

i. Considering that this right can be most directly exercised at local level and that, accordingly, steps should be taken to involve citizens more directly in the management of local affairs, while safeguarding the effectiveness and efficiency of such management;

j. Reaffirming its belief that representative democracy is part of the common heritage of member states and is the basis of the participation of citizens in public life at national, regional and local level;

k. Considering that dialogue between citizens and local elected representatives is essential for local democracy as it strengthens the legitimacy of local democratic institutions and the effectiveness of their action;

l. Considering that, in keeping with the principle of subsidiarity, local authorities have and must assume a leading role in promoting citizens' participation and that the success of any "local democratic participation policy" depends on the commitment of these authorities;

m. Having regard to Recommendation No. R (81) 18 of the Committee of Ministers to member states concerning participation at municipal level and considering that the changes that have taken place since its adoption justify that the latter be replaced by the present recommendation;

n. Having regard to Opinion No. … of the Parliamentary Assembly;

o. Having regard to Opinion No. 15 (2001) of the Congress of Local and Regional Authorities of Europe and to the Congress' texts which are relevant in the field,

Recommends that the governments of member states:

1. Frame a policy, involving local and – where applicable – regional authorities, designed to promote citizens' participation in local public life, drawing on the principles of the European Charter of Local Self-Government adopted as an international treaty on 15 October 1985 and ratified to date by a large majority of

Council of Europe member states, as well as on the principles contained in Appendix I to this recommendation;

2. Adopt, within the context of the policy thus defined and taking into account the measures listed in Appendix II to this recommendation, the measures within their power, in particular with a view to improving the legal framework for participation and ensuring that national legislation and regulations enable local and regional authorities to employ a wide range of participation instruments in conformity with paragraph 1 of Recommendation 2000 (14) of the Committee of Ministers to member states on local taxation, financial equalisation and grants to local authorities;

3. Invite, in an appropriate way, local and regional authorities:

– to subscribe to the principles contained in Appendix I to this recommendation and to undertake to actually implement the policy of promoting citizens' participation in local public life;

– to improve local regulations and practical arrangements concerning citizens' participation in local public life, and to take any other measures within their power to promote citizens' participation, with due regard for the measures listed in Appendix II to this recommendation;

4. Ensure that this recommendation is translated into the official language or languages of their respective countries and, in ways they consider appropriate, is published and brought to the attention of local and regional authorities,

Decides that this recommendation will replace Recommendation No. R (81) 18 concerning participation at municipal level.

APPENDIX I

Basic principles of a local democratic participation policy

1. Guarantee the right of citizens to have access to clear, comprehensive information about the various matters of concern to their local community and to have a say in major decisions affecting its future.

2. Seek for new ways to enhance civic-mindedness and to promote a culture of democratic participation shared by communities and local authorities.

3. Develop the awareness of belonging to a community and encourage citizens to accept their responsibilities to contribute to the life of their communities.

4. Accord major importance to communication between public authorities and citizens and encourage local leaders to give proper emphasis to citizens' participation and careful consideration to their demands and expectations, so as to provide an appropriate response to the needs which they express.

5. Adopt a comprehensive approach to the issue of citizens' participation, having regard both to the machinery of representative democracy and to the forms of direct participation in the decision-making process and the management of local affairs.

6. Avoid overly rigid solutions and allow for experimentation, so that the emphasis is on empowerment rather than on laying down rules; consequently, provide for a wide range of participation instruments, and the possibility of combining them and adapting the way they are used, according to the circumstances.

7. Start from an in-depth assessment of the situation as regards local participation, establish appropriate benchmarks and introduce a monitoring system, for tracking any changes therein, in order to identify the causes of any positive or negative trends in citizen participation, and in order to gauge the impact of the mechanisms adopted.

8. Enable the exchange of information between and within countries on best practice in citizen participation, support mutual learning by local authorities about the effectiveness of the various participation methods and ensure that the public is fully informed about the whole range of opportunities available.

9. Pay particular attention to those categories of citizens who have greater difficulty becoming actively involved or who, *de facto,* remain on the sidelines of local public life.

10. Recognise the importance of a fair representation of women in local politics.

11 Recognise the potential that children and young people represent in the sustainable development of local communities and emphasise the role they can play.

12. Recognise and emphasise the role played by associations and groups of citizens as key partners in developing and sustaining a culture of participation and as a driving force in the practical application of democratic participation.

13. Enlist the joint effort of the authorities at every territorial level, with each authority being responsible for taking appropriate action within its competence, according to the principle of subsidiarity.

APPENDIX II

Steps and measures to encourage and reinforce citizens' participation in local public life

A. General steps and measures

1. Ascertain whether, in a complex and increasingly globalised world, the relevance of local action and decision-making is made clear to the public by identifying core roles for local authorities in a changing environment.

2. Give proper emphasis to these roles and ascertain, if necessary, whether the balance of powers exercised at national, regional and local levels is such as to ensure that a sufficient capacity for local action lies with local authorities and elected representatives to provide the necessary stimulus and motivation for civic involvement. In this context, make use of every opportunity for functional decentralisation, for example by delegating more responsibilities in the field of schools, day nurseries and other facilities for children or infants, care facilities for the elderly, hospitals and health centres, sport and recreation centres, theatres, libraries, etc.

3. Improve citizenship education and incorporate into school curricula and training syllabuses the objective of promoting awareness of the responsibilities that are incumbent on each individual in a democratic society, in particular within the local community, whether as an elected representative, local administrator, public servant or ordinary citizen.

4. Encourage local elected representatives and local authorities, by any suitable means, including the drafting of codes of conduct, to behave in a manner consistent with the high ethical standards and ensure compliance with these standards.

5. Introduce greater transparency into the way local institutions and authorities operate, and in particular:

i. ensure the public nature of the local decision-making process (publication of agendas of local council and local executive meetings; opening meetings of the local council and its committees to the public; question and answer sessions, publication of minutes of meetings and decisions, etc.);

ii. ensure and facilitate access by any citizen to information concerning local affairs (setting up information bureaux, documentation centres, public databases; make use of information technology; simplifying administrative formalities and reducing the cost of obtaining copies of documents, etc.);

iii. provide adequate information on administrative bodies and their organisational structure, and inform citizens who are directly affected by any ongoing proceedings of the progress of these proceedings and the identity of the persons in charge.

6. Implement a fully-fledged communication policy, in order to afford citizens the opportunity to better understand the main issues of concern to the community and the implications of the major political decisions which its bodies are called upon to make, and to inform citizens about the opportunities for, and forms of, participation in local public life.

7. Develop, both in the most populated urban centres and in rural areas, a form of neighbourhood democracy, so as to give citizens more influence over their local environment and municipal activities in the various areas of the municipality. More specifically:

i. set up, at sub-municipal level, bodies, where appropriate elected or composed of elected representatives, which could be given advisory and information functions and possibly delegated executive powers;

ii. set up, at sub-municipal level, administrative offices to facilitate contacts between local authorities and citizens;

iii. adopt, in each area, an integrated approach to the organisation and provision of public services, based on a willingness to listen to citizens and geared to the needs which they express;

iv. encourage local residents to become involved – directly or via neighbourhood associations – in the design and implementation of projects which have a direct bearing on their environment such as, for example, the creation and maintenance of green areas and playgrounds, the fight against crime, the introduction of support/self-help facilities (childcare, care for the elderly, etc.).

B. Steps and measures concerning participation in local elections and the system of representative democracy

1. Conduct audits of the functioning of local electoral systems in order to ascertain whether there are any fundamental flaws or any voting arrangements that might discourage particular sections of the population from voting and consider whether those flaws or arrangements could be corrected.

2. Endeavour to promote participation in elections. Where necessary, conduct information campaigns to explain how to vote and to encourage people in general to register to vote and to use their vote. Information campaigns targeted at particular sections of the population may also be an appropriate option.

3. Conduct audits of voter registration and electoral turnout in order to determine whether there is any change in the general pattern or whether there are any problems involving particular categories or groups of citizens who show little interest in voting.

4. Consider measures to make voting more convenient given the complexity and demands of modern lifestyles, for example:

i. review the way in which polling stations operate (number of polling stations, accessibility, opening hours, etc.);

ii. introduce new voting options, involving alternative dates and locations (early voting, postal voting, post office voting, electronic voting, etc.);

iii. introduce specific forms of assistance (for example, for disabled or illiterate people) or other special voting arrangements for particular categories of voters (voting by proxy, home voting, hospital voting, voting in barracks or prisons, etc.).

5. Where necessary, in order to better gauge the impact of any measures envisaged, conduct (or allow) pilot schemes to test the new voting arrangements.

6. Examine the procedures for selecting candidates to stand for local elective office and consider for example:

i. whether voters should be involved in the process of selecting candidates, for example by introducing the possibility of presenting independent lists or individual candidatures, or by giving voters the option of casting one or more preference votes;

ii. whether voters should be given a stronger influence in the election or appointment of the (heads of the) local executives; this can be achieved by direct elections, binding referendums or other methods.

7. Examine the issues relating to plurality of elective office, so as to adopt measures designed to prevent simultaneous office-holding where it would hinder the proper performance of the relevant duties or would lead to conflicts of interest.

8. Examine the conditions governing the exercise of elective office in order to determine whether particular aspects of the status of local elected representatives or the practical arrangements for exercising office might make it difficult to become involved in politics. Where appropriate, consider measures designed to remove these obstacles and, in particular, to enable elected representatives to devote the appropriate time to their duties and to relieve them from certain economic constraints.

C. Steps and measures to encourage direct public participation in local decision-making and the management of local affairs

1. Promote dialogue between citizens and local elected representatives and make local authorities aware of the various techniques for communicating with the public, and the wide range of ways in which the public can play a direct part in decision-making. Such awareness could be developed through the publication of guidelines (for example in the form of a charter for public participation at local level), the holding of conferences and seminars or the establishment of a well-maintained website so that examples of good practice could be posted and accessed.

2. Develop, through surveys and discussions, an understanding of the strengths and weaknesses of the various instruments of citizens' participation in decision-making and encourage innovation and experimentation in local authorities' efforts to communicate with the public and involve it more closely in the decision-making process.

3. Make full use, in particular, of:

i. new information and communication technology, and take steps to ensure that local authorities and other public bodies use (in addition to the traditional and still valuable methods such as formal public notices or official leaflets) the full range of communication facilities available (interactive websites, multi-channel broadcast media, etc.).

ii. more deliberative forms of decision-making, that is involving the exchange of information and opinions, for example: public meetings of citizens; citizens' juries and various types of forums, groups, public committees whose function is to advise or make proposals; round tables, opinion polls, user surveys, etc.

4. Introduce or, where necessary, improve the legislation/regulations which enable:

i. petitions/motions, proposals and complaints filed by citizens with the local council or local authorities;

ii. popular initiatives, calling on elected bodies to deal with the matters raised in the initiative in order to provide citizens with a response or initiate the referendum procedure;

iii. consultative or decision-making referendums on matters of local concern, called by local authorities, on their own initiative or at the request of the local community;

iv. devices for co-opting citizens to decision-making bodies, including representative bodies;

v. devices for involving citizens in management (user committees, partnership boards, direct management of services by citizens, etc.).

5. Give citizens more influence over local planning and, in a general manner, over strategic and long-term decisions; more specifically:

i. give citizens the opportunity to become involved in the various stages of the decision-making process concerning these decisions, notably by dividing this process into several stages (for example, programming, drafting of projects and alternatives, implementation, budgetary and financial planning);

ii. illustrate the planning process (each phase thereof) by means of lucid, intelligible material that is readily accessible to the public, using, if possible, in addition to the traditional methods (maps, scale models, audiovisual material) the other media available today thanks to new technology (CD-ROM, DVD, electronic documentary bases accessible to the public).

6. Develop systematic feed-back mechanisms to involve citizens in the evaluation and the improvement of local management.

7. Ensure that direct participation has a real impact on the decision-making process, that citizens are well informed about the impact of their participation and that they see tangible results. Participation that is purely symbolic or that is used to simply grant legitimacy to pre-ordained decisions is unlikely to win public support. However, local authorities must be honest with the public about the limitations of the forms of direct participation on offer, and avoid arousing exaggerated expectations about the possibility of accommodating the various interests involved, particularly when it comes to deciding between conflicting interests or making decisions about rationing resources.

8. Encourage and duly recognise the spirit of volunteering that exists in many local communities, eg through grant schemes or other forms of support and encouragement for non-profit, voluntary and community organisations, citizens' action groups etc. or through the forging of contracts or agreements between these organisations and local authorities, concerning the respective rights, roles and expectations of these parties in their dealings with one another.

D. Specific steps and measures to encourage categories of citizens who, for various reasons, have greater difficulty in participating

1. Collect, on a regular basis, information on the participation of the various categories of citizens and ascertain whether there are those such as women, young people underprivileged social groups and certain professional groups, who are underrepresented in the elected bodies and/or play little or no part in electoral or direct forms of participation.

2. Set targets for achieving certain levels of representation and/or participation of these groups and devise packages of specific measures to increase the opportunities for participation among the groups of citizens concerned, for example:

i. introduce, for the groups of citizens concerned, an active communication and information policy, including where appropriate specific media campaigns to encourage the groups in question to participate (consideration will be given to adopting a particular language, media and campaign style geared to the needs of each group);

ii. introduce specific institutional forms of participation, designed, where possible, in consultation with the group(s) of citizens whose involvement is being encouraged (there is a wide range of possibilities for meeting the specific needs of various groups, such as various forms of meetings, conferencing or co-option);

iii. appoint officials specifically responsible for dealing with matters of concern to the excluded groups, passing on their demands for change to the relevant decision-making bodies and reporting back to the groups on the progress made and the response (positive or negative) given to their demands.

3. As regards women in particular:

i. emphasise the importance of fair representation of women in decision-making bodies and consider any arrangements which might make it easier to combine active political involvement with family and working life;

ii. consider, if legally possible, the introduction of (compulsory or recommended) quota systems for the minimum number of same-sex candidates who can appear on an electoral list and/or a quota of seats reserved for women on the local council, the local executive body and the various committees and boards formed by local bodies.

4. As regards young people in particular:

i. develop the school as an important common arena for young people's participation and democratic learning process;

ii. promote "children's council" and "youth council" type initiatives at municipal level, as genuinely useful means of education in local citizenship, in addition to opportunities for dialogue with the youngest members of society;

iii. encourage youth associations and, in particular, promote the development of flexible forms and structures for community involvement, such as youth centres, making full use of young people's capacity to design projects by themselves and to implement them;

iv. consider the reduction of the age for voting or standing in local elections and for participating in local referendums, consultations and popular initiatives;

v. consider the various other types of initiative suggested by the European Charter on the Participation of Young People in Municipal and Regional Life adopted by the Congress of Local and Regional Authorities of Europe.

5. As regards foreigners in particular, encourage their active participation in the life of the local community on a non-discriminatory basis, by complying with the provisions contained in the Council of Europe's Convention on the Participation of Foreigners in Public Life at Local Level, even when its provisions are not legally binding on states, or, at least, by drawing inspiration from the mechanisms referred to in this convention.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Report
Doc. 9173 – 11 July 2001

Security and crime prevention in cities: setting up a European observatory

(Rapporteur: Mr BOCKEL, France, Socialist Group)

Summary

Insecurity has become a major concern of many towns and cities in Europe, which are faced with increasing violence, delinquency – particularly juvenile delinquency – and petty and large-scale crime.

This situation is the result of many factors: persistent unemployment, changes in the family unit, social exclusion, the constant pressure to consume, and processes of urbanisation which make little allowance for the harmonious integration of immigrant populations.

Political leaders are faced at all levels with demands from their fellow citizens for rapid and tangible action to reduce the growing feeling of insecurity which they experience.

A satisfactory response to these challenges can be achieved only through concerted action by the main parties concerned – schools, civil society, the courts, governments, local authorities – so that action at local level is integrated with global initiatives aimed at rebuilding the economic and social fabric.

Similarly, and bearing in mind the changes in our societies, the same kind of concerted action must be taken at international, and particularly European, level.

To this end, the Assembly proposes that a European observatory for security and urban crime prevention be set up, the function of which would be to collect, analyse and use information, and to prepare and help towns and cities to apply good security practices. Such an observatory could also provide training for the various parties involved in security policy.

I. Draft recommendation

1. Insecurity has become a major concern of urban societies. In the face of the growth in both petty and serious crime, violence and anti-social behaviour, what is expected of political authorities is rapid action and practical solutions.

2. This situation, in which most European countries find themselves, has made security an essential issue in elections; the contenders are obliged to react to their fellow citizens' concerns.

3. The Parliamentary Assembly is aware that this phenomenon is mainly a result of persistent unemployment, changes in the family unit, the pressures of the consumer society, social exclusion, the often difficult integration of immigrant population groups and inadequacies in urban policy.

4. Unfortunately, growing concern among the public enables extremist movements to expound their xenophobic and racist theories, to lay the blame on scapegoats such as young people or immigrants, and consequently to place in jeopardy the principles of democracy, social cohesion and tolerance in which our societies must have their basis.

5. The Assembly believes that both genuine insecurity and the sense of insecurity and desertion felt by many people in Europe should stir the political authorities to action at all levels – local, national and European – with the aim of promoting security policies and developing instruments geared to the simultaneous implementation of specific neighbourhood policies and joint international measures.

6. From this point of view, it endorses the new strategies to combat insecurity based on improved co-ordination of preventive, repressive and solidarity-oriented measures. These strategies rely not only on the commitment of the authorities concerned, but also on active partnerships between economic and social operators and restoration of the traditional roles of the family, schools, businesses and civil society.

7. Furthermore, the Assembly is firmly convinced that appropriate responses to these challenges can but result from concerted action by the main national authorities concerned, but must at the same time involve greater co-operation between municipal authorities both within individual countries and at European level.

8. In this connection, it is important to verify the usefulness, at least in certain countries, of giving mayors increased security powers, so that, without weakening responsibilities exercised at national level, they can take all the action needed to ensure the chosen policy's success.

9. It is therefore a question of ensuring the integration, at European level, of security and crime prevention policies and urban development programmes, while respecting the principle of subsidiarity.

10. With this aim in mind, the pooling of knowledge must become a key focus of security strategies, so that the positive experience already acquired by certain countries and municipalities can be of benefit to as many people as possible and comparisons between different situations make it possible to choose the most appropriate solutions in matters of urban security on the basis of similar experiences.

11. To that end, it is necessary to promote exchanges between municipal authorities, to foster training of local administrators and to design and implement joint policies in respect of transnational phenomena such as racism, drugs, prostitution, clandestine migration and the trafficking in humans that it gives rise to.

12. It is in this context that the European Union has taken the initiative of establishing a European crime prevention network. The Assembly welcomes this initia-

tive and is of the opinion that its extension to a larger number of countries should be possible.

13. Moreover, the Assembly points out that at the intergovernmental level the Council of Europe has done some important work in this field, in particular with regard to crime, drugs and social cohesion, which would constitute a significant asset in such a venture.

14. Crime and urban insecurity have also been addressed in reports of the Congress of Local and Regional Authorities of Europe (CLRAE), which has recognised experience in the field of training local authority staff and elected representatives. The Congress is, moreover, currently preparing a manual on local government policies aimed at reducing crime.

15. The Assembly also welcomes the holding of the Safety and Democracy Forum (Naples, 7 to 9 December 2000), which brought together 120 European towns and cities to discuss these themes. It concurs with the conclusions set out in the manifesto adopted at the forum, in particular the proposal to establish a European observatory that could draw comparisons between municipalities, offer training courses for various public officials and improve knowledge in the field of urban security.

16. The Assembly is also aware that neither new measures nor the political determination of decision makers to solve the problems of urban security can produce results in practice unless additional funding is provided.

17. The Assembly therefore recommends that the Committee of Ministers:

i. give appropriate priority to urban security problems in the intergovernmental work programme and at the level of other Council of Europe bodies;

ii. establish a European observatory on urban security, which, at the level of Council of Europe member states, would be responsible for:

a. gathering, analysing and making available to all parties concerned information on crime and the operation of systems of justice in the different countries;

b. keeping a regularly updated register of the security practices which bring the best results;

c. organising exchanges between those in charge of security policies;

d. offering training courses for security policy agents;

iii. invite the Congress of Local and Regional Authorities of Europe to pursue its work in this field and become involved in the establishment of an observatory;

iv. ensure proper co-ordination between initiatives of this kind, to be taken at the level of the Council of Europe, and the creation of a network as proposed by the European Union.

II. Explanatory memorandum, by Mr Bockel

1. Insecurity in Europe

1. Europeans feel a strong sense of insecurity. That is demonstrated by all inquiries, whether those conducted regularly by the European Union or that of the United Nations in 1995 when a survey of 135 towns on all five continents placed insecurity third among the concerns of mayors.

2. More and more groups are asking the authorities responsible for official policy to deal with the problems of fighting both serious and petty crime.

3. All the recent political elections in Europe have largely turned on this issue. Extremist political movements have seized upon insecurity and, coupling it with their habitual variations on xenophobia and racism, have waged battles that pose grave perils to all democracies. This grim assessment should encourage political leaders to pursue very assertive reform-oriented policies and also to avail themselves of international co-operation, which can usefully provide instruments capable of adaptation to local policies and broaden citizens' outlook by showing them that they are not facing this crisis alone. Thus, international comparison can help make the most of efforts carried on locally.

4. Since the 1990s, most countries in western Europe have experienced a steady decline in lawbreaking at the same time as a change in the profile of criminal acts. The United Kingdom, whose crime rate remains high, saw a decrease of 8% between 1993 and 1995 and of more than 10% between 1995 and 1997. Concurrently, the far-reaching economic and social transformations in the countries of Eastern Europe brought very sharp increases in crime that disturbed the processes of democratisation.

5. In western Europe, crimes against property declined while physical violence increased, whereas in eastern Europe this type of crime, always comparatively frequent, was aggravated by crimes against property.

6. Feminisation of crime is increasing. Awareness of the problems of violence against women is greater, and their involvement in criminal behaviour has also grown. The problems of prostitution, sexual exploitation of human beings and paedophilia have led to greater awareness without it being possible to say for sure that countries are experiencing strong increases in this type of crime. Is there more trafficking in human beings in the countries of western Europe consequential to the influx of women from eastern Europe? The developing countries have long held this position as far as the countries of western Europe are concerned.

7. Growth of crime linked to intolerance to foreign cultures, to race and gender and to any physical peculiarity is another constant in Europe. This wrongdoing is not significant in terms of recorded volume, but it sends our societies a very serious message. Its incidence is presumably very high because victims often fear reprisals and police investigation work is inadequate.

8. As regards the age groups concerned, it is generally found that young people are much more implicated in crime, equally so as victims and culprits. The pro-

portion of minors in the perpetration of crimes and offences in Germany is 30%, the juvenile crime rate being three-and-a-half times higher than the adult rate.

9. Under 10% of young adults are estimated to be responsible for almost half of the crime committed and for almost two-thirds of serious crime. A British study in 1992 concluded that a mere 5% of victims accounted for almost 40% of total crime.

10. Irrespective of the country, crime must be regarded as a solvable problem. It is not a question of eradicating crime but of reducing it through plain technical measures that do not necessarily involve radical action. Knowledge of crime in their own society proves to be the necessary first step for official policy makers and enforcers.

11. It is generally agreed that the risks arising from deterioration in people's economic and social circumstances are on the increase. But poverty is not in itself a crime-causing factor; if so, crime rates would be far higher. However, there is large-scale lawbreaking by people from socially underprivileged backgrounds. An international survey covering twelve European countries demonstrated, for 1999, the great prevalence of drugs among populations with very high unemployment rates.

12. It is also important not to forget that, lurking behind ordinary everyday crime, a criminal economy supported by local and international criminal organisations has become established. This link between the two types of crime is certainly the most disturbing issue for politicians and officials. One should beware of perceiving organised crime as the counterpart to globalisation of the economy and its "virtual" dimension. For organised crime to pay, by inventing ultra-modern modes of operation, it needs a local footing, a territory to use as a firm base and for recruiting its thugs. Working to curb petty crime in a southern Italian town also means fighting the Mafia.

13. Knowledge accumulated in the last few years has taught us the many causes of crime. A school dropout who keeps bad company, meets with serious family problems and has difficulty in obtaining a number of potentially helpful services has become the stock figure for the European under-age offender. Not all young people going through these situations become delinquents, but in aggregate these handicaps constitute a formidable danger and should spur policy makers to institute comprehensive, personalised and consistent policies to guard against the injuries to self and society caused by criminal behaviour.

2. Common findings as to the causes of crime and insecurity

14. All specialists agree today on the main causes of crime. Only their ranking differs, giving rise to different orders of priority according to the countries of Europe. In addition, economic and cultural choices affect the shape of prevention policies.

15. Economic developments and the flood of consumer goods have encouraged lawbreaking. The plethora of products has been attended by the increasing vulnerability of products used for day-to-day living. Miniaturisation of equipment has encouraged theft. Technological advances were initially exploited to render products more attractive rather than more resistant to predation and theft. Making the "targets" more difficult to reach and less vulnerable is thus becoming a priority. Research in this direction is increasingly absorbed by private industry, and must likewise be absorbed by the administrators of public facilities.

2.1. *Youth, family and community*

16. Over and above society's organisation and malfunctions, the evolution of family patterns brings added complexity to the requisite policies. The proliferation of single-parent families in all social strata challenges specialists as a whole. Added to the difficulties inherent in belonging to an underprivileged class, single parenthood poses problems of upbringing where young people's positive development is concerned. Because of this, many local policies have targeted actions in support of lone parents.

17. Cultural transmission from adults to young people has weakened considerably. Moreover, the transmission is no longer social and generational but essentially a private and family matter. The few transmissions of social relevance occur between peers and this often transmits personal failures due to the state of the labour market. This piecemeal transmission generates cultures of opposition very hostile to adults.

18. In more general terms, the network of social and family relationships within which people used to live and strive is tending to crumble. The idea of the neighbourhood community is no longer an established fact; overall, formal and informal social control is gradually disappearing. This disruption undoubtedly has beneficial effects on individuals' openness to the world around and greater exposure to different cultural models, also greatly benefiting economic development, but in the area under discussion it must be acknowledged that the traditional ways of settling the issue are no longer relevant and new ones must be devised.

2.2. *Urban management*

19. Economic, social and political transformations are accompanied by a crisis in the management of our towns. The crisis is chiefly the offspring of the urban structure itself, built up from the postwar years onwards, which abounds in large social housing complexes, imposes rigorous zoning of the town, thus creating divisions in the urban fabric, and exaggeratedly specialises the residential, occupational, traffic and recreational functions. The design of our towns is more and more of a centre versus suburbs with major difficulties in movement and communication. Saddled with this unsound legacy, we must at the same time respond to rapid change in the patterns of use of the town.

20. Residential, occupational or recreational lifestyles have changed very rapidly. The commercial sector has adapted while the town has changed little in the rules of its civic functioning. Organisation of working time has increased in complexity as new needs have emerged. The town no longer lives according to the same timescales. Some economists consider that altering the time schedules of towns gives them an edge in world competition. On that basis, the cost of office premises

can be seen as an inducement to their full-time use, resulting in the opening of ancillary services, catering services and so on. Night-time availability of sports facilities or transport demands an extensive rearrangement of the urban time dimension, which we are witnessing. Has access to public services kept pace? Can the same service really be obtained at night from the police, post and hospital? The town is where our rights and freedoms are exercised. It is the real-life setting for the exercise of rights. Arrangements for residents' access to a desk or a public service and for keeping people informed of the extent of their rights increasingly pertain to the political organisation of the town.

2.3. *Defectiveness of public services*

21. By observing the malfunctions from which our towns suffer, especially in terms of insecurity, it may be thought that the organisation of our towns is not equal to these new challenges. One sometimes gets the impression of a state that is still built on rural rather than urban society concepts. The town appears to nurture increasingly turbulent conflict situations with its residents, office-bearers and public service managers. Our towns have in some cases become the realm of anxiety, fear and insecurity.

22. This maladjustment of our public services strikes hard at justice, police and punishment supervision services. All European countries have modernised their criminal justice systems. This has cost France, Italy, Belgium and Germany more than eight billion euros over the last ten years, and with what effects? Clear-up rates have continued to decline; major crime, especially where linked with corruption in its various forms, international trade, large multinational firms and large-scale trafficking, is evidently thriving and handles sums of money close to the amounts handled through lawful channels. Petty crime is reported to the police with dwindling frequency, and citizens no longer have much confidence in the operation of crime-fighting institutions. Re-offending remains at very high levels, so high that the appropriateness of the sentencing system is queried.

23. Some writers have no hesitation in stating that the poor operation of a criminal justice system generates more insecurity for citizens than crime as such.

3. Reducing insecurity: European policy aims

24. Many European countries have introduced specific policies covering the economic and social development of the populations of the poorest urban areas. These policies are coupled with town planning policies to curb ghetto-type phenomena. An element of prevention policies is co-ordinated with these more general policies. The rapporteur has set out a few examples below.

25. In the United Kingdom, coinciding with the passage of the Crime and Disorder Act in 1998, the Social Exclusion Unit was set up. Under eighteen cross-disciplinary plans run by Policy Action Teams, it is to achieve four main objectives: reducing unemployment, reducing crime, a better health system and better training. These programmes are centred on disadvantaged areas.

26. The Netherlands adopted a development plan for the principal towns in 1996, concentrating on reduction of unemployment, break-up of families, poor management of public areas, crime and drugs. The machinery is interdepartmental and relies on funds from different ministries. Agreements have been signed with the towns concerned.

27. France has amalgamated its interdepartmental crime prevention arrangements under the authority of an agency devoted to urban policy, concentrating on towns with underprivileged districts. The policy pursued encompasses issues relating to town planning, crime and unemployment, on the basis of general agreements concluded with city mayors.

28. The Swedish Crime Prevention Programme adopted in 1996 concerns the impact on crime of official policies, social development policies in particular, applies measures to support and promote the involvement of authorities, associations and citizens at local level, for instance by setting up local crime prevention boards, and aims at institutional reform of justice and the police.

29. Ireland emphasises the importance of co-ordinating public services and structures through a fund for youth services and structures supporting various projects in problem districts, for example, programmes to discourage premature school-leaving or to support risk-prone children and their families.

30. Germany is currently preparing to set up a national crime prevention forum (DFK) intended to provide new impetus for crime prevention across society and expected in due course to contribute to the development of a national strategy for the prevention of juvenile delinquency.

The Edinburgh example of local insecurity reduction policy

31. The rapporteur, accompanied by Mr Michel Marcus, Secretary General of the European Forum for Urban Safety, was able to visit the city of Edinburgh for an audit of its local insecurity reduction policy, during which it became evident that European towns shared the same kind of concerns and above all the same kind of approach to the problems, especially in establishing permanent local alliances and an operational methodology.

32. The election of a Scottish parliament in 1999 brought sweeping changes to Scottish society, particularly as regards security. The country's economic prosperity reinforces the determination of its leaders to bring the benefits of this growth to the entire population. A number of strategic development instruments in the social and public health field have been adopted. Consequently, problems of security and crime are addressed in this perspective.

33. The national security strategy was laid down in 1992, identifying a number of key objectives and defining procedures for their attainment. Concurrently, the Scottish towns, Edinburgh in particular, adopted strategic plans co-ordinated with the national plan but retaining a certain amount of independence in order to accommodate local factors. This local specificity is moreover encouraged by the national authorities, which have accordingly refrained from incorporating the specifi-

cally English machinery of the Crime and Disorder Act. Its application is not automatic, and the parliament has considered this question by holding a number of debates on juvenile delinquency in particular.

34. This multilevel effort is characterised firstly by the very marked integration of security policies with social and urban development and youth policy programmes. The philosophy guiding this policy choice is the firm belief that insecurity impairs quality of life and points to a shortfall in the social development to which everyone is entitled. Secondly, there is the conviction that solutions to this type of problem are in the hands of the community, which finds greater satisfaction in an overall response to its problems.

35. Quite a broad construction is placed on security. Insecurity is perceived as an encroachment on the quality of life, and hence takes into account hazards such as fire, road danger and alcoholism. The public health services become important agents in the local partnership. This concept has the advantage of not depending too much on crime prevention institutions alone to deal with insecurity. Each problem is assessed, being repositioned in a wider context. That does not detract from the efficaciousness of the action taken, but provides more alternatives for addressing a problem. Advances can accrue from intersection of technologies.

36. This approach has prompted those responsible not to use the English concept of crime prevention but rather that of "community safety". The word "community" is understood as the strongest expression of a person's relationship with his occupational, residential and recreational environment, taking in racial, religious and sexual characteristics. Community safety is understood as the right of all people to live in their town with no fear or anxiety for themselves or others.

37. Another characteristic of this security policy is that it gives pride of place to issues such as family violence, sexual harassment and prevention of racial discrimination.

38. Finally, partnership is energetically promoted. In all areas of Scotland's economic and social life, partnership is the governing rule. An official report mentions the case of a civil servant participating in almost seventy partnerships. This necessitates some control in the conduct of a partnership, particularly its implementation on the basis of precise objectives and widely accepted agendas. The rule is not hard and fast but must prove its worth, especially in terms of budgetary savings. Each action must have its own financial schedule allowing future appraisals. It should be noted that the appraisal is no longer made on purely financial points but in terms of "best value", qualitative factors being included in the evaluation process.

39. The city of Edinburgh has given very high priority to the community safety policy, with special attention to the security of the most vulnerable groups:

– the elderly must feel safe in their homes and in their immediate surroundings;

– women must be protected from any attempted harassment in the community and from violence in the family;

– persons belonging to ethnic minorities must not be subjected to any persecution on the ground of race;

– children must be able to play safely in the streets where they live;

– business and factory owners must be sure their investment is safe in Edinburgh.

40. The above population categories were identified by means of extensive consultations revealing that fear of crime was far more important than actual crime. This fear is caused by various factors relating to road danger, cleanliness of the streets, poor street lighting and lack of services. The accumulation of disadvantages is more visible in certain parts of the city.

41. The scheme of action prescribed by the strategic plan incorporates six principles:

– establishing a lasting partnership based on the network of operators in the area of security. This work must be carried on by making the idea of security part and parcel of urban programmes and providing information on outcomes;

– preventing certain crimes from being committed by concentrating action on certain areas and curbing the repetition of offences. This action is to be directed chiefly at preventing certain dangerous forms of behaviour and abuse of alcohol and drugs. Fighting racially prejudiced attitudes will be encouraged, with schools a main target area of this policy;

– relieving the sense of insecurity and the harassment and intimidation suffered in day-to-day life by singling out the groups especially at risk, providing information and encouraging best practices;

– pursuing an active victim support policy to remedy the consequences of crime;

– broadening community consciousness around the security issue by pursuing a wide-ranging policy of consultation with residents and including more and more partners in the relevant actions;

– making better use of available resources and raising new resources from the private sector.

42. In order to apply the above principles, various groups have been formed to define, carry out and follow up the required actions. Young people, women, ethnic and sexual minorities and business security are themes handled by these groups. The groups have developed from a broader entity, the "Edinburgh community safety partnership" headed by a local council member who also chairs the police liaison office. This entity includes the police and fire brigade, tenants, enterprises, the chamber of commerce, senior citizens' representatives and the chairs of each working group. Its administrative support is provided by the "community safety unit".

4. Difficulty regarding knowledge of insecurity

43. The "reality of insecurity" is different from the "sense of insecurity". Their relationship defies logic; knowledge concerning them is still rudimentary.

44. The difficulty in determining the reality of insecurity in Europe is considerable. Crime statistics confuse observers by their heterogeneousness. On several occasions the Council of Europe has acknowledged the difficulty of comprehending crime phenomena on a Europe-wide scale. This difficulty is connected with the diversity of legal systems giving rise to very disparate definitions of crimes and offences, and also with the various arrangements for referral to the courts which makes it difficult to choose a point in time for adding up the crime figures. But these difficulties are also present in other equally technical fields.

45. Harmonisation is a difficult business, but a number of intermediate stages can be covered if such is the will of governments. The work conducted on organised crime has led to closer correspondence in the definition of crimes. The effort has yet to be made in respect of petty crime, where realisation of the need for international co-operation is not yet acute enough to start the experts working on harmonisation.

46. Another area of knowledge about crime is formed by "victimology". This comparatively new technique allows for international comparisons through standardisation of the questions put to the inhabitants of a town. The United Nations has been engaged in this for some years. The aim of these inquiries is to ascertain all the criminal acts committed against a person and not fully reported by that person to the authorities. It has long been established by all these inquiries that crime as recorded by the police is but an imperfect reflection of actual crime. Consequently, it seems that by comparing the inquiry results with the activity of the police and justice departments, useful adjustments can be made to policies.

47. Other inquiries also consist of questioning people about their responsibility as perpetrators of undisclosed crime, and this has produced surprising results, especially as regards drug-taking. In a French survey of people under 18 years of age, it was found that 60% of young people had tried drugs at least once. Between one-third and half of women in developed countries have received violent treatment from men.

48. Apart from survey-based scientific work and appraisals of factual knowledge, it is important to arrange regular exchanges between security policy authorities. Such exchanges, concerning practices as well as the nature of the problems encountered by each town or region, could create a body of shared knowledge in various subject areas.

49. For instance, a database could be built up concerning acts of violence committed in schools and, without scientific authority, could be used by official policy designers and executors for reaching or prioritising their decisions. It would also be desirable to increase the frequency of meetings of police officers, judges, social workers and local councillors according to a common procedure.

50. Specialists are even more bewildered by the measurements of the "sense of insecurity", which in fact are unrelated to the real crime figures and above all seem to incorporate not only elements directly derived from serious or petty crime but also types of behaviour associated more with the rules of community life, with the social norms governing communities and social groups. This sense of insecurity varies according to population category. It is stronger among elderly people, and those who are physically impaired consider themselves more likely victims. People's social and cultural level and their isolation also fuel this insecurity-consciousness. Places of abode have also become decisive factors in the emergence of a sense of insecurity. Media interest in criminal cases, particularly those involving minors, the sensitivity of public opinion to such cases and their political exploitation constitute factors which heighten the citizens' sense of insecurity. One or other decisive factor will be more or less strongly emphasised in the different states of Europe.

5. For a European security observatory

5.1. *Motives*

51. The creation of a European crime and crime prevention observatory is justified on urgent grounds, retrospectively as well as prospectively.

52. Retrospectively, there is the Council's past work. The Council of Europe has conducted unanimously acclaimed studies on harmonisation of European crime statistics, featuring an effort to work out a theoretical basis for the definition of crimes. Another activity has concerned drugs, where work has covered not only definitions but also the exchange and evaluation of experience. The third field of study is penology, custodial penalties in particular. This work forms a research basis on which to found a permanent observatory.

53. There is the recognition of security as a common asset without which sustainable development cannot be contemplated. Knowledge about interference with this asset is becoming crucial, and requires the setting up of instruments by which official policies for reducing insecurity can become more accurate.

54. Owing to the internationalisation of the links between petty crime and serious crime, the Council of Europe is genuinely qualified to try and organise a crossover enabling all agents of local and national policies to meet and compare notes. The need for each Council of Europe member country to align itself to a minimum set of norms and standards on services to citizens is another consideration in favour of an observatory. It must provide methodological assistance in establishing these standards, which are felt to embody a considerable part of the prevention policies.

55. The need for such an observatory is further emphasised by the European Union initiatives regarding the formation of a European crime prevention network. The existence of this network, with, most likely, a "knowledge component", may make it possible to adopt common methodologies and give the Council of Europe observatory a high degree of legitimacy.

56. According to the audits carried out in various towns of Europe, the committee's hearings and previous work, security policies in western Europe are tending towards uniformity of objectives and methods. Comprehensive objectives, partnership practices and multidisciplinary methods are sought as components of these policies. This approach is beginning to be adopted by other coun-

tries and towns in eastern Europe, and there are moves to set up exchanges which would be hastened by the observatory.

57. The observatory will achieve instant effectiveness if it sets out to reach these operators working in the context of European security policies. It must be of real service to more than one type of operator on the European scene, through the information and data which could be stored by the observatory.

5.2. *Operators*

58. Four types of operator concerned with the observatory can be distinguished:

– officials of European bodies required to discuss security policy guidelines in the same way as the Council of Europe members;

– national policy makers seeking points of comparison on which to judge the appropriateness of their policies, or predictive data on trends in crime;

– administrators of local security policies who want to be acquainted with experience abroad and who want to make more regular co-operation arrangements and implement actions in response to comparable situations;

– academics and heads of European research centres interested in statistical approaches to crime and in common research projects.

59. In addition to the above, there is the public in search of information on crime, supplied only in snippets at present. The media have no real mine of information or lode of reporting on policy action, so the observatory must act as a resource centre.

5.3. *Functions*

60. The main functions required of this type of facility are analysis, registration of the most effective crime-fighting practices, training of agents, and exchanges.

a. *Analysing crime in Europe*

This is a dual function relating to the compilation of crime statistics and to the operation of the criminal justice apparatus as well as to medium-term trends in crime which may emerge from examination of national research. The resources available in each country must be used first of all. This ought not to prevent common research from being initiated to enhance the observatory's analytical capability. Analyses should focus primarily on common trends in Europe or differences between countries in order to help establish unity of analysis. Gathering of statistics, however, is not to be carried out with a view to homogenisation.

b. *Registering security practices*

In relation to the various themes covered by security, a database on best practices should be built up. Registration of best practices can be effectively carried out at the level of towns or regions using a standard data sheet understandable to Europeans in general. This type of information has a rather short life-cycle and requires regular updating by those in charge of policy action. Their interest in doing so will be genuine if they are consulted on the compilation of the data sheet. The procedure for registering these practices will prompt the setting up of a network of technicians.

c. *Training of policy agents*

The observatory would have the dual function of offering directly managed courses and crediting those provided by other authorities.

The observatory would offer directly managed courses on the question of the links between serious and petty crime, on transfrontier crime, on the institution at national level of a comprehensive security policy, and in the case of countries applying for membership of the Council of Europe.

On the basis of courses run by many countries on security methodology or on the sectors concerned by security, the observatory could "certify" these courses and so help reinforce unity and thereby the coherence of approaches in the various countries.

Such a European observatory would draw directly upon the new communication technologies founded on the networking concept, with an indispensable "network apex" in charge of introducing and enforcing elementary rules that enable all to express themselves. The observatory should be made up of "network apexes" corresponding to each of the operators who are its clients. This method will ensure strong osmosis between fieldwork and the knowledge aspect, and will encourage those in possession of factual information to supply it to the observatory. This technique also allows for prospective ongoing construction of the observatory, network by network, and for continuous extension of its geographical coverage.

d. *Organising exchanges between security policy agents*

These agents are varied, belonging to the sectors of education, police, justice, social work and others; they are also elected representatives at all levels, and urban technicians.

They work together at local level, but exchanges should be organised at the European level to reinforce their commitments and to increase their skills. The observatory should play an active part by way of cross-auditing, thematic seminars and inter-city exchanges.

6. Validating the proposal

61. In preparing the report, the committee and the rapporteur thought it important to seek various opinions on this proposal, so that they could refine it in the light of the views expressed.

62. Your rapporteur accordingly attended the "Safety and Democracy Forum", organised in Naples from 7 to 9 December 2000 by the European Forum for Urban Security. Both the work done at the meeting and presentation of the draft report on that occasion showed that there was clear support for the establishment of an observatory, as proposed by the rapporteur.

63. Indeed, this was the view expressed by the 250 European towns represented at the forum.

64. At the end of their discussions, which had focused on various aspects of the general theme of security, democracy and violence, these towns adopted the "Safety and democracy" manifesto, in which they called, *inter alia,* for the creation of a European monitoring centre for crime prevention and safety, designed to cover an enlarged Europe.

65. Aware of the importance of this issue, the committee wished to have the possibility, before presenting the report to the Assembly, of holding an exchange of views with the mayors of several towns who, living in contexts which differed in various respects (social, economic, cultural, etc.), could report on their experience and the success of their security policies.

66. On 27 June 2001, during the Assembly's session, a colloquy was accordingly arranged with the mayors of towns as different as Astrakhan (Russian Federation), Trois-Rivières (Canada), Modena (Italy), L'Hospitalet (Spain) and Strasbourg.

67. The mayors' presentations and the exchange of views, in which other urban representatives and the committee members took part, helped us to amplify the draft recommendation for submission to your Assembly.

68. All the urban representatives present agreed that parallel approaches and multiple partnerships held the only key to preventing and combating crime, and that improving the effectiveness of the courts and police must go hand in hand with social and educational initiatives, making for a better living environment and greater social cohesion.

69. The meeting also provided final confirmation that pooling experience was invaluable in this area.

7. Conclusion

70. Crime and insecurity are not a predestined part of economic development and poverty, but first and foremost the symptom of the malfunctioning of the institutions responsible for regulating society and troubleshooting its breakdowns. They are also a sign of various anachronisms in the functioning of our towns and our justice and police apparatus.

71. Commitment to insecurity reduction is above all a matter of choosing from the possible social and economic investments and then carrying out the requisite modernisation in our managerial and functional styles. It entails reappraisal of past achievements, corporate attitudes and bureaucratic practices.

72. This is more easily done if the modernisation carried out involves general concerted action and participation by all, particularly residents. It is achieved if we can see its effects in improving the circumstances for all.

73. It is very helpful to realise that the difficulties experienced in contending with insecurity and taking action to remedy it are the same for the neighbouring town or country. Building capacity for comparison and consultation on the relevance of actions and on its results is one of the reasons behind internationalism and European unification.

74. Participating in an international network for exchange of experience and training resources is definitely the best way to make up the institutional deficiencies of all Europe's countries and towns.

75. It is important to pointed out that this European monitoring centre, envisaged at the level of an enlarged Europe, could serve as an effective complement to the European crime prevention network to be set up within the European Union, on the basis of a proposal by France and Sweden that has already been approved by the European Parliament. Co-operation between these two initiatives could only contribute to ensuring fruitful interaction in terms of data, finances and results, and would thus provide a valuable response to one of the major problems facing our societies.

APPENDIX

The cities' manifesto for safety and democracy

The representatives of 250 cities, meeting in Naples on 7, 8 and 9 December 2000, in the presence of representatives of African, North American and Latin American cities, adopted the safety and democracy manifesto. They called on other cities in Europe and worldwide to join them by adopting and implementing the principles set down in the manifesto.

1. We want our cities to be quality cities – safe, vital places of harmonious development. Insecurity and fearfulness, violence and feelings of abandonment can seriously and enduringly endanger the development and renewal of a city.

2. The challenge to us all is to guarantee the legitimate right to safety of each and every individual, family, neighbourhood, community and city. The struggle against crime must avoid practices based on racism, fanaticism, discrimination, or scapegoating (of young people, immigrants, or particularly vulnerable groups); these attitudes would result in fragmentation and jeopardise the future of a Europe of cities.

3. The European Union – having established the internal market and the single currency, and laid the foundations for a social Europe – has decided to give top priority to the development of "a space of freedom, safety and justice." This goal cannot be achieved without Europe's cities.

Cities of freedom

4. Our cities are not egalitarian: rich neighbourhoods exist side by side with poor neighbourhoods. This co-existence needs to be organised in ways which do not involve creating physical or symbolic barriers in urban planning or access to services and decision-making processes. Let us affirm the concept of inclusive cities, where citizens participate in local policies.

5. Cities are heterogeneous, and different lifestyles can cause tension between population groups. This diversity is our wealth, and conflicts, when they arise, must be solved by prevention and inclusion policies and by appropriate design and organisation of space. Quality of physical space can contribute to personal safety, through an approach to urban planning which maintains a careful balance between development and quality. Public spaces, residential areas and commercial areas must always be meeting places.

6. We want our cities to be friendly cities where migrants, nomads and citizens of other parts of the world are made welcome. Immigration problems cannot be solved by criminalis-

ing immigrants or by rejecting diversity. Trust requires clear regulations concerning admission of foreigners and permission to remain (in particular with regard to family reunification); it demands that we combat illegal immigration by targeting criminal networks that traffic in human beings; it calls for legal definitions of conditions for massive influxes of refugees from unsafe or war-torn areas, and for appropriate conditions of reception and settlement of asylum seekers, in full respect of their fundamental human rights.

7. Cities of freedom are tolerant cities; they reject extremist strategies for the eradication of conflicts. They educate their citizens to due process and solidarity, with a view to transforming violence and fear into incentives for personal growth, in openness to the world and tolerance of others. To educate is to help young people channel their violence into positive energy towards a better future for themselves and for others.

Cities of justice

8. Insecurity is not merely fear of burglaries and muggings. It can also grow out of dangers such as traffic, an unhealthy or precarious environment and, above all, the fear of having nowhere to go for help or support in case of need, no services offering protection or compensation.

9. Citizens do not all have equal access to safety. Depending on factors such as ethnic origin, status, gender, age, and condition, fear is more or less incapacitating; danger in the streets, in public areas and at home is more or less serious; recourse to justice against violence is more or less difficult; access to legal process and recognition of rights is more or less uncertain. These are wrongs which must be addressed at every level of public authority.

10. We cannot rely on market laws alone to redress these iniquities. If commercial interests are allowed to determine the capacity of groups and individuals to maintain public order and to control crime, safety will depend on personal wealth and on an individual's capacity to access new technologies and protected areas.

11. Governance of safety builds confidence in justice through participatory management of real insecurity, of fearfulness and of social problems. The answer lies in involving families, adults, citizens, and communities. Recourse to conciliation, mediation and arbitration heals relationships in the framework of rules and standards which are rooted in our customs and traditions, thereby strengthening bonds of conviviality, neighbourliness and community, as well as the feeling of belonging to a communitarian and multicultural city.

12. Cities must guarantee adequate living conditions to all citizens, in full respect of their fundamental human rights: access to housing (including reception sites for travelling people), access to employment, access to education, access to justice. A city of responsible citizenship enables its citizens to access their rights and expects them to fulfil their obligations.

13. Harmonisation of civic rights and obligations at local, national and European levels will foster trust among citizens and increase the effectiveness of our struggle against all forms of sexual and racial discrimination.

Safe cities

14. Safety is a common good which is essential to sustainable development. It is the sign and the condition of social inclusion and of equal access to other common goods such as education, justice, health and environmental quality. Promoting safety is not primarily about policing and relying on the penal system. To promote safety is above all to develop a common good.

15. Our safety policies are first and foremost prevention policies based on risk-reduction and increased provision of services.

16. Such policies call for a renewed commitment to partnerships between economic and social key players in the cities. They reaffirm the role of families, schools, businesses, streets and public spaces, and place a new emphasis on solidarity and on civil society.

17. Such policies are based on criminal justice systems designed to introduce a sense of responsibility where violence is destroying families, businesses and streets, and to contribute to risk-reduction and prevention of insecurity.

18. These policies are based on community public services which operate in a climate of transparency and respect for the users' rights.

19. Cities have an obligation to take care of victims – to provide them with support, assistance and help in obtaining redress and compensation.

20. Such policies call for active involvement of every level of government, and for greater co-operation between cities.

Europe and the cities

21. The cities of the European forum subscribe to the United Nations' draft declaration on the principles of good urban governance which calls on local authorities to participate in the development of crime prevention strategies, in partnership with all the key players, making sure that poor and marginalised citizens are fully involved in the definition of these strategies.

22. The cities of the European Union must be encouraged to introduce the issue of safety into the governance of their cities. While respecting the principle of subsidiarity, Europe must integrate safety and crime prevention policies into urban development programmes.

23. Europe must promote exchanges between cities, encourage training of local key players, and develop common policies around transnational issues such as violence in sports, racism, drugs, exploitation of human beings, links between petty crime and organised crime.

24. Europe's political will must find concrete expression in the creation of a European network which will bring together all the key players of safety policies, and in particular the representatives of civil society. Assisted by a monitoring centre, this network will develop the necessary instruments for comparisons between cities, create training programmes, and spread information on good practices in the area of urban safety.

25. A European budget must be approved to provide support for local safety policies.

26. European cities would like to see inter-city co-operation spread to include cities worldwide, and calls on the Union to take into account the need for such a global approach to safety policies.

To implement the above principles, the cities have set the following priorities for action:

1. Safety, urban planning and sustainable development

Urban safety can no longer be reduced to crime control. Lack of safety is a complex problem:

– it is linked with problems in other areas such as health, environment, urban planning and education;

– it is the result of growing inequalities in access to resources;

– it involves conflicts of interest, in particular with regard to shared space and time in the city (leisure activities by night, sports, prostitution, etc.).

Insecurity is an urban risk and it calls, in part, for civil responses.

In view of the above, the cities are agreed on the following principles for action:

1.1. Safety calls for the establishment of a global policy for risk-management:

– a global approach to problems;

– reduction of risks associated with insecurity;

– an interdisciplinary approach;

– political leadership of this complex system, requiring organisation of dialogue between municipal agencies (which are all too often left out), and in particular between agencies in charge of urban planning and agencies responsible for urban safety.

1.2. New projects for urban renewal or reconstruction must integrate the issue of safety at the planning stage and at the management stage:

– a social impact study must be built into every urban project;

– social management (policy and technical implementation) must be part of every urban project;

– planning for post-project management must be included in the earliest stages of project design.

1.3. A quality approach must always favour negotiation over normative or prescriptive action. Local authorities shall ensure that:

– local political and administrative agencies engage in negotiations with the local population;

– all population groups and all neighbourhoods in the city have equal access to participation in the development, evaluation and implementation of projects;

– all have access to information and to urban services; this is an essential prerequisite for community participation.

1.4. Urban safety calls for the development of quality urban services accessible to everyone. In particular, it calls for quality public space and for a high standard of management of such space.

2. Options with regard to safety

Community safety and personal safety are basic requirements of human existence. Crime threatens the quality of life of the inhabitants; it is traumatic to the victims and a threat to civic vitality.

Efforts to reduce crime, violence and insecurity have commonly and all too frequently been limited to action by police services and criminal justice agencies, followed by detention. The huge increase in the number of people detained in European prisons over the last two decades is unacceptable. It is essential to respect both the interests of the victims and communities and those of the offenders.

To achieve the right balance between control, sanction and prevention, greater emphasis must be placed on social and "situational" prevention, both from the organisational standpoint and from the standpoint of funding. Studies have confirmed that preventive approaches which promote integration of young people into community life, thus attacking the deeper causes of crime, reduce violence and victimisation. Research has also shown that these approaches are far more cost-effective than those based only on repression and detention.

In view of the above, the cities are agreed on the following principles for action:

2.1. *Crime prevention programmes and zero tolerance for exclusion*

National governments need to look at the situations produced by the growing gap between rich and poor, the exclusion of young people, real gender inequalities, racial discrimination, rapid urban growth, design of consumer goods, and the availability of guns, illegal drugs and alcohol.

To address the causes of crime and insecurity, local authorities must focus on strategies for joint mobilisation of sectors such as schools, housing, social services, police, justice, and citizens. They need to target the causes of local problems through the development of operational coalitions. This process will involve organisational changes, safety appraisals, as well as evaluations and cost effectiveness studies.

The efforts of local authorities need to be supported with funding and expertise from other levels of government.

2.2. *Effective responses and sanctions which foster inclusion*

Local authorities must implement programmes to prevent recidivism; these must be based, in particular, on social development and on conflict resolution through mediation and compensation by offenders.

2.3. *Minimal recourse to detention*

Prisons are a limited resource; their use must be strictly limited and always justified by clearly defined imperatives based on social consensus. Prison inmates must not be cut off from their communities; they must be detained in locations which are as close as possible to their families and to services which can promote their future re-integration into community life. It is important to facilitate access to prisons by social services and services providing training, education and employment.

Local authorities must be involved in developing alternative community service and other sanctions which can reduce recourse to detention in prisons.

2.4. *Improved communication and increased community participation*

Citizens must not only participate in the development of strategies for crime reduction and reduction of insecurity. They deserve to be informed on what is effective and fruitful. Police and justice services need to take people's concerns more fully into account.

2.5. *Our strategies must have at their core the exchange of information*

The decisions we make with regard to urban safety must be based on all the knowledge that is available. They must be based on an accurate analysis of the costs and benefits of every short-, medium- or long-term project, in particular in terms of the effects of detention measures and the distribution of police personnel.

Numerous examples of urban safety practices illustrate the fact that it is possible to have an impact on the reduction of crime and insecurity. It is essential that we develop discussion and training opportunities for all local practitioners and key players, so that these concrete solutions may be implemented more widely in our communities. We call for the establishment of a European monitoring centre for crime prevention and safety, designed to cover an enlarged Europe.

3. Young people, cities and the law

We must work for young people – girls and boys – but also with young people. Our societies must learn to trust them and to avoid generalisations which stigmatise them and portray them as potential criminals.

We want safety which is respectful of young people:

– responses must be proportionate to problems;

– to the extent that this is possible, young people must be involved in safety and crime prevention projects in ways which allow them to become active players in these projects.

In view of the above, the cities are agreed on the following principles for action:

3.1. *Reaffirming the role of families in early prevention*

We have noted an overall trend towards a decrease in the age of offenders. Prevention measures targeting young people appear to be less effective beyond a certain age. We need to work with very young children – boys and girls – with a personalised approach.

To this end, the role of parents in education and in the transmission of rules and values is critical. Some parents seek help in understanding their children, in order to avoid becoming alienated from them and in order to assume more fully their role as parents. It is our responsibility to provide support and assistance to these families without labelling them "bad parents".

We should also point out that schools are equally crucial to this process of transmitting the values and rules of our societies.

3.2. *Cities are the driving force of essential partnerships*

Partnerships have become a key factor in the success and effectiveness of safety and crime prevention projects. Such partnerships must bring together all the local key players of a city; partnerships must also develop between cities in order to promote:

– the exchange of experience between cities;

– the implementation of the principle of "break-away pedagogy", providing boys and girls a chance to extricate themselves from their habitual environment.

3.3. *Protecting our young people – both male and female*

We must not forget that young people are also the principal victims of violence. Crime prevention must not be at the expense of a better system of assistance to victims, one that is better able to identify young people in distress. To this end, we need to provide consciousness-raising and training courses for all local key players on ways of detecting various forms of distress and encouraging victims to speak out.

This is all the more important in light of the findings of numerous studies which indicate that those who have experienced violence are most likely to inflict violence.

3.4. *Evaluations guarantee higher effectiveness*

Although we now have a considerable store of information on juvenile delinquency, this has not yet been translated into a sufficient number of effective and concrete projects. We need to make better use of our accumulated knowledge and to develop a gender-specific approach.

Our projects will only become more effective if they are built around solid preliminary appraisals and authentic evaluations. Project evaluations must look at cost-effectiveness, but also at value added.

Our evaluation systems need to be harmonised in order to promote a common culture of evaluation and thus foster exchanges between cities and between countries.

4. Mobility and safety: friendly cities

We must combat the recurrent stereotype which links the issue of safety to that of immigration.

However, if are to effectively put an end to this stereotype, we cannot ignore or underestimate those situations where immigration and illegality come together. We need a clear understanding of facts if we are to develop instruments capable of breaking down prejudices linked to identity. To this end, prevention and repression must work hand-in-hand to develop, where necessary, procedures for verifying identity, more effective sanctions to prevent recidivism, measures to combat exploitation of migrants, and so forth.

In addition, we need to give a larger place to social structures: although they are not in themselves a solution to illegal immigration, without them we cannot hope to obtain concrete and lasting results.

In view of the above, the cities are agreed on the following principles for action:

4.1. *A new common immigration policy for Europe*

In the framework of the new powers conferred by the Amsterdam Treaty with regard to immigration, we call on the European Union to adopt without further delay a common immigration policy for the fifteen member states. We welcome with enthusiasm the European Union's declaration on a strategy for immigration, which was submitted to the Council and to the European Parliament. While stressing our desire to actively participate in the preparation of such a document, we also wish to express our support for the global approach described in this innovative proposal – one that takes into account all of the issues linked with migration (economic, social, political and humanitarian). The main lines of this approach include:

– new channels for legal immigration, abandoning the closed borders approach;

– the struggle against illegal immigration;

– integration policies, partnerships with the countries of origin;

– admission on humanitarian grounds.

4.2. *The fight against trafficking in migrants*

We call for an active commitment at all levels to the struggle against trafficking in human beings; along with trafficking in migrants, this is now one of the most lucrative forms of illegal trade by organised criminal networks. We wish to stress the importance of the United Nations Convention against Organised Crime, signed in Palermo in December 2000. Over one hundred countries were to sign the convention and the protocols on smuggling of migrants, thus laying the foundations for judicial and police co-operation in the fight against organised crime which, until now, has operated freely across national borders. We support all action leading to the ratification of this convention by the parliament.

4.3. *Measures to promote integration and combat discrimination*

We vigorously support European initiatives – and those of member states – designed to provide migrants with living and working conditions equal to those of other citizens. We

must focus our efforts on the struggle against exclusion which affects migrants in a special way and explains their over-representation in prisons.

Clear directives must be adopted concerning family reunification (with reference to European directives), and concerning entry and permission to stay, with regard to both migrants and refugees.

All the measures against discrimination and xenophobia mentioned in the action programmes and in the two declarations of the European Community must be implemented. Such measures shall be supplemented by specific integration programmes at the national, regional and local levels. We must pay special attention to the issue of nomads and travelling people, and be mindful of their wish to be recognised as a nation of approximately 10 million people in Europe.

A multicultural society requires some adjustments on both sides – by the immigrants, and by the host society. Mindful of the international convention on the rights of children, we must pay special attention to children, and in particular to those who are alone. All forms of representation and participation in local politics must be encouraged; the right to vote in local elections must be extended to all legal residents. Though it cannot be enforced, the European Charter on Fundamental Human Rights approved by the Nice Conference can be used to develop a new and broader understanding of citizenship that includes migrants and addresses both rights and obligations.

4.4. *A new model*

Policies designed to promote integration and combat exclusion have led to the development of a co-operative and participatory model which focuses in particular on the participation of migrants and their representatives in local institutional bodies. In this respect, we emphasise the importance of the United Kingdom experience in combating discrimination through the establishment of a commission for racial equality.

5. Partners for safer cities

Decentralisation is the framework within which we identify potential partners and redefine their functions with a view to safer cities. Decentralisation allows cities to exercise their proper role in the governance of safety, and other institutional bodies to contribute to the development of a joint national policy, in full respect of the specificities of each partner.

The central role of cities allows – and calls for – the development of "grass-roots policies" and of a form of territorial governance which requires active participation on the part of the citizens, both individually and collectively.

Cities are today the laboratories of democracy, experimenting with policies and producing concrete and effective solutions to safety problems which the central authorities were often unable to tackle. Safety and crime prevention are essential for the reduction of urban and social exclusion and for the effective protection of individual and social rights. Local participation is a crucial element of this new approach adopted by local authorities; other approaches, such as zero tolerance, have not achieved satisfactory results and have sometimes proved to be counter-productive.

Community participation policies must involve all citizens, whatever their income level and whether or not they are beneficiaries of inclusion or protection policies.

In view of the above, the cities are agreed on the following principles for action:

5.1. Development and leadership of new policies for the promotion of subjective safety and for the prevention of crime and incivility. Such policies are already in place in some European municipalities.

5.2. Development of permanent urban safety coalitions – both municipal and intermunicipal, under the leadership of political authorities. These coalitions bring together:

– representatives of the public sector, and in particular of police, justice, housing, urban planning, social action, health and education services;

– representatives of the voluntary sector;

– representatives of the private sector – transport agencies, chambers of commerce and industry, etc.

5.3. Urban safety practitioners and others involved in crime prevention and safety are to be encouraged to favour civil rather than penal or police-centred approaches.

5.4. Development of new procedures for qualification and "professionalisation" of key players who contribute to urban safety at various levels. In particular, development of a legal framework and third-level degrees in support of the new jobs which are emerging in local communities to address safety-related problems more appropriately and effectively.

5.5. The relationship between public authorities and commercial safety providers needs to be organised more efficiently.

5.6. National governments participate in crime prevention policies by supporting:

– local safety policies;

– the development of crime prevention agencies at all levels;

– development of instruments for data collection: local safety appraisals, social monitoring centres, evaluation of agencies and procedures;

– changes in central services to adjust to the needs of proximity.

6. Violence in a woman's city

Violence perpetrated against women by men must be recognised everywhere by law, and condemned. We must continue to put pressure on national governments, local authorities and international agencies to ensure that political authorities are held accountable for the implementation of legislation to this effect.

Private and public acts of violence by men against women are related; they reflect the inequality which characterises relationships between men and women. For this reason, all action programmes designed to reduce insecurity must involve gender-related approaches; in addition, such programmes must include projects designed to promote egalitarian relationships between men and women.

Urban safety key players must integrate gender-specific approaches into their action plans, which must also have precise objectives and evaluation indicators.

In view of the above, the cities are agreed on the following principles for action:

6.1. *Recognition of gender-related violence*

Gender-related violence is misunderstood and often completely ignored. Statistics on all types of insecurity must be based on gender-specific approaches.

Because women are victims of "symbolic" violence as well as of acts of violence, collected data must be based on women's own accounts: qualitative interviews, exploratory walks, breakdown of data by gender.

We must also promote pooling of information at the international level.

6.2. To combat women's feelings of insecurity we must change cultures, perceptions and attitudes.

Education of children and adults is the first priority:

– in schools (boys and girls);

– through ongoing education throughout life;

– training professionals to promote common reference points.

6.3. Both men and women contribute to urban safety; both men and women must together, as equals and in equal measure, initiate and participate in the definition of policies.

To achieve this goal, we must make sure that women have access to political power, and that participation by women citizens and by groups of women is firmly built into urban policies and decision-making processes.

6.4. Partnerships between groups of women, technical agencies, criminal justice systems and political authorities have proved to be effective – perhaps even essential – factors in the development of coherent and successful projects.

6.5. The only way to guarantee that these recommendations are implemented is to allocate specifically earmarked funds.

In view of the urgency and of the complexity of the issue of violence against women, and in view of the extent to which this issue has until now been misunderstood and neglected, public authorities should allocate funds:

– for management of emergency situations (shelters and other reception facilities);

– for the development of prevention programmes, which should rank high among the concerns of most communities.

6.6. Cities shall make sure that gender-specific approaches are built into the urban safety policies defined in this manifesto. They shall pay special attention to the issues of trafficking and commerce in women, and to the problems of immigrant women and asylum seekers who are victims of domestic violence.

Reporting committee: Committee on the Environment and Agriculture.

Reference to committee: Doc. 8472 and Reference No. 2417 of 20 September 1999.

Draft recommendation adopted unanimously by the committee on 29 June 2001.

Members of the committee: *Behrendt (Chairman), Besostri, Hoeffel, Hornung (Vice-Chairmen),* Adamczyk, Agius, *Agudo, Akçali,* Aliko, Andreoli, *Angelovičová,* Annemans, Bartos *(alternate: Sehnalová), Bockel, Briane,* Browne *(alternate: Kiely),* Burataeva, *de Carolis,* Carvalho, *Chapman,* Colla, *Cosarciuc,* Cox *(alternate: Meale), Diana,* Duivesteijn, *von der Esch, Etherington,* Frunda *(alternate: Kelemen),* González de Txabarri *(alternate: de Puig),* Graas, *Grachev,* Hajiyeva, *Haraldsson,* Ilaşcu, *Kalkan, Kanelli,* Keuschnigg *(alternate: Gatterer),* Kharitonov, *Kjær,* Kolesnikov, *Kostenko,* Kostytsky, *Kurucsai,* Kurykin *(alternate: Gaber),* Lachat *(alternate: Fehr),* Libicki, Van der Linden, *Lotz,* Manukyan, *Mariot,* Martínez-Casañ *(alternate: Fernández Aguilar), Mikaelsson,* Minkov, Monteiro, Müller, Pisanu *(alternate: Pingerra), Podobnik, Pollozhani,* Prosser *(alternate: O'Hara),* Radić, *Rise,* Salaridze, *Schicker, Schmied, Skopal, Smolarek,* Stankevič *(alternate: Burbienė),* Stoica *(alternate: Coifan), Tanik,* Theodorou, *Tiuri, Toshev, Truu,* Vakilov, *Zierer, Zissi,* N… (Andorra) *(alternate: Pintat).*

N.B. The names of those members present at the meeting are printed in italics.

See 25th Sitting, 24 September 2001 (adoption of the draft recommendation and the draft order); and Recommendation 1531 and Order No. 576.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Addendum
Doc. 9173 – 19 September 2001

Security and crime prevention in cities: setting up a European observatory

(Rapporteur: Mr BOCKEL, France, Socialist Group)

Draft order

1. The Parliamentary Assembly is deeply concerned about the increase in violence and delinquency in many cities, and about the growing feeling of insecurity among residents.

2. In view of the many causes of this situation, it is essential to develop concerted action involving all the stakeholders concerned: governments, local and regional authorities, the police, the courts, social services, civil society, etc.

3. Furthermore, the Assembly is convinced of the importance of undertaking and developing action at European level to make optimum use of the knowledge, experience and skills of each sector.

4. Believing that it has a duty to help find solutions to this problem, the Assembly instructs its Committee on the Environment and Agriculture, responsible for questions pertaining to local authorities:

i. to organise a European conference bringing together the main stakeholders concerned by urban insecurity in member states;

ii. to report to it as promptly as possible on the results of the conference.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Communication from the Committee of Ministers
Doc. 9174 – 11 July 2001

Respect for international humanitarian law in Europe

Reply to Parliamentary Assembly Recommendation 1427 (1999) (adopted by the Committee of Ministers on 4 July 2001, at the 759th meeting of the Ministers' Deputies)

1. The Committee of Ministers has carefully examined Recommendation 1427 (1999) of the Parliamentary Assembly on respect for international humanitarian law in Europe. It acknowledges that one of the main aims of international humanitarian law is to provide international protection of certain fundamental human rights – such as the right to physical integrity – which are also safeguarded by criminal law at national level. One of the specific purposes of international humanitarian law is to prevent crimes from being committed during armed conflicts and to punish the perpetrators of such acts, by national or international, *ad hoc* or permanent courts. These crimes are defined in various international instruments (the 1949 Geneva Conventions and the 1977 Additional Protocols, the Hague Conventions and the statute of the International Criminal Tribunal for the Former Yugoslavia, the statute of the International Criminal Tribunal for Rwanda and the statute of the International Criminal Court). In this respect, the Committee of Ministers appeals for the implementation of the Geneva Conventions, their Additional Protocols and the Hague Conventions.

As regards the proposals set out in paragraph 8.i of the recommendation

2. The Assembly refers to the role the Council of Europe can play in this field. The Committee of Ministers draws attention to the initiatives taken by the Council of Europe's Commissioner for Human Rights with regard to the application of the European Convention on Human Rights, in accordance with Resolution (99) 50 of the Committee of Ministers, and those taken by the Secretary General, in accordance with Article 52 of the European Convention on Human Rights.

3. It also draws attention to the existence of Article 33 of the Convention (inter-state cases) and to Protocol No. 6 which subjects the application of the death penalty for acts committed in time of war or of imminent threat of war to various conditions: the state must have adopted a law that provides for capital punishment and may only apply it in the instances laid down in this law and in accordance with its provisions. The Committee of Ministers also recalls Resolution II (parts A and B) adopted at the European Ministerial Conference on Human Rights (Rome, 3-4 November 2000) and the decisions of the Ministers' Deputies on the follow-up to be given to the texts adopted at that conference (736th meeting, 10-11 January 2001, item 4.3). The Deputies instructed the Steering Committee for Human Rights (CDDH) to undertake a feasibility study on the question of the protection of human rights during armed conflicts as well as during internal disturbances and tensions, including those resulting from terrorist acts, and to assess the present legal situation, identify possible gaps in the legal protection of the individual and make proposals to fill such gaps (Decision No. 11), and to study the Swedish proposal for a new protocol to the Convention which would exclude the possibility of maintaining the death penalty in respect of acts committed in time of war or of imminent threat of war, and to submit its views on the feasibility of such a new protocol (Decision No. 12).

4. In its programmes of assistance on criminal law reform in member and applicant states, the Council of Europe regularly provides expertise which includes issues of international humanitarian law and is prepared to consider all requests for assistance or training specifically concerning these issues.

5. The Committee of Ministers is prepared to consider any suggestion concerning the inclusion of compliance with international humanitarian law in its monitoring of the honouring of commitments.

6. Within their respective mandates, the European Committee on Crime Problems (CDPC) and the Committee of Legal Advisers on Public International Law (CAHDI), regularly follow the development of international criminal jurisdictions, set up for the prosecution, *inter alia,* of violations of international humanitarian law. They also receive and disseminate texts as draft texts of national legislation and other information on this subject, including agreements drawn up between member states and the International Criminal Tribunal for the Former Yugoslavia (ICTY), and jointly organised in May 2000 a consultation meeting to discuss the implications of the ratification and implementation of the Rome Statute of the International Criminal Court which resulted in the adoption by the participants of a series of significant conclusions. A second consultation meeting will be organised on 13 and 14 September 2001, at the initiative of the Liechtenstein chair of the Committee of Ministers, with a view to facilitating the ratification of the Rome Statute.

As regards the proposals set out in paragraph 8.ii of the recommendation

7. The Committee of Ministers would welcome any increase in the number of states, including Council of Europe member states, which sign and ratify the instruments in question (sub-paragraphs *a* and *j*). Such an increase would not only improve the effectiveness of these treaties but also encourage states which have not yet ratified them to consider the advisability of doing so. In this connection the Committee strongly encourages governments to support the rapid entry into force of the Rome Statute of the International Criminal Court. In addition, it recalls that the European Convention on the Non-applicability of Statutory Limitation to Crimes against Humanity and War Crimes (item *b*), although opened for signature as from 1974, has not yet entered into force.

8. It is also desirable that governments systematically verify that their legislation complies with these obligations. The setting-up of national interministerial com-

missions responsible for monitoring compliance with international humanitarian law might also prove to be very effective (sub-paragraphs *c* and *d*).

9. The Committee of Ministers shares the Parliamentary Assembly's view with regard to the measures described in sub-paragraphs *e* and *g*. It invites the governments of the member states to take measures such as recognising the competence of the International Humanitarian Fact-finding Commission and to entrust it with enquiries.

10. As regards the dissemination of international humanitarian law (sub-paragraph *f*), the Committee of Ministers recalls that several treaties impose obligations in this area, such as the four Geneva Conventions of 1949 (Articles 47, 48, 127, 144, respectively) and their Additional Protocols of 1977 (Article 83 of Protocol I, Article 19 of Protocol II). The Committee of Ministers welcomes the practical steps which many states have taken to this end, and it considers that such measures ought to be applied more widely, in particular among the armed forces, police and prison staff.

11. The Committee of Ministers acknowledges the very important role of the International Committee of the Red Cross (sub-paragraph *h*) and invites states to consider increased financial support.

12. In sub-paragraph *i*, the Assembly recommends that countries introduce the *aut dedere aut iudicare* principle into their national criminal law. This is a complex issue, which is currently being discussed by the CDPC within its present reflection on new beginnings in co-operation in criminal matters in Europe. Pending this debate, the states wishing to do so could establish a subsidiary competence for their national courts.

13. The Committee of Ministers wishes to inform the Assembly that Recommendation 1427 (1999) has been drawn to the attention of the governments of member states.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Communication from the Committee of Ministers
Doc. 9175 – 11 July 2001

Second World Summit on Social Development

Reply to Parliamentary Assembly Recommendation 1463 (2000) (adopted by the Committee of Ministers on 4 July 2001, at the 759th meeting of the Ministers' Deputies)

The Committee of Ministers has examined carefully Parliamentary Assembly Recommendation 1463 (2000) on a second world summit on social development. The Committee of Ministers signalled the importance it attached to the United Nations General Assembly Special Session (Ungass) meeting in Geneva in two ways. First, it gave the European Committee for Social Cohesion (CDCS) the task of organising a European conference on social development. This was a pan-European preparatory meeting for the Ungass, which, by invitation of the then Irish chairmanship of the Committee of Ministers, took place in Dublin on 17 and 18 January 2000. Second, the Committee of Ministers, meeting at the level of foreign ministers on 11 May 2000, addressed a political message to the session. The message reaffirms the commitment of the Organisation and its member states to social development. It notes, in particular, "the Council of Europe's Strategy for Social Cohesion aims to accelerate progress towards the achievement of commitments undertaken at the Copenhagen World Summit". It also notes that the Dublin Conference represented "a significant advance in active co-operation between the Council of Europe and the United Nations in this field".

Since the Ungass meeting in Geneva, the European Committee for Social Cohesion (CDCS) has continued to build on this foundation. At its 5th meeting (8-10 November 2000), the CDCS held an exchange of views on the outcome of the special session and its implications for the social cohesion strategy of the Council of Europe. The Director of the Division for Social Policy and Social Development at the United Nations Secretariat in New York took part in this exchange of views. Then, in February 2001, the Council of Europe Secretariat was represented for the first time at the annual meeting of the United Nations Commission for Social Development. At that meeting, the Secretariat representative participated actively in the debate on the future of social protection. In addition, as foreshadowed in the political message, an interregional "expert reflection on pathways to social development" took place in Portugal from 28 to 30 May 2001. This event was co-organised by the Council of Europe (North-South Centre and DG III) and the United Nations. It brought together a small group of invited experts from all world regions to reflect on the different approaches to social development. The Vice-Chair of the CDCS took part as the representative of the CDCS. The extremely valuable debates focused on the need to better integrate social policy and economic policy. This will, moreover, be the theme of the 2002 session of the United Nations Commission for Social Development, at which it is hoped that the Council of Europe will again be in a position to contribute.

In respect of paragraph 14.i of the recommendation, assistance programmes with countries of central and eastern Europe have been stepped-up significantly in the social field during the recent years. Assistance programmes for the year 2001include several activities in the following areas:

– management training to support the development of social and employment services;

– promoting access to social rights;

– improving the systems for children in need of care;

– assisting countries in developing their social security systems with a view to ratification of the European Code of Social Security as well as the social security co-ordination instruments;

– assisting countries in developing national anti-poverty strategies;

– the "South East Europe Strategic Review", aimed at supporting the process of sustainable social development in the countries participating in the Stability Pact for South Eastern Europe.

The Committee of Ministers recognises the importance of assisting the states concerned in introducing policies and measures to promote social development and it will continue this programme in the coming years.

In respect of paragraph 14.ii, the more active involvement of the Council of Europe is illustrated by the information given above about the Organisation's contribution on social development to Ungass. The Committee of Ministers continues to give the Organisation a higher profile at major world events in its field of competence. A further example of this is the recently adopted political message to the Ungass on children (19-21 September 2001).

In respect of paragraph 14.iii, social investment is the *raison d'être* of the Council of Europe Development Bank. Through the co-operation agreement between the Secretary General and the governor of the bank, closer working relationships are being built up so that the bank is in a position to make a direct contribution to achieving the goals of the Council of Europe strategy for social cohesion.

This co-operation programme is intended to explore new ways of seeking practical solutions in order to strengthen social cohesion in the member states, in particular in the countries in transition. Its goal is to identify and to promote projects funded by the bank through its usual procedures for populations excluded from economic development in Europe that

do not have direct and ready access to conventional bank financing.

The Council of Europe and the bank have recently agreed to extend this programme to the implementation of "accompanying measures" aimed at giving support to projects already approved by the bank. Such "value added", combining expertise and participation, are intended to improve the social effects of the social cohesion projects carried out by the bank in particularly challenging environments, and therefore strengthen the quality and the durability of its investments. In this context, two or three projects have been identified already with a special focus on minorities and refugees.

Concerning paragraph 14.iv, as demonstrated by the interregional expert reflection meeting, the North-South Centre of the Council of Europe is well placed to bring together all relevant parties to consider the social implications of globalisation. It can be expected that the North-South Centre, in co-operation with the Council of Europe as a whole and with the United Nations in particular, will come forward with proposals for taking further the dialogue which has just been launched.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Communication from the Committee of Ministers
Doc. 9176 – 11 July 2001

Demographic trends and human potential in the countries of central and eastern Europe

Reply to Parliamentary Assembly Recommendation 1482 (2000) (adopted by the Committee of Ministers on 4 July 2001, at the 759th meeting of the Ministers' Deputies)

The Committee of Ministers has given careful consideration to Parliamentary Assembly Recommendation 1482 (2000) on demographic trends and human potential in the countries of central and eastern Europe.

The Committee of Ministers shares the Assembly's concern about the demographic trends observable both in central and eastern Europe and in western Europe. It is true that historical circumstances have meant that in central and eastern Europe these trends have aggravated an already weakened epidemiological and demographic situation.

In reply to paragraphs 7 and 8 of the recommendation, the Committee of Ministers recalls its commitment to the promotion of social cohesion, which took concrete form with the adoption of the strategy on social cohesion in July 2000.

Many activities being carried out in this context are aimed at improving the quality of life of the peoples of Europe; this is particularly so with the work to promote the quality of life of elderly people needing long-term care and to promote access to employment, especially for vulnerable groups in the transition countries. Generally speaking, all the assistance programmes aimed at combating poverty and social exclusion, which are being implemented in close consultation with the European Committee for Social Cohesion (CDCS), contribute to the realisation of practical social projects in the member states.

The Committee of Ministers, moreover, keeps welfare benefit systems constantly under review in a procedure for monitoring the application of the European Code of Social Security.

In reply to the Assembly's considerations regarding health risks and conditions associated with the environment, lifestyles, working conditions or training, the Committee of Ministers recalls its earlier work resulting in the adoption of a wide range of recommendations to member states.

The Committee of Ministers wishes to mention, in particular:

– Recommendation No. R (88) 7 on school health education and the role and training of teachers, the principles of which have been applied in the European Network of Health-Promoting Schools, a tripartite project launched by the World Health Organisation Regional Office for Europe, the European Commission and the Council of Europe. This project now covers thirty-eight countries and is working for an international consensus on the concept of health-promoting schools; and

– Recommendation Rec(2000) 18 on criteria for the development of health promotion policies, which offers to member states guidelines for an integrated approach to developing comprehensive and coherent strategies for promoting the health of all their population.

In reply to paragraphs 8 and 9 of the recommendation, the Committee of Ministers wishes to mention the co-operation programmes being implemented by the European Health Committee in the countries of central and eastern Europe, such as the training programme in the Russian Federation for health care administrators covering human rights and tuberculosis control policies.

It also draws the Assembly's attention to the studies under way in the European Population Committee on the demographic consequences of economic transition in the countries of central and eastern Europe and the demographic impact of social exclusion, and to the programmes organised in the context of Table II of the Stability Pact for South East Europe by the Social Cohesion Initiative Working Party.

The Committee of Ministers wishes to assure the Assembly that positive developments have been observed in some countries in the region, where the populations concerned are enjoying an improving quality of life, thanks, in particular, to better access to their social rights. It is endeavouring, by its commitment, to help to extend these favourable circumstances to the whole of the region.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Communication from the Committee of Ministers
Doc. 9177 – 11 July 2001

Disused hospitals and military buildings

Reply to Parliamentary Assembly Recommendation 1485 (2000) (adopted by the Committee of Ministers on 4 July 2001 at the 759th meeting of the Ministers' Deputies)

The Committee of Ministers has considered Recommendation 1485 (2000) on disused hospitals and military buildings of the Parliamentary Assembly and decided to bring it to the attention of their governments, as well as to the Congress of Local and Regional Authorities of Europe (CLRAE), together with the opinion of its specialised Committee on Cultural Heritage, the CC-PAT, appended to this reply.

The Committee of Ministers would like to note that this recommendation is relevant to all historic buildings in public ownership and conforms to the general line pursued by the Council of Europe in the field of integrated conservation of the built heritage, contained in the Council of Europe reference texts compendium *(The Council of Europe and Cultural Heritage 1954-2000).*

It is also noteworthy that several Council of Europe member states are already applying the good practice mentioned in the recommendation. Experiences and case studies in this field could be provided with the help of the European Heritage Network correspondents (www.european-heritage.net).

Any further action and the launching of a programme on a European exchange of information would be extremely helpful for local authorities and professionals. The Committee of Ministers invites its member states to consider the setting up of such schemes.

APPENDIX

Opinion of the Cultural Heritage Committee (CC-PAT) on Parliamentary Assembly Recommendation 1485 (2000) on "Disused hospitals and military buildings" (adopted by the Bureau of the CC-PAT on 9 May 2001)

The CC-PAT:

– congratulates the Parliamentary Assembly on drafting and adopting this text, which was a most useful contribution to the campaign "Europe, a common heritage";

– notes that it raises matters important to all member states, and illustrates aspects of the issues of standard-setting, identification, conservation, management and promotion common to the cultural heritage as a whole;

– wishes to develop co-operation with the Parliamentary Assembly in the field of cultural heritage, especially in the field of standard setting and, if possible, at the early stage in preparation of reference texts;

– proposes that the European Heritage Network (Herein) be utilised as a means of disseminating case studies and exchanging good practice in these fields;

– recommends that it be drawn to the attention of the CLRAE, given its emphasis on the importance of the role of local and regional, as well as national, authorities;

– supports the recommendations of the Parliamentary Assembly subject to the following specific observations:

The CC-PAT:

– endorses this timely recommendation on good practice, which is relevant to all historic buildings in public ownership and which conforms to its general advice concerning the integrated conservation of the built heritage, contained in its reference texts;

– emphasises a number of additional points concerning paragraph 9 of the recommendation:

- before deciding to vacate an historic building or site, public bodies should consider the feasibility of adaptation, or alternative uses within the public estate, subject to the constraint of preserving its architectural and historic significance;

- marketing of redundant public buildings should take place as soon as it is clear that they will be redundant, wherever possible before they are vacated, to reduce their exposure to the risks of deterioration and theft to which empty buildings are prone;

- national and local authorities, in marketing such redundant public buildings, should seek to achieve the best overall return to taxpayers, consistent with all relevant policies, particularly those concerning social, cultural, environmental, urban regeneration and, of course, cultural heritage preservation objectives, rather than primarily seeking the highest financial return;

- historic sites and groups of buildings should normally be marketed as a package, subject to a planning strategy for the whole complex, so that elements with little market value are cross-subsidised by those with greater value or potential for appropriate development for new uses;

- local authorities, in full consultation with heritage administrations, should integrate these sites, especially those in urban areas, with their spatial development and planning strategies at the earliest possible stage;

– believes that such good practice is already being applied in a number of member states;

– agrees that further encouragement would be desirable, specifically endorsing the proposal for an international conference, and asks member states to consider sponsoring and organising such an event.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Communication from the Committee of Ministers
Doc. 9178 – 11 July 2001

Development of a new social system

Reply to Recommendation 1487 (2000)
(adopted by the Committee of Ministers on 4 July 2001 at the 759th meeting of the Ministers' Deputies)

The Committee of Ministers has examined Parliamentary Assembly Recommendation 1487 (2000) on the development of a new social system. The Committee of Ministers attaches the utmost importance to the defence of democratic institutions and reminds the Assembly that the strengthening of participatory democracy is not a new theme in the Organisation.

In this respect, the Committee of Ministers wishes to mention the work carried out on citizens' participation in local authority life, which has resulted in several recommendations being adopted. One of the first of these, Recommendation No. R (81) 18 concerning participation at municipal level, was a major policy and standard-setting instrument in the field. The guidelines appended to the recommendation greatly influenced more detailed study undertaken on this subject at a later date. Other recommendations followed, aimed at adapting forms of direct participation and the functioning of representative democracy to developments in society. A new recommendation on citizens' participation in local public life is being drawn up by the Steering Committee on Local and Regional Democracy.

Already in 1996, the Committee of Ministers, having observed that the changes of the previous twenty years had been shadowed by a strengthening of the role of European cities in the process of transforming approaches to social issues, began preparations for a study on how to innovate approaches in this field. The highpoint of this activity, implemented by the European Committee for Social Cohesion (CDCS), was a final conference held in Oslo, in June 2000, which confirmed the importance of cities' social capital. The final report on innovatory social policies in the city, of which the Committee of Ministers took note in January 2001, particularly emphasises the importance of local projects based on the participation and empowerment of persons living in disadvantaged urban areas.

The Committee of Ministers welcomes the fact that the liaison committee for NGOs having consultative status with the Council of Europe and the Parliamentary Assembly are organising in Strasbourg, on 6 and 7 November 2001, a joint conference on the theme: "Citizenship, solidarity: what sort of Europe do we want?". It notes that the conference will focus on the role of parliaments and NGOs in the fulfilment of civil, economic, social and cultural rights in a Europe without exclusion, open to the world.

However, with regard to the recommendation to organise a round table on the establishment of a civic, economic and social forum for European democracy, the Committee of Ministers wishes to inform the Assembly that such an activity would not fit in with the Organisation's present priorities. It would, nevertheless, like to assure the Assembly that it will bear in mind its proposal, in particular in the light of the conclusions of the joint conference.

Finally, the Committee of Ministers decided to transmit Recommendation 1487 (2000) to the European Committee for Social Cohesion for this committee to take it into account when implementing the strategy for social cohesion.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Communication from the Committee of Ministers
Doc. 9179 – 27 July 2001

Texts adopted by the Parliamentary Assembly at the third part of the 2001 Ordinary Session (25-29 June 2001)

Reply from the Committee of Ministers
(adopted on 18 July 2001, at the 761st meeting of the Ministers' Deputies)

The Committee of Ministers took note of Opinions Nos. 230 and 231, Recommendations 1522 to 1530, Resolutions 1253 to 1256 and Orders Nos. 574 and 575 adopted by the Parliamentary Assembly at its third part-session in 2001 (25-29 June 2001).

It transmitted Opinion No. 230 (2001) to the competent committees of experts for them to take it into account in their work and agreed to bear Opinion No. 231 (2001) in mind when considering the draft protocol in question.

The Committee of Ministers brought Recommendations 1522 and 1524 to 1530 (2001) to the attention of the governments of member states. It agreed to resume consideration of Recommendation 1523 at its next meeting. It entrusted Recommendations 1524, 1526 to 1528 and 1530 (2001) to the competent organs, committees of experts and/or rapporteur groups concerned for information, opinion or examination. It will continue to examine Recommendations 1525 and 1529 (2001), with a view to the early adoption of replies.

Furthermore, the Committee of Ministers agreed to organise an informal exchange of views on Recommendation 1522 (2001) with the competent rapporteur of the Parliamentary Assembly and representatives of the United States of America and Japan.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Communication from the Committee of Ministers
Doc. 9180 – 27 July 2001

European Democracies facing up to terrorism

Reply to Recommendation 1426 (1999)
(adopted by the Committee of Ministers on 18 July 2001 at the 761st meeting of the Ministers' Deputies)

1. The Committee of Ministers has carefully examined Parliamentary Assembly Recommendation 1426 (1999), "European democracies facing up to terrorism".

2. This is not the first time that the Assembly has expressed concern at the resurgence of acts of terrorism and called for increased European co-operation to combat this evil. As it has always done in the past, the Committee of Ministers supports again the Assembly condemning acts of terrorism in all its forms irrespective of motive, wherever and by whomever committed.

3. At their 108th Session (Strasbourg, 10-11 May 2001), the ministers strongly condemned all forms of terrorism and ethnically motivated violence and referred to the Committee of Ministers' intention to discuss possible intensification of international action against terrorism.

4. The Assembly proposes a lengthy series of measures to make co-operation between European states more effective. The Committee of Ministers also wishes everything possible to be done to ensure that no terrorist crime goes unpunished. In the context of such co-operation, and in accordance with international obligations and national legislation, the Committee of Ministers wishes that all appropriate steps be taken to deny terrorists safe haven. Depending on circumstances, however, it does not think it either necessary or opportune to take all the action recommended by the Assembly in respect of existing European and universal conventions, or existing forms of co-operation between police forces, judicial authorities, the national security services or specialised international organisations. The Committee of Ministers recalls that the Council of Europe has adopted the European Convention on the Suppression of Terrorism (ETS No. 90), entered into force on 4 August 1978. In this respect, it urges states to ensure a more effective application of this convention, one of the main problems being the important number of reservations made to this convention. The Committee of Ministers is waiting for the outcome of the examination to be carried out by the CDPC concerning the ways in which co-operation – both judicial and police co-operation – is organised in Europe. In this respect, the CDPC might possibly take certain of the Assembly's proposals into consideration.

5. The Committee of Ministers asks the Assembly to examine the appended opinion from the European Committee on Crime Problems (CDPC), which provides a full picture of the present state of European co-operation in this area, and of the work which the CDPC will itself be doing in connection with its efforts to stimulate international co-operation on crime problems. This opinion concerns Sections 16.i to 16.xii of the recommendation, with the exception of Section 16.ix.

6. As far as the last-named section is concerned, the Committee of Ministers refers to the important work on education for democratic citizenship conducted for years under the auspices of the Council for Cultural Co-operation. The results of this major project were presented at the final conference, which was held in Strasbourg from 14 to 16 September 2000. The conclusions of the conference, and also the research, analyses and case studies on which they are based, will enable governments, educationalists and socio-cultural operators to draw on analyses, on practical experience gained in the field and on educational instruments designed to inculcate tolerance and respect for others.

7. The Committee of Ministers also refers to another important conference, the European Conference against Racism, which was held in Strasbourg from 10 to 13 October 2000, and which also opened up new prospects for political reflection and action to promote the values of equality, tolerance and humanism championed by the Council of Europe.

8. Finally, concerning Section 16.v, the Committee of Ministers will return to the question raised by the Assembly with its reply – still under consideration – to Recommendation 1458 (2000), "Towards a uniform interpretation of the Council of Europe conventions: creation of a general judicial authority".

9. The Committee of Ministers has forwarded Recommendation 1426 (1999) to the governments of the member states.

APPENDIX

Opinion of the European Committee on Crime Problems (CDPC) on Parliamentary Assembly Recommendation 1426 (1999) on European democracies facing up to terrorism

1. Reminder

The European Convention on the Suppression of Terrorism (ETS No. 90) constitutes the Council of Europe's major contribution to international co-operation in responding to terrorism. It was opened for signature in Strasbourg on 27 January 1977 and has since been ratified by thirty-two member states and signed by four others.

The convention (Article 1) provides that, for the purposes of extradition between contracting states, none of a number of enumerated offences shall be regarded as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. That provision modifies the consequences of, for instance, Article 3, paragraph 1 of the European Convention on Extradition (ETS No. 24), which provides that extradition shall not be granted if the offence in respect of which it is requested is regarded by the requested party as a political offence or as an offence connected with a political offence (the "political offence exception"). The terrorism convention thus eliminates – as a general rule – the possibility for the requested state to invoke the political

offence exception in respect of an extradition request. Where, the convention allowing, the requested state invokes the political offence exception, then that state, although not extraditing the person wanted, must submit the case to the competent authorities for the purpose of prosecution. The obligation to bring the person wanted before the criminal justice system *(judicare)* is subsidiary in that it is conditional on the preceding refusal of extradition in a given case.

2. General observation

Assembly Recommendation 1426 in general condemns terrorism in all its forms. The CDPC cannot but support that statement.

The CDPC, either directly or through its subordinate body, the Committee of Experts on the Operation of Conventions in the Penal Field (PC-OC), constantly follows developments in international legal co-operation in criminal matters, seeking in particular to solve difficulties or otherwise take initiatives dictated by changing circumstances.

In this context, the CDPC is presently engaged in an exercise of reflection concerning the whole way in which co-operation – both legal and police co-operation – is organised in Europe. Any definite reaction to the number of different issues raised in the Assembly recommendation would therefore be premature at this stage. The following opinion is in that sense provisional.

Despite the points of view expressed below on this subject, it should be noted that, subsequent to the ongoing discussions, the CDPC might possibly take the following points into consideration:

– extending suppression of terrorist acts, to include attacks against property, as well as certain forms of aiding and abetting crime (preparatory acts, funding, participation in gangs);

– accepting universal jurisdiction, necessary for the effective implementation of the principle *aut dedere aut judicare;*

– protection of victims, taking account of the significant changes that have taken place over two decades in protecting victims of terrorist attacks.

3. Comments on the preambular part of Recommendation 1426

Paragraph 5 contains a definition of terrorism that should be amended insofar as it takes account of motive, whereas there is a general trend towards the principle of de-politicising terrorist offences so as to facilitate mutual assistance and extradition. This principle has been confirmed, *inter alia,* by the recent United Nations Conventions for the Suppression of Terrorist Bombing (15 December 1997) and for the Suppression of the Financing of Terrorism (9 December 1999). The CDPC therefore expresses reservations with regard to the definition of terrorism as set out in the Assembly recommendation.

Paragraph 6 concerns operational co-operation and the exchange of information between specialised services. From this perspective, it may be appropriate to highlight the further advantages that Interpol might contribute. Article 18.4 of the Convention for the suppression of the Financing of Terrorism, for example, provides for the possibility of information exchanges being conducted through the intermediary of Interpol.

With regard to paragraph 10, the CDPC wishes to emphasise that this should not be interpreted as opening up any possibility of infringing the freedom to inform the press.

4. Comments on the individual recommendations

a. *Concerning points i and ii of paragraph 16*

In points i and ii of paragraph 16, the Assembly recommends the Committee of Ministers to revise Convention ETS No. 90 in the sense of extending its scope of application to act presently not covered by it.

The CDPC considers that the United Nations Convention for the Suppression of the Financing of Terrorism as well as the United Nations Convention for the Suppression of Terrorist Bombing cover to a large extent the above-mentioned Assembly recommendations. It sees no merit in duplicating the work already done within the United Nations.

Member states of the Council of Europe could however be encouraged to sign and ratify those two conventions.

b. *Concerning point iii of paragraph 16*

In point iii of paragraph 16, the Assembly calls for the deletion of Article 13 of the said convention, that allows for reservations to be made.

The CDPC has great sympathy with this recommendation. However, it stresses that Article 3 may only be deleted from the convention upon a unanimous vote of all states party to it. Seventeen out of thirty-two parties to the convention have availed themselves of the possibility given by Article 13. Under these circumstances, the CDPC doubts whether this recommendation is likely to be generally acceptable.[1]

c. *Concerning point iv of paragraph 16*

In point iv of paragraph 16, the Assembly recommends the Committee of Ministers to amend the European Convention on Extradition by defining the concept of political offence and proposing a simplified extradition procedure.

The CDPC is not aware of any difficulties arising out of the absence of a definition of the concept of political offence.

The idea of providing for a simplified extradition procedure has its merits. It was taken up, in particular, within the European Union and the results appear to be satisfactory. The CDPC has already instructed the PC-OC to consider that idea as soon as it starts working on a third additional protocol to the European Convention on Extradition. In this respect, the CDPC wishes nevertheless to observe that it fails to see any link between terrorism and simplified extradition.

d. *Concerning point v of paragraph 16*

In point v of paragraph 16, the Assembly recommends the Committee of Ministers to consider the possibility of setting up a European criminal court.

This recommendation will be examined in the context of both *a*. the proposal to create a judicial authority within the Council of Europe and *b.* the setting-up of the International Criminal Court.[2]

1. According to the convention of 27 September 1996 relating to extradition between the member states of the European Union, reservations according to Article 13 of the European Convention on the Suppression of Terrorism do not apply between European Union member states (Article 5, paragraph 4).
2. This refers to the entry into force of the Rome Statute of the International Criminal Court (although it should be noted that the idea of giving competence to this court with regard to treaty crimes, including terrorist crimes, has not been accepted).

e. *Concerning point vi of paragraph 16*

In point vi of paragraph 16, the Assembly recommends the Committee of Ministers to consider the establishment of a procedure whereby in certain cases a person accused of committing a terrorist offence could be charged and tried for such an offence in a country other than the one in which the offence is committed.

A number of legal avenues are already available in Europe that allow for a person accused of having committed an offence in one country to be charged and tried for such an offence in another country. In practice, however, such avenues are not sufficiently explored. In particular, there is uncertainty with respect to such questions as the circumstances under which such avenues may or should be taken, the right (or duty) of initiative in that respect, and the involvement (where appropriate) of more than two countries. The CDPC is presently examining these questions.

f. *Concerning point vii of paragraph 16*

In point vii of paragraph 16, the Assembly recommends the Committee of Ministers to initiate co-operation with the United Nations.

The CDPC is already closely co-operating with the United Nations in criminal matters, particularly with the United Nations Commission on Crime Prevention and Criminal Justice.

g. *Concerning point viii of paragraph 16*

In point viii of paragraph 16, the Assembly recommends the Committee of Ministers to encourage member states to co-operate more closely with Interpol and to examine with the European Union the possibility of extending Europol to the whole of the European area.

The CDPC fully supports any initiative designed to increase the already high level of co-operation with Interpol. As to the extension of Europol, this is an internal matter for the European Union.

h. *Concerning point ix of paragraph 16*

This point does not fall within the fields for which the CDPC is responsible.

i. *Concerning point x of paragraph 16*

In point x of paragraph 16, the Assembly recommends the Committee of Ministers to provide fuller protection for the victims of terrorist acts.

The CDPC recalls that the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116) applies to victims of terrorist acts.

j. *Concerning point xi of paragraph 16*

In point xi of paragraph 16, the Assembly recommends the Committee of Ministers to invite member states to incorporate the principle *aut dedere aut judicare* in their legislation.

This question is complex and the CDPC will give consideration to it within its present reflection on a new start in co-operation in criminal matters in Europe.

k. *Concerning point xii of paragraph 16*

In point xii of paragraph 16, the Assembly recommends the Committee of Ministers to invite member states to strengthen bilateral co-operation.

It has been the Council of Europe's policy for over forty years, as well as the policy of many of its member states, to privilege multilateral co-operation over bilateral co-operation in criminal matters. However, privileging multilateral co-operation does not exclude strengthening bilateral co-operation where it leads to a more effective fight against crime, and to that extent the CDPC can endorse the Assembly's recommendation.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Communication from the Committee of Ministers
Doc. 9181 – 27 July 2001

Management of cathedrals and other major religious buildings in use

Reply to Parliamentary Assembly Recommendation 1484 (2000) (adopted by the Committee of Ministers on 18 July 2001, at the 761st meeting of the Ministers' Deputies)

The Committee of Ministers has considered Parliamentary Assembly Recommendation 1484 (2000) on the management of cathedrals and other major religious buildings in use. It welcomes the renewed awareness of the need to preserve, promote and enhance religious cultural heritage and to recognise the spiritual and other values they represent, such as a people's sense of belonging and identity, respecting, at the same time, the provisions of civil and religious law in each of the Council of Europe's member states.

The Committee of Ministers shares the views of the Parliamentary Assembly as expressed in paragraph 7 of the recommendation, and encourages member states to continue with measures to promote the conservation of religious cultural heritage and the legal restitution of church property, in accordance with the principles of the European Convention on Human Rights.

To make sure that the civil authorities become more acquainted with the systems established by religious authorities for the protection, preservation and enhancement of their cultural property, the Committee of Ministers decided to bring this recommendation to the attention of the governments of its member states, as well as the opinion of its specialised Committee on Cultural Heritage, the CC-PAT, which is appended to this reply.

Given that the recommendation puts an emphasis on the role and responsibility of local and regional authorities, alongside that of the national ones, for the integrated conservation and promotion of cultural heritage, the Committee of Ministers decided to transmit this recommendation to the Congress of Local and Regional Authorities of Europe (CLRAE) and draw its attention to it.

As for the question of disseminating case studies and exchanging good practice in the fields of standard-setting, identification, integrated conservation and the promotion of cultural heritage, the Committee of Ministers considers that the European Heritage Network (Herein), set up by the CC-PAT, could be used as a means to this end. The Committee of Ministers invites its member states either to do that at their national level, or to pledge voluntary contributions, in case they wish the Council of Europe to carry out this task.

APPENDIX

Opinion of the Cultural Heritage Committee (CC-PAT) on Parliamentary Assembly Recommendation 1484 (2000) on the management of cathedrals and other major religious buildings in use (adopted by the Bureau of the CC-PAT on 9 May 2001)

The CC-PAT:

– congratulates the Parliamentary Assembly on drafting and adopting this text, which was a most useful contribution to the campaign "Europe, a common heritage";

– notes that it raises matters important to all member states, and illustrates aspects of the issues of standard-setting, identification, conservation, management and promotion common to the cultural heritage as a whole;

– wishes to develop co-operation with the Parliamentary Assembly in the field of cultural heritage, especially in the field of standard-setting and, if possible, at the early stage in the preparation of reference texts;

– proposes that the European Heritage Network (Herein) be utilised as a means of disseminating case studies and exchanging good practice in these fields;

– recommends that it be drawn to the attention of the CLRAE, given its emphasis on the importance of the role of local and regional, as well as national, authorities;

– supports the recommendations of the Parliamentary Assembly subject to the following specific observations:

The CC-PAT:

– notes with satisfaction the renewed awareness and commitment by civil authorities to help preserve, promote and enhance religious cultural heritage and to recognise the spiritual and other values they represent;

– welcomes the change of emphasis from the technical problems of conservation to the "integrated conservation" of major religious buildings and their contents;

– strongly advises that the proposals in paragraph 10 make specific reference to the need to respect the provisions of civil and religious law in each European state, provisions which do not address management *per se* but conservation ("integrated conservation");

– recommends that civil authorities become more acquainted with the systems established by religious authorities for the protection, preservation and enhancement of their cultural property, and build a policy of collaboration accordingly;

– emphasises that the balance between the rights and responsibilities of religious communities, and the wider public interest in all heritage, represented by public authorities, is a sensitive matter in all member states;

– recalls the rights of religious denominations to exist, aggregate, develop modes of worship and use, and consequently own, administer, or manage their religious cultural heritage in use, both movable and immovable;

– asks that civil authorities acknowledge not only the often remarkable material value of religious cultural heritage, but particularly its intrinsic spiritual significance and sacred character, and its contribution to people's sense of belonging and identity;

– emphasises that the basis for partnerships in developing access to religious monuments should be respect for their authentic spiritual and sacred nature;

– stresses that religious authorities should have the right to decide the extent to which additional functions may take place in major religious buildings in use;

– requests that specific reference be made to major religious buildings of all faiths, including synagogues and mosques.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Communication from the Committee of Ministers
Doc. 9182 – 27 July 2001

Maritime and fluvial cultural heritage

Reply to Parliamentary Assembly Recommendation 1486 (2000) (adopted by the Committee of Ministers on 18 July 2001, at the 761st meeting of the Ministers' Deputies)

The Committee of Ministers has considered Parliamentary Assembly Recommendation 1486 (2000) on maritime and fluvial cultural heritage and decided to bring it to the attention of member states' governments. It emphasises the merits of the all-embracing approach adopted by the recommendation, which covers both the immovable heritage, architecture and installations and ships and other movable items. It urges the public authorities to work in co-operation with non-governmental organisations to develop this particular heritage in the spirit of the Convention for the Protection of the Architectural Heritage of Europe (Granada 1985) and the European Convention on the Protection of the Archaeological Heritage (Valletta 1992).

To reduce and prevent the threats to the conservation of our common cultural heritage deriving from certain forms of operation or use of the property concerned, the Committee of Ministers insists, along with the Parliamentary Assembly, on the need to establish local and regional co-operation. In the field of international co-operation, a new convention is currently being drafted under the auspices of Unesco, whose government experts are due to meet for the fourth time in July 2001.

The Committee of Ministers has invited its member states to play a positive role in preparing and adopting this convention.

APPENDIX

Opinion of the Cultural Heritage Committee (CC-PAT) on Parliamentary Assembly Recommendation 1486 (2000) on maritime and fluvial cultural heritage (adopted by the Bureau of the CC-PAT on 9 May 2001)

The CC-PAT:

– congratulates the Parliamentary Assembly on drafting and adopting this text, which was a most useful contribution to the campaign "Europe, a common heritage";

– notes that it raises matters important to all member states, and illustrates aspects of the issues of standard-setting, identification, conservation, management and promotion common to the cultural heritage as a whole;

– wishes to develop co-operation with the Parliamentary Assembly in the field of cultural heritage, especially in the field of standard-setting and, if possible, at the early stage in preparation of reference texts;

– proposes that the European Heritage Network (Herein) be utilised as a means of disseminating case studies and exchanging good practice in these fields;

– recommends that it be drawn to the attention of the CLRAE, given its emphasis on the importance of the role of local and regional, as well as national, authorities;

– supports the recommendations of the Parliamentary Assembly subject to the following specific observations:

The CC-PAT:

– welcomes the comprehensive and integrated approach to water-related heritage represented by this recommendation, which might be reflected in a more comprehensive title;

– recognises the great potential of the maritime and fluvial heritage, for example in urban renewal and regeneration, and in sustaining regional traditions;

– notes, however, that interpretations of international law prevent some member states from applying the recommendation insofar as it applies to heritage under the sea;

– recalls that a draft convention on underwater cultural heritage prepared under the auspices of the Council of Europe was not opened to signature because of such complex legal issues relating to the law of the sea;

– notes that a new convention is currently being drafted under the auspices of Unesco[1] with a view to adopting the text during the 2001 general conference;

– therefore, strongly urges member states to play a positive role in preparing and adopting that convention.

1. The 4th meeting of government experts will be reconvened from 2 to 7 July 2001.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Communication from the Committee of Ministers
Doc. 9183 – 2 August 2001

Strengthening co-operation between the Committee of Ministers and the Parliamentary Assembly of the Council of Europe

Letter from the Chairman of the Ministers' Deputies to the President of the Parliamentary Assembly, dated 20 July 2001

Dear Sir,

As you will be aware, the Liechtenstein Presidency attaches great importance to strengthening co-operation between the Committee of Ministers and the Parliamentary Assembly (this is one of the priorities of the programme of our chairmanship) and, following up on the recent recommendations of the working party set up by the Joint Committee, we are eager to encourage to the greatest possible extent communication and transparency between the two organs of the Council of Europe.

Accordingly, I would like to bring to your attention a number of texts made public at the 761st meeting of the Deputies (18 July 2001). These are:

– the declaration of the Chairman of the Committee of Ministers concerning the public statement of 10 July of the European Committee for the Prevention of Torture concerning the Chechen Republic, made public following the discussions held under item 4.5 – the contribution of the Council of Europe towards the restoration of the rule of law, respect for human rights and democracy in Chechnya;

– the declaration adopted by the Committee of Ministers on the protection and rebuilding of places of worship in Kosovo and the wider Balkans following the discussions held under item 2.1.*b*;

– the decisions concerning the Council of Europe's participation in the monitoring and observation of the census in "the former Yugoslav Republic of Macedonia" (item 2.1.*a* – Activities for the development and consolidation of democratic stability), whereby the Deputies:

i. authorised the Secretariat to participate, in co-operation with the European Commission, in the international monitoring and observation of the census of the population, households and dwellings in "the former Yugoslav Republic of Macedonia" (from 1 to 15 October 2001), at the request of the authorities of that country, and to take all necessary measures to that end;

ii. took note that the Council of Europe's contribution to this joint effort (approximately 200 000 euros out of a total budget of a million euros) would be financed from the 2001 ordinary budget (provision for European Commission/Council of Europe joint programmes); and

– the decisions taken concerning the *ad hoc* working group responsible for examining the revision of the method of calculating the scales of member states' contributions to the Council of Europe budget as laid down in Resolution (94) 31 (item 11.2), whereby the Deputies, amongst other things, appointed Ambassador Jean-Claude Joseph, Permanent Representative of Switzerland, as chair of the group, and stipulated that the group could, at an appropriate stage in its work, consult the Parliamentary Assembly.

Please find enclosed the above-mentioned declarations.[1]

(…)

Signed:
Josef Wolf

1. The documents referred to may be obtained from the Secretariat.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Report
Doc. 9184 – 29 August 2001

Scientific and technological development in central and eastern Europe

(Rapporteur: Mr MATĚJÚ, Czech Republic, Group of the European People's Party)

Summary

Research in the "hard" sciences was traditionally a priority in most countries of central and eastern Europe and, as a result, its outcome was comparable with that of the West. Recent serious reductions in government funding have significantly downgraded research in these countries. Their major problem is, however, the lack of links between research and industry. Without these, the knowledge created in universities and research institutes cannot be transferred to industry and sold in the market. The establishment of such links is therefore the key to economic development.

Increased pan-European co-operation in the field of research, development and, in particular, innovation, together with appropriate measures at national level, may significantly accelerate positive developments in all countries concerned.

I. Draft resolution

1. The Assembly is aware of the importance of scientific and technological development for the integration of countries of central and eastern Europe into the community of economically advanced European countries.

2. The countries of central and east Europe have undergone a serious reduction in public funding for scientific research and development (R&D). Reductions have varied between and within countries.

3. Several central and east European countries, in particular those of the Commonwealth of Independent States, are still experiencing the consequences of the failure of the centrally planned economy. The main problems are that they have been unable to establish an effective co-ordination between academy and university-run science and technology and applied science and technology, or to involve scientists from military science and technology establishments in the civil sector. Full advantage has not been taken of the available scientific and human potential. The research community has lost its social status and political influence and unemployment has increased dramatically among scientists.

4. There is, in general, an ongoing brain drain towards western Europe and the United States.

5. There are signals of positive developments in the countries which are lagging behind. This is the case for several cities in the Russian Federation, which are expected to become important centres of information technology.

6. The Assembly recalls its Resolution 1075 (1996) on scientific and technological co-operation with central and east European countries, and calls upon the governments of Council of Europe member states:

i. to intensify pan-European R&D co-operation, in particular by enhancing the R&D component in western assistance programmes targeted towards central and east European countries;

ii. to involve central and east European countries as closely as possible in pan-European R&D programmes, in particular in the forthcoming European Union Framework Programme 6 for research and technological development, and prepare them for full integration in any extended European Research Area;

iii. to support the development, in central and east Europe, of a network of "centres of excellence", created strictly on a competitive basis with a strong participation of reviewers from western countries, defined as operational R&D units, either independent or functioning within a locally established research organisation, having their own specific agendas and preferably their own organisational and administrative boundaries, with the potential to contribute to the stabilisation of the research establishment, to a decrease in the brain drain phenomenon and to helping economic development;

iv. to encourage researchers and research institutions from western Europe to apply the same standards that they use in their own countries when assessing research projects coming from central and east European countries;

v. to encourage European financial institutions to support initiatives that might accelerate the development of scientific communities in central and east European countries and lead to a more efficient use of their intellectual potential.

7. The Assembly also calls in particular on the governments of central and east European countries:

i. to analyse the basic trends in research activities at national level and assess the efficiency of the measures taken over the last few years with a view to developing R&D efforts and elaborating explicit policies for stimulating technological innovations;

ii. to increase the percentage of the GDP allocated to research and technological development;

iii. to give encouragement to such priority areas as the dissemination of electronic data processing, information technologies and telecommunications in the economy and society, the development of small technology-based firms, the increase in the efficiency of technology transfer, the dissemination of environmentally-friendly technologies, the acceleration of the commercialisation of research results and inventions and, from this, the development of the R&D infrastructure;

iv. to analyse the impact on pan-European co-operation in R&D of administrative measures officially destined to prevent prejudices in the field of economic and

scientific co-operation, such as the ones put into practice in the Russian Federation, where scientists have been asked to inform their tutelar authorities on all their contacts abroad;

v. to invite universities and academies of science to review their respective roles in the national R&D systems and to propose, for instance, how the research institutes of academies of science could be transformed into centres of research and postgraduate education;

vi. to encourage closer links between research and higher education, where these were artificially separated during the communist era, and support the evolution of the research establishment towards a greater sensitivity to the needs of society in general and industry in particular;

vii. to intensify co-operation among themselves, in order to allow the countries lagging behind to use the experience of the more successful countries in the restructuring of their R&D systems.

II. Explanatory memorandum, by Mr Matějů[1]

Introduction

1. Future economic development is largely based on the invention of new technologies and this is especially true for Europe, significantly lagging behind the United States in this drive. This is an important task for science that is seen as the basis of these new technologies.

2. Rationalistic thinking, the basis of the scientific approach, has been important in Europe from ancient Greek times. It is our responsibility to further develop this scientific - rationalistic heritage. We have then to apply all scientific knowledge to improve technology and to widen the pool of this knowledge for further technological development, to involve social sciences and humanities too as far as possible in the drive to improve the quality of life of mankind, and last but not least to develop scientific knowledge for its own sake in order to understand better the macro and micro worlds, our surroundings and ourselves.

3. All these efforts have to be carried out in competition with the other parts of the world, mainly with the US and Japan, but, partly due to globalisation, and partly to the nature of research, this competition has also to be combined with co-operation between the competitors.

4. If Europe wants to win in this competition – as we want and should – the quality of our work has to be improved. A detailed analysis of our strengths and weaknesses, followed by appropriate action, is a necessary starting point.

Research, technology, innovation in the countries of central and eastern Europe (CEECs)

5. Innovation – in processes, products, organisational systems – based on the application of modern research and technological development (RTD) is indisputably the mainspring of national competitiveness and economic growth. Studies in many industrialised nations put this beyond doubt. In some countries – the United States, Japan, Germany, United Kingdom, France, for example – the contribution from RTD to economic growth ranges from 50% to 78%, the remainder being contributed by investment in capital stock and labour productivity. RTD-based development continues to be the primary driver of ongoing economic change and restructuring, including the rearrangement of economic power structures between regions and nations. Technological innovation continues to create new enterprises and to transform or terminate old ones. In the process, it constantly drives the evaluation of regional, national and international economies.

6. Success in innovation is intimately linked with sustained investment in, and diffusion of, RTD. There are a number of reasons for this. Science-intensive industries are the primary producers of new technologies and the stimulators of higher technological levels in a nation. Even more important, provided appropriate transfer and diffusion mechanisms are in place, the high-tech sector can help drive new technology into less advanced sectors of the economy, sectors in which employment can be generated faster and at lower cost, creating an upward spiral of economic development and growth – a very real development scenario for the CEECs, given their long-established traditions in technology and especially in science.

7. Sustainable economic growth in the CEECs holds the key to their successful development. This growth will depend on and derive from a strong RTD capability base.

8. Unless RTD systems are well structured, well resourced and functioning efficiently, there is every chance that technological and therefore income disparities will restrict cohesion and reduce the pace of development. The cohesion deficit in the European Union provides ample justification for pro-active policies now, to address this issue in the CEECs in preparation for their more effective integration or co-operation.

9. The Essen commitment to enlargement of the EU by the accession of the CEECs, as soon as they are able to assume the obligations of membership, has important implications for the RTD sector, as it emerges from the deep financial and structural crisis throughout central and eastern Europe. An important goal of the accession period is the progressive integration of systems, as well as increasing co-operation, so as to create an increasingly unified area. In this context, RTD is identified specifically as one of the areas (along with transport, energy and telecommunications) in which efforts at the European level are necessary to ensure success. It is in the mutual interests of the EU and the associated countries to work together in this area.

10. But there are serious problems to be addressed if these mutual benefits are to be realised. The CEECs themselves need to develop new coherent technical and technological development policies. In some cases even institutional reform and restructuring needs to be completed. Pro-active policy and planning processes need to be put in place, so as to promote the rapid establishment

1. The rapporteur wishes to express his thanks to Dr Norbert Kroo, Secretary General of the Hungarian Academy of Sciences, for his valuable assistance in the elaboration of this report.

of national systems of innovation to fuel sustainable economic growth.

11. The CEECs have given many outstanding scientists and innovators to the world and still have strong, but strongly hurt and financially straitened RTD communities, which are based generally on good traditions of science and scientific research. Many CEECs, even during the strongest isolation periods, maintained and even extended scientific connections with the West. The growing institutionalisation and strengthening of these connections may serve as one of the strongest driving forces in bringing CEECs ultimately into an extended European Research Area (ERA). Within the CEECs this sector probably has the strongest similarity with its west European counterparts in educational standards, working morale and motivation, scale of values, language abilities, technical expertise, etc., which could provide leading edge learning experience for other sectors of the economies of the countries of central and eastern Europe. CEEC science, with its traditions, international reputation and contacts could be a valuable driving force in co-operation.

Science and its role

12. The role of science is changing everywhere. This is mainly connected with the needs of the knowledge-based societies but the change of priorities (instead of national security competitiveness and job creation) is also affecting scientific development.

13. It would be wise if the CEECs which are restructuring their R&D activity learn from what has gone before and take into account the general trends.

14. Problem solving is one of the main tasks of science. This is, however, motivated not only by the needs of science itself but also by its usefulness for industry, government and society in general. This is more than a contribution to the development of new products but a general production of knowledge and its diffusion in the whole society. The use of information technology know-how is a typical example of this.

15. Transdisciplinarity is another new requirement in research with integration of different skills into problem solving. The solution has to start from the problem and not the reverse, involving both theory and experiment, but not necessarily in disciplinary form. The diffusion of knowledge is part of the process but it is not necessarily realised through institutional channels. Modern research is characterised by heterogeneity and organisational diversity in terms of skills and experience of people. This implies that the number of sites where knowledge is created is increasing, and in order to work efficiently they have to be linked together in many ways, for example electronically. The other implication is that these sites have to be more and more specialised. In this working regime co-operation skills are vital, as are flexibility and a fast response.

16. Mainly due to growing public concern, motivated, for example, by health or environmental issues, the importance of accountability and sensitivity to societal needs is increasing. This should not only be reflected in the results of research and their presentation, but also in defining the problems and setting the research priorities.

17. In "classical" times, quality control was enforced by the peer review process and this control was realised through the selection of the peers. In recent times, additional criteria come into play, connected with applications and the demand for results. This means that societal needs and the market do also influence this process.

18. All these arguments speak in favour of institutional changes in the research network both at national and regional or international levels. This does not mean, however, that the new mode of operation completely replaces the old one. A co-existence of the two systems is the ideal situation and if the old structures do not adapt themselves to the new requirements they will be by-passed.

19. As far as the CEECs are concerned, they also have to redirect their efforts in order to adapt their R&D system to these new requirements. In addition to the need to go along with worldwide changes, they are advised to weaken the centralising efforts of their bureaucracy which is embedded deeply in their past. R&D management also needs to change. It should get rid of the traditions of "classical" planning practice and should be more open towards the R&D community.

20. The research staff is often narrow in terms of disciplines and the relative number of tenured staff is high. In order to increase mobility and strengthen competition a larger proportion of researchers should be employed on a contract basis and co-operation between different research groups should be strengthened. Co-operation between research groups and the outside world should, however, also be strengthened.

21. Problem-solving skills have always been good in the CEECs countries. Their relatively low level of financing forced them to rely on their creativity even before the structural changes started. The weak points are applications. In this respect, huge steps should be taken. The research establishment should be more sensitive to the needs of society in general and industry in particular.

22. In recent years, the rapid development of new technologies has become one of the most important forms of economic competition. Since R&D activities are major sources of technology and technical knowledge, it is increasingly recognised that an explicit RTD policy for stimulating technological innovation is an essential and integral part of any country's future economic development.

23. Economic change, social progress and political stability will be influenced by decisions in the RTD sphere, as ongoing industrial renewal is dependent, to a large extent, on the development of technological knowledge and its dissemination to industry. This may be particularly the case within central and east European economies where their competitiveness and the dynamism of their evolution to a free market system is largely determined by the intellectual potential capable of developing and applying new technologies. Moreover, coherent RTD policies can significantly aid the process of re-industrialisation within CEECs, including

the extent to which existing firms can improve their performance.

24. CEECs have themselves recognised that there are a number of priority areas which need to be addressed quickly in order to help the economy as a whole. These include the dissemination of electronic data processing, information technology and telecommunications in the economy and society, the development of small technology-based firms, increasing the efficiency of technology transfer, the dissemination of environment-friendly technologies, the acceleration of the commercialisation of research results and inventions and, from this, the development of an R&D infrastructure.

Small and medium-sized enterprises (SMEs)

25. The emphasis of RTD programmes on the promotion of small-and medium-sized industries (SMEs) may be of particular benefit to CEECs, as the process of decentralisation and privatisation has resulted in the development of many small technology-based ventures. However, the lack of capital available to these firms makes it almost impossible for them to acquire or develop technologies quickly and, more importantly, to participate in various international RTD programmes.

26. Therefore, the development of a coherent and focused RTD policy can provide a significant input to aiding the transformation process within central and eastern European economies. In particular, RTD policy initiatives must address the weaknesses inherent to these changing economies, such as reducing the technology gap between east and west, encouraging the development of a strong SME sector and ensuring efficient technology transfer systems, whilst also building on national technological advantages, especially in the efficient utilisation of highly capable scientific personnel, and the development of strong strategic industries. However, these issues cannot be addressed without a parallel development of human resource skills, a scientific base, international channels and basic technological support, measures which could be encouraged and enhanced through increased access to specific European RTD programmes.

Market and quality

27. The former Council for Mutual Economic Assistance (Comecon) market was not quality sensitive and so was not prepared to pay for quality. The neglect of quality control and the lack of an institutional network behind it have been one of the most damaging problems of the economies of CEECs. This attitude affected the R&D network too, both as the user of the most sophisticated industrial goods (measuring instruments, technological facilities, etc.) and as the basis of industrial activity with moderate quality demand. The peer-review system was also not widely used. The situation in this respect has now significantly changed. In most countries, grant-based financing has been introduced with an acceptable peer review system. Other forms of quality control (for example, accreditation in higher education or performance of individuals in university research) are also widely used. The market acceptance of R&D results and the market pull for innovative results is, however, still weak, although slowly but positively changing, especially in the most advanced countries.

28. Institutional reforms have been carried out or are on the way in all countries. The speed of this process is, however, not too high. The two main brakes are the strongly limited financial background and the continuing presence of the old way of thinking both among scientists and in policy-shaping organisations.

Levels of RTD spending

29. For a variety of reasons, it is difficult to present reliable data for expenditure on RTD by CEECs, even though many of them are now attempting to apply OECD (Frascati) definitions to the measurement of their RTD capacity. The evidence and experience available, however, indicated the virtual collapse of RTD expenditure in all CEECs since the early 1990s with a recent recovery in most cases. In addition, the international data available on numbers of patents taken out in Europe and in the US by CEECs also show evidence of decline. It seems likely that one of the effects of the collapse of RTD support is that personnel who were previously employed in RTD now spend most of their time performing other scientific and technical services, especially those which generate income, such as consultancy, teaching and technical services. The brain drain strongly affects also the research personnel of most of these countries. This is mainly due to the decline in salaries, as well as a fall in investment in equipment and instrumentation. The combined effect of these cutbacks is that the ratio of RTD to GDP has declined in CEECs by more that 50%.

30. The levels of RTD spending is much below the EU average and is, in most cases, below 1% of the GDP, except in a few cases with 1% to 1.5%. In these latter cases, infrastructure development programmes have also begun. If one looks behind the average numbers, the first observation is that government spending is relatively high but still below the EU average. The extraordinarily low level of spending is due mainly to the private sector. A second shortcoming is the low absolute level of spending due to the still low GDP of CEECs. Therefore, it cannot be expected that the average spending on R&D of the EU member countries can be reached in a short period even in those CEECs where the economic growth is significantly greater than the EU average.

31. The pains of the transition period can be eased with financial support from the Phare and Tacis programmes, general tools for restructuring with a limited but still significant contribution to the R&D sector.

32. Phare has significantly contributed to the structural changes in the CEECs, in general, and to changes of the R&D institutional structures, in particular. In operational terms, it responds to needs identified by the CEECs and is essentially a "demand driven" instrument. Phare contributes to the "membership fee" of the accession countries in the EU Framework Programme for RTD (FP5).

33. The CEECs are almost the only ones in the world economy which experienced a serious decline in RTD in recent times. This stands in marked contrast to the posi-

tion in western Europe and particularly to the emerging economies of Asia and the Pacific Rim.

Institutional restructuring

34. Institutional restructuring is now at the top of the science policy agenda in most CEECs, as they attempt to introduce national systems of innovation on lines similar to western Europe. The transition process is, however, slow. The most advanced countries have already managed to take the basic steps in the restructuring of their research network. Many of the so-called "branch institutes", which were devoted to applied technological research and development on behalf of their respective ministries, have virtually disappeared, mainly because of the budgetary cutbacks in RTD financing. The universities are now trying to find their way in research, sometimes assisted by the academies. In some countries the academy structures survived, after significant restructuring, and are among the most efficient research institutions. The funding of RTD favours, however, the universities and the links between research and teaching tightens.

35. All CEECs are now preoccupied with international links and particularly with strengthening their connections with the scientific establishment in western Europe. The "opening" of the FP5 has been widely welcomed. The other CEECs have also significant co-operation within this programme.

36. Most of the CEECs fall well behind the performance of the EU countries, even though the CEECs did manage to educate large numbers of scientists and engineers. While some produced very high quality work, the average level of scientific output and quality is well below European or world norms. Still, some strong areas of science seem to be surviving. Chemistry, for example, appears to be surviving quite well, and also physics output and performance are holding up. Mathematics also is strong, for example in Hungary and also in Romania. Biology is also performing well in the best CEECs. Countries of the former Soviet Union have also preserved part of their strengths, above all in basic research.

37. On the output side, innovative performance is particularly weak. Patenting activity has generally collapsed. There is a major deficit in both product and process innovation. Product innovation is crucial and urgent if these economies are to compete, even domestically. Under the central planning system, innovation had a low priority. There remains, to an extent, a cultural reaction against conditions favouring innovation; open systems, interaction, mobility, the free exchange of ideas, as well as a deficit in the institutional resources necessary to support and stimulate innovative performance are also weak points.

38. Generally, science is stronger than technology and there are, as a consequence, few opportunities for indigenous technology transfer. The acquisition of technology from abroad is, however, growing and mainly foreign companies use it as an access route to the vast markets of the CEECs. But within the CEECs, technology transfer mechanisms and processes are in an embryonic state with limited experience, except in some of the CEECs, in IPR or patent management, technology licensing or innovation management.

Changing co-operation priorities

39. European science, technology and innovation policies have been changing in the last decade, influencing the institutional, regional, national and European competencies and responsibilities. CEECs tried to follow the same trends but at the same time they have been forced to carry out the basic restructuring of their R&D system with limited financial resources and know-how.

40. Since these countries operated a structure centralised within the countries and isolated from the outside world, with the exception of the more-or-less formal co-operation within Comecon, the necessary changes have to be governed by two principles. The first one is the strengthening of bottom-up approaches within the country, introducing democratic institutional changes (for example, management practices), putting a stronger emphasis on regional issues, grant based, competitive financing techniques, etc.

41. At the same time, a strong drive toward the opening of the research establishment to the outside world in an institutionalised way has been started. This tendency has been met positively by the potential partners. The first steps were regional, marked by the Alps-Adria Cooperation, the Central European Initiative and the cooperation of the Baltic states. In the next phase, the participation in European programmes (Eureka, Cost) and institutions (European Science Foundation (ESF), European Organisation for Nuclear Research (CERN), European Molecules Biology Laboratory (EMBL), European Space Agency (Esa), etc.) have been the main goal. The Framework Programmes of the EU have been for many years of central interest to the CEECs. It is believed that participation in the framework programmes and particularly in FP5 has had the largest impact on the harmonisation of the national R&D system. The accession countries, when joining FP5 and opening their R&D programmes for the EU, took a very significant, although risky step, which should be acknowledged by gradually increasing their involvement in EU programmes. The evaluation of their performance in the first round is a good measure of their present readiness for even stronger and broader integration, for example into the new framework programme and ERA.

42. In the restructuring process, new types of institutions have been founded. Some others have been transformed in order to be more efficient and to fit better into the European RTD system.

43. Within the research network, institutes of advanced studies were created mainly with foreign financial background, such as the Collegium Budapest, with strong intellectual contribution from a group of advanced European countries. These types of institutes are in some way centres of excellence in the host country but do not seem to have the required impact on the local intellectual environment. In a few countries the research networks of the academies of sciences have been converted into Max Planck Society type institutions, remaining mostly within these academies but with a largely separate management. In the field of applied research networks are being created, modelling the structure of the

Frauenhofer Institutes. This process is, however, too slow.

44. The industrial landscape was ruled in the Comecon countries by large, megalomaniac companies, not sensitive at all to market demands, cost efficiency and innovation. When these countries started their structural changes, these large companies were mostly divided up or were privatised, mainly sold to foreigners. The multinationals filled this gap and built up large manufacturing and service capacities relying mainly on an R&D background outside the country. This situation is slowly but significantly changing in several countries. Outsourcing of research is an increasingly popular tendency and the companies themselves are starting to build up their own research units. It is in the interest of CEECs to exploit all possible means to extend and accelerate this tendency.

45. In spite of the fact that the R&D spending is low, new types of financing institutions have been built up. The picture is multi-coloured. Government agencies, research councils, foundations, academies of sciences are part of it. Both bottom-up and top-down approaches are present and a significant proportion of funds is distributed in a competitive structure on the basis of peer-review systems. The experience through participation in international, mainly EU programmes, contributes significantly to the improvement of efficient allocation of funds and to the harmonisation of national with European practices.

Centres of excellence

46. One of the promising EU initiatives is to create a network of centres of excellence in the accession countries with financial support within the framework of the FP5. It identifies a centre of excellence as an "existing working unit (a single proposer), either independent or functioning within a locally established research organisation of one of the countries concerned, having its own specific research agenda and preferably distinct organisational and administrative boundaries. The centre should not be a subsidiary or branch of an organisation established in another country".

47. The announced objective was "to support approximately twenty excellent research centres in these countries (their number turned out to be significantly higher, namely thirty-four) to better put their capabilities at the service of the economic and social needs of the region, in conformity with the interest of the Union as a whole. This is done in the first place by enabling them to improve their links with other European centres, for example, through networking and twinning arrangements". The target countries of this appeal were Bulgaria, the Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia and Slovenia.

48. The above definition of the "centres of excellence" is different from the definition given in the document "Towards a European Research Area" in that it refers to units geographically located, while the latter insist on the networking in cyberspace of existing laboratories selected for their high standard of research. It seems that the development of excellent research centres with a clear vocation to serve as temporary hosting institutions for researchers from both western, central and eastern European scientists, and as nodes for meetings of these researchers, is important. The archetype of centres of excellence has been somewhat anticipated by the International Centre for Theoretical Physics in Trieste, and has been followed by the recent creation of several such centres, among which the Collegium Budapest is perhaps considered as a model. It is likely that the EU policy with respect to the creation of centres of excellence is a powerful tool that could stop the brain drain of so many talented scientists from the eastern part of Europe; at the same time, centres of excellence should be suitable to improve the level of scientific expertise in central Europe. Such a network of centres of excellence should cover a wide area, from basic to applied science, in all fields of knowledge, from social to biological, to physical and mathematical sciences.

49. The centres of excellence are created around existing national centres, as soon as the latter have proven to have the necessary level of scientific quality and an already existing good system of management (which, at the occasion of the transformation of the centre into a European centre of excellence can be adapted and rendered more flexible).

50. Since this initiative has already turned out to be useful only after about half a year of existence, it is thought to be a good idea to extend this practice to the other CEECs, involving also funds other than those of the EU. This could contribute to the stabilisation of the research establishment of these countries, decrease brain drain, help economic development and political stability also.

51. Centres of excellence grow by themselves if the conditions are appropriate. Education, a sparkling and free intellectual climate, a proper institutional background and financing and good public acceptance may be the most important conditions for scientific development, not to mention open co-operation on a European and global scale.

52. Excellence has to be measured in some widely recognised form. Peer review has been the main instrument worldwide, based to a large extent on scientometry. There are, however, permanent debates practically in all countries on the additional parameters needed for the evaluation of the achievements of the individual scientist and the performance of larger research units. No generally accepted practice exists yet. In the latter case a permanent evaluation combined with a comparison with the world leaders in the particular field, called benchmarking, is gaining in significance.

53. There is a need to adopt and use in all European countries internationally agreed criteria for the assessment and evaluation of research proposals and of the scientific production of individual scientists and research units.

54. Assessment and evaluation of scientists, researchers or institutions in former communist countries using peer review has not always been the normal process used in allocating resources. Though the political situation has changed significantly and many formally objective measures have been adopted, it is necessary to ensure that well developed, transparent, universal and widely accepted systems of criteria for evaluations in science and research are established in the CEECs. Any remain-

ing traces of the methods used in the past, such as the biased selection of reviewers, are to be banned.

Science policy

55. Most CEECs are only presently acquiring the institutional capabilities for sophisticated policy-making on science and technology (S&T) and innovation and for building consensus among policy makers, corporate decision makers and members of the research community on S&T and innovation policy issues. The recognition of the growing importance of knowledge and continuous life-long learning as the basis of economic success in the twenty-first century is in an early stage outside of the S&T community. To change this situation is difficult, time consuming and expensive, but it has to be done if the economies of these nations are to develop the scientific and technological foundations for sustained innovation and long-term economic growth.

56. Apart from the shortage of funds, there are many barriers to successful policy making on S&T and innovation in the CEECs, among others:

– the strong influence of obsolete mind-sets and behaviour patterns from the past;

– the lack of trained S&T and innovation policy professionals, advisors and managers in government;

– weak knowledge management, technology transfer and marketing expertise in domestically-owned private firms as well as the remaining state-owned enterprises;

– a shortage of soundly-based, well taught postgraduate courses devoted to S&T and innovation policy, management, indicators, evaluation and related areas;

– insufficient or in many cases obsolete S&T infrastructure;

– in a fast decreasing number of cases, limited access to timely information and international networks; and

– absence of bridging institutions for technology transfer and diffusion and, in many cases, of adequate legal frameworks for intellectual property rights.

57. In spite of these shortcomings, governments, advisory committees and public and institutions such as academies are observed formulating competitive science policies. The possibilities of the FP5 in this field (development of scientific and technological policies in Europe) have not yet been efficiently exploited by the CEECs.

58. One of the serious mistakes of the R&D policy of the Comecon countries has been the artificial separation of research from higher education. It is not easy to correct this deficiency. Even more so since there is frequently a strong interest on both sides, namely research institutions and universities, to slow down the integration process. Some results are, however, visible in most countries. Joint chairs, joint laboratories at universities and research institutes, the participation of the research staff in higher education, mutual representation in governing and advisory bodies are all positive signs of this process. The restructuring of research institutes and the reform of university structures with a more optimal distribution of different types of research within the whole R&D system are also changes in the right direction.

Academia and industry

59. Co-operation between academia and university is one of the weak points of the R&D system in central and eastern countries. Before this, these relations were based on personal contacts and the common work was only modestly motivated by economic interests. In the transition period signs of this old system are still present, but both sides are trying to adapt to the demands of the new market economies. A network of technology transfer liaison offices has been built up and the number of innovation parks is steadily growing.

60. The "classical" co-operation between research and industry has collapsed in the first phase of structural changes in the CEECs. This has been partly due to the collapse of the industrial structure of planned economies, but is also connected with industrial and research priorities motivated by cold war needs and Comecom trade restrictions.

61. In transition to a market economy regime, the co-operation spectrum is multicoloured. Signs of the old system are still present but an adaptation process to new practices is on its way. Different CEECs are in different phases of this process. Of course, the problems are also different from country to country but with some similar features. Practically all institutions and mechanisms existing in EU countries are present in the CEECs but sometimes only with marginal influence, financial and managerial deficiencies and modest efficiency. Liaison offices for technology transfer have been created in some cases with networks of topical and regional offices but in most cases they are not seeking their optimal fields of activity. Innovation parks are growing but due mainly to the weak innovation sensitivity of SMEs they are less vigorous than they could be. Quality control and assurance has been neglected earlier and to find their proper place in the economies of the CEECs is still not without problems. International property rights to be properly monitored are a pre-condition of integration. Only a few of the CEECs treat this problem with the required attention. The industry of the CEECs has not been sensitive to environmental issues and governments (as owners of these industries) shared this view. Adaptation to new standards are painful and costly. Research communities are also obliged to pay more attention to this issue, but external help is also needed.

Drive toward integration and co-operation

62. The active participation of CEECs in existing and planned EU research programmes – if properly done – should be one of the main tools to harmonise pan-European practices. As far as FP5 is concerned, the projects must include partners from at least two EU member states, or from one member state and one of the sixteen associated states (including the following CEECs: Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia). As associated states contribute to the FP5 budget, bodies from these states may receive EU support for their

project participation, on the same basis as EU member states. The creation of the ERA aims also at bringing together scientific communities, companies and researchers from western and eastern Europe, in the prospect of the enlargement of the EU to twenty-five or thirty countries.

63. The emphasis of the EU on regional co-operation is understood in CEECs and in spite of traditional tensions in the region it does not seem to be a real problem. The institutional background of this co-operation exists only in a limited form in most of the countries for national regional co-operation and is in its infancy for cross-border co-operation.

64. It is important to strengthen co-ordinated regional co-operation. Attention should, however, be paid to avoiding the formation of central or eastern European ghettos. The active involvement of EU member countries in these regional programmes is vital and can strengthen this co-operation. At the same time, it should be mentioned that the advisory role of foreign experts in these programmes should be carefully treated. Past experience with this type of expertise has been moderately positive and useful since the local specifics have been mostly neglected in this practice.

65. In conclusion, it can be stated that the biggest help for CEECs countries is their strongest possible involvement in the R&D programmes. If, in some cases, full participation is still legally restricted, ways should be found for limited participation, for example, by inviting observers from the CEECs.

Governments and scientific research

66. The political élite in the CEECs is not always aware of the significance of science in economic development. Therefore, science policy is rarely an organic element of government policies in the region. This may be partly connected with the modest scientific background of the political élite but could also be connected with the political and social burden of the structural changes, leaving policy makers with limited energy for issues of science.

67. The clearest indication, however, of a positive change of attitude has been the decision in many CEECs to join the FP5. The increase of R&D spending, even if modest in most cases, is another sign of the same tendency. With the improving performance of the CEE economies, a stronger increase is expected but a basic breakthrough has not yet been seen. It is hoped that the integration process within Europe, the conditions set for it and the professional and political need for successful participation will force decision makers to follow more favourable approaches. A demonstration from the EU of the significance of this issue as seen in the Lisbon decisions may have a positive effect on the science policy of CEECs. This demonstration could be emphasised by some preferences given by the Commission to use the structural funds to strengthen science policy and its infrastructure in the CEECs.

68. Governments of the CEECs should be enabled to be good and honest brokers of research. The significance of this type of activity is increasing, since players in the field of R&D are coming from different fields, places and institutions and their work has to be harmonised. In this way non-scientists are also becoming important players in research, or rather innovation. Scientists remain, however, still the driving force of research but priorities are drawn up with a much broader scope. This implies that the new innovation policy of governments is or should be an organic part of general policies (environmental issues, quality of life, information technologies, etc.) and should be supported by a new style of management with many players involved, and separated from the permanent fluctuations of politics.

Research infrastructures

69. Large facilities, or, more generally, large research infrastructures, are the basis of high level research in a permanently increasing area. On the other hand, motivated by increasing costs and the need for efficient exploitation, this is the most typical area for international co-operation. The large European research infrastructures are located, with a few exceptions, in the EU countries and this situation is not expected to change in the near future.

70. Therefore, the participation of CEECs in the large facility programmes of FP5 and its successor FP6 is vitally important. In order to define the fair and realistic place of these countries in the research infrastructure policy at the European level, it is recommended that:

– the participation of research groups of CEECs should be encouraged and supported to exploit the possibilities offered by the large facility programme;

– the existing few medium-size facilities should be integrated into this programme;

– the participation in European international facility-building and institutions should be widened; and

– through existing organisations (ESF, Esa, etc.) CEECs should be involved both professionally and in limited volume financially in the preparatory work of infrastructural development.

Conclusions

71. In the last decade, the CEECs overcame numerous unexpected difficulties and had many significant achievements.

72. The basic structures for R&D and their management have not been restructured enough in the CEECs in general so as to be able to compete with advanced countries. The parallel existence of the university system with the academies of sciences, the very narrow space for co-operation between universities and industry, as well as the extremely slow growth in the number of spin-off companies are among the fields which require action.

73. What is needed from the CEECs is a higher level of financing and a stable science policy in harmony with EU (and global) tendencies.

74. The R&D communities should be involved in the strongest possible form in all European research ventures, and national science policies should be harmonised with European practices. This can be achieved if the CEECs are involved among others in the decision-making process of European organisations and structures.

75. Financial aid from the EU and other European sources could accelerate the development of competitive science communities in the CEECs and lead to a more efficient exploitation of their vast intellectual potential.

Reporting committee: Committee on Culture, Science and Education.

Reference to committee: Doc. 8412 and Reference No. 2394 of 26 May 1999; Doc. 8323 and Reference No. 2362 of 30 March 1999.

Draft recommendation unanimously adopted by the committee on 28 June 2001.

Members of the committee: *Rakhansky (Chairman), de Puig, Risari, Billing (Vice-Chairmen),* Akhvlediani, Arzilli, Asciak *(alternate: Debono Grech), Berceanu,* Bērziņš, *Birraux,* Castro *(alternate: Varela i Serra),* Chaklein, *Cherribi, Cubreacov,* Damanaki, Dias, Dolazza *(alternate: Martelli), Duka-Zólyomi,* Fayot, Fernández-Capel, *Galoyan, Goris, Haraldsson, Hegyi,* Henry, Higgins *(alternate: Kiely),* Irmer, *Isohookana-Asunmaa,* I. Ivanov, *Jakić, Kalkan, Katseli, Kofod-Svendsen,* Kramarić, Kutraitė Giedraitienė, Lachat, *Lekberg, Lemoine, Lengagne, Libicki, Liiv, Lucyga,* Maass, Marmazov, *Marxer, Matějů, McNamara,* Melnikov *(alternate: Gostev),* Mignon, Minarolli, Nagy *(alternate: Lotz), Němcová,* Nigmatulin, *O'Hara,* Pavlov, *Pinggera,* Pintat Rossell, *Prisàcaru,* Rapson *(alternate: Hancock),* Roseta, Sæle *(alternate: Thoresen), Sağlam, Schicker,* Schweitzer *(alternate: Jung), Seyidov, Sudarenkov, Symonenko, Tanik, Theodorou, Tudor, Turini, Urbańczyk,* Vakilov *(alternate: Aliyev),* Valk, Wilshire *(alternate: Jackson),* Wittbrodt, Wodarg *(alternate: Jäger),* Mr Xhaferi

N.B. The names of those present at the meeting are printed in italics.

See 32nd Sitting, 28 September 2001 (adoption of the draft resolution); and Resolution 1263.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Report
Doc. 9185 – 29 August 2001

Young scientists in Europe

**(Rapporteur: Mr WITTBRODT, Poland,
Group of the European People's Party)**

Summary

In order to maintain and increase European competitiveness on a solid scientific basis and in an ethical environment, governments, particularly those of countries which have experienced important economic and social reforms, are invited to ensure attractive working conditions and careers for young scientists through an adequate level of financing.

The report proposes to constitute a pan-European space for young scientists in order to fight the "brain drain". Regional, pan-European and international co-operation among institutions of higher education and research and industry, and short-term and long-term mobility schemes, should also be promoted to improve the research capacity and foster excellence among young scientists.

I. Draft recommendation

1. Science is playing an increasingly important role in the development of modern societies. The production, acquisition and use of knowledge (through research, information, education, training, and technological development) form the foundation of the "knowledge society" that will further develop during the twenty-first century. An ethical environment is necessary to ensure that the rights of citizens are respected, but a strong scientific basis is essential for a country to remain a competitive player in a global economy.

2. It is therefore of strategic importance that satisfactory recruitment of young talented people to the science sector be secured. Science education in schools should be strengthened, as requested by the Assembly in its Recommendation 1379 (1998) on basic education in science and technology. The profession should be made more attractive for young scientists embarking on a career. Opportunities for co-operation between young scientists should be promoted.

3. Recommendation No. R (2000) 8 of the Committee of Ministers to member states on the research mission of universities is also of particular relevance in this context, as are Recommendations Nos. R (85) 21 on mobility of academic staff, R (95) 8 on academic mobility and R (96) 7 on regional academic mobility.

4. Other initiatives aiming at enhancing and encouraging research co-operation in Europe include the decision of the European Commission to create a European research area, the Joint Declaration of the European Ministers of Education on the European Higher Education Area (Bologna, 19 June 1999) and many activities of Unesco and the European Science Foundation.

5. The retirement *en masse* of the "baby boom" generation, which has shaped research, teaching and technological development in universities, laboratories and industry over the last thirty years, and the important and rapid development of new sectors such as biotechnology, information and communication technologies, make the training and recruitment of young scientists a crucial issue.

6. In those European countries which experienced important economic and social reforms during the last decade, it is urgent to re-create the conditions to counter the dramatic brain drain and to maintain and further develop a sound scientific capacity. The Assembly welcomes in this context Recommendation No. R (95) 7 of the Committee of Ministers to member states on brain drain in the sectors of higher education and research.

7. European co-operation among young scientists will considerably contribute to maintaining and improving Europe's competitiveness in all areas. It could also speed up and facilitate the pooling of research resources and the creation of common research infrastructures. Encouraging these young scientists to participate actively in international and European network co-operation and to undertake part of their advanced training (doctoral studies or beyond) in another country will give them valuable experience of working in a multicultural environment. This was underlined in Committee of Ministers' Recommendation No. R (95) 18 on youth mobility.

8. Consequently and with due consideration to the findings of the Assembly's Pan-European Conference on Science and Technology in Europe – Prospects for the Twenty-first Century (Gdansk, 9 to 11 October 2000) as well as to the conclusions and recommendations of the European Forum of Young Scientists (Gdansk, 7 to 9 October 2000), the Assembly recommends that the Committee of Ministers:

i. promote a pan-European space for young scientists, in co-operation with other organisations competent in this field such as Unesco, the OECD, the European Union (including the Marie Curie Fellowship Association), the European Science Foundation and the Association of European Universities;

and to this end:

ii. make a survey regarding the situation of young researchers and postgraduate students in Europe (European and non-European), in particular regarding recruitment, training, mobility, career prospects, research independence and equality issues, with a view to formulating policy advice to member governments and institutions of higher education and research for the promotion of young scientists and Europe-wide co-operation among them through appropriate mobility schemes;

iii. invite member governments, and in particular those of European economies in transition, to ensure an adequate level of funding for research and technological

development so as to retain young scientists and facilitate the return of those who might leave to study abroad;

iv. encourage member governments and institutions of higher education and research to launch new strategies for the recruitment, training and career development of young scientists, and, where possible, harmonise these and relevant administrative conditions in order to improve the attractiveness of the scientific profession and redress the unequal situation of women scientists;

v. invite member governments to encourage regional, pan-European and international network co-operation, in particular with the Maghreb countries, among institutions of higher education and research with a view to improving research capacity and the fostering of excellence;

vi. ask member governments, institutions of higher education and research and industry to encourage research co-operation and mobility among young scientists in Europe by giving support to short-term and long-term mobility schemes (also open to young non-European scientists);

vii. invite member governments to give their support to the Unesco Venice Office Project for European Advanced Seminars for Young Scientists (EASYS – master classes in science), that fosters Europe-wide, transatlantic and Euro-Mediterranean short-term mobility, and to ask Unesco and its partners to reinforce this activity.

II. Explanatory memorandum, by Mr Wittbrodt

Introduction

1. At the end of 1999 *Time Magazine,* after long consultation, designated Albert Einstein "Personality of the twentieth century". The reason given for this choice was that no other personality, however important, was felt to be a better symbol of the passing century than this famous scientist. If the twentieth century was the century of science, then all indicators converge in pointing to the twentieth-first century becoming even more so, but differently, and young scientists will definitely play an important role.

2. A motion for a recommendation on the situation of young researchers in Europe was introduced in 1999 by Mr Melnikov, then Chairman of the Committee on Science and Technology (Doc. 8324). The subject was pursued in the Pan-European Conference on Science and Technology in Europe – Prospects for the Twenty-first Century (Gdansk, 9-11 October 2000) and in particular in the European Forum of Young Scientists (Gdansk, 7-9 October 2000). The overall conclusion was that science and technology will play a major role in the development of our society in the coming decades. Ensuring the recruitment of young talented people in research activities represents, therefore, an essential investment in the future of our European societies.

3. The present report aims to identify policy measures to promote and improve the situation of young scientists in Europe. It should be read alongside other reports arising from the Gdansk conference and relating to the place of science in the economies of transition (Mr Matějů) and to structural reform in higher education and research in central and eastern Europe (Mr Ivan Ivanov). Though it is deliberately limited to hard science (which was the subject of the conference), the wider questions of the role of science in society, ethics and democratic control should not be overlooked.

Progress in a democratic knowledge society

4. Research is an essential component of the new economy and a knowledge-based society that are developing on a global level. The production, acquisition and use of knowledge in its different forms will, more than ever before, be one of the basic driving forces behind economic and social progress and a key factor in business competitiveness, employment and the quality of life. Science is central to the policy-making process.

5. The past fifty years have seen greater advances in human knowledge than the previous fifty centuries, and this development is expected to continue, thus making humankind more powerful than ever before. But this new situation leads to the need for ethical choices and requires a high level of democratic responsibility. The biotechnology and information technology revolutions clearly illustrate the need for public debate on the future development of modern society.

6. It should be pointed out that science and technology seem to have lost their links to society, researchers seem to have forgotten that science and technology should serve mankind, not the reverse. Two reasons could be behind this evolution: on one hand, industry-funded research is seen as increasingly profit driven and interested only in rapid practical results, on the other hand, many scientists seem to lack a sound ethical basis.

Towards a European research area

7. The European Union Commissioner for Research, Mr Philippe Busquin, has summarised the main challenges facing European (EU) research as follows:

– insufficient global level of investment in research;

– dispersed and not sufficiently co-ordinated research activities and policies;

– diminishing interest in research among the younger generation;

– prospect of a deficit of scientific personnel in Europe;

– the weaker relative attractiveness of Europe (EU) for researchers from abroad.

8. It is with these ideas that Mr Busquin launched the initiative to create a European Research Area, which was adopted by the European Commission in January 2000. During the same year the project was endorsed by the Lisbon European Council of Heads of State and Government and by the European Parliament. The idea of creating a European Research Area has also been welcomed by the (EU) Economic and Social Committee and the (EU) Committee of the Regions, as well as by the candidate countries, the scientific community and

industry. This European Reseach Area is in the first place limited to the EU countries.

9. The Committee on Science and Technology of the Parliamentary Assembly discussed this project during its pan-European conference in Gdansk in October 2000. It became particularly clear during the discussions of the first European Forum of Young Scientists that special attention should be given to young researchers when constructing the European Research Area. It was also the strong conviction of the committee that the young scientists' dimension of the project must be pan-European. Young scientists from other continents should be encouraged to visit and work in such an enlarged European Research Area.

10. The Committee of Ministers of the Council of Europe made a similar point in their Recommendation No. R (2000) 8 on the research mission of universities. This has a separate chapter on training and recruitment of university researchers (see Appendix I).

Young scientists

11. The term "young scientists" strictly speaking applies to persons at the beginning of their postdoctorate careers. In most European countries, this in fact means persons aged 25 to 35, sometimes 40. These people (sometimes referred to as "postdocs") pursue careers in universities, research organisations, public institutions, and industry. However, to be comprehensive, our report covers young scientists in a broader sense, including university postgraduate students. On the other hand, as already said it does not include researchers in the humanities and social sciences.

12. The European Forum of Young Scientists produced a report which is included in Appendix II. It gives a clear presentation of the main themes of concern to young scientists working in Europe (including non-Europeans). It also presents a list of proposals for action which your rapporteur has used in drawing up the draft recommendation of this report, and which should be taken into account in the future work of the Council of Europe as well as by member governments.

13. It is relevant to add here some of the findings of a comparative survey on the situation of young researchers carried out in 1999 by the European Science Foundation and the Journal *Nature,* covering eight west European countries – France, Germany, Italy, Netherlands, Sweden, Switzerland, Spain and the United Kingdom.

14. Employment opportunities, especially in permanent positions, seemed to represent the most important and common problem for young researchers in Europe. Absence of stable and foreseeable career prospects could have a discouraging impact on young researchers and urge them to tolerate excessive workloads and negative attitudes of their colleagues. Very often, young researchers were especially vulnerable to personnel cuts resulting from lower R&D financing or company downsizing.

15. Payment conditions were also of major importance. Less than two-thirds (63%) of the "postdocs" in the ESF/*Nature* survey found their conditions appropriate or even roughly appropriate. Young researchers' wages varied strongly between European countries.

16. Other problems revealed by the ESF/*Nature* survey included lack of personal recognition, poor work organisation, unclear prospects for promotion, unfriendly attitudes of colleagues, strong hierarchical traditions, interference with non-research tasks such as teaching or staff supervising, etc.

17. Problems of young female researchers should be given special consideration. Young women who pursued research careers often complained of negative or sceptical attitudes from their colleagues. Besides, those with family responsibilities became less competitive as compared to male researchers. To overcome these problems, gender-specific measures are needed.

18. In addition to problems common to young researchers in all countries, the ESF/*Nature* survey also uncovered major national differences, including in particular a clear north-south divide among the eight countries surveyed. The same divide was evident on such basic criteria as receiving adequate credit for young researchers' work, freedom to question institutional policies, or the quality of technical staff available.

19. Increasing mobility of young researchers was often considered to be an important method of overcoming some of the above problems. Mobility was very broadly defined, both in terms of sector and geography. Transfer of young researchers to small and medium-sized enterprises (SMEs) or science and technology parks represented interesting examples. This type of mobility involved a scientist's movement from actual research to research application, often to return to research later, enriched with practical skills and approaches.

20. International exchanges of young researchers were another type of mobility based on such mechanisms as scholarships, internships, and grants. These exchanges were particularly useful for young researchers carrying out experimental work elsewhere if relevant equipment (such as large research facilities) was unavailable in the home institution. In Europe, there were numerous bilateral and multilateral agreements encouraging such mobility. In the ESF/*Nature* survey, every third young west European postdoc was found to work outside his or her home country and was not complaining about that. The United Kingdom seemed to be most hospitable to foreign young researchers while Spain and Italy were falling seriously behind. More data are needed.

21. The study conducted by the ESF and *Nature* provided a good starting point and guidelines for further analysis. However these data should be confirmed by national authorities and complemented by information from other countries, in particular from central and eastern Europe, and on other aspects of the problem.

22. Another array of data, which would be of great use in this context, regards the ambitions and motivations for the career choices of the younger generations: what is the position of research in their priority lists, which factors encourage young people to join universities and to continue with research training upon graduation. Experience shows that the scientists' social status and well being are among the most crucial factors. However, clarification is needed. This is especially true for

countries in transition, which have to define clearly the priorities in allocating the resources in their science and youth policies.

23. Yet one more set of data regarding governmental policies and non-governmental activities aiming to improve the situation of young researchers, and their efficiency in various countries, is needed. This includes among others:

– the legal base regulating the status of students and young researchers, including in particular employment guarantees;

– employment and financing schemes for young researchers nationally and internationally;

– systems of assessing research results, promotion and other regulations regarding young researchers' careers in the academic world, research institutions, and industry;

– measures to increase the mobility of young researchers.

24. Finally, contacts with NGOs operating in this field would be of great importance, both to articulate the opinions of young European researchers and to formulate appropriate policies. The ESF and Euroscience are among those organisations which have followed the problems of young researchers with close interest. A question worth special consideration is whether young researchers should be encouraged to establish a centralised or network-type organisation to represent their common interests and to spread information about employment opportunities, etc.

The East-West dimension in research

25. The drastic reduction in research effort in the European economies in transition is a problem. Again, increased co-operation and mobility among young scientists, from East and West, could help counter some of the more negative effects for the countries concerned.

26. It is important to involve all partners in such an ambitious project, and in particular organisations such as Unesco, the European Science Foundation and the Association of European Universities and last but not least industry. This investment in pan-European (and international) co-operation among young scientists should facilitate the medium- and long-term integration of east and west European research structures and should also facilitate and encourage the creation of common resources or the pooling of such on a European scale. The ESF's Eurocores mechanism to launch collaborative research programmes should be strengthened.

27. It is relevant in this connection to quote one of the young scientists who participated in the Gdansk forum, Ms Oksana Yaremchuk of the Ukraine. She pointed out the following issues as particularly important for young scientists from European countries with economies in transition:

– the insufficient level of information about the existing educational programmes, research facilities and enterprise activities in Europe;

– return grants. The efficiency and the qualification level of scientists who were studying, training and working abroad were dramatically reduced upon their returning to their home institutions, mainly due to the strong restriction in budget and technical equipment available for their activities, as well as the bureaucratic and administrative limitations;

– the importance of supporting the creation of modern laboratories and research facilities, to create an attractive working environment for foreign researchers. One key point is to further increase the level of foreign investments into the creation of potential systems of research institutions, which will be able to self-perpetuate their activities after the halt of external support;

– mutual recognition of academic titles and degrees between eastern and western institutions has to be improved;

– the strategic need to encourage and support the talented scientists by creating attractive working conditions. In fact, the majority of scientists in eastern countries can only count on their own enthusiasm and personal resources, being forced to work in unsatisfactory conditions;

– scientists are not completely prepared to compete or to co-operate, either within the countries or institutions or with external institutions. The initial point is to develop a tight relationship between education and scientific institutions and industries;

– the need to integrate into industrial technologies the latest innovations developed by scientists.

28. It is evident that such observations must guide our drawing up of policy measures to build a European research and higher education area.

29. Mr van Duinen (ESF) stated in Gdansk that: "The diversity of Europe, the differences in research traditions, approaches, reasoning are together a rich source of the kind of inspirational variety which research and technology requires to progress". The investment in a new generation of talented scientists with this multicultural experience would be an asset, not only for research, but also for business, administration and European co-operation.

30. The Committee of Ministers of the Council of Europe has also given some attention to this East-West question (but also to US-Europe relations) in Recommendation No. R (95) 7 which sets out measures to combat brain drain in the sectors of higher education and research, essentially aiming at maintaining the higher education and research sectors of the countries affected by long-term (or definitive) loss of intellectual, scientific and cultural resources, by improving their functioning and by promoting all forms of constructive international co-operation. Among the measures included are also a series of proposals for incentives specifically aimed at students and young graduates.

Mobility of scientific researchers

31. Mobility is seen as an important method of exchanging information, skills and experience between universities, the academic world, and industry, as well

as between different countries and scientific institutions. It may also serve as a temporary solution for young researchers in countries where funding for research is insufficient.

32. A common problem in many central and east European countries is that as soon as legal and political restrictions on international mobility were lifted there, many researchers left for western Europe and the United States. That was especially evident among young researchers who have looser family ties and better language skills than the elder generation. Many west European countries also suffer from a similar brain drain to the United States, which in economic terms means that the educational efforts of one country are being harvested by another. Instead of falling into the temptation of re-instating barriers to this mobility (as seems to be the case in the Russian Federation) we should try to create the appropriate conditions for young scientists to stay in (or to return to) their countries of origin.

33. Mobility in itself is also hampered by a number of obstacles of a different nature. One is the diversity of national diploma systems, even within the European Union, which makes them hardly comparable and compatible. To improve the situation, the United Kingdom, France, Germany and Italy have reached an agreement to harmonise the structure of their diplomas (undergraduate degree, a short master level degree, and a longer doctoral degree), to serve as a first step in harmonisation within the entire European Union.

34. One further barrier to mobility concerns mutual recognition of qualifications in Europe. Despite repeated efforts of the Council of Europe, Unesco, and the EU, notably within the framework of the Lisbon Recognition Convention, adequate recognition on advanced qualifications may still pose problems to qualified young researchers. Besides and despite the manifold funding schemes, most of them do not have a universal territorial scope.

35. The increasing differentiation of sciences is another obstacle, making many research positions "tailored" to the specific needs of a particular organisation. Such "craftsmanship" makes it increasingly difficult for researchers to change jobs and adapt themselves to new workplaces. However, this is also to a large extent dependent on a researcher's own flexibility and attitudes to changing his or her research profile, which is often needed to adapt to the development of science or to the labour market trends.

36. There are many very successful mobility schemes of which the EU Marie Curie Fellowships scheme should be particularly mentioned since its fellowship association was the co-organiser of the first European Forum of Young Researchers mentioned above. But private, national and regional schemes still play the main role although it would be impossible to mention them all in this report.

37. A new Unesco initiative was presented at the Gdansk Conference; the European Advanced Seminars for Young Scientists (Easys). Its aim is to bring together eminent senior scientists in key fields of contemporary science with a limited number of young scientists of proven talent for research in order to develop a free and direct exchange of ideas on the scientific and societal challenges evoked by specific scientific research problems of paramount importance. Easys will tackle issues reconciling science, technology and social disciplines. Both emerging scientific disciplines and interdisciplinary problems fundamental for the future development of science and society will be considered.

38. Such seminars will emulate the well-known model of master classes in arts. Special attention will need to be given to the selection of young scientists from central and eastern European countries (CEECs) and Mediterranean countries, thus contributing to filling the gaps not only between generations but also between sub-regions. It is clear that these seminars will be complementary tools to various instruments of intellectual co-operation already in action. In such a way, Easys might develop into a pan-European network of summer universities.

39. This initiative may be considered an important component of a "European partnership in science", a process aiming at the integration of the scientific communities of western and eastern Europe. Some features of this process and the necessity of its acceleration and diversification were recently discussed by CEEC ministers and senior experts in science policies, during three meetings initiated by several countries from the CEEC region and organised by Unesco's Venice Office, UVO-ROSTE in Budapest (29 June 1999), Paris (6 November 1999) and Venice (15-16 May 2000) together with the Directorate General for Research of the European Commission and the ESF.

40. The Unesco project of European Advanced Seminars for Young Scientists is particularly designed to foster not only Europe-wide, but also transatlantic and Euro-Mediterranean short-term mobility. This and other similar mobility schemes should also be used in making Europe an attractive research area for scientists from abroad, helping all the participants to appreciate Europe's rich and diversified academic and cultural heritage, as well as the diversity and scope of its science base.

41. The Council of Europe has given particular attention to the question of academic mobility for many years through different studies, recommendations, conventions and the creation of a network of academic recognition and mobility centres. One of the studies in particular addressed the mobility of postgraduate students and young researchers. One of the recommendations aiming at fostering mobility of researchers in Europe (Recommendation No. R (90) 15) should be mentioned in this context. It recommends in particular:

– "a flexible approach should be taken to the grant of temporary permits for part-time work in institutions of higher education and research to postgraduate students, teachers and researchers. Alternatively, their access to other sources of income (grants, study allowances, etc.) should be fostered wherever necessary;

– postgraduate students from other European countries should not be charged higher course fees than nationals, and such fees should be waived altogether in the case of short courses."

42. Other Committee of Ministers' recommendations in this field are on the mobility of academic staff (Recommendation No. R (85) 21), on academic mobility (Recommendation No. R (95) 8) and on regional academic mobility (Recommendation No. R (96) 7).

Conclusions

43. In view of the above, it is evident that if the Parliamentary Assembly is to give its support to the EU initiative of creating a European research area, this must be on condition that this area have a special component regarding young researchers and that it be at a pan-European level. The proposal is therefore to complement the EU initiative by promoting a "pan-European space for young scientists".

44. The recruitment of talented young people to science and technology is of crucial importance for our societies' competitiveness and well being. The science professions must be made more attractive and the development of a European status for young researchers should foster mobility and co-operation.

45. It is the task of governments to assess the recommendations put forward in this report and to take appropriate action for rejuvenating science in Europe. Enhanced co-operation between the young scientists of Europe and their colleagues from abroad will reinforce this goal.

APPENDIX I

Recommendation No. R (2000) 8 of the Committee of Ministers to member states on the research mission of universities[1]

(Adopted by the Committee of Ministers on 30 March 2000, at the 705th meeting of the Ministers' Deputies)

APPENDIX II

European Forum of Young Scientists
Gdansk, 7 to 9 October 2000

Report to the Council of Europe Parliamentary Assembly Committee on Science and Technology

Executive summary

The forum of fifty-four young scientists from twenty-two countries held lively discussions about the problems and opportunities facing science, and young scientists in particular, in Europe. Several key themes were identified. These included: the need to make European research careers more attractive; the importance of more flexible research, funding and career structures, in particular greater autonomy for scientists earlier in their careers; the need to recognise and address the particular problems of eastern European research mobility and funding; and the requirement for greater public involvement in, and appropriation of, science.

Six policy proposals were developed, of which the two main priorities are:

– develop more flexible research structures and funding schemes: a European postdoctoral status, and accompanying incentives for institutions to participate, funded at European level;

– address the particular problems of eastern European research mobility: shorter PhD degrees and mutual recognition of degrees, with transitional concessions for eastern European scientists, and assistance with setting up new infrastructure.

European Forum of Young Scientists

The European Forum of Young Scientists met for two days prior to the Council of Europe Parliamentary Assembly Committee on Science and Technology Conference on Science and Technology in Europe: Prospects for the Twenty-first Century. The forum was organised by Unesco and the Marie Curie Fellowship Association, in association with the Parliamentary Assembly of the Council of Europe, the Technical University of Gdansk, and AIESEC Poland.

The forum involved fifty-four participants from twenty-two countries. Interesting presentations from invited speakers were followed by lively debate among the young scientists present. Several key themes were recurrent through the sessions. This brief report summarises these themes and the policy implications, and concludes with a short list of policy priorities.

Summary of key themes

Poor attractiveness of research careers and insufficient opportunities offered by Europe to its young scientists represent a potential risk for the future of research and development in Europe. Independently of the financial effort needed to overcome the increasing gap in European research budgets with respect to the United States, a few practical measures could improve the integration of young scientists and make them more adaptableto the changing science and technology labour market.

Science careers in Europe need to be made more attractive. This is partly a question of funding and salaries, but also connected to the level of autonomy experienced by young researchers. Researchers need to become independent at an earlier stage in their careers in order to take advantage of their creativity and productivity. There are great differences among areas, in terms of training and in terms of opportunities for individuals and requirements of industry: there is significant unemployment in some areas and major skill shortages in others. Mobility is still limited in Europe today: it is encouraged by EU programmes, but is driven primarily by job seekers rather than by industry, except for a select few. More information about jobs and opportunities and about the range of individual skills and qualifications available within Europe could help to reduce rigidities in the system on both sides.

Although greater mobility is clearly potentially beneficial for individual researchers, for home institutions and states mobility can mean a brain drain if scientists do not return home – this is particularly acute in eastern Europe. To combat brain drain, incentives are needed to encourage mobile researchers to return to their home countries. Greater assistance for individual researchers to cover the transitional costs of returning should be considered, and incentives are vital to encourage home countries and institutions to welcome returning scholars and ease the transition between different research cultures and systems. Linking fellowships to assistance with establishing research facilities on return, particularly to countries with less developed research infrastructure, should form a key part of this policy.

1. This text is available on the Internet site of the Council of Europe: http://www.cm.coe.int.

Greater knowledge exchange is required between academia and industry, at all levels. Academia should be producing graduates and postgraduates with the skills required for industry and research, but for this to happen it is vital that industry be engaged in informing academia of its rapidly evolving needs. Creating national and European industry advisory boards for universities should be considered; and greater involvement of industrial representatives at the individual university level should be encouraged, especially with respect to curriculum development and audit. Greater flexibility in academic career structures and evaluation should be introduced in order to allow academics to collaborate with industry and government, to mutual benefit, without jeopardising their positions.

There is also need for greater individual awareness of the requirement for wider skills and lifelong learning, as well as a greater willingness on the part of universities to train undergraduate and doctoral students in these skills, such as teamwork, leadership, and project management. Knowledge may be key, but personal and business skills are also essential. The ability to adopt a multidisciplinary approach will become increasingly valuable and the training offered by universities should enable this.

There is an increasing tendency towards public mistrust of science and of political decision-making related to science and technology development. This must be addressed through greater appropriation of science by the public, and through scientists becoming more accountable to society. Developments in biotechnology give a clear example both of the need for greater public integration into scientific decision-making and of the need for education about risks and trade-offs. It also illustrates the misuse of information technology for propaganda on both sides of a debate and the influence of economic power in shaping the research agenda. Scientists must no longer allow themselves, or be allowed, to be used in the service of economic or military power independent of ethical and environmental considerations, but must rather serve society. For this to occur, society must be empowered to cope with high volumes of often conflicting information and must be given fora to make public views heard. This can be achieved through increased emphasis on basic science education to enhance public understanding of science, and through establishing structures for informed public participation in scientific agenda setting and decision-making. Scientists must form better public communication structures to disseminate information about cutting-edge research and its implications.

Proposed action points

There was a general view that policy needs to be more focused on particular problems such as those identified above. The following concrete proposals arose from the forum discussions:

Develop more flexible research structures and funding schemes. Scientists should have more control over the financial planning of their projects. A postdoctoral status defined at a European level, superseding national structures, would allow employment of mobile "postdocs" in countries where the currently rigid national system prevents this. Incentives for institutions to participate will be required and enable access to certain networks or funding opportunities. These advantages should be funded at European level.

Address the particular problems of eastern European research mobility. Better harmonisation, and in particular shorter PhD degrees and mutual recognition of degrees, is a priority. A European database of science and technology opportunities for young scientists, including fellowships and academic and industrial positions should be established. Obstacles to mobility should be removed, such as delays in providing visas. There should be short-term transitional concessions for eastern European scientists, for example where average age of graduation is higher, or infrastructure weaker, than in the West. These inequalities should be taken into consideration in awarding grants and some should be earmarked for eastern European scientists. It is also important to encourage western European countries to participate fully in existing schemes (such as Intas) with eastern European countries.

Give scientists more independence earlier in their careers through funding targeted to excellent young scientists, awarded on merit, to create research leaders. This requires funding for networking and training and further support to set up labs, in particular in eastern Europe.

Return grants should be introduced, paid partly to the institution and partly to individuals, to provide additional incentives for mobility, help avoid brain drain, and fund new research facilities.

Encourage effective promotion of a European research area open to scientists of all origins, by removing the administrative and statutory barriers that make transnational careers very difficult (for instance, in terms of insurance or pension schemes, or of equivalence of diplomas for certain countries). An overall increase in the percentage of GDP invested in research is also required, part of which should be devoted to improve salaries, to be competitive with industry and scientific salaries in other nations, so as to attract the best scientists to research careers.

Support wider skills training in postgraduate degrees to ensure that doctoral candidates are fully equipped to meet the needs of career-building for consulting and industry. Additional funding will be crucial, but minimum requirements for training provided by host institutions for accessing existing mobility grants should also be considered.

Main priorities

The forum is aware of the need to prioritise objectives for political purposes. The general consensus is that the most urgent changes are:

1. to develop more flexible research structures and funding schemes: a European postdoctoral status, and accompanying incentives for institutions to participate funded at European level.

2. to address the particular problems of eastern European research mobility: shorter PhD degrees and mutual recognition of degrees, with transitional concessions in funding criteria for eastern European scientists, and assistance with setting up new infrastructure.

In conclusion, the participants in the forum valued greatly the opportunity to meet to discuss these important issues and to present this document to the Council of Europe Parliamentary Assembly Committee on Science and Technology. The forum feels that mechanisms for input by young scientists into policy nationally, and at European level, should be reinforced and their development supported.

Reporting committee: Committee on Culture, Science and Education.

Reference to committee: Doc. 8324 and Reference No. 2363 of 30 March 1999.

Draft recommendation unanimously adopted by the committee on 28 June 2001.

Members of the committee: *Rakhansky (Chairman), de Puig, Risari, Billing (Vice-Chairmen),* Akhvlediani, Arzilli, Asciak *(alternate: Debono Grech), Berceanu,* Bērziņš, *Birraux,* Castro *(alternate: Varela i Serra),* Chaklein, *Cherribi, Cubreacov,* Damanaki, Dias, Dolazza *(alternate: Martelli), Duka-Zólyomi,* Fayot, Fernández-Capel, *Galoyan, Goris,*

Haraldsson, Hegyi, Henry, Higgins *(alternate: Kiely),* Irmer, *Isohookana-Asunmaa,* I. Ivanov, *Jakič, Kalkan, Katseli, Kofod-Svendsen,* Kramarić, Kutraitė Giedraitienė, Lachat, *Lekberg, Lemoine, Lengagne, Libicki, Liiv, Lucyga,* Maass, Marmazov, *Marxer, Matějů, McNamara,* Melnikov *(alternate: Gostev),* Mignon, Minarolli, Nagy *(alternate: Lotz), Němcová,* Nigmatulin, *O'Hara,* Pavlov, *Pinggera,* Pintat Rossell, *Prisàcaru,* Rapson *(alternate: Hancock),* Roseta, Sæle *(alternate: Thoresen), Sağlam, Schicker,* Schweitzer *(alternate: Jung), Seyidov, Sudarenkov, Symonenko, Tanik, Theodorou, Tudor, Turini, Urbańczyk,* Vakilov *(alternate: Aliyev),* Valk, Wilshire *(alternate: Jackson),* Wittbrodt, Wodarg *(alternate: Jäger),* Xhaferi

N.B. The names of those present at the meeting are printed in italics.

See 32nd Sitting, 28 September 2001 (adoption of the draft recommendation); and Recommendation 1541.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Report
Doc. 9186 – 31 August 2001

Role of interregional co-operation for agricultural and rural development

**(Rapporteur: Mr SMOLAREK, Poland,
Group of the European People's Party)**

Summary

Changes in the European Union's Common Agricultural Policy, as well as free-market-oriented reforms of agriculture in the countries of central and eastern Europe, have been encountering difficulties. The regions of central and eastern Europe must cope with the problems of poor knowledge and little experience in the free market economy, and particularly with the lack of resources and of adequate legal regulations, and with the underdevelopment of infrastructures to service the agricultural sector.

Transfrontier and interregional co-operation between local and regional authorities in the field of agriculture and rural development can help to overcome these difficulties. Such co-operation can be facilitated especially by the Council of Europe's existing legal instruments and by the European Union financial and technical co-operation programmes.

I. Draft resolution

1. European agriculture has undergone far-reaching changes during the past few years. Following the privatisation of land and the transition to a market economy, the transformation of the rural sector is crucial for the economic and political stability of central and east European countries.

2. The Assembly considers that the process of transforming and adapting agriculture should take place on several levels, from the farm itself to central government, via the village and the region. It notes that the considerable resources required for this change are not always available under national and European programmes.

3. Cross-border and interregional co-operation can have extremely beneficial effects on agriculture and rural development and can also play a part in alleviating the drawbacks associated with the existence of borders and improving the local residents' quality of life.

4. In this connection, the Assembly is pleased to note that a large number of interregional co-operation initiatives have been carried out successfully in a variety of forms, such as cross-border and interregional agreements or Euroregions, supplementing the limited resources available for assisting the transformation and modernisation of the farming sector and the economic development of rural regions.

5. The Assembly welcomes the fact that initiatives of this kind create close links between European countries and regions, in line with the Council of Europe's basic aim of achieving "a greater unity between its members". It wholeheartedly encourages the development of such initiatives, which contribute to the whole process of European integration.

6. The Assembly therefore invites member states and European regions:

i. to develop closer links in terms of agricultural co-operation and rural development, allowing other European regions to benefit from their experience, skills and technology by placing their human, financial and technical resources at the disposal of less-advanced regions;

ii. to promote trade in agricultural produce in order to make better use of their respective production advantages and to enhance the complementary nature of their agricultural sectors;

iii. to promote the production of regional agricultural produce of certified quality and origin in order to adapt to new market conditions and consumer demand, while allowing for a better traceability;

iv. to co-operate in developing agro-industrial and trade outlets for products in regions where such outlets are non-existent or obsolete, with a view to consolidating the agro-industrial sector, making it more competitive and contributing to rural and socioeconomic development in these regions;

v. to promote an integrated form of rural development, taking account of the multifunctional nature of agriculture, environmental constraints and social needs in a context of widespread change in the agriculture sector and the regions;

vi. to devise jointly-agreed rural development programmes, particularly with the regions of central and eastern Europe, in areas such as farmer training, improving farm infrastructure, new farming techniques and practices, financial and trade support, organisation of agricultural services (such as banks, insurance, land registers and professional organisations), development of the agri-food industry, environmental conservation, and promotion of agricultural tourism;

vii. to promote cross-border and interregional agreements on agricultural and rural development, in particular:

a. by making use of the Council of Europe's existing legal instruments, such as the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (Madrid, 1980), as supplemented by its Additional Protocol (Strasbourg, 1995) and its Protocol No. 2 on interterritorial co-operation (Strasbourg, 1998), where these have been ratified by the member state concerned;

b. by submitting projects for European Union financial and technical co-operation programmes and instruments at national or regional level, such as Sapard, Phare, Interreg, Leader+ and Tacis, eligibility for which varies according to the category of the countries concerned (member states, applicant states or others).

7. The Assembly calls on the Congress of Local and Regional Authorities of Europe, the European Union's Committee of the Regions and European associations of local and regional authorities to step up their efforts and initiatives to promote rural development and interregional co-operation in this field, especially in the regions of central and eastern Europe.

II. Explanatory memorandum, by Mr Smolarek

1. Introduction

1. The 1990s ushered in profound changes in the whole of Europe. These were related to systemic changes taking place in eastern and central Europe. The European Union faced new challenges also.

2. These changes have been seriously affecting the rural sector in the countries of eastern and central Europe. Transition from the command-and-quota system to that of the free market have turned the agricultural sector upside down. The mass of former workers of state farms and of restructured businesses, now made redundant, have joined the throngs of the unemployed.

3. The privatisation of land – not everywhere carried out with a due consideration and in a rational manner – has placed new farmers in a very difficult position. Unfavourable market circumstances (huge food imports from the West), lack of resources and poor infrastructure as regards servicing agriculture (for example, the absence of wholesale markets) make the situation even worse.

4. That is why, for the sake of the development of agriculture and the countryside, it is necessary to develop manifold forms of cross-border co-operation as well as co-operation between regions and states.

5. The Euroregion is a bilateral or multilateral legal transfrontier entity with a strictly predetermined area perimeter, established on the territories of signatory states. The Euroregion statute defines the aims and scope of Euroregion activities and the European Framework Convention on Transfrontier Co-operation between the Communities and Territorial Authorities lays down general rules for the Euroregion. The establishment of Euroregions is seen as a practical way of revitalising transfrontier co-operation. Co-operation within the Euroregion takes effect by the parties' common, unanimous and voluntary consent. The agents of this co-operation are both self-governments and bodies of state administration.

6. In the area of agriculture, co-operation between Euroregions is to enable the application of methods and technologies that will:

– accelerate the pace of economic growth of an entire region;

– help to bridge the differences in standards of agriculture development;

– lay down the groundwork for a multifunctional development of rural areas, which includes the effort to create new, non-agricultural jobs in rural areas;

– furnish the conditions for prospective competition between farmers from central and east European countries and EU farmers;

– lay emphasis on supplementary payments to farmers' incomes rather than agricultural production;

– lead to the accurate census of farm and land holdings, and the application of financial accounting rules by farmers.

7. Co-operation between Euroregions will facilitate the movement of people, ideas, technologies, goods and capital by, among other means:

– preserving the landscape, cultural values and historical heritage of the regions;

– disseminating state-of-the-art technologies, with ethical considerations;

– ensuring the renewability of energy and resources;

– providing conditions for a substantial degree of producer organisation (branch associations and marketing groups) and the development of advanced agricultural market structures – commodity exchange boards, wholesale markets, market information systems and export promotion.

8. Co-operation between Euroregions gives a precise shape to activity programmes that set out to materialise the objectives of sustainable development. The joint action framework features the following programmes: production growth and renewable energy uses; regional networking in programme implementation, demonstration sites and pilot projects; education and training courses; development of the Virtual Research Institute for sustainable agricultural growth, drafting and enforcement of relevant legal regulations.

9. The Parliamentary Assembly of the Council of Europe, through the mediation of the Committee on the Environment and Agriculture, has been willing to offer a helping hand and give advice to the countries restructuring their respective agricultural sector. At the same time, the Parliamentary Assembly has been urging member states to establish co-operation and show solidarity.

10. The Parliamentary Assembly has adopted several texts – Recommendation 1174 (1992) on pan-European co-operation in the field of agriculture, Resolution 1039 (1994) on rural and agricultural reform in the new democracies of central and eastern Europe and Resolution 1161 (1998) on the transition process in agriculture in the countries of central and eastern Europe are three of them.

11. The Committee on Agriculture, Rural Development and Food also organised relevant conferences: the 3rd East-West Agricultural Forum in Berlin, in January 1996,[1] the Pan-European Parliamentary Conference on Rural Development in Bratislava, in May 1997,[2] and the Colloquy on the Role of Interregional Co-operation for Agricultural and Rural Development in Warsaw, in October 1999.[3]

1. AS/Agr (1996) 3 – Summary record of the proceedings.
2. Report of the debates (Strasbourg, 1997).
3. Summary report of the debates (Strasbourg, 2000).

2. Burgas-Alsace pilot project

a. *The beginnings and motives for working out the Burgas-Alsace project*

12. The project on co-operation in rural and agricultural development between Alsace and Burgas (Bulgaria) was conceived under the auspices of the Parliamentary Assembly of the Council of Europe and the Bulgarian National Assembly in November 1993. The Parliamentary Assembly of the Council of Europe chose those two regions because of the similarities of their respective geography and kind of production.

13. The systemic transformation in Bulgaria and the transition to a market economy created serious difficulties in agriculture and the countryside. As a result of the winding up of farming co-operatives and of the political and economic turmoil, agricultural production fell rapidly. Alarming inflation, too, had a painful impact, with the level of production declining markedly below capacity.

14. Ignorance of and inexperience in the market economy, decrease in internal consumption and in exports, problems with the financing of investments and capital goods, and mistakes made at the time of privatisation are just some of the problems that had to be overcome.

15. It was under such circumstances that co-operation between Alsace and Burgas was established. Its modest and realistic aims were set at a regional level.

b. *The course of co-operation between Burgas and Alsace*

Training

16. Co-operation was seen primarily as a forum for the discussion and exchange of views among different people from those two regions, which could help spread the idea of European integration through contacts between peoples. Such a forum also presented occasions to instruct each other at various levels (supervisory staff, technicians and farmers themselves). Popularisation of methods of production and of new technologies took place all the time. Each year, a delegation of farmers paid a week-long visit to the partner region, to let farmers establish direct contacts with one another. During the last meeting in Burgas, emphasis was laid on the apprenticeship of university and farming-college students (the Burgas farming college is held in high repute). Another aim was to host, with the support from the CNAI National Centre for Young Farmers, ten apprentices in Alsace for fourteen months starting in 1998.

Privatisation and reviving production

17. Co-operation between the regions has proved to be quite fruitful. Although Bulgaria can hardly cope with the privatisation of land, nevertheless nearly 75% of farmsteads are now privately owned. The percentage of land that has been privatised is particularly high in the Burgas region. The process does not, however, go smoothly as Bulgaria has resolved to recognise the rights of the old owners, which requires checking cadastral surveys. Those cadastres had not been drawn up properly, and to make things worse, some of the land has been returned to people who were not going to farm it. What is more, privatisation has led to such land fragmentation that many farm holdings stand no chance of survival.

18. Co-operation between Burgas and Alsace has popularised the tenancy system, allowing planters to plough land they do not own. The system permits long-term tenancies, gives tenants the right to crops and to some of the agricultural produce. It is one of the ways to boost agricultural production and to ease market shortages even if not all problems involved in the privatisation of land have been solved.

Vocational organisations

19. Learning from the French experience, the aim of the Burgas-Alsace co-operation was to promote vocational organisations which should act as democratic mediators between the authorities and farmers. The latter could strongly commit themselves to the setting of guidelines and to the practical aspects of agricultural policy. This way, the role of different vocational organisations – trade unions as a political formation, farmers' chambers as technical institutions offering services and training to farmers, and co-operatives as institutions dealing with food processing and with the sale of agricultural produce – would become clear. If vocational organisations were to fulfil their tasks in the best possible manner, they had to be democratic, easily accessible and independent of political parties.

Technological co-operation

20. In view of its obsolete equipment and technologies, co-operation in engineering and technology could be of great importance to the Burgas region. Contacts were established only with the sugar industry whose condition in the region was truly wretched. Local sugar production met a mere 5% of demand, against 80% in the past. In 1997, the Sucreries et Raffineries d'Erstein (Alsace) and the Bartex Kristal group (Bulgaria) signed an agreement on the restoration of the sugar sector in this part of Bulgaria. However, implementation of the agreement ran into difficulty because of the lack of coordination and supervision.

3. The Polish experience

Introduction

21. Thanks to its cultural heritage, as the country situated at the crossroads between eastern and western civilisations in Europe, Poland was destined for the development of international co-operation. It was across Poland that war, as well as trade routes connecting the Mediterranean, the Black Sea and the Baltic Sea, ran. It was on the territories of the present-day Poland, Lithuania, Ukraine and Belarus that for several centuries functioned an organisation of federal, multinational and autonomous states whose common objectives and principles were close to the present concept of the European Union.

22. Owing to events connected with the establishment of Solidarity, Poland became an object of interest and help willingly given. Numerous contacts have been developed. After the peaceful political and economic transformation of the years 1989-90, these contacts have turned into close co-operation.

23. The countries of western Europe were bringing closer to Poland the practice of the functioning of the democratic system, also at the local level, that of *gminas* (smallest administrative units), local government, trade chambers, co-operatives and civic organisations. Political and trade-union contacts were close. Although it was not easy, from the very beginning efforts have been made to develop contacts and co-operation with countries in eastern and central Europe. For example, the Farmers' Forum, organised in Mała Wieś in March 1991, established co-operation among representatives of science, farmers' unions and organisations in this part of Europe.

The establishment and functioning of Euroregions in Poland

24. Irrespective of the earlier initiatives with respect to co-operation between cross-border regions (for example, in the so-called small tourist traffic, cross-border trade, transfer of manpower, industrial co-operation and attempts to manage the Oder river), Poland's increasingly abundant possibilities for cross-border co-operation were noticed only at the beginning of the 1990s, a time of the systemic transformation of the country. In the practical sphere, this was reflected in the establishment and operation within Poland's borders of thirteen Euroregions, four of which are on the western border, six on the southern border, two on the eastern border and one on the northern border. The establishment in 1991 of the Neisse Euroregion, the first within the boundaries of Poland and in eastern and central Europe, was of particular significance to the Euroregions newly formed on the German-Polish and Czech-Polish borders. In the years 1991 to 1993, the Neisse Euroregion gained its first, trilateral experience in laying the institutional foundations of cross-border co-operation. This, like the other three Euroregions on the western border (Pomerania, Pro Europa Viadrina and Spree-Neisse-Bóbr), is a model for the establishment of various forms of Poland's cross-border co-operation. The list of crucial factors which has contributed to the establishment of cross-border regions in the West, includes:

– the new political appearance of Poland's eastern border, the future European Union's outer border;

– the signing of the Europe Agreement which imparted a precursory character to Polish-German cross-border co-operation in eastern and central Europe;

– local and regional communities undertaking activities in establishing cross-border co-operation.

25. Beneficial political changes in recent years have also opened up new possibilities for close relations, co-ordination of development and recreation of ties between regions and local communities on the southern border (the border with the Czech Republic), the internal border of the Visegrad Group states and the internal border of the free trade zone, CEFTA, which the group has joined.

26. As regards the eastern border, the closest co-operation has been cross-regional with Ukraine, as illustrated by the establishment the Bug Euroregion, eastern Europe's first, in September 1995.

27. On the northern border, the first initiative to institute forms of cross-border co-operation was taken in 1997. As a result of intensive organisational work of the Baltic countries' local communities and border regions, an agreement was signed at Malbork in February 1998 on the establishment of the Baltic Euroregion, which embraced border areas of Poland, Denmark, Lithuania, the Russian Federation (the Kaliningrad province) and Sweden.

28. A complete list of Euroregions is presented, in chronological order, in the table below.

Table: Euroregions in order of creation

Euroregion	Date of creation
1. Neisse	21 December 1991
2. Carpathian	14 February 1993
3. Spree-Neisse-Bóbr	21 September 1993
4. Pro Europa Viadrina	21 December 1993
5. Tatra	26 August 1994
6. Bug	29 September 1995
7. Pomerania	15 December 1995
8. Glacensis	5 December 1996
9. Neman	6 June 1997
10. Pradziad/Praded	2 July 1997
11. Baltica	22 February 1998
12. Cieszyn (Teschen) Silesia	22 April 1998
13. Silesia	20 September 1998

Examples of interregional co-operation in Poland

Little Poland voivodship

29. Co-operation with the Burgundy region: several projects have been concerned in the sending of a group of farmers and representatives of the Karniowice Agricultural Advisory Centre and College of Farming to study farming methods in Burgundy. Farmers have become familiar with the farming methods applied in Burgundy (paying heed to the agricultural policy of the European Union), with the system of servicing agriculture and with the division of prerogatives in this area. During their visit to Dijon, representatives of the Karniowice Agricultural Advisory Centre established co-operation with the Regional Farmers' Chamber of Burgundy in such areas as market research, marketing, organisation of agricultural produce exchange, counselling farmers, food-processing and organisation of co-operatives to service farmers.

30. Representatives of the College of Farming have established contacts with the authorities of a similar college in Dijon, in the area of specialised co-operation in integrated methods of plant protection and biological farming, and in the operations of the horticultural market. They have proposed forestry training for students.

31. The Voivodship Agricultural Advisory Centre in Cracow has collaborated with the Union of Charolais Cattle Breeders in Burgundy.

32. The Farmers' Chamber, the Agricultural Advisory Centre and secondary schools of farming in the former voivodship of Cracow have established close co-operation with their counterparts in France (Mayenne *département*) and Switzerland (St Gallen canton).

Lublin and Podlasie voivodship

33. Projects for co-operation with the Netherlands concerned two areas – development of a marketing system for crop farming and milk cow husbandry. Attempts have been made to establish a system of producers' marketing organisations, including group producers, modern associations of farmers and horticultural co-operatives, taking benefit from the experiences of western countries where such organisations function in a market economy. Such organisations are oriented at the production of uniform and large quantities of agricultural and horticultural produce for the food-processing sector and for commodity exchanges.

34. The project for milk cow husbandry was set up, aimed at construction of cowsheds for milk cows to be grazed mostly on grasslands. The selection of animals is based on laboratory tests of milk and the genetic characteristics of the mother cow.

35. As a result of the project, over 200 cowsheds have been set up, where on-going assessment of achieved results is made.

36. In Turoœl community, in north-eastern Poland, model cow husbandry and milk production facilities were organised in co-operation with Dutch partners. Positive results are noted in respect of a project for co-operation with Switzerland as regards milk quality.

37. The promotion of green tourism is conducted in order to provide additional income for rural populations. The project called "Agro-tourism – a step forward in rural development" was prepared and launched in co-operation with Germany. The aim of the projects – at the first stage – was to train advisers and representatives of local authorities. In Wojciechowo, agro-tourist business was conducted on eight farms (out of a total of thirty in the Lublin Voivodship) which received 2 000 visitors. The Lublin Agro-tourism Association and Advisory Council for Agro-tourism were established, a tourist catalogue was published and a number of meetings were held. Similar initiatives were developed in many other regions, in particular in southern Poland.

Kujavia-Pommerania voivodship

38. The Agricultural Advisory Centre in Minikowo effectively co-operates with foreign partners. The centre co-operates with French, Danish, German and Dutch partners. Co-operation with France and Denmark is the most effective.

39. Co-operation with France concerns the area of economic advice for large farms established as a result of the transformation of the former state-owned farms, based on accountability in decision making. Emphasis is put on acquiring knowledge of the organisational, legal and financial issues, as well as the practical benefits arising from the application of VAT and income tax in the agricultural sector.

40. It is intended that a consulting office be set up within the framework of Polish-French co-operation, involving the Association of Leaseholders of the Agricultural Agency of State Treasury Property in Bydgoszcz and the Agricultural Advisory Centre in Minikowo on the Polish side, and the Agricultural Economics Centres Cergiv from Picardy and Garonne on the French side.

41. Co-operation also covers training. Among those who have improved their qualifications are Polish butchers (pork butchers from small and medium-sized meat processing plants and butchers shops), proprietors of small restaurants in the countryside and proprietors of agro-tourist farms. This activity is conducted under the patronage of the French Confederation of Butchers, Pork Butchers and Meat Product Makers. One of the results of this co-operation was the establishment in December 1998 of a Polish-French training centre aimed at training butchers, as well as providing knowledge in management and marketing of small and medium meat processing plants, and presentation of functional solutions. Special emphasis is put on production quality taking into account EU norms and standards. The link between farmers (producer groups) and processing plants is promoted (a so-called vertical integration).

4. Developments in interregional co-operation in agriculture and rural development

42. On the basis of the Alsace-Burgas pilot project, the then Committee on Agriculture and Rural Development examined the role of interregional co-operation in agricultural and rural development, particularly in the countries of central and eastern Europe. By means of questionnaires sent to the regional authorities of member states in co-operation with the Congress of Local and Regional Authorities of Europe (CLRAE) of the Council of Europe, the then Committee on Agriculture and Rural Development endeavoured to list and analyse the various forms of co-operation under way. One may distinguish two types of co-operation: transfrontier co-operation and co-operation with the countries of central and eastern Europe.

a. *Transfrontier co-operation*

43. Many frontiers take no account of natural surroundings and ecosystems. However, frontier regions may share the same problems related to land-type, land use and the environment. As a result, this co-operation may give considerable advantages, making it possible to improve the effectiveness of the management of shared natural resources, and can even be vital for preventing pollution or protecting the environment.[1]

44. In most cases, transfrontier co-operation in agricultural and rural development is conducted through bilateral relations between neighbouring regions. Agreements are reached between the local and regional authorities, which set the framework for such agreements. Depending in the

1. In this respect, see the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (adopted by the Council of Europe in Madrid in 1980).

aims of this co-operation, it is up to those authorities themselves to involve other relevant partners (chambers of agriculture, chambers of commerce, trade unions and professional bodies, small and medium-sized companies, research and training institutes).

45. Broader co-operation areas have also been established, when natural conditions are similar, to form Euroregions. The examples of such co-operation are: the regions of the Danube area, the Alpine Arc and Imedoc (the islands of the western Mediterranean: Sardinia, Corsica and the Balearic islands). Positive results have been noted in co-operation with the first Euroregion, Westphalia (Munster, Osnabrück), and in the Netherlands (Entschede), where twenty years ago the textile industry and agriculture prevailed. Today, the textile industry has vanished and the rural areas are more diverse. Projects implemented in these regions are related to landscape protection and the rationalisation of farming.

46. Transfrontier co-operation, in particular its practical application, calls for financial support. In fact, a number of these projects are part of Community aid programmes. The European Union's regions benefit from programmes oriented at the promotion of regional co-operation along internal and external frontiers of the Union, with emphasis on the role of agriculture and the countryside. This relates particularly to the Phare CBC and Interreg II programmes, now co-ordinated with eastern European countries. The Interreg programme, which encourages transfrontier relations in agriculture and rural matters across the internal and external boundaries of the Union, is realised by means of medium-term (five-year) projects. The Phare programme focuses on interregional co-operation with the countries of central and eastern Europe in the short term, since its funds are allocated yearly.

47. Funds may come from specific programmes, such as Euro-Tira (for the development of telematics in rural areas) and the Leonardo da Vinci programme (training and research), or may also come from the structural funds, that is, the Community Regional Fund, the European Social Fund or the EAGGF.

48. As a general rule, frontier co-operation takes account of the challenges facing agriculture and rural development, especially in the regions of western Europe and the European Union, through a number of projects co-funded by the European Community. The common objective of all these programmes is to guarantee for rural areas sustainable and environment-friendly agricultural development. It is also aimed at halting the exodus from rural areas.

49. Within the scope of the Leonardo da Vinci programme and financial support from the National Agricultural Bank, the SFD (Small Farm Diversification) project is being realised in Norway. The aim of the project is to prevent exodus from rural areas through the training of, in particular, women and young persons, in non-agricultural professions.

b. *Co-operation with the countries of central and eastern Europe*

50. The systemic changes effected in the countries of central and eastern Europe have caused the agricultural sector considerable difficulties. In many countries production decreased. Farmers are deficient in funds and, therefore, cannot bring privatised land into cultivation and often do not have sufficient experience for running farms on their own. The so-called agricultural environment and agricultural infrastructure are not sufficiently developed. The involvement of banking in the financial servicing of farms is not adequate. Traditional rural values have been destroyed or considerably neglected, as industrialisation was given high priority in these countries.

51. At the same time, the future of the rural world cannot, and should not, be left solely to market forces which do not take into account socio-cultural merits and functions of rural areas and their ecological circumstances.

52. These aspects provided, *inter alia,* a basis for the draft European charter for rural areas.[1] The draft charter recommends drawing special attention to the countries of central and eastern Europe in transition and calls for certain measures to be taken in the context of European co-operation.

53. In the light of available data, it should be stated that there is far more interregional co-operation within the western part of the continent than with the countries of central and eastern Europe. Analysis of the replies to the questionnaire reveals that the regions involved in co-operation with the countries of central and eastern Europe tend to be frontier regions.

54. As a result, transfrontier co-operation mainly concerns central Europe: the Danube regions, the western parts of Poland and the Balkan regions.[2]

55. In Kosovo, due to war damage, tracts of land are uncultivated, livestock has decreased, seeds and fertilizers are in short supply. The agri-food industry needs restructuring and privatising. It is only through properly provided international aid and with the active participation of the inhabitants of Kosovo that its successful reconstruction will be achieved and its war wounds healed. Co-operation has been developed with the use of various funds.

56. The Phare programme was launched in 1990. Until now, it has served as the main instrument for technical and financial assistance by the European Union for the countries of central and eastern Europe. Originally, it affected only Poland and Hungary (therefore, its name was abbreviated: Poland and Hungary – Assistance for Reconstructing the Economy (Phare)), but it has gradually been extended to cover thirteen central and eastern European countries (Albania, Bosnia and Herzegovina, Bulgaria, the Czech Republic, Estonia, "the former

1. Recommendation 1296 (1996) of the Parliamentary Assembly of the Council of Europe.
2. Seminar on transfrontier co-operation between frontier local authorities of Bulgaria and "the former Yugoslav Republic of Macedonia", Sandanski and Strumitsa, 1 and 2 February 2000;
Expert meeting between Bulgarian and Romanian local and regional authorities Giurgiu, Romania, 19 April 2000;
International Conference on Transfrontier Co-operation between the Republic of Poland and the Slovak Republic, Dolny Kubin – Szczawnica, 29 and 30 May 2000;
Stability Pact Conference: "The role of Euroregions in promoting good-neighbourly relations", Sofia, 30 June and 1 July 2000;
Strengthening good-neighbourly relations in central and eastern Europe in preparation for EU enlargement, Lublin, Poland, 11 and 12 December 2000.

Yugoslav Republic of Macedonia", Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia).

57. Originally allocated 4.2 billion euros for the 1990 to 1994 period, the Phare budget was increased to 6.693 billion euros for the 1995 to 1999 period.

58. The Phare programme is not the only assistance programme for the countries emerging after the collapse of the communist system. The Tacis programme is an initiative for the states of the former Soviet Union (the New Independent States) and Mongolia.

59. Moreover, the recipients of the Obnova programme include states emerging after the dissolution of Yugoslavia, that is, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and "the former Yugoslav Republic of Macedonia".

60. In 2000, the European Union decided to establish two new instruments for financial support in order to help the associated countries align their systems with EU standards. Due to their similarity with the Structural Funds and the Cohesion Fund of the European Union, the funds were called Pre-accession Funds. One, known as the Sapard programme, will provide support for agriculture and the development of rural areas, the other, called ISPA (like the Cohesion Fund), will support activities in the field of transport and environmental protection.

61. The above-mentioned aid will contribute to accomplishing the objectives indicated in the document of the European Commission, "Partnership for Accession".

5. Conclusions

62. Both in the EU member states and in other European countries, agriculture is recognised as a key component of the national economy.

63. Reform of the EU Common Agricultural Policy is currently under way. The countries of central and eastern Europe have faced considerable difficulties in the transition of their economies to a market economy.

64. Agriculture, agri-business and the rural sector are of substantial importance for the future of the countries of central and eastern Europe. At the same time, these countries have faced difficulties in reforming their agricultural sectors to meet the requirements of a market economy. This process necessitates allocation of funds, adoption of new legislation and application of technologies and knowledge in farm management. Therefore, co-operation for agricultural and rural development is vital. Experience gained by western countries in enhancing transfrontier and regional co-operation shows that such co-operation may help resolve many problems. The Interreg programme is a good example in this respect, as well as the working communities, like Arge-Alp, established in 1972, which was aimed at interregional and transfrontier co-operation between alpine regions without involving a central government. Allocation of funds from Phare and Sapard programmes for central and eastern Europe should promote the development of rural areas and the modernisation of their agriculture and, therefore, contribute to closer interregional co-operation in the region.

65. European organisations and associations, such as the Congress of Local and Regional Authorities of Europe of the Council of Europe (CLRAE), the Association of European Border Regions (AEBR), and the Assembly of European Regions (AER) should intensify their efforts to promote rural development and interregional co-operation in this field.

List of references

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2. "Interregional co-operation for agriculture and rural development – a Polish experience". Rapporteur: Mr Gabriel Janowski (Poland, EPP/CD), 24 March 1999 (AS/Agr (1999) 14).

3. Colloquy on the role of interregional co-operation for agricultural and rural development, Warsaw (Poland), 21 and 22 October 1999 (summary report of the debates, Strasbourg 2000).

Reporting committee: Committee on the Environment and Agriculture.

Reference to committee: Doc. 7548 and Reference No. 2078 of 5 May 1996.

Draft resolution adopted unanimously by the committee on 28 June 2001.

Members of the committee: *Behrendt (Chairman), Besostri, Hoeffel, Hornung (Vice-Chairmen),* Adamczyk, Agius, *Agudo, Akçali,* Aliko, Andreoli, *Angelovičová,* Annemans, Bartos *(alternate: Sehnalová), Bockel, Briane,* Browne *(alternate: Kiely),* Burataeva, *de Carolis,* Carvalho, *Chapman,* Colla, *Cosarciuc,* Cox *(alternate: Meale), Diana,* Duivesteijn, *von der Esch, Etherington,* Frunda *(alternate: Kelemen),* González de Txabarri *(alternate: de Puig),* Graas, *Grachev,* Hajiyeva, *Haraldsson,* Ilaşcu, *Kalkan, Kanelli,* Keuschnigg *(alternate: Gatterer),* Kharitonov, *Kjaer,* Kolesnikov, *Kostenko,* Kostytsky, *Kurucsai,* Kurykin *(alternate: Gaber),* Lachat *(alternate: Fehr),* Libicki, Van der Linden, *Lotz,* Manukyan, *Mariot,* Martínez-Casañ *(alternate: Fernánez Aguilar), Mikaelsson,* Minkov, Monteiro, Müller, Pisanu *(alternate: Pinggera), Podobnik, Pollozhani,* Prosser *(alternate: O'Hara),* Radić, *Rise,* Salaridze, *Schicker, Schmied, Skopal, Smolarek,* Stankevič *(alternate: Burbienė),* Stoica *(alternate: Coifan), Tanik,* Theodorou, *Tiuri, Toshev, Truu,* Vakilov, *Zierer, Zissi,* N … (Andorra) *(alternate: Pintat).*

N.B. The names of those members present at the meeting are printed in italics.

The draft resolution and amendments will be discussed at a later sitting.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Communication from the Secretary General of the Council of Europe
Doc. 9187 – 5 September 2001

11th General Report on the activities of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

(covering the period from 1 January to 31 December 2000)

Letter to the President of the Assembly, dated 4 September 2001

Dear President,

In pursuance of Article 12 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I have the pleasure of sending to the Parliamentary Assembly the 11th General Report on the activities of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT).[1]

The President of the CPT submitted the report to the Committee of Ministers on 3 September 2001.

Yours faithfully,

Signed:
Deputy Secretary General
Hans Christian Krüger

1. This report is available on the Council of Europe Internet site at the following address: http://www.cpt.coe.int.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Report
Doc. 9188 – 6 September 2001

Building a twenty-first-century society with and for children: follow-up to the European strategy for children (Recommendation 1286 (1996))

(Rapporteur: Mr COX, United Kingdom, Socialist Group)

Summary

Children's rights have been recognised in a single document, the United Nations Convention on the Rights of the Child. To what extent are its provisions applied in practice, however? An increasing and unacceptable gap between the written principles and the reality has to be noted.

In order to close this gap, the Council of Europe member states must adopt a legal instrument containing the various measures necessary for a true implementation of the rights of the child, such as, for example, the establishment at national level of an ombudsman for children, a children's observatory, the publication of annual reports on national policy for children for discussion in parliament, etc.

Moreover the Assembly repeats its proposal concerning the establishment of a European ombudsman for children and a European centre on missing children. Finally, member states should pay particular attention to drawing up the broad lines of a co-ordinated European policy on children's rights and to making children's rights a central focus of their development assistance policy *vis-à-vis* third countries.

I. Draft recommendation

1. The Assembly salutes the Unicef initiative to hold a special session of the United Nations General Assembly in September 2001 devoted entirely to defining a world fit for children to live in, a concern it willingly shares and endorses.

2. Since 1989 the rights of children have been recognised and enshrined in a single document, the United Nations Convention on the Rights of the Child, a landmark instrument that has been ratified almost universally, with the notable exception of the United States. To what extent are its provisions applied in practice, however? Much remains to be done to close the gap between principles and practice.

3. Lip service and declarations of intent are not enough: the commitments entered into must be put into practice. What is needed is an action plan, a plan for building a society in twenty-first-century Europe, with and for children, that is fair and fit to live in. The plan must be a worldwide one consistent with the United Nations convention – not a list of pious aspirations but a document binding on the members of the Council of Europe.

4. The Assembly, therefore, invites the Committee of Ministers of the Council of Europe to adopt a legal instrument that is binding on the Organisation's member states and asks them to endorse and honour the following commitments:

i. revise all their domestic legislation and make sure it is compatible with the provisions of the United Nations Convention on the Rights of the Child;

ii. adopt a comprehensive, coherent, long-term national policy on children's rights with a view to fully applying the provisions of the United Nations Convention on the Rights of the Child;

iii. appoint a national minister of children's rights, *inter alia* to foster an integrated approach to children's rights in every area of government policy;

iv. make sure that children's rights, interests and needs are taken into consideration at the political decision-making level at all times, by making a practice, for example, of drawing up "child impact statements";

v. give a higher profile and greater priority to children in budget presentations and by fair and appropriate allocation of resources;

vi. set up a permanent interministerial body at the national level with authority to deal with all matters relating to children's rights. Its function would be to foster a co-ordinated national policy on children's rights, and it would produce an annual report on such policy for discussion in parliament;

vii. establish a national ombudsman for children (or a similar independent institution) to foster children's rights and supervise their application;

viii. set up a national children's observatory to collect and disseminate to interested parties all information and data, including statistical data, on children, their needs and their rights;

ix. foster education in children's rights and related vocational training;

x. encourage maximum participation by children at every level of policy decision making in every sector;

xi. make special, priority provision for children in their official development aid policies and include respect for children's rights in the requirements for being given technical and financial assistance.

5. The Assembly also invites the Committee of Ministers to assert increasingly the Council of Europe's role, as a champion of human rights, in defending and promoting the rights of the child, and to do so in particular by:

i. instituting, preferably within the Organisation, an independent European children's ombudsman with powers of initiative;

ii. giving the Forum for Children and Families powers to deal with all matters relating to children, draw up the broad lines of a co-ordinated European policy on children's rights and put forward a concerted development policy for children's rights outside Europe;

iii. including in the forum's terms of reference the task of being a European children's observatory and preparing an annual report on the situation of children in Europe.

6. The Assembly asks the Committee of Ministers to give further consideration to drafting a European convention on children's rights attuned to European realities, and to including children's rights in the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms.

7. The Assembly urges the Committee of Ministers, in co-operation with the European Union, to agree arrangements for setting up a computerised European data centre on missing children to centralise information on disappearances and provide the police, families and voluntary organisations, for example, with the necessary information and assistance for their location and recovery.

8. Lastly, the Assembly requests the Committee of Ministers to take appropriate action on this recommendation and forward it to the governments of member states, the European Union institutions, Unicef and all non-governmental organisations working to protect children's rights.

II. Explanatory memorandum, by Mr Cox

1. On behalf of the Social, Health and Family Affairs Committee of the Parliamentary Assembly of the Council of Europe,[1] I wish to thank Unicef for its initiative in convening a special United Nations General Assembly in September 2001 devoted entirely to definition of a world fit for children to live in, a concern the committee willingly shares and endorses.

2. This is also an opportunity to salute Unicef for all the work it does on behalf of children and to express our gratitude to it. The committee could not have completed its task without the precious assistance and expertise Unicef has given it over the years in a spirit of friendly, fruitful and regular co-operation, in particular with Unicef's Innocenti Research Centre in Florence, but also with its regional office in Geneva.

3. In addition, when visiting Council of Europe member states in order to draw up reports on this or that specific issue relating to children, the committee and its rapporteurs have always made a point of initiating meetings – consistently instructive – with the local Unicef representatives, who have invariably been very knowledgeable about the peculiarities of the situations in their respective countries.

4. Since 1989, the rights of children have been recognised and enshrined in a single document, the United Nations Convention on the Rights of the Child, a landmark instrument that has been ratified almost universally, with the notable and regrettable exception of the United States. When the treaty came into force, the Council of Europe's Parliamentary Assembly made a point of taking part, at the European level, in the drive to promote awareness of children's rights and to make European standards more demanding and more protective than those adopted at worldwide level.

5. At the time, the Assembly suggested producing a special instrument on children's rights in Europe. It also asked the Organisation's decision-making bodies to consider including children's rights in a protocol to the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms, thereby giving children's rights the benefit of the unique protection afforded by that Convention. Unfortunately, this Parliamentary Assembly initiative was not followed up by the Council of Europe.

6. The Social, Health and Family Affairs Committee then opted for a more pragmatic approach and agreed to work towards effective application in Europe of the rights of the child as enshrined in the United Nations convention.

7. The need to act on, rather than just pay lip service to, the commitments entered into under the United Nations convention became very clear in Europe after 1989: children were the first victims of the collapse of communism and the ensuing fragility of the societies in transition to democracy. Conflicts in the Balkans and particularly in Bosnia provided a tragic illustration of the fate endured by children, in stark contrast with the rights they are entitled to on paper.

8. Back in 1996, at the initiative of its Social, Health and Family Affairs Committee, the Parliamentary Assembly was urging the European member states and the Council of Europe to develop a European strategy for children (Recommendation 1286 (1996)) as a means of closing this gap between theory and practice.

9. For a detailed critical analysis of the response to the European strategy for children and the Council of Europe's policy in this field, see the appended report by Professor Eugeen Verhellen, of the Children's Rights Centre, University of Ghent.

10. At the same time, to mark its commitment to children's cause, the Social, Health and Family Affairs Committee set up a Sub-Committee on Children.

11. Since then, and particularly in recent years, the Assembly has taken an unwavering interest in the situation of children, mainly through the work of that sub-

1. The Council of Europe has forty-three member states. In addition to the members of the European Union, they include the Russian Federation and other central and east European countries. Its decision-making body is the Committee of Ministers and the Parliamentary Assembly is a forum of delegations from the national parliaments of member states and from parliaments enjoying Special Guest or Observer status.

committee. Footnotes 1 and 2 list the main reports it has instigated[1] and provide an overview of work in progress.[2] Most of the adopted texts are available on the Council of Europe's website (http://www.coe.int).

12. I believe – and the expert made the same point in the aforementioned study – that some, if not all, of the proposals contained in the strategy, which were highly innovative at the time, remain every bit as relevant today and are necessary to guarantee proper application of children's rights. While certain member states have begun applying some of the proposals, as a rule only very few, for the most part tentative, steps have yet been taken to implement the strategy.

13. We must, of course, welcome such progress as has been made in the field of children's rights. Attitudes have changed somewhat, as shown by the fact that children are increasingly considered to be individuals with legal rights. Concern for their well-being and what happens to them is growing and becoming more and more of a priority in civil society and even – though to a lesser degree – in decision-making circles and international standard-setting organisations.

14. For example, although not every state has yet appointed a children's ombudsman, the institution is certainly gaining ground in Europe. And in the European Union, the Commission has presented the improvement in the situation of children as virtually a prerequisite for Romania's admission to the Union. The European Parliament, too, has called for special attention to be given to children in negotiations concerning European Union enlargement.

15. Participation is yet another example: involving children in the life of the community and consulting them on their wishes and expectations is no longer such a rare occurrence, as shown by the increasing number of children's municipal councils and parliaments. Every year in France the National Assembly passes a law based on a proposal made by the children's parliament. At the request of the London City Council, the Office of the Children's Rights Commissioner asked children what problems they thought required priority attention in the city and what should be done to remedy them. Violence and security on the streets, child abuse, drugs and racism were uppermost among the concerns they voiced.

16. In the Council of Europe the Forum for Children and Families, which is an attempt at a multidisciplinary approach to issues concerning children, has six seats which are occupied by children under 18 years of age, appointed by their governments or by NGOs working with children. They take part in the forum's activities on an equal footing with the adult members, who are representatives of the member states and international organisations.

17. There is no denying, however, that the rights of children, or certain of their rights, are by no means a reality everywhere. This applies not only to the developing countries, because of the persistent inequalities between North and South, but also to some European countries which are experiencing difficulties in the transition to a market economy, with the resulting erosion of the social fabric and the spread of poverty. Everywhere, children are suffering the adverse effects of globalisation, not to mention abuses of technological advances such as the Internet which reduce children to mere chattels.

18. In Europe – even in its wealthier countries, partly because of migration – we are increasingly seeing things we liked to think were confined to the developing countries: they include children in virtual slavery, child prostitution, child illiteracy, children "adopted" abroad (in effect, sold to the highest bidder), children forced to live in the street. The gap between rich and poor children is widening.

19. So there is a genuine need for a new strategy on behalf of children, an all-embracing strategy in keeping with the United Nations convention which will help to build a European society of the twenty-first century, with and for children, that is fair and fit to live in. I shall, therefore, follow the expert's recommendations and, with him, propose a new strategy for the twenty-first century, an action plan which should be more than mere words this time, something binding on all the Council of Europe's member states.

20. With this in mind, I call on the Council of Europe Committee of Ministers to turn this new strategy, this action plan, into a legal instrument binding on the member states, each of which will be required to submit an annual report on the children's rights situation.

21. This does not preclude the possibility that the need will one day be felt for a European convention on chil-

1. Reports on children adopted in the last ten years by the Parliamentary Assembly of the Council of Europe at the initiative of the Social, Health and Family Affairs Committee:
– Situation of women and children in the former Yugoslavia (Resolution 1011 (1993) and Doc. 6903) (rapporteurs: Mrs Robert, Switzerland, LDR and Mr Daniel, France, EDG);
– A European strategy for children (Recommendation 1286 (1996) and Doc. 7436) (rapporteur: Mr Cox, United Kingdom, SOC);
– Combating child labour and exploitation as a matter of priority (Recommendation 1336 (1997) and Doc. 7840) (rapporteur: Mrs Belohorská, Slovakia, EDG);
– Abuse and neglect of children (Recommendation 1371 (1998) and Doc. 8041) (rapporteur: Mr About, France, LDR);
– Situation of children in Albania (Recommendation 1398 (1999) and Doc. 8284) (rapporteur: Mrs Pozza Tasca, Italy, LDR);
– International adoption: respecting children's rights (Recommendation 1443 (2000) and Doc. 8592) (rapporteur: Mr About, France, LDR);
– Campaign against the enlistment of child soldiers and their participation in armed conflicts (Resolution 1215 (2000) and Doc. 8676) (rapporteur: Mrs Pozza Tasca, Italy, LDR);
– Action plan for the children of Kosovo (Recommendation 1459 (2000) and Doc. 8675) (rapporteur: Mrs Poptodorova, Bulgaria, SOC);
– Setting up a European Ombudsman for children (Recommendation 1460 (2000) and Doc. 8552) (rapporteur: Mrs Pozza Tasca, Italy, LDR);
– Mothers and babies in prison (Recommendation 1469 (2000) and Doc. 8762) (rapporteur: Mr Vis, United Kingdom, SOC);
– A campaign against trafficking in children to put a stop to the east European route: the example of Moldova (Recommendation 1526 (2001) and Doc. 9112) (rapporteur: Mrs Pozza Tasca, Italy, LDR).

2. Reports currently in preparation in the Social, Health and Family Affairs Committee:
– A dynamic social policy for children and adolescents in towns and cities (rapporteur: Mrs Gatterer, Austria, EPP/CD);
– Social measures in favour of the children of war in South-eastern Europe (rapporteur: Mrs Biga-Friganovi_, Croatia, SOC);
– Abduction of children by one of the parents (rapporteur: Mr Hancock, United Kingdom, LDR);
– Improving the lot of abandoned children in residential care (rapporteur: Mr About, France, LDR);
– Teenagers in distress: a social and sanitary approach to the malaise felt by young people (rapporteur: Mr Mattei, France, LDR);
– Ending the misdiagnosing of children (rapporteur: Mr Brînzan, Romania, SOC);
– Crimes connected to paedophilia (rapporteur: Mr Provera, Italy, LDR).

dren's rights, or for children's rights to be included in the Convention for the Protection of Human Rights and Fundamental Freedoms.

22. The Committee of Ministers of the Council of Europe, which has reaffirmed, in its political message issued for the United Nations special session, that "children are entitled to enjoy their human rights and fundamental freedoms as individuals and active legal subjects", must be invited to give further thought to these options.

23. At the summit for children in May 2001, the European Parliament suggested strengthening the co-ordination of the European Network of Ombudsmen for Children (Enoc). I agree. One of the best ways of doing this is to set up an ombudsman for children at the European level. I therefore appeal for the proposal from the Chair of the Sub-Committee on Children, Mrs Pozza Tasca, which the Parliamentary Assembly endorsed, to be put forward again and acted upon.

24. Amongst the other measures urgently needed in Europe, one in particular must be taken without further ado, namely setting up a computerised European information centre on missing children and efforts to trace them. This is made necessary by the steady increase in illegal immigration flows and the trafficking in children in Europe. The Parliamentary Assembly suggested it in its latest report on the question, which focused on the situation in Moldova. The European Union and the Council of Europe could co-operate on this; in so doing they would be heeding the call from the President of the European Parliament, Mrs Fontaine, for close co-ordination of the European effort.

25. I also suggest inviting the Committee of Ministers to call on member states to give priority to children's welfare in their official development aid policies and make the technical and financial assistance they offer conditional on proper regard for children's rights and interests in the receiving states.

26. Finally, I suggest that we disseminate this report to all interested parties, including governments, the European Union institutions, Unicef, NGOs, etc.

APPENDIX

The importance of a European strategy for children by Professor Dr Eugeen Verhellen, Children's Rights Centre, University of Ghent

I. Introduction

1. This report is a follow-up to the Parliamentary Assembly's Recommendation 1286 (1996) on a European strategy for children as a contribution to the United Nations General Assembly Special Session on Children (Ungass), that will take place in New York from 19 to 21 September 2001.

2. The report is divided into three main sections. The first chapter puts the Council of Europe's activities on children into the wider context of global and European childhood policy developments. The second chapter focuses more specifically on Recommendation 1286 (1996) on a European strategy for children and its implementation. The final chapter contains some draft recommendations and proposals to the Council of Europe and to its member states.

3. Almost no systematically collected empirical data regarding the follow-up to Council of Europe texts relating to children are available. This lack of information about children is not very exceptional and is not restricted to the Council of Europe. Indeed, worldwide, it remains a major concern that there are important data gaps which pose a serious challenge for monitoring the follow-up to recommendations and for assessing progress towards the goals set forth in those instruments. Therefore the present report is based mainly on the relevant documents adopted by the competent Council of Europe bodies, subjected to critical analysis.

4. The report gives a rapid overview of the Council of Europe's childhood policy during the last decade and is designed to provide a set of proposals supportive of, and compatible with, those already outlined in the Unicef outcome document prepared for Ungass "A world fit for children".

II. Council of Europe activities on children in a global and European context

1. The global level

5. European childhood policy cannot be discussed independently of changes in our perception of the child at the global level. For a long time children were seen as "not-yet" human beings, considered mere objects as reflected in national and international law. Over the last decades, however, more and more criticism has been levelled at this image of the child. Gradually, but with increasing insistence, authoritative voices have emphasised that children are in fact first and foremost human beings, and that therefore our relationship with them has to be based on respect for them as human beings. This means that children are to be considered as subjects, as fully entitled to enjoy human rights on their own account. Thus, the present situation has become confused and, at times, even paradoxical, since our view of children still tends to be based on the dominant "child-as-object" image, while, simultaneously, the new perception is gaining powerful influence.

6. By adopting, without a single dissenting vote, the Convention on the Rights of the Child (CRC) on 20 November 1989, the United Nations member states made the shift in perception of the child very clear. Within less than ten years the CRC has already been ratified by 191 countries. This means there is almost universal ratification, which is fairly unique in the history of human rights instruments.

7. It is well known that the CRC constitutes the greatest achievement ever in the field of the legal protection of children. It is a comprehensive instrument. This means that it covers in one instrument both the first and second generation of human rights. In addition, it is of great importance that, in the spirit of the convention, none of the rights included is greater or lesser than any other and that they all relate to each other. This means that the indivisibility of civil, political, social, cultural and economic rights is emphasised and will be increasingly more so in the future.

8. For the first time in history, the convention recognises the citizenship of the child: in effect, Article 12 up to and including Article 16 envisage a series of civil rights for the child (freedom of expression, information, thought, conscience, religion, and association). In particular, Article 12, which recognises the child's right to freedom of expression, and hence, to participate in matters which interest him/her, represents a real revolution in our treatment of the child.

9. The convention can also be interpreted according to the so-called "three Ps":

– protection: the right to be protected from certain forms of behaviour (abandonment, child abuse, exploitation, etc.);

– provision: the right to access to certain benefits and services (education, health care, social security, etc.);

– participation: the right to carry out specific activities and to freedom of expression and to be involved in decision making.

10. It is manifest that this convention is not the end of the road. The rights of children should not only be protected reactively (defensively). The CRC is above all pro-active (offensive) as in different articles it indicates the state's duty to promote the rights of the child. It implies a fundamental change of attitude with respect to children. "More respect for children" has become a legally binding obligation as a result of this convention. Therefore, it is also a very challenging starting point.

11. It is clear that the monitoring mechanisms (Articles 42 to 45 inclusive) constitute the convention's Achilles' heel. Article 44 describes in detail the obligation to periodically present country reports. Article 44.6 obliges the individual states to publish and circulate their reports throughout their own country. This is very important. In practice, this obligation is the result of Article 42 which requires states parties to publicise "the contents of the convention, through effective and appropriate channels, among both adults and children". We can see, therefore, that the convention not only seeks to discover if children's rights are violated or not (re-actively). This particular article also affirms that greater awareness of children's rights, achieved through public debate, not only constitutes the best protection against possible violation of these rights but also ensures greater respect for children (proactively). Children's (human) rights education, in the broadest sense, is at issue here.

12. By its comprehensiveness, its universality and its legally binding character, the CRC is challenging the world with a brand new and unique geopolitical social contract.

13. Like all UN treaties, the CRC contains universal minimum standards. States parties and regional intergovernmental organisations (for example, the Council of Europe) or supranational bodies (for example, the European Union) can always raise those minimum standards. In such cases, and in line with CRC Article 41, it is the higher standard set in national law or other applicable international law that applies.

14. The United Nations General Assembly itself has already complemented the minimum norms of the CRC by adopting two optional protocols on 25 May 2000. One relates to the involvement of children in armed conflicts, the other to the sale of children, child prostitution and child pornography.

15. Also the adoption of the International Labour Organisation Convention No. 182 on the abolition of the worst forms of child labour, which already entered into force in November 2000, illustrates the firm will to complement and raise minimum standards. Another example is The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (1993).

16. However, the phase of standard-setting is not the end of the matter. The phases of implementation and monitoring have only just started. For now, the CRC can be seen as a baby just leaving maternity care.

17. The entry into force of the CRC (September 1990) coincided with the World Summit for Children (WSC). Some seventy-one heads of state and government and other leaders signed the World Declaration on the Survival, Protection and Development of Children and adopted a plan of action to achieve a set of twenty-seven precise, time-bound goals.

18. Despite the coincidence of the two events, they differed somewhat in approach. Although the WSC plan of action has helped to raise the profile of children on the world's agenda, there was not that much attention paid to the significance of the CRC. Indeed the WSC approach was still rather conventionally oriented towards child protection, ignoring the other two Ps (provision, participation), whilst the CRC is more comprehensive and based on a human rights approach which holds governments accountable.

19. Even today the drafting of the final document, A World Fit for Children, for the United Nations General Assembly Special Session on Children (Ungass), shows that the tension between these two approaches still holds. Moreover, the laborious drafting process has shown that even the WSC goals cannot be achieved without the universal realisation of all the rights contained in the CRC. This universal discussion illustrates very clearly the need for greater convergence and more coherent childhood policies.

2. The European level

20. The above broad picture of the main developments regarding children at universal level is of paramount importance in order to understand and assess the developments that are taking place at European level.

21. The word "Europe" embraces a diversity of political realities. This report limits itself to the best known and most important of these: the Council of Europe and the European Union (EU). Fortuitously, 1989 marks both the fall of the iron curtain and the adoption of the UN Convention on the Rights of the Child. The first part of this chapter deals with the period before, the second with the period after 1989.

2.1. *Before 1989*

2.1.1. *The Council of Europe*

22. The Council's main treaties, that is, the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) (1950) and the European Social Charter (1961) do not really contain any specific provisions relating to the rights of children. One does, however, find direct and indirect references to them in some articles.

23. The ECHR directly mentions the child with respect to illegal detention (Article 5) and special protection in reporting of trials (Article 6.1). Indirect references are found above all in Article 8.1 on the right to respect for private life and family life, and Article 8.2 referring to non-interference in private life. Article 2 of the First Additional Protocol, on the right to education, refers also, of course, to children .

24. Through the ECHR, and specifically the jurisprudence of the former Commission and the Court of Human Rights, the legal position of children in Europe has strengthened and has evolved towards recognition of their enhanced legal competence. Indeed, according to Article 34 of the ECHR, children can lodge a complaint with the Court. Already in 1974, through an admissibility-decision on the X and Y case against the Netherlands, it was made very clear that a child can act independently in a situation where there are opposing conflicts between the child and his/her legal representative (parental authority). Especially since the 1980s, the case-law relating to children has grown considerably.

25. The second main treaty, the European Social Charter, refers directly to the right to protection of children (Article 7), and the right of mothers and children to social and economic protection (Article 17). Indirectly, it refers to children's rights in Article 16 (the right of the family to social, legal and economic protection) and in Article 19.6 about family reunification for foreign workers. Compliance with the Charter is monitored by the European Committee of Social Rights which reviews periodic country reports by the member states. It is a pity that from the viewpoint of children's rights there has been no systematic analysis of these national reports.

26. Besides the fundamental human rights instruments, and to fill the gap, a series of specific sectoral conventions relating to

children were adopted: the European Convention on the Adoption of Children (1967), the European Convention on the Legal Status of Children Born out of Wedlock (1975), the European Convention on Recognition and Enforcement of Decisions Concerning Custody of Children and on Restoration of Custody of Children (1980).

27. Furthermore, both at the level of the Parliamentary Assembly and the Committee of Ministers, an impressive set of resolutions and recommendations relating to children were adopted. They cover specific sectors such as health, social protection, family policies, migration, legal affairs, education, mass media, etc.

28. Most of these texts reflect a more protection-oriented approach and a somewhat fragmented policy. However, a start towards a more coherent and comprehensive instrument was made when it was recognised that there was a need for a European convention on children's rights.

29. While, at the UN, the International Year of the Child in 1979 was the start of the drafting process of the Convention on the Rights of the Child, a similar initiative was taken at the Council of Europe. On 4 October 1979 the Parliamentary Assembly adopted Recommendation 874 on a European charter on the rights of the child. It was the first attempt to bring together and co-ordinate the fragmented sectoral policies in one single document. A major change in perception of the child was introduced in the recommendation's general principles, which stated that "children must no longer be considered as parents' property, but must be recognised as individuals with their own rights and needs".

30. However, the Assembly's proposal was not taken up by the Committee of Ministers. In 1981 the initiative was unsuccessfully revived by a number of NGOs. In 1987 a report for internal use (DH-ED (87) 22), entitled, "The Council of Europe and child welfare, the need for a European convention on children's rights" circulated. It was officially published in 1989 (Human Rights Files, No. 10).

31. In conclusion, for this period it can be said that a remarkable number of Council of Europe legal instruments illustrated considerable interest in childhood policy. In spite of some efforts, however, there was no attempt to work out a coherent co-ordinated policy. The documents illustrate a piecemeal, predominantly child protection-based approach, although the growing jurisprudence of the former European Commission and the European Court of Human Rights already shows a potential move to recognise children's entitlement to human rights.

2.1.2. *European Union*

32. At the EU level, no specific direct attention was paid to children during this period. Indeed, the basic legal instruments of the European Community (Treaty of Rome, 1957 and the Single Act, 1986) provide no legal basis for a coherent policy relating to children. Nor is there any legally binding subsidiary legislation (regulations, directives or resolutions) directly referring to children. Only implicit policies can be derived, for example the possible rights of children resulting from the rights of their parents as "workers". However, as in other areas of the EU's social policy, policy relating to children is, in the first instance, the responsibility of the individual member state (subsidiarity principle).

2.2. *After 1989*

33. As has been said, 1989 marks both the fall of the iron curtain and the adoption of the UN Convention on the Rights of the Child. Since then, there have been dramatic changes in approach to the cause of children.

2.2.1. *The Council of Europe*

34. The Council of Europe came to realise that for a long time it had dealt with children's issues piecemeal, and needed to pull the strands together in a more coherent manner. After 1989 the member states ratified the UN Convention on the Rights of the Child. By now, most of Europe is legally bound to implement the convention. This makes it the most powerful and comprehensive children's rights instrument in Europe.

35. Regarding the main treaties, that is to say, the European Convention on Human Rights and the European Social Charter, the trends described above (paragraphs 24 ff.) continued after 1989.

36. The case-law of the European Convention on Human Rights showed even greater recognition of children as entitled to enjoy human rights, and of their legal capacity. Bearing in mind that the rulings of the Court have a binding effect upon all states parties, this development is of paramount importance. Illustrative of this trend are the different cases against the United Kingdom resulting in the banning of corporal punishment of children.

37. The European Social Charter was revised in 1996. This revised Charter contains even more provisions relating to children, resulting in increased legal protection of children. Once again, it is a pity that with regard to children no systematic research of the country reports has been done. A systematic assessment is still needed.

38. Further progress was made with the adoption by the Parliamentary Assembly on 1 February 1990 of Recommendation 1121 on the rights of the child. This recommendation, based on the ground-breaking report by Mrs Ekman (Doc. 6142) on behalf of the Assembly's Committee on Legal Affairs and Human Rights, reflects a very comprehensive view of children's rights and was characterised by two main developments.

39. First, marking a clear shift in the debate over the legal competence of children, the Assembly declared that "in addition to the right to be protected, children have rights which they can exercise independently, even against opposing adults" (paragraph 5). Secondl, the Assembly recommended "elaborating an additional protocol to the European Convention on Human Rights concerning the rights of the child" (paragraph 13.B). Thus, through an additional protocol to the European Convention on Human Rights, it could be made clear that the rights of the child are included in existing human rights instruments. Furthermore, the monitoring process would be much more effective, since the European Court of Human Rights would become responsible.

40. Besides these proposals, Recommendation 1121 contains many other interesting concrete ideas, including the institution of a children's ombudsman in each member state. It is clear that the recommendation attempted to streamline children's rights as set forth in the Convention on the Rights of the Child and also to strengthen the CRC at the European level.

41. Assembly Recommendation 1121 (1990) gave rise to the European Convention on the Exercise of Children's Rights, opened for signature in January 1996. It entered into force on 1 July 2000. This convention is not concerned with substantive rights but with procedural rights. By strengthening and creating procedural rights, which can be exercised by children themselves, the convention aims at facilitating the exercise of the substantive rights of children, in particular in family proceedings affecting them.

42. Although its area of application (family law) is relatively limited, according to some observers this convention represents a major step forward with regard to children's increasing legal capacity to act. This claim is unjustified. Article 12 of the UN Convention on the Rights of the Child provides for the right of the child to make his/her views known and ensures that account will be taken of these views in every matter of procedure concerning the child.

43. By contrast, and most unfortunately, the European convention only offers the child the possibility (" allow the

child …", Article 6.*b*), and as stated above, only in a specific area of application, which does not really complement Article 6 (right to a fair trial) of the European Convention on Human Rights and Article 9 (right to live with and to have contact with parents) of the UN Convention on the Rights of the Child. In addition to this, closer analysis of the text shows (see, for example, the section on monitoring) that this convention represents a weakening of the UN convention. The regionalisation of the minimum standards of the CRC should aim to strengthen and not to weaken the child's legal position. In fact this European convention is a missed opportunity to improve the legal protection of Europe's children from both a procedural and a substantive point of view. It should not have been established in its present form. The Council of Europe would have done better to take up the idea of an additional protocol to the European Convention on Human Rights, as proposed by the Parliamentary Assembly in Recommendation 1121.

44. It is significant that by the end of March 2001 only four member states (the Czech Republic, Greece, Poland, and Slovenia) had ratified the European Convention on the Exercise of Children's Rights. Even these countries restricted themselves to very few types of proceedings within the already restricted field of application.

45. Besides the Parliamentary Assembly's powerful Recommendation 1121 and the unfortunate European Convention on the Exercise of Children's Rights, there were two other important developments during the period after 1989.

46. In 1991 the Committee of Ministers launched a four-year (1992 to 1995) childhood policies project. It was run by a multidisciplinary co-ordinating committee comprising representatives from the following areas: social policy, human rights, health education, youth, migration, crime problems, mass media, equal opportunities, legal co-operation, sports, labour, social security and local government. This innovative project was characterised by coherence and comprehensiveness, based as it was on the three main pillars of the UN Convention on the Rights of the Child: participation, provision and protection. The results of the project were presented at the concluding conference in Leipzig (May 1996).

47. In parallel with the work of the childhood policies project, the Parliamentary Assembly decided in 1993 (Order No. 491) to develop, in co-operation with Unicef, a European strategy for children, which at European level could serve as inspiration and guidance for senior policy makers and all those who actively support children's causes in their respective activities. On 24 January 1996, thus before the Leipzig Conference, the Assembly adopted Recommendation 1286 on a European strategy for children complemented by Order No. 514 for promoting children's causes. Since Leipzig meant the official end of the childhood policies project the "strategy" was designed to give political impetus to its successor. Here may be noted a shift of power: the former was under the competence of the Committee of Ministers, the latter on the initiative of the Parliamentary Assembly.

48. Recommendation 1286 (1996) invites the member states to make children's rights a political priority and lists a variety of concrete proposals, including the establishment within the Council of Europe of a permanent multidisciplinary intergovernmental structure to deal with issues relating to children and to draw up an annual report on the state of children in Europe. However, it has to be said already at this stage that unfortunately the Committee of Ministers did not give effect to many points of this recommendation, which is discussed more fully below.

2.2.2. *The European Union*

49. At the EU level, no spectacular changes in regard to childhood policies can be observed in the period after 1989. Social policies in general and childhood policies in particular continue to be characterised by tension between the tendency to centralise and the subsidiarity principle. However some interesting trends could be observed.

50. Firstly, in spite of the fact that children hardly appear in the basic EU treaties (Rome, Maastricht, Amsterdam) and where they do are regarded as appendices of parents who are in turn seen as workers, there is already an impressive catalogue of measures which concern children indirectly. However, they lack coherence and are mainly characterised by a conventional child protection approach. Areas covered by this fragmented policy are, among others, family policy, custody and legal kidnapping, migrants within the community, immigrants and refugees from outside the community, poverty, education, day care, sexual exploitation, the media, children with a disability, the exchange of young people, minimum age for employment, working conditions for young people, toy safety, protection against accidents in the home, youth unemployment, adoption, and so on. However, the EU itself has no central focal point, no co-ordinating structure for developing and streamlining a coherent and comprehensive children's rights policy.

51. Secondly, the adoption of the UN Convention on the Rights of the Child in 1989 was the starting point for the European Parliament to draw attention to the cause of children's rights. Indeed, in July 1990 the European Parliament adopted its first resolution on the CRC, urging member states to ratify the CRC as a matter of urgency. The resolution also called upon the European Commission to adapt the CRC to the specific situation of the EU, in the form of a draft European charter on the rights of the child. In December 1991 the Gröner report on the problems of children in the EU was adopted and resulted in a draft European convention, prepared by the Committee on Legal Affairs and Citizen's Rights. The Bandres-Molet report finally resulted in the European Parliament Resolution A3-0172/92 on a European Charter on the Rights of the Child (July 1992).

52. This charter does not, however, add very much to the CRC and adds even less to Recommendation 1121 of the Parliamentary Assembly of the Council of Europe. It does look more closely at the specific situation in the EU, with specific problems for citizens arising out of the common market and free movement of people (for example, migration, social security, family reunification, etc.). It goes without saying that in this regard children are a particularly vulnerable section of the EU's population. However, their specific problems are mainly the result of the absence of a genuine social policy under the supranational competence of the EU. This is why the charter has mainly symbolic value. Indeed, it is part of the wider European Parliament political strategy designed to bring about a social Europe, a citizen's Europe and therefore also a children's Europe. This also explains why the charter mentions neither an implementing nor a monitoring procedure.

53. The Treaty of Amsterdam (1997) included some articles affecting children, the main aim being their "protection", for example the new Article K.1 tackling offences against children. Some other articles give limited coverage to the promotion of children's rights: Article 13 widens the scope of the anti-discrimination clause, for example to include "age"; Article 137 on social exclusion can be used for children too; Article 143 on demography could be used to collect age-disaggregated statistics which can improve knowledge about children.

54. However, there was no recognition of "the child as European citizen", despite intensive efforts by NGOs (mainly coordinated by Euronet, a European network for children's rights).

55. Under the French Presidency of the EU during the second half of 2000, these efforts were pursued at two levels: on the one hand, the drafting of the EU Charter of Fundamental Rights and, on the other, the revision of the Treaty on European Union via the Intergovernmental Conference (IGC)

process. Here again, NGOs (Euronet) were extremely active in seeking, successfully, to include references to children. The final decisions on the charter and the treaty amendments were taken at the Nice Summit in December 2000. However the results were rather disappointing. The charter was officially proclaimed but not incorporated into the treaty. Thus it is not (yet) binding on the member states. The issue of the charter's legal status has been identified as a matter for the Belgian Presidency to deal with in the second half of 2001.

56. For reasons already mentioned, the results achieved at the EU level are meagre and remain disappointing. Nevertheless the fifteen EU member states, having all ratified the UN Convention on the Rights of the Child, are legally bound to implement it. Up to now, despite the fact that they form a supranational body, they have preferred to ratify it separately, which may be considered an historic anachronism.

3. Conclusion

57. This section has shown that after 1989, the year of the UN Convention on the Rights of the Child and the collapse of the iron curtain, real changes can be noticed. The CRC was ratified by all Council of Europe member states and, hence, by the EU member states. Thus it remains the principal international children's rights text in Europe.

58. At the level of the Council of Europe, unlike the period before 1989, the period following is characterised by a very strong move towards a coherent, comprehensive approach in line with the CRC. Besides the main treaties (the European Convention on Human Rights and the Revised Social Charter), Parliamentary Assembly Recommendation 1121 (1990) and the Childhood Policies Project in particular can be seen as real landmarks. Assembly Recommendation 1286 (1996), in advocating the establishment of a permanent multidisciplinary intergovernmental structure within the Council of Europe, moved further still towards greater coherence. However, the adoption of the European Convention on the Exercise of Children's Rights was a disappointment, since it weakened the CRC.

59. At EU level no real progress towards the acceptance of children as European citizens was made. Despite an impressive series of activities of indirect benefit to children, these are mostly characterised by a protectionist approach and are highly fragmented. Coherence and comprehensiveness are non-existent. No real co-ordinating structure was established. Nor is there any substantial support for the more comprehensive Council of Europe activities, which would be most welcome given the budgetary resources of the EU.

III. A European strategy for children

60. As Recommendation 1286 (1996) on a European strategy for children is the Parliamentary Assembly's most recent comprehensive statement regarding children, and since the United Nations General Assembly will hold a special session on children in New York from 19 to 21 September 2001, it is worthwhile to focus here on the content of the recommendation and to assess its implementation against the criteria of coherence and comprehensiveness in particular.

1. Content

61. Assembly Recommendation 1286 (1996) aimed at making children's rights a political priority. Its operative part may be divided into two.

62. The first part (paragraphs 6 to 9) is concerned with urging or inviting the national governments of the member states, via the Committee of Ministers, to take action to promote the rights of the child as a priority through:

– the systematic collection of reliable information on children;

– a comprehensive, consistent and co-ordinated approach to childhood policy including the establishment of multidisciplinary structures at all levels;

– the appointment of an independent authority such as an ombudsman to promote and monitor children's rights;

– the introduction of "child impact statements" designed to assess the impact of proposed legislative or regulatory measures in all fields;

– investment in children and giving them budgetary priority;

– the promotion and provision of systematic training in children's rights;

– the promotion of international co-operation, etc.

63. The second part (paragraph 10) deals with co-operation within the Council of Europe itself. The Assembly recommends that the Committee of Ministers:

– set up, within the Council of Europe, a permanent multidisciplinary intergovernmental structure able to deal with all issues relating to children. This proposal would indeed effectively enable the intersectoral action of the Childhood Policies Project to be taken a significant step further;

– instruct this intergovernmental body, as part of its terms of reference, to draw up an annual report on the state of Europe's children, giving a comprehensive account of the situation and an outline of positive achievements and serving as a measure of what else needs to be done to satisfy the requirements of the UN Convention on the Rights of the Child, and to submit this report to the Parliamentary Assembly; this report would be the subject of an annual discussion within the relevant Parliamentary Assembly committees;

– involve other competent international organisations, in particular the UN Committee on the Rights of the Child, the European Parliament, Unicef, the various relevant non-governmental organisations, and indeed children themselves in the activities of this structure in appropriate ways. Here again the efforts made by the Childhood Policies Project could be taken a step further to become a genuine network at the pan-European level.

2. Follow up

2.1. *Implementation within the Council (paragraph 10)*

64. Already in 1996 the Committee of Ministers instructed the Steering Committee on Social Policy (CDPS) to examine the proposals in paragraph 10 of Assembly Recommendation 1286 (1996). However, the CDPS agreed that it would be neither desirable nor realistic to set up a multidisciplinary committee or structure as recommended by the Assembly, and saw no need for additional reporting beyond what was required under the UN Convention on the Rights of the Child.

65. The 2nd Summit of Heads of State and Government of the Council of Europe, held in Strasbourg in October 1997, adopted a Final Declaration which, under the heading the "Security of citizens", strongly emphasised the protection of children, but limited itself to the latter aspect of policy. Some member states were not happy to see the Council of Europe's action concerning children restricted to the protection aspect.

66. Under the heading "Social cohesion", the final declaration proposed a programme for children which was approved by the Committee of Ministers' Deputies in June 1998, for completion by the end of 2000. The terms of reference of the programme for children referred to the principles of participation, protection and promotion as enshrined in the UN Convention on the Rights of the Child and Assembly Recommendation 1286. A "Forum for Children" was set up as a multidisciplinary intergovernmental structure, more or less as the

substitute for the one that was envisaged in the framework of Recommendation 1286 (paragraph 10). The European Committee on Social Cohesion (CDCS), set up in November 1998, was given responsibility for the general implementation of the programme.

67. Regarding the content of the programme, three key elements were identified:

– children and their environment;

– children and day care;

– social support systems for children at risk of, or who have been victims of, abuse, violence and exploitation.

68. Three expert committees, or "focus groups", were given responsibility for the activities under each element. The Committee of Ministers added a long list of specific issues for possible consideration within the programme, the final choice falling on a study of children living in conditions of vagrancy, seminars on children with HIV and children at risk in residential care, as well as a draft action plan against sexual abuse and exploitation in the Baltic states.

69. The results were presented at the Conference "Children at the Dawn of a New Millennium" in Nicosia, Cyprus (27-29 November 2000). An overview of the programme activities and results is published in CDCS PC (2000) 6.

2.2. *Implementation within the individual member states (paragraphs 6-9)*

70. As has been seen, in Recommendation 1286 (1996) the Parliamentary Assembly called on governments to promote the rights of the child at national level. However, since the Committee of Ministers did not accept all the Assembly's proposals, the recommendation lost political impact. Moreover, up to now there has been no systematic evaluation of the implementation of the recommendation by national governments. Thus, no direct empirical material is available.

71. However, it would be of interest to check the initial and periodic reports that governments are due to submit in accordance with Article 44 of the UN Convention on the Rights of the Child. Also the end-of-decade reports by Council of Europe member states drawn up as a follow-up to the Plan of Action adopted by the World Summit on Children could provide another important source of information. (The Conference on Children in Europe and Central Asia, scheduled for 16 to 18 May 2001 in Berlin, promises a summary of these end-of-decade reports).

72. Despite the lack of documentary evidence, one can assume that substantial progress has been made by national governments in the attainment of some of the proposals set forth in Assembly Recommendation 1286 (1996). For instance, an independent children's ombudsman has been established in several member states. Indeed, with the support of Unicef, a European Network of Ombudspersons for Children (Enoc) was established in 1997, with member institutions currently in thirteen countries. Some governments have created a ministry responsible for childhood or appointed a coordinating minister for children's rights. Others have established "observatories" to make children more visible through the systematic collection of information. Many countries have fostered the creation of national coalitions on children's rights. One government (Flanders, Belgium) has introduced by law a "child impact assessment" mechanism. Several steps have been taken to inform children and adults alike about the rights enshrined in the UN Convention on the Rights of the Child. Provision has been made more or less systematically at national and international levels for specific training for professionals in children's rights.

73. A wide range of initiatives to enable the participation of children in decision-making which affects them have been taken at several levels of society, including judicial hearings, schools and other institutions. Worth mentioning are pupils' school councils and children's city councils. Even at the international level they have their networks such as the Organising Bureau of European School Students Unions (Obessu) and Youth Planet, the European umbrella of children's city councils.

74. In some countries, there have been discussions and proposals on the political participation of children, with a view, for example, to lowering the age at which young people can vote. Finally, few countries have taken steps to adjust their international co-operation policies, and more specifically their policies towards developing countries, to the need to promote the implementation of the UN Convention on the Rights of the Child outside Europe.

3. Conclusion

75. Parliamentary Assembly Recommendation 1286 (1996) on a European strategy for children built on the merits of Recommendation 1121 (1990) and the Childhood Policies Project, not least in consolidating the change in the perception of the child as enshrined in the UN Convention on the Rights of the Child and in maintaining comprehensiveness and coherence.

76. Implementation of the proposals directed at national governments (paragraphs 6 to 9) is under way, although not always as a direct result of the Assembly's recommendation. However, lack of systematic follow-up assessment precludes any clear picture of the impact and the results attributable to the recommendation. Moreover, lack of follow-through by the Committee of Ministers sapped much of its political impact.

77. The second part of Recommendation 1286 (1996) (paragraph 10), which is about proposals to the Council of Europe itself, was not properly followed up by the Committee of Ministers. The end result was the Programme for Children. However admirable and necessary the programme was in itself, one has to conclude that this was a weak response in that it omitted the main characteristics of an adequate children's rights-based policy and threatened a return to scattered and fragmented policies, instead of instituting the desired coherent and comprehensive policy. Moreover, it reflected a mainly child protection approach instead of the more comprehensive child rights approach (three Ps). Moreover, there was no really clear action plan for the future and, of paramount significance, no provision was made for a genuine permanent multidisciplinary structure.

78. We have to conclude that, unfortunately, the implementation of this very important Assembly recommendation has not been fully realised, probably because of the lack of a proper structure within the Council of Europe as proposed by the Assembly. Therefore, it is high time for the Council of Europe to take the authoritative lead again and to develop a renewed adequate comprehensive and coherent action plan based on Recommendation 1286 (1996) so as not to lose the powerful lead taken already in 1990 with Recommendation 1121. The 2001 Ungass on children offers an excellent opportunity to do this.

IV. Recommendations: a return to coherence and comprehensiveness

79. It is clear that the UN Convention on the Rights of the Child (CRC) is the most effective children's rights instrument in existence, including at European level. Firstly, it has been ratified by 191 states, making it almost universal. All forty-three member states of the Council of Europe (including all fifteen EU member states) are parties to the CRC. Secondly, it reflects a human rights-based approach which means that children are seen as subjects, as rights-holders and not merely as beneficiaries. As a consequence, states parties are accountable to them, that is, they are legally bound to implement its pro-

visions based on this view of the child. Thirdly, it is a comprehensive instrument. Indeed for the first time in the history of human rights it covers in one single binding instrument civil and political rights as well as economic, social and cultural rights. The intention in bringing them together in one comprehensive instrument was precisely to emphasise that these rights are all equally important and even interdependent. None of these rights can stand alone. The same goes for the three principles underlying the convention: the right to protection, provision and participation, with the emphasis on the indivisibility and the equal importance of these rights.

80. As a consequence, the convention must be implemented in accordance with these characteristics. In fact, they can be seen as basic quality criteria for a genuine child rights policy.

81. Bearing in mind that the CRC provisions are minimum standards, it is expected that in transferring them to more homogeneous regions (Africa, Europe) they can be complemented and strengthened through regional instruments. The same goes for the accountability of the respondents.

82. Since the Council of Europe, according to its Statute, works to harmonise policies by adopting common standards between its member states, especially in the social, legal and cultural areas, and not least in the field of human rights, it is the appropriate institution to take the lead in developing a proper regional, that is, pan-European, child rights policy across all its sectors of activity.

83. It follows from all the above that there is an urgent need for the Council of Europe to take the initiative again by adopting a renewed sustainable Council of Europe action plan for the implementation of children's rights based on the requirements derived from the CRC, that is, characterised by coherence and comprehensiveness, and, of course, by a rights-based approach.

84. Thus, the Parliamentary Assembly could recall its past proposals to elaborate either an additional protocol to the European Convention on Human Rights (Recommendation 1121 (1990), paragraph B, and Opinion No. 186 (1995), paragraph 11.ii), or an adequate European convention on children's rights (Recommendation 874 (1979), Recommendation 1121 (1990), paragraph B).

85. One could say that this proposal aims only at legal protection. This is true except for the fact that the UN Convention on the Rights of the Child is about legal protection of the "rights" of children, that is, not only their civil and political rights but also their economic, social and cultural rights, not only their right to protection but also their rights to provision and to participation.

86. As said, the CRC's standards are minimum standards. There are additional legal instruments which complement and strengthen these standards. It is of paramount importance to launch a new ratification drive now.

87. Strengthening the legal protection of children at European level can be complemented by coherent proposals for their improved social protection.

88. Last but not least, in order to make such proposals an important tool of action it has to be very clear for the purpose of accountability that these recommendations are to be addressed to:

– the national governments;

– the Council of Europe itself;

– other international organisations; and

– the corporate sector.

89. There is a need for a permanent structure to support, follow up, and assess on a systematic and regular basis the results and the difficulties of such a policy as well as the need for further international co-operation.

Reporting committee: Social, Health and Family Affairs Committee.

Budgetary implications for the Assembly: none.

Reference to committee: Order No. 514 (1996).

Draft recommendation unanimously adopted by the committee on 3 September 2001.

Members of the committee: *Ragnarsdóttir (Chairman),* Hegyi, *Gatterer,* Christodoulides *(Vice-Chairs), Albrink, Alís Font, Arnau, Belohorská, Biga-Friganović,* Bilovol *(alternate: Stozhenko), Björnemalm, Brînzan, Brunhart,* Cerrahoğlu, *Cesário, Cox, Dees,* Dhaille, Dzasokhov, Evin, *Flynn,* Gamzatova, *Gibuła,* Glesener, Goldberg *(alternate: Michel), Gregory,* Gül, Gusenbauer, Gustafsson, Haack, *Hancock, Herrera, Høegh,* Hörster *(alternate: Hornung), Jäger, Jirousová,* Kitov, *Knight,* Lakhova, Liiv, *Lotz, Luhtanen,* Manukyan, Markovska, Marmazov, *Martelli,* Marty *(alternate: Schmied),* Mattei, Monfils, Mularoni, Naydenov, *Olekas, Ouzký, Padilla,* Paegle, Pavlidis, *Podobnik, Popa,* Poroshenko *(alternate: Khunov), Poty, Pozza Tasca, Provera,* Rizzi *(alternate: Cioni),* Seyidov, Shakhtakhtinskaya, Smerecyńska, Smirlis, Stefani, Surján, Telek, Tevdoradze, *Troncho,* Tudor, *Vella, Vermot-Mangold, Vos,* Wójcik, Zidu.

NB: The names of those members present at the meeting are printed in italics.

The draft recommendation will be discussed at a later sitting.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Report
Doc. 9189 – September 2001

Higher education in South-eastern Europe

(Rapporteur: Mr BACIU, Romania, Socialist Group)

Summary

Higher education plays a decisive role in socio-cultural and economic changes in countries in transition. Furthermore, in South-eastern Europe it is crucial to the development of stability, peace and democracy in the region. That is why education and co-operation in the educational field are among the main themes of the first working table of the Stability Pact for South Eastern Europe.

Thanks to its great wealth of experience, the Council of Europe could significantly contribute to the acceleration of reforms in this field in the region's countries, by adapting and applying the Bologna Process, based on the following recently adopted documents: the Sorbonne Declaration (1998), the Bologna Declaration (1999) and the documents of the 20th Session of the Standing Conference of European Ministers for Education held in Cracow (2000).

In addition to the guiding ideas of the Bologna Process, higher education policy and reform in South-eastern Europe must develop a regional approach, transverse co-operation and minority rights in this field as a key component of social cohesion.

I. Draft recommendation

1. Higher education provides an opportunity for interaction between national identities and the promotion of common interests, for the benefit of students, society and, more generally, future generations.

2. The Bologna Process is becoming increasingly established as the guiding strategy for higher education policy and reform in Europe, following the principles of the two European documents adopted: the Sorbonne Declaration and the Bologna Declaration.

3. The Sorbonne Declaration, signed by the education ministers of France, Germany, Italy and the United Kingdom on 25 May 1998, marked out a reference framework for making diplomas more easily identifiable and increasing student mobility and employment potential.

4. The Bologna Declaration of 19 June 1999, signed by the education ministers of twenty-nine European countries, is a key document on higher education in Europe based on the following principles:

i. a Europe of knowledge as an irreplaceable factor for social and human growth and as an indispensable component of the consolidation and enrichment of European citizenship;

ii. the importance of education and educational co-operation in the development and strengthening of stable, peaceful and democratic societies;

iii. increasing the international competitiveness of the European system of higher education;

iv. the adoption of a system of easily readable and comparable degrees, thereby increasing the employability of higher education graduates;

v. the adoption of a system essentially based on two main cycles, both of which should lead to adequate levels of qualification for entering the labour market;

vi. the establishment of a credit system to promote student mobility;

vii. the promotion of European co-operation in quality assurance;

viii. the promotion of the necessary European dimension in higher education.

5. The ministerial meeting of the Bologna countries (18 and 19 May 2001), preceded by and building on the outcomes of the Academic Convention in Salamanca (28 and 29 March 2001) and the Student Convention in Gothenburg (24 and 25 March 2001), brought the Bologna Process forward by:

i. emphasising more strongly the importance of quality assurance, and the link between quality assurance and the recognition of qualifications;

ii. insisting on the importance of lifelong learning in the European Higher Education Area;

iii. underlining that higher education must be considered a public and private good benefiting society, the state and the individuals concerned;

iv. underlining the importance of student participation in explicitly referring to students as full members of the academic community and as competent, active and constructive partners in the establishment and shaping of the European Higher Education Area;

v. a semantic shift from wishing to make European higher education more competitive to making it more attractive.

6. The Assembly reiterates that, in the countries of South-eastern Europe, higher education is crucial in establishing and consolidating stability, peace and democracy in the region, all the more so given the current situation. It is also critical for the economic, social and cultural development of these countries.

7. The Assembly recognises that the promotion of student mobility, while positive, can also lead to an undesirable brain drain.

8. The Assembly recalls that the Stability Pact for South Eastern Europe provides, within the framework of its first working table, for several activities in the education field, including the system of higher education in the region.

9. The Assembly notes that, in addition to the Council of Europe, other international institutions have already stated their intention to support and contribute to the Stability Pact, notably the European Union, Unesco (in particular the European Centre for Higher Education, CEPES, in Bucharest) and the United Nations.

10. On several occasions over the last ten years, the Assembly has examined the situation of higher education in South-eastern Europe, pursuing ongoing activities in conjunction with the Education Committee (CC-ED) and the Higher Education and Research Committee (CC-HER) in the field of legislative and structural reform.

11. The Assembly warmly welcomes the signing of the Framework Agreement in Skopje on 13 August 2001 and urges both major language communities of "the former Yugoslav Republic of Macedonia" to find a satisfactory solution to the issue of higher education provision in the two major languages of the country based on that agreement.

12. Bearing in mind the importance of higher education for South-eastern Europe and the need to contribute to the implementation of the Stability Pact's objectives, the Assembly recommends that the Committee of Ministers:

i. call on member states from South-eastern Europe to take practical steps to join the Bologna Process, and in particular to:

a. strengthen their national higher education systems, with assistance from the Council of Europe, so as to secure their economic, social and cultural development;

b. strengthen the central role of universities in developing regional and European cultural dimensions;

c. set up a higher education system with two main levels of study below doctoral studies, both of which would qualify graduates for access to the labour market or for the continuation of their studies;

d. introduce a system of credits based on the European Credit Transfer System (ECTS);

e. introduce the "Diploma Supplement" – a joint project of the European Commission, Council of Europe and Unesco to facilitate the comparison and recognition of qualifications;

f. adopt a system of easily identifiable and comparable degrees, with reference to the Council of Europe/Unesco Lisbon Recognition Convention;

g. draw up and implement programmes aimed at increasing mobility among the region's academics and students as a means of developing trust and promoting knowledge of, and respect for, different ethnic cultures in this part of Europe;

h. co-operate closely within the CEEPUS (Central European Exchange Programme for University Studies) programme framework to foster mobility among academics and students and the mutual recognition of qualifications;

i. support any lifelong learning projects in higher education in order to encourage retraining of those who have lost their jobs as a result of economic or structural reorganisation or change;

j. support legislative reforms in their countries aimed at establishing a transparent, easy-to-use and universally applicable scientific assessment procedure for the higher education system, at gradually bringing higher education and research closer together and at facilitating co-operation between university, industry and business;

k. accordingly support the introduction of effective, independent social sciences that are able to contribute to true democratic citizenship;

l. work in close collaboration with the Council of Europe to assist the setting up of a regional network of European studies for democratic citizenship as an appropriate framework for teaching and for the practice of democracy;

m. study the implications of student mobility, including the brain drain, for countries of South-eastern Europe;

n. facilitate equal access to institutions of higher education for students belonging to minorities;

ii. call on European Union member states to step up co-operation with the network of universities in South-eastern Europe through various transnational programmes (such as CEEPUS, Leonardo and Socrates);

iii. encourage international financial institutions to support projects for reorganisation and legislative reform of higher education infrastructure and functioning in the region.

II. Explanatory memorandum, by Mr Baciu

1. Higher education provides an opportunity for interaction between national identities and the promotion of common interests, for the benefit of students, lecturers, society and, above all, future generations. It has played an indisputable role in the economic and socio-cultural changes in South-eastern Europe during the post-communist transition period. Higher education is, therefore, crucial in establishing and consolidating stability, peace and democracy in the region, all the more so given the current delicate situation.

2. The Stability Pact for South Eastern Europe has demonstrated the commitment of the international, and in particular European, community to the proper reintegration of South-eastern Europe into the continent as a whole. The Stability Pact's first working table focused on democratisation and human rights, including education and educational co-operation between the countries.

3. The Council of Europe has a wealth of experience in this field and could make a significant contribution to the reorganisation and legislative reform of the higher education infrastructure and functioning in the region, in particular by:

– evaluating the results of education policies;

– setting education standards;

– reviewing the role of universities as resource centres.

4. The new information and communication technologies are bringing about a genuine social revolution. Higher education in South-eastern Europe must be able to transmit, effectively and on a large scale, an increasing range of knowledge and adaptable skills that are tailored to the new technologies, in particular by:

– developing lifelong learning and thus enhancing the idea of an education-oriented society in which the extremely rapid pace of scientific discoveries and technological developments is creating a new need for citizens of all ages to retrain and bring their knowledge up to date;

– the continuous updating of knowledge and skills for teachers so that they can perform their function in an information-based, technological society;

– taking special measures to eliminate all forms of gender inequality in scientific and technology education, especially with regard to the new technologies.

5. Three recently adopted documents provide solid foundations for the proposed higher education reforms in South-eastern Europe:

– the Sorbonne Declaration of 25 May 1998 (Appendix I), which highlights the crucial role of universities in enhancing Europe's cultural dimension by creating a European higher education area and thus increasing people's mobility and facilitating entry into the European labour market;

– the Bologna Declaration of 19 June 1999 (Appendix II), which sets out a number of practical recommendations arising from the Sorbonne Declaration, in particular the adoption of a system of easily identifiable and comparable degrees, the adoption of a higher education system with two main levels of study (graduate and postgraduate degree), the introduction of a system of credits (the declaration refers to the European Credit Transfer System (ECTS) as an example), the fostering of European co-operation with regard to quality assurance, and promoting the necessary European dimension in higher education;

– the documents of the 20th Session of the Standing Conference of European Ministers for Education (Cracow, 15-17 October 2000), which examined the challenges facing education policies (including those of higher education), in particular mobility, globalisation, the impact of the new technologies, quality, equal opportunity and efficiency. A detailed study of the Legislative Reform Programme in Higher Education and Research (LRP) was also carried out.

6. The Bologna Declaration expressly states that "the importance of education and educational co-operation in the development and strengthening of stable, peaceful and democratic societies is universally acknowledged as paramount, the more so in view of the situation in South-eastern Europe". In this context, one of the prime objectives of European higher education policy reform is to help the countries of South-eastern Europe to participate fully in the process initiated in Bologna.

7. European studies for democratic citizenship should play a major role by instilling students from South-eastern Europe with the fundamental values of democracy: respect for human rights and individual freedoms, tolerance and comprehension of "others", active participation in democratic life by taking on responsibilities within society.

8. In this connection, a regional conference for the countries of South-eastern Europe on higher education in the area of European studies for democratic citizenship was held from 26 to 28 September 1999 in Slunchev Bryag (Bulgaria) with the principal aims of:

– identifying specific problems by creating European studies programmes in the countries of South-eastern Europe, for example on democratisation, resolving conflicts, etc., also taking account of the crisis in Kosovo and its consequences for co-operation in the region;

– examining trends and prospects in the development of European studies in higher education establishments in South-eastern Europe;

– examining these establishments' role in promoting democratic citizenship and regional stability.

9. There are still difficulties in devising a specific regional approach to higher education in South-eastern Europe, given that the countries of the region are in contrasting situations and are often – despite sharing common features with neighbouring countries – less interested in regional co-operation than in partnerships with west European institutions and countries.

10. In Kosovo, where the two communities lead completely separate lives, the higher education system requires urgent, large-scale and sustained support owing to the destruction of facilities and the lack of teachers. The Council of Europe has signed a contract with Unmik, sponsored by the World Bank, to lay the foundations for the new higher education system in Kosovo, in particular by elaborating a new legal framework for the system. The project also has components on management and on the certification of legal and medical qualifications obtained under the parallel education system in force in Kosovo between the late 1980s and 1999. Otherwise, the permanent segregation of students who are not of Albanian ethnic origin remains a major problem in higher education in Kosovo. The objective of the international effort, of which the Council of Europe is part, is to ensure that all individuals presenting the requisite qualifications have access to education and higher education, regardless of their ethnic, linguistic or religious background. The priorities are to reform legislation and the political framework and to promote the democratic participation of students in all aspects of university life.

11. In "the former Yugoslav Republic of Macedonia", the provision of higher education in Albanian has been one of the major issues of contention between the Macedonian and Albanian speaking communities of the country. It had been argued that the constitution did not allow for higher education in public institutions in any lan-

guage but Macedonian. However, a framework agreement signed in Skopje on 13 August 2001 states that "State funding will be provided for university level education in languages spoken by at least 20% of the population of Macedonia". This is an important breakthrough that should be warmly welcomed by the Parliamentary Assembly and which could open the way for the South East European University to receive public funding and become a part of the Macedonian higher education system. This should be conceived as an integrated system made up of a variety of institutions providing combined higher education offered in Macedonian, Albanian and other languages. The Assembly should urge both major language communities of "the former Yugoslav Republic of Macedonia" to find a satisfactory solution to the issue of higher education provision in the two major languages of the country based on the above-mentioned framework agreement.

12. In Montenegro, higher education is relatively liberal but the university community suffers from relative long-term isolation, which requires closer co-operation in this area. A seminar has been organised by the University of Montenegro in conjunction with the Council of Europe and the European University Association (EUA). Participants discussed the quality of teaching, university autonomy, the responsibilities of the teaching profession and the funding of universities. A reform of Montenegrin legislation bringing it into line with European criteria was proposed.

13 In Serbia, higher education is still governed by the 1998 Serbian University Act, which is widely regarded as repressive and was criticised by the CC-HER in a declaration at its plenary session in 1998. Support for the priority activities of the Alternative Academic Education Network (AAEN) has been identified, including international recognition and approval of AAEN courses. The Council of Europe and the European University Association (EUA), with the Serbian Ministry and the AAEN, held a large conference on European higher education policies and reform in Belgrade (12-13 March 2001). The conference, which gathered some 850 participants from all Serbian universities and from the University of Montenegro, will be followed by topical seminars, with quality assurance and the recognition of qualifications as two of the topics. The Council of Europe has also offered its assistance in the elaboration of more permanent higher education legislation. It could further assist higher education in Serbia by introducing European standards, via the Bologna Process and the introduction of effective and independent social science studies capable of fostering real democratic citizenship.

14. The Federal Republic of Yugoslavia acceded to the European Cultural Convention on 28 February 2001, and the second meeting of the Lisbon Recognition Convention Committee (Riga, 6 June 2001) invited the federation to accede to that convention.

15. In Bosnia and Herzegovina, the efforts of the Council of Europe have focused on assistance for the setting up of a higher education co-ordination board, which is a prerequisite laid down by the World Bank for investment in this sector. The activities of the higher education co-ordination board should concentrate, in particular, on arrangements for the development and overall co-ordination of the system so that all citizens have equal opportunity of access to higher education. Other problems to be resolved by it are financing, quality and the recognition of diplomas awarded by the different universities. The higher education co-ordination board will become a lasting and representative institution with the professional expertise required to guide the systematic development of higher education.

16. In Albania, higher education reform demands assistance with legal reform, especially where the question of the recognition of qualifications are concerned. The University of Tirana is one of fifteen European universities involved in a project focusing on the university as a citizenship site.

17. To achieve the desired aims in Bosnia and Herzegovina, the Assembly has recommended that the Committee of Ministers propose administrative, financial and legislative solutions designed to lay the foundations for a cost-efficient higher education system and consider the use of distance learning (Recommendation 1454 (2000) on education in Bosnia and Herzegovina).

18. International financial institutions such as the International Monetary Fund, the World Bank, the European Bank for Reconstruction and Development and the European Investment Bank can also play a vital role in implementing higher education activities and projects in South-east European countries. These institutions are in a position to develop a coherent international aid strategy for the region and to assist its countries in identifying their priorities for higher education.

APPENDIX I

Harmonisation of the architecture of the European higher education system

Joint declaration of four ministers in charge of higher education in Germany, France, Italy and the United Kingdom on the occasion of the 800th anniversary of the University of Paris (Paris, Sorbonne, 25 May 1998)

The European process has very recently taken some extremely important steps forward. Relevant as they are, they should not make one forget that Europe is not only that of the euro, of the banks and the economy: it must be a Europe of knowledge as well. We must strengthen and build upon the intellectual, cultural, social and technical dimensions of our continent. To a large extent, these have been shaped by its universities, which continue to play a pivotal role in their development.

Universities were born in Europe, some three-quarters of a millennium ago. Our four countries boast some of the oldest, which are celebrating important anniversaries around now, as the University of Paris is doing today. In those times, students and academics would freely circulate and rapidly disseminate knowledge throughout the continent. Nowadays, too many of our students still graduate without having had the benefit of a study period outside of national boundaries.

We are heading for a period of major change in education and working conditions, to a diversification of courses needed for professional careers, with education and training throughout life becoming a clear obligation. We owe our students, and our society at large, a higher education system in which

they are given the best opportunities to seek and to find their own area of excellence.

An open European area for higher learning carries a wealth of positive perspectives, of course respecting our diversities, but requires also continuous efforts to remove barriers and to develop a framework for teaching and learning, which would enhance mobility and an ever closer co-operation.

The international recognition and attractive potential of our systems are directly related to their external and internal clarity. A system seems to emerge in which two main cycles, undergraduate and graduate, should be recognised for international comparison and equivalence.

Much of the originality and flexibility in this system will be achieved through the use of credits (such as in the ECTS scheme) and semesters. This will allow for validation of these acquired credits for those who choose initial or continued education in different European universities and who wish to be able to acquire degrees throughout life. Indeed, students should be able to enter the academic world at any time in their professional life, and from diverse backgrounds.

Undergraduates should have access to a diversity of programmes, including opportunities for multidisciplinary studies, development of a proficiency in languages and the ability to use new information technologies.

In the graduate cycle, there would be a choice between a shorter master's degree and a longer doctor's degree, with possibilities to transfer from one to the other. In both graduate degrees, appropriate emphasis would be placed on research and autonomous work.

At both undergraduate and graduate level, students would be encouraged to spend at least one semester in universities outside their own country. At the same time, more teaching and research staff should be working in European countries other than their own. The fast-growing support of the European Union for the mobility of students and teachers should be employed to the full.

Most countries, not only within Europe, have become fully conscious of the need to foster such evolution. The conferences of European rectors, university presidents, and groups of experts and academics in our respective countries have engaged in widespread thinking along these lines.

A convention, recognising higher education qualifications in the academic field within Europe, was agreed on last year in Lisbon. The convention set a number of basic requirements and acknowledged that individual countries could engage in an even more constructive scheme. Recognising these conclusions, one can build on them and go further. There is already much common ground for the mutual recognition of higher education degrees for professional purposes through the respective directives of the European Union.

Our governments, nevertheless, continue to have a significant role to play towards these ends, by encouraging ways in which acquired knowledge can be validated and degrees can be better recognised. We expect this to promote further inter-university agreements. Progressive harmonisation of the overall framework of our degrees and cycles can be achieved through a strengthening of already existing experience, joint diplomas, pilot initiatives, and dialogue with all concerned.

We hereby commit ourselves to encouraging a common frame of reference, aimed at improving external recognition and facilitating student mobility as well as employability. The anniversary of the University of Paris, celebrated today here in the Sorbonne, offers us a solemn opportunity to engage in the endeavour to create a European area of higher education, where national identities and common interests can interact and strengthen each other for the benefit of Europe, of its students, and more generally of its citizens. We call on other member states of the European Union and other European countries to join us in this objective and on all European universities to consolidate Europe's standing in the world through the continued improvement and updating of education for its citizens.

APPENDIX II

Bologna Declaration[1]

Joint Declaration of the European Ministers of Education convened in Bologna on 19 June 1999

Reporting committee: Committee on Culture, Science and Education.

Reference to committee: Doc. 8721 and Reference No. 2508 of 16 May 2000.

Draft recommendation unanimously adopted by the committee on 5 September 2001.

Members of the committee: *Rakhansky (Chairman), de Puig, Risari, Billing (Vice-Chairmen),* Akhvlediani, Arzilli, Asciak, Berceanu *(alternate: Baciu),* Bērziņš, *Birraux,* Castro *(alternate: Varela i Serra)*, Chaklein, Cherribi, Cubreacov, *Damanaki,* Dias, Dolazza, Duka-Zólyomi, Fayot, Fernández-Capel, Galoyan, Goris, Haraldsson, *Hegyi,* Henry, *Higgins,* Irmer, *Isohookana-Asunmaa,* Ivanov, Jakič, Kalkan, Katseli, Kofod-Svendsen, Kramarić, Kutraitė Giedraitienė, Lachat, Lekberg, Lemoine, Lengagne *(alternate: Mattei),* Libicki, Liiv, *Lucyga,* Maass, Marmazov *(alternate: Baburin),* Marxer, *Maějů,* McNamara *(alternate: Jackson),* Melnikov, Mignon, Minarolli, *Nagy, Němcová,* Nigmatulin, *O'Hara,* Pavlov, Pinggera, Pintat Rossell, Prisàcaru, Rapson, *Roseta,* Sæle, Sağlam, Schicker, Schweitzer, Seyidov, Sudarenkov, Symonenko, *Tanik,* Theodorou, Tudor, *Turini,* Vakilov *(alternate: Abbasov),* Valk, *Wilshire,* Wittbrodt, Wodarg, Xhaferi.

N.B. The names of those present at the meeting are printed in italics.

See 32nd Sitting, Friday 28 September 2001 (adoption of the draft recommendation); and Recommendation 1540.

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1. This declaration is published in full in Appendix II of Doc. 9171.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 1[1]
Doc. 9189 – 27 September 2001

Higher education in South-eastern Europe

tabled by MM. HOEFFEL, ABOUT, MIGNON, MICHEL, MITTERRAND, DHAILLE, BRIANE, BIRRAUX and MARIOT

In the draft recommendation, at the end of paragraph 6, add the following sentence:

"Recalling its work on history teaching, the Assembly emphasises that teaching of the human sciences in higher education must be directed towards mutual understanding and tolerance and shared democratic values. Such an approach is particularly necessary in the training of future teachers at all levels."

1. See 32nd Sitting, 28 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Report
Doc. 9190 –7 September 2001

Campaign against trafficking in women

(Rapporteur: Mrs ERR, Luxembourg, Socialist Group)

Summary

During the last few years, the number of victims of trafficking in Europe has considerably increased to such an extent that the turnover has reached third place after drugs and weapons trafficking.

Realising the global scale of the phenomenon, the Assembly recommends, *inter alia,* to the member states of the Council of Europe, to define as a priority the trafficking in women as a criminal offence in their national legislation and to incriminate all activities linked with trafficking. The Assembly also proposes that part of the confiscated profits be allotted to the rehabilitation of victims.

The Assembly also recommends that member states implement measures regarding the prevention of trafficking by encouraging co-operation between non-governmental organisations, consulates and police services, and to take measures to protect victims by granting them, for example, a temporary and renewable resident permit on humanitarian grounds.

The Assembly recommends that the Committee of Ministers create a European observatory on trafficking and draft a convention on trafficking in women.

I. Draft recommendation

1. Trafficking in women is a phenomenon which is a violation of human rights and the basic principles of the rule of law and democracy. The massive increase in the number of victims trafficked in Europe during the last few years demands immediate action from the European countries to stop the spread of this modern form of slavery.

2. Trafficking is a human rights issue: it entails the violation of women's dignity and integrity, their freedom of movement and, in some cases, their right to life. As far as the individual is concerned, it effects the very foundation of human rights: the equal dignity of all human beings. Trafficking should be considered a crime against humanity.

3. In European societies, trafficking is a very complex subject closely linked to prostitution and hidden forms of exploitation, such as domestic slavery, catalogue marriages and sex-tourism. Some 78% of women victims of trafficking are exploited in various forms of prostitution.

4. Trafficking in women is a large and growing global business, generating huge profits for traffickers and organised crime. The increasing demand for prostitution in the member states of the Council of Europe has led to the fact that the turnover from this criminal activity has reached third place after drugs and arms trafficking.

5. This phenomenon goes hand in hand with migration, as according to the International Organisation for Migration (IOM), more than 500 000 financially vulnerable women from eastern and central European countries have been displaced during the past year by networks of traffickers in order to exploit them in western Europe. Traffickers are filling the gap between the high demand for migrant labour on the one hand, and the diminishing legal channels of migration in most countries, on the other hand.

6. This form of organised crime has serious effects on the physical and moral health of the victims. They suffer from the worst forms of sexual, physical and psychological violence and run the danger of physical disability and social exclusion.

7. The main cause of this form of organised crime is poverty, which is a direct result of the transition to a market economy in the countries of origin of the victims. Organised crime takes advantage of women's desire to earn money abroad and exploits them brutally in prostitution or domestic work, especially in western countries. Improvement of the economic situation in the countries of origin, the enforcement of national legislations recognising trafficking in women as a criminal offence, and applying extraterritorial jurisdiction for this crime are the main conditions for the prevention of the expansion of trafficking in women in Europe.

8. The Assembly is very concerned that trafficking in women expanded dramatically in conflict and post-conflict areas, such as the Balkans, where the problem is compounded by the instability of civil societies and the weakened rule of law. The large presence of military staff in the region has created the demand and has attracted traffickers who seek to take advantage of this situation. This makes necessary the elaboration of a code of conduct drawing the attention of the military forces to the problem of gender issues.

9. Realising the global scale of the phenomenon of trafficking in women and the serious consequences it entails, the Assembly welcomes the efforts of international organisations and the European Union in combating this crime and calls on all European countries to develop common policies and actions covering all aspects of this problem: comprehensive statistics and research into the causes and mechanisms of trafficking, law enforcement, prevention, protection of victims, repression, awareness raising and information.

10. The Assembly, therefore, urges the governments of member states:

i. to define the trafficking in women as a criminal offence in their national legislations and adopt or strengthen legislation and enforcement mechanisms to punish traffickers;

ii. to appoint a national rapporteur on trafficking in human beings in each country affected by this problem. The office of the rapporteur should elaborate and implement the national plan of actions against trafficking taking into account the specificities of the situation in each country;

iii. to draw up annual reports to their parliaments on the situation related to trafficking in women in their countries;

iv. to encourage national and international research into the problem of trafficking of women to better understand and fight this phenomenon;

v. to penalise sex tourism and to incriminate all activities which might lead to forms of trafficking, including domestic slavery and marriages by catalogue using the Internet;

vi. to create a legislative framework for the voluntary organisations which would defend victims of trafficking, allowing them to take legal action against traffickers either in conjunction with the victims or in their place with the aim of obtaining damages;

vii. to take the following steps regarding the prevention of trafficking in women:

a. establish bilateral agreements between destination countries and the countries of origin of victims, which should cover legal and police co-operation and humanitarian aspects, including preventive and information campaigns, training programmes and assistance programmes for the rehabilitation of victims;

b. create special polices service and "sensibilise" them to fight against trafficking and forced prostitution. Such services should have direct contacts with Interpol and Europol in order to ensure an information exchange on traffickernetworks and efficient collaboration in the detention of criminals;

c. encourage constant co-operation and interaction between non-governmental organisations and consulates and police services responsible for the fight against trafficking;

d. set up, in close co-operation with the countries of origin, prevention programmes focusing in particular on the deep-seated causes of trafficking in women, namely inequality between women and men in the labour market; in education and in access to certain professions; the feminisation of poverty; and violence against women;

e. launch large information and awareness-raising campaigns addressed to all professionals who by the very nature of their work could be in contact with the victims and the traffickers. These campaigns should address officials of ministries especially concerned with the problem of trafficking, customs and police services, diplomatic representatives, public authorities, the media and humanitarian non-governmental organisations;

f. launch sex education programmes in schools, with particular emphasis on equality between women and men and on respect of rights of human beings and individual dignity. School curricula should include information on the risks of exploitation, sexual abuse and trafficking. Teachers should be trained in such a way as to incorporate a gender dimension into their teaching and to avoid gender stereotypes;

g. encourage the mass media to cover the work of non-governmental organisations, police services and parliamentary assemblies in fighting trafficking;

h. carry out permanent monitoring of advertisements in order to detect hidden information about networks for the illegal transportation of human beings, illegal employment and developing effective mechanisms of responsibility for such kinds of advertisement;

viii. to adopt the following measures regarding victims of trafficking:

a. giving specific protection to victims;

b. setting up shelters for trafficking victims modelled on those already functioning in Italy, Belgium and Austria;

c. establishing telephone hotlines in capitals and in different regions of each country providing information to potential trafficking victims and their families and assisting persons who have fallen victim to trafficking;

d. introducing a right to compensation, insertion and rehabilitation for victims and setting up a support body to help their voluntary return to their countries of origin;

e. taking all necessary measures to protect victims and witnesses wishing to testify, and assuring protection for their families in the countries of origin;

f. increasing the state financing of the social services specialised in the offering of assistance to the victims of trafficking and prostitution;

g. granting victims of trafficking a temporary and renewable resident permit on humanitarian grounds;

h. creating information and consulting services in embassies and consulates of the countries of origin, where women, who are leaving for abroad could receive necessary information and addresses of embassies and non-governmental organisations in the countries of destination providing assistance to women victims of trafficking;

ix. to introduce effective punishment of traffickers by:

a. prosecuting nationals for offences committed abroad and establishing rules governing extra-territorial jurisdiction, irrespective of the country where the offences were committed, and including cases where the offences took place in more than one country;

b. introducing penal sanctions for clients of victims of sexual exploitation;

c. making the punishment of traffickers at least similar to those for traffickers in drugs and weapons;

d. including in penalties the seizure and confiscation of the sizeable earnings of traffickers and the closure of establishments in which victims are exploited. A part of the confiscated profits should be allotted to insertion and rehabilitation centres for victims and shelters (offenders should pay compensation to the victims of trafficking).

11. The Assembly recommends that the Committee of Ministers:

i. create a European observatory on trafficking in order:

a. to take the necessary measures to launch information and awareness-raising campaigns against trafficking in women in all the member countries;

b. to establish an international network of experts on trafficking in women to facilitate the exchange of information and expertise;

c. to study the effects of using new information technologies in trafficking of women as well as their impact on the victims of trafficking;

d. to conduct, in co-operation with other international organisations, systematic research into trafficking in women;

ii. to draft a convention on trafficking in women, which would focus on the protection of victims by obliging member states to provide for the physical safety of trafficking victims within their territory, granting them special residence permits on humanitarian grounds and ensuring their physical and psychological recovery. A non-discrimination clause, which is a fundamental rule of international law as provided for by Article 14 of the European Convention on Human Rights and by Protocol No. 12 to this Convention, should be included as one of the main provisions of the future convention;

iii. to implement Recommendation No. R (2000) 11 on trafficking in human beings for the purpose of sexual exploitation and transmit it to the European Commissioner on Human Rights and to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT).

II. Explanatory memorandum, by Mrs Err

Introduction

1. Trafficking in women and children is a cruel expression of modern slavery. Slavery which consists of the selling of people – in the most acute cases with the purpose of prostitution and pornography, but trafficking as well could be effectuated in response to marriage demands or the demands of cheap home workers, very often working without salary and social security.

2. Although the international community has rallied to combat it, trafficking in women has increased considerably in recent years and become a flourishing branch of organised crime. The victims of this form of slavery are fated to be resold and to become the merchandise in the flourishing European market which generates substantial profits for international criminal organisations. It is high time to combat more efficiently this modern disaster.

3. The problem assumed dramatic proportions in Europe with the collapse of the communist regimes, which had major political, economic and social consequences for the countries of the former Soviet Union. The opening up of frontiers, the rise in unemployment and poverty with the transition to the market economy and the disruption of governmental structures have aided the development of trafficking.

4. The conflicts of the 1990s also fuelled an upsurge in trafficking. The situation in the countries of the former Yugoslavia, for example, is extremely worrying.

5. Since the fall of the Berlin Wall, most of the women victims of trafficking in human beings in Europe (78%) are from central and eastern Europe.[1] Women from eastern Europe are also "exported" to Israel. Lastly, women from developing countries (Africa, Asia, South America) are victims of trafficking whose destination is the West.

6. The Council of Europe is regrouping the quasi-majority of European countries concerned and, therefore, this Organisation should become the main stronghold in the fight against this phenomenon, which violates all fundamental principles on which the Council of Europe is based.

7. The work has already started. Some forty heads of state and government signed the Final Declaration of the Second Summit of the Council of Europe in which they affirmed their determination to combat violence against women and all forms of sexual exploitation of women.

8. The Convention for the Protection of Human Rights and Fundamental Freedoms (1950) and its protocols, together with the European Social Charter (1961) and the European Social Charter (revised) (1996) and the Additional Protocol to the European Social Charter providing for a System of Collective Complaints (1995), form the necessary basis on which the Council of Europe has developed the whole scope of its recommendations.

9. The following recommendations were adopted by the Committee of Ministers to the member states of the Council of Europe: Recommendation No. R (91) 11 on sexual exploitation, pornography and prostitution of, and trafficking in, children and young adults; Recommendation No. R (96) 8 on crime policy in Europe in a time of change; Recommendation No. R (97) 13 concerning intimidation of witnesses and the rights of the defence and the latest Recommendation No. R (2000) 11 on action against trafficking in human beings for the purpose of sexual exploitation.

10. The Parliamentary Assembly of the Council of Europe in its turn elaborated Recommendation 1065 (1987) on the traffic in children and other forms of child exploitation; Recommendation 1211 (1993) on clandestine migration: traffickers and employers of clandestine migrants, Resolution 1099 (1996) on the sexual exploitation of children and Recommendation 1325 (1997) on trafficking in women and forced prostitution in Council of Europe member states.

11. This report aims at turning once more the attention of all governments of the member countries of the Council of Europe to the need to react jointly to this increasingly important problem. A vast number of instruments elaborated by the different bodies of the

1. Council of Europe, Parliamentary Assembly, Committee on Equal Opportunities for Women and Men, report on violence against women in Europe, 15 March 2000, Doc. 8667.

Council of Europe prove that Europe is confronting the phenomenon, which by its nature is difficult to combat. The fact that the European Deputy, Mrs Patsy Sörensen, also presented the report "For further actions in the fight against trafficking in women" which gave the main guidelines for further actions by the European Union institutions is another confirmation of the sad evidence that trafficking in human beings persists in Europe.

1. Victims of trafficking

12. Women and children are the most vulnerable members of society because of the various forms of social, cultural, economic and political discrimination of which they are victim.

13. Women are the first to be affected by poverty and an unfavourable economic situation.

14. Over the past ten years, the number of women living in poverty has increased more rapidly than that of men, particularly in the developing countries.

15. Family break-up, population movements between urban areas and rural areas within countries, international migration, wars and internal displacements of population are all factors contributing to the rising number of households headed by women.

16. Women's poverty is directly linked to a lack of political, social and economic prospects and independence, to the fact that they have no access to economic resources – loans, property ownership, inheritances, etc. – or education, and to the fact that they play very little part in decision-making.

17. Women in the countries of central and eastern Europe have been particularly affected by rising unemployment and poverty with the transition there to a market economy.

18. The emigration of women who have become heads of families and who wish to find paid or better paid work is increasing substantially.

19. Such migration is encouraged – directly or indirectly – by the authorities of certain countries, since it generates significant income for them, facilitates the inflow of foreign currency and, lastly, relieves the pressure on the national labour market.[1]

20. Many immigrant women are working as domestic workers in conditions contrary to human dignity: without any real financial reward, deprived of liberty and suffering from isolation. They become victims of domestic slavery.

21. Poverty does not automatically lead to trafficking in human beings. Trafficking in women emerges only where organised crime takes advantage of the desire to emigrate to entice women to the West under false pretences and force them to work in sectors specific to them, such as prostitution or domestic work. These informal sectors are the least protected and least regulated and therefore facilitate exploitation (undeclared work, clandestine life).

1. ECE, "Trafficking in women and girls", 1 December 1999, E/ECE/RW.2/2000/3.

22. They are also sectors where the labour supply is plentiful. The attitude of some of the western male population towards women thus plays a part in the phenomenon of trafficking in women. There would be no trafficking for the purpose of sexual exploitation if there were no demand for sexual services.

23. The desire to emigrate can only very rarely be met legally, as western states have considerably reduced the opportunities for immigration.

24. These restrictions encourage the creation of networks which exploit the women's desire to emigrate, and which offer to arrange their transfer to other countries and lure them by deceiving them as to their real intentions.

25. Trafficking in women, particularly in eastern Europe, is linked to organised crime, which uses it as a means for financing other criminal activities, such as arms and drugs trafficking.[1]

26. Organised crime has also taken advantage of the consequences of the war in the former Yugoslavia. The extreme fragility of state institutions, the lack of border controls and adequate legislation, the large-scale presence of westerners (humanitarian missions, international civil servants, armies, etc.) have contributed to the growth of the traffic in human beings, particularly to Bosnia and Herzegovina and Kosovo, and also in the trafficking of women from these regions to other European countries.[2] It is becoming increasingly obvious that the presence of international agencies has contributed to the creation and development not only of organised crime but also of the forced prostitution market in those countries.

2. The phenomenon of trafficking

27. Many definitions have so far been proposed, both nationally and internationally. Every such approach to trafficking entails choices.

28. Some states view trafficking in the context of the fight against organised crime, leaving aside the victims of this major form of violence against women. Others, in contrast, focus mainly on the influx of illegal immigrants and regard and treat the victims of trafficking as such (detaining and deporting them).

29. All the approaches suggested by the European Parliament, the Council of Europe, the United Nations, the International Organisation for Migration, etc., are different and have different focuses and priorities.

30. Emphasis may be placed on legal or illegal migration, on the coercion or consent of the persons concerned, on labour (forced and/or unregulated) or on human rights.

31. Some definitions deal primarily with methods of recruitment (procurement) in countries of origin and others with the development of illegal immigration,

1. Council of Europe, Parliamentary Assembly, Committee on Equal Opportunities for Women and Men, report on violence against women, 15 March 2000, Doc. 8667, paragraph 53.
2. IOM, Pilot Project for the Return of Trafficked Migrants from Bosnia and Herzegovina.

while a third group of definitions includes the situation of the persons concerned when they reach the destination country.

32. Furthermore, the concepts used in several definitions are imprecise and confuse "trafficking" and "prostitution".

33. In attempting to devise a way of dealing with trafficking, it is important to identify the ideas behind it and the choices made.

34. A recent European Parliament report calls for a specific approach to trafficking in women which goes beyond the problems of unlawful immigration.[1]

35. While the interests of states must be taken into consideration (immigration, foreign-currency inflows to poor countries resulting from their nationals' emigration, combating organised crime or controlling prostitution), the interests of the victims of trafficking must be at the heart of the problem.

36. Any policy devised must make this its priority.

37. A number of features may be pinpointed in the various definitions suggested to date and in the studies carried out:

– trafficking entails the exploitation of persons forced to prostitute themselves in conditions that reduce them to slavery. Trafficking in women for purposes of sexual exploitation is linked with forced prostitution;

– trafficking entails the recruitment and/or legal or illegal transport of women. Trafficking may occur even in the event of legal immigration;

– trafficking may include the transport or migration even of consenting women. Women sometimes know that they are going to work as prostitutes, but they are always unaware of the inhuman conditions in which they will be obliged to do so;

– trafficking is characterised by the presence of coercion, which may, non-exhaustively, include violence, threats, ill-treatment, deception, abuse of authority, torture, acts of barbarity, etc. It also involves taking advantage of a situation of weakness, either that of a foreigner whose administrative situation is illegal or precarious or that of a person in hardship or distress over residence or suffering some physical of psychological disorder;

– trafficking in women is linked to organised crime.

38. The problem is difficult to delimit, in particular because of the many forms it takes and because of the lack of reliable statistics and data.[2] It is difficult to embrace in a definition a phenomenon which is poorly understood and extremely complex.

39. Recommendation No. R (2000) 11 adopted by the Committee of Ministers of the Council of Europe on 19 May 2000 defines trafficking in human beings for the purpose of sexual exploitation as "the procurement by one or more natural or legal persons and/or the organisation of the exploitation and/or transport or migration – legal or illegal – of persons, even with their consent, for the purpose of their sexual exploitation, *inter alia,* by means of coercion, in particular violence or threats, deceit, abuse of authority or of a position of vulnerability".

40. Lack of an agreed definition of trafficking is a major obstacle to combating it. The importance of a harmonised definition has been stressed in every recent report by international organisations. It is important to determine the objective to be attained and to define clearly the scope of action to ensure the effectiveness[1] of the measures taken to combat this scourge.

41. The problem needs to be approached from the angle of the victims' interests: the aim of combating trafficking must be to prevent and put a stop to the exploitation and slavery to which women are reduced, women whom organised crime regards as no more than particularly profitable merchandise.

42. Finally, the definition of trafficking which will ultimately be adopted must not be confused with the definitions of the types of behaviour associated with such trafficking and which states are called upon to make criminal offences.

3. Trafficking for the purpose of sexual exploitation: a contemporary form of slavery

43. The exploitation of women is the central feature of this problem and justifies its being regarded as a contemporary form of slavery. The fundamental rights of the victims of trafficking are violated. The conditions in which they are forced to work are akin to those of slavery.

44. The statute of the International Criminal Court classes the reduction to slavery, particularly of women and children in international trafficking in human beings, as a crime against humanity.

45. Whether the women concerned have migrated of their own volition or have been kidnapped, they fall prey to traffickers.

46. Most of the victims are deceived as to the activities they will engage in: to recruit them, glittering pictures are painted of well-paid employment as waitresses, dancers, etc. While some victims make conscious use of networks in order to emigrate to the West, sometimes even with a view to engaging in prostitution, none of them can imagine the abominable conditions in which they will be obliged to do so. They would never consent to emigrate if they knew the realities of the exploitation awaiting them.

47. Women who have entered destination countries by their own means can also fall victim to these networks, which take advantage of the very vulnerable situation in which the women find themselves (isolation, lack of protection, unlawful residence, etc.).

48. In any event, the traffickers see to it that the women are kept in a very vulnerable situation – by taking them to countries where they will be regarded as foreigners,

1. European Parliament, op. cit., p. 3.
2. European Parliament, op. cit., p. 16; ECE, op. cit., p. 4, paragraph 9.

1. European Parliament, report on the communication from the Commission to the Council and the European Parliament "On new actions to combat trafficking in women", 2 May 2000, pp. 19 and 26.

the traffickers create ideal conditions in which to exploit them: ignorance of the language of the destination country, of its laws, of its culture and policing, etc. Once the women have arrived in the destination country, the traffickers confiscate their identity papers.

49. Victims of trafficking have reported being transported in groups via several intermediaries (and sometimes several countries) before reaching their destination. During the journey, the women generally did not know where they were or where they were going. On the way, they were sometimes confined illegally in transit countries and obliged to engage in prostitution.

50. The women are either sold on to other criminals or exploited by the very ones who organised their recruitment or transport. In this way, medium-ranking criminal organisations keep the women under their control and place them in their own clubs or brothels. They keep the women under close surveillance, force them to sign formal acknowledgments of debts and require them to hand over a large percentage, if not the whole, of their earnings from prostitution.

51. "Conditioning" or "training" camps exist in Albania, Italy and some countries of the former Yugoslavia.

52. In them, the worst forms of sexual, physical and psychological violence are inflicted on some women in order to reduce them to a state of total dependence on their traffickers. They are threatened in various ways, including their families' being told that they have become prostitutes (in some cases photographs of women being raped have been taken for this purpose). Pressure is sometimes brought to bear on their families. The victims may be confined illegally, beaten, raped, tortured, drugged, undernourished and punished if they do not submit to the organisation's demands (there are cases of abortions carried out without the woman's consent, of their babies being taken away from them and placed with childminders, etc.). These women therefore live in a state of constant terror.

53. They may be deprived of their freedom and kept under close surveillance in brothels where they are forced to work for hours on end.

54. The victims have to hand over their earnings to the traffickers.

55. Reprisals are taken against some who refuse to cooperate, ranging from a "simple financial penalty" to being sent to "training camps in Italy where they must accept fifty to sixty clients per day",[1] to being murdered.

56. The victims have to accept what other prostitutes would refuse, particularly unprotected sex (which poses a public health risk).

57. Some traffickers take advantage of the Schengen area and its inconsistent legislations to move their victims from one country to another. It is very easy for them to cross a border if one country's policy becomes more repressive, and all the easier because the majority of women victims are now from central and eastern Europe and therefore attract less attention than women from Asia or Africa.

1. Council of Europe, report on violence against women, op. cit., paragraph 55.

58. Once captured by the networks of traffickers, it is very difficult for women to liberate themselves. Trafficking in human beings is activity closely pursued by the actors of organised crime. Catalogue marriages and sexual tourism are very closely linked to those structures.

59. Few networks are dismantled, and this type of crime, though extremely serious, goes unpunished for several reasons. We will focus on three of them in particular.

60. The first has to do with the victims themselves and their high degree of vulnerability: they are alone and terrorised, in a country they do not know or know only slightly and whose language they cannot understand, and, having no papers, they are afraid of being merely regarded as illegal immigrants if they turn to the authorities. Furthermore, they dare not complain or bring evidence, for fear of reprisals against themselves and their families.

61. The second has to do with the destination countries themselves and the lack in some cases of appropriate legislation and provision for receiving and supporting victims, who are often treated as illegal immigrants and, as such, deported after varying periods of detention. The political will to put an end to this trafficking is often lacking, whereas it ought to be a priority in states' crime policies. Furthermore, arrangements for protecting witnesses are lacking.

62. The third reason has to do with the permeability of borders, which makes it easier for traffickers to move around. The networks are increasingly well organised. They have connections in countries of origin and destination, which makes it possible for them to keep the women in prostitution, and in other countries too, which enables them to move rapidly whenever there is any threat from the police.[1]

4. The work of the Council of Europe in combating trafficking

63. Since the late 1980s, the Council of Europe has started to be involved in the fight against trafficking through different actions launched by its Steering Committee for Equality between Women and Men (CDEG).

64. The CDEG organised study and research activities, including seminars and the setting up of a group of experts on action against trafficking in women and forced prostitution (1992-93).

65. A major part of the work of the committee in this field is concentrated on awareness-raising activities. An international seminar on action against traffic in human beings for the purpose of sexual exploitation: the role of non-governmental organisations was organised in Strasbourg in June 1998, calling in its conclusions for joint and concerted actions, and in particular co-operation between the non-governmental organisations of different countries. A workshop on "good" and "bad" practices regarding the image of women in the media: the case of trafficking in human beings for the purpose of

1. Council of Europe, report on the traffic in women and forced prostitution in Council of Europe member states, op. cit., paragraph 14.

sexual exploitation was held in Strasbourg in September 1998.

66. The CDEG conducted several seminars in the countries of origin of the victims of trafficking (Albania, Bosnia and Herzegovina, Moldova, Ukraine) with the aim of alerting the different actors (police, judges, social workers, embassy staff, teachers) to their role *vis-à vis* the victims of trafficking and to the dangers faced by certain persons.

67. In co-operation with the United Nations High Commissioner for Refugees, the Organisation for Security and Co-operation in Europe, and the International Organisation on Migration, the Council of Europe organised an international seminar on "Co-ordinated action against trafficking in human beings in South-eastern Europe: towards a regional action plan" which took place in Athens in June 2000 in the framework of the Stability Pact for South Eastern Europe. The recommendations adopted by the participants of this seminar envisage the launching of national action plans against trafficking.

68. The CDEG has also prepared a compilation of the main legal texts dealing with trafficking at international, regional and national levels.

69. In 1997, in the report and in Recommendation 1325 on traffic in women and forced prostitution in the Council of Europe member states (rapporteur: Mrs Wohlwend), the Assembly called on all member countries for urgent action to fight the trafficking and recommended the Committee of Ministers to elaborate a convention on traffic in women and forced prostitution.

70. In response to Assembly Recommendation 1325, the Committee of Ministers created a Multisectoral Group on Action against Trafficking in Human Beings for the purpose of Sexual Exploitation (EG-S-TS). It also decided to draft a recommendation as a first step before the elaboration of a convention.

71. As a result, on 19 May 2000, the Committee of Ministers of the Council of Europe adopted a Recommendation No. R (2000) 11 inviting the member governments to "establish a pan-European strategy to combat this phenomenon and protect victims, while ensuring that the relevant legislation of the Council of Europe's member states is harmonised and uniformly and effectively applied".[1]

72. Reference may usefully be made to the appendix to this recommendation, which sets out a number of measures based on the idea that the women concerned should be treated as victims and not as illegal immigrants. These measures cover a wide range of issues focused around this problem: prevention; assistance to and protection of victims; penal sanctions and legal co-operation; and the mechanisms of fighting against trafficking at the national and international level.

73. The implementation of this strategy will require international co-ordination in order to facilitate co-operation and the mutual exchange of information between different countries. Therefore, the establishment of an international body to co-ordinate the fight against trafficking should be considered as a priority task for the international community. This body will also facilitate the preparation of the future convention on trafficking in human beings as a final step towards the implementation of a European strategy.

5. Measures to be adopted to combat trafficking in women

74. Not all European countries have special provisions in their legislation prohibiting trafficking in human beings. The differences in the legal systems of the countries of origin, transit and destination make it possible for criminals to create their trafficking networks without fear of being punished. What is needed urgently is to adopt or strengthen existing legislation and enforcement mechanisms to punish trafficking perpetrators and to elaborate a European convention defining trafficking as a violation of human rights and stipulating harmonisation of European legislation against trafficking.

75. The effectiveness and assessment of the measures needed to combat trafficking in human beings require a detailed knowledge of the problem. The establishment of a database would make it possible to control the problem.

76. Such a database would cover the various aspects of the problem, especially the origins of the traffic and the methods used by traffickers, in particular to recruit women, and include surveys of countries of origin and the specific features of trafficking found in them. Systematic research into trafficking should be conducted by the Council of Europe in co-operation with other international organisations.

77. The development of the new information technologies has added a further dimension to the phenomenon of trafficking. The Internet offers unprecedented opportunities and the traffickers have been quick to seize them. Trafficking in human beings is now often effected in the form of job offers or under the cover of marriage bureaux by e-mail, the sale of pornographic material and prostitution services. The Council of Europe should undertake urgently the study of these phenomena in view of the rapidity at which they are developing.

78. Large information and awareness-raising campaigns should be launched for all professionals who by the nature of their work could be in contact with traffickers or the victims of trafficking. In the countries of origin and destination these campaigns should address customs and police services, diplomatic representatives, public authorities, the media and humanitarian non-governmental organisations.

79. Sex education programmes should be introduced in schools, with particular emphasis on equality between women and men and on respect for human rights and individual dignity. School curricula should include information on the risks of exploitation, sexual abuse and trafficking. Teachers should be trained in such a way as to incorporate a gender dimension into their teaching and to avoid gender stereotypes.

1. Recommendation No. R (2000) 11, adopted by the Committee of Ministers of the Council of Europe on 19 May 2000, and explanatory memorandum, trafficking in human beings for the purpose of sexual exploitation.

80. It is vitally important to increase the state financing of the social services specialised in assistance to the victims of trafficking and prostitution.

81. Specific police services should be created in every country to fight against trafficking and forced prostitution. Such services should have direct contacts with Interpol and Europol in order to ensure an information exchange on trafficker networks and efficient collaboration in the detention of criminals.

82. European embassies should be sensible to the problem of trafficking and should apply all measures to prevent the spread of this crime. They should also accord necessary assistance to the victims who want to return to their countries of origin.

5.1. *In destination countries: effective law enforcement*

83. Trafficking for the purpose of sexual exploitation is an aspect of international crime requiring co-ordinated action geared to the actual situation both within states and internationally.

84. Prosecutions must therefore be launched where they have the greatest chance of succeeding (evidence, witnesses, victims, places where exploitation occurs, etc.). It is in destination and transit countries that the state of slavery is easiest to prove and is the most obvious.

85. Destination countries therefore need to place the emphasis on law enforcement and the fight against organised crime, which is responsible for trafficking in women.

86. States should make forms of sexual exploitation characteristic of trafficking in women (forced prostitution and/or provision of sexual services involving any measure of coercion) specific offences. The aim here is not to combat prostitution as such but forced prostitution.

87. Penalties should be appropriate. They should be substantial and proportional to the seriousness of a crime which treats women as merchandise and is thus an unspeakable violation of human dignity. At the present time, such trafficking is punished less severely than trafficking in drugs or weapons.

88. Appropriate penalties would include the seizure and confiscation of the sizeable earnings traffickers make and closure of establishments in which victims are exploited. A part of confiscated profits should be allotted to rehabilitation centres for victims and shelters. Offenders should pay compensation to the victims of trafficking.

89. The traffic in women has developed because there is a demand for sexual services. For this reason, to be a client of forced prostitution should be made a criminal offence. It may be noted in this connection that Sweden has just voted a law punishing the client of both forced and voluntary prostitution. Making all prostitution an offence in this way may, however, push prostitutes into clandestineness and thereby increase their exploitation.

90. Bilateral or multilateral agreements should also be negotiated whereby the "exporting" and destination countries co-operate in prosecutions (communication of evidence such as records, deportation, complaints, statements in evidence, etc.). States ought to agree to extradite any of their nationals who are prosecuted for involvement in trafficking of this kind.

91. Furthermore, arrangements need to be made to look after and support the victims and give them the opportunity to lodge complaints and give evidence, in particular by permitting them to stay in the destination country and guaranteeing their safety.

92. To shield victims from the direct threat of reprisals and reinforce measures taken to prosecute traffickers, it should be made possible for non-governmental organisations and voluntary associations which defend victims of trafficking to take legal action against traffickers either in conjunction with the victims or in their place with the aim of obtaining damages.

93. Special arrangements also need to be made for interviewing victims and receiving complaints.

94. Bearing in mind the extreme suffering they have endured, victims should be given medical, psychological and social assistance in reception centres.

5.2. *In countries of origin: effective prevention programmes*

95. Information and prevention programmes highlighting the damage of trafficking and taking into account the specific cultural and other characteristics of each country should be introduced in countries of origin. The role of media is very important in this respect as the media can help to change thinking and can also place pressure on parliaments and governments in order to change the legislation and to oblige the police to help the victims of trafficking.

96. We know that some prevention programmes introduced in countries of origin failed because the victims were recruited by people whom they trusted (friends, acquaintances, etc.). This fact could henceforth be borne in mind so as to ensure that information campaigns targeted at women in countries of origin are effective.[1]

97. Bilateral agreements should be established with the countries of origin of victims, which should cover legal and police collaboration and humanitarian aspects, including preventive and information campaigns, training programmes and assistance programmes for the rehabilitation of victims.

98. A specialised state service to combat trafficking in human beings should be established in each country touched by this problem. This service should elaborate and implement the national plan of actions against trafficking taking into account the specificities of the situation in each country.

99. State authorities should monitor tourist agencies, marriage and adoption bureaux to ensure that they are not involved in activities connected to trafficking of people. Special attention should be paid by the embassies of destination countries issuing group visas to different organisations.

1. Council of Europe, report on the traffic in women and forced prostitution in Council of Europe member states, op. cit., paragraph 12.

100. Trafficking hotlines in capitals and in different regions of each country providing information to potential trafficking victims and their families and assisting persons who have fallen victim to trafficking should be established. Such hotlines will provide a good opportunity for raising awareness, at the regional level, of the trafficking problem.

101. The success in the fight against trafficking depends on close co-operation between state authorities, non-governmental organisations and public organisations.

Conclusions

102. Trafficking in women is, in fact, a matter of equality, of the right to human dignity and the question of power. Globally speaking, it is a matter of society. Sexual exploitation reflects, as in a magnifying mirror, the reality of relationships between men and women, which is based on the assumption of the superiority of man. This situation implies naturally the question of power between sexes, but not only the power. It has a direct link to culture, or rather the absence of culture, which always prevails in our human relationship. The fact that sexual exploitation is still possible shows clearly that modern society is further away from the society of equality in which all members without exception profit entirely from their fundamental rights.

103. Prostitution and trafficking of human beings are incompatible with the dignity and value of a person. It is also one of the most flourishing and least punished branches of organised crime. Therefore, all necessary legal measures should be taken to combat this phenomenon. The Swedish law against violence against women is a good example.

104. It should be treated with at least the same vigilance as trafficking in drugs and weapons.

105. The traffic in human beings requires the development, at international level, of resources for tackling every aspect of the phenomenon and, at national level, of solutions suited to the specific characteristics of the various states.

106. Trafficking in human beings should meet the same opposition in society as society has demonstrated towards racism and slavery, tortures and discrimination. Member countries are called upon to combat all forms of trafficking, applying all instruments at their disposal found in national and international law.

Reporting committee: Committee on Equal Opportunities for Women and Men.

Reference to committee: Doc. 7868 and Reference No. 2293 of 26 May 1998, Doc. 8405 and Reference No. 2388 of 26 May 1999.

Draft recommendation unanimously adopted by the committee on 6 September 2001.

Members of the committee: *Err (Chairperson),* Aguiar *(Vice-Chairperson), Keltosova (Vice-Chairperson),* Auken, Biga-Friganović, Castro *(alternate: López González),* Cryer *(alternate: Etherington),* Dade, Dromberg, *Druziuk,* Faldet, Freitag, Freyberg, *Frimannsdóttir, Gatterer,* Granlund, Gülek, Hajiyeva, Herczog, Horníková, *Jones,* Juri, Katseli, *Kestelijn-Sierens, Kiely,* Lakhova, *Mikutienė,* Neuwirth, Olteanu *(alternate: Ciliveti),* Paegle, Patarkalishvili, Patereu, Pericleous-Papadopoulos, Popovski, Poptodorova, *Pozza Tasca,* Pullicino Orlando, Riccardi, *Roudy,* Rupprecht, Serafini *(alternate: Risari),* Volodin, Zapfl-Helbling, *Zwerver.*

N.B. The names of the members who took part in the meeting are printed in italics.

The draft recommendation and amendments will be discussed at a later sitting.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 1
Doc. 9190 – 24 September 2001

Campaign against trafficking in women

tabled by Ms HERCZOG, MM. LOTZ, TABAJDI, Ms FERIĆ-VAC, Mr BÁRSONY, Mrs ZWERVER, Mr VANOOST, Mrs ŠTĚPOVÁ, Mrs SEHNALOVÁ, Mr MANZELLA, Mrs ERR and Mrs VERMOT-MANGOLD

In the draft recommendation, paragraph 10.iii, after the words "related to" insert the words: "and on activities to avoid."

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 2
Doc. 9190 – 24 September 2001

Campaign against trafficking in women

tabled by MM. MAGNUSSON, LEKBERG, EINARSSON, Mrs BJÖRNEMALM, Mr GUSTAFSSON and Mrs MIKAELSSON

In the draft recommendation, after paragraph 7, insert a new paragraph as follows:

"Prostitution as such is also one of the main factors which create the demand for trafficking in women. It is, therefore, not enough just to combat forced prostitution. Prostitution is incompatible with the dignity and value of a person."

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 3
Doc. 9190 – 24 September 2001

Campaign against trafficking in women

tabled by MM. MAGNUSSON, LEKBERG, EINARSSON, Mrs BJÖRNEMALM, Mr GUSTAFSSON and Mrs MIKAELSSON

In the draft recommendation, after paragraph 10.vii, insert a new sub-paragraph as follows:

"to launch an information campaign about the negative consequences of prostitution in general."

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 4
Doc. 9190 – 24 September 2001

Campaign against trafficking in women

tabled by Mrs BURBIENĖ, Mr ČEKUOLIS, Mrs ŠTĚPOVÁ, Mr STANKEVIČ and Mrs CALNER

In the draft recommendation, paragraph 10.viii.*h*, after the words "consulates of the" insert the following words: "countries of destination of these women in their".

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 5
Doc. 9190 – 24 September 2001

Campaign against trafficking in women

tabled by Mrs WOHLWEND

In the draft recommendation, replace paragraph 10.i with the following sub-paragraph:

"to make it a criminal offence under national law to traffic women or to knowingly use the services of a trafficked woman, and to strengthen legislation and enforcement mechanisms which punish traffickers and clients of trafficked women;"

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 6
Doc. 9190 – 24 September 2001

Campaign against trafficking in women

tabled by Mrs WOHLWEND

In the draft recommendation, replace paragraph 10.viii.*g* with the following sub-paragraph:

"granting residence permits to victims of trafficking, of a permanent nature for those who are willing to testify in court and need protection, and of a temporary but renewable nature for all others on humanitarian grounds;"

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 7
Doc. 9190 – 24 September 2001

Campaign against trafficking in women

tabled by Mrs WOHLWEND

In the draft recommendation, at the beginning of paragraph 10.ix.*a*, add the following words: "extraditing or".

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 8
Doc. 9190 – 24 September 2001

Campaign against trafficking in women

tabled by Mrs WOHLWEND

In the draft recommendation, at the end of paragraph 10.ix.*a*, add the following words: "and irrespective of whether there has been a complaint from that country or those countries".

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 9
Doc. 9190 – 24 September 2001

Campaign against trafficking in women

tabled by Mrs WOHLWEND

In the draft recommendation, paragraph 10.ix.*b*, replace "for clients of victims of sexual exploitation" with the following words: "for knowingly using the services of a trafficked woman".

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 10
Doc. 9190 – 24 September 2001

Campaign against trafficking in women

tabled by Mrs WOHLWEND

In the draft recommendation, after paragraph 10.ix.*d*, add a new sub-paragraph:

"providing legal assistance to victims of trafficking and considering the introduction of special rules in civil proceedings engaged by victims against their traffickers, such as lightening the burden of proof on the use of force;"

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 11
Doc. 9190 – 24 September 2001

Campaign against trafficking in women

tabled by Mrs WOHLWEND

In the draft recommendation, replace paragraph 11.ii with the following:

"elaborate a European convention on traffic in women, open to non-member states, based on the definition of traffic in women included in Recommendation No. R (2000) 11 on action against trafficking in human beings for the purpose of sexual exploitation. This convention should:

a. focus on assistance to and the protection of victims of trafficking, by obliging the state parties to grant legal, medical, and psychological assistance to such victims, to ensure their physical safety and that of their families, and to grant special residence permits to victims on humanitarian grounds, and permanent residence permits to those willing to testify in court and in need of witness protection;

b. stipulate repressive measures to combat trafficking through harmonisation of laws, in particular, in the penal field, and the opening of new channels for improved police and judicial co-operation across borders;

c. include a non-discrimination clause modelled on the one proposed by the Assembly in Opinion No. 216 (2000) on draft protocol No. 12 to the European Convention on Human Rights;

d. establish a control mechanism to monitor compliance with its provisions; and

e. be submitted in its draft form to the Assembly for opinion."

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Report
Doc. 9191 – 13 September 2001

Honouring of obligations and commitments by Georgia

(Rapporteurs: Mr DIANA, Italy, Group of the European People's Party, and Mr EÖRSI, Hungary, Liberal, Democratic and Reformers' Group)

Summary

Since its accession to the Council of Europe in April 1999, Georgia has made some progress, including ratification of the Council's cornerstone treaties and adoption of several laws and reforms, but is far from honouring all the commitments it made on joining the Organisation.

Important treaties – on minorities, local self-government and the fight against crime – have not yet been ratified.

Respect for human rights is a matter of great concern, in particular as regards serious allegations of ill-treatment and torture of detainees, the behaviour of the police and security forces, and violence by Orthodox extremists against religious minorities.

Despite Georgia's efforts to bring its domestic legislation into line with European standards, there is still a huge gap between the formal laws and their practical implementation. Georgia is urged to co-operate more closely with Council of Europe experts.

The co-rapporteurs welcome the granting of autonomous status to Adjaria, but regret that little progress has been made in settling the regional conflicts in South Ossetia and Abkhazia.

I. Draft resolution

1. The Assembly welcomes the efforts Georgia has made since its accession on 27 April 1999 towards honouring some of its obligations and commitments, which it accepted in Assembly Opinion No. 209 (1999).

2. With regard to the signature and ratification of conventions, the Assembly is pleased to note that:

i. Georgia has ratified, within the deadlines in Opinion No. 209, the European Convention on Human Rights as well as its Protocols Nos. 4, 6 and 7;

ii. to date, Georgia is the only member state which has, on 15 June 2001, ratified Protocol No. 12 to the European Convention on Human Rights;

iii. Georgia has also ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and its Protocols Nos. 1 and 2, the European Convention on Extradition and its protocols, the European Convention on Mutual Assistance in Criminal Matters, the General Agreement on Privileges and Immunities and its protocols, and signed the revised European Social Charter;

iv. Georgia has also ratified the Geneva Convention relating to the Status of Refugees and the 1967 Protocol thereto.

3. On the other hand, the Assembly regrets that Georgia:

i. did not ratify within one year after its accession the Additional Protocol to the European Convention on Human Rights it signed on June 1999, nor the Framework Convention for the Protection of National Minorities it signed in January 2000;

ii. has not signed nor ratified the European Charter for Regional or Minority Languages, the European Charter of Local Self-Government, the European Outline Convention on Transfrontier Co-operation and its additional protocols, nor the European Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

4. With regard to domestic legislation, the Assembly recognises that Georgia has adopted laws in many fields, including an electoral code, a law on the Bar, a new law on imprisonment, a general administrative code, a law amending the Law on the Ombudsman, a law amending the Law on Local Self-Government, but is preoccupied by the lack of enforcement and recalls the need for a proper implementation of existing legislation.

5. The Assembly also supports initiatives taken to combat and eradicate endemic and widespread corruption in the country and in this context welcomes the implementation of the National Anti-Corruption Programme.

6. With regard to the implementation of reforms, the Assembly acknowledges that measures have been taken to improve the functioning of the judiciary, especially in respect of the fight against corruption and incompetence in the judiciary, the monitoring of the execution of judgments, as well as the reform of the prosecutor's office. It also notes positive steps undertaken to reform the penitentiary system, that is, the transfer of the prison administration from the Ministry of the Interior to the Ministry of Justice, the building of a new prison, and measures to fight corruption.

7. In order to solve the persisting problems in the administration of justice, the Assembly calls on Georgia to accelerate these and other reforms under way and to implement them according to Council of Europe standards, in particular as regards the functioning of the judiciary and the conditions of detention in prisons and pre-trial detention centres.

8. With regard to domestic legislation and implementation of reforms, the Assembly urges Georgia to strengthen co-operation with the Council of Europe in order to ensure full compatibility of Georgian legislation with the Organisation's principles and standards, and in particular:

i. to co-operate with the Council of Europe legal experts on a number of bills which have been prepared

recently, including a new draft law on the police, a draft law amending the Law on the Prosecutor's Office, a draft law on development of alternative punishment;

ii. to implement the recommendations made by Council of Europe experts on criminal procedures, the role of the prosecutor's office, police arrest, pre-trial investigation and pre-trial detention;

iii. in close co-operation with the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, to implement the recommendations made following its visit in May 2001;

iv. to submit for expertise the newly adopted Election Code to the European Commission for Democracy through Law (Venice Commission) in order to assess whether the current electoral legislation takes full account of recommendations made in 1999 by the Parliamentary Assembly *Ad hoc* Committee on the Observation of Elections and by the OSCE Office for Democratic Institutions and Human Rights (ODIHR);

v. to co-operate with the Congress of Local and Regional Authorities of Europe (CLRAE) in a constructive manner, and in particular:

a. to implement recommendations the Congress made in 1999 to enhance local and regional self-government in Georgia, including the adoption of amendments to existing legislation, new legislation and administrative measures, in accordance with the European Charter of Local Self-Government;

b. to transmit for expertise the text of the law amending the Law on Local Self-Government;

c. to accept assistance in the preparation and observation of the forthcoming local elections;

d. to organise without delay a colloquy on regionalisation which could help to clarify Georgian regional structure and territorial organisation;

vi. to step up co-operation within the Group of States against Corruption (Greco) with a view to applying its recommendations on the fight against corruption;

vii. to accelerate the work undertaken with the Council of Europe and the UNHCR on the question of the repatriation of the deported Meskhetian population, including ongoing legal expertise on the draft law "on repatriation of persons deported from Georgia in the 1940s by the Soviet regime".

9. As regards the freedom of the press and mass media, the Assembly calls on Georgia to draft and adopt a law on the electronic media, in order to regulate media activity and to guarantee independence, pluralism and objectivity of Georgian electronic media, and to consult Council of Europe's experts on any new draft legislation.

10. In respect of the Code of Criminal Procedure, the Assembly regrets that the new code, which was initially drafted in close consultation with Council of Europe experts, was expurgated by numerous amendments adopted by the Georgian Parliament in the weeks following the accession of the country to the Organisation in May and June 1999, and that a new package of amendments was adopted in June 2001 without previous consultation of Council of Europe experts. It strongly urges the Georgian authorities to improve substantially co-operation with the Council of Europe in this respect.

11. The Assembly regrets that little progress has been made as regards respect for human rights:

i. it expresses its deep concern on allegations of ill-treatment or torture of detainees in police custody and pre-trial detention, cases of arbitrary arrests and detentions, the violation of rights under police arrest or in pre-trial detention – in particular their right to consult a lawyer and the right to communicate with their family – complaints on violation of procedural rights, cases of intimidation, violation of the right to privacy, phone taping, and so on.;

ii. it is alarmed by the behaviour of the police and other law enforcement bodies and condemns any disproportionate violence used by security forces against peaceful demonstrators;

iii. it is also strongly concerned about repeated cases of violence by Orthodox extremists against believers of minority religious groups such as Jehovah's Witnesses and Baptists.

12. The Assembly urges the Georgian authorities to conduct a proper investigation into all cases of human rights violations and the abuse of power, to prosecute their perpetrators irrespectively of their functions, and to adopt radical measures to bring definitively the country into line with the principles and standards of the Council of Europe.

13. The Assembly invites the Georgian authorities to authorise publication of the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on its visit to Georgia in May 2001.

14. In respect of commitments related to the status of the autonomous territories and the settlement of territorial conflicts by peaceful means, the Assembly welcomes progress made in granting autonomous status to Adjaria in April 2000, but regrets that no substantial progress has been made on a political settlement of the South Ossetian and Abkhaz conflicts, in spite of the efforts of the Georgian Government.

15. However, the Assembly recognises that the conditions have not been met for the Georgian authorities to fulfil their commitments to enact a legal framework determining the status of the autonomous territories, and to elaborate a legal framework for the establishment of a second parliamentary chamber.

16. As regards the Abkhaz conflict, the Assembly:

i. calls on Georgian and Abkhaz leaders to continue their talks on the status of Abkhazia and on the return of all displaced persons who wish to do so to Abkhazia;

ii. recalls that Georgia must take legislative and administrative measures providing for restitution of property or compensation for property lost by persons forced to abandon their homes in the 1990 to 1994 conflicts.

17. In the light of the considerations above, the Assembly concludes that, although some progress has been made since accession, Georgia is far from honouring its obligations and commitments as a member state of the Council of Europe. The Assembly resolves to pursue the monitoring procedure in respect of Georgia in close co-operation with the Georgian delegation.

II. Draft recommendation

1. The Assembly refers to its Resolution … (2001) on the honouring of obligations and commitments by Georgia, in which:

i. it welcomes the efforts made by Georgia to honour some of its obligations and commitments entered into upon its accession to the Council of Europe on 27 April 1999, in particular the ratification of some conventions, the adoption of several legislative texts, reforms of the penitentiary system and administration of justice, and initiatives to combat corruption;

ii. it calls on Georgia to accelerate reforms under way and to implement them properly and according to Council of Europe standards, in particular as regards the functioning of the judiciary and conditions of detention;

iii. it urges Georgia to strengthen co-operation with the Council of Europe in order to ensure full compatibility of Georgian legislation with the Organisation's principles and standards;

iv. it expresses its deep concern as regards respect for human rights and the behaviour of the police and other law enforcement bodies, and urges the Georgian authorities to adopt radical measures to bring definitively the country into line with the principles and standards of the Council of Europe;

v. it welcomes progress made in granting autonomous status to Adjaria in April 2000, but regrets that no substantial progress has been made on a political settlement of the South Ossetian and Abkhaz conflicts and on the return of all displaced persons who wish to do so to Abkhazia;

vi. it concludes that Georgia is far from honouring its obligations and commitments as a member state of the Council of Europe, and resolves to pursue the monitoring procedure in respect of this country, in close co-operation with the Georgian delegation.

2. The Assembly recommends that the Committee of Ministers pursue co-operation with the Georgian authorities, in particular on the following subjects:

i. legal expertise on a number of bills which have been prepared recently, including a new draft law on the police, a draft law amending the law on the prosecutor's office and a draft law on development of alternative punishment;

ii. legal expertise on relevant new legislation, including the amended Code of Criminal Procedure;

iii. implementation of the recommendations made by Council of Europe experts on criminal procedures, the role of the prosecutor's office, police arrest, pre-trial investigation and pre-trial detention;

iv. implementation of the recommendations made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment following its visit to Georgia in May 2001;

v. continuation of legal expertise of the draft law "on repatriation of persons deported from Georgia in the 1940s by the Soviet regime".

3. The Assembly also invites the Committee of Ministers to consider strengthening co-operation with the Georgian authorities:

i. as regards expertise by the European Commission for Democracy through Law (Venice Commission) of the newly adopted Election Code, in order to assess that the current electoral legislation takes full account of the recommendations made in 1999 by the Parliamentary Assembly *Ad hoc* Committee on the Observation of Elections and by the OSCE Office for Democratic Institutions and Human Rights (ODIHR);

ii. as regards implementation of the recommendations made in 1999 by the Congress of Local and Regional Authorities of Europe (CLRAE) to enhance local and regional self-government in Georgia, and legal expertise on the law amending the Law on Local Self-Government;

iii. as regards assistance in the preparation and observation of the forthcoming local elections;

iv. as regards expertise on the expected draft law on the electronic media.

III. Explanatory memorandum, by Mr Diana and Mr Eörsi

1. Introduction

1. Georgia joined the Council of Europe on 27 April 1999. It accepted the obligations incumbent upon all member states under Article 3 of the Statute: respect for the principles of pluralist democracy and of the rule of law and enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms. It also entered into a series of specific commitments, to be honoured within concrete deadlines, which are listed in Opinion No. 209 (1999).

2. The monitoring procedure was opened six months after accession, in November 1999, in accordance with paragraph 4 of the Terms of Reference of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) (Appendix to Resolution 1115 (1997)).

3. We paid a first visit to Georgia from 10 to 13 May 2000, that is one year after Georgia's accession to the Organisation. Since this was our first visit to Georgia as rapporteurs of the Monitoring Committee, it was focused on meetings with Georgian interlocutors. We made a short visit to Tskhinvali where we met with the South Ossetian leader, Mr Chibirov.

4. We paid a second, longer visit to Georgia from 31 October to 5 November 2000, which included a one-day visit to Abkhazia. On this occasion, we met in

Tbilisi President Shevarnadze, State Minister Arsenishvili, the Minister for Justice, the Minister of the Interior and the Minister for Refugees. In Abkhazia we met the *de facto* Prime Minister and the *de facto* Minister for Foreign Affairs.

5. We are grateful to the Georgian authorities for their co-operation and their frankness, and to the Georgian delegation to the Parliamentary Assembly for their hospitality and perfect organisation of the visits.

6. Our second visit took place against a difficult economic and political background.

7. Regarding the economy in Georgia, tax collection is the weakest point in economic reforms and the lack of transparency of the tax code remains an important problem. As concerns expenditure, the government is working closely with the World Bank to increase efficiency in public spending. Shortfalls in tax collection have resulted in meagre public capital investments and a backlog in payments of salaries to public servants. Georgia is close to unlocking financial assistance from its main creditor, the International Monetary Fund, but more action is needed for a final decision by the Fund on a US$ 150 million programme.

8. Having studied the reforms in Georgia, our major impression is that there is a huge gap between legislation and implementation of the laws. As it will be elaborated later, the Parliament of Georgia adopted numerous laws in many fields albeit with certain delays, in order to meet Council of Europe standards, but serious problems remain with the implementation of the new pieces of legislation.

9. On the political front, even within the majority group of the Georgian Parliament and within the Georgian Government itself, the political struggle between the "reformist" and the "old type" forces continues still . This struggle is reflected in the differences of opinion between the newly-appointed Minister for Justice, Mr Saakashvili, former chairman of the Georgian parliamentary delegation to the Council of Europe Assembly, and the Minister of the Interior, one of the close collaborators of President Shevarnadze.

10. What follows is a survey of information collected during our two visits regarding progress by Georgia in the honouring each of its commitments. We have tried to group the various commitments under three headings corresponding to the statutory obligations of any member state (democracy, rule of law and human rights).

2. Pluralist democracy

a. Elections

11. During its first year of membership of the Council of Europe, Georgia went through both parliamentary and presidential elections. The former were held on 31 October 1999, the latter on 9 April 2000. They were both observed by *ad hoc* committees of the Bureau of the Assembly.

12. The *ad hoc* committee which observed the parliamentary elections concluded (see Doc. 8605) that "the vote marked a significant and welcome improvement over previous elections" but also noted that the Electoral Law was "far from perfect" leaving "a lot of room for interpretation by the Central Electoral Committee" and urged the new parliament to rectify this situation. The committee also expected complaints about the conduct of the pre-election campaign, the composition of election committees and allocation of time and space in the media "to be investigated in time for the Presidential election". Finally, in order "to ensure that the next election [was] a further improvement", the committee called on the Georgian authorities:

– "to take measures to avoid any police harassment during the election campaign;

– to investigate all reported instances of police presence (in particular Ministry of the Interior plainclothes men) inside polling stations and rigorously enforce a ban on such presence during future elections;

– to provide training for members of election committees."

13. Allegations of serious violations of the electoral legislation during the 1999 parliamentary elections are the object of an application to the European Court of Human Rights lodged by the Georgian Labour *(Shromis)* Party (GL(S)P). The GL(S)P – which representatives of the civil society described as the "real opposition" to the ruling majority and which, in the last local elections, had won the majority – failed narrowly to reach the 7% necessary to be represented in the parliament.

14. Upon their request, we met the chairman of the GL(S)P and members of the Political-Executive Committee during our second visit to Georgia. They alleged that their failure to win seats in parliament was the result of a violation of the Electoral Law which they had denounced to the European Court of Human Rights. As an example, they referred to the allegedly illegal annulment of the results in the Martvili electoral district in which their candidate, Mr Injia, had won the single mandate elections.[1]

15. Regrettably, the presidential elections of April 2000 did not show any improvement – rather the contrary, according to the *ad hoc* committee of the Assembly which observed these elections (see Doc. 8742).

16. Amendments to the electoral legislation were adopted only three weeks before the presidential elections, thus creating confusion in terms of interpretation and implementation of the legislation. The *ad hoc* committee also noted that, in certain instances, amendments paid "only lip service to previous recommendations by international observers, retaining essentially the old flawed framework".

17. The *ad hoc* committee formulated a series of concrete recommendations to improve the electoral legislation, notably as regards the composition of the electoral committees and the need to introduce a clear pro-

1. On 8 October 2000, the elections were repeated in the Martvili district and Mr Injia (this time registered as an independent candidate) won again. At the time of our second visit, he had not yet been confirmed as an MP. International observers present at the repeated elections of the Martvili district denounced the strong presence of police or military forces and the violation of the electoral legislation.

vision on campaign funding, to enhance transparency (for instance by obliging the electoral committees to publish their protocols) and to allow for complaints to be addressed to the courts directly, and not only via the precinct committees. Moreover, the electoral legislation should be uniformly interpreted and applied, and for this reason training of electoral officials was indispensable.

18. The *ad hoc* committee on the presidential elections further urged that legal regulations relating to campaigning and equitable media coverage should be unconditionally observed and rigorously implemented, and that in future elections all candidates should have equal and unbiased media coverage.

19. But what is more worrying is that serious violations took place on election day: the *ad hoc* committee reported repeated incidents of ballot box stuffing, heavy police presence and other forms of pressure at the polling stations, as well as the lack of opposition members at the different electoral committees or their lack of influence on electoral committee decisions, as a result of which the domestic monitors – International Society for Fair Elections – considered ironically that the electoral process resulted in a "*Gamgebelis*[1] -elected president". Thus the *ad hoc* committee stated that although the outcome of the elections could not be contested, the official figures of the turnout could hardly be accepted.

20. As the *ad hoc* committee on the presidential elections noted, lack of time could be the reason why only about one third of the recommendations made by international observers in the wake of the parliamentary elections were implemented at the presidential elections. It might also have been impossible for the central authorities to check up on local officials responsible for the conduct of the elections.

21. Whatever the reason might be, during our first visit in May 2000, we advised the parliament to start immediately discussing amendments to electoral legislation, in consultation with international and non-governmental organisations active in the field, in order to address shortcomings. We received assurances from the Speaker of the Georgian Parliament, Mr Zhvania, who shared our concerns for the conduct of the recent elections, that the Georgian Parliament would focus on electoral legislation immediately after the formation of the new government.

22. During our second visit to Georgia, we learnt that a special, interfaction committee had been set up to discuss the new law on parliamentary and presidential elections (see below for local elections). The committee was composed of nine representatives of the ruling majority and nine representatives of the opposition. The Speaker of the Georgian Parliament expressed his confidence that the committee would reach consensus, even on the most delicate issues, such as the composition of electoral committees, and that a draft would be finalised by the end of November 2000.

23. The Electoral Code was adopted in August 2001. As it has not been sent for expertise to the Council of Europe, we are not in a position to assess whether the new Electoral Law takes into account all suggestions made by international observers during the last parliamentary and presidential elections.

24. Moreover, Georgia should ratify the Additional Protocol to the European Convention on Human Rights which, in its Article 3, guarantees the right to free elections. This ratification should have occurred one year after accession to the Council of Europe, that is before 1 May 2000 (see also below).

b. *Autonomous territories*

25. Georgia comprises three autonomous entities, Adjaria (capital: Batumi), Abkhazia (capital: Sukhumi) and South Ossetia (capital: Tskhinvali). Of them, only the former, Adjaria, is fully integrated into the Georgian state. In fact, Georgia joined the Council of Europe without having restored its territorial integrity, lost following armed conflicts in Abkhazia (1992-94) and in South Ossetia (1990-93). We share the position of the Rapporteur of the Political Affairs Committee on Georgia's accession, Mr Terry Davis (Doc. 8275), who had stated that "Abkhazia cannot be allowed any veto on Georgian membership", especially since Georgia had demonstrated its determination to settle the conflict in Abkhazia by peaceful means. As regards South Ossetia, even before accession relations with Georgia had substantially improved and its leader, Mr Chibirov, had given full support to Georgia's accession to the Council of Europe.

26. Although accession was allowed despite the absence of full territorial integrity, Georgia accepted specific commitments in this field, the respect of which depends only partly on Georgia:

"– to enact, within two years after its accession, a legal framework determining the status of the autonomous territories and guaranteeing them broad autonomy, the exact terms of which are to be negotiated with the representatives of the territories concerned;

– to continue the efforts to settle the conflict [in Abkhazia] by peaceful means and do everything in its power to put a stop to the activities of all irregular armed groups in the conflict zone and to guarantee the safety of the collective peacekeeping forces of the Commonwealth of Independent States (CIS), the United Nations Observer Mission (Unomig) and representatives of all international organisations involved;

– to facilitate the delivery of humanitarian aid to the most vulnerable groups of the population affected by the consequences of the conflict [in Abkhazia];

– to create, within four years after its accession, the legal framework for the establishment of a second parliamentary chamber, in conformity with the constitutional requirements;".

27. There has been significant progress recently regarding Adjaria, which was granted autonomous status through amendments to Articles 67 and 102 of the Georgian Constitution in April 2000. The details of this status, separation of powers and competencies between the central government in Tbilisi and the autonomous authorities in Batumi are to be regulated in future by means of a constitutional law. A special joint state

1. *Gamgebeli* is the Georgian name of the governors, who are not elected officials but appointed by the president of the republic.

committee, including representatives of Adjaria, has been set up to draft this law.

28. In our view, finalising the constitutional law on Adjaria's status would not only solve this problem definitely, but could also serve as a precedent for finding a solution to the more difficult problems that represent South Ossetia and Abkhazia.

29. As regards South Ossetia, there has been no agreement on its status, but developments are moving, even if not quickly enough, in the right direction. On 31 May 2000, the two sides initialed an agreement on the issue of refugees and internally displaced persons (IDPs). An experts' meeting took place in Vienna/Baden from 11 to 13 July 2000, in conformity with the OSCE Istanbul Summit Declaration adopted the year before. This meeting proposed a political endorsement for a "package" approach: negotiations on outstanding issues (that is recognition of the territorial integrity of Georgia, coupled with attributes of future South Ossetian status and acceptance of special links between South Ossetia and North Ossetia-Alania in the Russian Federation) should proceed in parallel with consultations on a mechanism of guarantees (political and security measures, economic support and protection of the human rights, particularly of refugees and ethnic minorities).

30. During our first visit to Georgia (May 2000), we met the South Ossetian leader, Mr Chibirov in Tskhinvali. He said that Georgia had underestimated the conflict and delayed economic rehabilitation assistance. The abolition of the South Ossetia Autonomous Region was still in force, although all other legislation from the time of Georgian President Gamsakhourdia had been withdrawn. The Georgian media were building up a negative image of South Ossetia. On the positive side, Mr Chibirov expressed satisfaction that President Shevarnadze had been re-elected given the latter's commitment to a peaceful solution of the conflict.

31. Mr Chibirov asked us to help in the economic rehabilitation of the region. The energy crisis is impeding industry and is contributing to the further deterioration of the economy. In this context, Mr Chibirov underlined the importance of the long overdue signature of the updated text of the Georgian-Russian economic rehabilitation agreement, which would allow South Ossetia to receive financial contributions due from both sides.

32. We believe that a compromise solution could be found between the positions of Mr Chibirov and the Georgian Government in a relatively short time if, contrary to the present situation, negotiations on this issue were to go ahead, independently of those on the Abkhaz conflict, which is clearly more difficult to solve.

33. Regarding the Georgian-Abkhaz conflict, we had the occasion, during our second visit to Georgia, to visit Sukhumi and witness for ourselves the devastation of a region which used to be the former Soviet Union's Côte d'Azur. We are grateful to the United Nations Observer Mission in Georgia (Unomig) for having organised the programme of our visit and ensured our transport to and from Sukhumi in aircraft.

34. The helicopter flight from Senaki (western Georgia) to Sukhumi allowed us to see the enormous number of roofless houses bearing witness to a conflict which, regardless of the responsibility for its origin, led to an ethnic cleansing resulting in the displacement of approximately 250 000 ethnic Georgians (out of a total pre-war population in Abkhazia of approximately 525 000 people).

35. In Sukhumi, we met the *de facto* Prime Minister and the *de facto* Minister for Foreign Affairs, as well as a number of local non-governmental organisations. In their talks, the Abkhaz political leaders focused on the history of the Abkhaz people and the origin of the conflict.[1] They said that they would be ready to discuss with the Georgian leadership the building up of a "common state" (or "two states with common borders") only if Abkhazia and Georgia were dealt with as equal entities. They also said that, for instance, Abkhazia needed its own army.

36. This position seems to be far from the "widest possible degree of political autonomy" within a single state that Georgia is ready to grant Abkhazia, according to recent statements by President Shevarnadze, which he reiterated to us.

37. In fact, since 1997, the Abkhaz side has refused to discuss the question of its status. As to the UN-led Geneva peace process, a draft proposal prepared earlier this year on the division of the constitutional powers between Abkhazia and the central Georgian Government has been blocked because of disagreements within the group of the friends of the Secretary General in Georgia (France, Germany, Russian Federation, United Kingdom and United States).

38. Whereas the political positions were more or less as expected, we were especially impressed by the talks we had in Sukhumi with representatives of civil society. They were unanimously in favour of Abkhazia's independence and told us that even if Abkhaz politicians were to come to an agreement with the Georgian central government, the people would not respect it. And this despite the current bad economic situation and the fact that their region was in a much worse position than the rest of Georgia. A reason for their reluctance to reach agreement with the Georgian central government was apparently their fear that Georgian IDPs would return to Akhazia, and claim their houses, now occupied by Abkhazi.

39. The representatives of local NGOs raised with us a particular human rights problem that was of a major and immediate concern to them. As of January 2001, new Russian passports would be issued and their old Soviet passports would no longer be valid for travelling. If no special agreement could be reached with the Russian Government, Abkhazi would be ready to apply for Russian citizenship and obtain Russian passports.

40. We raised this problem with the *de facto* Minister for Foreign Affairs of Abkhazia and suggested that Abkhaz residents apply for Georgian passports. He excluded this possibility saying that even if the Georgian Government were ready to provide them, Abkhaz people would not accept Georgian passports.

41. We raised the same question with President Shevarnadze and suggested that, even if only few Abkhazi

1. See also the report by the Council of Europe Commissioner on Human Rights, Mr Gil-Robles (Document AS/Mon/Inf (2000) 02).

might apply, it would be important to offer the opportunity to obtain a Georgian passport to all residents of Abkhazia, so that none of them would be legally deprived of the possibility to hold a passport.

42. In general, we felt an urgent need for confidence-building measures. The United Nations and the OSCE work in this direction. A conference on this theme was scheduled for the end of November 2000 but, at the time of our visit, the Abkhaz side was no longer ready to participate.

43. For his part, the Council of Europe's Human Rights Commissioner, Mr Gil-Robles, organised a seminar, together with the Venice Commission, on "state legal aspects of the settlement of the conflict in Abkhazia", held in Sukhumi on 12 and 13 February 2001. Unomig attaches considerable importance to this event. We understand that the reason is not so much that a major breakthrough is expected, but because such a seminar will offer an opportunity for both sides to resume discussions, possibly on the status question. But we agree with the Georgian leadership that substantial progress towards a political settlement of the conflict largely depends on the Russian Federation.

44. In the absence of any substantial progress in the negotiations on a political settlement of the South Ossetian and Abkhaz conflicts, it is clear that there are no developments in the elaboration of a legal framework for the establishment of a second chamber in parliament which would consist of representatives of the three autonomous territories (Abkhazia, South Ossetia and Adjaria).

c. *Local and regional self-government*

45. Upon its accession to the Council of Europe, Georgia undertook "to amend, within three years after its accession, the Law on Autonomy and Local Government to enable all the heads of councils to be elected instead of appointed".

46. The Congress of Local and Regional Authorities of Europe (CLRAE) has in fact considered that "the practice of appointment by the President of the heads of the executive organs of major cities and districts (rayoni) is contrary to the principles of the European Charter of Local Self-Government".[1] The CLRAE has observed that in Georgia "only the smallest territorial entities, that is, municipal administrative units, fully match the definition of local government". Batumi, the capital of the autonomous entity of Adjaria, is the only entity where the mayor is elected by the municipal councillors.

47. Moreover, the 1995 Georgian Constitution does not define the administrative and territorial organisation of the country and Article 2.3 stipulates that "this will occur later, when the country's territorial integrity has been restored".

48. On the eve of the presidential elections, President Shevarnadze declared that all mayors would be elected with the exception of the mayor of Tbilisi. During our first visit in May 2000, we were told that since the political decision had been taken, the elaboration of the law should not create any special problems or meet further delays.

49. During our second visit to Georgia, five months later, the Speaker of the Georgian Parliament informed us that he had asked the President of the republic to create a state commission, composed of representatives of the regions, of minority groups and of political groups, which would discuss the revision of the territorial organisation of the country and amendments to the Law on Autonomy and Local Government, notably concerning the election of mayors and heads of districts *(Gamgebelis)*. Concerning the territorial organisation of the country, the aim would be to simplify the current structure which has too many layers.

50. This discussion had apparently started within the majority group whose leader, Mr Lekishvili, former mayor of Tbilisi, told us that he was personally in favour of the election of *Gamgebelis* as well as of all mayors of major cities, including Tbilisi. The remaining question was whether they should be elected directly, or indirectly by the elected councils.

51. The Speaker of the Georgian Parliament was confident that following Georgia's commitment, the amendments to the Law on Autonomy and Local Government would be adopted by February 2001. The Chairman of the Committee on Regional Affairs, however, did not expect these amendments to be adopted before the territorial reorganisation of the country had been completed. For our part, we told to our Georgian interlocutors that, although the deadline envisaged for this commitment would only expire in April 2002, it was essential that amendments be adopted before the next local elections (scheduled for autumn 2001).

52. On 2 August 2001, the parliament adopted a law amending the Law on Local Self-Government. However, it would have been advisable that before amending the relevant law the Georgian authorities had consulted the CLRAE to ensure that their legislation is compatible with the European Charter of Local Self-Government.[1]

3. The rule of law

a. *Legislation*

53. Following its accession to the Council of Europe, Georgia continued to receive considerable assistance from our Organisation in the drafting of legislation. A study of the compatibility of domestic legislation with the European Convention on Human Rights, by independent Georgian experts and the Council of Europe's Human Rights general directorate, has just been com-

1. See report CG/BUR (5) 62 rev.

1. In addition to the issue of election of all heads of councils in major cities and districts, the CLRAE has already recommended the following measures to enhance local and regional self-government in Georgia:
– more clear division of powers between the state and local authorities and separation of the administrative systems of elected local organs and decentralised services of the state at major city and district level;
– early adoption of the legislation required to endow elected local and district organs with their own administrative staff, in accordance with the European Charter of Local Self-Government, as well as to provide staff with proper training;
– preparation and adoption, by 2002, of appropriate legislation concerning local finances and the assets of local authorities;
– it would be desirable in local elections for ballot papers to be printed in minority languages in major cities whose inhabitants include ethnic minorities.

pleted and should hopefully soon be published and disseminated.

54. During both visits to Georgia, we heard criticisms about the legislation, notably as regards the numerous amendments to the Code of Criminal Procedure which were adopted by parliament in May and July 1999 just after the new code (drafted following consultation of Council of Europe experts) had entered into force (15 May 1999), and only a few weeks after Georgia had become a full member of the Council of Europe. We asked that the amended code be transmitted to the Council of Europe for an expertise so that we could also assess the complaints we received. This was not done, in spite of several promises to this effect.

55. A number of recommendations already made by Council of Europe experts regarding provisions of the Code of Criminal Procedure on police arrest and pre-trial detention (see below, chapter IV, section D), the Law on Imprisonment and the Police Act (see below, chapter IV, section C) have not been implemented yet.

56. Finally, a new package of amendments to the Code of Criminal Procedure was adopted in June 2001. Despite renewed promises from the Ministry of Justice, the Council of Europe experts never did receive a copy of the draft law and are therefore not in a position to give an opinion whatsoever.

b. *Law enforcement*

57. We received many complaints concerning the implementation of legislation, notably regarding the provisions granting rights to persons under police arrest or in pre-trial detention (contacts with families and lawyers, maximum time-limits, requests for forensic examinations, etc.).

58. Aware that this lack of law enforcement is one of the major problems in the country, risking to compromise any success of recent legal reforms, the Speaker of the Georgian Parliament told us that parliament had decided to increase significantly its survey of the executive. For this purpose, a system of rapporteurs would be introduced: MPs would be appointed to monitor implementation of each legal act adopted over the last five years and of each new legal act.

i. *Courts*

59. Upon its accession to the Council of Europe, Georgia undertook "to maintain and continue the reforms of the judicial system."

60. In order to combat corruption and incompetence in the judiciary, all judges in Georgia underwent qualification examination in the presence of European and American observers. The last examination was held for the judges of the Supreme Court in the beginning of May 2000; those who failed the examination will keep their salary until the end of their mandate. To date, 75% of posts in the judiciary have been filled with judges who have passed the examination.

61. Practising lawyers told us that since the qualification examination, the quality of judgments has improved in the higher courts. In lower courts mainly outside the capital, problems persist, because not all judges who failed the examination have been replaced yet.

62. The main problems have appeared in the functioning of the judicial system: firstly, due to corruption which obviously could not be solved from one day to another, especially since not all judges have been replaced yet (see also below); secondly, due to the lack of execution of judgments. According to the chairperson of the Human Rights Committee of the parliament, about 60% of court judgments in civil cases have not been executed.

63. Although the level of implementation of the Constitutional Court's judgments is higher than that of ordinary courts, not all of its decisions are executed. For instance, an MP whose election was declared unconstitutional by the court is still a member of parliament.

64. The new Minister for Justice said that since he was personally at the origin of the judicial reform, improving the execution of judgments would be one of the priorities of the ministry.

65. The Council of Europe has assisted Georgia considerably over the past year to bring about judicial reform. Currently, co-operation includes assistance in the transformation of the existing training centre for judges into an official public school for judges. A draft law organising a unified judiciary is also under discussion.

ii. *The prosecutor's office*

66. Georgia has also undertaken "to maintain and continue the reforms of the public prosecutor's office."

67. At the time of our May visit, serious tension existed between the prokuratura and other Georgian institutions. Some amendments had been proposed to the Law on the Prokuratura, which were considered by some as a step backwards to restore powers that the prokuratura enjoyed during the Soviet era. The President has stated that there will be no step backwards and has supported the request by chairmen of parliamentary commissions, the Minister for Justice and the Council of Justice that Council of Europe experts give an opinion on the amendments.

68. During our second visit, October/November 2000, we were informed that the controversial amendments had become less topical since the majority in parliament was against them. The important issue now seemed to be the organisation of an examination which prosecutors had to pass. According to the 1997 Organic Law on the Prosecutor's Office, these exams should be organised by the Council of Justice. But we were informed that the prosecutor's office preferred to organise the exams, guaranteeing full transparency.

69. These issues were also discussed at the Council of Europe round table on the role and powers of public prosecutors, which took place in mid-November in Tbilisi. We hope that a satisfactory solution will soon be found, since the term of office of prosecutors expires at the end of the year and there will be no new appointments before examinations have taken place.

70. Another issue is criticism expressed by Council of Europe experts of the fact that the prosecutor's office is responsible for monitoring the execution of sentences, including detainees' complaints on violation of proce-

dural rights and allegations of ill-treatment. These experts have recommended that an independent inspector be entrusted with this task. In response to these concerns, the Georgian authorities have simply introduced a separation within the prosecutor's office between the department responsible for crime investigation and prosecution and the department responsible for the supervision of the execution of sentences and individual complaints (the Inspector's Department, placed under the supervision of the General Prosecutor). This is a step forwards, but not sufficient to ensure full compliance with the Council of Europe experts' recommendations.

71. Last but not least, as the General Prosecutor himself put it, the prosecutor's office has not escaped the "disease of corruption". To combat this phenomenon, internal control has been intensified and there is a telephone "hotline" with duty officers responding around the clock to complaints from citizens (see also below for the anti-corruption programme).

iii. *Practising lawyers*

72. Upon its accession to the Council of Europe, Georgia undertook "to adopt a law on attorneys within a year after its accession".

73. A law was adopted in June 2001, following a great deal of beating about the bush. It appears that the process, marked with a lack of political will, has been delayed, at least initially, because of the competition between the defenders of an American system and those of a European system. This has led to great confusion – if not anarchy – in the legal profession.

74. Following the mission of Council of Europe experts to Tbilisi in mid-April 2000, various drafts had been prepared. On 6 June 2000, the President of Georgia had presented to the parliament a new draft which had been prepared by the Parliamentary Committee on Legal Affairs. Subsequently, the committee had transmitted the draft to the Council of Europe experts for assessment by the end of June 2000 and authorised its publication in the press to arouse a public debate, given the importance of the matter and the wide interest shown by the community. The Committee on Legal Affairs had received comments and remarks on the draft not only from the Council of Europe experts but also from other foreign experts and Georgian lawyers. After examination of all these comments, the committee had prepared the final version of the draft law by the end of October 2000 and promised to send a translation to the General Directorate of Legal Affairs of the Council of Europe which had organised the expertise on the previous draft.

75. To date, neither the translation of the draft law nor that of the adopted law have reached the Council of Europe. We are thus not in a position to confirm that the present legislation fully reflects the recommendations proposed by the Council of Europe experts.

76. Co-operation with the Council of Europe extends also to the creation of a training centre for legal professions, as well as to the development of a system of free legal aid.

iv. *The police*

77. When Georgia joined the Council of Europe, it committed itself:

– "to maintain and continue the reforms of (…) the police force;

– to give human rights training to (…) the police, with the assistance of the Council of Europe;

– to ensure strict observance of the human rights of detainees."

78. The conduct of the police is probably the major human rights problem in Georgia, and this opinion was shared by senior political figures during both visits to the country.

79. More specifically, in our May meeting with the Minister of the Interior we went through the list of the most serious allegations of human rights violations by the police force, a list which we had received from non-governmental organisations:[1]

– certain law enforcement agencies and other government bodies illegally interfered with citizens' right to privacy, and notably security police entered homes and places of work without any legal sanction;

– security forces dispersed or restricted some peaceful rallies violently;

– the majority of detainees were subjected to torture or ill-treatment as a routine method of extracting "confessions" or other information, and abuses by the security forces have led to several deaths in custody;

– the limits placed on pre-trial detention and police custody by the constitution, were often not observed in practice.

80. The minister said that he had not seen any evidence of these allegations, but labelled those who made the allegations as "enemies of Georgia". He admitted however that certain problems existed but assured us that those who violated the law were brought to justice, as could be seen in the statistics which he handed over. These statistics do, however, not show how many policemen were definitely sentenced and imprisoned. Concerning disciplinary actions, the minister told us that 123 policemen were dismissed in 1991 and 265 in 2000 for abuse of power. In response to the complaint that law enforcement agencies and other government bodies, especially the Ministry of Communications, monitor private telephone conversations without court orders, the minister told us that the technical devices for such monitoring were not available in Georgia.

81. The minister admitted that occasionally the police did stop and search vehicles without apparent reason to extort bribes and that arbitrary arrests and detentions did occur. But he reiterated that those responsible for such abuses were always brought before justice.

1. The UN Committee against Torture is also concerned by the "failure to investigate claims of torture promptly and to prosecute alleged offenders", the "current failure to make proper provision for compensation, restitution and rehabilitation of victims of torture" and the "existing procedures for the investigation of complaints of torture and ill-treatment, which are not demonstrably impartial".

82. During our second meeting at the beginning of November 2000, the minister informed us that examinations had been organised amongst the traffic police to limit abuses. Out of 692 candidates, only 219 had passed the exams and received a certificate.

83. On the other hand, the Minister of the Interior underlined the economic problems police went through: there was a one year delay in the payment of salaries to the policemen which was of course no excuse for torture, but could partly explain recourse to bribes.

84. The attitude of police was one of the main subjects discussed with the Minister of the Interior during a hearing organised in the majority party, the Citizens' Union Faction, just before our arrival to the country. The hearing was on the television and lasted approximately eight hours. We were told that the parliamentarians were highly critical towards the minister and their criticisms were widely welcomed by public opinion which reacted very positively to the idea of such a hearing. We understood from the speaker of the parliament that this hearing was one of the examples showing the determination of the parliament to increase its supervisory role over the executive.

85. We hope that the co-operation programmes of the Council of Europe will also help in improving police attitudes and thus Georgia's human rights record. In the framework of the 1999 programmes, twenty Georgian police officers underwent a training session at the Police Academy of the Basque Country (Spain). Activities regarding police organisation and police ethics will be proposed in the co-operation programme for 2001.

v. *The fight against corruption*

86. Upon its accession, Georgia undertook "to continue and reinforce the fight against corruption in the judiciary, the public prosecutor's office and the police force".

87. According to the Minister of the Interior, although, in general, levels of criminality are falling, hard criminality is increasing. Corruption, however, continues to be one of the greatest problem of Georgian society. It can be partly explained by the economic crisis and the fact that salaries are not being paid to civil servants, judges and policemen, thus rendering them more vulnerable to corruption.

88. At the beginning of our second visit to Georgia (1 November 2000), the Guidelines for the National Anti-Corruption Programme were published. This text was prepared by a special commission headed by the Chairman of the Supreme Court, Mr Lado Chanturia, a man well known in Georgia for his integrity and high moral.

89. In an introduction to this text, President Shevarnadze says that "corruption demoralises the foundations of Georgian statehood" and adds: "if we fail to avoid this national disaster, if we fail to cure the nation, public and state of the horrible, poisoning malady of corruption, Georgians, as a civilised nation, and Georgia, as an independent, democratic state, will have no future."

90. The text of the guidelines, some twenty pages long, describes corruption in Georgia, analyses its causes and outlines measures intended to eradicate it pending the adoption of the final programme. It gives seven interesting key reasons for the spread of corruption in Georgia:

– the legacy of the communist regime;

– state weakness in the process of its multiple transformations;

– extreme weakness of the state conditioned both by conflict situations and by the lack of civic cohesion;

– the special role of "powerful ministries" (Ministry of Internal affairs, Ministry of Defence, Ministry of State Security);

– underdevelopment of civil society;

– deep economic crisis;

– the moral climate.

91. It is too early to assess the chances that the anti-corruption programme has of succeeding. Much will depend on how courageous the Georgian authorities will be in targeting not only low-level civil servants asking for bribes to survive but also senior officials who have illegally acquired large sums of money. In any event, we welcome, encourage and support this initiative.

92. As regards co-operation in this field with the Council of Europe, Georgia has, since 1999, been a member of the joint European Commission-Council of Europe Octopus Programme for fighting corruption and organised crime. Georgian authorities were represented in all seminars and study visits organised on the various topics of the programme. Moreover, in 1999, Georgia signed the Criminal Convention on Corruption and the Civil Convention on Corruption and acceded to the Greco mechanism which provides for visits to the country and assessment of the measures adopted to fight corruption. Such an assessment mission recently took place in Tbilisi. In June 2001, the Georgian Parliament adopted a law on the control of enterprises which is considered an important instrument in the fight against corruption.

4. Human rights and fundamental freedoms

a. *Council of Europe conventions*

93. Georgia has honoured its commitment to ratify the European Convention on Human Rights at the time of its accession, and Protocols Nos. 4, 6 and 7 within a year after its accession. On 20 June 2000, Georgia also ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and its protocols. The ratification and entry into force of this convention in Georgia is extremely important given the problems related to human rights violations by the police and the prison conditions which could then be monitored by the European Committee for the Prevention of Torture (CPT).

94. Other conventions which had to be ratified within one year after Georgia's accession and have not been ratified so far are the Framework Convention for the

Protection of National Minorities (signed on 21 January 2000), the European Charter for Regional or Minority Languages (not yet signed) and the First Additional Protocol to the European Convention on Human Rights (concerning mainly the rights to property), signed on 17 June 1999 (see also below, section h).

95. During our May visit, we were told that the difficulties in the ratification of the first two conventions were the same as those linked to the adoption of a law on minorities, namely that the minorities themselves do not want such a law (see below, section g). We were told that the Framework Convention for the Protection of National Minorities might be ratified subject to reservations.

96. However, during our November visit, the new chairman of the Georgian delegation to the Parliamentary Assembly said that Georgia could not ratify the framework convention as long as the conflicts in Abkhazia and South Ossetia were not definitely solved and the country had not acquired its full territorial integrity. The main problems seemed to be the definition of what a minority is and/or the definition of a list of minorities currently living in Georgia. Lack of experience might explain the fact that the Georgian authorities had undertaken a commitment in this field and that the Georgian Government had even signed this convention at the beginning of 2000.

97. For our part, we suggested that, before taking a firm position not to honour a commitment undertaken and confirmed by signature of the convention, the Georgian authorities consult Council of Europe experts on the possibility to ratify with reservations covering the problematic issues for Georgia. This suggestion was accepted by the Speaker of Parliament.

98. Expert consultations are currently taking place on ratification of the First Additional Protocol to the European Convention on Human Rights. A seminar will soon be organised with Council of Europe experts to help the Georgian Government to formulate the necessary reservations which would allow it to ratify the protocol pending resolution of disputes regarding the property rights of displaced persons.

b. *Political prisoners and war crimes during the Ossetian and Abkhaz conflicts*

99. Georgia undertook upon accession "to abolish within six months after its accession the existing prison system, which puts prisoners with prior political activities in the same cells as other prisoners; (…) to review the cases of persons convicted or detained for their part in the political upheavals of 1991-92 within two years after its accession;".

100. We were pleased to learn that, after his election, all prisoners with prior political activities were pardoned by President Shevarnadze. Others were pardoned and released last year. Thus, one of the alleged political prisoners who the eminent lawyers had visited in 1997, Mr Kitovani, even stood for election in parliament in 1999. Mr Iosselani, who the eminent lawyers had also visited in detention, had been released in April 2000.

101. As regards the commitment "to prosecute resolutely and impartially the perpetrators of war crimes committed during the conflicts in Abkhazia and South Ossetia, even within its own armed forces", no charges for war crimes have so far been brought against any person in Georgia. We understand that progress in the honouring of this commitment may be linked to progress in the political settlement of the conflicts.

c. *The prison system*

102. Upon its accession to the Council of Europe, Georgia undertook:

– "to adopt the law concerning the transfer of responsibility for the prison system from the Ministry of the Interior to the Ministry of Justice within three months after its accession and to ensure the effective implementation of this law within six months after it has been adopted;

– to ensure strict observance of the human rights of detainees;

– to continue to improve conditions of detention in prisons and pre-trial detention centres."

103. The transfer of the prison administration from the Ministry of the Interior to the Ministry of Justice has become effective since 1 January 2000. It includes both prisons and pre-trial detention centres. The Georgian authorities are to be congratulated for honouring their commitment in this field. The Council of Europe, for its part, has assisted Georgia in fulfilling this commitment since a large part of the co-operation programmes with this country was devoted to the prison system, expertise on the Law on Imprisonment and other related laws.

104. In the course of our second visit to Georgia (November 2000), we were granted our request for a surprise visit to Remand Prison No. 5 and the prison colony of Ortachala in Tbilisi.

105. We were shocked by the dramatic overcrowding in the pre-trial detention centres, mainly in the section of adult men. It is hard to describe without emotion the circumstances under which human beings are kept. We described the situation to Georgian officials, including President Shevarnadze, and explained that in the European Union it is not permitted to keep even pigs under such conditions. One cell of some eighteen square metres contained forty-two persons – presumed to be innocent – who disposed of twenty-six beds. In all the cells we visited in the pre-trial detention centre for adult men, there were more detainees than beds. The cells were primitive and uncomfortable and without ventilation. Some of the detainees told us that they had been waiting for trial for a year or more (although the law establishes a maximum time-limit for detention of nine months).

106. We also found that in Ortachala prison each of the life-sentenced prisoners (they were seven in total) was kept alone in a large cell, unable to communicate with anybody for months because the law said that they should be kept "separately". We informed the Minister for Justice who explained to us that this situation was due to an erroneous interpretation of the law, which prescribed that those sentenced to life imprisonment should be kept separately from other convicts, but not from each other.

107. Next day we went back to the Ortachala prison and we were pleased to see that, on instruction of the minister, four of the life-sentenced prisoners were put in one cell and three in another.

108. The minister regretted the overcrowding in pre-trial detention centres and said that US$2 million would be enough to complete a building for pre-trial detention which would solve this problem. For the rest, the minister reassured us that he would combat corruption in prisons, and he informed us that he had already dismissed the head of a prison administration who was accepting bribes from prisoners' families.

109. From a legal point of view, during our May visit we were concerned that certain amendments made to the Police Act at the time that the Law on the Transfer of the Penitentiary System to the Ministry of Justice was adopted provided for the appointment of a police officer in all penitentiary establishments after their transfer to the Ministry of Justice. These police officers, who were to be responsible for crime investigation in prison, would be appointed by and accountable to the Minister of the Interior. These amendments could compromise the success of the transfer of the prison administration from the Ministry of the Interior to the Ministry of Justice and therewith the respect of Georgia's relevant commitment. The Council of Europe experts have indicated that this provision is contrary to the European Prison Rules. Consequently, we had asked that this provision be abolished and, in the meantime, not be implemented. During our November visit, we heard that the amendments in question had not been removed but had not been implemented.

110. A list of the most important recommendations of Council of Europe experts on amendments to the Law on Imprisonment was recently addressed to the Minister for Justice, who promised to ensure that the recommended amendments were made rapidly. Furthermore, the Georgian Parliament has requested an expertise of prison-related provisions in the police act. A whole action plan concerning the reform of the prison system in Georgia was agreed at the beginning of November between the Council of Europe and the Minister for Justice; this action plan includes a seminar and an advisory mission on the treatment of long-term and life-sentenced prisoners, a seminar on the recruitment and training of prison staff, and various study visits.

111. The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment entered into force in October 2000. The Committee for the Prevention of Torture (CPT) undertook a two-week visit in Georgia in May 2001 and will submit concrete recommendations to the Georgian authorities as regards the prison system and the conditions of detention. We believe that co-operation with the CPT will be extremely fruitful for Georgia.

112. As regards Georgia's commitment "to review the scale of sanctions with a view to the reduction of the length of detention and to foresee alternative sentences to prison sentences", we have not been informed of any legislative changes.

d. *Police custody and pre-trial detention*

113. Regarding the major problems related to human rights violations by the police during custody at the police station (incidents of torture and ill-treatment), we refer to chapter 3.*b*.iv above.

114. In respect of legislation, Council of Europe experts have raised doubts as to the compatibility with the European Convention on Human Rights of the provisions of the Code of Criminal Procedure which allow for the police to arrest and detain in custody a person for twelve hours without informing him or her of the reasons for his or her detention. During this time, the person has no access to a lawyer.

115. What is even more worrying is that we have received allegations that in practice the police often does not record the arrest so that the time-limit of twelve hours does not even start running. In other cases, at the expiry of the twelve-hour period, the person under arrest is not told that he or she has the right to contact a lawyer, and those who already have a lawyer are not allowed to call him or her. In this way, detainees often do not have access to a lawyer within forty-eight hours (when they appear before a judge).

116. As regards the commitment "to implement within six months after its accession the right of a detainee to choose his (own) lawyer", practising lawyers told us that there has been no progress. The same practical problems identified by the eminent lawyers[1] continue to exist, since the cause is not lack of legislation but lack of implementation. Defence lawyers suspect that tactics to restrict access to, or manipulate the choice of, a lawyer are intended to avoid allegations of torture, to keep abusive officials from being prosecuted, or to prevent individuals who have signed false testimony or confession from proving later that it was obtained through torture.

117. Another problem seems to be that after arrest the maximum period of seventy-two hours within which the detainee must be transferred from the police station to a pre-trial detention centre (under the responsibility of the Ministry of Justice) is not always respected, with all the consequences that this might have for the treatment of the detainee at the police station.

118. Regarding Georgia's commitment "to respect the maximum length of preventive detention", we have been informed by practising lawyers that often the maximum time-limit of nine months is not respected in practice. We also met detainees in the pre-trial detention centre who had been waiting for trial for a year or more.

119. Moreover, as far as pre-trial detention is concerned, there are problems with the legislation itself to which the Georgian Parliament should respond. For instance, the Code of Criminal Procedure provides that after forty-eight hours of police custody, the judge has to decide between release or pre-trial detention for a fixed period of three months during which there is no automatic judicial review of the grounds for detention. This rigidity raises serious doubts of compatibility with Article 5 of the European Convention on Human Rights, and Council of Europe experts have already recom-

1. See Document AS/Bur/Georgia (1997) 1.

mended that the relevant provisions should be amended to allow more flexibility for the judge when fixing the initial period of pre-trial detention, and above all to provide for regular judicial review of the grounds of detention (which may well cease to exist during the three-month period).

120. The Council of Europe experts have also recommended that the Law on Imprisonment be amended to ensure that the unconvicted prisoners' right to communicate with families, to receive visits, parcels, and so on, no longer be formulated as an exception, following permission by the prosecutor, but as a right which can only be restricted in individual cases when this is necessary to prevent the obstruction of criminal investigation.

121. We were informed that the experts' recommendations to amend the Code of Criminal Procedure and the Law on imprisonment on the above-mentioned points would be proposed to parliament and we expect to be informed of further developments.

122. During our second visit, we also discussed at length with the chairman of the Legal Affairs Committee of the parliament the amendments to the Code of Criminal Procedure, adopted in May and June 1999, a few weeks after Georgia's accession to the Council of Europe. These amendments have restricted access to a court to submit a complaint about a procedural violation during investigation. This means that those under criminal investigation, as well as others who may be involved in investigations, such as witnesses, in many cases have to wait until a trial begins before they can submit to a court a complaint about a procedural violation, including incidents of torture or ill-treatment.

123. Another problem is that police officials often misclassify criminal suspects as "witnesses" to deprive them of rights that they should be entitled to, including the right to consult a lawyer.

124. Lawyers and representatives of the civil society told us that later on in the investigation it is difficult, if not impossible, to obtain an impartial forensic medical examination to back up a complaint of torture. Police, prosecutors and other investigators simply deny lawyers' requests for examination. Although an individual may appeal to higher-level officials in the procuracy, he or she has little or no opportunity to complain to a court while waiting for the trial to begin. This restriction on access to a court is alarming because in Georgia criminal investigations can take as long as nine months (and often longer), yet evidence needed to back up a torture complaint can be lost in as little as two weeks, as bruises from beatings and burn marks from electric shocks applied in police stations begin to heal.

125. We have asked to receive a copy of the May to July 1999 amendments to the Code of Criminal Procedure but were told that they do not exist in English. However, the new Minister for Justice reassured us that these amendments would be looked at again and reconsidered, and that he would submit to the Council of Europe for expertise further amendments to the Code of Criminal Procedure to rectify the problems as soon as possible.

126. A new package of amendments to the Code of Criminal Procedure was adopted in June 2001 without previous consultation with Council of Europe experts. We are, therefore, not in a position to assess whether these amendments positively addressed our concerns mentioned above.

e. *The ombudsman and the human rights parliamentary committee*

127. Georgia has honoured its commitment "to amend the Law on the Ombudsman within six months after its accession, so that a report on the ombudsman's activities shall be presented to parliament and made public every six months".

128. In October 1999, the former ombudsman resigned after complaints of inefficiency, since less than 2% of the complaints addressed to his office had been successfully concluded. There was in general great disappointment with regard to the functioning of this institution which could have a very important role to play in Georgia.

129. We met the new ombudsperson, Mrs Nana Devdariani, who was actually a member of the parliamentary opposition (Revivals' Group) and had been appointed that summer. She would present her first report to the parliament by the end of November. Her budget limit was US$60 000 from which she had to pay salaries for forty-four staff members, twelve of whom were lawyers. She had made several recommendations to the former Minister for Justice concerning treatment and occupation of detainees but she had received no positive reply. She hoped things would improve under the new Minister for Justice.

130. At parliamentary level, the Committee on Human Rights and Ethnic Minorities has continued to play an important role of extra-judicial guarantor of human rights in Georgia.

131. The chairperson of this committee, Mrs Tevdoradze, told us that as a consequence of the public hearings by the committee and her insistence, several criminal investigations against policemen (including cases where detainees died under suspicious circumstances) which had been closed shortly after they had started, were re-opened. Some of these policemen had been accused and kept in detention.

132. The largest number of human rights complaints that the committee had received recently concerned non-execution of court judgments in civil cases.

133. As regards abuses by the police, Mrs Tevdoradze told us that she was not satisfied with the level of training that was organised for policemen; it was almost exclusively organised by non-governmental organisations. The former ombudsman had initiated two training courses but no follow-up was given after his resignation.

134. Recently, the committee has conducted hearings regarding police attitudes towards perpetrators of acts of violence against representatives of minority religious groups (see also below).

135. For our part, we told Mrs Tevdoradze that in a democratic country governed by the rule of law, human

rights violations do occur, but that perpetrators of such violations are brought before the courts and are punished according to the law. Therefore, the work of the parliamentary committee she chaired, to inform the prosecution of such violations and demand that criminal investigations be properly conducted against their perpetrators, was extremely important for the human rights record of the country and we encouraged her to continue her efforts despite the difficulties she encountered.

f. *Freedom of expression, notably of the media*

136. Upon its accession to the Council of Europe, Georgia undertook "to adopt a law on the electronic media within a year after its accession".

137. Before accession, a law on the electronic media had been under preparation with the aim of turning state media into public channels under the supervision of an administrative board composed of independent members, thereby eliminating direct control by the authorities. After accession, a law was adopted on the Regulatory Board of Telecommunications, an institution to grant licences. However, this law is not the one envisaged in Georgia's commitment.

138. The media representatives gave us the impression that there was no consensus on this issue: some journalists present even appeared hostile to the idea of a law regulating their profession, whereas others were in favour of the adoption of a code of ethics for the journalist profession. Nobody seemed to object to a law on the electronic media which would simply turn the state electronic media into public institutions, thus guaranteeing independence, pluralism and objectivity, which was not the case at present.

139. During our second visit, in November 2000, the media representatives reiterated that the 1992 Law on the Mass Media probably needed updating but that a new law was not necessary.

140. For our part, we think that the necessity of regulating the electronic media is also demonstrated by the lack of objectivity during the recent campaign for the presidential elections. The *ad hoc* committee of the Assembly's Bureau which observed these presidential elections stated that the situation was "particularly deplorable in state-owned electronic media". According to the analysis made by the European Institute for the Media, in defiance of the existing legislation and international standards, the incumbent received two-thirds of the airtime allocated to candidates and there was a clear bias in terms of tone and range of coverage. The *ad hoc* committee noted that, by the same token, media in Adjaria showed a clear preference for Adjaria's leader, Mr Abashidze.

141. To sum up, we believe that the Georgian Government and/or Parliament should resume discussions with the media representatives on the elaboration of a law on the electronic media as soon as possible, in consultation with the Council of Europe.

142. As regards the printed media, the journalists we met said that the press in Georgia was free. They also praised the recent adoption of legislation on access to information – as part of the Law on the Administrative Court – obliging the administration to hand over all information that was not considered to be a state secret. The law gives a list of what is considered to be a state secret. Thus, information related to charges of corruption can never be defined as a state secret. The journalists complained that the implementation of such a law was difficult, since the state officials had still to acquaint themselves with it. But despite initial difficulties, journalists who insisted on implementation of the law succeeded in getting access to the requested information. For our part, we commend the Georgian Parliament on the adoption of very progressive legislation on access to information and urge authorities at all levels to ensure its full implementation.

143. The general view that the printed media are relatively free does not mean that several of them are not biased. This was reflected during the co-rapporteurs' second visit to Georgia, when we refused to give any interviews to the media, as a result of the rules of the monitoring process. The media reported that although the co-rapporteurs would not make their findings public before the Assembly had discussed the report, they were satisfied, and that Georgia was on the right track. The co-rapporteurs objected to this and repeated to the media (both electronic and printed) that at this point they could make no statement and only express the hope that Georgia was on the right track. The following day, television and newspapers repeated only the last part of our statement.

g. *Rights of minorities, including religious minorities*

144. Upon its accession, Georgia undertook "to adopt, within two years after its accession, a law on minorities based on the principles of Assembly Recommendation 1201 (1993)".

145. During our May visit, our meeting with minority representatives was without any doubt one of the most interesting: all representatives of minorities were categorically against the adoption of a special law on minorities. They had shared this view already with the eminent lawyers in 1997 and again with the rapporteurs on accession when they visited Georgia in the course of 1998, so they could not understand how the issue could have been included in the list of commitments undertaken by Georgia. In reality, this commitment was not in the list negotiated by Mr Davis, Rapporteur of the Political Affairs Committee, with the Georgian authorities, but was added through an amendment adopted by the Assembly at the last moment.

146. The minority representatives argued that the Georgian Constitution and the European Convention on Human Rights offered sufficient protection and that a law would only create artificial distinctions in a traditionally multi-ethnic society in which different ethnicities had been living together in perfect harmony for centuries.

147. Minority representatives repeated exactly the same arguments when we met them during our second visit to the country.

148. We think that what people feel is more important than any commitment, especially if it was never agreed in advance with the Georgian authorities, and therefore we do not intend to insist on this issue.

149. However, as regards religious minorities, we are concerned about recent cases of violence against representatives of minority religious groups, such as Jehovah's Witnesses and Baptists. Members of these groups have complained of being subjected to violent attacks by Orthodox extremists. Often police have witnessed these attacks, but have not intervened. Moreover, complaints filed against perpetrators of such attacks would not have led to prosecution, despite the presence of eye-witnesses.

150. These incidents are all the more regrettable since Georgia claims to have a long tradition of religious tolerance.

h. *Refugees and internally displaced persons (IDPs)*[1]

i. *IDPs from Abkhazia and South Ossetia*

151. Georgia honoured its commitment and ratified the Geneva Convention relating to the Status of Refugees and the 1967 Protocol thereto, before expiry of the deadline in May 1999.

152. Recently, the arrival of Chechen refugees was a test for the implementation of the Geneva Convention. UNHCR representatives said they were satisfied with the way in which Georgia granted asylum and provided accommodation to these refugees, in application of the Geneva Convention.

153. As regards the situation of refugees and internally displaced persons who were forced to abandon their homes during the 1990-94 conflicts in Abkhazia and South Ossetia, Georgia undertook upon its accession:

"to take the necessary legislative measures within two years after its accession and administrative measures within three years after its accession in order to permit the restitution of ownership and tenancy rights or the payment of compensation for the property lost by [these] people…".

154. In respect of the return of refugees to South Ossetia, there is satisfaction at the South Ossetian side since 4 000 to 5 000 refugees were allowed to return from the Russian Federation. However, only twenty-five families have returned to the areas controlled by the central Georgian Government.

155. As early as September 1998, the Council of Europe, together with the OSCE and the UNHCR, organised a round table in Tbilisi on ownership issues following the 1990-94 conflicts, which concluded with concrete recommendations. However, no follow-up was given until very recently. A draft law on restoration and protection of housing and property rights of refugees and internally displaced persons was presented by President Shevardnadze to the OSCE Chairperson-in-Office, Mrs Benita Ferrero-Waldner, during her visit to Georgia from 1 to 3 May 2000. The Georgian Government requested the international community's opinion on the draft. The OSCE Office for Democratic Institutions and Human Rights (ODIHR) and the Council of Europe contracted an expert mainly to assess its compliance with the European Convention on Human Rights and its consistency with international best practice in dealing with mass population displacements. The expert prepared an opinion, which has been presented to the Georgian authorities. A seminar should be organised shortly on this matter in Strasbourg, focusing on property issues arising from the conflicts and on the possibility for Georgia to ratify the First Additional Protocol to the European Convention on Human Rights.

156. During our second visit to Georgia, in November 2000, we visited IDPs from South Ossetia accommodated in the Abkhazi Hotel and IDPs from Abkhazia accommodated in the Iberia Hotel in Tbilisi. Their living conditions are difficult to describe: a whole family and often three generations have to live together in very small rooms. This situation has been the same for seven years with no prospects of improvement in the near future. We share the impressions of the Council of Europe Commissioner on Human Rights, which were also confirmed by hints from Georgian officials, that IDPs have become hostages of the situation, in the sense that Georgia is concerned that improving the living conditions and human rights of the IDPs might lead to a decrease of the international pressure on the Abkhazi people, acceptance of the present status and, finally, the loss of the opportunity for the IDPs to return home.

157. Recently, a UN resolution has recognised the right of refugees and IDPs to be treated as equal citizens.

158. This is especially important for the voting rights of the IDPs, which are restricted: IDPs can only vote for the majority list in general elections and they cannot vote at all in municipal elections, although they may have been residing in the same place for seven years. For the Georgian authorities to give them full voting rights would mean that they recognise their status and renounce their return. For our part, we stressed that of course the long-term goal should be to ensure the return of these people to their places of origin, but in the meantime full participation in the political life of the state of which they are citizens would only be fair.

159. The Minister for Refugees told us that he had been pleading in favour of granting full voting rights to IDPs who were Georgian citizens for a long time. If these people were the victims of ethnic cleansing, for which they were not responsible, would there be any reason to punish them even further by treating them as second-class citizens?

ii. *The Meshketian population*

160. Upon its accession, Georgia undertook "to adopt, within two years after its accession, a legal framework permitting repatriation and integration, including the right to Georgian nationality, for the Meskhetian population deported by the Soviet regime, to consult the Council of Europe about this legal framework before its adoption, to begin the process of repatriation and integration within three years after its accession and complete the process of repatriation of the Meskhetian population within twelve years after its accession."

161. During our May visit, the Speaker of Parliament, Mr Zhvania, told us that the commitment related to the granting of Georgian nationality to the Meshketian population – deported from the Meshketian region of Georgia to Siberia and central Asia in 1944 by Stalin – and their repatriation was not simply a technical matter, but

1. See also the report of the Council of Europe Commissioner on Human Rights.

required a political decision by President Shevarnadze and himself. But he said they were ready to work on this matter.

162. It seems that, in any case, only one-third of the approximately 230 000 to 300 000 Meshketians living outside Georgia would wish to return. On the other hand, the Georgian leadership had promised to grant those who lived in Georgia Georgian citizenship; currently, only five out of 107 applicants are now citizens of Georgia.

163. Efforts have been made to implement the recommendations contained in the report of the joint mission to Georgia by experts from the Council of Europe, the OSCE and the UNHCR in July 1999, but they cannot be considered sufficient. A draft law on "repatriation of persons deported from Georgia in the 1940s by the Soviet regime" has been prepared by a special state commission, and sent to the Council of Europe for expertise. The experts recognised that many steps had been taken to find a solution to these difficult and complex issues.

164. The Council of Europe should be ready to provide additional legislative assistance to Georgia in this field.

5. Concluding observations

165. During its first year of membership of the Council of Europe, Georgia went through both parliamentary (in October 1999) and presidential (in April 2000) elections. The country has thus been continuously in a period of electoral campaign. Moreover, following the recent presidential elections, political tensions between President Shevarnadze and the parliamentary majority delayed the formation of the government. These factors, combined with a serious economic crisis, go some way to explain some delays in the elaboration or implementation of legislation to honour Georgia's commitments.

166. Even so, the fact remains that Georgia has only honoured some of the commitments it undertook upon accession: the transfer of the responsibility for the prison system from the Ministry of the Interior to the Ministry of Justice, legislative changes concerning the ombudsman, ratification of the European Convention on Human Rights and of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and so on. No other law that had to be adopted within one year after accession has been adopted, the results of judicial reform and of the reform in the procuratura are yet to be seen, the conduct of the police has not been improved and ratification of the Framework Convention for the Protection of National Minorities has been refused. Moreover, reform of the Electoral Law, promised after the poor conduct of the last presidential elections, has started but not yet produced any concrete results.

167. To sum up, some progress has been noted, but many initiatives need still to be taken before Georgia's record in honouring its commitments is satisfactory. We call on the Georgian authorities to accelerate their efforts and on the Parliamentary Assembly to ensure that the Council of Europe provide all possible assistance to the Georgian institutions concerned.

APPENDIX I

Comments on the draft report by the Georgian Authorities [AS/Mon (2000) 43 Rev.]

I. Introduction

Georgia, upon its accession to the Council of Europe, has accepted certain obligations and commitments according to Article 3 of the Statute of the Council of Europe in the framework of promoting principles of pluralistic democracy, the rule of law, human rights and fundamental freedoms.

Georgia has clearly and decidedly demonstrated its will of building statehood based on principles of democracy, the rule of law, human rights and freedoms. This will is expressed in the Constitution of Georgia adopted on August 24 1995. The legislative basis for institutionalisation of those principles enshrined in the constitution has been developed.

Nevertheless, Georgia considers it necessary to further improve existing legislature and introduce new acts in order to create better mechanisms for steady and timely fulfilment of constitutional principles and commitments taken according to Article 3 of the Statute of the Council of Europe.

Opinions and recommendations elaborated upon the monitoring visits of experts of the Council of Europe to Georgia stipulate that the country has not fulfilled yet all of its obligations and commitments that it has been obliged to fulfil.

Clearly, Georgia largely shares the opinions and recommendations of the monitoring group. The current document demonstrates Georgia's presentation of already implemented, ongoing or planned activities to comply with its obligations and commitments, as well as obstacles on the way to achievement of this goal.

The comments, just like the preliminary draft report, will be divided into three main fields: democracy, rule of law and human rights.

II. Pluralist democracy

A. Elections

Both parliamentary and presidential elections took place within the year after the accession of Georgia to the Council of Europe.

These elections have demonstrated that relevant legislation needs some adjustment and improvements. Noticeably, legislation had been misunderstood and misinterpreted.

Shortcomings of the composition of the electoral commission and the media identified during the last elections were mainly caused by imperfection of legislature. Though, it should be noticed that some political parties have given distorted information to the monitoring group taking into account the strong position of their "rivals".

Every citizen of Georgia has the right to apply to the European Court of Human Rights. In our case, the Labour Party has resorted to this right. Though, the mere fact of their application does not mean that somebody's rights have been violated. This is something the European Court of Human Rights has to qualify.

The process of the examination of credentials of Mr Pridon Injia, elected in the second round in Martvili Electoral District in October 2000, was prolonged solely due to activities of Mr. Injia contradicting with his representation status. Those contradictions needed to be eliminated through relevant legal process that required a certain time. Upon completion of necessary procedures, Mr Injia's credentials were ratified on 8 December 2000.

The Ministry of the Interior is obliged by Georgian legislation to monitor and to take all the necessary steps to ensure compliance of police activities with election legislation. However, there is no doubt that due to different circumstances the police has to some degree abused its duties.

Georgian television was actively involved in broadcasting the 1999 and 2000 election campaigns. This had been the first attempt at a proper broadcast of democratic elections. This process has revealed mistakes and shortcomings as well as achievements on the way to providing the population with objective and timely information. Deep reforms have been launched in the State Broadcasting Company to transform it into atruly public television-radio station. Necessary laws and amendments are drafted to perfect a legal base for electronic, state, public and private media.

A special working group for preparing the draft election code has been established with support of the Chairman of the Parliament of Georgia, Mr Zurab Zhvania. Political parties from the parliament, as well as outside of it, and foreign experts have been actively participating in the drafting process to improve election legislation, as experts of the Council of Europe have recommended.

The draft election code of Georgia is prepared fully taking into consideration all the recommendations of the Council of Europe experts. The draft envisages such principles as equal participation of political parties in the composition of the electoral commission, transparency of election funds, protection of rights of candidates through the court system, etc.

The First Additional Protocol of the European Convention on Human Rights will be ratified in the near future contributing to the protection of the right to free elections in Georgia. The Committee on Foreign Relations of the Parliament of Georgia has already approved it with some provisos and, thus, it is now submitted to the session for ratification.

B. Autonomous territories

The constitution identifies only one autonomous republic – Ajara. Its status was laid down in April 2000. That fact was a step forward for the development of the organisational structure of the Georgian state.

The special state commission has been formed to define the autonomous status of Ajara and to elaborate the draft constitutional law determining the responsibilities of central and Ajarian authorities. Currently this process is under way and soon this draft law will be presented to the public for discussion.

As to the current state of relations between central Georgia authorities and the *de facto* government of the former South Ossetian Autonomous District, they could be characterised as a mutual willingness for the further improvement of these relations.

The autonomous status of South Ossetia was abolished on 11 December 1990. After all these developments and the current state of affairs, it is unacceptable to discuss the status of this territory unilaterally before finding a framework acceptable to both parties.

The Georgian authorities have stated again their readiness to conduct negotiations on the status of the former South Ossetian Autonomous District. Unfortunately, a corresponding step by the *de facto* government of the former South Ossetian Autonomous District is delayed constantly .

Special attention should be paid to the situation with regard to the resolution of the conflict in Abkhazia, Georgia.

The grave social-economic and legal situation of Georgian internally displaced persons (IDPs) from Abkhazia cause rightful concern to Georgia as well as to international organisations.

The Georgian position on unconditional return of IDPs remains unchanged. There still exist no real guarantees for such return despite numerous promises of secessionist government.

To resolve the conflict, Georgia is ready to grant Abkhazia the widest possible autonomous status, at the same time insisting on the principle of territorial integrity of the country.

Unfortunately, Abkhaz secessionists keep the position unchanged and still demand full independence. This, naturally, blocks any negotiation, whatever the framework.

Abkhaz secessionists still enjoy official support from Moscow. This has been demonstrated several times, when the Russian Federation blocked documents on the status of Abkhazia prepared by the Group of States Friends of the Secretary General of the United Nations.

Furthermore, the imposition by the Russian federation of a visa-free regime on the Abkhaz part of the Russian-Georgian border represents an attempt at direct annexation of that Georgian territory.

Georgia has several times expressed its readiness to solve the issue of providing Georgian passports to the population of Abkhazia . The secessionist government itself is opposed to this idea. Nevertheless, part of the Abkhaz population has already obtained Georgian national passports.

Despite numerous protests by Georgia, the relevant authorities of the Russian Federation continue the practice of granting Russian citizenship to persons living in Abkhazia. Six hundred people living in Abkhazia became Russian citizens in this way in 1999, and 3 500 during November 2000. Besides, most members of the secessionist government are in fact Russian citizens which gives them the possibility to travel abroad using Russian passports.

It is important to involve the Council of Europe more actively in the process of conflict resolution. Obviously, it can play a significant role in addressing humanitarian aspects of the conflict.

The difficulties regarding restoration of the territorial integrity of Georgia hinders the establishment of bicameral parliament as it is supposed by the constitution.

C. Local and regional self-governance

In this regard, Georgia shares the opinions and recommendations of the Council of Europe experts and serious work is being carried out to improve relevant legislation.

Clearly, infringements of territorial integrity contribute to the prolongation of the process of searching for proper arrangements in this field.

Nevertheless, the President of Georgia has established a state commission with representation from almost every political party as well as from the civil sector. The task of this commission is to draft appropriate legislation.

The draft law on amendments to the Law on Local Self-Government has been prepared already and submitted for adoption.

This draft law, in accordance with the European Charter on Local Self-Government, provides:

– that the President appoint mayors in cities which do not belong to specific administrative districts *(Raion),* but only from members of local representative bodies *(Sakrebulo);*

– that heads of local executive structures *(Gamgebeli)* of *Raions* will be appointed by the President, but, also, only from members of *Sakrebulo;*

– clear distribution of competencies between local self-governance bodies *(Sakrebulo)* and its executive structures *(Gamgebelis, mayors)* in order to avoid misinterpretation and duplication of responsibilities;

– rules and procedures for transferring certain responsibilities from central government to local authorities.

Certainly, the final version of the draft law will be provided to the Council of Europe for its expertise.

III. The rule of law

A. Legislature

Georgia has committed itself to harmonisation of its legislature with European standards. To this end, it has concluded work in co-operation with independent experts and the support of the Directorate General on Human Rights of the Council of Europe. The directorate has published its findings.

The monitoring group of the Parliamentary Assembly of the Council of Europe has expressed some critical views regarding the Criminal Procedure Code of Georgia. This has resulted in a study carried out by the Directorate General of Human Rights of the Council of Europe on compliance of the code with European standards. The directorate has published findings of the work.

The Parliament of Georgia is working on the new draft law on the police. It will become subject to public discussion in the nearest future. Naturally, the recommendations of experts of the Council of Europe will be taken into consideration. Georgia has already adopted the new Law on Confinement, which has become a major step forward for reforming the penitentiary system.

B. Law enforcement

The Parliament of Georgia has started active implementation of the control mechanisms provided by the constitution and legislature.

Firstly, deputy chairpersons of parliamentary committees have been specifically entitled to monitor the enforcement of laws.

Regular reporting has been introduced that obliges representatives of the executive to present an activity report within a specific time-period or on a specific issue to the Georgian Parliament .

Several investigative commissions have been established in the parliament, aimed at examining information regarding the abuse of power and law infringement by any official and, in cases with substantial proof, transferring the case to the relevant authorities.

A plan for law enforcement supervision is elaborated at the beginning of the spring and autumn sessions of the parliament and is headed by one of the vice-speakers.

Parliamentary control has been considered a priority. This has helped substantially to minimise gaps in law enforcement.

The President has submitted to the parliament the draft constitutional law on amendments to the constitution in order to ensure strict and uniform execution of laws, improving economic reforms, strengthening the institutional basis of the state, establishing financial order, improving the business environment and minimising corruption.

Several fundamental principles underline the draft law, such as:

– the establishment of the Georgian Government as a collective body. Government has to act along the same programme guidelines and be accountable to the President and the parliament as a team. This principle will eliminate inter-agency and personal tensions in the government and increase the responsibility of each of its members;

– the further strengthening of the legislative branch. The parliament will have real possibilities and the relevant powers for evaluating government action plans and controlling their implementation. Dual – parliamentary as well as executive – responsibility for fiscal and monetary policies will ensure avoiding use of the state budget for personal ambitions;

– the role of the President as a head of state and primary guarantor of stability and democracy, ensuring the proper functioning of state.

Constitutional changes implemented according to above-mentioned principles will become a guarantee for solving problems of the state, deepening of processes of democratic development and increasing political responsibility.

i. *Courts*

Reform of the court system is under way. Today, 80% of judges are appointed after examination. Nevertheless, some problems remain in the court system. There is proof of corruption, especially involving those judges who have not passed examinations and whose term has been extended. The Council of Justice monitors judges for adherence to the legislation.

The Parliament of Georgia has adopted amendments to the Law on Execution on 5 December 2000 to assist in the execution of court decisions.

A department to assist in the execution of court decisions has been formed in the Ministry of Justice following the adoption of the relevant law. There is a police division subordinated to this department. This structure was necessitated by the specifics necessary for the execution of court decisions and the need to bring all tasks related to their execution under the responsibility of a single body. The police division assists the executor in executing court decisions and maintains public order during this process. Furthermore, the police division carries out investigations into law infringements during the execution process.

Another change concerns the financing of the system. According to these changes, currently there is no need to conclude an agreement between creditor and execution bureau. The sum needed for the execution process is calculated based on the estimations of the execution official and can be changed in the course of the execution process.

Furthermore, 15% of the amount retrieved upon the execution of the court decision is transferred to the special account of the Ministry of Justice and is spent on technical and financial needs of the department to assist in the execution of court decisions, and on the entire system.

Amendments in the law concern also the procedural aspects of execution. These procedures are now significantly simplified, the responsibilities of execution officials increased and mechanisms for the auctioning of confiscated property revised. The transfer of property to the creditor has been introduced. Besides, the law now regulates prioritising the distribution of retrieved sums, which was not the case previously.

An important novelty of the law concerns the provision regulating the forceful execution of court decisions towards those institutions financed by the state budget.

We think that all these changes will substantially improve the execution of court decisions.

The Constitutional Court considers claims on the constitutionality of elections under sub-provision *d* of Provision 1 of Article 89 of the constitution. At the same time, the parliament examines the credentials of elected representatives and

makes decisions on their ratification under Article 54 of the constitution. The list of grounds for annulment of ratified credentials, provided in Article 54 of the constitution, does not include a decision of the Constitutional Court. As the Constitutional Court is the highest judicial authority, its decision is final and automatically enforced. In this particular case, the Constitutional Court has not decided to annul the results of elections of members of parliament. Such a decision would automatically mean that the person is no longer a member of parliament, without taking the issue to the floor of the parliament. But, as no such decision of the court has been made, the parliament is not examining credentials.

ii. *The prosecutor's office*

The reform of the prosecutors' office is a natural continuation of the reform of the court system. The President of Georgia has submitted to the parliament a draft law on amendments to the Law of Georgia on the Prosecutors' Office. This draft law introduces an entirely new concept of the office and will contribute to improving and modernising the office.

The draft law provides qualifications for persons to be appointed prosecutors and investigators. Passing the examination of the Council of Justice of Georgia is mandatory for candidates.

Furthermore, the draft law provides for the appointments of prosecutors and investigators to be conducted through competitive selection. Hence, appointment criteria will include results of examinations, the candidate's professional and moral reputation, and work experience. Such an approach will ensure the recruitment of highly professional and morally indisputable candidates to the prosecutors' office.

As to current employees of the prosecutors' office, the draft law provides, free of charge, courses at the education centre of the office.

In addition, the Committee on Legal Issues, Rule of Law and Administrative Reforms submitted a proposal to the parliament for establishing an office of inspector general outside of the prosecutors' office. It will be authorised by law to carry out disciplinary prosecutions against employees of the prosecutors' office in certain cases.

Significant changes of personnel took place in the prosecutors' office just recently. A new Prosecutor General has been appointed. This process will continue to fill the office with professional and honest staff.

iii. *Practising lawyers*

The draft law of Georgia on the bar has been voted for in a first reading on the floor of the parliament. It was then transferred to the parliamentary committees for comments and has been submitted now for a second reading that is already scheduled for the next session.

The draft law provides an entirely new approach to the organisation of the institution of practicing lawyers by making it an independent body. Lawyers form the Chamber of Lawyers with a congress of lawyers as a highest authority in it. The chamber will prepare procedures and programmes of qualifying examinations for lawyers, the statute of the Examination Commission and the professional code of ethics for Georgian lawyers.

The draft law provides criteria for practicing lawyers – the highest legal education and the passing of qualification examinations.

Lawyers will be authorised to work individually or to establish bureaux, offices or companies of legal counseling in partnership with other lawyers.

The draft law envisages a substantial increase in the procedural rights for lawyers, such as:

– lawyers will have the right to receive all materials regarding a particular case immediately after preferring charges against and first interrogation of a person;

– witnesses now have the right to have a lawyer during interrogation;

– lawyers will have the right to protest in court against decisions of investigative bodies at the preliminary stage of investigation.

The draft law provides that only the prosecutor general, deputy prosecutors' general and prosecutors of the Ajarian and Abkhazian autonomous republics are authorised to institute proceedings against a lawyer, while the circuit court has to authorise the detention or search of a lawyer.

It is noteworthy that the draft law takes into account recommendations provided by experts of the Council of Europe.

iv. *Police*

The police is one of the main targets of the Anti-Corruption Programme elaborated according to the decree of the President of Georgia.

The programme recommends abolishing stationed police posts and substituting them with mobile patrols. Stopping cars without specific reason should be forbidden.

The Committee on Legal Issues, Rule of Law and Administrative Reforms has started, in co-operation with the relevant authorities, preparation of the necessary legislative basis for reform of the police system. The Ministry of the Interior has presented a concept for police reform that envisages establishment of a unified investigative body outside of the ministry.

Establishment of a unified investigative agency necessitates fundamental changes in relevant legislation. This should take into consideration the experience of leading world and European countries and recommendations of the Council of Europe.

The committee considers it appropriate to take traditionally civilian functions, such as the issuing of legal state documents (personal identification cards and passports), technical licensing and control of automobiles, driving licences, etc., out of the area of responsibility of the Ministry of the Interior.

In addition, special thought is being given to singling out the military component from the Ministry of the Interior, as well as other paramilitary agencies, and establishing a separate body (like the National Guard or Carabinieri).

We think that the above-mentioned reforms of the police system will help to reduce human rights violations to the minimum.

v. *The fight against corruption*

The scale of corruption in Georgia has become threatening to the very existence of our young state. As everybody now is aware, the programme for the fight against corruption is prepared already. The President of Georgia just recently established a twelve-member group consisting of professionals with impeccable moral reputations in Georgian society to implement the programme.

Implementation of reforms of state governance systems as well as institutional legislation is necessary to minimise corruption. The recent initiative of the President of introducing the institution of a cabinet of ministers based on team responsibility provides the best example, from a political as well as legal perspective, of the above-mentioned necessity.

Constitutional changes for this reform have already been drafted and presented to the general public for discussion.

The Anti-Corruption Group will closely examine legislation to prepare the necessary changes in order to avoid loopholes in laws and, thus, will decrease the possibility of an abuse of legal documents by bureaucrats.

IV. Human rights and fundamental freedoms

A. Council of Europe conventions

In compliance with its obligations and commitments, Georgia has already ratified the Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols Nos. 4, 6, 7 and 12, while work on the First Protocol is on the way. Also, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and its Protocols Nos. 1 and 2 are already ratified.

The additional protocol concerning property rights has been submitted to the parliament for ratification and is going through the relevant legislative process. The Committee on Foreign Relations has already discussed the protocol and decided to pass it to the session with a proviso referring to the need to restore Georgia's territorial integrity to allow some provisions to enter into full force.

Georgia always has been a multi-ethnic country and it still continues to be such. No discrimination by ethnicity has occurred throughout thousands of years. Today, such respect for minority rights is fixed constitutionally and each and every national of Georgia enjoys them equally. Therefore, the Parliament of Georgia is not currently considering ratification of the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages, as such a move could create additional problems for Georgia in settling existing conflicts as well as threatening the stability of the country.

B. Political prisoners and war crimes during the Ossetian and Abkhaz conflicts

Upon accession to the Council of Europe, Georgia undertook an obligation to release approximately 400 prisoners imprisoned on different charges during armed and political opposition in 1991-92. The President pardoned them in spring 2000.

Currently, some forty cases with different criminal charges are under reconsideration by the Supreme Court and Commission of Pardon. It should also be noticed that special amendments to the Code of Criminal Procedure have been introduced to prepare the ground for such reconsideration.

Therefore, upon completion of the above-mentioned processes, the issue of political prisoners in Georgia might be considered exhausted.

C. Prison system

The launch of fundamental reforms of the prison system has been inaugurated by the adoption of a new Law on Confinement. It should be noticed that the new Minister of Justice, with a substantially renewed ministry apparatus, is eagerly working on reform of the entire system.

A new prison is being built in Rustavi, scheduled to be opened in autumn 2001. It will solve the problem of Prison No. 5. It will accommodate 1200 prisoners, 4 prisoner a cell, which drastically differs from the current 25 prisoners a cell.

Showers have been mounted in the prison, this being a breakthrough for this place which has lacked them for over fifteen years.

The Civil Council has been established at the ministry, consisting of representatives of civic organisations, minorities, religious confessions, interest groups and individual experts. It provides an effective control mechanism of the penitentiary system. The council even approves new appointments in the ministry, including in the prison system.

The current process of changing prison officials, establishing tight controls on logistics and increasing monitoring contributes to the fight against corruption in the prison system.

Restoration of voluntary labour in prisons is planned for the nearest future. A sewing shop is already operational in a female prison employing thirty women. A greenhouse is also planned.

Computerisation of the penitentiary system and establishment of a unified database are planned.

The medical service has been transferred to the direct control of the minister. New medical personnel are selected through competition. They already constitute 80% of all employees of the medical service. The main aim here is to minimise cases of false diagnoses. Also, a special anti-tuberculosis programme is running with the assistance of the International Committee of the Red Cross.

Courses, trainings and seminars are regularly organised to increase the qualifications of medical personnel in prisons.

The ministry closely co-operates with the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

The Criminal Code of Georgia provides such forms of confinement as home arrest and bail as well as alternative means of punishment (such as fines, public works, etc.).

D. Police custody and pre-trial detention

It is hard to counter the concerns and recommendations of the monitoring group. Nevertheless, it is important to notice that problems are not related to the Criminal Code, which is in compliance with European standards, but rather to gaps in its proper execution by the police. Nevertheless, recommendations of the monitoring group will be taken into consideration most seriously. In fact, the Ministry of Justice has already started working on ways for their implementation.

Legislation concerning forensic service is being drafted aimed at elimination of the possibility of falsification of results of forensic expertise.

The parliament has already passed in first reading the draft law providing protection by lawyers of witness rights.

E. The ombudsman and the Parliamentary Committee on Human Rights

The Parliament of Georgia has adopted all amendments recommended for the Law of Georgia on the Public Defender.

The new ombudsman tries her best to use all her rights according to legislation despite grave financial difficulties.

The Committee on Human Rights continues its active involvement in daily work for protection of those rights. The committee and Mrs Tevdoradze, its chairperson, are actual initiators of ensuring many police officers have been placed in custody.

F. Freedom of expression and the media

Georgian television was actively involved in broadcasting the 1999 and 2000 election campaigns. This had been the first attempt at the proper broadcast of democratic elections. This process has revealed mistakes and shortcomings as well as

achievements in the course of providing the population with objective and timely information.

Fundamental reforms have been launched by the State Broadcasting Company to transform it into a truly public television-radio station. Necessary laws and amendments have been drafted to perfect the legal base for electronic, state, public and private media.

The Commission for Regulation of the Telecommunication Market, an independent public entity, is operating in Georgia. Its functions include licensing, regulation of the market, supervision, support for a competitive environment. The commission actively co-operates with international organisations, such as the World Bank and USAID. The commission, with the active participation of the above-mentioned international organisations has prepared amendments to the Law on Communications. These amendments envisage significant liberalisation of the licensing process with abolishment of many types of licenses existing today. Only registration, ranking and codes for international operators will need licenses after adoption of this draft law. Frequencies will be sold through auction. In addition, special work is being done to set regulations for licensing all broadcasting activity.

Work on adoption of new legislation on the freedom of the press and mass media is actively progressing despite significant differences in public opinion on the subject. The results will soon become subject to countrywide discussion.

The General Administrative Code has been adopted recently in Georgia, providing a high degree of transparency of state structures with availability of public information, other than on state secrets, to virtually every interested person or organisation. It should be noticed, however, that still there are some problems in implementation of provisions of the code due to misinterpretation or the inability or unwillingness of some officials to comply with them. A number of international and civil organisations implement activities for promoting the code and its provisions in order to help society to comprehend them. No doubt, these efforts will bear fruit.

G. Right of minorities, including religious minorities

Public opinion in Georgia and the position of minorities themselves make adoption of any specific legal document in this regard an unnecessary step.

The Constitution and legislation of Georgia protects equally the rights of representatives of all social and ethnic groups, no matter to which kind of minority they belong. There is no discrimination in this regard in Georgia.

As to religious minorities, it should be noticed that the Georgian Orthodox Church has signed memoranda with all churches present in Georgia. Furthermore, the parliament has recently adopted a constitutional amendment laying the ground for regulating relations between the state and all religious confessions.

Regarding Jehovah's Witnesses, the prosecutors' office has preferred charges in eight cases that are currently streamlined into one process. Necessary investigations are being carried out to bring the cases to the court. It also should be noticed that the Georgian authorities strongly condemn the activities of Father Basil Mkalavishvili and his followers as well as the way the police has approached the situation. The parliament has several times discussed the issue, resulting in adoption of a resolution condemning religious extremism and intolerance, while at the same time urging police to act according to legislation.

Georgia takes responsibility of and commits itself extremely seriously to addressing issues of religious tolerance and to pay special attention to any facts of violence.

H. Refugees and internally displaced persons (IDPs)

i. *IDPs from Abkhazia and the former South Ossetia*

The Ministry for Refugees and Accommodation has prepared and submitted to the Parliament a draft law on amendments to the Law of Georgia on Refugees aimed at bringing refugee status into compliance with international conventions.

These amendments include the principles of family unity, simplification of refugee registration and non-expulsion rights. This norm will cover asylum seekers also. The draft law introduces international understanding of the term "refugee".

The ministry has prepared also and submitted to the parliament a draft law on amendments to the Law of Georgia on IDPs. These amendments include:

– withdrawal of IDP status from those who commit crime;

– postponing any social benefits before the end of the process of granting a person IDP status;

– free medical service is retained only for the most vulnerable IDPs;

– funeral costs will be covered by local budget;

– distributing lands to IDPs;

– introducing tax exemptions, etc.

The issue of IDP participation in local elections and the elections of representatives of constituency districts in the parliament has been raised several times. It is subject still to discussions.

Adoption of a law on restitution or compensation would help substantially in settling existing problems. However, implementation of such a law will depend heavily on financial capabilities, as it seems that the number of persons eligible for such restitution or compensation will be rather big. Furthermore, it is inconceivable to adopt such a law before final settlement of the Abkhaz conflict.

There is some progress with regards to the return of IDPs to South Ossetia, which can not be said for IDPs from Abkhazia. Settlement of this issue, clearly, depends not solely on the central authorities of Georgia.

ii. *The Meskhetian population*

The process of rehabilitation and repatriation of the Meskhetian population deported from the southern regions of Georgia in the1940s is not progressing rapidly. There are several reasons for this, such as the large number of IDPs from Abkhazia and South Ossetia and problems related to them, the fears of the population in the southern regions of Georgia of possible violence on social or religious grounds in case of large-scale repatriation, and, of course, the country's economic situation.

Despite all these above-mentioned problems, 655 Meskhetians have been already repatriated to different regions of Georgia. Some 570 of them have already received Georgian citizenship. The Ministry of Justice is considering other cases among the remainder. The delay is caused by the need to finish procedures of relinquishing other nationalitues, as the Georgian Constitution forbids dual or multinationality.

The integration process of those repatriated is also going rather smoothly. Some young representatives voluntarily study the Georgian language. Children of repatriates study in Georgian schools and all who have received Georgian citizenship have restored their historic family names.

The President of Georgia initiated the establishment of a state commission to address the issues of settlement of the

repatriation process. The commission has already discussed several preliminary drafts of a law on rehabilitation and repatriation of those deported from Meskhetia in 1940s. The version presented by the Ministry for Refugees and Accommodation, prepared by the Young Lawyers Association of Georgia, has been approved. The discussions included experts from the Council of Europe. Currently, this preliminary draft law has been transferred to the Ministry of Justice for final preparation before submission to parliament.

Conclusions

It could be said that some of the obligations and commitments undertaken by Georgia upon accession to the Council of Europe have been completely honoured.

Some of the obligations and commitments need more time, as it is noticed in the preliminary draft report, and need also the introduction of fundamental structural reforms, which, from the legislative point of view, is already well under way. The honouring of a number of obligations and commitments is closely connected to the restoration of the territorial integrity of the country.

Georgia, with hopes that it will be supported in this, will continue co-operation with the Council of Europe for full integration of the country within European institutions.

APPENDIX II

Opinion No. 209 (1999)[1]
Georgia's application for membership of the Council of Europe

(Extract from the Official Gazette of the Council of Europe – January 1999)

APPENDIX III

Honouring of obligations and commitments by Georgia[2]

Obligations	Source	Honoured	Measures taken	Measures recommended
Pluralist democracy: elections (11)	Article 3, Statute		– amendments to electoral legislation adopted March 2000 (16) – interfaction committee set up to discuss new electoral law (22) – Electoral Code adopted in August 2001 (23)	– take into account suggestions of international observers (17) – ratify Additional Protocol to European Convention on Human Rights(24)
Rule of Law: Legislation (53)	Article 3, Statute		– New Code of Criminal Procedure adopted in May 1999 and amended in July 1999 and June 2001 (54,56)	– implement recommendations of Council of Europe experts(55) – send amended Code of Criminal Procedure for expertise (56)

1. Available on the Council of Europe Internet site at the following address: http://www.coe.int.
2. The figures between brackets in the charts (..) refer to the corresponding paragraphs in the report

Obligations	Source	Honoured	Measures taken	Measures recommended
Sign European Convention on Human Rights	Opinion No. 209 (1999), paragraph 10.i.*a*	Signed 27/4/99		
Ratify European Convention on Human Rights and Protocols Nos.1,4, 6 and 7within one year	Paragraph 10.i.*b*	Convention ratified 20/05/99 Protocols Nos. 4, 6 and 7 ratified	– Additional Protocol signed 17/6/99	
Ratify European Convention for the Prevention of Torture and its protocols (1year)	Paragraph 10.i.*c*	Convention ratified 20/06/00 and Protocols Nos. 1, 2		
Sign and ratify Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages (1year)	Paragraph 10.i.*d*		– convention signed 21/01/00	– consult Council of Europe experts on the possibility of reservations
Sign and ratify the European Charter of Local Self-Government European Outline Convention for Transfrontier Co-operation and its protocols European Convention on Extradition European Convention on Mutual Assistance European Convention on Laundering (3 years)	Paragraph 10.i.*e*	Conventions ratified 15/06/01		
Sign and ratify the European Social Charter (3 years)	Paragraph 10.i.*f*		– signed on 30/06/00	
Sign and ratify the General Agreement on Privileges and Immunities and protocol	Paragraph 10.i.*g*	General Agreement and Protocol ratified 25/05/00, 6th Protocol ratified 20/06/00		
Ratify Geneva Convention on Refugees and 1967 Protocol (2 years) (151)	Paragraph 10.i.*h*	Convention and protocol ratified in May 1999 (149)	– asylum granted and accommodation provided for refugees (152)	
Legal framework for second parliamentary chamber (4 years) (44)	Paragraph 10.ii.*a*			
Legal framework for autonomous territories (25)	Paragraph 10.ii.*b*		– autonomous status granted to Adjaria in April 2000 (27) – expert meeting on South Ossetia in Vienna/Baden in July 2000 (29)	
Adopt law on the electronic media (1 year) (136)	Paragraph 10.ii.*c*		– legislation on access to information (142)	– resume discussions with media on elaboration of law (141)
Adopt law on attorneys (1 year) (73)	Paragraph 10.ii.*d*		– law adopted (73)	– send law for expertise (75)
Repatriation of the Meskhetian population (2 years) (160)	Paragraph 10.ii.*e*		– draft law on repatriation prepared (163)	– follow recommendations of 1999 joint CE,OSCE, UNHCR mission (163)
Amend Law on the Ombudsman (6 months) (127)	Paragraph 10.ii.*f*	Law on Ombudsman amended		
Legislative (2 years) and administrative (3 years) measures for restitution of ownership (153)	Paragraph 10.ii.*g*		– draft law on restriction and protection of housing and property rights of refugees (155)	

Obligations	Source	Honoured	Measures taken	Measures recommended
Amend Law on Autonomy and Local Government (3 years) (45)	Paragraph 10.ii.*h*		– Law on Local Self-Government amended (52)	– consult CLRAE
Adopt Law on Minorities (2 years) (144)	Paragraph 10.ii.*i*			– co-rapporteurs do not insist (146)
Reform the judicial system (59)	Paragraph 10.iii.*a*		– qualification exams of judges (60) – draft law on judiciary under discussion (65)	
Reform the public prosecutors' office (66)	Paragraph 10.iii.*a*		– amendments proposed to Law on Prokuratura (68)	
Reform the police force (77)	Paragraph 10.iii.*a*		–exams for traffic police (82)	
Fight against corruption (86)	Paragraph 10.iii.*b*		– guidelines for the national Anti-Corruption Programme (88) – signed criminal and civil law conventions on corruption in 1999 (92) – participation in Octopus and Greco (92)	
Adopt (3 months) and implement (6 months) law on transfer of responsibility for the prison system (102)	Paragraph 10.iii.*c*	Transfer to Ministry of Justice effective on 1/01/00 (103)		
Reduction in the length of detention (112)	Paragraph 10.iii.*d*			
Human rights detainees (77)	Paragraph 10.iv.*a*			
Separate political prisoners (6 months) (99)	Paragraph 10.iv.*a*	All prisoners with prior political activities pardoned (100)		
Improve conditions of detention (102)	Paragraph 10.iv.*a*		– action plan concerning reform of the prison system (110) – Convention on the Prevention of Torture ratified (111)	– amend Law on Imprisonment (110)
Human rights training (77)	Paragraph 10.iv.*b*		– co-operation programme with the Council of Europe (85)	
Respect maximum length of detention (118)	Paragraph 10.iv.*c*			– amend Code of Criminal Procedure (119)
Right of detainee to choose his lawyer (6 months) (116)	Paragraph 10.iv.*d*			
Review convictions 1991-92 (2 years)	Paragraph 10.iv.*e*		– all prisoners with prior political activities pardoned (100)	
Prosecute war crimes (101)	Paragraph 10.iv.*f*			
Settle conflict in Abkhazia by peaceful means (26)	Paragraph 10.v.a		– seminar on state legal aspects of the settlement of the conflict held on 12-13 February 2000 (43)	
Humanitarian aid	Paragraph 10.v.*b*			

Reporting committee: Committee on the Honouring of Obligations and Commitments by Members States of the Council of Europe.

Reference to committee: Resolution 1115 (1997) of 27 January 1997.

Draft resolution and draft recommendation unanimously adopted by the committee on 6 September 2001.

Members of the committee: *Mota Amaral (Chairman),* Pollozhani, Severinsen, Durrieu *(Vice-Chairs),* Akgönenç, Arzilli, *Atkinson,* Attard-Montalto, Bársony, Bartoš, Begaj, *Belohorská, Bindig, van den Brande, Čekuolis,* Christodoulides, *Cilevičs, Davis,* Demetriou, Diana, *Einarsson,* Enright, *Eörsi,* Evangelisti, Fayot, *Ferić-Vac,* Floros, Frey, *Frunda,* Gjellerod, *Glesener, Gligoroski, Gross,* Gürkan, Gusenbauer, *Haraldsson,* Holovaty, Irmer, *Ivanenko,* Jakič, Jansson, Jaskiernia, Jones, *Jurgens,* Kanelli, *Kautto, Kostytsky, Landsbergis, Van der Linden,* Luís, *Magnusson, Marmazov, Martínez-Casañ,* Moeller, *Neguta, Olteanu,* Pollo, *Popescu,* Poptodorova, Ringstad, *Rogozin, Sağlam,* Sehnalova, *Shakhtakhtinskaya, Slutsky, Smorawiński, Soendergaard, Stoyanova, Surján, Taylor, Tevdoradze, Vahtre,* Vella, Weiss, Wohlwend, Yáñez-Barnuevo, Zierer.

N.B. The names of those members who took part in the meeting are printed in italics.

See 26th Sitting, 25 September 2001 (adoption of the draft resolution and the draft recommendation); and Resolution 1257 and Recommendation 1533.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 1[1]
Doc. 9191 – 24 September 2001

Honouring of obligations and commitments by Georgia

tabled by MM. LANDSBERGIS, STANKEVIČ, DOBELIS, VAHTRE, BJÖRCK and TEVDORADZE

In the draft resolution, paragraph 11, replace the words "The Assembly regrets that little progress has been made as regards respect for human rights" with the words:

"Recognising that Georgia is not responsible for the human rights situation in those parts of the state where the Georgian Government has no real power, especially in Abkhazia, the Assembly regrets that little progress has been made as regards respect for human rights in the rest of the territory:"

1. See 26th Sitting, 25 September 2001 (rejection of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 2[1]
Doc. 9191 – 24 September 2001

Honouring of obligations and commitments by Georgia

tabled by MM. LANDSBERGIS, STANKEVIČ, DOBELIS, VAHTRE, BJÖRCK, TEVDORADZE

In the draft resolution, at the end of paragraph 16.ii, add the following words:

"especially after Georgian power was ousted and Abkhazia appeared to exist under the authority of foreign armed forces and the local administration."

1. See 26th Sitting, 25 September 2001 (rejection of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 3[1]
Doc. 9191 – 24 September 2001

Honouring of obligations and commitments by Georgia

tabled by Mrs TEVDORADZE, Mr BÁRSONY, Mrs PATARKALISHVILI, MM. BINDIG, OLTEANU, Mrs AKGÖNENÇ

In the draft resolution, at the end of paragraph 8.i, add the following:

"and to prepare these items of legislation and ensure that they are enacted by the Georgian Parliament by January 2003 at the latest."

1. See 26th Sitting, 25 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 4[1]
Doc. 9191 – 24 September 2001

Honouring of obligations and commitments by Georgia

tabled by MM. SLUTSKY, ROGOZIN, CHURKIN, SUDARENKOV, CILEVIČS, BÁRSONY

In the draft resolution, after paragraph 14, insert a new paragraph as follows:

"The Assembly calls upon the Georgian authorities to co-operate actively with other European states in the field of combating international terrorism, in particular to undertake in co-operation with international institutions effective steps aimed at curtailing illegal trafficking of arms and activities of illegal armed groups stationed in the Pankissi area."

1. See 26th Sitting, 25 September 2001 (rejection of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 5[1]
Doc. 9191 – 24 September 2001

Honouring of obligations and commitments by Georgia

tabled by Mrs AKGÖNENÇ, MM. AKÇALI, TELEK, GÖNÜL, MUTMAN, KALKAN

In the draft resolution, at the end of paragraph 8.vii, add the following:

"with a view to granting them the same status of rehabilitation as that already given to deportees of other ethnicities that were repatriated to Georgia under the Soviet regime."

1. See 26th Sitting, 25 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Report
Doc. 9192 – 10 September 2001

A dynamic social policy for children and adolescents in towns and cities

**(Rapporteur: Mrs GATTERER, Austria,
Group of the European People's Party)**

Summary

This report addresses the need for a dynamic social policy for children and adolescents in towns and cities and in particular the concern that they are becoming increasingly anti-social. The many social ills connected with urban life include child violence, juvenile delinquency, children living in and off the street, and the poor prospects and sense of disaffection of young people in deprived suburbs.

The Parliamentary Assembly urges the member states of the Council of Europe to develop a dynamic social policy for children and adolescents based on prevention and partnership and with respect for children's civil, political, economic, social and cultural rights according to the United Nations Convention on the Rights of the Child and the European Convention on the Exercise of Children's Rights. It recommends that the Committee of Ministers assist member states in this task by developing appropriate guidelines.

I. Draft recommendation

1. The Parliamentary Assembly is concerned that young people in towns and cities are becoming increasingly anti-social and is worried about the many social ills connected with urban life and the emergence of suburban "ghettos".

2. Deprived urban areas across Europe are repeatedly highlighted by national media reporting cases of child violence; juvenile delinquency, sometimes involving very young children; possession of weapons and drugs, in particular in educational establishments; and the severe living conditions of street children.

3. However, the phenomena linked to urban youth malaise have to be seen in a wider context of rapid social and economic change, which has imposed the consequences of acute poverty on many families and children in Europe, both in the well-established democracies and in the new Council of Europe member states.

4. Unemployment, poverty, family break-up, adult violence, the weakening of social welfare and other public infrastructure and the lack of adequate community spirit and support all influence the life experience and behaviour of children and adolescents in towns and cities.

5. Youth violence does not always aim at misappropriation but most often is a means of protest and self-assertion. It takes different forms: against oneself (suicide, drug use), within groups (bullying at school, youth gangs in ghettos), or against society at large in the form of "hate-crime".

6. Furthermore, statistics show that children and young people are more often the victims than the perpetrators of violence.

7. Youth violence is therefore not a phenomenon to be considered in isolation but instead as a strong indicator of adult malaise, intolerance, fear and violence.

8. There is a growing recognition that juvenile justice or criminal justice agencies will not of themselves resolve the problems posed or experienced by children and adolescents who offend.

9. In this respect, the Parliamentary Assembly is concerned by the development of law-enforcement policies that are in breach of the United Nations Convention on the Rights of the Child, which every member state of the Council of Europe has ratified, and more specifically by the situation of children in prison, especially when awaiting trial. Internationally recognised non-judicial measures and community-based alternatives to custody for children ought to be introduced.

10. The Parliamentary Assembly believes that the response to youth violence needs to be based on prevention rather than repression or punishment, addressing at the earliest possible stage the situation of children facing disadvantage and risk.

11. Moreover, a dynamic social policy for children and adolescents should not only focus on children who offend, who have been abused or who experience poverty, but equally on preventive measures for all children at risk (targeting violent households, poor parental support, negative early life experiences, etc.). Such measures should also address the specific situation and experiences of girls in the family, community and society in general.

12. A shift in political will is needed to focus resources on the introduction of multidisciplinary measures at an early stage, providing children and young people with positive life experiences, restoring democratic and civil values, fostering creativity, solidarity, and positive community participation.

13. In this connection, the Parliamentary Assembly commends the work undertaken by the intergovernmental sector of the Council of Europe, in particular with regard to education, culture, youth activities, social cohesion and the prevention of crime and drug misuse.

14. Crime and urban security have also been addressed by the Congress of Local and Regional Authorities of Europe (CLRAE), which recently adopted a manual on local government policies aimed at reducing crime.

15. The Parliamentary Assembly is convinced that appropriate responses to urban youth malaise can only be found through the concerted action of different partners at local and national levels, further assisted by the exchange of experience and guidelines established at European level.

16. While also recalling the issues raised in Recommendation 1286 (1996) on a European strategy for children and Recommendation 1460 (2000) on setting up a European ombudsman for children, the Parliamentary Assembly recommends that the Committee of Ministers:

i. give suitable priority to social policy for children and adolescents in towns and cities and instruct the appropriate body to develop guidelines in this policy area on the basis of pan-European information regarding the lives and experiences of children;

ii. urge the member states of the Council of Europe:

a. to guarantee, through explicit recognition in their constitutional texts or domestic laws, children's civil and political rights, as well as their economic, social and cultural rights, as enshrined in the United Nations Convention on the Rights of the Child;

b. to ratify all relevant Council of Europe conventions on the rights and protection of the child, in particular the European Convention on the Exercise of Children's Rights;

c. to engage in an exchange of experience at European level involving both national and local authorities (European crime prevention network, European observatory on urban security, etc.);

d. to develop a dynamic social policy for children and adolescents in towns and cities based on the following elements:

– measures and programmes which support parents and families in their parenting role;

– welfare and benefit schemes to support parents and families;

– measures and policies based on the partnership and involvement of all sectors – local and national, public and private;

– measures to address the whole range of risks faced by children and adolescents in the social and physical environment in which they live;

– the development, for children who offend, of alternative forms of dispute resolution: alternatives to judicial processes; alternatives to custody; and community-based measures in line with internationally recognised standards for children in the justice system;

– harmonised standards and practices (for example, specialised courts for minors) in all the Council of Europe member states with regard to children who commit, or who are victims of, offences (for example, family violence, sexual abuse);

– promoting the role of formal and non-formal education in preparing children for adulthood and their role in civic and political society, in promoting values of tolerance and respect for others, and in addressing inequalities based on disadvantage and gender;

– assistance in the transition from school to employment, providing children and adolescents with skills necessary for the labour market;

– leisure pursuits (culture, sports, etc.) for children and adolescents;

– programmes and projects which assist children and young people to address the negative effects of social exclusion and marginalisation;

– mechanisms by which policies affecting all areas of social and political life – employment, housing, crime, health, education, etc. – can be "child-proofed";

– the establishment of a national children's ombudsman for promotion and monitoring of the rights of the child;

– the positive values of the Internet, the World Wide Web and the new information and communications technologies in providing information for children and young people and in providing a mechanism for co-ordination of their activities;

– the participation of children and adolescents in decision making and policy development;

– fostering of the supporting role of extended families and the local community;

– taking into account gender-based issues and family planning;

– measures to improve the situation of street children.

II. Explanatory memorandum, by Mrs Gatterer[1]

Introduction

1. This report addresses the need for a dynamic social policy for children and adolescents in town and cities and, in particular, the concern that young people in towns and cities are becoming increasingly anti-social. The many social ills connected with urban life and the emergence of suburban ghettoes include child violence; juvenile delinquency (sometimes involving very young children), the possession of weapons and drugs and their availability, particularly in educational establishments, street children, a worrying increase in certain diseases, the disappearance of public-spiritedness, the lack of participation in political life, and the poor prospects and sense of disaffection of young people in unsightly and deprived suburbs.

2. Concern has also been expressed about the development of law enforcement policies which are in breach of the UN Convention on the Rights of the Child and, in particular, about the situation of children in prison, especially when awaiting trial. The fate of children in prisons provides particular justification for seeking alternative solutions that will safeguard their future in society.

1. Children in Europe: an overview[2]

3. In the countries of the European Union alone there are almost 80 million children between 0-17 years

1. The rapporteur is grateful to Professor Stewart Asquith of the Centre for the Child and Society at the University of Glasgow who assisted her in the preparation of this report.
2. Every member state of the Council of Europe has ratified the United Nations Convention on the Rights of the Child. For the purposes of this report a "child" is defined as being below 18 years of age as stated in the convention.

of age,[1] representing a fifth of the population of each of the member countries with the exception of Ireland where almost one third of the population falls within this age group. Projecting this figure on to the 800 million people in the member states of the Council of Europe, this report is then concerned with the life experiences and opportunities offered to 160 million children below the age of 18. There are also 65 million young people between 15 and 24 in central and eastern Europe. Apart from the importance of how the needs of children across Europe are met, this section of the population represents the future of Europe. The importance of their early life experiences is not then simply in helping to determine their adulthood but is directly related to their ability to participate in and influence the future of Europe as responsible citizens.

4. In discussions and literature about children and young people, two broad generalised perspectives can be identified, both opposing sides of what has been referred to as the "angels and devils debate". On one hand, children are seen as vulnerable and in need of support and protection from the various risks and threats posed to them by adults and the communities in which they live. On the other hand, they are seen as problematic and their behaviour with regard to others and to property is seen to be threatening, harmful and destructive, requiring a severe social reaction and punitive response. It is this threat of the increasing application of harsh law-enforcement measures against children that is also identified as not necessarily being an appropriate nor an exclusive option. Such a response also ignores the growing body of evidence available about the actual experiences of children and young people throughout Europe, evidence which clearly illustrates:

– that children and young people may well equally be the "victims" of harmful and destructive behaviour;

– that punitive and harsh responses may well be less effective than measures and policies which are directed at those factors which put children and adolescents at risk;

– that conceiving of children only as a threat has all the hallmark of the syndrome that Ryan[2] so long ago alerted us to, that of "blaming the victim".

5. No claim is being made in this report that children do not pose any threat. What is being claimed on the basis of the evidence available is that to claim only that they are a threat and that their socially disruptive behaviour should be the subject of harsh law-enforcement responses ignores the social conditions in which many of our children live and grow up.

6. What the punitive response also ignores is that the life experiences of many of Europe's children have to be considered in the context of rapid social and economic transformation which has imposed the consequences of severe poverty on many families and children in Europe, especially in central and eastern Europe.[3] Though the UN Convention on the Rights of the Child is recognised as being the convention most ratified in the history of human rights, countries faced various difficulties in providing children with the resources necessary to allow for their healthy growth and development. The matters addressed here concern not only countries in central and eastern Europe as many countries in western Europe have also been criticised for the high levels of poverty experienced by their children.[1] It is a matter of fact that many children and adolescents in Europe still experience considerable suffering, abuse and exploitation and live in conditions which deny them the basic social and civil rights afforded to them by the UN convention.

7. Any review of the life experiences of children and adolescents in Europe clearly reveals that they are as likely to be "at risk" as to pose a risk. Even where they do pose a risk there are identifiable factors which have to be addressed if a "dynamic social policy for children and adolescents" is to be meaningful and effective not only for children themselves but also for the communities and societies in which they live.

8. A dynamic social policy has to recognise that the dividing line between children and adolescents as victims or perpetrators is a very thin one. Many children and adolescents are themselves the victims of violence and offending behaviour, especially those living on an urban estate, many children suffer from physical and domestic abuse, sexual abuse has increased, many children are the victims of war and conflict in various regions, or of economies and social frameworks in a state of collapse.

9. Even in relation to those children who are criminal offenders, to see them simply as perpetrators ignores the powerful risk factors that propel them into offending behaviour from the earliest age.

10. "The impact on families of increasing levels of unemployment, poverty and the breakdown of social welfare and social security systems puts many children at risk."[2]

11. If states fail to address factors which marginalise many families and their children and which inhibit them from participating in social and democratic life, then generations of children will continue to be excluded from mainstream social life and be subjected to growing social inequalities.

12. In this report, a general profile is presented of the experiences of children and young people in Europe. Though a number of categories are employed, none of them should be considered in isolation from the others. It is impossible to assess the significance of offences by children and young people without taking into consideration other aspects of their lives – their living conditions, their health profile, their ethnic origins and so on. All these factors have important implications for the development of a truly "dynamic social policy".

1.1. *Growing up in cities*

13. This report is largely concerned with the development of a dynamic social policy for children and ado-

1. Micklewright, J. and Stewart, K., *Is Child Welfare Converging in the European Union?,* Innocenti Occasional Papers, Economic and Social Policy Series, No. 59, Florence 1999.
2. William Ryan, *Blaming the Victim,* Orbacjh and Chambers, London, 1971.
3. See ed. Zouev, A., *Generation in Jeopardy, Children in Central and Eastern Europe and the former Soviet Union,* Unicef, 1999, and also Monee Regional Monitoring Report, No 7. "Young People in Changing Societies", Unicef, Florence 2000.

1. See, for example, in reference to the United Kingdom, http://www.cpag.org.uk
2. Asquith, 2000.

lescents in towns and cities. The very nature of the urban environment and the implications it has for the life experiences of children, adolescents and their families have to be taken into consideration in the development of a policy which is both effective and sensitive. One of the most important sources of information on the experiences of children and young people in urban environments can be found in the Unesco Most Programme "Growing up in cities".[1] The programme has a large number of projects seeking to improve the experience of children in towns and cities, all based on a common set of objectives.

In industrialised countries, a half to three-quarters of all children live in urban areas. In the developing world, the majority of children and youth will be living in urban areas in the next few decades. Yet across a wide range of indicators, cities are failing to meet the needs of young people and their families.

– What does the process of urbanisation mean in the lives of young people?

– From young people's own perspectives, what makes an urban neighbourhood a good place in which grow up?

– Can cities be positive places for young people – places that support and nurture their development as constructive, contributing members of a civil society?

"Growing up in cities" is a global effort to understand and respond to these and other questions, and to help address the issues affecting urban children and youth. It is a collaborative undertaking of the Unesco Most Programme and interdisciplinary teams of municipal officials, urban professionals, and child advocates around the world, working with young people themselves to create communities that are better places in which to grow up – and therefore, better places for us all.

14. The nature of the urban experience for children and adolescents will vary from city to city and will display considerable change over time. Nevertheless, there are a number of features common to the urban context which must necessarily be accommodated within a dynamic social policy. For example, since the 1960s, the development of towns and cities has been characterised by the creation of large urban estates (often with large tower blocks, housing a large number of the community); by significant change in the layout and development of cities (such that they often share the features of a non-residential centre surrounded by shopping facilities and suburban estates); a commitment to meeting the requirements of traffic management in order to improve the safety of children; the housing of poorer sections of the community (often including immigrant or "incoming" populations) in particular areas or estates; and associated with the above, a breakdown in the relationship and trust between forces of law and order and local communities.

15. The layout of modern towns and cities often fails to meet the very specific needs of children and adolescents in terms of play and leisure facilities and, conversely, increases the risk of them becoming involved in offending behaviour from an early age. Children in towns and cities (especially in the more deprived areas) are more likely to become involved in drug-associated behaviours; have poorer health profiles; have a greater risk of involvement in road traffic accidents; have a greater chance of being caught up in violence either as perpetrator or victim; and be less successful in the labour market. The way in which the urban environment is managed is of crucial importance to the well-being and prospects of many children and adolescents in Europe.

16. Nevertheless, the nature of urban life should not be seen simply as presenting negative experiences for children and adolescents only, as difficulties are faced by many citizens, especially by minorities, women and elderly people. Any attempt to address the negative aspects of urban living has to be seen in the context of a broad policy designed to meet the needs of all citizens and not of any one particular group isolated from another. Marginalisation and social exclusion are the experiences of many of our citizens regardless of age. A dynamic social policy for children and adolescents, with the aim of reducing those factors in the urban environment which put children at risk, cannot simply be addressed by housing, environment, social, health, education, and policing policies. What is required is a multidisciplinary and multisector approach, involving all those agencies which are involved in the management of towns and cities. For example, the criminal justice system by itself will never reduce or prevent offences by children and adolescents. Rather, the criminal justice authorities can only reduce offences by children and adolescents if they share common objectives and work in partnership with other agencies in charge.

17. The "Edinburgh community safety partnership" may serve as an example by illustrating a multisectoral approach addressing community-based problems:

"[….] various groups have been formed to define, carry out and follow up the required actions. Young people, women, ethnic and sexual minorities and business security are themes handled by these groups. The groups are the outgrowth of a broader entity, the 'Edinburgh community safety partnership' headed by a local council member who also chairs the police liaison office. This entity includes the police and fire brigade, tenants, enterprises, the chamber of commerce, senior citizens' representatives and the chairs of each working group".[1]

What the "Edinburgh community safety partnership" also reflects is the commitment to finding solutions to difficulties associated with the urban environment and living in an urban environment which is based on social inclusion, social justice, the need for partnership and the recognition of the fact that the physical environment impacts significantly on the social and economic context in which citizens live.

18. The need to involve the community when addressing the problems that arise within towns and cities is accommodated within major crime prevention pro-

1. http://www.unesco.org/most/guic/guicmain.htm.

1. "Security and crime prevention in cities: setting up a European observatory", report of the Committee on the Environment and Agriculture, rapporteur: Mr Jean-Marie Bockel, Doc. 9173, 11 July 2001.

grammes such as the Communities that Care Programme,[1] reflected in national policy statements on social inclusion,[2] and is embodied also within Council of Europe statements.[3]

19. A good example of a partnership between the community and the relevant agencies working within a particularly deprived area is also Fare, a project designed to assist families and young people. Two comments from members of Fare[4] are particularly revealing – the first one is from a child, the second one is from a parent:

"The gang fighting was really bad when I was younger. Luckily I didn't get involved. My brother was in the local gang and nearly died of a stab wound to his lung on Christmas Eve" (Bobby).

"Fare has been a good thing for me. It's kept me busy and helped me stick to a routine, getting up and coming into work each day. Fare is good for the kids too, keeping them off the streets. I wish there had been something like it when I was a kid" (John).

20. For those towns and cities in central and eastern Europe which are undergoing rapid social and economic development, the concerns regarding the experiences of children and adolescents are even greater because of the rapid growth in the numbers of street children and children living on the streets, the growth in drug-related behaviour, the extent of sexual exploitation and trafficking of children; and the serious lack of necessary financial and other resources.

1.2. *Crime and violence*

21. In western Europe there is evidence to suggest that rates of offending by children and young people are stable, especially when reference is made to minor offences and offences against property. Nevertheless, there are a number of trends which have to be acknowledged in the development of appropriate responses. First, there is in some countries a sharp increase in violent behaviour committed by children and young people, though, it has to be said, these are still the minority of offences. There is also some evidence that girls are increasingly involved in offences involving violence though again, reflecting the relative invisibility of girls in the juvenile justice and criminal justice systems, numbers are low. It has to be remembered, of course, that juvenile justice systems themselves are largely designed to deal with offending by males and many of the concepts embodied within them reflect that. But the main implication of the increase in violent offences and the stabilising of others is that juvenile justice systems around Europe are adopting an increasingly "twin track" approach. This means that, firstly, systems are designed such that the majority of young offenders are dealt with by non-judicial/non-formal measures and processes and the minority of those involved in the more serious offences and behaviours are dealt with by more formal and more severe forms of sanctions. Cases such as the Bulger case in the United Kingdom have had a dramatic effect in influencing responses to young offenders in general right across Europe. What also has to be said is that the fear or insecurity felt by members of the community at serious offending by children and young people, because of the role played by media and others in their portrayal of young offenders, may be disproportionate. Secondly, it does appear that children and young people are tending to become involved in offending behaviour at a much earlier age. This again will have important implications for the development of a truly dynamic social policy as many children become involved in offending before they reach the age of criminal responsibility.

22. In terms of the countries in central and eastern Europe, crime rates in general have escalated dramatically and, accordingly, offending by children and young people has also increased sharply. What is perhaps more worrying is that children and young people are increasingly involved in offences of violence, often involving weapons. The suggestion has also been made that young people in many central and eastern countries are implicated in serious and violent behaviour because of their association with organised crime. The general point to be made here is, of course, that no gross generalisations should be made about offending by children and young people in Europe and about how to respond to it without taking into consideration the very different social and economic conditions in which children and their families live.

23. Though some children and young people right across Europe are involved in violent behaviour, it is also the case that children and young people are more likely to be the victims of violent behaviour than perpetrators. We know that children are victims of violence at the hands of their peers but they are also the victims of abuse and exploitation by adults and very often by the "violence" done to them by our very social institutions themselves.[1]

24. What is also well known by now is that those children and young people who resort to violent behaviour, whether against others, property or even themselves, are very likely to have been influenced by the levels of violent behaviour experienced within their families or at the hands of their parents.

25. There is clearly a movement in some European countries for harsh responses to the behaviour of our children and young people. Nevertheless, it is now well known that there are clear "risk" factors which help determine whether a child becomes involved in offending behaviour or not, and if our policies are to resolve in a meaningful way the problem of offending and violent behaviour by the young then they have to address these in order to reduce the risks. Known risk factors associated with delinquent behaviour inevitably include poverty, unemployment, violent households, poor parental support, negative early life experiences, etc.

26. One of the major preoccupations of most systems of juvenile justice in Europe is with the numbers of children who have committed offences and who are

1. For more detail on the Communities that Care Programme see http://www.cp.state.pa.us/.
2. See Social Research Bulletin No. 2, http://www.scotland.gov.uk/library2/doc07/sir02-00.htm.
3. "Crime and urban insecurity in Europe: the role of local authorities CLRAE", Recommendation 80 (2000), draft reply (CM/Del/Dec (2000)719/12.1 and (2001)744/1.1, CM(2000)100 and 186 addendum), http://www.cm.coe.int/dec/2001/745/126.htm
4. For information on Fare see http://www.fare.org.uk. Particularly interesting is the book produced by members of the community relaying their experiences in a deprived area and the benefits of Fare.

1. *"Souffrances et Violences à l'Adolescence";* synopsis of a report by Claude Bartolone, Deputy for la Ville, November 2000.

detained in an institution either as a sanction or on remand prior to appearance in court or prior to the announcement of sentence or measure. Again, the effect of such cases as the Bulger case in the UK, or even the Silje Redergard case in Norway,[1] is the search for appropriate measures for those children who commit serious offences and the questioning of the role of custodial confinement. And in central and eastern Europe[2], in particular, it is still the case that many children who offend are held in custodial settings; that there is still a political mind-set in which custodial confinement is a preferred option – especially in the light of the escalating crime rates referred to above; and that resort to formal judicial proceedings and custody is not unusual. This is also in contrast to the requirements of international law and internationally recognised standards for children in the justice system[3] where custody should be used only as a last resort; where formal proceedings should be avoided as far as possible and where custody or confinement should be used for as short a time as possible. This is clearly one of the areas in which, in Europe as a whole and not just in central and eastern Europe, the rights afforded to children by the UN Convention on the Rights of the Child may well be denied.

1.3. *Street children*

27. It is difficult to estimate the actual numbers of street[4] children or children on the streets and any figures offered have to be treated with caution and as a probable underestimate. Some figures are available – for example, the figure in Romania is put at about 3 500 children, in Poland at 5 000, the Czech Republic at 1 300, and Hungary at 1 200[5], though these are recognised as gross underestimates.

28. It has also been argued that in the Russian Federation[6] the figures have reached proportions not seen since before the second world war. Figures for the Russian Federation have been put at 1 000 000 children being homeless with 60 000 of these in Moscow alone. And again, though exact figures are not stated, the Baudouin Foundation[7] has no doubt at all that in Europe as a whole the phenomenon of street children has increased dramatically in recent years, especially in central and eastern Europe. Nor is it a new problem but it is one that has increased substantially in the wake of the rapid social and economic transition of many countries where the social welfare framework is unable to respond adequately.

29. The rapid transition of many countries has put more and more children at risk of ending up on the streets because of poverty, unemployment, family breakdown, divorce and separation, homelessness, displacement, separation from parents, etc. What is equally important is that children are not only subjected to the impact of such negative life experiences but that this also occurs in a context: the loss of the social welfare and health provision which was previously available – quite often on a universal basis. So, children and their families not only experience the negative effects of social and economic breakdown on their families but also the breakdown of major social and welfare institutions.

30. From research done on the experiences of street children, it appears that 14 to 17 year olds constitute the largest group of children on the streets, though Bulgarian studies suggest that 5% of all street children interviewed were under the age of 10. Further, in many countries – "the former Yugoslav Republic of Macedonia", Romania, Poland, Hungary and Bulgaria – a large proportion of street children come from Roma/Gypsy families. In the Baltic Sea states, particularly Lithuania, Latvia and Estonia, there is an over-representation of the ethnic minority groupings – especially of the Russian-speaking groups.

31. It is also perhaps not surprising that street children tend to congregate in the larger cities and towns, especially near railway stations and other areas where there is a large body of people. This is because of the opportunities afforded for begging and also for selling sexual services. Sexual exploitation of street children is a major concern with severe consequences for the children involved. One study of street children in Romania discovered that 27% of all girls who were living on the street and who were interviewed for the study had been raped. Many others, often quite young, had been involved in the selling of sexual services. Reports are also known of children as young as 12 selling their younger sisters on the streets of Moscow for sex.[1]

32. Examples of projects funded by NGOs and local and central governments are illustrated through the work of the Baudouin Foundation in a number of central and east European countries, including Latvia. The project offered by the Latvian Youth Movement[2] is of particular note. The project aims to provide social rehabilitation to street children through direct communication. It targets young people up to age 18 who live in old Riga and who hang out in the streets.

33. Studies based on interviews with street children in central and eastern Europe show that despite their current lifestyles children on the street show a wish to have more conventional lifestyles, better educational opportunities, better relationships with their families, and better employment opportunities. This is particularly revealing for any future policy of support and assistance, though street children show a great reluctance to give up their life on the streets if it means giving up their independence and the support of their peers.

34. With the breakdown of the social welfare infrastructure in the respective countries, it is also the case that many children on the streets are there not because

1. For a comparison of the Redergard and Bulger cases see, Asquith, S., "When children kill children", *International Journal of Childhood,* 1998.
2. See Cappelaere, G., et al., "Report on Juvenile Justice in Albania", Unicef, 2000
3. Standards embodied for example, in the UN Convention on the Rights of the Child, the UN Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), the UN Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) and the UN Rules for the Protection of Juveniles Deprived of their Liberty.
4. It is important to differentiate between those children who live on the streets and those who may live at home but live "off" the streets in the sense of earning a living, legally or illegally.
5. See Baudouin Foundation, "Street Children and Children on the Streets", 2000.
6. Sidorenko-Stevenson, S., *The Abandoned Children of Russia – from privileged class to underclass,* SSEES, London, November 1998.
7. See Baudouin Foundation, "Street Children and Children on the Streets", 2000.

1. Asquith, S., "Notes from a Council of Europe mission to the Russian Federation".
2. "Street children; children on the streets", Baudouin Foundation, pp. 37-38 and pp. 73-79, 2000.

they have been failed by their families as such but because the welfare institutions in which they may have been housed were poorly staffed, poorly equipped, sites of abuse and exploitation and generally lacked the facilities and resources to assist children. For many children, life on the streets is then more appealing than the life they experienced in institutions and in care.

35. The future projection for many countries is that the scale of the phenomenon of street children may well increase because of continuing economic and social decline, the absence of material resources and qualified personnel, the closure of large state institutions with no substitute care offered, the failure to develop policies and measures to meet the needs and aspirations of street children and the possible increases in the numbers of displaced children in the context of the Balkan conflict in particular.

1.4. *Children and health*

36. Concern has already been expressed about the nature of the violence that children and young people may inflict on others, often on their peers. What has to be equally acknowledged is that there is an increase in many European countries in the harm that children and young people inflict on themselves. Micklewright and Stewart point out that in the European Union, after traffic accidents, the second most common cause of death for those in the 15 to 24 age group is suicide. Further, although road traffic deaths for this age group are in decline, the average suicide rate has grown by 40% since 1970. Four time as many young men are affected as young women. Moreover, the suicide rates vary greatly across Europe with Finland and Austria being amongst those countries with the highest rates and Italy amongst those with the lowest.

37. In central and eastern Europe, the numbers of suicides by children and young people are also rising at alarming rates. In the Czech Republic, the number of children below 14 who attempted suicide more than quadrupled. In Latvia, Lithuania and the Russian Federation could be found the highest suicide levels: for every 100 000 teenagers in 1994 aged between 15 and 19 in the Russian Federation, over fifty committed suicide. Again, boys are much more likely (five times so in the case of Belarus, Hungary and Poland) to commit suicide. A particularly disturbing and perhaps revealing figure is that one child in ten released from an institution in the Russian Federation attempts suicide within six years.[1]

38. As regards other health variables, and taking a truly pan-European perspective, note has to be taken of the fact that in many countries where resources are scarce or have been withdrawn children are increasingly subject to a deterioration in their overall health with the reappearance of those infectious diseases which have largely been controlled in western Europe. These include polio, tuberculosis and diphtheria, with HIV and Aids increasingly impacting on children and young people. There is also evidence to suggest that both maternal and child health have deteriorated with mothers, in particular, subject to deficiency in a number of nutritional requirements. The point is made that poor diet, smoking and alcohol consumption amongst women and especially expectant mothers may well account for low birth weight in a number of central and east European countries. What is well known, of course, is that low birth weight is a major determinant not just of survival but of life chances in general and can affect children's later social, health, and educational profile.

39. Nor can it be assumed that it is only in central and eastern Europe that children's health is being compromised by poverty. The experience of many children in western Europe is still one in which poverty impacts on their life experiences[1] and where there is increasing concern about the reappearance of infectious diseases which at one time were assumed to have been eradicated.

40. Of particular concern has to be the reporting of increased levels of drug use in the European countries with, again, figures from central and eastern Europe being a major concern: as many as 1 500 000 people are noted as being registered in the Russian Federation as drug addicts, in Ukraine almost 20 000 minors were reported as being drug addicts in 1995, in Hungary in 1992 the first schoolchildren underwent treatment for heroin addiction.

41. Presenting a general statement on drug misuse, Zouev states:

"Substance abuse rates are higher among marginalised youth, children living and working on the streets and children of minorities, particularly Roma/Gypsy. Among runaways and homeless children, marijuana, glue and solvent sniffing …. help ease hunger pains and dull emotions. Studies show that substance abuse amongst youth is usually associated with other risk-taking behaviours such as unsafe sex, teenage pregnancy, crime and delinquency, problems that affect young lives well into adulthood".[2]

1.5. *Education and the labour market*

42. In terms of the educational opportunities afforded children and young people across Europe, a number of significant features can be identified as pertinent to this report. In particular it is clear that those children who are "vulnerable" within education systems are those:[3]

– who come from economically disadvantaged families;

– whose parents have limited educational experience;

– who come from ethnic minorities, migrant groups or travellers.

43. Moreover, the expansion of the educational sector is not uniform across Europe with the opportunity for education at secondary level not being uniformly available to all children. Also, there is clear evidence that family

1. This section draws on ed. Zouev, A., "Generation in Jeopardy, Children in Central and Eastern Europe and the former Soviet Union", Part II, Unicef, 1999, and also Monee Regional Monitoring Report, No. 7, "Young People in Changing Societies", Unicef, Florence, 2000.

1. See Child Poverty Action Group briefings at http://www.cpag.org.uk.
2. Ed. Zouev, A., "Generation in Jeopardy, Children in Central and Eastern Europe and the former Soviet Union", Unicef, 1999, p. 31.
3. Ed. Furlong, A., *Vulnerable Youth: perspectives on vulnerability in education, employment and leisure in Europe,* European Youth Trends 2000, Council of Europe Publishing, 2000.

background is still highly correlated with educational attainment, children from more disadvantaged backgrounds being less likely to be high educational achievers. The further implication of this is that those children who leave school without strong qualifications are, of course, disadvantaged later in the labour market. In terms of the differences between boys and girls, it does appear that though gender differences in educational attainment are diminishing there is a clear gender bias in terms of the subjects studied by girls and boys respectively. There is, of course, continuing concern that even for those girls who are highly educated, in most European countries it is still the case that the "glass ceiling" is encountered. As a very recent example, many women staff at the University of Glasgow have pointed out that although more and more girls are entering higher education as students, even within the university sector it is very difficult for women to proceed up the career ladder.[1]

44. What we also know[2] is that no matter what emotional support is given by parents to children in those families where financial support is not forthcoming, the chances of a child or young person going right through the educational system to university or other forms of higher education are considerably reduced. The link between poverty, educational attainment and the labour market is well documented. The lack of available resources in general but for education in particular in many central and east European countries does mean that many European children are doubly disadvantaged by living in poverty but also by not having adequate educational facilities available to them. Even where educational facilities are available, the experience in a number of countries is of high truancy levels as families question the value of education in the context of extreme poverty and the necessity for children to work in order to help the family survive.

45. The importance of the school and the education system in general is, of course, not just because of the opportunities it affords to children to compete in the labour market but equally because of the role the education system plays in preparing children for democratic citizenship; promoting respect for cultural diversity; and promoting understanding of cultural diversity as a means of addressing racism and xenophobia amongst young people.[3] Nor should concern with xenophobia and racism be seen as an issue only for those countries where ethnic conflict has surfaced, most noticeably recently in the Balkans, as it is a feature of many countries right across Europe where the growth of extreme right-wing political movements has attracted many young people. The movement of large bodies of people and the growth in numbers of those seeking political asylum and the association with racism and xenophobia has been the subject of a recent report which again identifies the problem of racism as one of countries right across Europe.[1]

46. The problem facing children in the labour market when they leave school is of course that those who have few skills or qualifications will inevitably be disadvantaged in what has become a highly competitive and qualification-driven market. The absence of school-to-work transition arrangements[2] and the inability of many countries to afford young people sufficient financial support at this highly critical time in their lives makes it difficult for many children and young people to compete effectively and meaningfully in the labour market. Referring not just to those countries which have poor transition arrangements, Furlong et al.[3] can clearly state that "in many countries, unemployment has become a normal part of the transition from school to work".

1.6. *Leisure*

47. Furlong et al.[4] point to the importance of the constructive use of leisure time for children and young people and urge that it be seen as an integral element in their social and personal development – not as something children and young people indulge in when they have nothing else to do. What they also point to is that, in any case, the image of children and young people having large amounts of leisure time and freedom to do what they want may well be a distortion of the real situation. Because of the perceived lack of financial support for older children, the rigidity of social welfare and benefit systems, and the increasing need to work either on a part-time or full-time basis, many young people increasingly find themselves with little free leisure time.

48. For younger children the importance of the opportunity for play is seen as a vital element in the healthy growth and development of children but which may well be inhibited by the nature of the physical and social environment of the towns and cities in which many of our children live. Fowler and Dowdall both illustrate the importance of projects which afford young children in disadvantaged areas the opportunity for structured play[5] not only as a means to both promoting their healthy growth and development but also to addressing the effects of the social exclusion experienced by many children who live in the more deprived and physically less attractive areas in towns and cities.

2. Current measures and policies and the UN Convention on the Rights of the Child.

49. Every member state of the Council of Europe has ratified the UN Convention on the Rights of the Child though it is clear that no country in the world has been able to fully implement the articles in the convention.

1. Newsletter, University of Glasgow, 30 March 2001.
2. See http://www.leaps.ed.ac.uk for a description of a programme designed to address the more negative aspects of disadvantage on educational attainment.
3. *Education for democratic citizenship: Examples of good practice in member states,* Directorate of Youth and Sport, Council of Europe, http://www.coe.fr/postsummit/citizenship/practices/exemples.bil.htm. The significance of this publication is that as well as identifying good practices in member states in western Europe, this document also points to good practice in a number of countries in central and eastern Europe including Albania, Croatia, Hungary, Lithuania, Slovakia, and Ukraine.

1. The European Commission against Racism and Intolerance (ECRI) – new reports on Albania, Austria, Denmark, "the former Yugoslav Republic of Macedonia" and the United Kingdom, Council of Europe website, www.coe.int, 3 April 2001.
2. Especially in countries in central and eastern Europe.
3. Ed. Furlong, A., *Vulnerable Youth: perspectives on vulnerability in education, employment and leisure in Europe,* European Youth Trends 2000, Council of Europe Publishing, 2000, p. 5.
4. Ibid., p. 51.
5. See Fowler, K., "The Jeely Piece Club", Honours Dissertation, University of Glasgow, 2001, and also Dowdall, B., "Govan Pals", Honours Dissertation, University of Glasgow, 2001.

Nevertheless, many current developments in terms of policies and practices relating to children reflect a commitment to the philosophy inherent in the UN convention. There is also a degree of convergence between the commitment to the rights of the child and the recognition that if the life experiences of children are to be enhanced and improved then:

– measures have to be developed and promoted for all children;

– the earlier the intervention in the lives of children the better;

– resources have to be directed more at preventive measures and policies;

– the distinction between those children who are offenders and those children who are at risk is a thin one;

– measures and policies for children are more effective if they involve a multidisciplinary approach and involve all agencies and bodies concerned with children and young people;

– measures and policies for children and young people have to be based on the actual experiences of children and young people, otherwise they may be inappropriate and ineffective.

50. All are premised on the commitment to adopting a child-centred approach – the implication being that no one agency alone can meet the needs of children.

The UN Convention on the Rights of the Child relates to all children. It promotes the rights of each and every child irrespective of race, creed, gender, etc. Two points have to be made in this respect:

i. although this report is concerned about children who may be said to have experienced the more negative aspects of urban living, a dynamic social policy can, nevertheless, not only be for those children. A truly dynamic social policy must also address the needs and promote the rights of all children and adolescents. For example, drug-related behaviour and offending is not only associated with children from deprived or disadvantaged areas but is distributed throughout the population of children and young people. Mental health problems of children and adolescents are not simply correlated with poverty and disadvantage. In central and eastern Europe, the rapid social and economic transformation (and in many cases decline) of many countries has contributed to the mental health difficulties of the young, equally, there are many children from more affluent groups of the community who experience mental health problems, depression and suicidal tendencies. It is not simply an economic-related phenomenon, though more research and information is needed on the factors which predispose those children from more affluent families to offending behaviour, drug-associated behaviour and mental health problems. What also has to be of concern is that there is some evidence to suggest that the gap between those from "affluent" and "deprived" or "poor" backgrounds is wider now than ever before. This may well increase social tension and conflict between the different groups and also be reflected in the nature of the environment in which both groups live;

ii. the other point to make is that a dynamic social policy, based on the UN Convention on the Rights of the Child, has to recognise very important gender differences. Many of the policies in the crime and offending field, for example, have been devised to address the behaviour of boys and less so of girls. The policies and measures developed to deal with young offenders; the development of juvenile justice and the use of custody for young offenders have all been based on very clear gender lines and are clearly male/masculine-based policies. A dynamic social policy has to recognise the differences between the life experiences of boys and girls and the way in which the education system, criminal justice system, health system, and labour market all cater (or fail to cater) for the very different needs of boys and girls. The risks to which girls may be exposed in terms of sexual exploitation and violence, their ability to participate in the educational system and labour market, their ability to make decisions about their own lives, sexuality and futures may vary greatly from boys in terms of their age, economic status of their families; and ethnic membership. One important issue that needs to be addressed is in regard to family planning. As discussed above, this relates not only to girls or boys from deprived backgrounds, as the dimension of gender cuts across a number of social groups. A dynamic social policy committed to the UN Convention on the Rights of the Child has to accommodate such important differences.

a. *Offending by children and young people*

51. A number of trends can be identified in the development of crime and delinquency prevention programmes. In particular, these include a commitment to early preventive programmes,[1] the involvement of the community and local authorities in community crime prevention,[2] the development of non-judicial measures for those who offend[3] and the development of community-based alternatives to custody for children.[4] What is clear is that right across Europe there is a recognition that juvenile justice or criminal justice agencies will of themselves not resolve the problems posed by or experienced by those children who offend or who are at risk of offending and that what is required are programmes that address those factors which are known to put children and communities at risk of offending.

52. Further, in recognition of the importance of community and urban variables in putting children at risk, community programmes demand that resources be provided by both local and central government authorities, that the physical design of the environment be addressed in order to make "safe streets" and that alternative means of dispute resolution be identified. They also require the breaking down of traditional boundaries

1. See Asquith, S., Buist, *et al,* "Children, Young People and Offending" for a comprehensive review of crime prevention programmes, early intervention programmes and family support programmes, *The Scottish Office,* 1998.
2. See "Examples of Community Crime Prevention Programmes", United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Vienna, April 2000.
3. See "Juvenile Justice", *Innocenti Digest.*
4. See Walgrave, L. and Mehlbye, J., *Confronting Youth in Europe,* AKF, Denmark, 1998.

which have in the past separated the work of policing, welfare agencies and the community.

53. Though community-based prevention programmes are perhaps most developed in western Europe,[1] many new developments in central and eastern Europe and in the Russian Federation reflect the commitment to such initiatives – the attraction being that they are considered in the long run more effective and economic in the prevention of crime, are usually one element in a programme of measures for children and are an important element in social reconstruction. For example, in Albania, Unicef has established a Mayors' Defenders of Children Programme,[2] in the Russian Federation, innovative programmes designed to keep children and young people out of custody are being implemented,[3] the Council of Europe is also seeking to develop community-based programmes for children in Moldova; programmes premised upon a commitment to mediation and restorative justice have been considered in Bosnia and Herzegovina.

54. The main point to be made here is that the prevention of offending by children and young people or the reduction of the risk that children will offend will be much enhanced by the development and adequate resourcing of community-based programmes. And, as discussed earlier, since many children and young people are themselves the victims of offences, the net effect of such measures is also to make streets safer for others. Just as important as the reduction of crime is the reduction of the fear of crime.

b. *Early intervention programmes*

55. But early intervention programmes are not simply about the reduction of offending, as already discussed – they have a much broader objective in that they are generally also designed to ensure that children have positive life experiences from as early as possible. Early prevention programmes are also generally designed to ensure that children have a socially and physically healthy childhood which will prepare them for adulthood and allow them to realise their own and also their community's potential.

56. In particular, the recognition of the significant negative effects across Europe of disadvantage and poverty on the lives of children and their families is a prime consideration underpinning programmes such as family support programmes, parenting programmes and programmes which afford children the opportunity to learn and play in a constructive use of their leisure time.[4] The fact that many such programmes involve the community itself also identifies the importance of "empowerment" of members of communities (including children and young people themselves) and their active involvement in the enhancement of the lives of their children.

1. See Walgrave, L. and Mehlbye, J., *Confronting Youth in Europe,* AKF, Denmark, 1998.
2. *Albania – Annual report,* Unicef, 1999.
3. Westwater, G., "Throughcare Services to Vulnerable Children returning to the Community from Closed Institutions", draft report, 2001.
4. For good examples of programmes designed to address the difficulties faced by children and young people in their communities see the report on "Strategic and Technical Assistance Public Safety for Countries, Regions and Cities", International Crime Prevention Centre, http:// www.crime-prevention-intl.org/english/assistance/index.html.

c. *Education*

57. Education and the school clearly have a vital role to play in preparing children for a healthy and fulfilling adulthood, in preparing children for the labour market, instilling values of respect for others and for cultural diversity, and in promoting democratic citizenship and the ability of children and young people to play their part in that. What we know is that for some member states even the provision of basic resources is a priority as for many children educational facilities – where they do exist – may well lack basic amenities and materials. In that respect, the Council of Europe's own programme since 1991 to support the post-communist countries in central and eastern Europe to reform their education systems is of particular relevance.

58. In western Europe, policies addressing disadvantage through the education system have attached importance to early provision programmes for pre-school children involving parents and families, and identified the school as a vital element in the community and an important resource for developing community-based initiatives. In recognising what was referred to earlier as the difficult period of transition to work for many school children – especially those from disadvantaged areas, and also the problem faced by children whose parents cannot allow them to stay on at school for financial reasons, some countries[1] have introduced a scheme whereby children are paid to stay on at school to realise the necessary skills and experience to allow them to effectively compete in the labour market.

59. Similarly, the Lothian Equal Access Programme[2] for schools provides children and young people from disadvantaged areas with an assisted route into higher education and draws on volunteers from the student population to assist young people in the transition from school to university.

60. What such schemes reflect is the way in which the education system can assist children from disadvantaged areas and also reflect a more socially inclusive philosophy. The question that must also be addressed, though, is whether the education system of European countries can meet the aspirations and skill levels of those children and young people who do not wish or who are not qualified to go to university or higher education. Furlong et al.[3] note their concern about the way in which vocational training is less resourced and is somehow seen to be less important.

d. *Youth inclusion programmes*

61. One of the themes in this report is that measures and policies for children and young people cannot simply be the prerogative of one agency or body but require a multi-agency approach involving children and young people themselves. One of the best examples of such a programme is undoubtedly the Edinburgh Youth Social

1. See in particular *The Scotsman,* March 2001, in which it reports on the decision of the Scottish Parliament to provide some children with an allowance to stay on at school. The argument made by the Minister Wendy Alexander is that such a small outlay far outweighs the cost when the earning and social potential for the children concerned is taken into consideration.
2. See http://www.leaps.ed.ac.uk.
3. Ed. Furlong, A., *Vulnerable Youth: perspectives on vulnerability in education, employment and leisure in Europe,* European Youth Trends 2000, Council of Europe Publishing, 2000.

Inclusion Partnership[1] which has developed a fully integrated and comprehensive set of projects designed to address the social exclusion of children and young people in all areas which touch their lives – health, housing and homelessness, the environment, leisure, education, employment and training, culture, and crime. The main objective of the programme is achieved by:

– developing means by which mainstream services can meet the needs of young people with experiences or circumstances, making them vulnerable to exclusion;

– developing models of inclusive provision;

– working with young people to identify what represents choice within integration and inclusion.

62. Acting as a clearing house and information source, it also provides young people with the necessary information and contacts to allow them more effectively to make decisions about their own lives. What this reflects, of course, is what a number of reports based on interviews with children and young people clearly illustrate – that children and young people are much more responsible and willing to be involved in social and political life than the stereotypes often held of them suggest.[2]

e. *Participation*

63. Article 12 of the UN Convention on the Rights of the Child states that children have a right to express their views and opinions in all matters concerning them. Just as there has been a number of developments in Europe based on the commitment to Article 3 of the convention which promotes the best interests of the child, so too have there been attempts to develop forums through which children and young people can influence decisions affecting their lives and be more politically active.

64. The example of the Youth Social Inclusion Partnership illustrates the way in which children and young people can responsibly and influentially work in partnership with agencies to address their own situation. Lansdown[3] identifies a number of ways in which children and young people can be involved in consultative processes and influence political agendas. These include: the presentation by children of the results of a study organised through Euronet at a seminar organised at the European Parliament; a multimedia consultation of children with disabilities with children trained and paid as researchers; youth councils in France (several hundred are in existence) through which young people articulate their concerns to local communities; involvement of children in the discussions about the design of a new children's hospital in the United Kingdom; school councils; Highfield School in the United Kingdom (characterised by high levels of violence, disaffection and bullying) in which the whole school community was involved in the transformation process; and the children' parliament in Slovenia. What is also known is that as many NGOs foster and promote the rights of children across Europe, so too has there grown a body of organisations and agencies run for and by children, on the model of the Article 12 association in the United Kingdom, which involves children in expressing their voice on matters that affect them.

65. The growth of new information and communication technologies has also seen the use of the Internet and the World Wide Web as a significant medium for the provision of information for children and young people and as an important medium through which they can express their views and also co-ordinate their activities. The power of the Internet is such that even for street children one organisation[1] had established a programme of "cascading" computers from large organisations for use by children on the street to assist in their learning, education and participation. What has to be acknowledged though is that there is considerable concern at the negative effects of the Internet on children through pornography and sexual exploitation generally. This is, of course, a serious matter but it does not in itself deny the valuable, more positive uses to which the Internet can be put as a co-ordinating tool.

66. The general point that can be made here is that any future developments in policies for children and young people have to recognise the importance of their own contribution to the social and political processes which affect them. Similarly, though there are many examples of ways in which their participation can be enhanced, future agendas will have to explore new innovative methods for their inclusion and participation. The danger, as Lansdown and Hart[2] point out, is that children's and young people's involvement can too easily become simply tokens and thereby meaningless unless adults learn to participate fully as well. There is little point in giving children a voice if adults are not prepared to, or do not have the mechanisms, to hear and include what they say.

3. Principles for a dynamic social policy

67. If a dynamic social policy is to be developed which is to meaningfully address the needs, rights and aspirations of children and adolescents in European towns and cities, it must be based upon and incorporate a number of principles – most of which derive from what has been mentioned before in this report. These include:

i. *Acknowledgment of the importance of measures and programmes which support parents and families in the parenting role*

Parenting is never an easy experience and providing children with the support and care needed to allow them to grow into healthy adults demands considerable skill and resources on the part of parents. The most powerful means of assisting children is to support their parents, particularly those who for some reason are unable to care for their children on their own in an appropriate way. Thus, the groundwork can be better prepared for children to realise their potential as individuals and later at school and in the labour market. Such support can also assist children to grow up with an approach to

1. See http://www.youthinclusion.org.
2. See for example *Vulnerable youth: perspectives on vulnerability in education, employment and leisure in Europe,* European Youth Trends 2000, Council of Europe.
3. See Lansdown, G., *Promoting Children's Participation in Democratic Decision Making.*

1. Eurokids is a pan-European organisation dedicated to assisting and supporting children who find themselves living on or off the streets. The proposal for Internet access was discussed at a meeting of the Council of Baltic Sea states project on "Children at Risk" in Visby, September 1999.
2. Hart, R., *Children's Participation: tokenism and rhetoric,* Innocenti Child Development Centre, Unicef.

resolving personal and family differences independently which does not involve resorting to violence and aggressive tactics.

ii. *Recognition that measures for parents and families at the local level have to be assisted by appropriate forms of support, through welfare and benefits schemes at governmental and national levels*

Support for parents and families can be provided by local authorities, voluntary organisations, etc., but consideration has to be given to the way in which the state supports families financially through the welfare and social benefits system. For many countries in central and eastern Europe, the situation of children and families has become more difficult with the collapse of the welfare and benefits systems.

iii. *The promotion of measures and policies based on partnership and the involvement of all sectors, local and national, public and private, and members of the community*

One of the key themes emphasised in this report has been that of "partnership", based on a commitment to the view that no single agency or authority will by itself be able to address adequately all those factors which put children and adolescents at risk. The involvement or "inclusion" of members of the community cannot be emphasised enough as an important element not only in reducing social exclusion and marginalisation but also in making policies more effective through local ownership.

iv. *The recognition that the risks faced by children affect many areas of their lives and that responses and measures should address the whole range of risks faced in the social and physical environment of the towns and cities in which they live*

Any policy for children and adolescents has to address the range of risk factors faced by our young people. This by definition requires that many of the barriers and obstacles to co-operation between agencies have to be addressed and identified in order to develop a truly coherent approach based on a common set of objectives.

v. *The need to develop, for children who offend, alternative forms of dispute resolution; alternatives to judicial processes, alternatives to custody; and community-based measures in line with internationally recognised standards for children in the justice system*[1]

The European and international criminological literature points to the failure of the custody system for young offenders and the importance of developing alternatives, not simply to custody, but to criminal justice intervention itself. The development of approaches to a policy of crime prevention based more on a social policy philosophy is seen to provide the basis for policies which are more effective; more cost effective; more meaningful for the young person and his community and which are in line with the principles embodied in the UN Convention on the Rights of the Child.

1. Standards embodied, for example, in the UN Convention on the Rights of the Child, the UN Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), the UN Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) and the UN Rules for the Protection of Juveniles Deprived of their Liberty.

vi. *The importance of the school in preparing children for adulthood and their role in civic and political society, in promoting values of tolerance and respect for others, and in addressing inequalities based on disadvantage and gender*

Schools are not simply a means of preparing children for the labour market but can also achieve other aims in the socialisation process of children and, as shown by the Fare project, are a focal point for the community.

vii. *The need to assist children and young people in the transition from school to employment and to provide them with the skills necessary for the labour market*

When children leave school, they encounter one of the most difficult periods in their lives as they seek to determine a career for themselves and to enter into the labour market. Any dynamic social policy has to recognise the importance of this period in the development of our young people and in preparing them for their adult lives.

viii. *Recognition of the importance of leisure pursuits for children*

For young children, playing is very important in assisting them to develop many of the social, personal and interpersonal skills which they will need later in their lives. Leisure pursuits in general are very important for children and adolescents in allowing them to develop physically and socially. Although such facilities are often provided, the quality is poor in many cases.

ix. *The importance of programmes and projects which assist children and young people address the negative effects of social exclusion and marginalisation*

Social exclusion and marginalisation are highly correlated with the failure of children to reach their potential and the risk that they demonstrate more negative forms of behaviour. Involving children meaningfully in social life also implies finding new ways of including them in decision-making processes and allowing them to participate in key policy developments.

x. *The recognition that there are serious resource constraints for some member states in the Council of Europe in developing and implementing new and innovative programmes*

The economic situation of some countries does not allow them to develop fully a dynamic social policy for children and adolescents. Although the promotion of a rights-based strategy demands resources, in the long run it is a cost-effective way to enhance the life experiences of children and to contribute to the growth of a healthy society.

xi. *Economies in transition*

Although in countries going through rapid social and economic transition, children and young people may be particularly disadvantaged, there are nevertheless many policies and practices in relation to children which should not be rejected. In particular, the role of the extended family can be identified as an important factor in the experiences of many children in central and eastern Europe.

xii. *A commitment to the promotion and implementation of the rights of children and young people in accordance with the UN Convention on the Rights of the Child. Further, the importance of establishing mechanisms by which policies affecting all areas of social and political life – employment, housing, crime, health, education, etc. – can be "child proofed"*

The UN Convention on the Rights of the Child, through the promotion of children's rights, emphasises the importance of positive life experiences for all children. The convention demands that these rights be recognised in all areas of social, civil and political life. For this reason, it is important that mechanisms be established which ensure that policies in all areas are consistent with a commitment to children's rights and to the importance of positive life experiences.

xiii. *The need for countries to promote the rights of children and to monitor their implementation through the offices of a child ombudsman or children's rights commissioner*[1]

The setting up of a child ombudsman or a children's rights commissioner would greatly assist in promoting the rights of children and in enhancing the life experiences of all children irrespective of race, creed, class, gender, etc. There are many different models in different countries of such offices and it is important to ensure that as much knowledge and information as possible about the most appropriate model is gathered and made available.

xiv. The need for the Council of Europe to establish a European child ombudsman to oversee policies and developments which impact the lives of children in Europe[2]

The establishment of a European child ombudsman is a recommendation of the Parliamentary Assembly.

xv. *The recognition of the positive values of the Internet, the World Wide Web and the new information and communication technologies in providing information for children and young people and in providing a mechanism for co-ordination of their activities*

The Internet can be criticised for the negative effects on children. Nevertheless, it is a cost-effective medium to be deployed in online training, in exchanging appropriate child-related professional expertise and in providing many children with easy access to information. Though there is an uneven distribution in Europe across countries and across economic groups, the Internet will become an increasingly important information provider for children. Consideration should be given to developing the use of the Internet as an information gathering and exchange mechanism on child related issues and policies for the Council of Europe.

xvi. *In recognition of the changing situation of children, young people and the countries in which they live, there is a need for up-to-date comprehensive and pan-European information on the lives and experiences of children in order to better form future policies and practices which affect them*

Policies designed to improve the experiences of children or to cope with the threats they pose to society often fail. These failures can very often be attributed to the fact that the policies bear no relation to the actual experiences of children. It is, therefore, important to gather as much information as possible about the actual life experiences, local policies and measures taken, because policies which may work and be successful in one country or one region may not be particularly effective in others.

xvii. *The participation of children and adolescents in the decision-making process and policy development*

Article 12 of the UN Convention on the Rights of the Child emphasises the right of the child to be involved in all decisions affecting his/her life. A dynamic social policy has to provide a possibility for children to participate meaningfully in the decision-making process and has to identify new and innovative ways to achieve this goal.

Conclusion

This report of the Council of Europe is one further effort to improve the situation of children and adolescents. Together with other international organisations, the Council of Europe will continue its work in this area, but will rely greatly on the member states to implement and realise policies and measures discussed.

1. See http://www.ombudsnet.org for a comprehensive statement of the role and work of child ombudsmen in Europe.
2. See Parliamentary Assembly Recommendation 1460 (2000) on setting up a European ombudsman for children.

Reporting committee: Social, Health and Family Affairs Committee.

Reference to committee: Doc. 8142 and Reference No. 2306 of 22 June 1998.

Draft recommendation adopted by the committee on 3 September 2001 (with 20 votes for, 5 against and 3 abstentions).

Members of the committee: *Ragnarsdóttir (Chair),* Hegyi, *Gatterer,* Christodoulides *(Vice-Chairs), Albrink, Alís Font, Arnau, Belohorská, Biga-Friganović,* Bilovol *(alternate: Stozhenko), Björnemalm, Brînzan, Brunhart,* Cerrahoğlu, *Cesário, Cox, Dees,* Dhaille, Dzasokhov, Evin, *Flynn,* Gamzatova, *Gibuła,* Glesener, Goldberg *(alternate: Michel), Gregory,* Gül, Gusenbauer, Gustafsson, Haack, *Hancock, Herrera, Høegh,* Hörster *(alternate: Hornung), Jäger, Jirousová,* Kitov, *Knight,* Lakhova, Liiv, *Lotz, Luhtanen,* Manukyan, Markovska, Marmazov, *Martelli,* Marty *(alternate: Schmied),* Mattei, Monfils, Mularoni, Naydenov, *Ölekas, Ouzký, Padilla,* Paegle, Pavlidis, *Podobnik, Popa,* Poroshenko *(alternate: Khunov), Poty, Pozza Tasca, Provera,* Rizzi *(alternate: Cioni),* Seyidov, Shakhtakhtinskaya, Smereczynska, Smirlis, Stefani, Surján, Telek, Tevdoradze, *Troncho,* Tudor, *Vella, Vermot-Mangold, Vos,* Wójcik, Zidu.

N.B. The names of those members present at the meeting are printed in italics.

See 25th Sitting, 24 September 2001 (adoption of the draft recommendation); and Recommendation 1532.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Report
Doc. 9193 – 10 September 2001

Observation of the Parliamentary Elections in Albania

(24 June, 8 July, 22 July, 29 July and 19 August 2001)

(Rapporteur: Ms JONES, United Kingdom, Socialist Group)

1. On 28 June, at the last part-session of the Assembly, I reported on the first round of the parliamentary elections.[1] We duly formed a delegation for the second round on 8 July, and again for further voting on 22 July. The statements issued by these delegations are in Appendices I and II. Also attached, for context and perspective, are the statements issued on first round voting (24 June) (Appendix III) and by the Bureau's pre-election mission (23 to 25 May) (Appendix IV).

2. The press statements show that we became increasingly critical of the election.

3. However, the focus of our observations was naturally becoming narrower. On 8 and 22 July, we were observing the most closely-run political contests and the problematic areas where total or partial re-runs were ordered following complaints and irregularities or simple failure to hold any voting at all because of the bitterness of disputes. The aim of this report is to give complementary information on the election. It is not to revisit the issues raised and dealt with in my earlier report where conclusions and impressions, presented provisionally, seem correct. This information may help guide the discussion which we must now expect on whether the Election Law is adapted to Albania's political circumstances.

4. Our delegations for 8 and 22 July were greatly helped by the Election Observation Mission of the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) and by the Office of the Council of Europe's Special Representative. We agreed that the international election observation should be formally concluded with the presentation of our joint statement at the press conference of 23 July. The election itself, however, was not at an end. Further voting was held on 29 July and 19 August – with a decisive impact on the election's outcome. And until every constituency had produced a first round result, no calculation of the distribution of seats in the new parliament could be made.

5. At the time of my first report, forty-eight of the 100 single-seat constituencies were decided. Percentage distributions of the national vote, which determine the allocation of a further forty seats, were very provisionally and speculatively projected at just under 45% for the parties of the outgoing socialist-led coalition, and just over 35% for the opposition coalition Union for Victory (UV), led by the Democratic Party. It seemed clear that the parties of the outgoing socialist-led coalition would form a governing majority in the new parliament.

6. This was confirmed by the second round of the election on 8 July. The Socialist Party could now claim about seventy of the 100 single-seat constituencies, with about twenty-four for the Democratic Party UV coalition. Other constituencies would have to hold total or partial re-runs.

7. But until all constituencies had reported a first-round result, it could not be known which of the smaller parties had reached the 2.5% threshold for representation in parliament, nor could the formula be applied for distributing the forty "proportional" seats.

8. This was the cause of bitter political controversy.

9. What was at stake in these elections was not so much who would have a governing majority in the new parliament, but whether this majority would be enough to control next year's presidential election. For this, a three-fifths (60%) majority was required – eighty-four seats. Failing this, a minority of two-fifths (40%) plus one could block procedures for electing a new president and enforce the holding of new parliamentary elections.

10. It was the Election Law which determined, for a process started on 24 June in a disturbingly embittered political environment, that the outcome in relation to these 60% and 40% thresholds could not be known until nearly two months later.

11. It was the voting on 29 July in eight voting centres of the constituency of Lushnja which determined whether these thresholds would be crossed.

12. The voting on 22 July in about 200 polling stations in and across eight constituencies (three total and five partial re-runs) simply confirmed the general choice of a clear majority of the Albanian people for continuity in government and stability. But in Lushnja the Socialist Party encouraged tactical voting by its supporters to push the three small parties of the outgoing Socialist-led coalition above the 2.5% threshold. This had the effect of giving them three seats each in the new parliament – seats which would have otherwise gone to the opposition. It brought the Socialist Party, in conjunction with these three small parties (without the Social Democrats which had also lost seats as a result of this tactical voting and with which they were accordingly in dispute), to the very edge of the eighty-four-seat threshold.

13. The following day the Democratic Party leader, the former President of the Republic Sali Berisha, declared that he would not recognise the validity of the election, nor the new parliament, unless one-third of the constituencies were re-run.

14. On 4 August, with only one constituency now required to hold a further partial re-run (which would not influence the "proportional" calculation since it only concerned four polling stations), the Central Election Commission (CEC) gave the following figures:

– Socialist Party: 41.5%

1. Doc. 9150.

– Democratic Party (UV): 36.8%
– "Reform Democrats": 5%
– Social Democrats: 3.6%
– Human Rights Party: 2.6%
– Agrarian Party: 2.5%
– Democratic Alliance: 2.5%

15. The voting in the constituency of Korce on 19 August, in only four polling stations by order of the Constitutional Court, had the effect of reversing an earlier decision by the CEC to declare the Democratic Party (UV) candidate as winner. The socialist-led coalition had thus reached the magic figure of eighty-four.

16. There will now be discussion both in Albania and internationally about the impact of the Election Law. In an unstable political environment, prolonged uncertainty about the outcome of an election is yet an additional factor of instability.

17. It is important there should be no over-reaction. This law has had the virtue, at least, of halving the number of parties and coalitions represented in parliament – from fourteen to seven.

18. Moreover, one may hope that the conditions for effective parliamentary politics are slowly being established. Never before will the opposition have been so strongly represented in parliament. There should in the future be no more strategies of trying to discredit an election process in advance (see my earlier report, Document 9150) for fear of finding oneself on the losing side and excluded from the political process.

APPENDIX I

Press release

Albanian second round election confirms progress in some areas, but problems remain

Tirana, 10 July 2001 – Yesterday's second round of the Albanian parliamentary elections confirmed progress towards international standards for democratic elections in a number of important areas, but problems remain, concluded the International Election Observation Mission in a preliminary statement issued today.

"Looking at the election as a whole, we can say there has been progress in the areas of election administration, media and campaign conduct," said Nikolai Vulchanov, head of the Observation Mission of the OSCE Office for Democratic Institutions and Human Rights (ODIHR). "However, problems remain which show that further substantial improvements are needed to fully meet international standards for democratic elections."

"The political parties deserve credit for their restraint during the campaign and for seeking redress on contentious issues and irregularities through the available institutional framework for complaints," said Jerzy Smorawiński, head of the delegation of the Council of Europe's Parliamentary Assembly.

On second round election day, 8 July, most polling stations functioned well and generally voting proceeded without incident. However, the international observers reported a number of serious concerns, including isolated cases of police interference, detentions of election commission members, and ballot stuffing. Voting could not take place in a number of electoral zones due to disruption of preparations by election commission members. Elsewhere, the counting was completed quickly, but technical procedures were frequently not followed correctly.

The international observers have reported a number of irregularities stemming from the first round elections, in particular in some hotly disputed constituencies. In these constituencies, conflicting counting protocols raised concerns about the accuracy of the results. To date, the relevant election commissions and courts have failed to adequately investigate questionable protocols and other alleged irregularities in these constituencies. Isolated but significant incidents of abuse of power and interference by police in the election process in favour of candidates of the ruling party have been confirmed.

"These irregularities must be fully investigated and addressed by the authorities," said Mr Vulchanov. "The final assessment of these elections will depend on how this is carried out by the relevant national institutions as well as on the remaining steps of the post-election process, including the tabulation of results, the allocation of compensatory mandates, and the conduct of further rounds of voting."

Mission information

The International Election Observation Mission for the second round of the parliamentary elections in Albania is a joint undertaking of the OSCE Office for Democratic Institutions and Human Rights (ODIHR) and the Parliamentary Assembly of the Council of Europe. An OSCE/ODIHR Election Observation Mission with ten election experts in the Tirana headquarters and eighteen long-term observers deployed to the regions was established in late May to assess the legal framework, the election administration, the media environment, and conditions for the election campaign. For election day, the International Election Observation Mission has deployed some 130 short-term observers, including eight parliamentarians from the Council of Europe's Parliamentary Assembly, to monitor voting and counting procedures in polling stations and election commissions across Albania.

APPENDIX II

Press release

Albanian elections: in remaining zones, third round highlights problems

Tirana, 23 July 2001 – The two weeks leading up to yesterday's third round of Albanian parliamentary elections served to highlight remaining electoral deficiencies, concluded the International Election Observation Mission in a preliminary statement issued today (attached).

"While I stand by our earlier conclusion that these elections as a whole have shown progress, I have to say I'm disappointed with developments leading up to the third round," said Nikolai Vulchanov, head of the Observation Mission of the OSCE Office for Democratic Institutions and Human Rights (ODIHR).

"We can reconfirm some positive trends, notably the peaceful atmosphere and the decision by political parties to raise their complaints through legal channels," added Jenny Jones, head of the delegation of the Council of Europe Parliamentary Assembly. "It is unfortunate, however, that some of the problems and concerns we identified in earlier rounds have not been adequately dealt with."

The international observers were particularly concerned with:

– the inability, even after three rounds of voting, to complete the election process and allocate the proportional seats,

as well as the prospect that this could continue for several more rounds;

– irregularities in counting and tabulation that undermine confidence in the results in certain constituencies;

– the ineffectiveness of the appeals procedure in providing redress;

– undue politicisation of some zone election commissions and voting centre commissions, which has sometimes disrupted the election process; and

– in certain polling stations, blatant attempts at fraud through ballot stuffing and other manipulations – including by voting centre officials – in plain view of international observers.

Election day, 22 July, was generally calm and passed without problems at most polling stations. However, very serious irregularities were witnessed by observers in certain constituencies.

"This mission now comes formally to an end," said Soren Sondergaard, co-Rapporteur for Albania of the Monitoring Committee of the Council of Europe Parliamentary Assembly. "But the election process stays under international scrutiny. If allegations are not properly dealt with, they can be brought to the European Court of Human Rights. Meanwhile our committee's monitoring continues."

The final assessment of these elections will depend in large part on the conduct of voting still to come, the adjudication of appeals and redress of irregularities, and the process of allocating proportional mandates.

Mission information

The International Election Observation Mission for the third round of the parliamentary elections in Albania is a joint undertaking of the OSCE Office for Democratic Institutions and Human Rights (ODIHR) and the Parliamentary Assembly of the Council of Europe. An OSCE/ODIHR Election Observation Mission with ten election experts in the Tirana headquarters and eighteen long-term observers deployed to the regions was established in late May to assess the legal framework, the election administration, the media environment, and conditions for the election campaign. For election day on 22 July, the International Election Observation Mission deployed some fifty short-term observers, including five parliamentarians from the Council of Europe's Parliamentary Assembly to monitor voting and counting procedures in polling stations and election commissions in all zones in which elections took place.

APPENDIX III

International Election Observation Mission

Press release

Albanian parliamentary elections mark progress towards international standards[1]

APPENDIX IV

Tirana, 25 May 2001

Council of Europe parliamentary pre-election mission gives its assessment[2]

1. This press release is published in full in Doc. 9150.
2. This statement is published in full in Doc. 9150.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Report
Doc. 9194 – 10 September 2001

European Year of Languages

(Rapporteur: Mr LEGENDRE, France, European Democratic Group)

Summary

The European Year of Languages 2001 is based on the principle that each language is unique, that all languages are equally valid as modes of expression for those who use them, and that this rich worldwide linguistic heritage has to be preserved.

Developing plurilingualism, which is necessary in order to respond to changes in Europe, is one of the year's core objectives. Throughout life, each person can, or should be able to, acquire the ability to communicate in several languages, if not master them. In order to provide a valued record of this ability, the Council of Europe has devised a major instrument, the European Language Portfolio.

The report also proposes that language policies be put in place, with the aim above all of encouraging cultural and linguistic diversity and promoting social and interethnic cohesion, by protecting minority languages, encouraging people to learn the languages of neighbours and neighbouring cultures and protecting cultural works in European languages in the context of globalisation.

I. Draft recommendation

1. The Parliamentary Assembly welcomes the European Year of Languages 2001, an initiative of the Council of Europe taken up by the European Union. It recalls in this respect its own Recommendation 1383 (1998) on linguistic diversification and its reports on minority languages.

2. The Assembly fully supports the objectives of the Year, which is intended to raise public awareness of the need to protect and promote Europe's rich linguistic heritage. It is also aimed at achieving public recognition of the fact that each language has unique value, and that all languages are equally valid as modes of expression for those who use them.

3. The Assembly welcomes the fact that the European Year of Languages is not just the year of European languages and that it advocates receptiveness to the whole world, including all the languages and cultures represented on the European continent.

4. A central focus of the campaign is the development of plurilingualism, which should be understood as a certain ability to communicate in several languages, and not necessarily as perfect mastery of them. The Year also provides an opportunity to emphasise that all people can and should have the chance to learn languages throughout their lives. The European Language Portfolio, officially launched by the Council of Europe this year, will enable each citizen to keep a record of and maximise the language skills (including partial skills) that he or she has already acquired and will continue to acquire, both within and outside the formal education system.

5. All have the right to speak their own mother tongue and to learn other languages of their choice; the ability to exercise this right freely is a prerequisite for personal and career development, the mobility of people and ideas, and the promotion of dialogue, tolerance, understanding and mutual enrichment of peoples and cultures. Communication skills in other languages are essential in order to respond to cultural, economic and social changes in Europe.

6. The choice of languages learned is strongly influenced by economic and geopolitical factors. However, the Assembly is convinced that the process of choosing should not be based entirely on this type of consideration and recalls in that regard the Committee of Ministers declaration on cultural diversity. States should demonstrate their political will and continue to implement cultural and language policies aimed at developing plurilingualism and protecting all languages spoken in their territories from the risk of extinction.

7. Linguistic diversity has many facets, from the protection of minority languages, many of which are dying out, to the advantage of learning the languages of neighbours and neighbouring cultures and the protection of culture and cultural works in all European languages in the context of globalisation. The Assembly hopes that the Year will act as a stimulus for the development of language policies encouraging, above all, cultural and linguistic diversity and promoting the integration of minorities and immigrants, social cohesion in general and human rights.

8. The Assembly encourages national parliaments to pay greater attention to language issues by holding special debates on the subject and urging their members to table parliamentary questions.

9. The Assembly notes that 26 September 2001 has been designated European Day of Languages and will make its own contribution to the Year on that occasion.

10. Accordingly, the Assembly recommends that the Committee of Ministers:

i. organise a European Day of Languages each year in order to pursue the aims of the Year, as they are essentially long-term objectives;

ii. review the many interesting initiatives designed to promote and improve language learning that have been the direct or indirect result of the Year, with a view to continuing to develop them and report back on this to the Assembly;

iii. implement cross-sectoral projects on linguistic and cultural diversity, concerning, for instance, the future development of European language cultures in the

context of globalisation and the role of language policies in furthering social cohesion and inter-ethnic tolerance;

iv. encourage member states to protect and promote regional, minority or lesser used languages in order to guarantee linguistic and cultural diversity and to prevent their extinction, in particular by urging member states to sign and ratify the European Charter for Regional or Minority Languages;

v. urge member states parties to the European Cultural Convention that have not yet become part of the Enlarged Partial Agreement on the European Centre for Modern Languages in Graz to do so as soon as possible;

vi. urge the Joint Council, the Advisory Council, the European Steering Committee for Youth (CDEJ) and the Programming Committee of the Directorate of Youth and Sport, to reinstall "courses in languages and intercultural learning" for European youth leaders in the European Youth Centres' regular programme of activities.

11. The Assembly also recommends that the Committee of Ministers call on member states:

i. to maintain and develop further the Council of Europe's language policy initiatives for promoting plurilingualism, cultural diversity and understanding among peoples and nations;

ii. to encourage all Europeans to acquire a certain ability to communicate in several languages, for example by promoting diversified novel approaches adapted to individual needs and encouraging the use of the European Language Portfolio;

iii. to encourage the relevant institutions to use the Common European Framework of Reference drawn up by the Council of Europe to develop their language policies, so as to ensure the quality of language teaching and learning and improve international co-ordination;

iv. to pursue the objectives set out in Assembly Recommendation 1383 (1998) on linguistic diversification, and in particular the acquisition of satisfactory skills in at least two European or world languages by all school-leavers and diversification of the range of languages offered, which should meet the needs of personal, national, regional and international communication.

II. Explanatory memorandum, by Mr Legendre

Background

1. The Council of Europe decided to launch a European Year of Languages (EYL) at its second summit in 1997, which, *inter alia,* emphasised the importance of promoting European citizenship and maintaining Europe's linguistic and cultural heritage. The Assembly endorsed this idea in its Recommendation 1383 (1998), on the basis of a report on linguistic diversification which I presented myself.

2. In January 1999, the Committee of Ministers of the Council of Europe designated 2001 the European Year of Languages. On 13 October 1999, the European Commission adopted the proposal for a decision establishing the European Year of Languages 2001. The European Parliament and the Council of Ministers (of the European Union) adopted the final decision on 17 July 2000 (Official Journal L232 – Decision 1934/2000/EC). The Council of Europe and the European Union have now joined forces to organise the EYL.

3. The EYL is the first event of its kind on the subject of languages to be launched by the Council of Europe, although linguistic diversity has been one of the major themes of the "Europe, a common heritage" Campaign and the Campaign against Racism and Intolerance.

Why a European Year of Languages?

4. The choice of languages we learn is strongly influenced by economic and geopolitical factors. From that point of view, no one can dispute the role and importance of English today; it has become the world's lingua franca. As a result, the education systems of European countries have become heavily weighted towards learning English, to the detriment of other languages. We do not deny that knowledge of English is important and useful, but we cannot accept that English should be the sole means of communication between people of different languages and cultures.

5. With regard to the choice of languages on offer, there is a disparity between what governments say about language policy and what they do. For example, a study by the French Senate showed that, despite the fact that a large number of languages can be learned in France, in practice the languages on offer are essentially limited to English as first language and Spanish as second. Such important languages as German, Italian and Russian have been abandoned and specialists in these languages have no opportunity to teach them. The two countries at the centre of Europe, France and Germany, are less and less capable of communicating with each other in their own languages.

6. In most of our countries, teaching of the major world languages – not only the most distant, such as Chinese, Hindi or Japanese, but also those which are on Europe's doorstep, such as Arabic – remains limited mainly to immigrants and diasporas. At a colloquy on culture and co-operation between the Council of Europe and Mediterranean non-member countries, held by the Committee on Culture, Science and Education in Palma de Mallorca (22 to 24 October 2000), representatives of the parliaments of Algeria, Morocco and Tunisia vigorously deplored that fact. They emphasised in particular that their countries offered teaching in many European languages, in some cases as a core element in their school, university and training systems. In return, they asked that Europe open up to their culture and language, notably by teaching children Arabic, so as to put dialogue and co-operation on a more equal footing (see AS/Cult (2000) 35).

7. The right to learn languages is a vital human right; the ability to exercise it freely is a prerequisite for individual and career development, the mobility of people and ideas, and the promotion of dialogue, tolerance, understanding and mutual enrichment of peoples and cultures.

8. In addition to the economic advantages of a knowledge of other languages, it has been demonstrated that people who speak more than one language communicate better with people of other cultures and are able to build cultural bridges.

9. To sum up, it is cultural diversity that we defend or harm through language teaching. In that context, the considerations which should guide the development of language policies are not very different from those which form the basis of Europe's position in the World Trade Organisation talks on the market for cultural products. The Declaration on Cultural Diversity, adopted by the Committee of Ministers on 7 December 2000, therefore emphasised that "cultural and audiovisual policies, which promote and respect cultural diversity, are a necessary complement to trade policies".

10. For all these reasons, it would be a serious mistake to make language teaching subject only to commercial considerations. States should demonstrate their political will and continue to develop cultural and language policies aimed at promoting plurilingualism. There should be state support for all the languages used in Europe. Regrettably, the European Union allocates aid only for the learning of its own official languages. Governments should not only launch linguistic diversification initiatives, but also seek to ensure that parents pay more attention to the choice of languages their children learn.

Objectives of the European Year of Languages

11. Below is a non-exhaustive list of the Council of Europe's main objectives for the EYL:

a. *to increase awareness of Europe's linguistic heritage and open up to different languages and cultures as sources of mutual enrichment to be promoted and protected in European societies.*

12. Today, many Europeans actually live in a multilingual environment. Not counting the languages of immigrants and refugees, it is thought that around 225 native languages are still spoken in Europe; this represents less than 5% of the total number of languages spoken in the world.

13. At the same time, the message of the EYL is that all languages are of equal value, whether or not they are officially recognised. This is indisputable, at least from a scientific point of view. However, many stereotypes regarding languages persist in the human subconscious. Even though most judgments appear to be of a purely "aesthetic" nature – for example, describing a language as "harsh" or "melodious" – they are often linked to judgments about the social, political or historical status of the speakers of the language in question. It is not unusual for young people from immigrant backgrounds or national minorities to want to stop speaking their language of origin because of its low social status (whereas, in fact, it is the social status of the community that speaks the language which is low). Moreover, Europe's recent history provides plenty of examples of attempts to denigrate or suppress languages which symbolise the independent existence and political legitimacy of minority groups.

14. We must, therefore, welcome the fact that the European Year of Languages is not just the year of European languages and that it advocates receptiveness to the whole world, including languages and cultures which are represented on the European continent by immigrants and refugees.

b. *To motivate citizens to develop plurilingualism.*

15. The Council of Europe sees plurilingualism as a concept which goes further than multilingualism. Multilingualism refers to the presence in a single geographical area of more than one language or "language variety", without meaning that individuals in such an area necessarily speak more than one language. Plurilingualism is the opposite of monolingualism and refers to a person's multilingual skill.

c. *To encourage and support lifelong language learning for the personal development of European citizens, so that they can all acquire the language skills necessary to respond to economic, social and cultural changes in society.*

16. One of the campaign's main messages is that it is never too late or too difficult to learn a language. It is a task which is within everyone's reach and which can be started at any age.

17. These objectives appear very ambitious and, at first sight, we might wonder to what extent they can produce concrete results on a large scale. In fact, the aim of the campaign is to promote the idea not of being an expert in several languages, but of acquiring a certain level of skill in several languages – for example, being able to understand another language in written or spoken form, even without being able to speak it. Different languages may be learned at different levels of skill.

18. If we replace the traditional expression "speaking a language" with the concept of a "certain level of skill" in a language, we will find that many more individuals are plurilingual than we imagine. The problem is that they are not regarded as plurilingual because such partial skills are not recognised.

19. This situation is changing thanks to a major instrument that was developed under the Council of Europe's Modern Languages Project and is being officially launched during the EYL: the European Language Portfolio. This is a personal document, a kind of language passport, in which learners can record their language skills and their learning experiences at every level. The portfolio will be updated as the holder's learning progresses and it will be possible to consult it, for example, when the holder looks for a job at home or abroad.

20. The other major instrument officially launched during the European Year of Languages is the Common European Framework of Reference – an instrument intended for all those involved in language learning and teaching and assessing language skills (for example, syllabus designers, political decision makers, authors of school textbooks, examiners and teacher trainers).

21. The EYL should help to highlight and publicise the Council of Europe's work in language teaching and learning and language policies.

Organisation and main events

22. The initiatives co-ordinated by the Council of Europe are very broad in scope and concern the whole of Europe: the Council's forty-three member states and all the others which have acceded to the European Cultural Convention – a total of forty-seven states – have been invited to play an active role. The work is also achieving a global impact through the active participation of Unesco and the interest expressed by Canada. Many NGOs are involved.

23. The European Year of Languages is co-ordinated – on the Council of Europe's side – by the Division of Modern Languages of Directorate General IV.

24. Close co-operation with the European Commission is assured.

25. Various Council of Europe bodies have also been helping to prepare for the EYL, in particular the European Centre for Modern Languages in Graz, the Parliamentary Assembly, the Congress of Local and Regional Authorities of Europe and other sectors of the Organisation.

26. In all the countries taking part in the campaign, a national committee is co-ordinating national, local and regional initiatives and maintaining links with the Council of Europe and the European Union. A European Steering Group (ESG) is responsible, through its Bureau, for policy and general planning of the year at international level.

27. The official European launch of the year took place in Lund, Sweden, in February 2001; national launches took place between January and April 2001.

28. One of the highlights has been the European Adult Language-Learners' Week (5 to 11 May). To coincide with the week, a guide was produced jointly by the Division of Modern Languages and the European Union to encourage and support adult language learning. It has been widely distributed and also appears on the two EYL websites.

29. The Assembly was represented by its President at another major event, the seminar on "Linguistic diversity: role and challenges for European cities and regions", held by the Congress of Local and Regional Authorities of Europe, the Council of Europe's Division of Modern Languages and the Croatian Government, in Rovinj from 22 to 24 March 2001.

30. As rapporteur on linguistic diversification, I was invited to represent the Assembly at a round table on the European Year of Languages held by the European Parliament on 30 May 2001.

31. The other highlight of the campaign will be the European Day of Languages on 26 September 2001. This is a new joint initiative of the Council of Europe and the European Commission. Apart from a project launched in 1997 by an NGO (the European Bureau for Lesser-Used Languages), no similar language-related event has been organised at international level.

32. The Council of Europe is also organising a series of European and regional activities to promote the year's objectives; a number of events are concerned with the introduction of the European Language Portfolio in member states.

33. A large number of varied activities are taking place in member states.

34. The complete list, along with more details, can be consulted on the EYL's two main websites. The joint site set up by the Council of Europe and the European Union (http://www.eurolang2001.org) offers interactive material, recreational sections and discussion forums. The Council of Europe's own site (http://culture.coe.int/AEL2001EYL) offers background documents and illustrates the theme "Europe – a wealth of languages" with, among other things, the two slogans in a large variety of languages and a text on linguistic diversity. The two sites provide many links to other sources and to sites set up by national EYL co-ordinators.

Recommendations on a follow-up to the campaign

35. As we have seen, the EYL's objectives are essentially long-term ones. They require considerable political will and a permanent change in public opinion, which has not yet been won over to the cause of plurilingualism.

36. It will not be possible to assess the precise impact of the first Day of Languages, 26 September 2001, until after the event. However, the encouraging responses already received during the national and local planning processes in many European countries suggest that the day could be made a regular event in the future. The Assembly should enthusiastically encourage a decision to that effect.

37. Specific arrangements for an annual Day of Languages will probably be made at an intergovernmental conference in spring 2002, where a new modern languages programme will be launched and the results of current projects, including EYL projects, will be reviewed. However, it is already clear that many of the initiatives and activities launched as part of the EYL are worth continuing. The Council of Europe should, therefore, review the many interesting initiatives designed to promote and improve language learning which have resulted directly or indirectly from the year, so that they can be further developed.

38. Moreover, given that recognition of partial skills is a revolutionary concept, it will require considerable work and changes in attitudes. The Committee of Ministers should urge member states to support and further develop initiatives aimed at expanding plurilingualism and pluriculturalism, such as the European Language Portfolio, the Guide for the Development of Language Education Policies and the descriptions of language teaching objectives (including threshold levels).

39. The EYL has focused particularly on celebrating linguistic diversity and promoting plurilingualism. However, it is important to realise that this is an extremely broad subject. It has many dimensions, from the protection of minority languages, many of which are dying out, through the need to learn the languages of neighbours and neighbouring cultures, to the protection of culture and cultural works in the context of globalisation. In the follow-up to the campaign, the Council of

Europe could consider developing cross-sectoral projects on plurilingualism and cultural diversity. For example, in the context of globalisation, what are the chances of cultural works (books, films, songs) in European languages other than English crossing frontiers and not remaining purely domestic products? What role do language policies play in promoting social cohesion and interethnic tolerance?

40. It is also important that all countries participating in the European Cultural Convention join the Enlarged Partial Agreement on the European Centre for Modern Languages (ECML) in Graz. With the recent accession of Bosnia and Herzegovina, Albania and Armenia, the ECML has now thirty-one member states. For several years now, the centre has been offering – generally through international and regional workshops or seminars – a meeting place and working platform to work out projects for officials responsible for language policy, specialists in didactics, teacher trainers, textbook authors and other multipliers in the area of modern languages. Thus, not only has the ECML promoted the dissemination of good practice in language teaching and learning, it has also contributed to the respect and reinforcement of linguistic diversity.

41. The Committee of Ministers should urge the Joint Council, the Advisory Council, the CDEJ and the Programming Committee of the Directorate of Youth and Sport, to reinstall "courses in language and intercultural learning" for European youth leaders in the European Youth Centres' regular programme of activities. These courses used to offer a different way of learning a language, through enabling members of international non-governmental youth organisations and national youth councils and independent NGOs to become more active in international youth work in an increasingly multicultural world. At the same time, they aimed at developing their intercultural awareness and communication skills, which is essential for breaking down barriers of prejudice and intolerance in the greater Europe. The courses were interrupted in 2001 due to budgetary constraints, despite a very high demand from the NGO sector. This proved to be a very unfortunate timing, as it gave a negative image of the contribution of one of the Council of Europe's sectors to the European Year of languages.

42. The EYL also gives the Council of Europe a good opportunity to remind to member states of the necessity to protect and promote regional or minority languages.

43. Parliamentarians can greatly contribute to supporting the campaign, particularly by tabling parliamentary questions on subjects such as the current range of languages taught in their countries or efforts to promote the learning of languages of neighbouring countries and regional and minority languages. They can also encourage national initiatives connected with the EYL.

Reporting committee: Committee on Culture, Science and Education.

Reference to committee: Doc. 9109 and Reference No. 2624 of 25 June 2001.

Draft recommendation adopted, with two abstentions, by the committee on 5 September 2001.

Members of the committee: *Rakhansky (Chairman), de Puig, Risari, Billing (Vice-Chairmen),* Akhvlediani, Arzilli, Asciak, Berceanu *(alternate: Baciu),* Bērziņš, *Birraux,* Castro *(alternate: Varela i Serra),* Chaklein, Cherribi, Cubreacov, *Damanaki,* Dias, Dolazza, Duka-Zólyomi, Fayot, Fernández-Capel, Galoyan, Goris, Haraldsson, *Hegyi,* Henry, *Higgins,* Irmer, *Isohookana-Asunmaa,* I. Ivanov, Jakič, Kalkan, Katseli, Kofod-Svendsen, Kramarić, Kutraitė Giedraitienė, Lachat, Lekberg, Lemoine, Lengagne *(alternate: Mattei),* Libicki, Liiv, *Lucyga,* Maass, Marmazov *(alternate: Baburin),* Marxer, *Matějů*, McNamara *(alternate: Jackson),* Melnikov, Mignon, Minarolli, *Nagy, Němcová,* Nigmatulin, *O'Hara,* Pavlov, Pinggera, Pintat Rossell, Prisàcaru, Rapson, *Roseta,* Sæle, Sağlam, Schicker, Schweitzer, Seyidov, Sudarenkov, Symonenko, *Tanik,* Theodorou, Tudor, *Turini,* Vakilov *(alternate: Abbasov),* Valk, *Wilshire,* Wittbrodt, Wodarg, Xhaferi.

N.B. The names of those present at the meeting are printed in italics.

See 32nd Sitting, 28 September 2001 (adoption of the draft recommendation); and Recommendation 1539.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Report
Doc. 9195 – 10 September 2001

Right to family life for migrants and refugees

(Rapporteur: Mrs AGUIAR, Portugal, Group of the European People's Party)

Summary

The right to family life is one of the basic human rights secured by international legal instruments, and in particular by Article 8 of the European Convention on Human Rights. The reconstitution of migrants' and refugees' families by means of family reunion is a humane solution in keeping with human rights principles and in the interest of social cohesion.

Some Council of Europe member states impose restrictive conditions on family reunion, which is a cause for concern. These are not harmonised between the states and no minimum standards have been defined. Governments have wide discretion and often examine applications for family reunion on a case-by-case basis using different and often restrictive definitions of the family.

The present report combines two subjects: reunion of migrants' and refugees' families and forced separation of families in the event of the repatriation of illegal immigrants or rejected asylum seekers. It recommends the introduction of legal guarantees to safeguard the right to family reunion and protect individuals from arbitrary acts and decisions on the part of the public authorities, as well as the harmonisation of regulations at the European level in accordance with the highest standards. It refers to the position taken by the Assembly on the concept of "family" and eligibility for family reunion on previous occasions.

I. Draft recommendation

1. The Parliamentary Assembly recalls that the right to family life is one of the basic rights secured by international legal instruments, and in particular by Article 8 of the European Convention on Human Rights.

2. The reconstitution of families of legally established immigrants and refugees as defined by the 1951 Geneva Convention relating to the Status of Refugees, by means of family reunion as well as the prevention of the forced separation of families, is an important element of any policy of integration in the host society, and serves the interest of social cohesion.

3. The Assembly is concerned by the fact that the regulations governing family reunion in Council of Europe member states are not harmonised at the European level and do not include minimum standards, thus giving wide discretion to the national authorities.

4. Even the notion of "family" underlying the family reunion concept has not been defined at the European level and differs between Council of Europe member states. The Assembly recalls its own interpretation of the concept of family as including *de facto* family members (natural family) (Recommendation 1327 (1997). The Assembly also welcomes the European Commission's broad interpretation of the concept of family in its recent proposal for a Council directive on minimum standards for giving temporary protection.

5. Furthermore, the Assembly notes with concern that the policies and procedures applied in some member states impose restrictive conditions on family reunion. Applications are often examined on a case-by-case basis using different and frequently restrictive definitions of the family.

6. Moreover, incoherent and unjustifiably lengthy procedures, in particular combined with the lack of transparency resulting from the large number of applicable decrees and circulars, may cause undue hardship to those concerned.

7. The Assembly notes with particular concern that the rules governing family reunion have tended to be modified along with changes of government or political philosophy.

8. The Assembly regrets that despite its efforts to secure the right to family reunion for persons who have been granted temporary protection, this right has not been widely established. In this context, the Assembly particularly welcomes the European Commission's proposal for a Council directive providing for the right to family reunion for persons enjoying temporary protection.

9. The Assembly is alarmed by the extremely restrictive standards underlying the regulations governing family reunion in the United States of America.

10. The Assembly reiterates its earlier position on different aspects of family reunion, concerning in particular the concept of family and eligibility as defined in Recommendation 1082 (1988) on the right of permanent residence for migrants workers and members of their families, Recommendation 1261 (1995) on the situation of immigrant women in Europe, Recommendation 1327 (1997) on the protection and reinforcement of the human rights of refugees and asylum seekers in Europe, and Recommendation 1348 (1997) on the temporary protection of persons forced to flee their country.

11. The Assembly recommends that the Committee of Ministers:

i. step up the monitoring of member states' compliance with international legal instruments with reference to family reunion, and in particular with the European Convention on Human Rights and with the relevant recommendations of the Committee of Ministers;

ii. instruct its appropriate steering committee to intensify exchanges of views and information on family reunion with a view to bringing the policies of the member states into line on the basis of the highest common denominator, and keeping in mind that a positive and

generous attitude to the problem would be in accordance with the fundamental values of the Council of Europe;

iii. urge the member states to:

a. fully implement Resolution (78) 33 of the Committee of Ministers of the Council of Europe on the reunion of families of migrant workers in Council of Europe member states and Recommendation No. R (99) 23 on family reunion for refugees and other persons in need of international protection;

b. devise a clear legal framework for family reunion taking into account the human rights of refugees and migrants and in accordance with the UNHCR's recommendations and guidelines as defined in the handbook on procedures and criteria for determining refugee status;

c. apply a broad interpretation of the concept of "family" and, in particular, include in the definition the members of the natural family and dependent relatives;

d. provide for the right to family reunion for persons enjoying temporary protection;

e. impose fewer conditions with regard to financial guarantees and housing as a requirement to be met by applicants;

f. not use the absence of some required documents such as marriage certificates as grounds for refusing applications by refugees who have left their country in dramatic circumstances;

g. facilitate administrative procedures, keeping them as simple and transparent as possible, and reducing any waiting period to a maximum of twelve months;

h. examine applications in a positive and humane spirit without unnecessary delays and applying special assistance measures to refugees in view of their economic difficulties;

i. allow, in justified cases, for the possibility of family reunion at the stage of the refugee status determination procedure, which may last a very long time;

j. reserve special support for all vulnerable groups;

k. not return illegal immigrants or rejected asylum seekers if their family unity would be endangered as a result, and seek rather to solve the problem by legalising their situation on humanitarian grounds;

l. grant such legal status to reunited family members as would allow them to fully integrate within the host society;

m. introduce special programmes for the integration of families which have been reunited;

n. keep statistics on the number of persons admitted or refused admission to the country on grounds of family reunion.

II. Explanatory memorandum, by Mrs Aguiar

1. Introduction

1. The right to family life is one of the basic rights secured by international legal instruments. Over the past few decades, economic migration and the flow of refugees and asylum seekers to Europe and the return of illegal immigrants to their countries of origin have given rise to the problem of the forced separation of families. The reconstitution of families by means of family reunion is a humane solution in keeping with human rights principles and in the interests of social cohesion. However, the procedures employed in some European states, imposing restrictive conditions on family reunion, might be a cause for concern.

2. The term "family reunion" is normally used to describe the situation in which a family comes to join one of its members living on a temporary or permanent basis in a foreign country. Family reunion is an important element in the application of the right to family life, although it is not in itself universally recognised as a fundamental right. It concerns foreign nationals in a variety of situations and is not necessarily applied by all states to all categories of possible beneficiaries, such as couples of different nationalities, migrant workers, refugees, asylum seekers whose application has been rejected but who have been granted a humanitarian or other status, persons under temporary protection, unaccompanied minors, etc.[1] In the past, family reunion was thought to concern mainly women; however, estimates now show that the number of women refugees and women economic migrants is steadily rising.

3. Family reunion must be analysed within the context of both migratory flows and European migration and asylum policies. There have been several waves of migration in western Europe since the last world war. They were followed by the reunion of migrant workers' families, a phenomenon which was the direct consequence of the exclusively male labour migration between 1960 and 1970 to countries with sustained economic growth. Family reunion was at that time encouraged by both employers and the host countries. After 1974, the economic crisis brought labour migration to a halt. There is currently an economic revival in Europe while the working population is decreasing; some demographers forecast a shortage of labour and the resumption of labour migration towards 2010.

4. The countries of western Europe have also taken in refugees and their families on ideological and humanitarian grounds, in accordance with the 1951 Geneva Convention relating to the Status of Refugees and its 1967 Protocol.

1. The terminology used in the field of immigration and asylum legislation is somewhat inconsistent. Many expressions use various legally distinct terms to refer to one and the same thing; the concepts applied in the various countries are also different. In this study we use the term refugee as defined in Article 1 of the 1951 Geneva Convention relating to the Status of Refugees. "Migrant" refers to a person who voluntarily leaves his/her country to settle elsewhere for different reasons from a refugee, whose reasons are set forth in the 1951 Convention. Migrants may leave their country of origin for family or personal reasons. If their reasons are purely economic then they are economic migrants and not refugees. The concept "migrant worker" is defined in the European Social Charter and the European Convention on the Legal Status of Migrant Workers. Persons who apply for refugee status, but whose case is still under examination, are referred to as "asylum seekers".

5. During the 1990s, Europe became the focus of extremely complex migration flows, which took on new forms and established a new migration context. As a result of fundamental changes in Europe, there was a spectacular rise in applications for asylum in western Europe: in 1992 the number reached a record level of 700 000. Illegal immigration became a major concern for European governments and the difficult economic context exacerbated certain xenophobic trends.

6. This situation encouraged European countries to reconsider their immigration policies and impose tighter restrictions. As labour migration is extremely limited, refugee status and family reunion are now the main legal ways of settling in a European country. It is, however, becoming increasingly difficult to obtain refugee status, within the meaning of the 1951 Geneva Convention, to the extent that some critics are even talking of a crisis in the very institution of asylum. In this connection, it is worthwhile referring to the recent report of the Committee on Migration, Refugees and Demography on restrictions on asylum in the member states of the Council of Europe and the European Union (rapporteur: Mr Boriss Cilevičs).

7. Family reunion is also subject to restrictions because the authorities presume that most applications for family reunion are made for economic reasons. Family reunion is also one of the main stages in the transition from temporary to permanent migration, which states are seeking to reduce. Indeed, in some cases the family reunion concept has been misused by migrants. For example, in certain countries there is a big trade in marriages of convenience. In order to combat abuse of the possibility of family reunion, governments often impose strict conditions and introduce complicated and lengthy administrative procedures.

8. The regulations governing family reunion in Council of Europe member states are not harmonised and do not include minimum standards. There are both differences and similarities in the various countries (see below). Governments have wide discretion and often examine applications for family reunion on a case-by-case basis using different and often restrictive definitions of the family.

9. There have been cases where the European Court of Human Rights found that the expulsion of foreign nationals constituted a violation of Article 8 of the European Convention on Human Rights which guarantees everyone the right to respect for his private and family life. Council of Europe member states should not return illegal immigrants or unsuccessful asylum seekers if their return threatens their family unity.

10. It is worth mentioning that in the United States of America, which enjoys Observer status with the Council of Europe, no family reunion comparable with European standards exists. In consequence, numerous migrants and refugees including a great number of refugees from the former Yugoslavia cannot be reunited with their families.

11. There are several legal and social aspects to family reunion; it should therefore be studied from the standpoint of the individual, the family and society. The purpose of this report is to draw attention to the problem and give an overview of member states' polices and procedures so as to evaluate the extent of family reunion and the impact of restrictive tendencies.

12. The present report combines two subjects: reunion of migrants' and refugees' families and forced separation of families in the event of the repatriation of illegal immigrants or rejected asylum seekers. In the rapporteur's opinion, they constitute different aspects of the principal issue: the right to family life guaranteed by many international instruments, and in particular by the European Convention on Human Rights. The report is based on the conclusions of the hearing on the subject held by the Committee on Migration, Refugees and Demography on 21 May 1999, as well as the information provided by the relevant national authorities and the international organisations active in this field.

13. The Parliamentary Assembly on a few occasions has taken a clear position on some aspects of the subject of the present report. In particular, it has reached a consensus on a definition of a concept of family as "including *de facto* family members (natural family), for example asylum seeker's concubine or natural children as well as elderly, infirm or otherwise dependent relations" (Recommendation 1327 (1997)). Furthermore, the Assembly has agreed that persons under temporary protection schemes should be eligible for family reunion (Recommendation 1348 (1997)).

2. Statistics concerning family reunion

14. It is sometimes difficult to obtain precise information on migratory movements on account of the difficulty of harmonising definitions. Several Council of Europe member states claim that they do not have any separate statistics for persons admitted to the country to join their family. The available data is sometimes contradictory.

15. There is no doubt that the number of immigrants admitted on grounds of family reunion in Council of Europe member states differs considerably from one country to the next. In some countries a few dozen applications and residence permits are issued every year on grounds of family reunion – in other countries there are tens and sometimes hundreds of thousands of applications. At 1 January 1999, there were over 230 000 immigrants in Italy with valid residence permits obtained on grounds of family reunion, 30 000 of which were issued in 1998, and there were 150 000 foreign minors in Italy for the purpose of family reunion. 22 000 immigrants were admitted to Sweden on these grounds, 22 400 to Switzerland and 10 320 to Austria; these figures represent 81%, 31% and 50% respectively of total annual immigration to these countries. Some 44 000 applications for family reunion were submitted in Germany in 1997.

16. In another group of European countries numbers are lower. The available figures concerning the number of immigrants reunited with their families in 1997 are: Norway, 7 117; Belgium, 4 000; Denmark, 2 025 (3 400 applications are still being processed and 8 484 were granted between 1991 and 1995); France, 1 793; Latvia, 1 200; Finland, 464 admissions and 947 applications, 52% of which were successful; and Ireland, 380 (1991 to 1997). In a third group of Council of Europe member countries there are only about a dozen

applications per year: Iceland, the Czech Republic, Bulgaria and Hungary.

3. The legal basis for family reunion

17. Family reunion is based on the principle of family unity. Most international human rights instruments contain provisions for the protection of the family without expressly mentioning family reunion. The 1948 Universal Declaration of Human Rights states that "The family is the natural and fundamental unit of society and is entitled to protection by society and the state" (Article 16, paragraph 3). The same provision is to be found in the United Nations International Covenant on Civil and Political Rights, 1966, (Article 23, paragraph 1). The European Convention on Human Rights (ECHR) guarantees everyone the right to respect for their private and family life (Article 8). Certain texts of the International Labour Organisation focus on preserving the unity of migrant workers' families (Recommendations Nos. 86 and 151).

18. However, some texts, including those drawn up by the Council of Europe, do recognise the right to family reunion, in particular the 1961 European Social Charter (Article 19), the 1996 revised European Social Charter and the 1977 European Convention on the Legal Status of Migrant Workers (Article 12). These rights are also echoed in the provisions of the 1989 International Convention on the Rights of the Child, which establishes the right of children not to be separated from their families and to family reunification, the Convention on Migrant Workers (ILO) and the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Part IV).

19. The 1951 Geneva Convention relating to the Status of Refugees and its 1967 Protocol do not include the principle of family unity and do not mention family reunion whereas they do deal with questions such as employment and education. Whether or not a refugee family can be reunited is therefore determined mainly by national asylum and immigration policies and admission criteria, which may or may not take account of the UNHCR's recommendations and guidelines.

20. The Final Act of the United Nations Conference of Plenipotentiaries, which adopted the 1951 Convention, recommends that governments preserve the unity of refugees' families. This principle is also stated in the handbook on procedures and criteria for determining refugee status prepared by the United Nations High Commissioner for Refugees (UNHCR) for governments; the handbook is not binding but is a useful reference.

21. The UNHCR has been untiring in its efforts to promote the preservation of the family unit and the reunification of refugees' families. It assists family reunification in two ways:

– by providing direct, practical assistance to refugees in tracing their families;

– by defending the concept of family reunion, without applying criteria which are too rigid and too general: the UNHRC encourages states to apply a broad interpretation of the concept of "family" and recommends that they impose fewer conditions with regard to financial guarantees and housing. The members of the family of a refugee, within the meaning of the 1951 Convention, are usually granted the same status, provided this is not inconsistent with their personal legal status.

22. In several of its conclusions, the Executive Committee of the UNHCR Programme (Excom) upholds the importance of the principle of family unity, expresses its concern at subsisting problems and urges states to facilitate family reunion by examining applications in a positive and humane spirit, without unnecessary delays and with special assistance measures in view of the economic difficulties of refugees: Conclusions No. 9 (XXVIII)-1977, No. 15 (XXX)-1979, No. 22 (XXXII)-1981 and No. 24 (XXXII)-1981.

23. Several of the Excom conclusions concern the specific problems of women refugees: No. 64 (XLI)-1990; No. 60 (XL)-1989; No. 54 (XXXIX)-1988; No. 39 (XXXVI)-1985; and the problems of child refugees: No. 59 (XL)-1989 and No. 47 (XXXVIII)-1987. The problems of family reunion, and of refugee women and children are also mentioned in Conclusion No. 85 (XLIX)-1998, and in several other conclusions concerning the international protection of refugees. Excom encourages states to devise a legal framework for family reunion which takes account of the human rights of refugees and their families.

24. Family reunion is mentioned in some of the texts of the Conference on Security and Co-operation in Europe (CSCE). In the Helsinki Final Act, 1975, the provision concerning reunification of migrant workers with their families, included in the Second Basket, has very little impact, but the provisions concerning family reunification under column *b* of the Third Basket, concerning contacts on the basis of family ties, constitutes a definite political commitment. The participating states undertake to deal with applications for family reunion in a positive spirit and "to examine them favourably". The same ideas are reiterated in the final documents of the follow-up meetings in Madrid, 1983, and Vienna, 1989, as well as in the 1991 Paris Charter. These texts have prompted states to be more flexible but this is only a sensitive aspect of a policy designed to facilitate freedom of movement between eastern and western Europe. One might therefore wonder whether the restrictions on the freedom of movement currently imposed by the very same countries are justified.

25. Prior to the entry into force of the Treaty of Amsterdam on 1 May 1999, immigration and asylum policies in EU member states formed part of intergovernmental co-operation; they are now gradually coming within the purview of the European Community. Family reunion and asylum – the main two legal means of entry to the European Union – were among the first EU policies to be harmonised. For example, in June 1993 the ministers responsible for immigration adopted a resolution designed to restrict the family reunion of non-Community nationals, ignoring recommendations by the European Commission and the European Parliament that the exercise of this right should be made more flexible and that it be more widely applied.[1] Family reunion

1. "Family reunion in the light of international law, Community law and the legislation and/or practice of member states," report of the Commission of the European Communities, May 1992; "Report on European immigration policy", rapporteur: Mr Van den Brink, EP, October 1992.

is one of the elements of a European Commission proposal for joint action concerning temporary protection of displaced persons, COM (1998) 372, Article 7. Reference should also be made to Articles 35 and 36 of the 1990 Schengen Agreement and Article 4 of the 1990 Dublin Convention on the Determination of the State Responsible for Examining Applications for Asylum.

4. Texts drafted by the Council of Europe

4.1. *European Social Charter and the revised European Social Charter*

26. Under Articles 18 and 19 of the European Social Charter, the counterpart of the European Convention on Human Rights in the social and employment field, contracting parties must undertake to provide minimum guarantees for migrant workers and their families. The right to family reunion is provided for under Article 19, paragraph 6: states undertake "to facilitate as far as possible the reunion of the family of a foreign worker permitted to establish himself in the territory". The appendix to this article defines the family as "understood to mean at least his wife and dependent children under the age of 21 years".

27. The revised Social Charter introduces important changes to the concept of family: the first change is that the word "wife" has been replaced by "spouse", thus extending the scope of family reunion. On the other hand, the second amendment concerning children introduces a restriction: for the purposes of family reunion, children must be unmarried; the age limit of 21 has also been altered and children must now be considered minors by the receiving state.

28. The application of the Charter has made a substantial contribution to family reunion. In this connection, the Committee of Independent Experts responsible for the initial supervision of the application of the Charter has substantial case-law concerning mainly two points: the determination of the family members eligible for family reunion and the various conditions and restrictions.

29. Over several supervision cycles the committee concluded that the age limit for children set by states was at variance with the requirements of the Charter and some governments gradually relaxed their regulations in this respect (Norway, Austria and Sweden). With regard to dependent family members, the committee was pleased to note that, for purposes of family reunion, some states admitted dependent persons from not only the immediate family but also the extended family (Norway and Spain).

30. The committee criticised several existing restrictions, pointing out, that in order to meet the requirements of the Charter, states needed to introduce special measures to help foreign workers. Applications were refused according to the category of worker (Conclusions I-IX, United Kingdom), on grounds of health (Austria, Ireland, Cyprus, the Netherlands and Greece), length of residence and marriage (Germany), financial resources and housing (France, Italy, Belgium, Finland, Portugal and Turkey), etc. The case-law shows that states are often obliged to take account of the Charter's supervisory machinery.

31. The committee has stressed that the aim of paragraph 6 is to oblige states to create the conditions which make family reunion possible and easier, as "separation of members of a family, contrary to the requirements of the Charter gives rise to serious personal distress as well as social disorders" (Conclusions XIII-2). It asked governments to ensure that administrative delays and complications did not impede family reunion.

32. In its Opinion No. 156 on the eleventh supervision cycle, the Parliamentary Assembly called on contracting parties to eliminate all direct and indirect obstacles to family reunion and to extend this basic right to all foreign nationals lawfully resident in their territory. This recommendation can only be reiterated.

4.2. *European Convention on the Legal Status of Migrant Workers*

33. The right to family reunion is provided for under Article 12 of the European Convention on the Legal Status of Migrant Workers. Only the members of the immediate family, that is, the spouse and unmarried children, considered minors under the relevant law of the receiving state and dependent on the migrant worker, are eligible for family reunion (Article 12, paragraph 1).

34. The migrant worker is also obliged to have available for the family housing considered as normal; the requirement of steady resources sufficient to meet the needs of his family is, however, optional and the contracting parties must address a declaration that they wish to avail themselves of this possibility of derogation to the Secretary General of the Council of Europe.

35. The convention gives states the freedom to temporarily refuse to authorise family reunion. The declaration must state the special reasons justifying the derogation. However, the convention obliges states to ensure that applications are processed within twelve months.

5. National policies and procedures in Council of Europe member states

36. Although there is a wide range of family reunion policies and procedures in Council of Europe member states, there are some common features. Family reunion is usually governed by provisions concerning the admission and residence of foreign nationals, immigration, refugees, the right of asylum and by a large number of decrees, circulars, etc., which sometimes means there is little transparency. It must also be said that legislation in this field, and legislation on immigration as a whole, is often redrafted when there is a change of government or of political philosophy.

5.1. *Categories of persons eligible for family reunion*

37. Almost all Council of Europe member states grant the right to family reunion to refugees recognised as such under the 1951 Convention, even if the concept of family reunion has not yet been legally established (for example, in Poland). However, the relevant procedure cannot be initiated until the asylum seeker has secured refugee status, which may take years. According to the UNHCR, the average time taken to process an applica-

tion for asylum is three years. Meanwhile the family is separated, with all the negative repercussions pertaining to this state of affairs. Under the Schengen Agreement, members of a family who arrive in different receiving countries are obliged to remain separated until their applications for refugee status have been examined. Few countries allow asylum seekers to send for their families before their application has been processed and in some countries applications are examined on a case-by-case basis (for example, Iceland and Belgium).

38. Despite the efforts of the UNHCR and the Parliamentary Assembly to secure the right to family union for persons who have been granted temporary protection, this right has not been widely established. Such persons are eligible for family reunion in some receiving countries (Austria, Belgium, Sweden, Switzerland, etc.) but not in others (France, the Netherlands, Hungary and Bulgaria). Sometimes the decisions are taken on an *ad hoc,* case-by-case basis (Denmark and the Czech Republic) or there is no such status as temporary protection (Latvia, "the former Yugoslav Republic of Macedonia" and the United Kingdom). An EU proposal for joint action provides for the right to family reunion for persons who have been granted temporary protection.

39. Asylum seekers, whose application for refugee status has been refused but who have been granted a residence permit on humanitarian grounds, by way of exception, or in some other guise, are entitled to family reunion in most countries (except Bulgaria, Hungary and Estonia), or decisions are taken on a case-by-case basis, according to the person's circumstances (Denmark and France).

5.2. *The concept of "the family" for the purposes of family reunion*

40. As a rule the applicant's immediate family are eligible for family reunion. The meaning of "family" varies from one state to the next but generally includes the spouse and unmarried dependent children under the age of majority. This was the position taken by the European Union in the Schengen and Dublin conventions. There are, however, many questions which remain unanswered, for example, what about the children of only one member of the couple, elderly parents or grandparents, under-age brothers and sisters, orphans, etc.? All of these questions have to be settled by national legislation.

41. In the proposal for a Council directive on minimum standards for giving temporary protection, the European Commission proposes to consider as family "the spouse or unmarried partner, the children and, subject to certain conditions, other family members".

42. The UNHCR recommends that the concept of family be more widely interpreted so as to include members of the natural family and dependent relatives, and even members of polygamous families.

43. During discussion in the Committee on Migration, Refugees and Demography, the question of polygamous families was looked at more closely. This complicated problem resulting from the differences in cultures and traditions should be given more attention by the national authorities and international organisations. We can imagine a situation in which the children of an ineligible spouse are reunited with their father at the same time being separated from their mother. And what about this woman, often totally dependent on her husband and left without the means to live?

44. And what about the common-law spouse or partner with whom the applicant has been cohabiting? This question is particularly relevant given that cohabitation is now widespread in Europe. Most countries require couples to be legally married and do not admit partners, whether heterosexual or homosexual. Some countries, that is to say mainly the Nordic countries, have more liberal legislation in this respect and authorise family reunion between partners: Denmark (provided partners have lived together for at least one-and-a-half years), Sweden (two years), the Netherlands, Switzerland and the United Kingdom (four years of a relationship similar to marriage). Some countries take the decision on a case-by-case basis (for example, Belgium and Iceland).

45. It is surprising that most European countries, except Sweden, Iceland and Norway, do not allow dependent children who are no longer minors to be reunited with their families. In the Netherlands, Latvia and Romania the decision is taken on a case-by-case basis, according to humanitarian considerations. For example, imagine the situation of a financially dependent 19-year-old who has been separated from his/her family. The same applies to dependent parents or grandparents; they are only admitted by some countries on a case-by-case basis (Denmark, for example, accepts parents over 60 years of age but under a recent law the application of this provision has been limited to Danish and Nordic nationals and to refugees). Brothers and sisters are not admitted either, except by some countries on exceptional humanitarian grounds (France, the Netherlands, Latvia, Norway, Iceland and Ireland (refugees only)).

46. The question of whether the procedure of family reunion is applicable to members of the family of a minor who has been granted refugee status is left to the discretion of the various governments, which apply different criteria: some admit the parents, others do not. Sometimes applications are processed on a case-by-case basis. The United Kingdom, for example, considers that if the parents of an unaccompanied minor are in another receiving country the child should be sent there.

47. Given the personal and social problems caused by the separation of families, it would be preferable if Council of Europe member states applied a broad and generous interpretation in deciding which family members are eligible for family reunion.

5.3. *Family reunion procedures*

48. In some receiving countries applications may be made by the applicant in the country itself (for example, Czech Republic and Estonia) or lodged with diplomatic representations in other countries (Denmark, Sweden and the United Kingdom) or, as in most cases, both possibilities exist. The alternative chosen should be the safest one for the families still residing in the country of origin.

49. As a rule, applications are lodged with the national office responsible for asylum and immigration. This office may be answerable to the Ministry of the

Interior, the Ministry of Justice, the Ministry of Foreign Affairs or directly to the Council of Ministers. The same office usually both takes the decision and issues the authorisation, though this may be the responsibility of a higher authority.

50. In most countries, the refusal to authorise family reunion may be challenged before an independent body. The time it takes to complete these procedures can make subsequent family reunion impossible, as one of the family members may have died or the children may no longer be minors. Sometimes the departure of the persons concerned has to be authorised by the country of origin and this may also take several months. Administrative procedures and the need to meet all the conditions for family reunion can absorb large amounts of time, money and emotional energy.

51. In most countries the UNHCR does not participate directly in the procedure of family reunion, which is the sole jurisdiction of the national authorities concerned. However, the latter may consult the UNHCR and ask for its opinion and assistance.

5.4. *Conditions set by national authorities*

52. Governments expect applicants for family reunion to meet increasingly demanding requirements. Different categories of applicants are sometimes treated differently and applications from refugees generally have greater chances of success. Family reunion is often made conditional on the head of the family achieving financial self-sufficiency and securing adequate accommodation for his family. It is not always easy for refugees to satisfy these conditions in view of their difficult circumstances. Foreign nationals are not always entitled to welfare assistance and benefits such as housing.

53. In some countries, applicants for family reunion must have lawfully resided in the country for a specified number of years; the residence requirement may be one year (France), three years (Denmark), four years (the United Kingdom) or even five years (Greece). Is it really reasonable and humane to separate families for such a long time?

54. Some states impose further conditions: the members of the family must not have entered the country before family reunion is authorised and all the family members concerned must enter the country at the same time and not separately. If the family cannot provide documentary proof of marriage and relationship by descent, their application may be refused. It is sometimes difficult for refugees who have left their country of origin in dramatic circumstances to produce all the documents required. The UNHCR and the Committee of Ministers[1] have recommended that the absence of such documents should not be grounds for refusing their application.

5.5. *Reasons for refusing to authorise family reunion*

55. Failure to meet one single requirement can constitute grounds for refusal. Under the 1951 Convention and the procedures applied by states, refugee status may be refused to a member of the family who falls into one of several specified categories.[1] However, if the family unit is broken up by divorce, separation or death, the family members keep the acquired status, unless they cease to be considered refugees under the specific clauses of the convention.[2]

56. National security, public order and public health may be cited as reasons for refusing applications. In some countries applications may be refused if there is reason to believe that the sole purpose of marriage is to obtain a residence permit. The constitutional nature of this provision is disputed.

57. States are finding it increasingly difficult to balance the need to prevent abuse of the institution of family reunion (marriages of convenience, applications without identity papers, etc.) and the danger of gradually eroding rights relating to family reunion. This is not an easy task but the requirements that applicants have to meet should always be reasonable and humane.

58. Once the family has been reunited, the residence permit issued to family members is usually the same as that already issued to the applicant. Newcomers are also entitled to a number of social rights – work, education, social security and medical care. These rights and benefits vary from one country to the next, as do the categories of beneficiaries. Very often the benefits are lower than those granted to nationals despite the equal treatment provisions set out in international instruments.

59. The grounds on which a person admitted to a country for the purpose of family reunion can be deported are the same as apply to all foreign nationals – serious threat to national security and public order, the conditions for exclusion set out in the 1951 Convention, making false statements during the admission procedure, crimes, terrorism, etc.

6. Council of Europe activities

6.1. *The Committee of Ministers*

60. The Committee of Ministers of the Council of Europe has adopted two texts concerning family reunion: Resolution (78) 33 on the reunion of families of migrant workers in Council of Europe member states and the recent Recommendation No. R (99) 23 on family reunion for refugees and other persons in need of international protection (15 December 1999). In its 1978 resolution, the Committee of Ministers recommended that member states recognise family union in their domestic legislation, keep the administrative procedures as simple as possible, reduce waiting periods to twelve months and limit admission conditions to housing regarded as normal and adequate resources to provide for the family's needs.

61. The aim of Recommendation No. R (99) 23 is to preserve and defend the principle of family unity while fully respecting the fundamental human rights and dig-

1. Recommendation No. R (99) 23; 15 December 1999.

1. Persons who are already receiving protection from the United Nations, who are not considered applicants for international protection or who do not deserve such protection because they have committed war crimes, serious non-political crimes or acts contrary to the purposes and principles of the United Nations – 1951 Convention, Article 1, sections D, E, and F.
2. A change of situation brought about by the refugee himself/herself or changes which have taken place in the country of origin – 1951 Convention, Article 1, section C, paragraphs 1 to 6.

nity of refugees. It stresses that states should promote family reunion through appropriate measures. Applications should be dealt with in a positive, humane and expeditious manner, giving special attention to unaccompanied minors and persons who are in a vulnerable position. The family members concerned are the spouse and minor children; it is left to the states to decide whether other persons should be admitted "according to domestic legislation and practice". The Committee of Ministers, therefore, also adopts the concept of the immediate family and does not explicitly recommend applying a wider interpretation.

62. Over the years, and often on the basis of the Parliamentary Assembly's recommendations, the Committee of Ministers has adopted several texts designed to improve the protection of refugees and asylum seekers, migrant workers and their families, namely Recommendations No. R (99) 12, No. R (98) 13, No. R (97) 22, No. R (94) 5, No. R (84) 1, No. R (81) 16 and No. R (79) 10, Resolutions (67) 14 and (70) 2, and the Declaration on Territorial Asylum, etc. A committee of experts is now studying the question of the residence status and other rights of persons admitted to the territory of a country for the purposes of family reunion.

6.2. *The Parliamentary Assembly*

63. The Parliamentary Assembly has adopted several texts on immigrants, asylum, refugees and displaced persons, rejected asylum seekers, women refugees and the protection of children, in which it reiterates the principle of family unity and the importance of family reunion, namely Recommendations 1082 (1988), 1151 (1991), 1261 (1995), 1327 (1997), 1348 (1997) and 1404 (1999), Resolutions 1010 (1993) and 1050 (1994).

64. In its Recommendation 1327 (1997) on the protection and reinforcement of the human rights of refugees and asylum seekers in Europe, the Assembly recommends that the Committee of Ministers urge member states to interpret the concept of asylum seekers' families as including *de facto* family members (natural family), for example the asylum seeker's concubine or natural children as well as elderly, infirm or otherwise dependent relatives; to allow members of the same family to be reunited from the start of the refugee status determination procedure, which sometimes lasts a very long time, and to reconsider policy on family reunion in respect of persons granted temporary protection or permission to stay on humanitarian grounds. In its reply to Recommendation 1327 (1997), the Committee of Ministers did not comment on the Assembly's recommendations.[1] The need for the family reunion of persons under temporary protection was also reaffirmed in Recommendation 1348 (1997).

65. In most member states, procedures with regard to family reunion show that the Assembly's recommendations are still of current concern and can only be reiterated.

1. Committee of Ministers' reply to Recommendation 1327 (1997), Doc. 8444, 18 June 1999.

7. The separation of families in the light of the ECHR and the case-law of the European Court of Human Rights

66. Studies show that 80% of unsuccessful asylum seekers remain in the receiving country and become illegal immigrants. The number of illegal immigrants in European countries is very high. Deportation in itself often results in human rights violations. This problem is dealt with in another report under preparation by the committee.[1] However, in many cases it leads to further abuse, concerning the right to family life. Some illegal immigrants marry nationals or have children who are granted the nationality of the country in which they are born. If these persons are forced to return to their country of origin, for one reason or another, the family may be forced to separate. Either the deported persons are obliged to abandon their wives and children or the latter have to follow them to a country which is often totally unknown to them.

67. Cases of forced separation following refusal to authorise the reunion of refugees' families and as a result of deportation have been brought before the European Court of Human Rights. The Court's case-law includes sixty-five cases alleging a violation of Article 8 of the European Convention on Human Rights, which guarantees everyone respect for his private and family life; fourteen of them concern family reunion and deportation, and in four cases the Court held that there had been a violation of Article 8.

68. Article 8 of the ECHR does not secure the right to family reunion as such or protect families against separation. It does, however, limit the exercise of states' discretionary powers with regard to controlling the entry of foreigners and deporting them. The Court seeks to strike a balance between the rights of the individual and the interests of society by considering that interference by the public authorities in a person's private and family life may be justified if "necessary in a democratic society". The Court distinguishes between cases concerning the entry of foreign nationals on to the territory of a state for the purposes of family reunion and those concerning the deportation of foreigners leading to the break-up of the family.

69. The Abdulaziz, Cabales and Balkandali and the Nsona and Ahmut judgments concern family reunion. In all of these cases the Court held that there had been no violation of Article 8, sometimes with forthrightly dissenting opinions on the part of some judges (for example, Judges Martens and Russo in *Gül* v *Switzerland*). The Court states that Article 8 cannot be considered to impose a general obligation on a state to respect immigrants' choice of country of residence if their family life can be developed in another country.

70. With regard to the preservation of existing family unity, the Court's case-law appears to be more liberal. In the Berrehab, Moustaquim and Beldjoudi judgments, the Court found that there had been a violation of Article 8. It held that interference in a person's private and family life is unjustified if his family life is upset or disrupted as a result of his deportation (Moustaquim judgment).

1. "Rendering more humane the procedures for expelling illegal immigrants and rejected asylum seekers" (rapporteur: Mrs Vermot-Mangold).

71. On the basis of the Court's case-law on this subject, it could be concluded that Council of Europe member states should not return illegal immigrants or rejected asylum seekers to their country of origin if their family unity would be endangered as a result. They should seek to solve the problem by legalising the person's situation on humanitarian grounds. Reference could also be made, in this connection, to the report being prepared by the Committee on Migration, Refugees and Demography and to Recommendation 1237 (1994) of the Assembly on the situation of asylum seekers whose applications have been rejected.

72. With regard to the Court's case-law, some countries have made efforts to relax their regulations; for example the French Minister for Justice issued a circular in November 1999 with instructions to avoid, where possible, imposing the "dual penalty" of deportation and forced separation from their family, and therefore to carefully examine the offenders' personal and family situation; attention should also be drawn to the new immigration law adopted by the Spanish Congress of Deputies on 22 December 1999.

8. Social and economic aspects of family reunion

73. The integration of foreign nationals is currently one of the most sensitive issues in several European receiving countries. At the 2nd Summit of the Council of Europe in October 1997, the heads of state and government expressed their determination to protect the rights of migrant workers and to facilitate their integration in the societies in which they live.

74. Family reunion helps to foster the integration of foreign nationals. Several governments of Council of Europe member states have launched special programmes for the integration of families which have been reunited. Specific problems arise with regard to the social, economic and political aspects of such integration, access to employment, welfare benefits and education. Social and cultural integration often presents special problems for women immigrants. Assembly Recommendation 1261 (1995) on the situation of women immigrants in Europe and Recommendation 1206 (1993) on the integration of immigrants and community relations are useful references on these problems.

75. The question of status granted to family members, once they have been admitted, is a crucial element in the integration in the new migrants in the host society. The rapporteur recommends that this issue be examined in detail in a separate report.

9. Conclusions

76. The right of every human being to family life is enshrined in international treaties. Nevertheless the attitude of some countries towards family union is ambivalent. Whereas most countries consider family reunion to be a corollary of the obligations flowing from such treaties, it is often subject to restrictions.

77. As family reunion is one of the measures for managing immigration, legal guarantees are required to safeguard this right and protect individuals from arbitrary action on the part of the public authorities. Member states might consider the need to bring their policies into line with one another without seeking the lowest common denominator. A positive and generous attitude to the problem would be in keeping with the fundamental values of the Council of Europe.

Reporting committee: Committee on Migration, Refugees and Demography.

Committees for opinion: Committee on Legal Affairs and Human Rights; Committee on Equal Opportunities for Women and Men.

Reference to committee: Doc. 8985 and Reference No. 2626 of 25 June 2001.

Draft recommendation unanimously adopted by the committee on 5 September 2001.

Members of the committee: *Iwiński (Chairperson), Vermot-Mangold,* Bušić, *Einarsson (Vice-Chairpersons), Aguiar,* Akhvlediani, Aliev, G. Aliyev, Amoruso *(alternate: Olivo),* van Ardenne-van der Hoeven, *de Arístegui,* Arnold, Begaj, Bernik, Björnemalm, *van den Brande, Branger,* Brînzan *(alternate: Tudose),* Brunhart, Burataeva, *Christodoulides, Cilevičs, Connor,* Debarge, Díaz de Mera *(alternate: Fernández Aguilar), Dmitrijevas,* Dumont, Ehrmann, Err, Evangelisti *(alternate: Brunetti),* Fehr, *Frimannsdóttir, Hordies,* Hovhannisyan, *Ilaşcu, S. Ivanov,* Jařab, *Judd, Karpov,* Kolb, Koulouris, Kozłowski, Laakso, *Lauricella, Liapis,* Libicki, Lörcher, Loutfi, Luís, Markovska, Mularoni, Mutman, Norvoll, Oliynyk, Onur, Ouzký, Popa, Pullicino Orlando, *Risari,* Rogozin, Rusu, *Sağlam,* von Schmude, Schweitzer, Shakhtakhtinskaya, *Slutsky,* Smith, *Stoisits,* Szinyei, *Tabajdi,* Tahir, Telek, *Tkáč,* Udovenko *(alternate: Gaber),* Wilkinson, Wray, *Yáñez-Barnuevo,* Zwerver.

N.B. The names of those members present at the meeting are printed in italics.

The draft recommendation and amendments will be discussed at a later sitting.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 1
Doc. 9195 – 25 September 2001

Right to family life for migrants and refugees

tabled by Mr MAGNUSSON

In the draft recommendation, paragraph 11, delete sub-paragraph i and insert a new sub-paragraph iii.*a*, as follows:

"comply fully with the international legal instruments relating to the reuniting of families, particularly the provisions of the European Convention on Human Rights and the relevant recommendations of the Committee of Ministers."

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 2
Doc. 9195 – 25 September 2001

Right to family life for migrants and refugees

tabled by Mr MAGNUSSON

In the draft recommendation, paragraph 11.iii.*c*, replace the words "and in particular include in the definition the members of the natural family and dependent relatives" with:

"and in particular include in the definition the partner, natural children and persons who are elderly or infirm or who are dependants for any other reason."

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 3
Doc. 9195 – 25 September 2001

Right to family life for migrants and refugees

tabled by Mr MAGNUSSON

In the draft recommendation, paragraph 11.iii.*g*, replace the words "and reducing any waiting period to a maximum of twelve months" with:

"and restricting the duration of the family reunion authorisation procedure to a maximum of twelve months."

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Report
Doc. 9196 – 10 September 2001

Expulsion procedures: conformity with human rights and enforcement with respect for safety and dignity

(Rapporteur: Mrs VERMOT-MANGOLD, Switzerland, Socialist Group)

Summary

Thirteen people died between 1991 and 2001. Ten died between September 1998 and May 2001 while being deported from Austria, Belgium, Germany, France and Switzerland. These deaths, which attracted considerable media attention, are sad examples of the worst that can happen during expulsion procedures and should not mask the fact that foreigners awaiting expulsion are subjected, in breach of the European Convention on Human Rights, to discrimination, racist verbal abuse, dangerous methods of restraint, and even violence and inhuman and degrading treatment.

Expulsion procedures are rarely open to public or official scrutiny in any of the Council of Europe's member states. Police and security forces all too often play a predominant, or indeed exclusive, role. Access to waiting and holding areas is generally limited, if not impossible, for organisations providing humanitarian, legal, medical or psychological assistance to persons awaiting expulsion.

The Assembly welcomes with interest the legislative reform and proposed reform initiatives that certain states have taken in the last two years concerning the situation of foreigners awaiting expulsion. The Assembly is nevertheless concerned that the legal framework regulating expulsion often seems to be disregarded in practice and that such departures from prescribed procedure are not properly sanctioned, and fears that a policy of silence or tolerance is taking root in its member states. Urgent measures are required at European level, such as an in-depth study of this little-acknowledged issue, or the setting up of a composite group of experts to propose practical measures to ensure expulsion procedures are in conformity with human rights and are enforced with respect for personal safety and dignity.

I. Draft recommendation

1. The Assembly is greatly concerned at the number of deaths resulting from the methods used to enforce expulsion orders in Council of Europe member states. Ten people died between September 1998 and May 2001 while being deported from Austria, Belgium, Germany, France, Italy and Switzerland.

2. These deaths are sad examples of the worst that can happen during expulsion procedures. Amnesty International has, for at least the past seven years, been receiving regular complaints about the ill treatment of potential deportees. All organisations dealing with complaints report that the number received has risen sharply in the last two years, reflecting an increase in the number of expulsions and at the same time in the number of forced and violent expulsions.

3. The Assembly believes that the increase in the number of incidents during expulsions from Council of Europe member states shows that these are not isolated events. All too often, persons awaiting expulsion are subjected, in breach of the European Convention on Human Rights, to discrimination, racist verbal abuse, dangerous methods of restraint, and even violence and inhuman and degrading treatment. All too often, the officials responsible for enforcing expulsion orders resort to an unjustified, improper or even dangerous use of force. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) believes that there are clear risks of inhuman treatment in the deportation of foreigners; during the preparatory phase, during expulsion (flights and boats) and on arrival.

4. The Assembly is concerned at the predominant, or indeed exclusive, role of the police and security forces, which are often poorly trained, in enforcing expulsion orders. It can only deplore the fact that the involvement, at all stages of the procedure, of professionals in both psycho-social support and humanitarian aid, and of lawyers, judges and doctors, remains limited. The Assembly is also concerned at the inordinate responsibilities which states place directly or indirectly on carriers.

5. In this context, it is not surprising that it is difficult to gather reliable information on expulsion procedures. It is often only by chance that ill treatment suffered during deportation comes to light. Lack of resources and support account for the fact that very few people, on returning to their countries of origin, bring proceedings against those responsible for expelling them.

6. The Assembly is concerned that in all the member states of the Council of Europe expulsion procedures lack transparency. It is interested to note that some Council of Europe member states are looking into this area or have implemented reforms, however it is concerned that the legal frameworks for the enforcement of expulsion orders are often not adhered to in practice.

7. The Assembly believes that forced expulsion should only be used as a last resort, that it should be reserved for persons who put up clear and continued resistance and that it can be avoided if genuine efforts are made to provide deportees with personal and supervised assistance in preparing for their departure.

8. The Assembly insists that the Council of Europe's fundamental values will be threatened if nothing is done to combat the present climate of hostility towards refugees, asylum seekers and immigrants, and to encourage respect for their safety and dignity in all circumstances.

9. It thanks the European Commissioner for Human Rights for having recently brought together the non-

governmental organisations for a seminar on "Human rights standards applying to the holding of foreigners wishing to enter a Council of Europe member state and to the enforcement of expulsion orders", which gave him the opportunity to obtain valuable information on expulsion procedures.

10. The Assembly recalls and reaffirms its recent recommendations aimed at improving the protection and treatment of asylum seekers, namely Recommendation 1475 (2000) on the arrival of asylum seekers at European airports, Recommendation 1467 (2000) on clandestine immigration and the fight against traffickers, Recommendation 1440 (2000) on restrictions on asylum in the member states of the Council of Europe and the European Union, and Recommendation No. R (99) 12 of the Committee of Ministers on the return of rejected asylum seekers.

11. The Assembly recommends that the Committee of Ministers conduct an in-depth study, and follow it up with periodical reports, on the procedures and practices used in the Council of Europe's members states, including central and eastern Europe, during the enforcement of legally decided expulsion orders, by gathering precise and detailed information on:

i. the relevant legal and regulatory frameworks in national laws, the direction and extent of existing and planned reforms;

ii. the practice put in place by the authorities responsible for enforcing expulsion orders and the directives which are the basis of this practice;

iii. the number of complaints, the results of enquiries and, where applicable, the legal and disciplinary convictions.

12. The Assembly also recommends that the Committee of Ministers set up a joint working party at European level (including, for example, representatives of governments, parliaments and relevant organisations, members of bodies responsible for carrying out expulsion orders, persons working in the health and psychosocial fields, pilots, judges and legal advisers) to draw up, in a pragmatic and human spirit, a code of good conduct which includes the following:

i. an exhaustive list of human rights standards applicable to foreigners being expelled and their safeguards;

ii. a list of minimum principles regarding the monitoring, supervision and support of potential deportees, with regard to their dignity and safety;

iii. guidelines on restraint techniques;

iv. statutes for members of escort and liaison agencies guaranteeing that the responsibility for expulsion procedures lies fully with the public authorities.

13. Finally, the Assembly recommends that the Committee of Ministers encourage member states:

i. to establish independent monitoring systems for expulsion procedures, for example by appointing observers, mediators or an ombudsman, and to conduct impartial and in-depth enquiries at all levels into allegations of ill-treatment;

ii. to ensure that all foreigners awaiting expulsion receive, under the aegis of a referee, supervision which is:

a. individual, through the assessment of the individual situation of each foreigner, covering not only his administrative and legal status, but also his anxieties concerning the expulsion and his state of health;

b. comprehensive, through the involvement of a multidisciplinary group including, with respect for their ethical principles, doctors, psychologists, social workers, legal advisers, organisations offering legal or humanitarian assistance, particularly non-governmental organisations;

c. monitored at all stages of the expulsion procedure, that is, during preparation for departure, in particular in detention areas and centres, during the journey and on repatriation;

iii. to develop systematic policies for voluntary or forced repatriation in partnership with the International Organisation for Migration (IOM) or any other relevant body, in particular through the allocation of financial aid;

iv. to adapt without delay their legislation and practices regarding holding prior to expulsion, in order:

a. to limit detention in waiting or transit zones to a maximum of fifteen days;

b. to limit detention in police stations to the amount of time strictly necessary for any arrest and to separate foreigners awaiting expulsion from people being questioned for common law crimes;

c. to limit prison detention to those who represent a recognised danger to order or safety and to separate foreigners awaiting expulsion from those detained for common law crimes;

d. to avoid detaining foreigners awaiting expulsion in a prison environment, and in particular:

– to put an end to detention in cells;

– to allow access to fresh air and to private areas and to areas where foreigners can communicate with the outside world;

– to not hinder contacts with the family and non-governmental organisations;

– to guarantee access to means of communication with the outside world such as telephones and postal services;

– to ensure that during detention, foreigners can work, in dignity and with proper remuneration, and take part in sporting and cultural activities;

– to guarantee the right to free access to consultation and independent legal representation;

e. to guarantee, under regular supervision by the judge, the strict necessity and the proportionality of the use and continuation of detention for the enforcement of the deportation order, and to set the length of detention at a maximum of one month;

f. to favour alternatives to detention which place less restrictions on freedom, such as compulsory residence orders or other forms of supervision and monitoring, such as the obligation to register; and to set up open reception centres;

g. to ensure that detention centres are supervised by persons who are specially selected and trained in psycho-social support and to ensure the permanent, or at least regular, presence of "intercultural mediators", interpreters, doctors, psychologists as well as legal protection by legal counsellors;

h. to take into account, in any decision to limit personal freedom, the needs of vulnerable groups, and in particular:

– the principle of the unity of the family must be respected in all circumstances;

– unaccompanied minors must be treated in accordance with their age, and must immediately be taken charge of by a judge for minors and have access to independent legal consultation and representation;

– single women must be able to use separate facilities;

– the elderly must have access to the medical care necessary for their age;

v. to ensure that expulsion orders are enforced by specially trained, plain clothed state representatives, not by private agents, and to avoid any traumatising treatment, especially towards vulnerable persons;

vi. to inform the destination state of the measures taken to ensure the expelled persons are not considered criminals;

vii. to set up a monitoring system in the destination country, managed by embassy personnel, with a view to ensuring that the expelled person is not subjected to human rights violations, considered as a criminal or threatened with blackmail or arbitrary detention;

viii. to adapt immediately their legislation and practices concerning the transportation of expelled foreigners in order:

a. to inform the deportee at least thirty-six hours in advance of the details of the journey, that is to say, times, destination, means of transport and if applicable, escort;

b. to limit the use of escorts to cases of known resistance, to take careful account of all refusals to be escorted and to organise a prior meeting with members of the escort, if absolutely necessary;

c. to ensure that members of escorts are adequately trained, particularly in mediation and stress management and have linguistic and cultural knowledge;

d. to favour in all cases scheduled air transport and to ensure that the carrier and captain have been fully informed and have given their formal agreement, failing that to allow the presence on board of independent observers or to allow video recordings;

e. to allow also the presence of independent observers or to make video recordings of the moments leading up to departure, due to the possibility of threats or attacks to persuade the person to leave; the independent observers must be present on departure and arrival;

f. systematically to draw up certificates on the physical and mental health of the deportee, on departure and arrival;

g. to introduce into national law specific regulations which strictly forbid the following practices:

– partial or total obstruction of the respiratory tract;

– gagging with adhesive tape;

– the use of poison gas or stun gas;

– the administration of tranquillisers against the wishes of the person concerned or of medicines without medical direction;

– any form of restraint other than handcuffs on the wrists;

– immobilisation by handcuffs during the journey;

– the wearing of masks or hoods by members of the escort;

– the arbitrary or disproportionate use of force;

h. to ensure proportionality and respect for safety and human dignity in any other measures taken during the expulsion procedure, by taking account of the particular needs of vulnerable persons such as children, unaccompanied minors, single women and the elderly;

i. to ensure that deportees receive food and drink during the journey and that they can carry and recover their personal belongings;

ix. to introduce into law the legal guarantees necessary for persons whose rights are violated during an expulsion procedure to be able to effectively exercise their right to appeal, namely:

a. the possibility for the victim or any other person appointed by him to this effect, to appeal to the legal authorities, including, if appropriate, the diplomatic representatives of the state to which he has been expelled;

b. the provision of complete information to all persons awaiting expulsion regarding the possibility of making an appeal and ways of doing so, information on the possible consequences of a refusal to co-operate, and the means of restraint stipulated in national law;

c. the presence of the victim in the state which decided to expel him throughout the duration of the proceedings brought about by the appeal, that is to say,

– the suspension of an expulsion procedure against a person still present in the state from which he is to be expelled;

– the return of an expelled person to the state which expelled him.

II. Draft order

1. While studying the report on expulsion procedures in conformity with human rights and enforced with respect for safety and dignity, the Assembly noted with concern that persons declared inadmissible immediately on their arrival at the borders of the Council of Europe's member states were deported a few hours after their arrival, as this deprives the person in question of the right to request protection and asylum.

2. The Assembly believes that this is a particularly summary procedure, which clearly does not allow states to fulfil all their obligations under the international law on refugees and human rights.

3. As a result, the Assembly asks its Committee on Legal Affairs and Human Rights and its Committee on Migration, Refugees and Demography to conduct an in-depth study into the conditions for determining the status of "inadmissibles" in the Council of Europe's member states.

III. Explanatory memorandum, by Mrs Vermot-Mangold

1. Introduction

1. Following the tragic death of Ms Semira Adamu from Niger at Brussels airport in September 1998, as a result of the methods used to enforce the expulsion order against her, the Committee on Migration, Refugees and Demography set about assessing the expulsion procedures employed in the Council of Europe's member states, in order to ascertain, amongst other things, the extent to which they respect human dignity and human rights. Unfortunately, Semira Adamu's death was not an isolated case. Since 1998, eight people have died while being deported, not to mention those who have committed suicide.[1]

2. The rapporteur considers it intolerable that Europe should resort to force in response to the often desperate attempts of migrants to cross its borders. Violent refusal to board a plane bound for the "country of origin" is more a sign of panic and distress than of aggression. All too often, however, deportees are regarded and treated as criminals.

3. Information on expulsion procedures is still hard to come by and in spite of the reforms announced by various authorities following the deaths of deportees, unacceptable practices are often reported before, during and after repatriation.

4. The rapporteur must stress that she has been unable to obtain relevant information on the situation of foreigners expelled from central and eastern Europe, principally due to the absence of non-governmental organisations at the borders of these states. However, this was identified as a real problem during a meeting between the European Commissioner for Human Rights and the ombudsmen of these countries. One case currently pending at the European Court of Human Rights concerning Bulgaria[2] is proving that expulsion procedures there are fairly similar, in law and in practice, to those in western Europe.

5. The number of people deported from certain countries is very high and is steadily increasing. As an indication, between 10 000 and 20 000 expulsions are carried out every year in Austria, Belgium, the Netherlands and Greece, between 30 000 and 40 000 in France and the United Kingdom, where the number was 30% higher in the first half of 2000 than in the first half of 1999 and is expected to increase further in 2001 and 2002,[1] and up to 70 000 in Germany. It appears from the available information for Austria and the Netherlands that more than 10% of all expulsions are carried out by force.[2]

6. In view of the large and increasing number of persons expelled every day from Europe's borders and airports, it is high time these procedures were made more transparent, with increased co-operation between the different parties involved and the introduction of a code of good conduct to ensure that expulsions, when they are necessary, are carried out with the utmost respect for the dignity and safety of the persons concerned. The guarantee of dignity is currently included either directly[3] or indirectly in several international conventions for the protection of human rights. Furthermore, several national constitutions also mention this clause for the protection of human dignity among the essential rights of the person.

2. The concept of expulsion and some figures

7. For the purposes of this report, the concept of expulsion covers the various cases in which domestic law provides for the removal of foreigners. The concept of expulsion procedure covers all the facts and acts which stem from the expulsion order and, if applicable, up to the return of the foreigner to another country, whether his country of origin or a third country.

8. It includes measures to turn back foreigners on their arrival at the border, to escort foreigners to the border if they have entered illegally or to remove foreigners who have previously been admitted into the country. Accordingly, it concerns illegal immigrants, rejected asylum seekers, foreigners whose residence permit has expired and, in some cases specified by law, foreigners lawfully resident in the receiving state.

9. In most cases, a period of between twenty-four hours, one week and three months, varying from state to state, normally elapses between notification and enforcement of an expulsion order. During this time, the foreigners concerned should have the opportunity to arrange their own departure, possibly with the help of organisations such as the International Organisation for Migration (IOM). If they do not take this opportunity, the next step is forced repatriation, which may be carried out using a vast array of restraint techniques.

1. Thirty-three cases of suicide were recorded in Germany by the PRO-ASYL association between October 1993 and January 1998.
2. Case of Daruish Al-Nashif and others v. Bulgaria, final decision of 25 June 2001.

1. "Passengers stop deportation", *Campsfield Monitor,* No. 15, September 2000.
2. Sources: www.no-racism.net and Autonoom Centrum, "KLM – your deportation agent".
3. Preamble and Article 1 of the 1948 Universal Declaration of Human Rights; preamble of the International Pact of Civil and Political Rights; preamble of the Pact on Economic, Social and Cultural Rights, and the preamble of the International Convention on the Elimination of all forms of Discrimination towards Women.

10. Those persons returned directly to the border, the so-called "inadmissibles", are given no opportunity to appeal. In such cases, a request for asylum is not considered in depth, the expulsion decision is carried out immediately and measures of restraint may therefore be applied immediately. In some states, persons have been repatriated within two or three hours of their arrival, often without having had the time to make a request for asylum, or even to see a legal adviser. In view of the often difficult and stressful nature of the journey, such a process seems both inadvisable for health reasons and unwise if resistance is to be avoided.

11. Furthermore, the rapporteur questions the quality of a decision taken after such a summary procedure as regards the evaluation of the personal situation of the person in question. As this matter of decision-making and the situation of "inadmissibles" are not within the scope of this report, it should be the subject of an in-depth study for a special report.

12. Finally, it should be recalled that the aim of this report is not to prohibit expulsions, nor to discuss legally decided expulsion orders, which in international law remain at the discretion of the states. This principle was recently confirmed by the European Court of Human Rights, which as a result removed the application of Article 6 of the Convention from expulsion decisions and procedures.[1] However, it is important to mention that the consequence of this decision is not to deprive foreigners of their rights as guaranteed by the Convention, in particular Articles 3 (prohibition of torture and inhuman and degrading treatment or punishment), 5 (right to liberty and security), 8 (right to respect for private and family life) and 14 (prohibition of discrimination), guaranteeing respect for the dignity and safety of the person.

3. Authorities responsible for forced repatriation and other actors

13. As a rule, issuing and enforcing expulsion orders is the task of the regional or federal authorities responsible for aliens, such as the Ministry of the Interior (for example, General Directorate of the Aliens Bureau in Belgium, Migration and Aliens Directorate in Croatia, Immigration Service in the United Kingdom), the Ministry of Public Order (for example, State Security Division in Greece), the Ministry of Justice (for example, Immigration and Naturalisation Department in the Netherlands), the prefecture (Aliens Bureau) in France, or the cantons in Switzerland (assisted, since 1999, by a specialised division of the Federal Office for Refugees with responsibility for repatriation). In some cases, for example in the Netherlands, the Ministry of Foreign Affairs also plays a significant role in assessing the safety situation in other countries.

14. In concrete terms, the preparation and enforcement of expulsion orders are the responsibility of the law-enforcement agencies, that is, the police or the *gendarmerie*. They are generally responsible for the supervision of the detention centres and systematically for escorting deportees. In some states, specialist departments are responsible, such as the border police (*Bundesgrenzschutz* (BGS) in Germany, *Police de l'Air et des Frontières* (PAF) in France) or the immigration department (in the Netherlands and Greece). Austria even goes so far as to use its special security service, the WEGA *(Wiener Einsatztruppe Alarmabteilung)*,[1] which consists of anti-terrorist and anti-riot units. Switzerland has similar arrangements in the event of "Level 3" expulsions.[2] In the United Kingdom, the Immigration Service is sometimes assisted by private security firms.[3]

15. Of course, some European states arrange special training for officers responsible for escorting foreigners. In Belgium, *gendarmes* are required to complete a six-month course before being assigned to border control. Since 1999, specific training courses have been available for prospective "border police officers" and "escort officers". In Austria and Germany, officials in charge of expulsion are given special training in a number of areas, such as the legal framework, basic psychology, stress management, conflict mediation and first aid. They are then taught how to use restraint techniques to keep deportees calm. British Immigration Service officials have rejected proposals for training in this area.[4] This training is unfortunately too random. Furthermore, it seems that no specific training is provided for supervising officers at holding centres, nor for the other officials involved.

16. The presence of doctors or other health professionals during expulsion procedures appears little more than a formality. In Austria, a systematic medical examination is compulsory at least twenty-four hours before departure. In France, deportees are legally entitled to request medical assistance; in practice however, police officers often refuse such requests. Switzerland has also introduced a procedure whereby police officers are required to obtain a medical certificate before proceeding with forced repatriation. However, the doctor who examined Khaled Abuzarifeh failed to identify a nasal septum defect that made it dangerous to block the deportee's respiratory tract. Likewise, the German doctor who administered a tranquilliser to Kola Bankole failed to notice that the deportee suffered from cardiac insufficiency. A Swiss doctor at Favra prison described the improper and inappropriate use of medical certificates by the police.[5] Under these conditions, a number of doctors' associations, particularly in Germany, Switzerland and Belgium, have objected to their members' involvement in procedures of this kind.

17. Scarcely any professionals are on hand to provide psycho-social support during expulsion procedures. Belgium is the only country to report that assistance of this nature has, since 1999, been provided prior to departure and, in some cases, during the journey itself, but this practice is still not widespread. In Germany, the

1. Ruling in Maaouia v. France of 5 October 2000.

1. "Licence to kill", CARF *(Campaign Against Racism and Fascism)* No. 50, June 2000.
2. Source: Augenauf Association, report on the Directorate of Security and Social Services of the canton of Zurich, prepared in December 2000 for the elections to the Bundesrat, and Amnesty International, 2000 report.
3. Source: Contribution of the European Committee for the Prevention of Torture (CPT) at the seminar, organised by the Office of the Commissioner for the Human Rights of the Council of Europe, on "human rights standards applying to the holding of foreigners wishing to enter a Council of Europe member state and to the enforcement of expulsion orders", Strasbourg, from 20 to 22 June 2001.
4. "Licence to kill", see footnote 2, col. 2, p. 226.
5. Notes of Dr Lecourt for the meeting of 23 May 2001 with the Secretary of the Department of Justice and Police of the canton of Geneva, representatives of the Swiss League of Rights and of the Geneva Ecumenical Chaplaincy for asylum seekers.

presence of social workers and psychologists in holding centres was considered only negligible. In France, since a decree of 19 March 2001, the Office of International Migrations, a governmental agency, has become responsible for receiving, informing and providing moral and psychological support to deportees, and for preparing them for departure. At the same time, the presence in some holding centres of Ministry of Justice officials, who are mediators, allows certain tensions to be dissolved.

18. In Switzerland, a draft law called the Passengers project[1] is currently looking into the possibility of introducing professional staff to escort people to the border. There have been proposals to replace the cantonal *gendarmes* by specially trained members of a professional, independent organisation at the federal rather than cantonal level. However, for constitutional reasons concerning the sharing of responsibility between the confederation and the cantons, this alternative plan was abandoned. The "Passengers II" proposal aims to establish a common pool of security agents who are psychologically trained to manage expulsion procedures.[2]

19. Likewise, in the Netherlands, in 1999 a project was proposed ensuring that the IOM and other relevant organisations, such as Central Relief for Refugees, were more closely involved in the expulsion procedure through the signing of "expulsion contracts". Expulsions would be carried out by specialist regional teams comprising representatives of different ministerial departments, under the authority of a national co-ordinator.[3]

20. The non-governmental organisations are involved in these procedures to a different extent in each state. In Italy, the Red Cross manages holding centres. Other non-governmental organisations were offered the opportunity to become involved in running these centres but they refused, preferring to limit themselves to visits.[4] In France, a 2001 decree confirmed the presence of one NGO, Cimade, in holding centres and made it responsible for allowing foreigners to exercise their rights and gave it the role of witness. However, until now, those concerned were often expelled before they had the chance to use the NGO's services. In Switzerland, as part of the Passengers project, some people proposed giving the responsibility for enforcing expulsion orders to a humanitarian NGO such as Amnesty International or the Swiss Refugee Aid Organisation.[5] It is not certain whether non-governmental organisations would accept this task.

21. Most often, non-governmental organisations remain confined to an observer role, and their right of access to foreigners awaiting expulsion remains strictly monitored. It is particularly rare for them to have the right to make unexpected visits. The rapporteur believes that this observation and monitoring role is essential and should be made permanent. In this regard, the rapporteur has noted that the recent reforms carried out in some states have been in this direction, such as the setting up of independent visiting committees in the United Kingdom or escort by a doctor or independent observer during the journey in Belgium.[1] In general, these initial increases in the opportunities for foreigners to visit elected representatives, magistrates and non-governmental organisations are encouraging, but they are still not enough to lead to a considerable improvement in the treatment of foreigners.

22. In practice, the police and security services play a predominant role in all Council of Europe member states, and this surely has an impact on the conduct of expulsion procedures and their frequent degeneration into violence, particularly when officials have not received adequate training.

4. Methods of restraint, incidents and accidents

23. Bearing in mind the methods of restraint employed during expulsions, the rapporteur is convinced that the incidents and accidents that have occurred during such procedures in the Council of Europe's member states are not isolated events. The use of violence during expulsions, in breach of Article 3 of the European Convention on Human Rights is plainly all too frequent. Voluntary associations no longer have any hesitation in denouncing the "institutionalisation" of violence through increasingly stringent laws that, while claiming to restrict unacceptable practices, actually authorise them.

24. Unfortunately, only extreme cases, for example when somebody dies while being deported, attract any public or media attention:

– in 1991, Arumugan Kanapathipillai died in an aeroplane from Roissy airport, having been strapped to his seat, with his hands and feet bound and his mouth gagged using a crepe bandage;

– in 1993, Joy Gardner died in London after two police officers and an immigration officer arrested her at her home with a view to her forced repatriation, handcuffed her, immobilised her with a leather belt and gagged her with four metres of adhesive tape;

– in 1994, Kola Bankole died after being injected with tranquillisers while gagged and tied up like a parcel during his expulsion from Germany;

– in 1998, Asan Asanov, who was seriously ill, died while being deported from Germany;

– in 1998, Semira Adamu was suffocated to death using the "cushion technique" while being deported from Belgium;

– in 1999, Marcus Omofuma died on the flight from Austria to Bulgaria, having been taped to his seat, with his hands and feet bound and his mouth gagged using adhesive strips;

1. Proposal registered on 24 July 2000.
2. "Lukrativer Flugauftrag mit gefesselten Passagieren", Otto Hostettler, *Berner Zeitung,* 8 March 2000.
3. Proposal on repatriation policy, 25 June 1999.
4. "Deaths and demonstrations spotlight detention centres", *Statewatch Bulletin,* Vol. 10, January-February 2000.
5. Statement by Mr Urs Hadorn, Deputy Director of the Federal Office for Refugees, *Berner Zeitung,* 20 April 2000, and motion tabled by Mr Jean-Jacques Schwaab in the National Council on 13 June 2000 and transformed into a parliamentary motion by decision of the Federal Council on 18 September 2000.

1. United Kingdom: *Detention Rules* of 2 April 2001; Belgium: Ministerial ruling of 1 April 2000 on the conditions for the transport of difficult passengers.

– in 1999, Khaled Abuzarifeh died in a lift at Kloten airport, having been bound and gagged;

– in 1999, Aamir Ageeb died, having had his hands and feet bound and a motorcycle helmet placed on his head, which BGS officers held forcibly between his knees;

– in 1999, Moshen Sliti died when he was not given medical care while waiting to be deported at the holding centre in Arenc, Marseille;

– in 1999, Mohamed Ben Said died in a holding centre in Rome while awaiting expulsion. He was a drug addict, and was given a powerful tranquilliser that was known to be incompatible with heroin;

– in 2000, Richard Ibewke died at a holding centre in Vienna, having been beaten by police officers during his arrest, according to relatives;

– in 2000, Xhevdet Ferri died as a result of medical neglect shortly after a failed attempt to escape from detention centre 127-*bis* in Belgium;

– in 2001, Samson Chukwu died in a Swiss detention centre in the middle of the night, after being abruptly woken to be taken to the airport and expelled; he resisted and was immobilised then handcuffed with his face to the ground and his hands behind his back.

25. These tragic events cannot be regarded as accidents when one considers the methods of restraint used during expulsion procedures. The working group of intergovernmental experts on human rights of migrants of the Economic and Social Council of the United Nations has recently acknowledged the fact that human rights are violated during identification, search and detention of potential returnees.[1]

a. *Detention*

26. All states provide for the possibility of detaining foreigners awaiting expulsion, according to procedures outside the scope of ordinary law. For some years, this trend has been increasing. This form of detention is an administrative measure justified by the need to prepare for deportation; during this period, the relevant authorities collect the necessary travel and administrative documents. In this respect, governments claim that detention is a more efficient means of enforcing expulsion orders, especially in relation to two types of person: those seeking to avoid expulsion and those without any legal identity papers (who can therefore co-operate in establishing their identity). Such detention of foreigners is explicitly stipulated in Article 5.1.*f* of the European Convention on Human Rights, concerning "the lawful arrest or detention of a person against whom action is being taken with a view to deportation" into the country or of a person against whom action is being taken with a view to deportation.

27. According to the expert Elspeth Guild,[2] foreigners held in detention are actually expelled more quickly than other foreigners. In her view, this is due to administrative considerations: the need to release space in detention centres and the cost of detention. It is true that at the Arenc centre in Marseilles, expulsion takes place on average less than three days after the start of detention.[1]

28. Periods of detention vary greatly between states and are tending to become longer. In Italy, they are currently limited to a maximum of twenty days, in France twelve days, but may be prolonged by court order. Some French authorities complain that this period is too short and is one of the main obstacles to carrying out expulsions.[2] The statutory maximum detention period in Spain is forty days. In Switzerland, it normally lasts between one week and a maximum of three months, but may be extended to nine months. In practice, before the federal court took action in 1999, it sometimes lasted for a year.[3] Various means of support are available for those who accept voluntary repatriation.[4] In Germany, detention lasts for four weeks in principle, but can extend to eighteen months in extreme cases, and in Belgium it lasts between five and eight months.[5] There are no limits in the United Kingdom. Statistics show that 16% of foreigners are detained for less than one month, 38% from two to six months, 23% from six months to a year and the remaining 7% for more than a year.[6]

29. Detention is normally reviewed by the courts, in accordance with the provisions of the European Convention on Human Rights. In France, this takes place after forty-eight hours. In practice, however, where detention is concerned, "judges have become the police's auxiliaries", according to the Paris state prosecutor, and rarely set aside police decisions.[7] Recently, however, some judges have considered that detention could not be justified by the standard reason of the impossibility of immediate expulsion.[8] In Switzerland, judges intervene after ninety-six hours to assess whether detention is lawful; countless police abuses have come to light as a result of this process. On many occasions, the federal court has ordered detainees to be freed, stressing the need for proportionality and for detention to be subject to the practical possibility of deporting the person.[9] In practice, however, the judge does not always have the opportunity to reach a decision, and non-governmental organisations regret the fact that many foreigners who have been held in detention are deported before appearing in court.

30. It is important to note that unlike national courts, European jurisprudence believes that detention should not be indefinite. It is legitimate only as far as efforts are made to carry out the deportation quickly and it ceases to be so if deportation is not carried out within a reasonable period. In this respect, the statistical difference in Italy between actual expulsions and the number of foreigners in detention suggests that some of these detentions do not respect these conditions. The small

1. E/CN.4/1999/80 of 9 March 1999, paragraph 84.
2. Presentation of the legal framework of expulsion in Europe, Hearing on the humanisation of expulsion procedures, 17 April 2000, Paris.

1. Pedro Lima, Régis Sauder, "Arenc, inhumaine antichambre du départ", *Le Monde Diplomatique,* November 1999.
2. Ministry of the Interior circular of 11 October 1999; 1998 report by the Senate Committee of Enquiry on Regularisation.
3. Catherine Bellini, "La défaite des mesures de contrainte", *L'Hebdo No. 6,* 1996.
4. These measures are reserved for the repatriation of persons from Kosovo or Bosnia (letter from the Federal Office for Refugees, 31 May 2001).
5. Source: International Human Rights Federation.
6. Report of the American Congress on human rights practice in the United Kingdom in 1999.
7. "Arenc, inhumaine antichambre du départ", see note 2, above.
8. Decision of the Administrative Tribunal of Rennes, 21 October 2000.
9. Rulings of the federal court, 16 August 1999 and 21 June 2000.

number of cases in which detention was set aside by a magistrate[1] shows that the intervention of the authorities is more a formality than a practice.

31. In these conditions, the rapporteur concludes that there is often an improper use of detention, which in view of the conditions of detention seems to be completely unacceptable.

32. In fact, foreigners are generally held in special centres under police supervision, which do not belong to the prison system and sometimes have no legal foundation. Living conditions in these centres are often deplorable and fail to respect detainees' dignity: detention in cells, overcrowding, insufficient mattresses, no access to fresh air, poor hygiene and sanitary conditions. The rapporteur refers to the condemnation of Greece by the European Court of Human Rights for the violation of Article 3[2] and reiterates that states are obliged to guarantee decent living conditions for detainees.

33. Some are detained immediately in prisons or police stations. As the Committee for the Prevention of Torture has often stated, potential deportees are not criminals and should not be kept in prison-like conditions. On the contrary, specific centres should be created which offer material conditions and regulations adapted to their legal status and which are staffed by officials who have the appropriate qualifications.[3]

34. There is often a climate of insecurity in these places, due among other things to the lack of information, the permanent threat of deportation and disciplinary regulations that are often strict and are completely incompatible with the development of mutual trust. All too often, internal regulations are not accessible to detainees and do not respect ministerial directives.

35. Above all, however, allegations of ill-treatment by the police are frequent among detainees. As well as beatings, mention should be made of the man in a cell in a German waiting area who was handcuffed and made to lie on a table for three hours with a wet T-shirt in his mouth.[4] The abundance of precise, concurring first-hand statements leaves little room for doubt. After visiting Frankfurt-am-Main airport, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) expressed serious concern at the use of force by border police (*Bundesgrenzschutz* – BGS) officers against asylum seekers.[5] The French association Anafé[6] is alarmed by an upsurge in allegations of police brutality and claims to have received implicit confirmation from the officers concerned. Amnesty International has also drawn attention to the ill treatment of foreigners detained in Germany, France, Belgium, Switzerland and Austria.

1. The NGO Statewatch reports the following figures: in 1999, 11 269 foreigners were detained, 3 987 were expelled, 6 773 were released without expulsion, according to the Italian press agency Ansa, there were 8 947 detainees, 1 116 with no legal justification, whereas only 348 cases of detention were invalidated by magistrates, according to the Ministry of the Interior.
2. Ruling in Dougoz v. Greece, 6 March 2001.
3. CPT/Inf (98) 11, 18 June 1998.
4. Case of Ibrahim Kourouma, reported by Amnesty International, Document EUR/01/02/99.
5. Visit of 25 to 27 May 1998; CPT/Inf (99) 10, date of publication: 27 May 1999.
6. Association nationale d'assistance aux frontières pour les étrangers, Paris.

36. The rapporteur hopes that the new regulations concerning the holding of foreigners awaiting expulsion, adopted in France, the United Kingdom, the Netherlands and Belgium, will be strictly enforced in order to put an end to these practices which are unfit for our democracies. The rapporteur welcomes a Dutch initiative at the King Willem II detention centre, where foreigners work part-time and can receive training or take part in sporting or cultural activities, and she would like to see this copied elsewhere.[1]

b. *Escorts and restraint techniques used during the journey*

37. Departures are usually unexpected, and this causes resistance and fear on the part of the deportee. Deportees are therefore placed under escort while travelling, in order to stifle their resistance and avoid the risk of self-mutilation. Escorts generally comprise between two and four people per deportee; their job is to keep deportees quiet and, if necessary, prevent them from moving. The presence of the escort is often enough to create additional fear. The fact that the deportee arrives surrounded by men in uniform and restrained can create problems in the destination state, either because this state considers emigration a crime or simply because the deportee looks like a criminal.

38. In fact, escorts use a range of particularly humiliating restraint techniques, the mains ones being:

– the administration of sedatives, tranquillisers and other drugs, either orally without the deportee's knowledge or by injection. The French police have even gone so far as to use chloroform;

– gagging using adhesive strips or other objects (such as cushions, socks etc.), to prevent deportees from shouting or biting, a practice which the CPT has described as extremely dangerous. The Swiss police have circumvented this restriction by placing tubes inside the gags to allow deportees to breathe;

– gagging using motorcycle helmets or foam boxing helmets with a protective chin strap to keep the jaws shut and a Velcro strip across the mouth;

– handcuffs, belts, straitjackets and other means of preventing any form of movement; Amnesty International described the technique of the "trussed up pig", which consists of tying the ankles and wrists together behind the back and carrying deportees by their restraints;[2]

– strapping deportees into a wheelchair and taking them to their seat, to which they are again strapped (a technique used in Switzerland), meaning they are unable to use the toilet and have to use geriatric nappies.

39. Switzerland has devised a three-tier scale of restraint techniques; while level-2 allows deportees to be handcuffed and escorted by two police officers, level-3 permits the use of all the techniques listed above and an escort of four police officers, who may be masked.[3]

1. Source: CPT
2. 2000 report concerning Belgium.
3. Sources: Augenauf, report (see note 1, col. 2, p. 227) and survey conducted by Béatrice Guelpa and Béatrice Schaad for *Expulsions,* No. 8, 24 February and Amnesty International, 2000 report.

It is normally used when a previous expulsion attempt has failed. The use of such violence prompted the head of the Neuchâtel police force to inform the State Council (cantonal government) that he was unwilling for his "officers to compromise themselves by breaching human rights" and to issue an internal memorandum in January 2000 prohibiting level-3 expulsion procedures. His example was followed by the Basle police force.[1]

40. Certainly, the tragic consequences of these methods have led to reforms. Austria, the United Kingdom, Switzerland, France, Belgium and Germany have banned the use of certain techniques, in particular gags, and have placed restrictions on others. However, such techniques are still being used in these countries. In its response to the CPT, the Belgian Government stated that two reports drawn up during expulsions still mentioned the use of gags.[2] On 21 May 2001, the prosecutor in Klagenfurt, Austria, considered that the use of a gag throughout a twelve-hour flight did not constitute inhuman treatment.[3]

41. In addition, certain more common restraint techniques present a real risk of postural asphyxiation; they can be particularly dangerous when added to the elements of panic and surprise or when used together. The rapporteur believes that there should be specific directives on these methods and that officials should receive the appropriate training.

42. In general, the abuses committed by members of escorts are shocking, whether they involve the use of prohibited techniques or the inflicting of various forms of physical violence on deportees, even when no resistance is offered. Deportees are dragged by their arms, feet or hair, hit with truncheons, and sometimes strangled. It is clear from a range of first-hand accounts, for example by passengers, crew members and non-governmental organisations, that ill-treatment is common during expulsions. Doctors' medical certificates describe the injuries that occur, including bruises, sprains and sometimes strangulation.[4]

43. For the last seven years, Amnesty International has been receiving reports and complaints concerning the mistreatment of deportees at Europe's borders, and has noted a significant increase in the number of reports in the last two years – which also reflects an increase in the number of expulsions.[5] The organisation believes the actual number of cases to be well in excess of the number reported, as many instances are never brought to light.

44. The rapporteur considers that the proliferation of passenger complaints and the refusal of French, Belgian, German and Swiss aircrew trade unions to assist in deporting people without their consent are a telling indictment of the situation. The rapporteur notes with satisfaction that more and more people are denouncing the use of brutality during expulsion procedures, including people, such as doctors, who are involved in the procedures, and politicians.

45. For example, at Roissy airport on 7 January 2000, while one person was held by the legs and shoulders by two police officers and repeatedly kneed in the back by other officers, and three police officers dragged a semi-naked woman by the hair while a fourth beat her with a truncheon, only the intervention of a European MP, alerted by the shouting, prevented a third woman from suffering a similar fate.[1] Meanwhile, a Belgian MP submitted a film about the mistreatment suffered by Matthew Sellu, from Sierra Leone, during his expulsion to Senegal and a medical certificate for use as evidence in his case before the Belgian courts.[2]

46. On 14 March 2001 an official of the French Ministry of Foreign Affairs on duty in the waiting area at Roissy airport, acting in compliance with a legal obligation to which all French civil servants are subject, made the first official complaint to the state prosecutor concerning insults and blows rained on a young woman from the Democratic Republic of Congo following her refusal to board a plane to Douala.[3]

5. Deportation by air[4]

47. As a rule, forced expulsion is carried out by air, on commercial flights and this method should be preferred in all cases, as it is open to public scrutiny.

48. The responsibility for the journey and the costs incurred lie in principle with the state that gives the expulsion order. However, under national aviation legislation and ICAO[5] international regulations, the captain is responsible for safety, discipline and order on board. Accordingly, it is the captain's duty to ensure that everything is in order for the flight; he or she is empowered to order any person who is likely to jeopardise safety, discipline or order on board the plane to disembark. The Tokyo Convention[6] also provides that the captain may impose any reasonable and necessary measures of restraint on persons who have committed, or are likely to commit, a criminal offence or an act that jeopardises safety and order on board. In principle, then, escorts are subject to the authority of the captain, from whom permission for the use of restraint must be obtained.

49. There is, however, one exception to the principle of the responsibility of the state, included in the Schengen Convention and in accordance with ICAO rules.[7] In fact, most states oblige airlines to return "inadmissibles", those to whom access to the country has been refused, at their own charge, either to their country of origin or to the transit country, under threat of fines. In this case, it is also the responsibility of the carrier to

1. *Expulsions,* No. 8, 24 February 2000.
2. Interim report of the Belgian Government in response to the CPT report concerning its 1997 visit, published on 31 March 1999, CPT/Inf (99) 6 [FR].
3. *Migration News Sheet,* June 2001, p. 7.
4. Source: Augenauf and notes by Dr Lecourt, see notes 2 and 5, col. 2, p. 227.
5. Contribution by Amnesty International to the hearing on this subject in Paris on 17 April 2000, organised by the Committee on Migration, Refugees and Demography.

1. Source: Collectif Anti-Expulsion, Paris.
2. AFP press release dated 2 December 1999.
3. "La zone d'attente dénoncée de l'intérieur" (the waiting area denounced from the inside), Charlotte Rotman, *Libération,* 28 March 2001.
4. Source: Statement by the Belgian Cockpit Association, Brussels, 14 April 2000.
5. International Civil Aviation Organisation.
6. Convention on offences and certain other acts committed on board aircrafts of 14 September 1963.
7. Annex 9 of the Chicago Convention of 7 December 1944.

provide an escort if necessary and to use its own security officers, at least in principle.

50. Immigration services and/or the police are in close contact with airlines and arrange regular meetings. There are several agreements between public authorities and airlines stipulating the conditions under which deportees are to be allowed on board, such as the number allowed on the same flight, the need for an escort and the powers granted to the escort. It should be recognised that expulsions are often seen as a significant economic factor for airlines, as KLM has admitted.[1]

51. Such provisions and agreements sometimes mean that the airlines bear an extreme burden of responsibility, which is clearly not within their competence. The European Court of Human Rights severely criticised the eagerness of public authorities to pass off to others their responsibility for a little Zairian girl who was to be deported.[2]

52. As a result, airline officials, in particular captains, are seen as arbiters of immigration policy or as the "objective allies" of the police or *gendarmerie.* Pressure is brought to bear on them by the authorities that order expulsions, those responsible for carrying them out, the airlines themselves and passengers.

53. This confusion of responsibilities has had an effect on the increase in incidents occurring during expulsions on scheduled flights. Pressure from deportees' support associations and objections from passengers often lead to flights being delayed and sometimes cancelled. Passengers expressing support for deportees are threatened by the police escort and the captain, who in some cases orders them off the aircraft. Air France reported 116 incidents of this kind between November 1997 and May 1998.[3]

54. Finally, an increasing number of flight personnel are refusing to carry persons who have been forced to board against their will, although some still show little concern. For example, on 9 February 2000, an Air France pilot refused to carry a man to Bamako who had been beaten, had his hands and feet bound and was gagged and taped to his seat; the Air France management subsequently decided to replace the pilot with a more compliant one at the last minute.[4] Belgian and German aircrew trade unions instructed their members to systematically require the agreement of the deportee and to refuse to carry persons against their will.[5] These events have also caused some airlines to react, even if their motives are more commercial than humanitarian. For instance, Swissair no longer carries level-3 deportees. In 1998, Air France and Air Afrique suspended expulsions to Mali, and subsequently limited the number carried out.

55. In these circumstances, more and more voices are being raised in ministries and among aircrews against expulsions by scheduled flights. States are finding alternatives.

1. Source: Autonoom Centrum.
2. Ruling in *Nsona v. the Netherlands,* 28 November 1996.
3. Report of the Commission of Enquiry of the French Senate, 1998.
4. Source: Comité Anti-Expulsion.
5. VC-INFO 01-02-2001 and one year after Semira.

56. In most cases, this has meant using charter flights (Germany, Austria, the United Kingdom, Belgium, Switzerland and the Netherlands). Some states have arranged joint flights to the same destination. In Switzerland, since the refusal of Swissair to carry level-3 deportees, a lucrative commerce has developed and become increasingly competitive among small airlines, which set up charter flights such as air taxis at the request of the BFF,[1] the federal administration for refugees, whatever the destination. These expulsions, which are already being called "level-4 expulsions", allow the use of any kind of restraint technique without the risk of reaction.[2] Belgium is even said to have used cargo planes, on the pretext that the deportee had arrived in this way.[3] Spain and Belgium also provide for transport by military aircraft.

57. In some states, people are to be deported by boat. Indeed, the French Minister of the Interior has explicitly suggested that prefects give preference, where possible, to sea transport so as to pre-empt refusals to board. The United Kingdom has seen the interest of expelling people by ship, and has used this method after several failed attempts at expulsion by air.[4] Spain expelled several Moroccans by cargo ship without any regard to their safety or dignity; they were locked up and handcuffed in a police van in the cargo hold.[5]

58. When these alternative means of transport are used, escorts are free to mistreat foreigners expelled in secret, with no witnesses present. This is why the rapporteur considers that is not desirable to prohibit expulsions by scheduled flight. In order to answer the concerns expressed by flight personnel, mainly concerning safety, it is necessary above all for states to assume their full responsibility for the transport of a deportee that it decides should be compulsory.

6. Expulsion: to what destination?

59. Although expulsion is, as governments maintain, a necessary instrument of any immigration policy, there is still a need to ensure that destination countries allow deportees to enter their territory and do not mistreat them. It is important to remember that Article 33 on the prohibition of expulsion or return of the Convention relating to the Status of Refugees of 28 July 1951[6] and the jurisprudence of the European Court of Human Rights,[7] indicate that a state is to all extents and purposes responsible for the situation of a foreigner on his return to another state. States have a real responsibility

1. Bundesamt für Flüchtlinge.
2. "Lukrativer Flugauftrag mit gefesselten Passagieren", Otto Hostettler, *Berner Zeitung,* 8 March 2000.
3. Case reported by Vincent Decroly during the Strasbourg seminar, see note 3, col. 2, p. 227.
4. Case of the expulsion of Amanji Gafor, reported in "Passengers stop deportation", see note 1, col. 2, p. 226.
5. Amnesty International, Document EUR/01/001/2001.
6. "1. No Contracting State shall expel or return a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion. 2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country".
7. Rulings in *Cruz Varas v. Sweden,* 20 March 1991, *Chahal v. the United Kingdom,* 15 November 1996, and *H.L.R. v. France,* 29 April 1997.

to ensure that the persons they expel are treated with respect and dignity in the country of destination. On 30 May 1994, however, Kuldeep Singh, an Indian national who had been deported from Germany, was shot dead by police at New Delhi airport.[1] It would appear that governments nowadays attach more importance to physically removing these people from their own territory than to their situation in the destination country.

60. The rapporteur is concerned that some people are being deported to war-torn regions. In 1999, Germany, the Netherlands and the United Kingdom, and in 2000 Switzerland had no hesitation in sending or attempting to send[2] people back to the Democratic Republic of Congo,[3] while Belgium returned people to Sierra Leone and Liberia.[4] The rapporteur has also received allegations that the Swiss and German authorities returned deportees to Chechnya and Pakistan.[5]

61. It is generally important that, before expelling someone, states should make sure that the destination country will admit the person in question and, in particular, that the relevant authorities have all the necessary identity documents at their disposal. All too often, deportees find that when they reach their destination, the process is far from over.

62. For example, Germany sent fifteen rejected asylum seekers to Guinea in March 1999; when they arrived, they were sent back to Germany by the local authorities because their identity papers were not in order.[6] In 1997, the Netherlands authorities twice tried to deport a Liberian to Nigeria, where he was refused permission to enter the country; he was subsequently left on the streets as an illegal immigrant in the Netherlands.

63. In some cases foreigners who are refused permission to enter the state to which they are deported are held in detention there before being sent back again. In May 1998, a Palestinian refugee was deported by the Netherlands to Lebanon under escort after spending a month in detention; at the Lebanese border, he was arrested by the local authorities and detained for questioning for three days. When it emerged that his identity papers did not match the documents issued by the Netherlands, he was sent back to the Netherlands and detained again until December 1998 before being permanently expelled.[7]

64. Due to a readmission agreement that includes favourable economic compensation arrangements, France deports North Africans, regardless of their nationality, to Algeria, where they are held in prison for several weeks before being returned by boat to France.[8] Similarly, in 1996, Spain deported Africans of various nationalities to Guinea-Bissau, where they were detained, one of them being shot dead by the local police.[1] The European Committee for the Prevention of Torture noted that Belgium had in the past sent foreigners to Africa, where they were left in the hands of a private company whose job was to verify their identity and provide them with the travel documents required for them to return to their countries of origin.[2]

65. Similarly, the Federal Office for Refugees in Switzerland sent rejected asylum seekers from various West African countries first to Ghana, then to Ivory Coast without having been able first to establish their exact identity. In the receiving country the expulsion procedure is, in principle, placed under the supervision of a lawyer from the Swiss embassy. In practice, however, it is left entirely in the hands of the local police, with no guarantees of any sort. Following an accident in Ghana in February 1999, the Ghanaian authorities informed the Swiss embassy that it "no longer wished to serve as a transit camp". Switzerland then turned to Ivory Coast, which also decided to end its co-operation after a year, following the publication of a press article based on reports by members of the Ivory Coast police force describing serious faults on the part of the Swiss authorities. Among the things they reported were detentions lasting several weeks, failure to provide them with the means required to send deportees back to their countries of origin, and their resulting return to Abidjan.[3] These practices are one more sign of the lack of humanitarian consideration shown by states towards the people they deport.

66. Methods such as these, which involve increasing the number of expulsion attempts or sending foreigners to a state which co-operates under cover of vaguely formal admission agreements, seem to serve no other purpose than to get rid of the persons concerned, in the hope that they will be accepted somewhere or, at least, will not be sent back to Europe. They must be firmly condemned. It is essential to place them in a clear framework that defines the exact procedures to be followed and offers sufficient guarantees concerning the fate of the persons concerned.

67. In this regard, the rapporteur expresses certain doubts regarding the exact missions of the liaison agents appointed in some transit states, which accept deportees of various or indeterminate nationalities, under the guise of economic co-operation. These co-operating states are designated mainly by a high-level group at the level of the European Union. However, some non-governmental organisations have questioned the level of control European states have over the activities of these agents. It would seem in some cases that private security

1. Source: PRO-ASYL.
2. Some expulsions were suspended because passengers protested.
3. Sources: Autonoom Centrum and National Coalition of Anti-Deportation Campaigns Augenauf for Switzerland.
4. Sources: International Human Rights Federation and AFP press release dated 2 December 1999.
5. "Abschiebung per Charterjet: Behörde plant neue Flüge", Ira von Mellenthin, *Die Welt,* 4 December 2000 and Contribution of Augenauf to the Strasbourg seminar, see note 3, col. 2, p. 227.
6. Source: Amnesty International 2000.
7. Source: Autonoom Centrum, "KLM – your deportation agent".
8. Contribution of Cimade to the Strasbourg seminar, see note 2, col. 2, p. 227.

1. Source: Amnesty International 1996.
2. CPT visit to Belgium from 31 August to 17 September 1997, CPT/Inf (98) 11, 18 June 1998.
3. Sources: Béatrice Guelpa and Béatrice Schaad, "La Suisse réinvente la traite des Noirs", *L'Hebdo,* 20 January 2000; "Angela, morte à 20 ans sur la 'Route de l'Afrique'" (Angela dies at 20 on "the road to Africa"), *Expulsions* No. 5, 3 February 2000 and "Baîllonné, expulsé, décédé …", *Expulsions* No. 8, 24 February 2000. The Federal Office for Refugees has stated on this matter that "Switzerland has … carried out a certain number of confirmations of nationality during transit to third countries. (…) Each situation was individually monitored by the Swiss representation … Switzerland has always committed to returning to its territory persons who could not be identified. The conformity of this practice with its internal legislation and with its international commitments has been confirmed by both the federal court … and by … Parliament. (…)"

companies are used, in agreement with airlines and sometimes with their financial support.[1]

7. Responsibility and penalties

68. The rapporteur is of the opinion that one of the main obstacles to improved treatment of deported foreigners is the general climate of impunity that appears to surround allegations of ill-treatment. It is important that penalties should be seen as having a fundamental role in prevention.

69. Attention should be drawn in this connection to the case of the four BGS members who, on arriving in Dhaka, were arrested and detained for their violent acts against the Ghanaian man they were escorting.[2] Belgium also reported the case of a captain who was sentenced by an Algerian court for having agreed to transport an Algerian who was tied to his seat.[3]

70. However, it does not seem that such cases reach the court in our countries. A first obstacle is the fact that the victims are a long way away and are materially unable or unwilling to bring proceedings. From this point of view, the enforcement of an expulsion order when a complaint about ill-treatment has been made is unacceptable, as it quite clearly prevents the victim from effectively making an appeal. The same applies to the expulsion of a witness, such as the cellmate of Xhevdet Ferri. Such practices, which are fairly widespread, could be seen to be stalling techniques and could discredit the impartiality of the enquiries. It seems vital to ensure the suspensory effect of the appeal and to allow the temporary return of the expelled persons so they can usefully give evidence.

71. States and their judicial systems show only limited enthusiasm in investigations into allegations of ill-treatment. Often, ministries to which deportation officials are attached merely carry out a few formal administrative or disciplinary enquiries, usually resulting in the presentation of a different version of eventsgiven by the law-enforcement agencies who have been accused. Accidents are generally held to be the result of the personal behaviour of the victim. This was the explanation given by the Austrian Ministry of the Interior following the death of Marcus Omofuma, despite contradictory testimony by staff at Vienna airport. Likewise, the report of the Belgian *gendarmerie* concerning the expulsion of Matthew Selu indicated that he put up violent resistance and tried to attack his escort, and that in this way he was accidentally injured.[4] This case seems to be heading for dismissal. The same explanation was given by the French PAF in a similar case.[5] The repetition of these explanations gives cause for doubt, and they should in any event lead to in-depth judicial inquiries. It clearly shows the difficulty in finding proof in this type of case. It is regrettable that the practice of video recordings initiated in Belgium was abandoned in 2000.

72. It must be noted that when these cases are scrutinised, they very rarely lead to convictions.

1. Source: Contributions of the Anafé and Elisa associations to the Strasbourg seminar, see note 2, col. 2, p. 227.
2. Source: *Die Tageszeitung,* 31 May 1999.
3. Report in response to the CPT, see note 1, col. 2, p. 228.
4. Amnesty International, Document EUR/01/01/99 and EUR/01/001 /2001.
5. "La zone d'attente dénoncée de l'intérieur", see note 5, col. 1, p. 231.

73. When questioned by the CPT on the subject, Germany replied that some cases were pending and that insufficient evidence had been gathered in other cases. The preliminary investigations against the BGS officers involved in the death of Aamir Ageeb have come to nothing.[1] Belgium gave a similar response to Amnesty International, which questioned it about three cases of alleged ill-treatment; two of these were the subject of an ongoing procedure and the other was thrown out.

74. The British courts acquitted the three police officers of criminal and disciplinary offences in connection with the death of Joy Gardner. Allegations of ill-treatment during expulsions prompted Amnesty International to ask the British Government to set up an independent authority to conduct an impartial investigation into who was responsible; the Prime Minister felt this was unnecessary.[2]

75. No proceedings were brought in France following the death of Arumugan Kanapathipillai. A group of intermediaries urged the state prosecutor to open an inquiry into the use of chloroform during deportations in 1997. The prosecutor had purely and simply denied the events, even though they were corroborated by two deportees' statements and the report by the chief steward on the flight in question. The French authorities have also dismissed allegations of people being gagged or drugged as being lies belonging to the realms of fantasy. [3]

76. Proceedings are generally brought on a charge of manslaughter, often making it difficult to gather the necessary evidence. Furthermore, they lead only to symbolic penalties.

77. In the case of Kola Bankole for example, the case against the BGS officers was dropped because it was not established that the gag was the sole cause of death, although the expert concluded that it was a decisive cause. The doctor alone was ordered to pay a fine of 5 000 Deutschmarks to Amnesty International.[4] Likewise, in the case of Marcus Omofuma, the autopsies, one carried out in Bulgaria, the other in Austria, came to contradictory conclusions. The first concluded that the cause of death was asphyxiation and the other a cardiac insufficiency, making it impossible to confirm that there was a definite causal link between the gag and death.[5]

78. In June 2001, the Swiss public prosecutor's office pronounced sentences against the three police officers and the doctor charged with the murder of Khaled Abuzarifeh. Two of the police officers were declared not guilty, as there was no direct causal link between their behaviour and the death of Mr Abuzarifeh.[6] The doctor was sentenced to a five to seven month sentence with parole and ordered to pay compensation to the family of the victim.[7]

1. Source: Deportation Alliance.
2. Source: Amnesty International, 1994, 995, 1996, 1997 reports.
3. Report by the Senate Committee of Enquiry, 1998.
4. "Tod des Sudanesen bleibt rätselhaft", *Süddeutsche Zeitung,* 31 May 1999 and Amnesty International, Document AI/EUR/23/04/97.
5. Amnesty International, Document EUR/01/01/99.
6. The verdict on the third police officer, accused of having given the order to gag Mr Abuzarifeh, has not yet been given.
7. Source: *Der Bund,* 4 July 2001, telephone interview with judge Andreas Fischer of Bülach.

79. Since 1998, a number of complaints have been submitted against doctors and police officers for acts of intentional violence in Switzerland, France, the United Kingdom and Belgium. Jurists note an increase throughout Europe in the number of cases taken to court concerning ill-treatment during deportations.[1] The Paris state prosecutor claims that certain police officials, who have committed unspeakable acts, have already been given prison sentences.[2] It would be instructive to hear the exact verdicts.

80. These facts lead us to conclude that serious offences are being tolerated by government authorities at the highest level. Efforts must be made at all levels to establish who is responsible. The resignation of the Belgian Minister of the Interior following the death of Semira Adamu is proof that the policy of silence is beginning to reach its limits. Furthermore, within the framework of the legal proceedings into this case, the Belgian League for Human Rights asked the examining magistrate to hold an inquiry into the responsibility for manslaughter of the two successive ministers of the interior who authorised the "cushion technique".

81. The rapporteur notes with concern that the responsibilities of the different participants in the expulsion procedure are segmented and diluted, whereas this report shows clearly that it is the procedure as a whole which paves the way for abuses and the succession of blunders which has tragic consequences. It is regrettable that each person is not called to order.

8. Conclusions and proposals for expulsion proposals in conformity with human rights and the safety and dignity of the person

82. The rapporteur believes that a "return must take place only in safety and dignity".[3]

83. In a number of cases where people object, even violently, to expulsion, their attitude stems partly from their lack of preparation for leaving the country and their feeling of confusion and incomprehension, due in particular to their being seen as criminals. The feeling of panic that causes resistance is often exacerbated by stress or fatigue from the outward journey, the tension in the holding centres, sudden departure and the lack of information. If they are to come to terms with deportation, a period of "mourning" and efforts to explain the situation are necessary. Although obviously it is difficult to imagine that deportation can be completely voluntary, at least a discussed or planned deportation with sufficient advice, information and support, would allow violence and aggression, and certainly a large number of forced deportations, to be largely avoided.

84. The rapporteur noted that there were several interesting initiatives under way to make expulsion procedures more in conformity with the dignity of the persons concerned, but these are still too limited. The systematic application of all these proposals within the framework of a clear political will, will contribute to considerable improvements in the fate of foreigners awaiting expulsion.

85. The rapporteur believes that for expulsion procedures to respect the safety and dignity of the persons concerned, they must fulfil three conditions.

86. Firstly, following the example of the voluntary repatriation policies advocated by the IOM, the process must be monitored throughout its three stages: preparation for departure, the journey and re-integration on return.

87. Secondly, if repatriation is to take place in safety and dignity, cases must be dealt with on a more or less individual basis, even if this may seem absurd in view of the high number of cases with which the authorities have to deal every day. To that end, states must introduce active policies in line with their international and European commitments with regard to laws on aliens and human rights. Human dignity must never be sacrificed in the name of immigration policy requirements. In particular, it seems vital to gather as much information as possible on a person's situation, to establish his identity, to ensure he will be allowed to enter the state to which he is being sent, and also to evaluate the degree of his anxiety regarding his deportation and his state of health.

88. Thirdly, in order to create a climate of trust, the expulsion order should if possible be carried out by specially trained officials who are capable of providing both moral and psychological support, social assistance and legal advice, or of ensuring that these services are provided in some way. Law-enforcement officers should only intervene in truly violent cases. Although the rapporteur is aware of the need to respect the ethical rules of each discipline, the rapporteur is convinced that it can only be advantageous to form multidisciplinary teams comprising psychologists, social workers, NGO representatives, doctors, aircrews, law-enforcement officers and members of the legal service; co-operation between these different sectors can only be favourable.

89. It is particularly advisable to establish monitoring files and to set up referees so that the foreigner awaiting expulsion receives global supervision and that a trusting dialogue can be developed with him.

90. On the basis of these general principles, it is indispensable on the one hand to develop and strengthen voluntary repatriation policies that allow room for the initiative of the person concerned, such as the policies proposed by the IOM or other national organisations. For example, the Belgian NGO, CIRE (Centre Initiatives Réfugiés Etrangers), developed policies that, in addition to financial inducements, focus on the creation of micro-enterprises. The strengthening of these policies necessarily presupposes the granting of material, human and financial resources. Currently, it seems that possibilities for such agreed departures are limited, and are being heavily restricted. In France, the Anafé association reports that the IOM, a national agency competent in the field of "voluntary" repatriation, has no representatives in the majority of holding areas, a claim substantiated by the police and IOM officials themselves. The IOM procedure for aid to repatriation concerns a very small minority of expelled persons in

1. Contribution of the ILPA (Immigration Law Practitioners Association) to the Strasbourg seminar, see note 2, col. 2, p. 227.
2. "Bavure en zones d'attente: le témoignage qui accuse", Alexandre Fache, *L'Humanité,* 28 March 2001.
3. See the references in Nicole Hitz and Bertrand Cottet, "Thèses de l'Organisation suisse d'aide aux réfugiés", Berne, January 2000.

countries where it has a presence.[1] A high-ranking IOM official indicated that an essential condition for the efficiency of his policies was rapid access to information by the people in question, which necessarily presupposes widespread publicity surrounding the organisation's activities.[2]

91. In January 2000, the Netherlands and the IOM launched a joint project to improve the spreading of information on IOM policies, and conclusions will be drawn after two years of observation. The rapporteur will be very interested in the conclusions.

92. On the other hand, to ensure the transparency of procedures, it would also be highly desirable to restrict the use of detention in extremely precarious conditions and in places that are effectively prisons. Alternative methods should be looked into, such as accommodation in open reception centres, compulsory residence orders or placing people under judicial supervision, so that these people may enjoy a certain degree of freedom of movement and may retain contact with the outside world, especially with their close friends and relatives, before leaving. It would also be highly desirable to enforce expulsions using only regular commercial flights and without escort. Derogation from this rule could only be in the case of persistent and proven resistance to expulsion. In these situations, it would be useful to set up a system to monitor the way expulsion is conducted, including the participation of monitoring committees or independent observers, and eventually non-governmental organisations.

93. Finally, it should be strongly emphasised that there is a complete prohibition on practices and behaviours which are unacceptable and which violate the dignity of the deportee, and a framework should be drawn up for the use of restraints without the disproportionate use of force.

94. It is also essential that potential deportees are kept informed of the progress of the procedure and of their rights, in particular concerning all the means of protection and appeal available to them. There is evidently a lack of willingness or time to provide information on the various stages of the expulsion procedure or on matters such as summonses, deadlines, notification of grounds for expulsion, dates and venues of any meetings of relevant committees or hearings, the right to legal counsel and an interpreter, the establishing of personal files, means of transport, dates and times of deportation and the destination.

95. The rapporteur considers that expulsion often takes place in a sort of legal vacuum or outside the legal framework, in circumstances that are virtually kept secret and where the use of force is tolerated or at any rate not prohibited. It is important that there should be effective supervision of the expulsion procedures by a judge in the presence of the victim, impartial investigations into any allegations of ill-treatment and exemplary penalties against anyone found guilty of human rights violations. In this respect, it is important that states take on fully all the responsibilities that fall to them in a democratic society with regard to the persons they expel, and that they do not attempt to transfer these responsibilities either formally or informally to the airlines.

96. There should also be greater harmony between domestic legislation and practices throughout Europe; it would be particularly advisable to draw up a code of good conduct and to establish an international monitoring system for this purpose.

Reporting committee: Committee on Migration, Refugees and Demography.

Reference to committee: Doc. 8260 and Reference No. 2345 of 25 January 1999, modified by Reference No. 2595 of 14 March 2001.

Draft recommendation and draft order unanimously adopted by the committee on 4 September 2001.

Members of the committee: *Iwiński (Chairperson), Vermot-Mangold,* Bušić, *Einarsson (Vice-Chairpersons), Aguiar,* Akhvlediani, Aliev, G. Aliyev, Amoruso *(alternate: Olivo),* van Ardenne-van der Hoeven, *de Arístegui,* Arnold, Begaj, Bernik, Björnemalm, *van den Brande, Branger,* Brînzan *(alternate: Tudose),* Brunhart, Burataeva, *Christodoulides, Cilevičs, Connor,* Debarge, Díaz de Mera *(alternate: Fernández Aguilar),* Dmitrijevas, Dumont, Ehrmann, Err, Evangelisti *(alternate: Brunetti),* Fehr, *Frimannsdóttir, Hordies,* Hovhannisyan, *Ilaşcu, Ivanov,* Jařab, *Judd, Karpov,* Kolb, Koulouris, Kozłowski, Laakso, *Lauricella, Liapis,* Libicki, Lörcher, Loutfi, Luís, Markovska, Mularoni, Mutman, Norvoll, Oliynyk, Onur, Ouzký, Popa, Pullicino Orlando, *Risari,* Rogozin, Rusu, *Sağlam,* von Schmude, Schweitzer, Shakhtakhtinskaya, *Slutsky,* Smith, *Stoisits,* Szinyei, *Tabajdi,* Tahir, Telek, *Tkáč,* Udovenko *(alternate: Gaber),* Wilkinson, Wray, *Yáñez-Barnuevo,* Zwerver.

N.B. The names of those members present at the meeting are printed in italics.

The draft recommendation and draft order and amendments will be discussed at a later sitting.

1. As an indication, the IOM provides the following statistics. In Belgium since the start of the policies in 1994, there have been 10 000 voluntary returns, in the Netherlands 7 000 since 1992.
2. Short speech by Ndioro Ndiaye, Assistant Director General of the IOM at the Belgian Senate on 16 November 1999.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Agenda[1]
Doc. 9197 – 11 September 2001

Agenda for the fourth part of the 2001 Ordinary Session of the Parliamentary Assembly (24-28 September 2001)

General

– Examination of credentials of new Representatives, Substitutes and Special Guests

– Changes in membership of committees

– Progress report of the Bureau of the Assembly

– Communication from the Committee of Ministers to the Assembly

– Statements by eminent guests

Political affairs

– Conflict in the Chechen Republic

– Situation in "the former Yugoslav Republic of Macedonia"

Legal affairs and human rights

– Structures, procedures and means of the European Court of Human Rights

Economic affairs and development

– the OECD and the world economy

Social, health and family affairs

– Building a twenty-first-century society with and for children: follow-up to the European strategy for children

– Dynamic social policy for children and adolescents in towns and cities

Migration, refugees and demography

– Expulsion procedures in conformity with human rights and enforced with respect for safety and dignity

– Right to family life for migrants and refugees

Culture, science and education

– Higher education in South-eastern Europe

– Young scientists in Europe

– Scientific and technological development in central and eastern Europe

– European Year of Languages

Environment and agriculture

– Security and crime prevention in cities: setting up a European observatory

Equal opportunities for women and men

– Campaign against trafficking in women

Honouring of obligations and commitments by member states

– Honouring of obligations and commitments of Georgia as a member state of the Council of Europe

– Follow-up given to Resolution 1244 (2001) on the honouring of obligations and commitments by Ukraine

– Progress of the Assembly's monitoring procedure (2000-2001) – progress report of the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe

1. Adopted by the Bureau of the Assembly in accordance with Rule 16 of the Rules of Procedure (7 September 2001).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Progress report
Doc. 9198 – 11 September 2001

Progress of the Assembly's Monitoring Procedure (2000-2001)

(Rapporteur: Mr MOTA AMARAL, Portugal, Group of the European People's Party)

Summary

Since its creation in April 1997, the committee reports once a year on the general progress of the monitoring procedures. This fourth progress report covers the period April 2000 — August 2001.

The committee is currently monitoring the obligations and commitments of eight countries (Albania, Armenia, Azerbaijan, Georgia, Moldova, the Russian Federation, Turkey and Ukraine) and conducting a post-monitoring dialogue with six states (Bulgaria, Czech Republic, Lithuania, "the former Yugoslav Republic of Macedonia", Romania and Slovakia).

The rapporteur notes the efficiency of the committee, enriched by four years' monitoring experience and, most recently, the development of a post-monitoring dialogue with the countries concerned.

He also notes that so-called "monitoring" procedures have expanded rapidly in the Council of Europe, including in the Committee of Ministers and warns against the risk of diverging assessments of states' honouring of their obligations and commitments.

I. Draft resolution

1. In April 1997, the Parliamentary Assembly decided to establish a Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), which, under the terms of Assembly Resolution 1115 (1997), is "responsible for verifying the fulfilment of the obligations assumed by the member states under the terms of the Council of Europe Statute, the European Convention on Human Rights and all other Council of Europe conventions to which they are parties, as well as the honouring of the commitments entered into by the authorities of member states upon their accession to the Council of Europe".

2. The experience gained from four years' activity has enabled the Monitoring Committee gradually to adjust its working methods. To improve still further the procedure for monitoring obligations and commitments and explore new avenues that will help, in particular, to improve its visibility, the Assembly believes that certain principles laid down in Resolution 1115 (1997), which governs the Monitoring Committee's activities, need at present to be restated

3. The Assembly attaches great importance to the post-monitoring process introduced in 2000, which enables it to maintain a constructive dialogue with the member states in respect of which the monitoring procedure has been concluded but which, while on the right track, have not yet reached the stage where they fully honour all their obligations and commitments. It recalls that this process could lead to the reopening of a monitoring procedure.

4. Since its inception, the Monitoring Committee has assisted fifteen member states in the honouring of their obligations and commitments. It is currently monitoring the obligations and commitments of eight countries and is conducting a post-monitoring dialogue with six others.

5. The Assembly notes, however, that so-called "monitoring procedures" have expanded rapidly in the Organisation, which could eventually pose a threat to the visibility, and thus the effectiveness of the work of the Assembly in the field of monitoring.

6. In this respect, it regrets in particular the decisions taken by the Committee of Ministers to undertake an *ad hoc* monitoring of democratic developments in certain countries on the basis of commitments expressly accepted by these states *vis-à-vis* the Parliamentary Assembly, and denounces the fact that this new mechanism duplicates the monitoring procedure of the Assembly.

7. The Assembly warns against the real risk of diverging assessments of states' honouring of their obligations and commitments by the Assembly on the one hand and the Committee of Ministers on the other hand, and against the real risk of creating confusion in the states concerned by duplication of procedures.

8. The Assembly recalls the principle according to which the Monitoring Committee is the only Assembly committee competent to deal with issues relating to commitments entered into by states that are being monitored and for assessing how far these countries are abiding by the general obligations arising from their membership of the Organisation.

9. The Assembly notes that although membership of the committee, which is based on nominations by the political groups, reflects a political balance, it does not satisfy the major criterion of a regional balance. This principle must be taken into account by the political groups in the future, in order to ensure that all member states are represented, in particular those that are subject to a monitoring procedure.

10. It also notes that in general the monitoring procedures currently under way are very complex and cover a certain number of political and legal questions that call for greater expertise. It welcomes in this respect the Monitoring Committee's excellent relations with the European Commission for Democracy through Law (the Venice Commission) and appreciates the high standard of work so far carried out.

11. The Assembly endorses the Monitoring Committee's wish to show greater openness to political life and civil society in countries that are being or have been monitored, in particular, by developing direct

contacts with the national authorities and the international and non-governmental organisations present there. In accordance with Resolution 1115 (1997), the Monitoring Committee should also be able to meet in any member state that so invites it.

II. Draft recommendation

1. The Parliamentary Assembly, referring to its Resolution ... (2001), welcomes the Council of Europe's efforts to ensure that the obligations and commitments arising from states' membership of the Organisation are fully honoured at every level by all member states, and encourages initiatives aimed at bringing the Organisation's various monitoring procedures more closely into line.

2. The Assembly notes, however, that so-called "monitoring procedures" have expanded rapidly in the Organisation, which could eventually pose a threat to the visibility, and thus the effectiveness of the work of the Organisation in the field of monitoring.

3. In this respect, it regrets in particular the decisions taken by the Committee of Ministers to undertake an *ad hoc* monitoring of democratic developments in certain countries on the basis of commitments expressly accepted by these states *vis-à-vis* the Parliamentary Assembly, and denounces the fact that this new mechanism duplicates the monitoring procedure of the Assembly.

4. The Assembly warns against the real risk of diverging assessments of states' honouring of their obligations and commitments by the Assembly on the one hand and the Committee of Ministers on the other hand, and against the real risk of creating confusion in the states concerned by a duplication of procedures.

5. The Assembly is convinced that more value should be attached and priority should be given to its monitoring procedure which has proved in most cases its effectiveness and efficiency. It welcomes the fact that the Committee of Ministers has taken into account in its programmes of activities and assistance the different proposals contained in the recommendations which the Assembly has adopted on the monitoring of obligations and commitments entered into by some member states.

6. It believes that consideration should be given to ways of increasing the impact on the activities of the Committee of Ministers of Assembly recommendations on the monitoring of obligations and commitments.

7. The Assembly notes that monitored countries cannot comply fully with the Council of Europe's principles and standards, and with the commitments they have subscribed to without long-term assistance from the Organisation.

8. However, by themselves the legal advice and assistance in carrying out constitutional, legislative or administrative reforms provided by the Organisation are clearly insufficient and are sometimes impeded by the slow pace of change of practices and attitudes.

9. The Assembly considers that nothing can be achieved in the long term without a policy of encouraging freedom of information and debate based on democratic principles in countries whose obligations and commitments are monitored, and that above all internal democracy must be developed in these countries.

10. If countries are to make progress towards European democratic standards, the public must be aware of the existence of these standards, have a real understanding of the Council of Europe's work and activities to promote democracy and the respect for human rights, and be capable of understanding the problems existing in their countries and supporting the reform proposals that the Oranisation deems essential. Only better informed citizens could be genuine participants in the democratic debate.

11. The Assembly therefore recommends that the Committee of Ministers:

i. avoid duplication, in its *ad hoc* monitoring of democratic developments in certain countries since their accession, with the monitoring procedure of the Parliamentary Assembly;

ii. implement a policy of encouraging freedom of information and debate based on democratic principles in countries that are being monitored;

iii. organise, in close liaison with all member states, the dissemination of information, particularly using modern communication methods such as radio, television and the Internet, setting out the obligations and commitments that stem from Council of Europe membership, and the reforms that remain to be completed if the Organisation's standards are to be met;

iv. organise, in close liaison with all member states, broadcasts of information and political discussions to encourage democratic debate inside those countries; such programmes could also report on the activities of the Council of Europe and its Assembly in this field;

v. intensify its co-operation activities in the preparation and conduct of population censuses carried out by those states with a specific demographic situation, in view of the political importance of these operations.

III. Draft order

1. The Assembly refers to its Resolution …. (2001) on progress in the Assembly's monitoring procedure.

2. The Assembly recalls the principle set up in its Resolution 1115 (1997) according to which the Monitoring Committee is the only committee with direct responsibility for issues relating to commitments entered into by states that are being monitored and for assessing how far these countries are abiding by the general obligations arising from their membership of the Organisation.

3. Therefore, reference to the Monitoring Committee should be considered for all motions concerning the obligations and commitments of member states that are the subject of a monitoring procedure or will cover a specific topic included in the monitoring rapporteurs' work programme, and, when necessary, for an opinion to the committee of the Assembly with general responsibility for the subject.

4. The Assembly also refers to its Resolution 1155 (1998), where it called for closer co-operation and a complementary relationship between the Monitoring Committee and other Assembly committees, and expressed the hope that these other committees would co-ordinate their activities with those of the Monitoring Committee.

5. It invites the Monitoring Committee to hold joint meetings with the other Assembly committees with responsibilities in areas of common interest.

6. It also invites the Monitoring Committee to intensify, when appropriate, co-operation with the European Parliament and the Commonwealth of Independent States Assembly.

IV. Explanatory memorandum, by Mr Mota Amaral

A. Introduction

1. Under paragraph 13 of Resolution 1115 (1997) the committee is required to report to the Assembly once a year on the general progress of the monitoring procedures.

2. To date the committee has presented three progress reports: in response to the first the Assembly adopted, in April 1998, Resolution 1155 (1998) and Recommendation 1366 (1998),[1] while the second and third progress reports were examined as information reports respectively by the Assembly in April 1999[2] and by the Standing Committee in May 2000.[3]

3. Now, four years on, I thought it appropriate for the latest report to take stock of the Monitoring Committee's activities and make a number of proposals with a view to enhancing the visibility and efficacy of its work.

4. This fourth report will also present the work done by the committee between April 2000 and August 2001. As in the previous reports, the appended tables provide a clear overview of the situation in respect of procedures in progress:

– Appendix I summarises the state of the procedures in respect of the eight member states now being monitored;

– Appendix II shows the state of signatures and ratifications of Council of Europe conventions by these eight member states;

– Appendix III shows the main areas covered under the monitoring procedure in each member state;

– Appendix IV includes the list of replies by the Committee of Ministers to recent Assembly recommendations related to monitoring;

– Appendix V lists the members of the committee, by political group and national delegation.

1. Doc. 8057, progress of the Assembly's monitoring procedures (1997-98), rapporteur: Mr Guido de Marco (Malta, EPP/CD).
2. Doc. 8359, progress report of the Monitoring Committee (1998-99), rapporteur: Mr Jordi Solé Tura (Spain, SOC).
3. Doc. 8734, progress report of the Monitoring Committee (1999-2000), rapporteur: Mr Juris Sinka (Latvia, EDG).

5. Since its inception the committee has been responsible for monitoring and assisting fifteen states in the honouring of their obligations and commitments (Albania, Armenia, Azerbaijan, Bulgaria, Croatia, Czech Republic, Georgia, Latvia, Lithuania, Moldova, the Russian Federation, Slovakia, "the former Yugoslav Republic of Macedonia", Turkey and Ukraine). Eight of these countries are still being monitored (see paragraphs 69 and following).

6. The committee has also started a post-monitoring dialogue with seven countries for which the procedure has been completed (Bulgaria, Czech Republic, Estonia, Lithuania, "the former Yugoslav Republic of Macedonia", Romania and Slovakia). The committee considered itself satisfied with the dialogue it started with Estonia in May 2000, and decided to conclude it in December 2000.

7. Since 1997 the committee has constantly improved its working methods, for example by introducing a mechanism for continuing the dialogue with member states after closure of the monitoring procedure. This same concern to go further and enhance the efficacy of its work is behind the committee's present efforts to further improve its working methods.

B. Improving the committee's working methods

1. *Implementing post-monitoring dialogue with the member states*

8. In 2000 the committee designed and introduced new machinery for renewing active dialogue with states in respect of which the Assembly had decided to conclude the monitoring procedure because of the significant progress they had made in honouring their obligations and commitments. The new machinery was approved by the Bureau of the Assembly on 6 March 2000, then by the Assembly on 3 April 2000.[1] The Monitoring Committee finalised the exact details of this post-monitoring dialogue on 19 December 2000, when it adopted a specific method (see Appendix VII to the present report).

9. This mechanism was introduced with a view to pursuing constructive dialogue with the authorities of those countries in respect of which the monitoring procedure has been concluded but which, while on the right track, have not yet reached the stage where they fully honour all their obligations and commitments. The Monitoring Committee is thus able to examine and encourage developments in the countries concerned since the close of the monitoring procedure. It could also enable the Assembly to be more closely involved in the progress of reforms in these countries.

10. Post-monitoring dialogue is based on the following principles:

– it concerns the action taken by the authorities of the country concerned on the suggestions and additional measures put forward by the Assembly in its recommendations or resolutions concluding the monitoring

1. See the Monitoring Committee's previous progress report (Doc. 8734) and the progress report of the Bureau of the Assembly (Doc. 8689 and addendum) adopted by the Assembly on 3 April 2000.

procedure, as well as developments in areas related to the general obligations of member states;

– dialogue can be initiated with member states in respect of which the monitoring procedure has been closed for over a year;

– the situation is assessed by the Chair of the Monitoring Committee, with the co-operation of the national delegation concerned and in consultation with the rapporteurs formerly responsible for monitoring the particular country, if they are members of the committee;

– the conclusions take the form of a memorandum submitted to the committee for approval and transmission to the Bureau of the Assembly. The Bureau then decides if further information or more active co-operation is required, or if a new monitoring procedure should be opened.

11. A dialogue was initiated in 2000 with the Czech Republic, Estonia, Lithuania and Romania, and in 2001 with Slovakia, Bulgaria and "the former Yugoslav Republic of Macedonia".[1]

12. The committee has received comments from three of the seven national delegations concerned (Estonia, Lithuania and the Czech Republic) describing progress made since the conclusion of the monitoring procedure. At its meeting on 19 December 2000 the committee examined and adopted a memorandum by its chair on the dialogue with Estonia, in which it recommended closing the dialogue in view of the progress Estonia had made towards fully honouring its commitments. The committee forwarded the document to the Bureau of the Assembly, which decided to append it to the activity report presented to the Assembly in January 2001.[2]

13. As the monitoring procedure in respect of Croatia was concluded on 26 September 2000, the Monitoring Committee should decide in 2001 to engage in an active dialogue with the country.

2. *Generalisation of the immediate opening of monitoring procedures upon accession*

14. Resolution 1115 (1997) lays down the conditions for the opening of a monitoring procedure. Except in special circumstances, a monitoring procedure should not commence until six months after a member state's accession to the Council of Europe (paragraph 4 of the committee's terms of reference). Special circumstances had warranted the opening of a procedure in respect of the Russian Federation less than six months after its accession in 1996.

15. The same reasoning was applied when the Assembly decided to open a procedure in respect of Georgia immediately after its accession (Opinion No. 209 (1999)), then Armenia (Opinion No. 221 (2000)) and Azerbaijan (Opinion No. 222 (2000)). The procedure was therefore accelerated for four of the eight countries now being monitored.

16. Nevertheless, the committee regrets that apart from opening procedures concerned with recent member countries, it has so far been unable to consider the honouring of obligations and commitments by other, long-standing, member states, with the notable exception of Turkey. It is worth noting that, pursuant to Resolution 1115 (1997), it did ask the Bureau of the Assembly to open a monitoring procedure in 2000 concerning Austria. The request was refused, thereby generating a sense of discrimination among members of the Assembly, as between older and newer member states.

3. *Setting up of a sub-committee on conflict settlement in monitored states*

17. The committee notes that six of the eight countries currently being monitored, namely Armenia, Azerbaijan, Georgia, Moldova, the Russian Federation and Turkey, are confronted with conflicts, which are such that their persistence is a major obstacle to the conclusion of the monitoring procedure in the medium term. Settlement of these conflicts, that is, those in Abkhazia, South Ossetia, Nagorno-Karabakh, Transnistria, or in Chechnya or in south-east Turkey, and the return to the rule of law and the enjoyment of human rights by the people who live there, are preconditions for the conclusion of the monitoring procedure.

18. The Monitoring Committee should therefore step up its activities in this field and its active participation in any external initiatives taken, in particular, by certain Council of Europe bodies (the Venice Commission, for example) or by the OSCE.

19. Paragraph 5 of its terms of reference stipulates that "the Monitoring Committee may set up sub-committees on the monitoring of specific obligations and commitments of member states or groups of member states". The committee must equip itself to perform its task to the full, not on an *ad hoc* but on a permanent basis. This means setting up a special sub-committee.

4. *Engaging the committee in new activities related to monitoring*

20. In keeping with well-established practice, each time the Bureau of the Assembly decides that the Parliamentary Assembly will observe elections in a member state, co-rapporteurs from the committee are traditionally invited to participate when the member state is one of those it is monitoring.

21. However, the committee considers that the co-rapporteurs should also be more closely associated with other political activities or operations affecting the democratic development of the states it monitors. The committee notes that in 2001 several countries – Albania, Bulgaria, the former Yugoslav Republic of Macedonia and Slovakia, *inter alia* – carried out or will carry out population censuses. In certain countries the demographic situation plays an important part in political and democratic stability. A population census can therefore be an important political instrument insofar, for example, as it establishes the numbers of members of each national minority and, consequently, the balance of political sympathies in the country. In future the committee must give some priority to monitoring such operations in these countries, in order to ensure that they

1. See Recommendations 1338 (1997) on the Czech Republic and 1339 (1997) on Lithuania, and Resolutions 1117 (1997) on Estonia, 1123 (1997) on Romania, 1196 (1999) on Slovakia, 1211 (2000) on Bulgaria and 1213 (2000) on "the former Yugoslav Republic of Macedonia".
2. See Doc. 8935 addendum.

are carried out fairly and transparently and give a true picture of the populations.

5. *Adoption of a code of conduct for monitoring co-rapporteurs*

22. Since its inception, the Monitoring Committee has debated on several occasions on the need for guidelines to be established for the co-rapporteurs in the exercise of their activities. In April 2001, it instructed its chairman to elaborate a draft code of conduct. Such a draft has been discussed and approved by the committee (see Appendix VIII of the report).

C. Enhancing the visibility of the Monitoring Committee

1. *In the Parliamentary Assembly: promoting greater complementarity between committees' activities*

23. Under the terms of Assembly Resolution 1115 (1997) the Monitoring Committee is "responsible for verifying the fulfilment of the obligations assumed by the member states under the terms of the Council of Europe Statute, the European Convention on Human Rights and all other Council of Europe conventions to which they are parties, as well as the honouring of the commitments entered into by the authorities of member states upon their accession to the Council of Europe".

24. Four years later, it is now time for the Assembly to reaffirm the position adopted in the 1997 resolution and to clarify the question of the division of responsibilities between, and the exact roles of, its Monitoring Committee and its other committees, so as not to dilute the role of the Monitoring Committee.

25. On several occasions in 2000 the Monitoring Committee was disturbed to see certain committees taking initiatives – fortunately only limited ones – in countries it was monitoring that duplicated its own monitoring activities (see Appendix VI, which lists activities of the Assembly committees which cross the monitoring areas).

26. Although better co-ordination and increased co-operation between the committees and their secretariats are to be encouraged, this does not alter the fact that the Monitoring Committee should be the only committee responsible for questions clearly concerning the commitments accepted by the states being monitored and for assessing their honouring of the general obligations incumbent on them as members of the Organisation. As the Monitoring Committee is responsible for monitoring individual countries, any question relating to any of the countries being monitored should always be referred to it for report or for information. This does not infringe upon the power of the Assembly's general committees to report to the Assembly on any general, cross-sectoral issues, within the strict confines of their respective terms of reference.

27. It is indubitably for the Bureau of the Assembly to be particularly strict when referring draft texts to the committees. Referring a proposal to another committee for report when it concerns a specific question that is already being monitored and is included in the work programme of the Monitoring Committee's rapporteurs, in application of the opinion on accession, is a source of considerable confusion, particularly for the national authorities of the countries being monitored. One case in point was when the Committee on Legal Affairs and Human Rights was asked to prepare a report on a new Russian law on religion. Another was the question of political prisoners in Azerbaijan, or the Ilie Ilascu case, both referred to the same legal affairs committee for report.

28. Concerning the monitoring procedure in respect of Russia's obligations and commitments, the Monitoring Committee was only partially involved in the discussion of the Assembly's reports on the conflict in Chechnya. In no way does the committee intend to challenge the competence of the Political Affairs Committee. However, while it was able to give an opinion on the report presented by the Political Affairs Committee during the Assembly's April 2000 part-session (see Doc. 8697 and Doc. 8705), it did not have an opportunity to express its opinion during the Assembly's subsequent debates on the conflict in the Chechen Republic on 29 June 2000, 28 September 2000 and 25 January 2001.

29. Considering that a procedure to monitor Russia's obligations and commitments has been in place since April 1996, the committee regrets that it was not included in the joint Parliamentary Assembly/Duma Working Group on Chechnya which the Assembly resolved to set up in Resolution 1240 (2001), dated 25 January 2001, a group on which one of its members admittedly sits but does so in respect of the Committee on Legal Affairs and Human Rights.

30. The committee may accordingly recommend that the Bureau take into account the commitments as listed in the opinions adopted by the Assembly when referring a motion to a committee.

31. There is room for improvement in working relations between the Assembly's committees to achieve greater complementarity. Careful division of the work programme is more necessary than ever in order to avoid duplication. As has been the case with other committees, joint meetings with committees working on specific issues related to the commitments of monitored states are to be encouraged from this point of view.

32. The urgent-procedure debate on violations of freedom of expression and parliamentary democracy in Ukraine that was held during the Assembly's January 2001 part-session showed that co-operation with other committees is possible. The Monitoring Committee was asked to present a report to the Assembly, which was referred to the Committees on Legal Affairs and Human Rights and the Committee on Culture, Science and Education, for opinion.

33. Finally, the Monitoring Committee – or at least the co-rapporteurs concerned – should be informed as soon as possible of any meeting by other Assembly committees or any official visit by the President of the Assembly foreseen in a monitored state.

2. *Strengthening the co-ordination of monitoring activities with the other organs of the Council of Europe*

34. The committee can but welcome the creation in 2000 of a new Directorate of Strategic Planning for the

Organisation, which has been given the task of strengthening the links between the Organisation's different monitoring procedures and co-operation and assistance programmes.

35. However, the committee is naturally alarmed at the number of so-called "monitoring" procedures springing up in the Organisation, which threaten ultimately to water down the Council's visibility and therefore its efficacy in Europe.

36. The monitoring activities of the Committee of Ministers, based mainly on the 1994 Declaration on compliance with commitments accepted by member states, consisted until recently of a theme-specific process set in motion in 1996. Unlike the Assembly's country-based procedure, it focused on specific themes selected by the Committee of Ministers, with reports describing the situation in each member state in respect of the specific theme.[1]

37. However, when Armenia and Azerbaijan were invited to join the Organisation, the Committee of Ministers decided to set up an *ad hoc* monitoring process and instructed the Ministers' Deputies to monitor democratic developments in these two countries on a regular basis. It was in this context that the Secretary General took the initiative of sending two fact-finding missions to the two countries at the same time, in November 2000. Their task was to determine to what extent the two states were honouring the obligations and commitments which they had accepted and which were detailed in the opinions on accession adopted by the Assembly.

38. These information missions took place when the Monitoring Committee had not yet started its monitoring exercise. But a more serious example of duplication of activities occurred in July 2001, when two fact-finding visits of co-rapporteurs to Armenia and Azerbaijan had to be cancelled.[2] A question on this incident was put by Mr Jaskiernia to the Chairman of the Committee of Ministers in the June 2001 part-session but the chairman replied that he did not share Mr Jaskiernia's concerns that the work of the Committee of Ministers Monitoring Group overlaps with the Assembly's monitoring.[3]

1. Since the procedure was initiated, eight "themes" have been considered: freedom of expression and information; functioning and protection of democratic institutions; functioning of judicial systems; local democracy; capital punishment; police and security forces; effectiveness of judicial remedies; non-discrimination, particularly combating intolerance and racism.
2. On 10 May 2001 the committee authorised its co-rapporteurs on Armenia and Azerbaijan to make a fact-finding visit to these countries from 9 to 12 July and 13 to 18 July, respectively. This decision appeared in the synopsis of the meeting, communicated on 14 May to the permanent representations in Strasbourg. At its meeting on 8 June 2001, the committee was informed that the Monitoring Group of the Committee of Ministers had decided to make a fact-finding visit to Armenia and Azerbaijan in the week of 2 to 7 July 2001, to monitor the democratic developments of these countries in the light of the exchanges of letters of October 2000 between the Chairman of the Committee of Ministers and the respective Ministers for Foreign Affairs in which the governments of Armenia and Azerbaijan confirm their undertaking to meet all commitments reflected in paragraph 13 of Opinion No. 221 (2000) of the Parliamentary Assembly. In order to avoid what several members qualified as "a clear and immediate overlap of activities", the Monitoring Committee decided to postpone the visits of the co-rapporteurs to a later date.
3. "The two exercises are, in essence, quite different. On the one hand we have a political dialogue between governments in the tradition of the intergovernmental co-operation set out in the Statute of the Council of Europe. On the other hand, we have a parliamentary control mechanism monitoring the democratisation process of two new member countries. The subjects of enquiry and the people interviewed might be the same, but the procedure, the method and the nature of the dialogue are fundamentally different and reinforce each other". See document AS (2001) CR 21, pages 11 to 13.

39. Apart from the embarrassing situation where the same national authorities are interrogated twice on the same subjects by one and the same organisation, there is a real risk of divergence with the conclusions the Assembly's co-rapporteurs may reach at a later date concerning the honouring of the same obligations and commitments by these two states.

40. The Council of Europe's Commissioner for Human Rights, first appointed in 1999, is responsible *inter alia* for fostering effective respect and full enjoyment of human rights in the member states and identifying any shortcomings in the laws and practice of member states in this field. He has the power to issue recommendations and opinions on the human rights situation in member states. Mr Alvaro Gil-Robles, Commissioner for Human Rights, has been very active in the last two years, and has travelled to several countries which are being monitored by the Assembly: Russia in December 1999, February 2000 and March 2001, Moldova in October 2000 and Georgia in June 2000 and February 2001.

41. The Assembly and its committees have every reason to be pleased with the excellent co-operation that exists with Mr Gil-Robles and the regular exchanges of views they have with him. However, there is no guaranteeing that the Assembly's co-rapporteurs necessarily share the views and recommendations of the Human Rights Commissioner on the situation in the states visited. As both generally meet with more or less the same national and local authorities, there is once again a risk that the authorities concerned will receive, or get the impression that they are receiving, different signals from the Organisation.

42. Finally, other Council of Europe bodies are responsible for theme-specific monitoring. These other monitoring activities are not repeating but complementing the procedure of the Assembly, because the bodies in charge have distinct competences from those of the Assembly.

43. This is the case with the Congress of Local and Regional Authorities of Europe (CLRAE) which, under the terms of Statutory Resolution (2000) 1, adopted by the Committee of Ministers in March 2000, is required, on a regular basis, to prepare country-by-country reports on the situation of local and regional democracy in all member states and in states which have applied to join the Council of Europe, and to ensure, in particular, that the principles of the European Charter of Local Self-Government are implemented. So far the CLRAE has drawn up some thirty reports on local and regional democracy in the member states. Thirteen of the recommendations adopted concern countries being monitored or post-monitored by the Assembly.

44. The European Commission against Racism and Intolerance (ECRI), which was established in 1993, specifically monitors (the combating of) racism, xenophobia, anti-Semitism and intolerance in the member states, on a country-by-country basis, and suggests means of dealing with the problems that exist in different countries. A new procedure was set up in 1999, with a view to covering ten countries per year, including countries being monitored by the Assembly.

45. Under the Framework Convention for the Protection of National Minorities, the situation of national minorities in each of the thirty-three member states party to the convention is followed by the Advisory Committee on that convention, which reports its conclusions to the Committee of Ministers. To date, of the eight states monitored by the Parliamentary Assembly, neither Georgia nor Turkey is party to this convention.

46. There is no need to mention here all the specific supervisory mechanisms and bodies set up under Council of Europe conventions (European Court of Human Rights, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, European Committee of Social Rights, in particular). Suffice it to say that monitoring the honouring of commitments is a many-faceted activity, not so much in terms of the nature of the commitments as in terms of the number of bodies engaged in monitoring compliance with them.

47. The conclusions of the reports produced by all these bodies are duly taken into account by the co-rapporteurs of the Monitoring Committee when they go on fact-finding visits to the countries concerned. However, more efficient co-ordination could help to avoid confusion between the different institutions monitoring the progress made by the countries concerned in honouring their obligations and commitments.

3. *Marking the distinction between the Council of Europe and the other European organisations*

48. The committee recently heard that the OSCE intends to monitor commitments contracted expressly with the Council of Europe by the newer member states, in particular Georgia. This is surprising to say the least.

49. The committee therefore wishes to recommend that, in its relations with other international organisations, the Committee of Ministers take steps to ensure that each one's specific terms of reference are respected

D. Enhancing the Monitoring Committee's openness to political life and civil society

1. *Fostering exchanges of information*

50. The Monitoring Committee's *modus operandi* as defined by Resolution 1115 (1997) tends to emphasise confidentiality at every stage of the procedure, but this ought not to make it difficult for the committee to establish and develop direct contacts with others working in the same field.

a. *Interparliamentary co-operation and relations with other international organisations and NGOs*

51. Like the other Assembly committees, the Monitoring Committee should now make a point of cultivating ongoing relations with counterparts in other international institutions active in the same field, particularly the parliamentary bodies of international organisations with similar fields of action – the European Parliament and its Committee on Foreign Affairs, the Organisation for Security and Co-operation in Europe, the Commonwealth of Independent States, etc. While gaining in visibility *vis-à-vis* the other international organisations, the committee could also reap the benefits of first-hand information on the situation in countries in respect of which a monitoring procedure or post-monitoring dialogue is under way.

52. This type of co-operation has been extremely limited hitherto as there is only one precedent. At its meeting in The Hague in November 1998 the Monitoring Committee held an exchange of views with the OSCE's High Commissioner for National Minorities.

53. Contacts with NGOs are traditionally through the rapporteurs, generally during their fact-finding visits to the countries being monitored, and also through the committee's secretariat in Strasbourg. These strictly bilateral contacts deprive the members of the Monitoring Committee of direct access to the information regularly supplied by NGOs. The Assembly's new Rules of Procedure (Resolution 1235 (2000)) invite each committee to "develop relations with non-governmental organisations which carry out activities within the committee's terms of reference" (Rule 44.5). The Monitoring Committee could somewhat modify its working methods and decide occasionally to invite representatives of certain NGOs to its meetings; such exchanges would make for better knowledge of the situation in the countries being monitored.

b. *Meetings of the Monitoring Committee elsewhere than in Strasbourg or Paris*

54. Resolution 1115 (1997) leaves the Monitoring Committee free to choose where it holds its meetings. However, the Bureau of the Assembly established the rule that it should not meet in a country that is being monitored. This rule – which was never imposed on the Legal Affairs Committee when it was responsible for monitoring, or on the Political Affairs Committee when it was examining applications for membership of the Council of Europe – has been applied systematically since 1997. The committee has thus had to decline invitations from the Russian, Federation, Latvia and Ukraine and was refused authorisation to hold a meeting in parallel with the Standing Committee meeting in Istanbul in May 2001.

55. The committee members have always regretted the lack of real openness towards the countries being monitored and of direct contacts with the national authorities and the international and non-governmental organisations present in the countries. The committee's members should have the widest possible access to information in order to be able to form their own considered opinion concerning the honouring of obligations and commitments, democratic standards and human rights in the states being monitored, especially where opinions within the committee are divided.

56. The Monitoring Committee nevertheless held a meeting in Tallinn on 6 November 2000, when fruitful in-depth exchanges took place with the Estonian authorities, in the framework of the post-monitoring dialogue, concerning the changes that had occurred since the conclusion of the monitoring procedure in respect of Estonia.

57. There is an imperative need today to enhance the Monitoring Committee's perception of the political, legal and social realities of the countries being monitored or "post-monitored" and of the efforts made by

these states to promote the Council of Europe's values. In future the committee could therefore regularly hold meetings in the countries with which it is engaged in a post-monitoring dialogue, and hopes also to be authorised to hold meetings in the countries it is monitoring.

2. *Improving perception of the committee's work*

a. *Improve communication with the media and public opinion in the countries being monitored*

58. To maintain the principle of the confidentiality of the committee's work is an illusion on several counts. One cannot blame the media for wanting to know more about how the co-rapporteurs or the members of the committee view developments in their countries. Experience shows that information that is supposed to be confidential eventually leaks out.

59. Holding the discussions and deliberations in camera is pointless when the members themselves freely discuss the proceedings once the meeting is over. The committee should therefore give thought to a communication policy in order to make its activities and its conclusions known before they give rise to supposition and conjecture.

60. However, the co-rapporteurs should maintain strict neutrality and refrain from any statements or pronouncements on countries whose undertakings they are monitoring.

b. *Heightening the impact of the committee's recommendations*

61. The committee decided in June 2000 that the motion for a recommendation on the "promotion of information and democratic debate in states which fail to honour their commitments and obligations as members of the Council of Europe" (Doc. 8612), which had been referred back to it, would be dealt with in this progress report.

62. Full compliance with the principles, standards, conventions and commitments accepted by some of the states being monitored appears to be a difficult goal to achieve in practice. It requires major reforms in the states concerned: revision of the constitution, new legislation, government, administrative and judicial reforms, changes of habits and mentalities, etc. In any event it cannot be achieved without the assistance and expertise, particularly in legal matters, of the Council of Europe.

63. As part of its monitoring procedure the Assembly attempts to identify areas where additional reforms are needed and makes recommendations to the states concerned to help them remedy the inadequacies and shortcomings it detects.

64. When the shortcomings persist or there is insufficient co-operation, the Assembly can decide to take sanctions against the state concerned. Such extreme action, however, does not necessarily contribute to healthy public awareness in that country of the urgent need for further reforms.

65. Thought must be given to effective means of promoting the work and views of the Assembly in the countries being monitored. One idea, the practical details of which remain to be settled, is to develop democratic mechanisms inside the country by informing the public and helping them to understand their country's problems and to measure the gap between them and other countries which have made better progress.

66. Only better educated, better informed, better documented citizens would be in a position to participate effectively in the democratic debate. They could urge the political parties, the members of parliament and the governments to carry out reforms that the Assembly considers essential. Public opinion in the countries concerned must be made aware exactly how much work remains to be done if those states, which fail to implement the necessary reforms, are to be brought more closely into line with European democratic standards.

67. The Council of Europe, in close liaison with the member states concerned, should therefore adopt a more professional and more systematic approach to the dissemination of information, particularly using modern means of communication – radio, television, the Internet – and organise information programmes and political debates to stimulate the democratic debate inside the country. Such programmes could report on the work done by the Council of Europe, and explain the obligations that go hand in hand with membership and the political changes and reforms that remain to be carried through. This proposal is included in the above recommendation to the Committee of Ministers.

68. The committee also thinks that, where this is not already the case, it could be useful for the national parliaments of countries that are being or have been monitored to establish a parliamentary committee for monitoring obligations and commitments. Such committees, with wider membership than those countries' parliamentary delegations to the Council of Europe, could act as links between the Parliamentary Assembly and its Monitoring Committee, and national authorities.

E. Evolution of monitoring procedures from April 2000 to August 2001

69. During the period covered by this report the Monitoring Committee met fifteen times. It examined eight draft reports and six documents containing the comments of national authorities, three of which concerned post-monitoring dialogue. It adopted six draft resolutions and five draft recommendations. Its co-rapporteurs went on nine fact-finding visits.

70. Eight monitoring procedures are currently in progress. The procedures in respect of Croatia and Latvia were concluded in April 2000 and January 2001 respectively.

1. *Monitoring procedures in progress*

Albania

71. The co-rapporteurs (Mr Smorawiński and Mr Solé Tura) went on a fact-finding visit to Albania from 24 to 28 May 2000. A report was presented to the Assembly (see Doc. 8771), which adopted Resolution 1219 (2000) on 28 June 2000. The Assembly acknowledged that the Albanian authorities had made substantial progress in honouring the obligations and commitments contracted by their country. They had renewed political dialogue

between the majority and the opposition, approved a new constitution, abolished capital punishment to all intents and purposes, signed and/or ratified a number of conventions and taken various legislative measures.

72. Mr Smorawiński paid a further visit to Albania from 19 to 23 February 2001, in particular to monitor the preparations for the 24 June parliamentary elections.

Armenia

73. On 25 January 2001 Armenia joined the Council of Europe. Under the terms of Opinion No. 221 which it adopted on 28 June 2000, the Assembly decided to monitor the situation in Armenia from the time of accession, in accordance with its Resolution 1115 (1997). On 7 March 2001 the committee appointed two co-rapporteurs (Ms Belohorská and Mr Jaskiernia), who will undertake their first visit to the country from 17 to 22 October 2001.

Azerbaijan

74. Azerbaijan joined the Council of Europe on 25 January 2001. In Opinion No. 222, adopted on 28 June 2000, the Assembly decided to monitor the situation in Azerbaijan from the time of accession, in accordance with its Resolution 1115 (1997). On 7 March last, the committee appointed its co-rapporteurs (Mr Gross and Mr Martínez-Casañ). The co-rapporteurs will carry out their first visit – in their capacity as monitoring co-rapporteurs – to Azerbaijan in October-November 2001.

Georgia

75. The co-rapporteurs (Mr Diana and Mr Eörsi) went on an initial fact-finding visit from 10 to 13 May 2000. Following a second visit, from 31 October to 5 November 2000, they presented a preliminary draft report to the Monitoring Committee. This was approved and transmitted to the national authorities, which sent their comments on 17 May 2001. The Assembly debate on the honouring by Georgia of its obligations and commitments is scheduled to take place during the September 2001 part-session.

Moldova

76. This country underwent sweeping constitutional reform and considerable political changes in 2000. The fact-finding visit the co-rapporteurs were due to make in July 2000 had to be postponed. It will take place in autumn 2001.

77. On 24 April 2001, the committee appointed Mr Vahtre as co-rapporteur.

78. A motion for a recommendation on "Resolving the Transnistrian conflict" was referred to the committee by the Bureau in May 2000 (Doc. 8718).

Russian Federation

79. The co-rapporteurs (Mr Atkinson and Mr Bindig) went on a fact-finding visit to Russia from 11 to 14 February 2001. A preliminary draft report was approved by the committee at its meeting on 8 June 2001 and transmitted to the national authorities for comment.

80. Two motions for resolutions on the registration problems of NGOs working on human rights issues in the Russian Federation and on media freedom in Russia were referred to the committee in September 2000 for information.

Turkey

81. The co-rapporteurs (Mr Bársony and Mr Zierer) went on a fact-finding visit to Turkey from 26 to 30 March 2000. The preliminary draft report was approved by the committee and transmitted to the Turkish delegation for comment on 28 June 2000. The Turkish delegation sent its comments on 23 October 2000. A draft report was discussed by the committee on 19 December 2000. The co-rapporteurs undertook another visit, from 23 to 26 May 2001, following which the draft report has been updated and adopted. During its June 2001 part-session, the Assembly has debated this report and adopted Resolution 1256 and Recommendation 1529.

Ukraine

82. Following a fact-finding visit by the co-rapporteurs (Mrs Severinsen and Mrs Wohlwend) to Kyiv, from 9 to 12 January 2001, the Monitoring Committee submitted a report to the Assembly on freedom of expression and the functioning of parliamentary democracy. The Assembly adopted Resolution 1239 and Recommendation 1497 on 25 January 2001.

83. The co-rapporteurs made two further visits, in the more general context of Ukraine's obligations and commitments, from 18 to 21 June 2000 and from 28 to 30 March 2001. A preliminary draft report was approved by the committee on 19 September 2000 and transmitted to the Ukrainian delegation. The comments of the Ukrainian authorities reached the committee on 5 January 2001. A draft report was adopted by the committee and presented to the Assembly during its April part-session. The Assembly adopted Resolution 1244 and Recommendation 1513. The co-rapporteurs will undertake a new visit from 9 to 12 September 2001, with a view to submitting a report before the Assembly at its September part-session.

2. *Procedures concluded*

84. The monitoring procedure concerning Croatia was closed on 26 September 2000 (Resolution 1223 and Recommendation 1473). The procedure in respect of Latvia was concluded on 23 January 2001 by the adoption of Resolution 1236 and Recommendation 1490.

Croatia

85. On the basis of the Monitoring Committee's report, the Assembly adopted Resolution 1223 and Recommendation 1473 on the honouring of obligations and commitments by Croatia, in which it welcomes the significant progress Croatia has made towards honouring its commitments and obligations as a member state, in particular, since the parliamentary and presidential elections held at the beginning of 2000.

86. The Assembly welcomed the progress made, in particular, in the following areas: democratic change-over, ratification of Council of Europe conventions, revision of the constitution, amendment of the electoral law and the law on local self-government, legislation on national minority rights, the judicial system and criminal law.

87. The Assembly encouraged the Croatian authorities to pursue their policy towards consolidation of democratic reforms and European integration and recommended a number of practical measures that should be taken in the future with these aims in view.

88. With regard to the honouring of commitments related to the consequences of the war, the Assembly congratulated the present Croatian authorities for having, in the space of a few months, radically improved Croatia's position in the implementation of the Dayton and Erdut agreements, thereby contributing to stability and security in South-east Europe.

89. The Assembly decided to continue its dialogue with the Croatian authorities on the issues listed in paragraph 3 of Resolution 1223 (2000) or any other issue arising from the obligations of Croatia as a member state of the Council of Europe, with a view to re-opening the procedure in accordance with Resolution 1115 (1997) if further clarification or enhanced co-operation should seem desirable.

Latvia

90. On the basis of a report of the Monitoring Committee, the Assembly decided to close the monitoring procedure in respect of Latvia, by adopting Resolution 1236 and Recommendation 1490.

91. The Assembly welcomed the substantial progress made by Latvia in honouring its obligations and commitments as a member state since 10 February 1995, in particular in the following fields: ratification of Council of Europe conventions, peaceful settlement of disputes, improvement of the situation of the population of stateless non-citizens in particular by the adoption of several laws and a national social integration programme.

92. At the same time the Assembly encouraged the Latvian authorities to continue their policy towards consolidation of democratic reforms and social integration, and invited them to take a series of practical measures.

93. The Assembly decided to carry on its dialogue with the Latvian authorities on the issues listed in paragraph 5 of Resolution 1236 (2001) or on any other issue arising from the obligations of Latvia as a member state of the Council of Europe, with a view to reopening the procedure in accordance with Resolution 1115 (1997) if further clarification or enhanced co-operation is deemed desirable.

F. Concluding remarks

94. With four years' work behind it, the Monitoring Committee has sound experience that enables it to fulfil its tasks under Resolution 1115 (1997). It is nevertheless continuing its efforts to improve its procedures and working methods.

95. Some adaptations are now needed: a sub-committee to strengthen its activities in certain areas of its monitoring task; greater complementarity with the activities of other Assembly committees; improved co-ordination with other Council of Europe bodies.

96. The Monitoring Committee welcomes the constructive relations it has achieved with the national parliamentary delegations and governments of the countries subject to a monitoring procedure or engaged in a post-monitoring dialogue. In order to enhance its visibility, it hopes in the near future to develop its relations with the other international organisations and NGOs working in its fields of activity or in the countries it monitors or with which it is engaged in post-monitoring dialogue.

APPENDIX I:

Present state of procedures

I. Monitoring procedures

Member state	Accession date	References related to accession	References related to the origin of monitoring	Rapporteurs	Visits	Monitoring Committee Documents	Parliamentary Assembly Documents
ALBANIA	*29.06.1995*	*PA Opinion 189 (1995)* *CM Resolution (95) 8*	*Order 508 (1995)* *Resolution 1115 (1997)*	*Mr Smorawiński* *Mr Soendergaard*	*29-30.06.1998* *22.11.1998** *24-26.02.1999* *05-07.07.1999* *24-28.05.2000* *19-23.02.2001* *24.06.2001**	*Minute of the visit:* *AS/Mon (2001) 07*	*Report (Doc. 8771)* *and Resolution 1219 (2000)* *adopted on 28 June 2000*
ARMENIA	*25.01.2001*	*PA Avis 221 (2000)* *CM Resolution (2000) 13*	*Resolution 1115 (1997)*	*Mrs Belohorská* *Mr Jaskiernia*			
AZERBAIJAN	*25.01.2001*	*PP Avis 222 (2000)* *CM Resolution (2000) 14*	*Resolution 1115 (1997)*	*M. Gross* *M. Martínez-Casãn*			
GEORGIA	*27.04.1999*	*PA Opinion 209 (1999)* *CM Resolution (99) 4*	*Resolution 1115 (1997)*	*Mr Diana* *Mr Eörsi*	*10-13.05.2000* *31.10-5.11.2000*	*Preliminary draft report approved by the committee on 16.01.2001 for transmission to the national authorities for comments within 3 months: AS/Mon (2000) 43* *Comments of the national authorities on the preliminary draft report received on 17.05.01: AS/Mon (2001) 15* *Discussion of a draft report by the committee on 6.09.2001:* *AS/Mon (2001) 18* *Assembly debate foreseen for September 2001 part-session*	
MOLDOVA *RESOLVING THE TRANSNISTRIAN CONFLICT*	*27.06.1995*	*PA Opinion 188 (1995)* *CM Resolution (95) 7*	*Order 508 (1995)* *Resolution 1115 (1997)* *Reference by the Bureau (Doc. 8718) on 16.5.2000*	*Mrs Durrieu* *Mr Vahtre*	*27-30.10.1998* *03-05.12.1998* *02-03.11.1999*	*Comments of the national authorities on the preliminary draft report [AS/Mon (99) 05, Part2] received on 31.05.99: AS/Mon (99) 16.* *Information note on fact-finding visit 2-3 November 1999:* *AS/Mon (1999) 29 rev*	

RUSSIAN FEDERATION	*28.02.1996*	*PA Opinion 193 (1996)* *CM Resolution (96) 2*	*Order 508 (1995)* *Resolution 1115 (1997)*	*Mr Atkinson* *Mr Bindig*	*12-15.05.99* *11-14.02.2001*	*Preliminary draft report discussed by the committee at its meeting on 10.05.2001, approved at its meeting on 8.06.2001 for transmission to the national authorities for comments within 3 months: AS/Mon (2001)09 rev2*	*Information Report (Doc. 8127) examined on 22.06.1998*
RUSSIAN LAW ON THE LEGAL STATUS OF FOREIGN CITIZENS			*Reference by the Bureau (Doc. 8107) on 26.05.1998*				
ANTI-SEMITISM IN THE RUSSIAN FEDERATION			*Reference by the Bureau (Doc. 8311) on 29.01.1999*				
CONFLICT IN CHECHNYA			*Recommendation 1444 (2000)* *Doc.8630 on 27.01.2000*	*Mr Moreels*	*09-13.03.2000 (Mr Bindig and Mr Sinka)*		*Opinion of the Monitoring Committee (Doc. 8705) submitted on 06.04.2000*
PROBLEMS OF REGISTRATION OF NGOs DEALING WITH HUMAN RIGHTS IN THE RUSSIAN FEDERATION			*Reference by the Bureau (Doc. 8799) on 25.09. 2000*				
FREEDOM OF THE MEDIA IN THE RUSSIAN FEDERATION			*Reference by the Bureau (Doc. 8803)* *on 25.09.2000*				
TURKEY	*13.04.1950*		*Order 508 (1995)* *Recommendation 1298 (1996)* *Resolution 1115 (1997)*	*Mr Bársony* *Mr Zierer*	*06-09.09.1998* *26-30.03.2000* *23-26.05.2001*		*Information Report, Doc. 8300, examined on 25.01.1999* *Report (Doc. 9120), Resolution 1256 and Recommendation 1529 adopted on 28.06.2001*
THE SENTENCING TO DEATH OF A. ÖCALAN			*Reference by the Bureau (Doc. 8500) on 20.09.1999*		*Various visits in 1999 to ensure the presence of the Assembly at A. Öcalan's trial*		

POLITICAL SOLUTION TO THE KURDISH QUESTION IN TURKEY			*Reference by the Bureau (Doc. 8574) on 4.11.1999*				
UKRAINE	*09.11.1995*	*PA Opinion 190 (1995) CM Resolution (95) 22*	*Order 508 (1995) Resolution 1115 (1997)*	*Mrs Severinsen Mrs Wohlwend*	*15-18.09.1998 09-12.05.1999 18-21.06. 2000 28-30.03.2001*	*Draft report [AS/Mon (2000) 26] approved and transmitted to the Ukrainian delegation on 19.9.2000 for comments within three months. Comments of the national authorities on the preliminary draft received on 5.01.2001: AS/Mon (2001) 08 Information document [AS/Mon/Inf (2001) 04] and additional comments [AS/Mon/Inf (2001) 05 considered on 8.06.2001 Discussion of a draft report by the committee on 6.09.2001: AS/Mon (2001) 22 Assembly debate foreseen for September 2001 part-session*	*Reports (Docs 8272 & 8424), Resolutions 1179 (1999) &1194 (1999), Recommendations 1395 (1999) & 1416 (1999), adopted on 27.01.1999 & 24.06.1999 respectively Report (Doc 9030), Resolution 1244 and Recommendation 1513 adopted on 26.04.2001*
REFORM OF THE INSTITUTIONS IN UKRAINE			*Reference by the Bureau (Doc. 8637) on 28.01.2000*		*16-19.02.2000*		*Report (Doc. 8666) and Recommendation 1451 adopted on 04.04.2000*
FREEDOM OF EXPRESSION AND FUNCTIONING OF PARLIAMENTARY DEMOCRACY			*Decision of the Committee on 19 December 2000*		*10-12.01.2001*	*Draft report approved by the Committee on 16.01.2001*	*Rapport (Doc.8945) Resolution 1239 Recommendation 1497 adopted on 25.01.2001*

** observation of referendum or elections.*
Abbreviations: "PA" for "Parliamentary Assembly" and "CM" for "Committee of Ministers".

II. Post-monitoring dialogue

Member State	Closing of the monitoring	Request for information	Replies [Confidential]
ROMANIA	24.04.1997 – Resolution 1123 (1997)	Letters from the Chairman of the Monitoring Committee sent to the Chairmen of the three delegations concerned on 4 May 2000	Interim replies received on 29.06.2000 and 04.08.2000: AS/Mon (2000) 30 Rev
CZECH REPUBLIC	22.09.1997 – Recommendation 1338 (1997)		Reply received on 08.07.2000: AS/Mon (2000) 29
LITHUANIA	22.09.1997 – Recommendation 1339 (1997)		Reply received on 19.10.2000: AS/Mon (2000) 39
SLOVAKIA	21.09.1999 – Resolution 1196 (1999)	Letter from the Chairman on 19.12. 2000	
BULGARIA	26.01.2000 – Resolution 1211 (2000)	Letter from the Chairman on 7.03. 2001	
THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA	5.04.2000 – Resolution 1213 (2000)	Letter from the Chairman on 4.05.2001	

APPENDIX II:

State of signatures and ratifications of Council of Europe conventions by states under monitoring[1]

APPENDIX III:

Areas covered under monitoring procedure

OBLIGATIONS and COMMITMENTS	*ALBANIA*	*GEORGIA*	*MOLDOVA*	*RUSSIAN FEDERATION*	*TURKEY*	*U K R A I N E*
A. PLURALIST DEMOCRACY						
Separation of powers	*X*				*X*	*X*
Elections *(electoral law; access to media; assessment of whether free, general, secret and fair)*	*X*	*X*				*X*
Political parties *(status; conditions for setting up; fiscal rules/party finances)*		*X*			*X*	
Parliament *(Pluralist composition; minority representation; control over the executive; immunities; rights and duties of the opposition etc.)*	*X*	*X*				
Special powers in emergency situations *(use and control)*					*X*	
Local and regional self-government		*X*	*X*	*X*		*X*

1. See Internet site http://conventions.coe.int/treaty/en/cadreprincipal.htm.

B. RULE OF LAW AND HUMAN RIGHTS						
Status of domestic law vis-à-vis international human rights treaties					X	
Effectiveness of constitutional/legal guarantees for human rights	X				X	X
Judicial system *(independence of the judiciary; access to justice; criminal justice; role and status of public prosecutors; status of lawyers)*	X	X	X	X	X	X
Police attitudes	X	X		X	X	X
Prison conditions and prison administration	X	X	X	X	X	X
Respect for private and family life *(data protection)*		X				
Property rights *(restitution, fair compensation)*						
Freedom of worship and of conscience	X	X	X	X		X
Freedom of expression, notably of the media	X	X	X	X	X	X
Freedom of association		X	X	X	X	
Freedom of movement and of assembly		X		X		
Equality between women and men						
Minorities *(non-discrimination; citizenship legislation; status and education in minority languages)*	X	X	X	X	X	X
Policies to combat racism, anti-Semitism, xenophobia				X		
C. OTHER ISSUES						
Settlement of internal and international disputes by peaceful means	X	X	X	X	X	X

APPENDIX IV:

Relations between the Assembly and the Committee of Ministers on monitoring issues (April 2000-August 2001)

Assembly Recommendations related to monitoring	***Replies by the Committee of Ministers***		
Title	***Date of adoption***	***Date of adoption***	***Delay***
Recommendation 1395 (1999) on the honouring of obligations and commitments by Ukraine	*27 January 1999*	*21 September 2000*	*1 year and 8 months*
Recommendation 1416 (1999) on the honouring of obligations and commitments by Ukraine	*24 June 1999*	*21 September 2000*	*1 year and 3 months*
Recommendation 1451 (2000) on the reform of institutions in Ukraine	*4 April 2000*	*21 September 2000*	*5 months and 3 weeks*
Recommendation 1453 (2000) on the honouring of obligations and commitments by the "FYROM"	*5 April 2000*	*14 June 2000*	*10 weeks*
Recommendation 1473 (2000) on the honouring of obligations and commitments by Croatia	*26 September 2000*		
Recommendation 1490 (2001) on the honouring of obligations and commitments by Latvia	*23 January 2001*	*18 April 2001*	*3 months*
Recommendation 1497 (2001) on the freedom of expression and the functioning of parliamentary democracy in Ukraine	*25 January 2001*	*18April 2001*	*3 months*
Recommendation 1513 (2001) on the honouring of obligations and commitments by Ukraine	*26 April 2001*	*25 June 2001*	*2 months*

APPENDIX V:

Members of the Monitoring Committee and co-rapporteurs

NATIONAL DELEGATION	*POLITICAL GROUPS*										*Number of members per national delegation*	*Number of rapporteurs per national delegation*
	SOC		*EPP/CD*		*EDG*		*LDR*		*UEL*			
	Members	*Rapporteurs for:*	***Members***	*Rapporteurs for:*	***Members***	*Rapporteurs for:*	***Members***	*Rapporteurs for:*	***Members***	*Rapporteurs for:*		
Albania	*J. Begaj*		*G.Pollo*								***2***	**0**
Andorra											***0***	**0**
Armenia											***0***	**0**
Austria	*A.Gusenbauer*										***1***	**0**
Azerbaijan					*N.Shakhtakhtinskaya*						***1***	**0**
Belgium			*L.vandenBrande*								***1***	**0**
Bulgaria	*E.Poptodorova*		*M.Stoyanova*								***2***	**0**
Croatia	*M.Feric-Vac*										***1***	**0**
Cyprus			*P. Demetriou*						*D.Christodoulides*		***2***	**0**
Czech Republic	*O.Sehnalova*				*W. Bartos*						***2***	**0**
Denmark	*H. Gjellerod*				*P. Moeller*		***H.Severinsen***	*UKRAINE*	***S.Soendergaard***	*ALBANIA*	***4***	**2**
Estonia			***L.Vahtre***	*MOLDOVA*							***1***	**1**
Finland	*T.Kautto*						*[G.Jansson: Ex officio as AS/JUR Chair]*				***1 [+1 ex officio]***	**0**
France	*J.Durrieu*	*MOLDOVA*									***1***	**1**
Georgia					*E.Tevdoradze*						***1***	**0**
Germany	*R.Bindig*	*RUSSIA*	*B. Zierer*	*TURKEY*			*U.Irmer*				***3***	**2**
Greece	*N. Floros*								*L. Kanelli*		***2***	**0**
Hungary	*A.Bársony*	*TURKEY*	*L.Surjan*				***M.Eörsi***	*GEORGIA*			***3***	**2**
Iceland							*O.Haraldsson*				***1***	**0**
Ireland			*T.Enright*								***1***	**0**
Italy	*F. Evangelisti*		***L.Diana***	*GEORGIA*							***2***	**1**
Latvia	*B. Cilevics*										***1***	**0**

Liechtenstein			***R.Wohlwend***	*UKRAINE*							***1***	**1**
Lithuania					*V.Landsbergis*		*J. Cekuolis*				***2***	**0**
Luxembourg	*B. Fayot*		*M. Glesener*								***2***	**0**
Malta	*J.Attard-Montalto*		*J. Vella*								***2***	**0**
Moldova									*A. Neguta*		***1***	**0**
Netherlands	*E.Jurgens*		*R.van der Linden*								***2***	**0**
Norway							*J.Ringstad*				***1***	**0**
Poland	***J.Jaskiernia***	*ARMENIA*	***J.Smorawinski***	*ALBANIA*							***2***	**2**
Portugal	*C. Luis*		*J.Mota Amaral*								***2***	**0**
Romania	*I. Olteanu*		*G.Frunda*								***2***	**0**
Russian Federation	*L.Slutsky*				*D. Rogozin*		*S.Ivanenko*				***3***	**0**
San Marino			*G. Arzilli*								***1***	**0**
Slovakia	*P.Weiss*				***I. Belohorska***	*ARMENIA*					***2***	**1**
Slovenia							*R. Jakic*				***1***	**0**
Spain	*L. Yanez-Barnuevo*		***G. Martinez-Casa**n*	*AZERBAIJAN*							***2***	**1**
Sweden	*G.Magnusson*								*M.Einarsson*		***2***	**0**
Switzerland	***A.Gross***	*AZERBAIJAN*					*C.Frey*				***2***	**1**
"the former Yugoslav Republic of Macedonia"			*D. Gligoroski*		*A.Polozhani*						***2***	**0**
Turkey	*U. Gürkan*		*M. Saglam*		*O. Akgönenç*						***3***	**0**
Ukraine	*I. Popescu*		*V.Kostytsky*				*S.Holovaty*		*E.Marmazov*		***4***	**0**
United Kingdom	*J. Jones [T.Davis Ex officio as AS/Pol Chair]*		*J.D. Taylor*		***D.Atkinson***	*RUSSIA*					***3 [+1 ex officio]***	**1**
Total number of members per political group	**27 *[+ 1 ex officio]***		**22**		**10**		**10 *[+ 1 ex officio]***		**6**		***75 [+2 ex officio]***	
Total number of rapporteurs per political group		**5**		**6**		**2**		**2**		**1**		**16**

APPENDIX VI:

Activities carried out as of 1999 by Assembly committees following Assembly orders, recommendations and motions referred by the Bureau

	AS/Mon.	***AS/Pol.***	***AS/Jur.***	***AS/Migr.***	***AS/Cult.***
A. PLURALIST DEMOCRACY		*Mandate- Res 1235 (2000)*			
Separation of powers	*Ukraine-referendum, Ref. 2477*	*Ref. 2366*			
Elections *(electoral law; access to media; assessment of whether free, general, secret and fair)*	*Albania-Himarra, Ref. 2574*			*Albania-Census Ref. 2374*	
Political parties *(status; conditions for setting up; fiscal rules/party finances)*			*Azerbaijan-political prisoners Ref. 2565 Moldova-Ilascu,Ref. 2582*		
Parliament *(Pluralism; minorities; control; immunities; opposition etc.)*					
Special powers in emergency situations *(use)*					
Local and regional self-government	*Russia-reforms, Ref. 2572*				
B. RULE OF LAW AND HUMAN RIGHTS			*Mandate Res 1176 (1998)*		
Status of domestic law vis-à-vis international human rights treaties	*Turkey-Ocalan, Ref. 2397 + 2434*				
Effectiveness of constitutional/legal guarantees for human rights					
Judicial system *(independence; access to justice; criminal justice; public prosecutors; attorneys)*					
Police attitudes					
Prison conditions and prison administration			*Ref. 2558*		
Respect for private and family life *(data protection)*					
Property rights *(restitution, fair compensation)*					
Freedom of worship and of conscience			*Russia-Religion, Ref. 2373 Jehova's witness, Ref.2521*		
Freedom of expression, notably of the media	*Russia-media, Ref. 2536 Ukraine-expression, Ref. 2563*				*Media: manate Res 1235 (2000) Freedom of expression, Ref. 2447*
Freedom of association	*Russia-NGOs, Ref. 2532*				
Freedom of movement and of assembly + propiska			*Ref. 2485 + 2502*	*CIS States-Propiska, Ref. 2451*	

Refugees				*Refugees: mandate Res 1176 (1998) Order 533 Georgia + Russia, Armenia+ Azerbaijan*	
Equality between men and women					
Minorities *(non-discrimination; citizenship; minority languages)*	*Turkey-Kurdish minority, Order 545 Russia-Bolgars, Ref. 2544*	*Turkey-Kurdish question[1], Ref. 2479*	*Mandate Res. 1176 (1998)*	*Turkey-Kurdish population, Ref. 2510*	*Turkey –Kurdish cultural heritage, Ref. 2587*
Policies to combat racism, anti-Semitism, xenophobia	*Russia-anti-Semitism, Ref. 2356*				
C. OTHER ISSUES					
Settlement of internal and international disputes by peaceful means	*Moldova-Transnistria, Ref. 2505 Russia-Chechnya, Rec.1444 (2000)*	*Russia-Chechnya, Ref. 2470 Georgia-situation, Ref. 2569*			

[1] *This motion for a recommendation was originally referred to AS/Mon (Ref. 2459)*

APPENDIX VII

Post-monitoring dialogue: Memorandum by the Chairman of the Committee (Doc. AS/Mon (2000) 32 revised)

Introduction

1. Until recently, closure of a monitoring procedure implied that as of the moment of adoption of the related resolution or recommendation by the Assembly, the Monitoring Committee ceased any activity in respect of the country concerned: the co-rapporteurs no longer had a mandate, no more visits were made, no more reports were produced, no more comments by national authorities were expected and the committee held no further discussions on developments in that state.

2. In a number of resolutions and recommendations,[1] the Assembly agreed to close the monitoring procedure because the countries concerned had made significant progress in the honouring of their obligations and commitments and they had shown their determination to continue their reform policy.

3. However, to stimulate these states to keep up the momentum and to assist the authorities where useful, the Assembly had also in these resolutions and recommendations, recommended some further steps to be taken and had indicated that it would pursue a *dialogue* with the State concerned[2]. In none of these resolutions and recommendations, however, had the Assembly defined the modalities of such a dialogue and, in practice, no specific follow-up has been given so far to the intended dialogue.

4. On 6 March 2000, the Bureau of the Assembly, on the basis of proposals from the Monitoring Committee, together with a memorandum by the Secretary General of the Assembly, agreed on the proposed methodology for post-monitoring dialogue with member states concerned. This decision was ratified by the Assembly on 3 April 2000.[3]

5. At the committee meeting on 8 September 2000, the chairman undertook to elaborate, on the basis of the said methodology, a series of directives to be followed by the committee in the post-monitoring dialogue. These proposals appear in paragraphs 10-17 hereafter.

6. At its meeting on 24 October 2000 in Tallinn, the committee examined the chair's proposals and asked its chairman to update them in the light of the observations made by the members.

Methodology established by the Bureau

7. One year after closure of the monitoring procedure in respect of a given state, the committee should proceed to a discussion on the follow-up given by the authorities of that state to the steps recommended by the Assembly in its resolution or recommendation closing that procedure or on any other issue arising from that state's obligations.

8. Such discussion should be based on the assessment of the situation made by the chairman of the Monitoring Committee, in co-operation with the national parliamentary delegation concerned and in consultation with the former co-rapporteurs.

9. The Monitoring Committee should address the conclusions of its discussion in a memorandum to the Bureau. The Bureau could then decide whether further clarification or enhanced co-operation would seem desirable and, where necessary, a new monitoring procedure should be opened.

Directives to be followed by the committee

10. Based on this methodology established by the Bureau, the committee could decide to follow the directives hereafter in respect of the post-monitoring dialogue.

11. It must be underlined that the post-monitoring dialogue should not be considered as part of the monitoring procedure regulated in Resolution 1115, but as a distinct specific action carried out by the Monitoring Committee on behalf of the Assembly.

12. This means in particular that the dialogue between the committee and the state concerned is no longer based on the insufficient honouring, by that state, of its obligations and commitments, but on an exchange of information on further substantial progress made by that state in its efforts to implement the recommendations that the Assembly made when concluding the monitoring procedure.

13. The Bureau, when establishing the methodology to be used for the dialogue, has designated the committee's chairman with the collection of that information and the preparation of a first assessment. In this task he will co-operate with the delegation of the state concerned and with the former co-rapporteurs who are still on the committee.

14. In this way, some characteristics of the monitoring procedure could also be made applicable to the post-monitoring dialogue.

15. First and foremost, all through the dialogue between the Assembly and a given state, the parliamentary delegation of that state should again be treated as the privileged interlocutor of the committee. Requests for information should be addressed to them, the chairman of the delegation and representatives of both parliamentary majority and parliamentary opposition should be invited to any discussion at committee meetings on their country and any draft memorandum on the dialogue should be shown to them before its discussion by the committee.

16. As for the activities of the former co-rapporteurs designated under the monitoring procedure, their mandate expired when that procedure was closed, as was explained in paragraph 1 above. Nevertheless, if these former co-rapporteurs are still members of the committee at the time of the post-monitoring dialogue (see Appendix I)[1], it would be unwise not to seek benefit from their expertise and experience without this leading to renewed information visits to the country concerned.

17. Consequently, the post-monitoring dialogue should be organised as follows:

i. One year after the close of the monitoring procedure, the chairman should send a letter to the delegation concerned, asking them to inform him within three months of follow-up given to the steps recommended by the Assembly in the resolution closing the procedure.

ii. The information supplied by the delegation concerned should be analysed by the chairman who having heard also the former co-rapporteurs, if they are still on the committee, should present a draft memorandum to the committee, comprising where useful the following elements:

– the text of the resolution adopted by the Assembly closing the monitoring procedure;

1. Recommendations 1338 (1997) on the Czech Republic and 1339 (1997) on Lithuania; Resolutions 1196 (1999) on Slovakia, 1211 (2000) on Bulgaria, 1213 (2000) on "the former Yugoslav Republic of Macedonia" and 1223 (2000) on Croatia.

2. *"[…] the Assembly considers the current monitoring procedure […] as closed. It will pursue its dialogue with the […] authorities on the issues referred to in paragraph [..], or any other issues arising from the obligations of […] as a member state of the Council of Europe, with a view to re-opening procedure in accordance with Resolution 1115 (1997), if further clarification or enhanced co-operation should seem desirable."*

3. See Progress report of the Bureau of the Assembly, Doc.8689 and add., adopted by the Assembly on 3 April 2000.

1. To seek formally the opinion of former co-rapporteurs who have left the committee might lead to disturbance of the political equilibrium in the committee and impose undue burden on these former co-rapporteurs.

– the reply of the Committee of Ministers to the recommendation adopted by the Assembly regarding closure of the monitoring procedure;

– a summary of the information supplied by the authorities of the country concerned on the steps which they have taken since, as well as any other relevant information;

– the chair's suggestions for the conclusions to be drawn from the dialogue by the committee:

a. to conclude the dialogue
b. to seek further clarification
c. to enhance co-operation
d. to open a new monitoring procedure

iii. The draft memorandum should be sent to the delegation concerned and to members of the committee at least one week before the committee meeting at which it will be discussed.

iv. At the committee meeting, the chairman should present his draft, give the floor to the former co-rapporteurs who are still on the committee and to the delegation concerned and then open a general debate.

v. Once examined, amended where appropriate and, finally, approved by the committee, the memorandum would be presented to the Bureau of the Assembly.

vi. The Bureau might wish to append such memorandum to its Progress Report.

APPENDIX VIII

Code of Conduct for co-rapporteurs on the honouring of obligations and commitments by member states of the Council of Europe

The Code of Conduct hereafter has been elaborated by the Chairman of the Monitoring Committee on the basis of the related provisions laid down in Resolutions 1115 (1997) and 1155 (1998), as well as of experience acquired over four years of practice. The Code of Conduct was approved by the committee at its meeting on 6 September 2001.

A. Criteria for the appointment of co-rapporteurs

Resolutions 1115 and 1155

– the Monitoring Committee shall appoint two co-rapporteurs among its members in respect of each member state for which a monitoring procedure is initiated *(par. 9 and 11 Resolution 1115)*;

– the appointment of co-rapporteurs shall aim at ensuring a political and regional balance *(par. 9 Resolution 1115 and par. 2 Resolution 1155)*;

Further criteria (decision by the Committee on 25 April 1997)

– no co-rapporteur should deal with more than one state at a time;

– no co-rapporteur should belong to a neighbouring state or to one with a special relationship with the state being monitored;

– the two co-rapporteurs should come from different countries and belong to different political groups.

Criteria stemming from monitoring practice

– account should be taken as much as possible of a linguistic criterion: the co-rapporteurs should preferably be able to share the same language in order to facilitate communication with each other;

– co-rapporteurs shall commit themselves to be available: monitoring of a member state requires that the co-rapporteurs be generally available to make themselves familiar with the file, to make fact-finding visits, to observe elections, to draft and discuss reports, and to attend committee meetings and Assembly sessions;

– at the start of a procedure, it is no doubt an advantage that the co-rapporteurs are already familiar with the situation of the state concerned and the developments there since the state's admission to the Council of Europe, e.g. by earlier visits, observation of elections etc.

B. Ethics of co-rapporteurs during the monitoring procedure

Neutrality

– co-rapporteurs must be totally independent and objective in respect of the state of which they monitor the honouring of obligations and commitments; this implies in particular that:

– they should not have any interests – political, commercial, financial or other – in that state at personal, professional or family level;

– they should not accept any instruction from the authorities of that state;

– they should not accept any reward or honorary distinction from the authorities of that state;

– they should abstain from any act, political or other, which might cast doubt, or be used to cast doubt, on their strict neutrality, in particular signing motions or written declarations concerning the state which they monitor.

Discretion

– co-rapporteurs should be aware that their task of monitoring obligations and commitments necessarily implies an obligation of discretion; consequently they should not in any way make public any of their conclusions, at least not before the authorities of the state concerned have had a fair opportunity to comment these.

Availability

– when co-rapporteurs are engaged in monitoring a particular country, they shall remain members of the committee until the Assembly takes a decision on the relevant report, provided they are still members of the Assembly *(par. 11 Resolution 1115)*;

– however, the committee may invite a co-rapporteur to step down should a serious reason jeopardize the monitoring process;

– co-rapporteurs should be ready to make the number of fact-finding visits which the committee defines as adequate for each state being monitored; depending on the developments in the state concerned, any state should be visited at least once every six months;

– co-rapporteurs should undertake all activities together; to the extent possible, fact-finding visits should be made by both co-rapporteurs.

Obligation to report to the Committee and the Assembly

– co-rapporteurs should report to the committee on each fact-finding visit, either by presenting a minute or a preliminary draft report, or by updating an existing draft report;

– co-rapporteurs commit themselves to respect the deadlines mentioned in Resolution 1115 (par. 13) according to which the committee must report at least once every two years on each country being monitored;

– co-rapporteurs should endeavour to present to the committee a common point of view.

Monitoring deadlines

– co-rapporteurs should establish, in agreement with the authorities of the state being monitored, deadlines for compliance with the respective obligations and commitments and include these in the texts submitted to the committee.

Reporting committee: Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe.

Reference to committee: Resolution 1115 (1997) of 27 January 1997.

Draft resolution, draft recommendation and draft order unanimously adopted by the committee on 6 September 2001.

Members of the committee: *Mota Amaral (Chairman)*, Pollozhani, Severinsen, Durrieu *(Vice-Chairs)*, Akgönenç, Arzilli, *Atkinson*, Attard-Montalto, Bársony, Bartoš, Begaj, *Belohorská*, *Bindig*, *Van den Brande*, *Čekuolis*, Christodoulides, *Cilevičs*, *Davis*, Demetriou, Diana, *Einarsson*, Enright, Eörsi, Evangelisti, Fayot, *Ferić-Vac*, Floros, Frey, *Frunda*, Gjellerod, *Glesener*, *Gligoroski*, *Gross*, Gürkan, Gusenbauer, *Haraldsson*, Holovaty, Irmer, *Ivanenko*, Jakič, Jansson, Jaskiernia, Jones, *Jurgens*, Kanelli, *Kautto*, *Kostytsky*, *Landsbergis*, *van der Linden*, Luís, *Magnusson*, *Marmazov*, *Martínez Casañ*, Moeller, *Neguta*, *Olteanu*, Pollo, *Popescu*, Poptodorova, Ringstad, *Rogozin*, *Sağlam*, Sehnalová, *Shakhtakhtinskaya*, *Slutsky*, *Smorawiński*, *Soendergaard*, *Stoyanova*, *Surján*, *Taylor*, *Tevdoradze*, *Vahtre*, Vella, Weiss, Wohlwend, Yáñez-Barnuevo, Zierer.

N.B. The names of those members who took part in the meeting are printed in italics.

See 29th Sitting, 26 September 2001 (adoption of the draft resolution and draft recommendation and draft order); and Resolution 1260 and Recommendation 1536 and Order No. 578.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 1[1]
Doc. 9198 – 25 September 2001

Progress of the Assembly's Monitoring Procedure (2000-2001)

tabled by Mrs WOHLWEND, Mr MAGNUSSON, Mr HOLOVATY, Mr SVOBODA, Mr KROUPA, Mr OLTEANU and Mr McNAMARA

In the draft resolution, paragraph 5, delete the words "so-called".

1. See 29th Sitting, 26 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 2[1]
Doc. 9198 – 25 September 2001

Progress of the Assembly's Monitoring Procedure (2000-2001)

tabled by Mrs WOHLWEND, Mr MAGNUSSON, Mr HOLOVATY, Mr SVOBODA, Mr KROUPA, Mr OLTEANU and Mr McNAMARA

In the draft recommendation, paragraph 2, delete the words "so-called".

1. See 29th Sitting, 26 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 3[1]
Doc. 9198 – 25 September 2001

Progress of the Assembly's Monitoring Procedure (2000-2001)

tabled by Mrs WOHLWEND, Mr MAGNUSSON, Mr HOLOVATY, Mr SVOBODA, Mr KROUPA, Mr OLTEANU and Mr McNAMARA

In the draft recommendation, paragraph 3, replace the words "expressly accepted by these states *vis-à-vis* the Parliamentary Assembly" with the following text:

"identified by the Parliamentary Assembly in its opinions on the accession of these states".

1. See 29th Sitting, 26 September 2001 (adoption of the amendment, as amended orally).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 4[1]
Doc. 9198 – 25 September 2001

Progress of the Assembly's Monitoring Procedure (2000-2001)

tabled by Mrs WOHLWEND, Mr MAGNUSSON, Mr HOLOVATY, Mr SVOBODA, Mr KROUPA, Mr OLTEANU and Mr McNAMARA

In the draft resolution, paragraph 6, replace the words "expressly accepted by these states *vis-à-vis* the Parliamentary Assembly" with the following text:

"identified by the Parliamentary Assembly in its opinions on the accession of these states".

1. See 29th Sitting, 26 September 2001 (adoption of the amendment, as amended orally).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 5[1]
Doc. 9198 – 26 September 2001

Progress of the Assembly's Monitoring Procedure (2000-2001)

tabled by Mr ATKINSON, Mr LAAKSO, Mrs OJULAND, Mr Van der LINDEN and Mr SCHIEDER

In the draft resolution, after paragraph 3, insert the following new paragraph:

"It regards the reports arising from this work as unique records of progress being made by member states towards the Organisation's high standards of democracy, human rights and the rule of law, and, as such, an invaluable source of reference for the European Union in dealing with the EU membership applications of the countries concerned."

1. See 29th Sitting, 26 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Opinion[1]
Doc. 9199 – 10 September 2001

Contribution to the debate on the activities of the OECD

(Rapporteur: Mr VARELA I SERRA, Spain, Liberal, Democratic and Reformers' Group)

Introduction

1. In preparation for writing this opinion, on 9 July 2001 I visited the OECD together with the secretary of the committee, Mr Ary, where we met the Director for Education, Employment, Labour and Social Affairs, Mr John Martin, the Deputy Director for Education, Mr Barry McGaw, the Head of the Education and Training Division, Mr Abrar Hasan, the Head of the Centre for Educational Research and Innovation (CERI), Mr Jarl Bengtsson and Principal Administrative Officer, Mr Ian Whitman. I would like to thank them for their co-operation and the very useful information they gave us.

2. In his excellent report on the OECD and the world economy, presented on behalf of the Committee on Economic Affairs and Development, Petr Matějů emphasises the central role of human capital and knowledge in fostering sustainable economic growth and points out that this is a priority for the OECD. It is more than that: the OECD officials we met confirmed that for the first time in its history, education has been placed at the top of the organisation's priorities.

3. As the draft resolution quite rightly puts it, the new world economy is "increasingly based on knowledge and the ability to organise people around it" and "the OECD countries must therefore further increase investment in education at all levels". The Committee on Culture, Science and Education, which for a long time has repeatedly reminded the Assembly of the importance of education for the future, cannot but vigorously endorse those words. It also endorses the words of our colleague Mr Matějů related to the Bologna Declaration on the need for a common European area of higher education and on the importance of "functional literacy" to strengthen democracy.

Education ministers

4. A large part of the OECD's activities in the year 2000 was tied in with the meeting of the OECD education ministers in Paris on 3 and 4 April 2001, "Investing in competencies for all". "Competencies" should be understood as covering knowledge, skills, attitudes and values, and the ministers stated in their final communiqué that their aim was to foster the acquisition of these competencies by working closely with others. The objectives of the Council of Europe "Life-long education for all" and Unesco "Basic education for all by 2015" would appear to single out these two organisations as ideal partners for the OECD in its pursuit of this aim. New employment trends, in particular the increasing need to change jobs several time in a working life, have placed wider importance on education, which should indeed train people for life and not just for specific trades.

5. Social problems such as unemployment, the growing wage gap and exclusion of young people and the disadvantaged can be successfully addressed only if governments, international organisations and non-governmental organisations join forces to promote life-long learning that goes beyond traditional schooling. This was also underscored in the Assembly's Resolution 1193 (1999) on second-chance schools (rapporteur: Mr Kollwelter), which called on all European countries to improve the integration prospects of young people excluded from the labour market by implementing pilot projects on second-chance schools.

6. The ministers recognise that governments must seek to ensure overall consistency of policies aimed at young children and their families. In this regard, I would refer to the report I myself presented to the Assembly last January on parents' and teachers' responsibilities in children's education, which stated that "improving communication between children, parents and schools, with participation by voluntary associations and non-formal education bodies, and forging a genuine partnership between them is proving absolutely necessary if we are to meet our society's educational needs." It is important to add that education policies for young people should be consistent not only within each country but also from one country to another (see Doc. 8915 and Recommendation 1501 (2001)).

7. The OECD ministers stated this determination to work further on the new competencies required, taking a broad view so as to cover the needs of a knowledge "society" and not just those of a knowledge "economy". Such an attitude is close to the approach of the Council of Europe and should be welcomed by the Assembly.

8. The problems referred to concerning the ageing teaching force and a shortage of teachers are extremely serious ones and could compromise the results of education policies. They must be addressed as a matter of urgency and as resolutely as possible. This would include introducing policies to improve the status of the teaching profession, as underlined by the Assembly in its Recommendation 1501 (2001) on parents' and teachers' responsibilities.

9. The ministers called on OECD to further develop, amongst other things, its work on indicators with which to monitor progress in achieving the goal of life-long learning. This should be a priority and the Assembly's attention should be drawn to the OECD's Pisa programme, which compares the knowledge and skills acquired by 15-year-olds in various countries, whether OECD members or not. Clearly, this type of programme should be supported, but it should be used to a greater

1. See Document 9171.

extent by the relevant authorities to correct and improve the practical aspects of education policies.

Education at a glance

10. In its presentation of the 2001 edition of "Education at a glance", the organisation states that OECD governments are increasing their investment in educational institutions to keep up with rising demand. But only in a few countries – Turkey, Greece, New Zealand, Portugal, Denmark and Italy – is public spending in this area keeping up with overall economic growth.

11. In the majority of OECD countries, increases in educational expenditure have not been sufficient to keep up with rising numbers of post-high school students. As a result, in many countries, expenditure per individual student has fallen – by more than 10% in Austria, the Czech Republic, Hungary, Denmark and the United Kingdom between 1995 and 1998. On average, across OECD countries, 25% of former school leavers earned a first university degree in 1999, up by a full percentage point from 1998. Better-educated people tend to earn more. A 30- to 34-year-old university graduate earns 60% more, on average, than someone in the same age bracket with only upper secondary qualifications and more than twice as much as someone without an upper secondary qualification.

12. But differences in the expansion of education have widened the gap between countries. While in the United Kingdom, New Zealand, Finland, the Netherlands and the United States, one out of three school leavers now completes a first university degree, that proportion falls to below one in six in Turkey, the Czech Republic, Mexico, Austria, Germany and Italy.

13. What is more, in many countries, rising average levels of attainment continue to conceal persistent inequalities in the provision and outcomes of education. While growing numbers of people are completing upper secondary education in all OECD countries – among 25- to 34-year-olds the proportion of those without an upper secondary qualification (28%) is only half that of 55- to 64 year-olds (55%) – a significant minority remains without upper secondary qualifications. In Mexico, Turkey, Portugal, Spain and Italy, between 75% and 45% of 25- to 34-year olds lack an upper secondary qualification.

14. Ensuring that such people are not left behind poses a significant challenge because of the attendant risk of social exclusion. In many countries such people have limited opportunities to catch up later through continuing education and training. Adults aged 25 to 64 years without upper secondary qualifications participate, on average, in only seventeen hours of job-related continuing education and training over the course of a year, compared with forty hours for adults with an upper secondary qualification and over sixty-four hours for those with a tertiary qualification.

15. Among other things, the indicators in "Education at a Glance 2001" show that:

– private spending on tertiary institutions now exceeds 30% in a number of countries, including Korea, Japan, the United States, Australia, Canada and the United Kingdom. In Japan, more than half of all final funds for tertiary institutions originate from private sources and in Korea the figure exceeds 80%;

– across OECD countries, education brings large rewards for individuals in terms of employment prospects. Labour force participation rates rise steeply with educational attainment in most OECD countries, and particularly so for women. Unemployment among 30- to 44-year-old men without upper secondary education is, on average, more than three times as high as among university graduates and more than twice as high as among upper secondary graduates;

– several countries face a time-bomb in terms of ageing teaching staff. Worryingly large proportions of teachers are within a decade of retirement in many OECD countries, and the ageing of the teaching force is continuing to accelerate in some countries. On average, almost one third of lower secondary teachers are 50 years or older. In Germany and Italy, it is more than 40%;

– computers have become an essential part of the twenty-first century school environment but the extent to which they are used still varies widely, across and within countries. At the lower secondary level, the percentage of students using computers ranged, in 1999, from around 45% in Belgium (French-speaking Community) and the Czech Republic to around 85% or more in Denmark, Finland and Iceland. In Canada, Denmark, Finland, Iceland and New Zealand 85% of lower secondary schools were connected to the Internet;

– teacher's salaries also vary widely. Annual statutory salaries of public lower secondary classroom teachers with fifteen years' experience range from below US$10 000 in the Czech Republic, Hungary and Turkey to over US$50 000 in Switzerland. These differences, which appear even after an adjustment for purchasing power parities, have a large impact on the variation in education costs per student;

– the proportion of young women who study and have a job is everywhere higher than that of men, the average difference being more than five per cent. For those young women who combine work and education, employment tends to be part-time in more than 60% of cases in almost every country.

16. It would be interesting to have comparative statistics for the remaining central and east European countries.

Conclusions

17. The OECD, like the Council of Europe and Unesco, is actively engaged in drawing up strategies for life-long education for all. The Council of Europe and the OECD focus primarily on their member states, but I would like to stress that we all live in the same interdependent world and we should never forget that Africa, Latin America and Asia are also part of our world.

18. The Committee on Culture, Science and Education believes that it would be extremely useful to organise a meeting in 2002 of the Council of Europe (the intergovernmental sector and the Parliamentary Assembly),

the OECD, Unesco, the European Union (the European Parliament and the Commission), the Inter-Parliamentary Union and the World Bank to discuss their respective education priorities and to work out the best approach for a more effective co-operation between the main international organisations dealing with education in Europe.

19. The committee accordingly wishes to put forward an amendment to the Committee on Economic Affairs and Development draft resolution:

After paragraph 12, add the following new paragraph:

"The enlarged Assembly proposes a joint initiative in 2002, at parliamentary and governmental levels, involving the Council of Europe (the intergovernmental sector and the Parliamentary Assembly), the OECD, Unesco, the European Union (the Parliament and the Commission), the Inter-Parliamentary Union and the World Bank to analyse their respective education priorities and to work out the best approach for a more effective co-operation between the main international organisations dealing with education, and instructs its Committee on Culture, Science and Education to initiate a preparatory meeting early in January."

Committee for report: Committee on Economic Affairs and Development (Doc. 9171).

Committee for contribution: Committee on Culture, Science and Education.

Reference to the committee: Standing mandate.

See Resolution 1259 (29th Sitting, 26 September 2001).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Report
Doc. 9200 – 17 September 2001

Structures, procedures and means of the European Court of Human Rights

(Rapporteur: Mrs NABHOLZ-HAIDEGGER, Switzerland, Liberal, Democratic and Reformers' Group)

Summary

A permanent European Court of Human Rights was set up in 1998 principally to deal with the ever-increasing number of individual applications. The right to individual petition must be considered as the cornerstone of the European Convention on Human Rights. However, since 1998 the number of applications has continued to rise sharply and the backlog of cases pending before the Court, instead of diminishing, has continued to increase considerably. Member states should in no way impair the effective exercise of the right to individual application that is unique in the world. It is therefore urgent and essential that adequate measures are taken to improve the situation and to give the Court the necessary staff and financial means to be as effective as possible and to cope with its ever-increasing workload.

I. Draft recommendation

1. Once again, the Parliamentary Assembly wishes to stress the tremendous importance of the European Convention on Human Rights which has set up a unique system for the protection of individual rights and freedoms currently applicable to most European countries.

2. In accordance with Article 34 of the Convention, the European Court of Human Rights "may receive applications from any person, non-governmental organisation or group of individuals claiming to be a victim of a violation (…) of the rights set forth in the Convention or the protocols thereto".

3. This right of individual application is the cornerstone of the Convention and it is essential that the exercise and the implementation of this right be facilitated in every way.

4. The main reason why a permanent Single Court was established in 1998 was the ever-increasing number of individual applications which the part-time system, in existence until then, had not been able to cope with.

5. However, the number of individual applications has continued to rise sharply and, as a consequence, the backlog of cases, instead of diminishing, has continued to increase considerably.

6. Thus the number of individual applications rose from 4 044 in 1988 to 20 538 in 1999 and to 26 398 in 2000. In the first seven months of 2001, 20 739 applications were received; if the same rate were maintained for the rest of the year, the total number of applications received in 2001 would be 35 553.

7. Unless immediate short- and long-term measures are taken, and unless the Court is provided with the resources immediately required, it, together with the Convention system, will face a situation of crisis.

8. Making available sufficient staff and financial resources will alleviate the alarming situation in the short term. Adaptation of working methods and procedures within the Court will also have an important contribution to make.

9. However, the development of the direct application of the case-law of the Court by judges and courts in member states and the incorporation of the Court's case-law into the internal legislation of the member states should contribute towards reducing considerably the number of applications in Strasbourg.

10. As long as there is an increase in applications there cannot be any question of "zero growth" in the financial means made available to the Court. Yet any growth in financial means must be sustainable and it is clear that, if the number of applications stabilises, there should also be budgetary stabilisation.

11. All this must also be considered in the light of current developments in the European Union (EU), notably the proposals to revise the EU treaties into an EU constitution which might possibly include the protection of fundamental rights together with the Assembly's proposal for the accession of the EU to the European Convention on Human Rights.

12. However, whatever measures are to be taken, they should in no way hamper, hinder or restrict the free use of the right to individual application and any "filtering" system may only take place at the level of the Court according to its rules and under the full responsibility of its judges.

13. The Assembly appreciates the energetic action already undertaken by the Court itself and by the Committee of Ministers to respond to the situation, notably the preliminary increase in staffing resources provided in January 2001 and the decision to establish the Evaluation Group on guaranteeing the future effectiveness of the Court of Human Rights.

14. The Assembly therefore recommends that the Committee of Ministers:

i. reaffirm the core role and vocation of the European Convention on Human Rights, in relation to all national and international legal systems in Europe, in maintaining a stable and democratic society and upholding the rule of law and respect for human rights together with the indispensable role of the European Court of Human Rights as ultimate guardian of the Convention;

ii. express the political determination of the Council of Europe member states to guarantee the future effectiveness of this unique instrument both by ensuring its financing and by ensuring that decisions of the Court are properly implemented;

iii. in the context of the follow-up to be given to the conclusions of the Evaluation Group, make available,

as a matter of urgency, the necessary staffing and other resources to guarantee the short- and long-term effectiveness of the European Court of Human Rights, including the provision of the necessary additional offices in Strasbourg;

iv. by treating the additional indispensable needs of the Convention system, including the Court, separately from the criteria applied by the Committee of Ministers in the adoption of the overall Council of Europe budget, ensure that any future additional budgetary resources required will be made available without infringing on the budgets of other activities of the Council of Europe;

v. launch preparations with all the interested parties for the drafting of an amending protocol to the European Convention on Human Rights with a view to ensuring the long-term effectiveness of the European Court of Human Rights.

II. Draft order

The Assembly, with reference to its Recommendation … (2001) on structures, procedures and means of the European Court of Human Rights,

i. instructs its Committee on Legal Affairs and Human Rights to follow closely the developments concerning structures, procedures and means of the European Court of Human Rights and to report back to the Assembly in due course;

ii. instructs its Committee on Economic Affairs and Development to follow closely, for an opinion, all financial and budgetary matters in relation to the above.

III. Explanatory memorandum, by Mrs Nabholz-Haidegger

A. Introduction

1. The main problem that the European Court of Human Rights is facing today is the steep rise in individual applications. Their number has grown by about 553% in the period 1988 to 2000 and the increase is likely to continue. Some figures and details will be given in section C. As a result of the huge number of applications there is a considerable backlog of cases pending before the Court, which has already taken a number of concrete measures and is considering ways and means of improving the situation. It is, however, clear that the problems involved cannot be solved by the Court alone and that action by the Secretary General, the Committee of Ministers of the Council of Europe and – indeed – its Parliamentary Assembly, is also required.

B. The right to individual application

2. In accordance with Article 34 of the Convention, "The Court may receive applications from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the protocols thereto". In the past, the right to individual application had been an optional clause in the Convention which states were free to accept or not, but – after the entry into force of Protocol No. 11 – this clause became automatic and an integral part of the Convention to which no reservations are admitted. The right to individual application is rightly considered as the cornerstone of the Convention as it created a system of protection of individual fundamental rights that is unique in the world. In considering how to improve the structures, procedures and means of the Court, one should therefore not impede this right to individual application. Of course the tremendous increase in individual applications may make some kind of measure necessary, but one should be very careful not to restrict or limit the exercise of this right. In fact, the Convention itself already obliges the contracting parties not to hinder in any way the effective exercise of the right to individual application (second sentence of Article 34).

3. However, one will have to find a way to efficiently select the important and serious cases from all those numerous applications that are frivolous, unmeritorious, unclear or incomprehensible, without substance, etc. There may be a need to filter the applications, but one should carefully study beforehand any proposal to introduce, for instance, *certiorari* proceedings. There would also be a point in giving the Court the right to dismiss cases with little substance *(de minimis non curat praetor)*. No doubt cases should be filtered but the filtering should take place within the system and in no circumstance should they be left, for instance, to a national authority or an authority outside the Court system.

4. The itinerary followed by an application after registration can be divided into three phases:

– phase A (first examination): if a matter is clear, the application will be declared inadmissible by a committee of three judges (unanimity being required). If not, it will be referred to a chamber of seven judges, who may decide that it is inadmissible;

– phase B (second examination): if not declared inadmissible by the chamber, the application will be communicated to the respondent state for observations. The chamber will subsequently issue a decision as to the admissibility of the application;

– phase C (final judgment): if the chamber has declared the application admissible, it will subsequently deliver a judgment on the merits.

5. A hearing may be held during phase B or phase C; otherwise, cases are examined in the light of written pleadings only.

6. The Court considers that, ideally, a case should be finally disposed of within two years. Since this cannot be achieved in the current situation, it has set itself a "target for the handling of applications" of three years, comprised of twelve months for each of the phases A, B and C. Cases where this maximum has been exceeded, either overall or in any of the three phases A, B and C, are defined as "backlog".

7. Roughly 50% of the applications are disposed of by the Court within one year of registration, but a

considerable number are not terminated within the three-year target period.

C.1 The steep rise in individual applications – some statistics on the European Court of Human Rights

8. Interstate applications are rare. They are normally of an exceptional nature and they are therefore left out in the statistics of the Court. However, a single interstate application may mean a considerable workload for the Court. As far as individual applications are concerned, one notes a huge increase over the years. For instance:

Number of individual applications received in:

1988: 4 044
1999: 20 538
2000: 26 398

9. Thus the number of individual applications rose by more than 500% in the period under consideration and by some 28% in the last year. When it is abundantly clear that an application will not be admissible because one or several of the admissibility criteria laid down in Article 35 of the Convention are not met (such as non-exhaustion of national remedies, right not protected in the Convention or its protocols, expiration of the six months' delay, etc.) the registry of the Court will inform the applicant of the situation without registering the case. However, if the applicant insists, the application will nevertheless be registered. In the Court's language one therefore speaks of "provisional applications" (the ones listed above) and "registered applications", the figures for which are as follows:

1988: 1 013
1999: 8 402
2000: 10 486

10. The increase in registered applications therefore was 935% over the full period under consideration and about 25% in 2000.

11. No year between 1988 and 2000 saw a significant decrease in the number of applications, whether provisional or registered, so it can be said that there was a more or less continuous rise.

12. Of the applications registered, few proceed to judgment on the merits. Of the applications disposed of by the Court in 2000 (with the 1999 figures in brackets):

– 6 774 (3 519) were declared inadmissible or struck out of the list (some 92% (79%) of these by unanimous decision of a committee of three judges);

– 227 (39) were concluded by a friendly settlement;

– 695 (177) were the subject of a judgment on the merits;

– 15 (2) were otherwise disposed of (struck out after the admissibility decision).

13. In accordance with the classification of the Court's Publications Committee, one may divide the judgments of the Court into four categories with the following result for 2000 (figures for 1999 in brackets):

Category 1 – leading judgments selected for publication: 94 (58)

Category 2 – judgments dealing with new questions but not of sufficient importance to justify publication: 35 (4)

Category 3 – judgments essentially applying standard case-law: 81 (28)

Category 4 – judgments concerning straightforward cases regarding allegations of excessive length of proceedings: 485 (87)

As the overwhelming majority of cases concerning excessive length of proceedings is from Italy any improvement in the situation there will immediately result in a relief for the European Court of Human Rights.

14. As at the end of July 2001, there were 18 292 registered applications pending before the Court (that is, uncompleted cases, whether those waiting a first examination of admissibility or those at a later phase of the adjudication process). This figure represents an increase of nearly 45% in the number of such cases at the end of 1999 (12 635).

15. Since the new Court commenced its activities, it has considerably increased its productivity, with the number of applications disposed of in 2000 drawing closer to the number of applications registered in that year. However, the Court did not have a clean slate in November 1998 as it inherited a number of cases from the former Commission and Court.[1]

16. The Court receives 700 letters and 200 telephone calls from abroad every day and the backlog of cases is increasing rather than decreasing. The Court aims to keep the total length of proceedings to three years from the introduction of an application to the final decision on the merits but – given that the Court is as yet only three full years into the new system – it is difficult to state what is currently the average length of proceedings.

17. The increase in applications can be explained by a number of factors. First there is the growing reputation of the effectiveness of the protection of individual rights and freedoms by the machinery set up under the European Convention on Human Rights. There is an increased knowledge of the Convention in our member states and some successful applications have had a snowball effect among the legal profession and the public in general. Then there is the increasing number of Council of Europe member states which has resulted in nineteen ratifications of the Convention since 1990, increasing the number of potential applicants (if calculated on the basis of population) from 451 to 784 million.[2]

C.2 Will the number of applications continue to rise?

18. It is easy to find of reasons to suggest that, in the future, the number of individual applications will

1. Some of the information in the above paragraph as well as in other passages of this report has been obtained by courtesy of the Evaluation Group and may therefore also figure in the report of that group (see section D.3).
2. Figure used in Council of Europe budget calculations, based on average population 1986-88.

continue to rise. But it is impossible to give concrete figures. First there are new ratifications to be expected from new member states of the Council of Europe. Any new member state is in fact expected to ratify the Convention and some of its protocols within a year or so of its accession. Many of the older member states have not yet ratified all the additional protocols and when they do so and when they reduce the number of their reservations to the Convention some more applications will be likely. The European Union's accession to the Convention – as has been proposed by our Assembly on several occasions – may also bring about an increase in the number of cases. I am working on a report on new rights to be introduced into the Convention[1] and – once new rights are introduced into the Convention – it is likely that there will be applications basing themselves on these rights.

19. Further reasons for the continuation of the increase of the number of applications is the growth of the population in Europe and their growing mobility, since foreigners may also consider themselves as victims of violations of the Convention and benefit from its protection.

20. One can also give reasons why the number of cases may decrease. One important reason may be better human rights protection at home. Thus it is to be expected that the Human Rights Act in the United Kingdom in the long term may bring about a decrease in the number of cases from the United Kingdom as British judges may now directly apply the Convention's provisions which have been made part of UK law. It is also to be hoped that the large number of "length of proceedings" cases from Italy will end once the measures taken in application of the Convention and of the Court's case-law have shown their effectiveness

21. Thus the "Pinto" Act provides for a consideration by the Italian appeal courts of pending "length of proceedings" cases. Consequently, in some 12 000 cases, mainly unregistered applications, letters have been sent to the applicants drawing their attention to the existence of the Pinto Act remedy and pointing out that this may be an obstacle to their being found to have exhausted domestic remedies and that their applications may accordingly be declared inadmissible. In respect of applications already communicated to the Italian Government, the government has raised a preliminary objection based on the effect of the Pinto Act and the applicants have been asked to submit observations on that issue. In addition a chamber of the Second Section has declared an application (length of criminal proceedings) inadmissible for non-exhaustion on the basis of the Pinto Act.

22. Thus it will be difficult to give any indications as to the number of future applications. It is even very hard to say what should be the average number of applications registered per million inhabitants. Although the numbers tend to increase for most member states – even for those which have already ratified the Convention a long time ago – this is not always the case and there are countries in which the number of cases has clearly decreased. For instance, in Belgium the number of registered applications was 13.4 in 1999 and 7.2 in 2000 per one million inhabitants. On the other hand, it is likely that the number of applications from Russia (nine per one million inhabitants in 2000) may increase to equal the number of applications from Poland (20.1%) or from France (17.6%) in 2000.

1. See Doc. 8727, Reference No. 2512 of 15 May 2000.

D. Working methods and procedures of the Court

23. Although it is permitted to make certain suggestions for the improvement of the Court's structures and its Rules of Procedures, one must be careful not to encroach upon the Court's independence. There are, of course, a thousand and one ways to improve the efficiency of the Court and its registry. But, whatever action is taken, it must respect not only the European Convention on Human Rights, but also the important principles of the quality, impartiality, independence and confidentiality on which the work of the Court should be based. All forty-one judges of the Court have different backgrounds and so have most of the registry officials. Many languages are spoken and used and, in fact, applicants may use any of the thirty-seven official languages of our member states until the end of the admissibility procedure. Of course a Court must also respect the principle of coherence and in a multinational organisation this is even more difficult to obtain and to maintain than it already is in a national court. Co-operation and co-ordination between the different chambers of the Court must be assured and this too is not an easy task.

24. Among the proposals made at the ministerial conference in Rome on the fiftieth anniversary of the Convention, was the proposal to simplify the admissibility procedures in cases that are clearly admissible. One can also think of simplified or standardised reasons given for the Court's decisions – which computers will be happy to continually reproduce in those cases which are mere repetitions of a previous one. Here one can think of the hundreds of applications against Italy concerning the length of proceedings. No doubt one will always be able to find new ways to improve the Court's efficiency and one may say that it is now functioning much better than when it started in 1998. However, in the end it may be that further improvements can be made only by adding new judges and/or staff to the existing structure. Increasing the number of judges could only be done through a new modification protocol of the Convention and is therefore not a short-term solution. Adding new staff, to which I shall return below, has therefore become a necessity. It might imply that the staff of the registry should take over a number of tasks that are now being accomplished by the judges themselves. Yet, final decisions should never be taken by senior officials, however competent they may be, but belong to the domain of the judges themselves.

25. Under the present working methods of the registry most applications are handled by staff of the same nationality as the applicant. This has considerable advantages as it reduces linguistic problems and as staff of the same nationality know the legal situation of the respondent country. It contributes to the efficiency of the Court, yet it also has a great disadvantage. Applicants turn to an international court or institution because they feel that they have been ill treated by their fellow countrymen and by the institutions of their own country. They are often disappointed when it appears that in Strasbourg fellow countrymen are involved in the

handling of their case as members of an international team. This problem may seem somewhat cosmetic, and the integrity of the staff is certainly not in question, since it is in the end the judges who decide. Yet, it may result in a loss of confidence in the Court's impartiality by the applicant. It is therefore proposed to reconsider the system, even though this might imply reducing somewhat the efficiency of the Court's handling of cases.

E. Action taken to improve the situation

1. *Action taken by the Court itself*

26. It is principally up to the Court itself to do whatever it can to improve its functioning. By doing so, it must, of course, remain within the confines set up by the European Convention on Human Rights. Consequently, it appears that the committee system is very efficient. In accordance with the Convention, the Court's chambers (of seven judges) may set up, for a fixed period of time, committees of three judges which may consider cases before the Court. These committees may, by a unanimous vote, declare inadmissible or strike out of their lists of cases an individual application where such a decision can be taken without further examination. If the application is considered not to be inadmissible it must be dealt with by one of the chambers. In at least 80% of the cases the final decision (that is on inadmissibility) is taken in committee. The remaining 20% of cases are more time-consuming and concern questions of admissibility and of alleged violations of the Convention. Their number is inflated due to the high number of "length of proceedings" cases from Italy.

27. A further streamlining of the Court's work can – and to a large extent has already been – brought about by improving the situation and working methods of the registry and by adapting the Court's Rules of Procedure. The Assembly elects one judge for each contracting state (Article 20 of the Convention), but, in addition, outgoing judges may continue to deal with such cases as they already have under consideration (Article 23, paragraph 7). The Convention therefore sets a limit to the number of judges,[1] but there is no such limit for the number of staff.

28. In all, the registry, as at 1 February 2001, was composed of 295 officials, 185 of them permanent. One hundred and ninety-six of those are case-processing staff. The remainder are engaged in managerial, administration, translation and support duties.

29. The preparation of cases for adjudication by judges is carried out in the sixteen case- processing units each composed of a variable number of lawyers, an administrative assistant and a variable number of secretarial assistants. It follows that to increase case-processing capacity, it will be necessary to recruit additional lawyers and secretaries.

30. There are three categories of lawyers currently working in the registry: lawyers on permanent contracts ("permanent lawyers"), lawyers on temporary contracts ("temporary lawyers") and trainee lawyers. The permanent lawyers who now number sixty-two are the nucleus of the Court's processing units. They should be experienced and highly qualified after having been recruited through a competitive selection process, with the guarantee of independence offered by security of tenure. There should in principle be at least one such lawyer per contracting state. The permanent lawyers are expected to concentrate on the more complex cases and supervise, when necessary, temporary lawyers and trainee lawyers of which there are, at the moment, thirty-three and approximately twenty respectively.

31. Temporary lawyers, after initial training, perform tasks comparable to permanent lawyers, albeit in principle in less complex cases. The Court is thus afforded the necessary flexibility for dealing with caseload phenomena that may be of a temporary nature.

32. Finally, there are the trainee lawyers who, in principle, assist the permanent and temporary lawyers. They are young, newly qualified lawyers who are being given the chance of spending up to a year in the registry on a remunerated traineeship providing assistance in the case-processing units. Like the temporary lawyers this serves the purpose of training national lawyers in Convention law, while providing a useful supplementary work force. Last but not least, there are the secretaries (sixty) who play an important and largely autonomous role in dealing with correspondence and, for example, registration of applications, entering information into the case-management database, preparing standard letters to the parties.

33. It is clear that an efficient and competent registry may considerably reduce the workload of the judges who, consequently, should be able to handle a larger number of cases.

34. It is clear that in the twenty-first century optimal efficiency can only be reached on the proviso that full use is made of modern information technology. Since 1966 the Court has developed an autonomous information technology with the following three main features:

– a client-server network for 350 users;
– a sophisticated case-management system;
– a case-law data base accessible through the Court's Internet site.

2. *Action taken by the Committee of Ministers – the budget*

35. Some states have offered to contribute on a voluntary basis to the Court more than they are obliged to. I greatly appreciate such a generous gesture but in the end think it is better for the independence of the Court if it is not "sponsored" in any way but financed solely on the basis of the agreed repartition of contributions from member states.

36. Until now the budget of the Court has always been included as a particular vote in the general budget of the Council of Europe as a whole. The scale of the contributions of member states to the Court is thus the same as that of their contributions to the general budget. For a number of years the Committee of Ministers applied a policy of zero growth to the general budget of the Council of Europe. It has, however, had an open eye for the needs of the Court to which it did not apply this policy

1. At the moment there are forty-one judges for the forty-one contracting states.

as is shown by the evolution of the budget of the Convention's institutions:

1997: 145 million French francs;
1998: 152 million French francs;
1999: 164 million French francs;
2000: 171 million French francs;
2001: 190 million French francs, including unspent appropriations for 2000.

37. In January last, the Committee of Ministers approved a special appropriation to cover the recruitment of forty-five additional temporary lawyers and fifteen additional secretaries and the maintenance of a scheme for trainee lawyers.

3. *Action taken by the Committee of Ministers – the Evaluation Group*

38. Last February, the Committee of Ministers set up an Evaluation Group, the aim of which is, with due regard to the judicial status of the Court under the European Convention on Human Rights:

a. to examine matters concerning the observed and expected growth in the number of applications to the European Court of Human Rights and the Court's capacity to deal with this growth; and

b. to consider all potential means of guaranteeing the continued effectiveness of the Court with a view, if appropriate, to making proposals concerning the need for reform and report thereon to the Committee of Ministers.

39. The members of the Evaluation Group are: Mr Justin Harman, Chairman of the Ministers' Deputies' Liaison Committee with the European Court of Human Rights (who will chair the Evaluation Group), Mr Luzius Wildhaber, President of the Court, and Mr Hans-Christian Krüger, Deputy Secretary General.

40. The Evaluation Group is assisted by several of the General Directorates of the Council of Europe, the Parliamentary Assembly, as well as some of the Council's steering committees. It has the help of external experts and it should submit its conclusions and recommendations to the Committee of Ministers by the end of September 2001. I attended a meeting of the Evaluation Group on 9 July last.

4. *Action taken by the Committee of Ministers – the Reflection Group on the Reinforcement of the Human Rights Protection Mechanism*

41. A reflection group was set up by the Steering Committee for Human Rights (CDDH) which is the main steering committee in this field. It held three meetings in the course of this spring and its activity report is now before the Steering Committee which will transmit its conclusions and recommendations to the Committee of Ministers.

5. *Action taken by the Parliamentary Assembly*

42. No doubt many members of the Assembly take a keen interest in the functioning of the European Court of Human Rights. This concern has been translated into a number of individual interventions in national parliaments and some members of the Assembly expressed their concern by tabling a motion on the structures, procedures and means of the Court during the January 2001 part-session of the Assembly. This motion has now been referred to the Committee on Legal Affairs and Human Rights for a report and to the Committee on Economic Affairs and Development for an opinion. Our committee discussed the matter at several of its meetings on the basis of an introductory memorandum which I prepared in February and then held exchanges of views with Ambassador Harman, Chairman of the Evaluation Group, during the April part-session and with Mr Wildhaber, President of the Court, at its meeting on 5 June 2001. I attended a meeting of the Evaluation Group where I was able to express the wishes and concerns of the Assembly.

43. The Committee on Economic Affairs and Development is likely to give full consideration to the budgetary aspects that are raised by this report.

F. Proposals for improvement

44. Roughly speaking, there may be three ways in which one could improve, facilitate and accelerate the work of the Court.

45. Firstly, there are the working methods of the Court, the structure of its registry and the efficiency of its staff. These are matters that are primarily up to the Court itself to improve, sometimes with the help of others, for example management consultants, etc. The same can be said of the Rules of Court. They entered into force on 1 November 1998, together with the start of the new Court. Of course, they are for the Court to decide, on the condition that they are in conformity with the European Convention on Human Rights.

46. Secondly, there are the financial means and the staff which are put at the disposal of the Court. Although the registrar is elected by the Court and the way the registry is organised and staffed depends to a large extent on the Court, it is clear that the Court depends on the Committee of Ministers and member states for the means which are put at its disposal.

47. Finally, there are the improvements that can be brought about only through a modification of the European Convention on Human Rights.

G. Conclusions

48. Member states themselves are also concerned since it is, in the first place, up to national authorities to implement the rights laid down in the Convention. The control mechanism of the Convention, in order to be effective, depends on a well-established national legal order. Any proposals for reform should therefore not limit themselves to considering the procedures of the Court itself. Lasting remedies can be brought about only by integrating the conventional norms into national legislation. This, no doubt, is an important and challenging assignment for member states.

49. It has been expressed many times that the right to individual application is the cornerstone of the Convention and that it should remain so. Everything should be done to guarantee that the exercise of this right is not hindered, that cases are handled rapidly and efficiently

by the Court and that justice is done to the applicants. Article 6 of the Convention makes a reasonable delay an element of a fair trial and, no doubt "justice delayed is justice denied". Although the Court itself is not bound by Article 6, it itself is of the opinion – and rightly so – that cases should be handled within a time-limit of three years and that if this time-limit is exceeded and if there is a large backlog of cases, then there is a serious problem.

50. We may expect and, indeed, this is the clear impression we get, that the Court is doing everything it can to improve its procedures and trying to cope with the ever-increasing number of cases. There are however limits as to what the Court can do by itself and it needs the full support of the Council of Europe, its Committee of Ministers and the Parliamentary Assembly. One should therefore not hesitate to give the Court all the financial and other means it needs, especially more staff.

51. The pressure of work means there is at the moment a tendency for cases to be handled by staff of the same nationality as the applicant. The Assembly thinks that one should do the utmost to avoid a national cluster that might give applicants the idea that they are not dealing with an international organisation but rather with a prolongation of their national administration. It is therefore important that language courses be provided both to judges and to staff and that improved chances of promotion be given to those who master several languages, especially when there are a great number of applications made in those languages.

52. The credibility of the system depends on the quality of the Court's work. The Court's judgments must be clear and convincing. This is a condition of their acceptance and implementation by national institutions. For these reasons the Court needs highly competent judges. It is essential that the elected judges comply in all respects with the requirements of independence and impartiality. Even the slightest doubt about these two fundamental conditions may discredit the Court as a whole.

53. At the level of judges it will be difficult to make firm proposals without changing the Convention itself, which would require – as is well known – a modifying protocol to be ratified by all contracting parties. Hopefully, however, the number of judges will increase to forty-seven in the not too distance future when all those states which are applying for membership status with the Council of Europe have been admitted and have ratified the Convention.

54. Notwithstanding this, it may be necessary to increase the number of judges in the Court in the future and, if that is so, serious consideration should be given to the proposal. The Assembly would do well to follow the future developments and for that reason the report not only contains a recommendation, but also a draft order which would enable both the Committee on Legal Affairs and Human Rights and the Committee on Economic Affairs and Development to continue following the matter.

Reporting committee: Committee on Legal Affairs and Human Rights.

Reference to committee: Doc. 8862 and Reference No. 2575 of 26 January 2001.

Draft recommendation and draft order adopted unanimously by the committee on 10 September 2001.

Members of the committee: *Jansson (Chairperson), Magnusson, Frunda, (Vice-Chairpersons), Akçali,* G. Aliyev, Andreoli, *van Ardenne-van der Hoeven*, Attard Montalto, Bindig, Bordas, Brejc, *Bruce*, Bulavinov *(alternate: Shishlov)*, *Chaklein, Clerfayt,* Contestabile, Demetriou, Dimas, Enright, Err, Evangelisti, Floros, Frimansdóttir, Fyodorov, Guardans, Gustafsson, Hajiyeva (alternate: A. Huseynov), Holovaty, Irtemçelik, Jaskiernia, *Jurgens, Kelemen, Kirkhill,* Kostytsky, S. Kovalev, Kresák, Kroupa, Krzyżanowska, Lacão, Lento, Lībane, Lintner, *Lippelt*, Loutfi, Markovic-Dimova, *Marty*, Mas Torres, McNamara, *Michel*, Moeller, *Nabholz-Haidegger*, Olteanu (*alternate:* Cliveti), Pavlov, Pollo, Postoico, Pourtaud *(alternate: Dreyfus-Schmidt)*, *Rodeghiero*, Roudy *(alternate: Le Guen)*, *Rustamyan*, Simonsen, *Škrabalo*, Solé Tura *(alternate: López González), Spindelegger*, Stankevič *(alternate: Landsbergis)*, Stoica *(alternate: Coifan)*, Süssmuth, Svoboda, Symonenko, *Tabajdi, Tallo,* Tevdoradze, *Uriarte*, Vanoost, Vera Jardim, Wilkinson (*alternate:* Rotherwick), Wohlwend, Wójcik, Wurm.

N.B. The names of those members who were present at the meeting are printed in italics.

See 28th Sitting, 26 September 2001 (adoption of the draft recommendation and the draft order); and Recommendation 1535 and Order No. 577.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Motion for a recommendation[1]
Doc. 9201 – 13 September 2001

A common policy on migration and asylum

presented by Mrs POZZA TASCA and others

The Assembly,

1. Considering that on 14 June 2001 the wreck of a ship which had carried 293 immigrants from India and Pakistan sank off the south coast of Sicily on 26 December 1996, was found;

2. Recognising that this incident proves that it is necessary to reflect on international and common policies that often do not take into account the fact that certain international situations are extremely dangerous;

3. Noting that at an enormous financial sacrifice and often risking their own safety, these clandestine migrants place their fate in the hands of traffickers, unscrupulous men who are usually linked to international criminal organisations;

4. Considering that a tragedy like this shows the importance of deciding on a common policy on migration and asylum in which the primary factor is the respect for human rights;

5. Recognising that it is necessary to monitor and remove the causes that bring about this forced migration, to find new ways of controlling the global movement of people and to defend the innocent from criminal organisations;

6. Considering that the Europe we are building cannot be supported by economic selfishness but that it must be an example of solidarity and justice;

7. Having established that the cost of transit for clandestine migrants from their countries of origin to their destinations is two to three times the price of normal transport between the same locations;

8. Considering that, because of its geographical position, Italy constitutes an almost obligatory staging post for travelling to Europe, and that it is therefore only right that Europe should also monitor closely the serious problem of clandestine migration that is afflicting the Italian coasts;

9. Noting that the political undertakings and declarations concerning trafficking in human beings have not yet been translated adequately into harmonised criminal legislation in the different countries;

10. Noting that the absence of specific regulations regarding trafficking in people, the differences between legal systems, and the lack of co-operation between police forces in the countries of origin, transit and destination allow traffickers to operate with impunity;

11. Considering that the Council of Europe in its Recommendations 1211 (1993), 1325 (1997) and most recently, 1449 (2000) on clandestine migration from the south of the Mediterranean into Europe has drawn countries' attention to the need for a more responsible policy on controlling migration and for greater co-operation in combating the trafficking of people,

12. Therefore recommends that the Committee of Ministers adopt a campaign against clandestine migration and trafficking in people by criminal organisations, which would commit signatory countries to:

i. the monitoring of clandestine migration and other forms of illegal trafficking;

ii. the harmonisation of legislation in the criminal field and on judicial co-operation;

iii. co-operation between and the encouragement and strengthening of networks and partnerships between the police and judicial authorities;

iv. the revision of asylum policies;

v. the strengthening of penalties for traffickers in human beings;

vi. the suspension of financial aid for governments that fail to co-operate in actions to combat trafficking in human beings.

Signed:

Pozza Tasca, Italy, LDR
Agudo, Spain, SOC
Belohorská, Slovakia, EDG
Bušić, Croatia, EPP/CD
Coifan, Romania, LDR
Debono Grech, Malta, SOC
Fernández Aguilar, Spain, EPP/CD
Gatterer, Austria, EPP/CD
Martelli, Italy, EPP/CD
Monteiro, Portugal, SOC
de Puig, Spain, SOC
Risari, Italy, EPP/CD
Schmied, Switzerland, LDR
Vella, Malta, EPP/CD
Vermot-Mangold, Switzerland, SOC

1. Referred to the Committee on Migration, Refugees and Demography; Reference No. 2652 (32nd Sitting, 28 September 2001).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Motion for a recommendation[1]
Doc. 9202 – 24 September 2001

Presence of the Council of Europe in Northern Ireland

presented by Mr JURGENS and others

The situation in Northern Ireland is such that the internecine strife between the "Roman Catholic" and "Protestant" communities keeps on erupting into forms of violence, intimidation and public unrest, without the authorities having enough influence to protect the rights of peaceful individuals.

The Council of Europe cannot sit back and let this situation – which belies basic ideals of peace and co-operation within the Council of Europe – deteriorate.

The Assembly recommends that the Committee of Ministers institute a presence of the Council of Europe in Northern Ireland dedicated to finding a way to end the existing climate of hate and intolerance between the groups concerned.

Signed:

Jurgens, Netherlands, SOC
Bruce, United Kingdom, LDR
Clerfayt, Belgium, LDR
Cliveti, Romania, SOC
Coifan, Romania, LDR
Frunda, Romania, EPP/CD
Huseynov A., Azerbaijan, EDG
Jansson, Finland, LDR
Landsbergis, Lithuania, EDG
Le Guen, France, SOC
Lippelt, Germany, LDR
López González, Spain, SOC
Magnusson, Sweden, SOC
Marty, Switzerland, LDR
Michel, France, SOC
Nabholz-Haidegger, Switzerland, LDR
Reimann, Switzerland, LDR
van 't Riet, Netherlands, LDR
Rustamyan, Armenia, SOC
Škrabalo, Croatia, LDR
Tallo, Estonia, SOC

1. Referred to the Political Affairs Committee; Reference No. 2653 (32nd Sitting, 28 September 2001).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Progress report
Doc. 9203 – 17 September 2001

Progress report of the Bureau of the Assembly (29 June-24 September 2001)

(Rapporteur: Mr MEDEIROS FERREIRA, Portugal, Socialist Group)

Introduction

1. The Assembly held the third part of its 2001 Ordinary Session from 25 to 29 June. The Bureau met on 29 June 2001 in Strasbourg and on 7 September 2001 in Paris. The Standing Committee held no meeting.

Chapter I – Functioning of the Assembly

Preparation of the fourth part of the 2001 Ordinary Session

2. On 7 September, the Bureau adopted the agenda and drew up the draft order of business of the fourth part of the 2001 Ordinary Session of the Assembly (Strasbourg, 24 to 28 September 2001), subject to finalisation by the President and the Secretary General of the Assembly.

3. It asked the Secretary General of the Assembly to facilitate the presence of representatives of the National Assembly of Belarus during the September part-session, on the basis of the arrangements made for the June 2001 part-session.

Changes in the composition of committees

4. On 29 June, the Bureau approved the changes to the composition of the Monitoring Committee, subject to ratification by the Assembly.

2003 spring session

5. On 29 June, the Bureau accepted the invitation by the President of the German Bundestag to hold the spring session of the Assembly in May 2003 in Berlin.

Distribution and classification of Assembly documents

6. On 29 June, the Bureau decided to modify the regulations relating to the distribution and classification of Assembly documents (see Appendix I).

Follow-up to resolution 1255 (2001) on the situation in "the former Yugoslav Republic of Macedonia"

7. On 29 June, the Bureau took note that an *ad hoc* committee had been set up by the Political Affairs Committee in accordance with paragraph 14, which would travel to the region in mid-July in order to allow the committee to report back to the Assembly at its September part-session.

Follow up to Resolution 1240 (2001) and Recommendation 1498 (2001) on the conflict in the Chechen Republic

8. On 7 September, the Bureau took note of the conclusions of the Parliamentary Assembly of the Council of Europe/Duma Joint Working Group (JWG) meeting in Strasbourg on 29 June, that the group would carry out a visit to the Russian Federation from 12 to 16 September, and will organise a consultation in Strasbourg on 21 and 22 September on a political solution to the conflict, and agreed to hold a debate on the progress report by the group during the Assembly's September part-session.

Abolition of death penalty

9. On 29 June, the Bureau, with regard to the follow-up to Resolution 1253 (2001) on the Council of Europe Observer states, took note that the Committee on Legal Affairs and Human Rights and the Political Affairs Committee intend to enter into a dialogue on this issue with parliamentarians from the United States Congress and the Japanese Diet before the end of the year.

Setting-up of *ad hoc* committees and working groups

10. On 29 June, the Bureau decided in principle to set up an *ad hoc* committee for the observation of the Kosovo-wide elections on 17 November 2001, including a possible pre-electoral mission.

11. On 7 September, the Bureau approved the composition of its *ad hoc* committee for the observation of the presidential elections in Belarus on 9 September 2001.

12. It also set up an *ad hoc* committee of up to thirty members for the observation of the Kosovo-wide elections on 17 November 2001.

References and transmissions to committees

13. On 29 June, the Bureau proposed the following reference to committee for ratification by the Assembly:

– Motion for a recommendation on the treatment and cure of spinal injury (Doc. 9154) for report to the Committee on Social, Health and Family Affairs.

14. On 7 September, the Bureau proposed the following references, transmissions and modifications of references to committees for ratification by the Assembly:

– Motion for a recommendation on the seizure and destruction of Azerbaijani cultural heritage (Doc. 9147): transmission to the Committee of Culture, Science and Education for information;

– Motion for a recommendation on the ecological situation in the Republic of Azerbaijan (mountainous Karabakh, Shusha, Lachin, Gubatli, Zengilan, Kelebecer, Agdam, Fizuli, Cabrail) (Doc. 9148): transmission to the Committee on the Environment and Agriculture for information;

– Motion for a recommendation on the right of national minorities to create and use their own media in the Council of Europe member states (Doc. 9151) to the Committee on Legal Affairs and Human Rights for report, in order to take it into account as part of its coming report on the rights of minorities (Order No. 513 (1996)) and transmission to the Committee on Culture, Science and Education for information;

– Motion for a recommendation on the situation of refugees and displaced people in the Federal Republic of Yugoslavia (Doc. 9152) to the Committee on Migration, Refugees and Demography for report;

– Motion for a resolution on the law regarding the Hungarians living in neighbouring countries, adopted on 19 June 2001 by the Hungarian Parliament (Doc. 9153) and motion for a resolution on transfrontier co-operation in preserving the identity of national minorities (Doc. 9163) to the Committee on Legal Affairs and Human Rights for report to the Standing Committee and to the Political Affairs Committee for opinion;

– Motion for a recommendation on the protection of sign language in member states Doc. 9156) to the Committee on Legal Affairs and Human Rights for report to the Standing Committee and to the Social, Health and Family Affairs Committee for opinion;

– Motion for a resolution on the contribution of the Council of Europe to the future constitution-making process of the European Union (Doc. 9157) to the Political Affairs Committee for report and to the Committee on Legal Affairs and Human Rights for opinion;

– Motion for a recommendation on tax incentives for cultural heritage conservation (Doc. 9158) to the Committee on Culture, Science and Education for report to the Standing Committee and to the Committee on Economic Affairs and Development for opinion;

– Motion for a recommendation on the situation of lesbians and gays in sports in member states (Doc. 9159): transmission to the Committee on Culture, Science and Education for information;

– Motion for a resolution on the social implications of enlargement of the European Union (Doc. 9160) to the Social, Health and Family Affairs Committee for report;

– Motion for a recommendation on policies for the integration of immigrants in Council of Europe member states (Doc. 9161) to the Committee on Migration, Refugees and Demography for report;

– Motion for a resolution on candidates to the European Court of Human Rights (Doc. 9162) to the Committee on Legal Affairs and Human Rights for report to the Standing Committee and to the Committee on Equal Opportunities for Women and Men for opinion;

– Motion for a resolution on the situation of people deported from Georgia in 1944 (Meskhetians) and currently residing in Stavropol Krai (Russian Federation) (Doc. 9164): transmission, for information, to the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), as part of the monitoring procedure of the Federation of Russia, to the Political Affairs Committee, as part of the report on the situation in Georgia and the entire Caucasus region (Doc. 8958, Reference No. 2569 of 26 January 2001) and to the Committee on Migration, Refugees and Demography;

– Motion for a resolution on the ratification of the European Code of Social Security (Doc. 9165) to the Social, Health and Family Affairs Committee for report to the Standing Committee;

– Motion for a resolution on crimes of honour (Doc. 9166) to the Committee on Equal Opportunities for Women and Men for report and to the Committee on Legal Affairs and Human Rights for opinion;

– Motion for a resolution on the situation of the Orthodox Church believers in Estonia (Doc. 9167): transmission, for information, to the Committee on Culture, Science and Education and to the Committee on Legal Affairs and Human Rights;

– Motion for a resolution on freedom of movement in member states of the Council of Europe for holders of temporary residence permits in a member state (Doc. 9168) to the Committee on Migration, Refugees and Demography for report and to the Committee on Legal Affairs and Human Rights for opinion;

– Motion for a resolution on the lack of efficient legal protection in Ukraine (intimidation of Mr Yeliashkevich, member of parliament) (Doc. 9169): transmission, for information, to the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) and to the Committee on Legal Affairs and Human Rights;

– Motion for a resolution on euthanasia (Doc. 9170) to the Social, Health and Family Affairs Committee for report and to the Committee on Legal Affairs and Human Rights for opinion;

– Request for an opinion on the draft recommendation of the Committee of Ministers to member states on "Participation of citizens in local public life" and draft explanatory report (Doc. 9172) to the Committee on the Environment and Agriculture for report;

– The 11th general report on the activities of the European Committee on the Prevention of Torture (CPT) (Doc. 9187): transmission for information to the Committee on Legal Affairs and Human Rights.

15. It agreed to defer consideration of the motion for an order on the voting rights of the people living in Gibraltar (Doc. 9065) to its next meeting in order to obtain supplementary legal information from the Secretary General of the Council of Europe.

16. It also agreed to extend the deadline for the preparation of the report on the rehabilitation policies for persons with disabilities (Doc. 7865) until 2003.

Meetings elsewhere than in Strasbourg or Paris and authorisation for members' official visits

a. *Meetings elsewhere than in Strasbourg or Paris:*

17. On 29 June, the Bureau approved the following meetings outside Strasbourg and Paris:

– Sub-Committee on Children (of the Social, Health and Family Affairs Committee) to New York (United Nations) from 19 to 20 September 2001;

– Sub-Committee on International Economic Relations (of the Committee on Economic Affairs and Development) to Kaliningrad (Russia) from 11 to 12 October 2001;

– *ad hoc* sub-committee of five members of the Committee on Migration, Refugees and Demography to Yalta before the end of 2001.

18. On 7 September, the Bureau approved the following meetings outside Strasbourg and Paris:

– Sub-Committee on Sustainable Development (of the Committee on the Environment and Agriculture) in Marrakech from 31 October to 2 November 2001 during a parliamentary round-table organised within the framework of the Conference of the Parties to the Framework Convention on Climate Change (29 October to 9 November 2001);

– Sub-Committee on Tourism Development (of the Committee on Economic Affairs and Development) at the headquarters of the World Tourism Organisation in Madrid in 2002.

b. *Official journeys by members of the Assembly*

19. On 29 June, the Bureau authorised the following appointments of Assembly representatives for official activities:

– Mr Behrendt and Mr Svoboda, as rapporteurs on the situation in Belarus, to attend the meeting organised by the PA OSCE in Paris on this subject on 5 to 6 July 2001;

– Mr McNamara and a representative of the Political Affairs Committee, at the cost of their respective national parliaments, to attend the World Conference against Racism in Durban (South Africa) during the first week of September 2001.

20. On 7 September, the Bureau authorised the following appointments of Assembly Representatives for official activities:

– Mr Bársony, Mr Blaauw and Mr Toshev for a Parliamentary Conference of the Stability Pact in Brussels from 17 to 18 September 2001;

– Mr Behrendt and Mr Davis for contacts with the United States Congress in Washington DC in October 2001 in relation to the Kyoto Protocol on climate change;

– Mr Tiuri to take part in the World Conference on Energy, Buenos-Aires, Argentina, from 22 to 25 October 2001, with no cost to the Assembly.

Chapter II – Relations with the Committee of Ministers and other bodies of the Council of Europe

Joint Committee meeting

21. On 7 September, the Bureau confirmed the proposal that the "monitoring of obligations and commitments of member states by the Parliamentary Assembly and the Committee of Ministers" would be the main item of the Joint Committee meeting (Thursday, 27 September 2001), and that other matters could be raised under the item "other business".

European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

22. On 29 June, the Bureau drew up the list of candidates for the European Committee for the Prevention of Torture (CPT) in respect of the Netherlands and Switzerland and forwarded them to the Committee of Ministers.

23. On 7 September, the Bureau drew up the lists of candidates for the European Committee for the Prevention of Torture (CPT) in respect of Austria and Denmark and forwarded them to the Committee of Ministers.

Chapter III – External relations and political matters

Belarus

24. On 29 June, with regard to the observation of the presidential elections in Belarus on 9 September 2001, the Bureau:

– invited the President to write a joint letter with the President of the Parliamentary Assembly of the OSCE (PA OSCE) to the President of Belarus raising a number of concerns for free and fair presidential elections,

– authorised the Assembly representatives in the Parliamentary troika (Mr Behrendt, Mr Davis and Mr Svoboda) to take part in consultations with the PA OSCE and the European Parliament (EP) on whether to observe the presidential elections;

– decided to set up an *ad hoc* committee of ten members if the Assembly representatives confirm the decision to observe the elections in the light of the results of their visit to Minsk at the end of July.

Kazakhstan

25. On 29 June, the Bureau approved in an amended form a draft letter by the President to the presidents of the two chambers of the parliament of Kazakhstan concerning a possible co-operation agreement.

Chapter IV – Observation of elections

26. On 29 June, the Bureau confirmed the observation of the second round of elections in Albania on 8 July.

27. On 23 July, a delegation went to Albania to observe the third round of the elections in remaining zones (see Appendix II, press release).

28. On 7 September, it approved the report by its *Ad hoc* Committee on the Legislative Elections in Albania (24 June, 8, 22 and 29 July and 19 August 2001) and authorised its declassification.

Chapter V – Budget and administrative matters

29. On 29 June, the Bureau endorsed the analysis of the use made by the Assembly's political groups of their allocations for 2000.

30. It also approved the final apportionment of the allocation to political groups for 2001.

Chapter VI – Other matters

31. On 29 June, the Bureau took note of the legal information provided by the Secretary General of the Council of Europe concerning the voting rights of the people living in Gibraltar, and decided to resume consideration of the reference of the motion for a resolution on this subject at a future meeting.

APPENDIX I

Classification of Assembly documents

1. In order to keep in line with decisions taken by the Committee of Ministers in Resolution (2000) 2 on the Council of Europe information strategy, which aims at promoting the principle of transparency, the Assembly should also review its policy for distribution and classification to be applied to its documents.

2. As from 1 January 2001 Committee of Ministers' documents generally have been classified according to the following principles:

– documents not subject to any classification will be public;

– documents classified "restricted" will be declassified a year after being issued;

– documents classified "confidential" will be declassified ten years after being issued;

– documents classified "secret" will be declassified thirty years after being issued.

3. Whilst all documents relevant to the plenary Assembly are public, this is not the case for documents intended for and used by committees. According to present rules, all committee working papers are restricted and become public only after twenty-five years. Certain Bureau documents and all minutes are considered confidential (see page 174 of the Assembly Rules of Procedure).

4. Practice over the last years has however been much more relaxed with regard to the distribution and availability of documents. The term "restricted" is not being used any more and Resolution 1113 (1989) pressed already for a review of these rules.

5. Having regard to the recently adopted procedure by the Committee of Ministers it seems therefore appropriate for the Assembly to also adapt its own regulations. By analogy with those adopted by the Committee of Ministers, the Assembly could take the following decisions:

i. all documents not subject to any classification are public. This is already the case for all documents with the reference Doc., CR, PV, AS/Inf, CdB, the Assembly List and various publications. It would be extended to all committee and Bureau documents with the reference AS/… unless the competent committee decides otherwise. Committee agendas are already mostly issued without a security classification, a practice that should be encouraged. It would also be advisable to place all documents of this category on the Parliamentary Assembly Council of Europe website, in order to make them accessible as widely as possible;

ii. should a committee decide to classify some of its working papers as restricted, they would be declassified after one year after being issued;

iii. should documents be classified confidential, they would be declassified ten years after;

iv. should documents be classified secret, they would be declassified thirty years after.

6. Draft minutes of committee meetings should always be classified confidential, at least until approved by the next committee meeting. This seems to be a fair way of protecting statements by members as long as their authors have not endorsed them.

APPENDIX II

Press release: Albanian elections:
in remaining zones, third round highlights problems

Tirana, 23 July 2001 – The two weeks leading up to yesterday's third round of Albanian parliamentary elections served to highlight remaining electoral deficiencies, concluded the International Election Observation Mission in a preliminary statement issued today (attached).

"While I stand by our earlier conclusion that these elections as a whole have shown progress, I have to say I'm disappointed with developments leading up to the third round," said Nikolai Vulchanov, Head of the Observation Mission of the OSCE Office for Democratic Institutions and Human Rights (ODIHR).

"We can reconfirm some positive trends, notably the peaceful atmosphere and the decision by political parties to raise their complaints through legal channels," added Jenny Jones, head of the delegation of the Council of Europe Parliamentary Assembly. "It is unfortunate, however, that some of the problems and concerns we identified in earlier rounds have not been adequately dealt with."

The international observers were particularly concerned with:

– the inability, even after three rounds of voting, to complete the election process and allocate the proportional seats, as well as the prospect that this could continue for several more rounds;

– irregularities in counting and tabulation that undermine confidence in the results in certain constituencies;

– the ineffectiveness of the appeals procedure in providing redress;

– undue politicisation of some zone election commissions and voting centre commissions, which has sometimes disrupted the election process; and

– in certain polling stations, blatant attempts at fraud through ballot stuffing and other manipulations – including

by voting centre officials – in plain view of international observers.

Election day, 22 July, was generally calm and passed without problems at most polling stations. However, very serious irregularities were witnessed by observers in certain constituencies.

"This mission now comes formally to an end," said Soren Sondergaard, co-rapporteur for Albania of the Monitoring Committee of the Council of Europe Parliamentary Assembly. "But the election process stays under international scrutiny. If allegations are not properly dealt with, they can be brought to the European Court of Human Rights. Meanwhile our committee's monitoring continues."

The final assessment of these elections will depend largely on the conduct of voting still to come, the adjudication of appeals and redress of irregularities, and the process of allocating proportional mandates.

Mission information

The International Election Observation Mission for the third round of the parliamentary elections in Albania is a joint undertaking of the OSCE Office for Democratic Institutions and Human Rights (ODIHR) and the Parliamentary Assembly of the Council of Europe. An OSCE/ODIHR Election Observation Mission with ten election experts in the Tirana headquarters and eighteen long-term observers deployed to the regions was established in late May to assess the legal framework, the election administration, the media environment, and conditions for the election campaign. For election day on 22 July, the International Election Observation Mission deployed some fifty short-term observers, including five parliamentarians from the Council of Europe's Parliamentary Assembly to monitor voting and counting procedures in polling stations and election commissions in all zones in which elections took place.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Addendum to the progress report
Doc. 9203 – 24 September 2001

Addendum to the progress report of the Bureau of the Assembly (29 June-24 September 2001)

(Rapporteur: Mr MEDEIROS FERREIRA, Portugal, Socialist Group)

Chapter I – Functioning of the Assembly

Preparation of the fourth part of the 2001 Ordinary Session

1. On 24 September the Bureau observed a minute's silence in memory of the victims of the terrorist attacks in the United States of America on 11 September 2001.

2. It proposed to the Assembly to hold an urgent debate on "democracies facing terrorism" during the fourth part of the 2001 Ordinary Session of the Assembly (Strasbourg, 24 to 28 September 2001).

3. It updated the draft order of business of the September part-session of the Assembly.

4. It appointed spokespersons for the Joint Committee meeting (Thursday, 27 September 2001).

5. It approved the draft progress report (rapporteur: Mr Medeiros Ferreira, Portugal).

Follow-up to Resolution 1240 (2001) and Recommendation 1498 (2001) on the conflict in the Chechen Republic

6. On 24 September, the Bureau took note of the visit by the Parliamentary Assembly of the Council of Europe/Duma Joint Working Group (JWG) to the Russian Federation from 12 to 16 September, and of the consultation organised by the group in Strasbourg from 21 to 22 September on a political solution to the conflict, with the participation of a large spectrum of Chechen representatives (see Appendix). This item will be dealt with during this part-session.

Chapter II – Observation of elections

Belarus

7. On 24 September, the Bureau approved the report by its *ad hoc* committee on the observation of the presidential elections in Belarus (9 September 2001) and authorised its declassification.

Chapter III – Stability Pact

8. On 24 September, the Bureau took note of the participation of Mr Bársony, Mr Blaauw and Mr Toshev as well as of the conclusions of the Presidency of the Parliamentary Conference on the Stability Pact for South Eastern Europe (Brussels, 17 to 18 September 2001).

APPENDIX

Joint Working Group on Chechnya between the Parliamentary Assembly of the Council of Europe and the State Duma of the Russian Federation

Conclusions of the 3rd meeting of the Joint Working Group (Strasbourg, 29 June 2001)

The Joint Working Group agreed:

1. To organise a visit to Chechnya and the North Caucasus region on 13 to 16 September 2001.

The agenda of this visit will include:

– the human rights situation in Chechnya and the progress made in the investigations into crimes committed in Chechnya;

– the humanitarian situation of displaced people;

– a political discussion, with a cross-section of representatives of Chechen society, on a political solution to the conflict.

2. To organise a two-day consultation on 21 and 22 September 2001 in Strasbourg on a political solution to the conflict. A wide-ranging representation of Chechens (totalling around twenty persons), who are prepared to commit themselves to a peaceful solution and to the renunciation of violence, will be invited to this consultation. The participants will discuss the proposal of a political solution submitted by the Duma members and discussed by the JWG, as well as proposals from other participants, on the condition that any proposals to be considered will be submitted at least ten days before the beginning of the meeting.

3. To urge the Russian authorities concerned to present to the Parliamentary Assembly in September 2001 convincing evidence that progress is being made on the investigations into crimes against the civilian population committed by servicemen and members of special police forces in Chechnya, in particular those the cases of alleged mass killings and the disappearance of Mr Alikhodjiyev.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Communication from the Committee of Ministers
Doc. 9204 – 18 September 2001

Honouring of obligations and commitments by Croatia

Reply to Recommendation 1473 (2000)
(adopted by the Committee of Ministers on 12 September 2001 at the 763rd meeting of the Ministers' Deputies)

1. The Committee of Ministers shares the Parliamentary Assembly's positive appreciation of the significant progress achieved by Croatia in fulfilling its commitments and obligations as a member state of the Council of Europe since its accession on 6 November 1996, and in particular, since the parliamentary and presidential elections held at the beginning of 2000, as referred to in Recommendation 1473 (2000).

2. At its 726th meeting on 18 October 2000, the Committee of Ministers took note of Resolution 1223 (2000) on the honouring of obligations and commitments by Croatia, to which Recommendation 1473 (2000) refers. On this occasion the Committee of Ministers, in particular, took note of the fact that the Parliamentary Assembly's monitoring procedure regarding Croatia is closed, while, with respect to issues listed in paragraph 3 of the resolution, the Assembly will continue its post-monitoring dialogue with the Croatian authorities.

3. As regards specific issues included in Recommendation 1473 (2000), as well as in paragraph 3 of Assembly Resolution 1223 (2000), the Committee of Ministers would like to draw the Parliamentary Assembly's attention to the following points:

4. Within the framework of its thematic monitoring procedure, the Committee of Ministers is looking into some of the issues referred to in paragraph 3 of Assembly Resolution 1223 (2000) notably: "freedom of expression and information", "functioning of the judicial system", "local democracy", "effectiveness of judicial remedies" and "non-discrimination, with emphasis on the fight against intolerance and racism".

5. Co-operation activities developed well with Croatia before the state's accession to the Council of Europe. However, in recent years, the level of co-operation has been concentrated on a few key areas in line with the progress achieved and the necessity to concentrate financial resources on priority programmes for other regions in Europe. Croatia expressed an interest in strengthening co-operation with the Council of Europe in a period in which its objective is to join the Euro-Atlantic institutions.

6. The Committee of Ministers warmly welcomes the co-operation by Croatia with the International Criminal Tribunal for the Former Yugoslavia, in particular the decision to defer some important indicted military staff to The Hague. It further encourages Croatia to pursue this co-operation.

7. Concerning the administration of justice, and more specifically the independence of the judiciary, the Committee of Ministers recalls that constitutional and legislative amendments were adopted by the Croatian Parliament in March 2001, affecting *inter alia* the procedure for appointing presidents of the courts, including the Supreme Court, as well the members of the High Judicial Council. In this context, an expert meeting on these issues took place in Zagreb from 3 to 4 May 2001 and an expert report was submitted to the Croat authorities. The issue was further addressed with the Croat authorities during the visit of the Director General of Legal Affairs in Zagreb (20-21 June 2001) and further co-operation was offered by the Council of Europe in order to ensure that this ongoing reform complies with the European standards. Furthermore, regarding efficiency of the judiciary, an expert meeting on the execution of judicial decisions in administrative cases took place in Zagreb in May 2001; another one concerning the execution of judicial decisions in civil and commercial cases is foreseen for October 2001. The Committee of Ministers considers that the training of judges, including training in the European standards of human rights, is a particularly important issue.

8. Concerning freedom of the media, the Committee of Ministers recalls that it has paid particular attention to this issue both prior and subsequent to Croatia's accession to the Council of Europe and welcomes the positive changes that have taken place. In order to help Croatia fulfil its specific commitments in this field, expert assistance has been granted on several occasions, notably regarding amendments to the Law on the Croatian Radio and Television (HRT) and the Telecommunications Law that regulates private radio/television:

i. Regarding the HRT Law, progress has been made during the last years towards its full conformity with the principles and standards of the Council of Europe. However, the Committee of Ministers considers that the definitive text of the law, as adopted in February 2001 by the Croatian Parliament, should still be improved, notably as regards appointment and dismissal of the HRT Administrative Board by the Croatian Parliament.

ii. Regarding the Telecommunications Law, amendments are still in the process of being elaborated with a view to ensuring full conformity with the Council of Europe's principles and standards. Particular attention is paid to this issue given its importance for the development of private electronic media in a legally unambiguous and predictable environment, free from interference by political interests.

9. In the field of local democracy, the Committee of Ministers considers that progress is being achieved regarding legislation intended to give effect to the constitutional reform of 9 November 2000. A law on local and regional self-government entered into force on 11 April 2001. The Committee of Ministers reaffirms the Council of Europe's readiness to provide legislative expertise on this law, as well as other draft laws on local democracy currently pending before parliament, to ensure their full conformity with the principles of the

European Charter of Local Self-Government. It notes the intention of the Croatian authorities to submit its draft laws on the local public service, on local elected representatives and on the status of the city of Zagreb, for expertise by the Council of Europe.

10. In this context, the Committee of Ministers recalls that, in the framework of its monitoring procedure on the theme of local democracy, it has invited governments to take account of the comments and recommendations mentioned in the Chairman's summing-up when deciding on their legislative and political priorities, and to base any request for assistance on these. The Committee of Ministers has also instructed the Secretariat to draw up, in the light of these requests, specific proposals for action to be implemented in 2002 and 2003 in order to help the member states where problems have been identified to resolve the difficulties encountered.

11. As regards the local elections held on 20 May 2001, the international observation mission, composed of the Congress of Local and Regional Authorities of Europe of the Council of Europe and the OSCE/ODIHR, concluded that they were conducted generally in accordance with international standards for democratic elections, although several shortcomings had been noted in the field of national minority participation and representation: "These include stipulations in the new Election Law which provide for by-elections to ensure proportional minority representation, but fail to establish clear procedures on how to implement these provisions. Three other serious concerns, already highlighted during previous elections, remain: voter registers continued to identify the ethnicity of voters; the 1991 Law on Citizenship disadvantaged persons who are not ethnic Croats; and ethnic Croat and Serb displaced persons were afforded unequal voting rights."

12. As regards the protection of minorities, Croatia undertook on its accession to co-operate with the Council of Europe, in particular with the Venice Commission, to revise the suspended provisions of the 1991 Constitutional Law on Human Rights and Rights of Minorities as soon as possible. Despite several meetings between the Venice Commission and the Croatian Commission on the Revision of the Constitutional Law, the revision sought was not achieved. Moreover, on 11 May 2000, the Parliament of the Republic of Croatia adopted a constitutional law that, in the opinion of the Venice Commission, "does not 'revise' the suspended provisions but clearly abolishes all special regimes for important minorities in Croatia." The Venice Commission expressed the view that this situation, despite the efforts undertaken by the Croatian legislature to set out a coherent network of laws guaranteeing minority rights (law on the equal official use of minority languages and law on education in minority languages), did not seem to offer an adequate response to the political needs of minorities in Croatia.

13. However, on the basis of a conclusion adopted by the parliament, work started within the government with a view to preparing a new draft of the Constitutional Law on the Rights of National Minorities. The Venice Commission co-operated with the Croatian Working Group, established under the Chair of the Minister for Justice for this purpose, and three meetings were held until March 2001. As a result, a new draft Constitutional Law on the Rights of National Minorities was prepared. In its opinion, adopted on 6 and 7 July 2001, the Venice Commission notes:

"The new draft significantly improves the legal framework of minority protection in Croatia. It clarifies most of the inconsistencies of previous drafts, in particular as regards the effects of the new law and the electoral rights aspects [NB: see also above paragraph 11], and provides for the establishment of a system for minority self-government at local, regional and state level that can be regarded as an adequate response to the needs of minorities in Croatia.

Attention must nevertheless be drawn to certain aspects of the draft law:

– while welcoming the removal of the list of minorities from the law, the Commission notes that such a list continues to exist in the constitution;

– laws implementing this "Constitutional" Law must not be treated as organic laws under Article 83 of the constitution but as ordinary laws of which the conformity with the Law on the Rights of National Minorities is subject to review by the Constitutional Court;

– some ambiguities with respect to the provisions on minority self-government, in particular as regards their functioning, should be removed while, at the same time, some necessary clarifications as to their competencies should be made.

The Commission notes that more than one year after the abolition of the suspended provisions of the Constitutional Law of 1991 in May 2000, no normative action has been successfully carried out by the Croatian Parliament at supra-legislative level to replace the abolished provisions. The protection of minorities' rights at the level of the constitution therefore remains incomplete.

The Commission remains at the disposal of the Croatian authorities for further co-operation in the field of this draft law."

14. The Committee of Ministers expresses the hope that continued intensive co-operation between the Croat authorities and the Venice Commission, in particular appropriate follow-up to the opinion adopted by the latter on the new draft Constitutional Law on the Rights of National Minorities, will soon result in concluding the work started in 1996 and ensuring that the relevant commitment will be fully honoured.

15. The Committee of Ministers recalls that Croatia signed and ratified the European Charter for Regional or Minority Languages on 5 November 1997. It submitted its initial periodical report on its application of the charter in 1999. The Committee of Experts of the Charter visited Croatia in 1999 as part of its normal information-gathering procedure, and recently submitted to the Committee of Ministers its report on the application of the Charter in Croatia. This report contains an overview of the legal situation of the regional or minority languages in Croatia and more specifically the extent to which the obligations of Croatia are in practice fulfilled.

It also makes proposals for recommendations which the Committee of Ministers might address to the Croatian authorities in order to fulfil the remaining obligations. Since the submission of the Croatian initial report on the application of the charter two important laws have been adopted in the course of 2000, namely the Law on the Use of Language and Script of National Minorities in the Republic of Croatia and the Law on the Education in Language and Script of National Minorities, which provide for detailed regulation of the use of minority languages in the public and private spheres as well as in the education system.

16. The Committee of Ministers considers that the process for the return of refugees and displaced persons requires further progress. In order to create the conditions for sustainable return, it would seem useful that the Croatian authorities should develop a more coherent legislative framework in this field, in order to back up its stated political support of return, particularly of Croatian Serbs. Such a framework, which should be in compliance with international standards, should cover issues such as the repossession of occupied property, and the resolution of lost occupancy and tenancy rights, through for example the return of apartments, allocation of other housing, or appropriate compensation. In order for such legislation to be effective, however, it is important that the authorities take steps to ensure proper implementation of legislation by all levels of administration, on an equal basis for all, and particularly the returning Croatian Serb community. To date, approximately 90 000 of the Croatian Serbs who left the country have been registered as having returned since 1995, and many of these people face difficulties in property-related issues.

17. According to additional information provided by the Croatian authorities, by June 2001, a total of 275 351 persons had returned to their homes, while a significant number of displaced persons in Croatia and Croat refugees from Bosnia and Herzegovina were still waiting to return to their places of origin. In this respect, mention could be made of the ongoing discussions with neighbouring countries (Federal Republic of Yugoslavia and Bosnia and Herzegovina), particularly with a view to enable a return to Republika Srpska where the results so far have been minimal. The agenda for regional return action and the regional return initiative for refugees and displaced persons adopted at the Steering Committee for Regional Return Initiative of the Stability Pact for South Eastern Europe should be fully implemented.

18. In this context, the Committee of Ministers took note of the Assembly's invitation to step up the financial assistance to Croatia, in order to contribute to reconstruction and sustainable development in the areas of return. The Committee of Ministers greatly appreciated the efforts of the Croatian authorities who, according to the recent OSCE Review Report, have financed 96% of the housing reconstruction themselves. The Council of Europe Development Bank could continue to play a significant role in this respect. Prior to August 2000, the Council of Europe Development Bank had already approved four loan requests in favour of Croatia, for a total of €71 million, aimed at the reconstruction of health and education infrastructures, which should assist in creating favourable conditions for the return of refugees and displaced persons. In September 2000, the bank approved a further €30.4 million loan for a project focusing on the construction of housing units and infrastructure and the provision of alternative accommodation for temporary users, with the aim of achieving a return of pre-war populations to war-affected areas and the rebuilding of multi-ethnic communities in thirty-five municipalities. At the Joint Meeting of the Development Bank of the Council of Europe, held in Dubrovnik on 19 and 20 June 2001, talks were held between officials of the Croatian Government and the bank, during which it was agreed that co-operation should be further expanded in the area of refugee returns and other priority social sectors.

19. The Committee of Ministers wishes to bring to the attention of the Parliamentary Assembly that Croatia has participated in several regional initiatives of the Council of Europe, within the framework of the Stability Pact for South Eastern Europe, for instance regarding the judicial system and local democracy, the Link Diversity Project, as well as independent national human rights protection institutions, including ombudsman institutions. It should also be noted that Croatia co-chairs Stability Pact Working Table III on security issues.

20. In conclusion, the Committee of Ministers notes that co-operation between the Croatian authorities and the Council of Europe has been instrumental in the progress achieved so far and underlines the necessity that such co-operation continues in future. The Committee of Ministers encourages the Croatian authorities to make further progress on all the above matters.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Communication from the Committee of Ministers
Doc. 9205 – 18 September 2001

Amelioration of disadvantaged urban areas in Europe

Reply to Parliamentary Assembly Recommendation 1505 (2001) (adopted by the Committee of Ministers on 12 September 2001, at the 763rd meeting of the Ministers' Deputies)

The Committee of Ministers has examined Parliamentary Assembly Recommendation 1505 (2001) on the amelioration of disadvantaged urban areas in Europe and has decided to bring it to the attention of governments and of the Congress of Local and Regional Authorities of Europe (CLRAE).

The Committee of Ministers attaches great importance to developing a healthy and pleasant living environment for the citizens of its member states. Its action to promote better social cohesion, as part of the social cohesion strategy adopted in 2000, particularly reflects this.

It is clear from the strategy that the solution of housing problems in disadvantaged urban areas requires an integrated approach, bringing together, in particular, issues of housing, social protection, employment, health, education and community relations. Improving the appearance of disadvantaged urban areas will not contribute to social cohesion in any sustainable way unless it forms part of an overall approach to improving the economic, social and cultural environment of the persons living in these areas. The effective implementation of such integrated strategies lends itself to partnership between public authorities, the private sector and civil society, particularly at local level.

In paragraph 2 of the recommendation, the Assembly mentions the difficult situation of residents of disadvantaged areas, pointing out that "frequently, they do not own their own homes". The Committee of Ministers notes that this is often true in the context of western European countries, but that the reality is different in most of the post-communist transition countries in central and eastern Europe. In these countries, mass privatisation of housing estates has allowed most of the residents of these estates to become owners. Often, however, they have neither the personal means necessary to maintain their property nor access to public systems of financial assistance. The specific needs of this type of tenants have been studied closely by the Group of Specialists on Access to Housing (CS-LO), under the auspices of the European Committee for Social Cohesion (CDCS).

The group of specialists is currently drawing up a set of policy guidelines on access to housing for vulnerable categories of people. It addresses many of the issues mentioned in Recommendation 1505 (2001); for example, the implementation of area-based policies, funding for access to quality housing and housing maintenance, the establishment of legal and institutional provisions and co-operation with civil society. The results of this work, together with the outcome of other activities relating to access to social rights, should be compiled in a comprehensive report and presented at a conference to be held in 2002. It is also planned to draft a Committee of Ministers recommendation, which will incorporate the guidelines set out on access to social rights.

In order to ensure the continuity of its action on housing policies, the Committee of Ministers plans to appoint a new committee in 2002 to look at the contribution of these policies to social cohesion; the Parliamentary Assembly will be invited to attend meetings of this committee as an observer. In addition, a number of assistance programmes on access to housing are planned in the Baltic states, Bulgaria and the Russian Federation.

The Committee of Ministers would also remind the Assembly of the regional network of experts on housing in South-eastern Europe, set up by the Council of Europe in 2000 to examine the major difficulties concerning housing in the region. The network is involved in the strategic review of social cohesion issues in South-eastern Europe and contributes in particular to the social cohesion initiative and the action plan of the Stability Pact (Working Table II), in which the Council of Europe, particularly the Development Bank, plays an active part.

The objectives set for the housing component of Working Table II and the implementation strategy which has been developed in this context are in line with the concerns set out by the Assembly in Recommendation 1505 (2001).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Written Question No. 390
Doc. 9206 – 18 September 2001

Turkey and the European Court of Human Rights

Reply to Parliamentary Assembly Written Question No. 390 (adopted by the Committee of Ministers on 12 September 2001, at the 763rd meeting of the Ministers' Deputies)

I. Written Question No. 390 by Mr Jurgens and others (Doc. 8964)

II. Reply from the Committee of Ministers

1. The Committee of Ministers can assure Mr Jurgens that it is fully aware of the problems raised in the Written Question No. 390 tabled by him and his colleagues. Member states of the Council of Europe must take rapid and adequate action to comply with their obligation to abide by the judgments of the European Court of Human Rights in cases to which they are parties.

2. The execution of the judgments referred to in the question is regularly supervised by the Committee of Ministers in accordance with its responsibilities under Article 46, paragraph 2, of the Convention. In the course of this examination, the Committee has acknowledged that significant progress has been achieved in certain areas, while also noting that certain specific individual and/or general measures referred to in the written question have not yet been adopted. The importance and urgency of such measures have been repeatedly emphasised, particularly, in view of the seriousness of the violations found and the time elapsed since the judgments concerned were delivered (see Interim Resolutions DH(99)245 and DH(99)529 in the Socialist Party and others v. Turkey case, Interim Resolution DH(99)434 in the cases concerning the action of Turkish security forces, Interim Resolutions DH(99)680, DH(2000)105 and DH(2001)80 in the Loizidou v. Turkey case, Interim Resolution DH(2001)106 in the cases concerning violations of freedom of expression in Turkey).

3. The Committee of Ministers will continue to pursue its examination of all outstanding points, until full and proper execution of the Court's judgments has been secured, notably in the context of its regular human rights meetings. It will define its future strategy in the light of the information that it expects from the Turkish authorities in the near future.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Motion for a resolution[1]
Doc. 9207 – 20 September 2001

Fight against terrorism

presented by Mr SURJÁN and others

1. The Assembly,

i. shocked by the recent attack on the United States of America by terrorists;

ii. terrified by the high number of lost lives;

iii. considering that there is no justification for any terrorist actions;

iv. expressing its strong will to resist any attack against international order, freedom and the rule of law and democracy;

expresses its solidarity with the victims and their families as well as with the whole nation of the United States of America.

2. Therefore, the Assembly:

i. suggests an evaluation of the existing legal tools against terrorism and against any political instances which might support them;

ii. proposes new instruments be created at international level to prevent and combat this new kind of war, declaring that terrorism and any support given to it is a crime against humanity.

Signed:

Surján, Hungary, EPP/CD
Van Ardenne-van der Hoeven, Netherlands, EPP/CD
Arzilli, San Marino, EPP/CD
Bakoyianni, Greece, EPP/CD
Behrendt, Germany, SOC
Besostri, Italy, SOC
Bianchi, Italy, EPP/CD
van den Brande, Belgium, EPP/CD
Bühler, Germany, EPP/CD
de Carolis, Italy, SOC
Cox, United Kingdom, SOC
Díaz de Mera, Spain, EPP/CD
Etherington, United Kingdom, SOC
Fernández Aguilar, Spain, EPP/CD
Gibuła, Poland, SOC
Graas, Luxembourg, LDR
Hornhues, Germany, EPP/CD
Kalkan, Turkey, EDG
Kilclooney, United Kingdom, EPP/CD
Korkeaoja, Finland, LDR
Kurucsai, Hungary, EPP/CD
Leers, Netherlands, EPP/CD
Van der Linden, Netherlands, EPP/CD
Mariot, France, SOC
Martínez Casañ, Spain, EPP/CD
Meale, United Kingdom, SOC
Mikaelsson, Sweden, UEL
Mota Amaral, Portugal, EPP/CD
Pinggera, Italy, EPP/CD
Robol, Italy, EPP/CD
Rodeghiero, Italy, LDR
Schmied, Switzerland, LDR
Spindelegger, Austria, EPP/CD
Tiuri, Finland, EDG

1. Referred to the Committee on Legal Affairs and Human Rights and, for opinion, to the Political Affairs Committee; Reference No. 2654 (32nd Sitting, 28 September 2001).

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Communication from the Committee of Ministers
Doc. 9208 – 19 September 2001

Declaration of the Committee of Ministers on the fight against international terrorism

Declaration to the Parliamentary Assembly
(adopted by the Committee of Ministers on 12 September 2001, at the 763rd meeting of the Ministers' Deputies)

1. The Committee of Ministers of the Council of Europe condemns with the utmost force the terrorist attacks of unprecedented violence committed against the American people, to whom it expresses sympathy and solidarity.

These crimes do not strike only the United States but affect us all. These barbaric acts violate human rights, in particular the right to life, democracy and the search for peace.

Such monstrous acts demand resolute reaction from all states committed to uphold civilised values.

The Council of Europe, which unites the continent around these values, has a particular interest and responsibility to contribute to such a reaction.

2. The Committee of Ministers decides to hold a special meeting on 21 September with the following agenda:

i. strengthening of the fight against terrorism, using the specific expertise and instruments of the Council of Europe, and improving the mechanisms and means for co-operation with other international organisations and the observer states;

ii. inviting the member states to give increased effectiveness to the existing pan-European co-operation, for example, to accede, where they have not done so, to conventions on mutual assistance in criminal matters;

iii. examining the scope for updating the European Convention on the Suppression of Terrorism;

iv. the inclusion of the fight against terrorism in the Council of Europe's integrated project on the struggle against violence in everyday life in a democratic society.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Communication from the Secretary General
Doc. 9209 – 20 September 2001

Transmission of reports

The Secretary General of the Council of Europe has transmitted the following documents to the President of the Assembly for the information of members of the Assembly:

– eleventh and twelfth interim reports by the Secretary General on the presence of the Council of Europe experts in the Office of the Special Representative of the President of the Russian Federation for ensuring Human Rights and Civil Rights and Freedoms in the Chechen Republic – periods from 1 to 30 July 2001 and 10 to 31 August 2001 (SG/Inf (2001) 29 and addendum);[1]

– news from the Council of Europe Field Offices – July to August 2001 (SG/Inf (2001) 28);[1]

– report of the Secretariat assistance and information mission to Ukraine – 26 to 29 August 2001 (SG/Inf (2001) 27);[1]

– relations with Georgia – official visit by the Secretary General of the Council of Europe, 5 and 6 July 2001 (SG/Inf (2001) 26);[1]

– news from the Council of Europe Field Offices – June 2001 (SG/Inf (2001) 25);[1]

– tenth interim report by the Secretary General on the presence of the Council of Europe experts in the Office of the Special Representative of the President of the Russian Federation for ensuring Human Rights and Civil Rights and Freedoms in the Chechen Republic – period from 1 to 30 June 2001 (SG/Inf (2001) 24 and addendum);[1]

– terms of reference for the observation of the electoral process for the Kosovo Assembly (SG/Inf (2001) 23);[1]

– Russian Federation: information provided by the Secretary General on the situation of democracy, human rights and the rule of law in the Chechen Republic (SG/Inf (2001) 22);[1]

– news from the Council of Europe Field Offices – May 2001 (SF/Inf (2001) 21).[1]

1. These reports are available on the Council of Europe Internet site at the following address: http://www.coe.int/sg/en/.

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PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Report
Doc. 9210 – 21 September 2001

Examination of credentials of Representatives, Substitutes and Special Guests

presented by the President of the Assembly

1. In accordance with Rule 6, paragraphs 1 and 4, of the Rules of Procedure, the President of the Assembly has received the credentials of new Representatives and Substitutes for the fourth part of the 2001 Ordinary Session of the Parliamentary Assembly, which have been transmitted in due form by the competent authorities of seven member states.

2. *Albania* has appointed its new delegation following parliamentary elections.

3. *Bulgaria* has appointed its new delegation following parliamentary elections.

4. *Italy* has appointed its new delegation following parliamentary elections.

5. *Moldova* has appointed a new Substitute to replace Mr Rusu who has resigned.

6. *San Marino* has appointed its new delegation following parliamentary elections.

7. *Switzerland* has appointed two new Substitutes to fill two vacant seats.

8. *Turkey* has appointed a new Representative to replace Mr Gül who has resigned.

9. The Assembly is called upon to express its decision on the validation of the credentials of the members whose names are given below.

10. In the case of objection or justified contestation, the contested credentials shall be referred without debate to the appropriate committee which shall report back to the Assembly, in accordance with Rules 7 and 8 of the Rules of Procedure.

Albania

Representatives

Mr Taulant Dedja, Socialist
Mr Petro Koçi, Socialist
Mr Qazim Tepshi, Democrat Party
ZZ…

Substitutes

Mr Gaqo Apostoli, Social Democrat
Mrs Monika Kryemadhi, Socialist
Mr Vasil Melo, Liberal Democratic Centre
ZZ…

Bulgaria

Representatives

Ms Elka Anastassova, National Movement Simeon II
Mr Evgeni Kirilov, Coalition for Bulgaria
Mr Younal Loutfi, Movement for Rights and Freedoms
Ms Milena Milotinova, National Movement Simeon II
Mr Latchezar Toshev, United Democratic Forces
Mr Borislav Velikov, National Movement Simeon II

Substitutes

Mr Alexander Arabadjiev, Coalition for Bulgaria
Mr Konstantin Penchev, National Movement Simeon II
Mr Loutvi Mestan, Movement for Rights and Freedoms
Mr Nikolay Mladenov, United Democratic Forces
Mr Dimitar Stefanov, National Movement Simeon II
Ms Maria Stoyanova, United Democratic Forces

Italy

Representatives

Mr Claudio Azzolini, Forza Italia
Mr Gerardo Bianco, Margherita, DL – l'Ulivo
Mr Manlio Collavini, Forza Italia
Mr Giuseppe Gaburro, CCD-CDU Biancofiore
Mr Raffaele Iannuzzi, Forza Italia
Mr Gennaro Malgieri, Alleanza Nazionale
Mr Andrea Manzella, Democratici di sinistra – l'Ulivo
Mr Renato Meduri, Alleanza Nazionale
Ms Giovanna Melandri, Democratici di sinistra – l'Ulivo
Mr Giuseppe Naro, CCD-CDU Biancofiore
Mr Achille Occhetto, Misto
Mr Fiorello Provera, Lega Forza Nord Padania
Mr Umberto Ranieri, Democratici di sinistra – l'Ulivo
Mr Andrea Rigoni, Margherita, DL – l'Ulivo
Mr Dario Rivolta, Forza Italia
Mr Enrico Rizzi, Forza Italia
Mr Marco Zacchera, Alleanza Nazionale
Ms Tana de Zulueta, Democratici di sinistra – l'Ulivo

Substitutes

Mr Emerenzio Barbieri, CCD-CDU Biancofiore
Ms Marida Bolognesi, Democratici di sinistra – l'Ulivo
Mr Milos Budin, Democratici di sinistra – l'Ulivo
Mr Domenico Contestabile, Forza Italia
Mr Giovanni Crema, Misto
Mr Franco Danieli, Margherita, DL – l'Ulivo
Mr Fausto Giovanelli, Democratici di sinistra – l'Ulivo
Mr Renzo Gubert, CCD-CDU Biancofiore
Mr Giovanni Mauro, Forza Italia
Mr Pasquale Nessa, Forza Italia
Mr Gerardo Oliverio, Democratici di sinistra – l'Ulivo
Ms Patrizia Paoletti Tangheroni, Forza Italia
Mr Piero Pellicini, Alleanza Nationale
Mr Rino Piscitello, Margherita, DL – l'Ulivo
Mr Luigi Ramponi, Alleanza Nazionale
Mr Gianpietro Scherini, Forza Italia
Mr Gustavo Selva, Alleanza Nazionale
Mr Francesco Tirelli, Lega Forza Nord Padania

Moldova

Substitute

Mr Dumitru Prijmireanu, Communist Party

San Marino

Representatives

Mr Giuseppe Arzilli, PDCS
Mr Claudio Felici, PD

Substitutes

Mr Antonio Volpinari, PSS
Mrs Rosa Zafferani, PDCS

Switzerland

Substitutes

Mr Pierre-Alain Gentil, Socialist
Mr Theo Maissen, Christian Democrat

Turkey

Representative

Mr Vecdi Gönül, Justice and Development Party

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Addendum to the report
Doc. 9210 – 27 September 2001

Examination of credentials of Representatives, Substitutes and Special Guests

presented by the President of the Assembly

1. *Belgium* has appointed a new Substitute to replace Mr Derycke who has resigned.

2. *Germany* has appointed a new Substitute to replace Mr Schütz who has resigned.

3. The Assembly is called upon to express its decision on the validation of the credentials of the member whose name is given below.

4. In the case of objection or justified contestation, the contested credentials shall be referred without debate to the appropriate committee which shall report back to the Assembly, in accordance with Rules 7 and 8 of the Rules of Procedure.

Belgium

Substitute

Mr André Schellens, Flemish Socialist Party

Germany

Substitute

Mr Kurt Palis, SPD

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Communication from the Secretary General
Doc. 9211 – 21 September 2001

Implementation of Committee of Ministers' Resolution (93) 38 on relations between the Council of Europe and international non-governmental organisations

1. In accordance with the revised rules for consultative status as set out in Committee of Ministers' Resolution (93) 38,[1] the Secretary General has the honour to communicate to the Committee of Ministers and the Parliamentary Assembly the names of the international non-governmental organisations to which he has decided to grant consultative status.

They are as follows:

– Association of Central and Eastern European Electoral Officials (Aceeeo);

– Association of Women of Southern Europe (Afem);

– Centre International de Droit Comparé de l'Environnement (Cidce);

– Disabled People's International (DPI);

– European Gay and Lesbian Sport Federation (EGLSF);

– European Drama Encounters (Edered);

– European Federation of Internal Medicine (Efim);

– Friedrich Ebert Stiftung (Fes);

– International Society of Technology Assessment in Health Care (Istahc);

– Médecins du Monde;

– Partners for Democratic Change;

– Simon Wiesenthal Centre;

– Transparency International;

– World Organisation of Talented Children (Wotc).

2. The information on which the Secretary General based his decision to add these organisations to the list of NGOs enjoying consultative status with the Council of Europe is appended. In the absence of any objection founded on the conditions set out in paragraph 9 of the appendix to Resolution (93) 38,[2] the above organisations will be added to the list of those enjoying consultative status at the end of a period of three months following the date of this document.

3. Since the last communication of 16 October 2000 to the Committee of Ministers and to the Parliamentary Assembly on the implementation of Committee of Ministers' Resolution (93) 38 (CM (2000) 149, Doc. 8873), the Secretary General has given thorough consideration to the files of some forty or so non-governmental organisations seeking consultative status with the Council of Europe.

4. In deciding to grant consultative status to the NGOs listed in paragraph 1 above, the Secretary General took account of the following reports and regulations:

– the provisions of the revised rules for consultative status as set out in paragraphs 2, 5, 7 and 8 of the appendix to Committee of Ministers' Resolution (93) 38;

– the fact that the great majority of the organisations interested in having consultative status have already established working relations with different Council of Europe departments on an *ad hoc* basis. Moreover, both the quality of these working relations and the review of these NGOs' files show that the latter are in a position to make a useful contribution, through their activities, to the work of the Council of Europe in particularly important and topical areas;

– on the other hand, the Secretary General took account of the fact that at their 593rd meeting of 27 to 28 March 1997, the Ministers' Deputies called upon him "to apply scrupulously Committee of Ministers' Resolution (93) 38 on relations between the Council of Europe and international NGOs in order that the Council may take greater advantage of its relations with NGOs in the pursuit of its aims".

5. As for the NGOs to which the Secretary General decided not to grant consultative status:

i. The Secretary General rejected *ex officio* the applications for consultative status from fourteen NGOs which did not meet the conditions set out in paragraph 2 of the appendix to Committee of Ministers' Resolution (93) 38.

They are as follows:

– Assistance Pédagogique International (Api);

– Bosnia-Herzegovina Heritage Rescue;

– Centre for Turkish Studies;

– Corps Mondial de Secours;

– Croatian World Congress;

– Czech Co-ordinating Office;

– Droiture, Indépendance, Transparence;

– Institute of Human Rights;

– Slovenska Flinatropija;

– Society of Peace with Nature;

– SOS Prisons la Dignité Humaine;

– Transnational Radical Party;

1. Paragraph 8 of the appendix to Resolution (93) 38.
2. Paragraph 9 of the appendix to Resolution (93) 38.

– Victoria Fer, Fondation Internationale pour l'Assistance aux Enfants Hospitalisés.

ii. Furthermore, the Secretary General considered it appropriate to postpone examining the files of six NGOs seeking consultative status for a period of two years.

They are as follows:

– Association Internationale des Educateurs Sociaux;

– Centre on Housing Rights and Evictions;

– European Foundation for Culture;

– Fédération Européenne de Psychanalyse et Ecole Psychanalytique de Strasbourg;

– International Communication Society;

– Organisation Internationale de Psychomotricité et Relaxation.

Although these NGOs do not fully meet the requirements for consultative status at the present time, they nevertheless appear to be in a position to contribute to certain Council of Europe activities. Consequently, these NGOs have been invited to establish initial contacts with the operational directorates concerned on an *ad hoc*, pragmatic basis.

Arrangements for possible future co-operation with these NGOs might be determined, in years to come, on the basis of the results of those contacts.

iii. A number of NGOs have been invited to complete their files in conformity with the provisions of Committee of Ministers' Resolution (93) 38.

6. Moreover, a number of NGOs have sought details of the procedure for the granting of consultative status and have already given the Secretary General an initial overview of their activities. They have not yet submitted a formal application for consultative status in conformity with Resolution (93) 38, paragraph 7, of the appendix.

7. In October 1999, the NGOs enjoying consultative status with the Council of Europe were requested to submit a biennial report in accordance with paragraph 5.*c* of the appendix to Committee of Ministers' Resolution (93) 38. As a result of this exercise, the following five NGOs requested their name be withdrawn from the list:

– European Federation of Community Radios (EFCR);

– European Working Group of Practitioners and Specialists in Free Practice;

– International Commission of Agricultural Engineering;

– International Dental Federation;

– International Literary and Artistic Association.

In view of the establishment of a different type of institutional relationship with the Council of Europe, Socialist International has asked to be removed from the list of NGOs enjoying consultative status.

Following a change in name and the adoption of new statutes, the dossiers of the World Family Organisation, formerly the International Union of Family Organisations, of the International Association for Counselling, formerly the International Round Table for the Advancement of Counselling, and of the Standing Committee of European Doctors, formerly the Standing Committee of Doctors of the European Union, have been examined and consultative status granted.

Furthermore, in accordance with paragraph 10.*a* to the appendix of Resolution (93) 38, the Director of External Relations informed, in writing, a number of NGOs of the Secretary General's decision to remove their names from the list of NGOs enjoying consultative status due to their failure to comply with the obligations under the rules set out in paragraph 5 of the appendix to Resolution (93) 38, that is, failure to submit a biennial report for the period 1998 to 1999. Following the statutory period of two months during which those NGOs could present their observations to the Secretariat, the Secretary General, having received no comments from them, recommends the following fifty-five NGOs be withdrawn from the list of those enjoying consultative status:

– Association of European Journalists (AEJ);

– Association for Teacher Education in Europe (Atee);

– Association MAP.TV (Memory-Archives-Programmes);

– Association of European Pharmaceutical Inspectors;

– Association of European Research Libraries;

– Association Internationale de la Mutualité (Aim);

– Committee of National Institutes of Patent Agents (CNIPA);

– European Academy of Environmental Affairs;

– European Association for Adult Education (AEEA);

– European Association for Health Information and Libraries (EAHIL);

– European Association of Advertising Agencies (EAAA);

– European Committee for Young Farmers' and 4H Clubs;

– European Confederation of Agriculture;

– European Conference of Music (Cem);

– European Dyslexia Association (EDA);

– European Federation for Transport and Environment (T & E);

– European Federation of National Engineering Associations (Feani);

– European Federation of Pharmaceutical Industries' Associations (Efpia);

– European Federation of the Associations of Dietitians (Efad);

– European Forum on Development Service (Forum);

– European Group of Television Advertising (Egta);

– European Industrial Space Study Group (Eurospace);

– European Nursing Group (Eng);

– European Showmen's Union (Esu);

– European Society for Engineering Education (Sefi);

– European Society of Human Reproduction and Embryology (Eshre);

– European Training and Development Centre for Farming and Rural Life (Cepfar);

– European Union of Jewish Students (EUJS);

– Federation of Air Transport User Representatives in the European Community (Faturec);

– Federation of European Direct Marketing (Fedma);

– Foundation of the Europe of Sciences and Cultures (Fesac);

– International Association Autism-Europe (IAAE);

– International Association for Intercultural Education (IAIE);

– International Association of Art (IAA);

– International Association of Scientific Experts in Tourism (AIEST);

– International Centre for European Training (Cife);

– International Commission for the Protection of the Alps (Cipra);

– International Community Education Association (Icea);

– International Federation of Resistance Movements;

– International Federation of the Periodical Press Limited (Fipp);

– International Good Templar Youth Federation (IGTYF);

– International Prevention of Road Accidents (Pri);

– International Society for History Didactics (ISHD);

– International Union of Architects (UIA);

– International Youth Federation for Environmental Studies and Conservation (IYF);

– Northern Nurses' Federation (NNF);

– Organisation for International Economic Relations (Ier);

– Property Owner International Union (UIPI);

– Society of Comparative Legislation (SLC);

– The National Unions of Students in Europe (Esib);

– Tourism in Rural Europe (Euroter);

– Union of European Foresters (UEF);

– Union of European Historic Houses Associations;

– Union of European Practitioners in Industrial Property (UEPIP);

– Youth for Development and Co-operation (YDC).

8. The Secretary General has been informed that the following two NGOs enjoying consultative status have ceased their activities:

– European Advertising Tripartite;

– International Federation for School Correspondence and Exchange Organisations (Fioces).

APPENDIX

Association of Central and Eastern European Election Officials (Aceeeo)

Application for consultative status: 27 September 2000

Founded: 1991

Headquarters: Balazs Béla u. 35, H – 1094 Budapest

Tel: (36-1) 456 65 14, fax: (36-1) 456 65 27, e-mail: aceeeo@konyv.kozig.b-m.hu

Aims

– promotion of open and transparent elections through an exchange of experiences and information relating to election law and procedure, technology, administrative practice, voter education;

– promotion of the training and further education of election officials and international observers;

– promotion of the principle of independent and impartial election authorities and administrators;

– development of professional election officials with high integrity, strong sense of public service, knowledge of electoral practice, and commitment to democratic elections;

– promotion of the principle of participation in electoral processes by citizens, political contestants, and non-partisan civic organisations; and

– development of resources for election-related information and research.

Structures

Organs:

The General Assembly is the supreme organ of the association. It is composed of all its members and elects members to the Executive Board of the association.

The Executive Board shall be composed of representatives of institutional members from different states elected by the General Assembly (Croatia, Latvia, Lithuania, Poland, Russian Federation, Slovakia, Ukraine) and the Secretary General. One member shall be elected as president.

The Secretariat is composed of the Secretary General and other personnel necessary for the execution of the functions entrusted to it. The Secretariat is the permanent organ of the association and is located in Budapest, Hungary. It performs the functions assigned to it and carries out the duties entrusted to it by the General Assembly and the Executive Board. It performs its duties in co-operation with the International Foundation for Election Systems (Ifes), a private, non-profit organisation, headquarters in Washington, D.C.

Members: European, particularly central and east European, election organs as determined by each institutional member state's domestic legislation.

Activities

Aceeeo has a wide range of activities including:

– yearly conferences;

– a documentation centre;

– international observation of elections;

– education and training courses for electoral officials;

– international co-operation;

– setting up of electoral committees, and

– exchange of experience between electoral experts.

Representation

Aceeeo is represented in the sixteen member states: Albania, Armenia, Bulgaria, Croatia, Georgia, Hungary, Latvia, Lithuania, "the former Yugoslav Republic of Macedonia", Moldova, Poland, Romania, Russian Federation, Slovakia, Turkey, Ukraine.

Personalities

Secretary General: Zoltan Toth

President of the Executive Board: Marijan Ramuscak

Funding

The budget of the association is financed by contributions of the members and funds solicited by the Secretariat, on behalf of and with the approval of the Executive Board, from external sources.

Opinion of the Secretary General

The Association of Central and Eastern European Election Officials has already successfully co-operated with the Council of Europe in the Kosovo elections. Furthermore, a particular focus will be given to elections in the Council of Europe's integrated project on "Democratic institutions at work" to which NGOs enjoying consultative status will be encouraged to contribute.

Free and fair elections are a cornerstone of democracy, one of the core values of the Council of Europe, as such, the Secretary General is in favour of granting consultative status to this organisation.

Association of Women of Southern Europe (Afem)

Application for consultative status: 29 December 2000

Founded: 1996

Headquarters: 48, rue de Vaugirard, F – 75006 Paris

Tel: +33 (0)1 43 25 80 95, fax: +33 (0)1 43 25 80 95, e-mail: assafem@aol.com

Aims

The association brings together women and women's associations from the countries of southern Europe to:

– constitute a network of its members, who come from a wide variety of areas, to exchange information and ideas, develop activities and offer mutual support, particularly with a view to fostering European integration and achieving genuinely equal rights and opportunities between women and men in all spheres of activity, including access to decision making;

– contribute to the development of a co-ordinated strategy for making their voices heard, particularly for defending cultural diversity, multilingualism and the concepts they encompass;

– develop joint action projects, studies and research, particularly concerned with Euro-Mediterranean policy, drawing on their cultural identities.

Structures

Organs:

The Governing Board consists of the founder members who are members as of right, and elected members, and meets at least once a year. All the nationalities represented in the association must have at least one elected member.

The Bureau consists of a chair, several deputy chairs who must be of different nationalities from the chair, a secretary general and a treasurer.

Activities

– organising conferences;

– publications (books and videos);

– awareness campaigns.

Representation

The Afem is represented in eight Council of Europe member countries: Andorra, Spain, Finland, France, Greece, Italy, Portugal, Sweden.

Personalities

Chair: Ana Coucello

Secretary General: Ita Malot

Funding

The association's funds come from subscriptions, grants from the European Community, central governments, regions and other local authorities and donations and legacies.

Opinion of the Secretary General

The association unites women's associations from southern European countries. It seeks to foster European integration and equal rights and opportunities between women and men. It is becoming very active in the field of fundamental rights and reflects closely the work of the Council of Europe.

The Secretary General therefore supports the granting of consultative status to this organisation.

Centre International de Droit Comparé de l'Environnement (Cidce)

Application for consultative status: 28 February 2001

Founded: 1982

Headquarters: Hôtel de la Bastide, 32, rue Turgot, F – 87000 Limoges

Tel. (33) (0)5 55 34 97 24, fax. (33) (0)5 55 34 97 23, e-mail. cidce@voila.fr

Aims

– bring together associations specialising in environmental law from various countries to foster a better mutual understanding of environmental law, exchanges of information and harmonisation of the law in order to improve environmental protection;

– organise teaching sessions on comparative environmental law and colloquies and seminars to consider progress and setbacks in environmental law throughout the world;

– carry out studies and research in comparative environmental law and publish works and reviews on the subject;

– take part in colloquies, meetings and conferences organised by governments, universities, international organisations or any other public or private institution.

Structures

Organs:

The General Assembly meets at least once every two years. It elects the members of the Governing Board by secret ballot for a four-year term of office.

The Governing Board comprises at least eight members, who represent the various regions of the world in as balanced a fashion as possible. It appoints its own chair and four deputy chairs, a treasurer and a secretary general. It meets at least once a year or at the written request of a quarter of its members.

The Scientific Steering Committee establishes guidelines for the centre's educational and scientific activities and proposes measures to be adopted at the General Assembly.

Activities

The Cidce sets out to develop the role of environmental law in the world by means of international meetings, training and research. For example, it has encouraged the establishment of some ten national or regional environmental law associations, including in particular the European Environmental Law Association, thus leading to the emergence of a range of NGOs with common objectives in the fields of environmental information, protection and education.

Representation

The Cidce is represented in eighteen Council of Europe member countries: Belgium, Czech Republic, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Norway, Portugal, Romania, Spain, Switzerland, Turkey and the United Kingdom.

Personalities

Chair: Michel Prieur

Secretary General: Ali Mekouar

Funding

The association's funds come from members' subscriptions, various grants and income from the publications of reviews and other studies.

Opinion of the Secretary General

The organisation's activities contribute to the advancement of environmental law and sustainable development in Europe. They make a useful contribution to the Council of Europe's activities in the field of sustainable development as it relates to regional and landscape planning and to the environment and natural heritage.

The Secretary General therefore supports the granting of consultative status to this organisation.

Disabled Peoples' International (DPI)

Application for consultative status: 15 March 2001

Founded: 1992

Headquarters: 11 Belgrave Road, UK – London SW1V 1RB

Tel: (44) 20 7834 0477, fax: (44) 20 7821 9539, e-mail: dpieurope@compuserve.com

Aims

– to actively promote equal rights and opportunities for disabled people;

– to increase the participation of disabled people in the social and economic development of their countries and regions;

– to promote measures for the full participation, integration and equality of disabled people in all societies;

– to promote the development of organisations through training and support;

– to ensure that the voice of disabled people is heard.

Structures

Organs:

A Regional Assembly meets at least once every two years; elects a chairperson, vice-chairperson(s), secretary, treasurer, and other officers; elects World Council members in accordance with the procedures in operation at the time; reviews activities and decides the programme of action; deals with membership and observer questions; debates motions that have been proposed by the Regional Council and national assemblies; decides DPI Europe policy and establishes priorities; ensures maximum possible participation by all categories of disabled persons in the activities of DPI Europe; advises other relevant bodies on matters relating to the activities of DPI and DPI Europe; decides on rules of procedure for the Regional Assembly and the Regional Council; deals with questions of amendments to these internal rules; furthers the objectives of DPI and DPI Europe.

Regional Council: manages and carries out the business of DPI Europe in accordance with the DPI Constitution; has responsibility for the day-to-day management of staff and the secretariat.

Members:

Membership: registered DPI national assembly of a country in Europe, a majority of the members as well as of the governing body of the organisation must be disabled people.

Within the Regional Assembly, full members exercise voting powers and can nominate persons as officers of the Regional Council.

All countries in Europe shall be eligible to participate in DPI Europe.

Activities

DPI:

– promotes disabled people's interests throughout Europe;

– advocates legislation to outlaw discrimination;

– lobbies for resources to fund disabled people's self-help programmes;

– informs organisations of disabled people about the political, economic and social developments that affect their lives;

– strengthens the voice of disabled people through the growth of their own organisations;

– debates with the media about how they portray disabled people;

– challenges the public perception of disability.

Representation

DPI is represented in thirty member states of the Council of Europe: Albania, Austria, Azerbaijan, Belgium, Bulgaria, Croatia, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Malta, Netherlands, Norway, Poland, Portugal, Romania, Russia, Slovakia, Spain, Sweden, Switzerland, "the former Yugoslav Republic of Macedonia", and United Kingdom.

Personalities

Chairperson: Giampiero Griffo

Funding

Grants; membership fees; voluntary contributions; marketing services; any other income, including grants arising from fund-raising.

Opinion of the Secretary General

DPI is very active in the field of rehabilitation and integration of people with disabilities. It has been co-operating with the Council of Europe for many years; indeed DPI plays a major role in consultation procedures launched by committees.

The Secretary General is therefore in favour of granting consultative status to this organisation.

European Gay and Lesbian Sport Federation (EGLSF)

Application for consultative status: 19 June 2000

Founded: 1989

Headquarters: Postbox 10.668, NL – 2501 HR Den Haag

Tel: (31) 70 3642 442, e-mail: eglsf@gaysport.org, www.gaysport.org/eglsf

Aims

The objectives of the EGLSF are:

– to fight for a respectable place for gays and lesbians in regular sport, as a human right (participation in sport);

– to oppose discrimination in sports (on sexual orientation; gender included);

– to promote integration and mutual understanding in sports among regular and gay/lesbian sport organisations in Europe (including co-operation with regular sport authorities and governmental organisations).

Structures

Organs:

General Assembly: highest decision-making and highest-ranking body of the association, constituted by the delegates.

Board: consists of at least two co-presidents, a general secretary and a treasurer. It manages the association.

Members: Legal entities, which take part in sport matters.

Activities

EGLSF collects and spreads information, publishes articles referring to gay/lesbian sport issues, publishes a newsletter and investigates situations in sport in different countries.

Representation

EGLSF is represented in thirteen member states: Austria, Belgium, Denmark, Finland, Germany, Italy, Netherlands, Norway, Slovenia, Spain, Sweden, Switzerland and United Kingdom.

Personalities

Co-President: Ben Baks

General Secretary: Clarissa Bucher

Funding

Annual member subscriptions

Opinion of the Secretary General

The aims of the EGLSF to promote tolerance and combat discrimination in sports coincide with the objectives of the Council of Europe. Co-operation has already been established with various departments of the Secretariat.

For this reason, the Secretary General is in favour of granting consultative status to this organisation.

European Drama Encounters (Edered)

Application for consultative status: 22 November 1999

Founded: 1979

Headquarters: Universitätsplatz 5-6, D – 49808 Lingen

Tel: (49) 591 9 16 63 65, fax: (49) 591 9 16 63 19.

Aims

The aim of the association is to promote intercultural work through drama and theatre with children and youth in Europe. This is achieved through:

– the organisation and realisation of international encounters, theatre workshops, meetings, seminars and conferences;

– the establishment of an international network to exchange information and experience.

Structures

Organs:

The executive bodies of the association are:

– the General Assembly, held at least once a year. Its tasks include: election of the board; resolutions regarding the working plan.

– the Board, which consists of: the president (chair); two vice-presidents; the treasurer; the general secretary.

The Board is responsible for all matters of the association in so far as they meet the decisions made by the General Assembly.

Members of the association are individuals who have been engaged in support and work for European children and youth theatre projects and institutions, organisations and associations of countries which have already organised a European children and youth theatre project or which have been instructed by resolution of the General Assembly to organise such an event.

Activities

Edered organises drama encounters for children (12-14) and young people (17-19) to foster bonds of friendship, to build bridges to exchange good practice in drama, to facilitate children and youth mobility and to foster respect for different cultures through the medium of drama.

Representation

Edered is represented in twenty member states: Austria, Belgium, Croatia, Denmark, Estonia, Finland, France, Germany, Hungary, Iceland, Ireland, Latvia, Luxembourg, Malta, Netherlands, Russian Federation, Sweden, Switzerland, Turkey, United Kingdom.

Personalities:

President: Maire Saure

General Secretary: Alfred Mallia

Funding

Membership subscriptions and grants.

Opinion of the Secretary General

Edered has already co-operated with the Council of Europe and indeed was founded as a result of the hosting of a Council of Europe seminar. The events organised by Edered foster European citizenship amongst young people. For this reason, the Secretary General is in favour of granting consultative status to this organisation.

European Federation of Internal Medicine (Efim)

Application for consultative status: 27 June 2001

Founded: 1996

Headquarters: Department of Cardiology, Royal Sussex County Hospital, Eastern Road, Brighton, East Sussex BN2 5BE

Tel: (44) (0) 1273 696955 Ext 4642, fax: (44) (0) 1273 684554, e-mail: Chris.Davidson@brighton-healthcare.nhs.uk

Aims

– to promote internal medicine on a scientific, ethical and professional level;

– to establish communication between European specialists in internal medicine, and to organise meetings and European congresses;

– to provide information to private or public organisations about internal medicine.

Structures

Organs:

Executive Committee: president, vice-president, secretary general, treasurer, and past president.

Administrative Council: two representatives from each of the member organisations. Meetings held at least once a year, currently twenty-seven member organisations.

General Assembly: meetings held annually.

Activities

– European congresses held biennially;

– European School of Internal Medicine held annually;

– *European Journal of Internal Medicine;*

– Working groups: Postgraduate Education; Scientific Committee; Efim-4 Steering Committee; UEMS (Union of European Medical Specialists) Working Group; European Exchange Scheme; Development of the White Book; Network of Young Internists;

– Foundation for the Development of Internal Medicine in Europe.

Representation

Efim is represented in twenty-six member states: Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, United Kingdom.

Personalities

President: Jaime Merino

Secretary General: Christopher Davidson

Funding

Subscription by member organisations based on number of members of individual societies (capitation fee).

Opinion of the Secretary General

Efim's purpose is to re-emphasise the importance of internal medicine in patient care in a world of increasing specialisation. Its aims include the promotion of internal medicine on a scientific, ethical, and professional level. Its activities include a European exchange scheme of doctors and the creation of a European School of Internal Medicine.

The federation commits itself to provide the expertise of its members in planned studies or reports in the health field and to publish any collaborative work with the Council of Europe through its journal or newsletters.

Efim's expertise may also be called upon by means of a hearing in the framework of the future work on the trafficking of organs of the Social, Health and Family Affairs' Committee of the Parliamentary Assembly.

As such, the Secretary General is in favour of granting consultative status to this organisation.

Friedrich Ebert Stiftung (Fes)

Application for consultative status: 12 June 2001

Founded: 1925

Headquarters: Godesberger Allee 149, D – 53170 Bonn

Tel: (49) 228 883 0, fax: (49) 228 883 396, e-mail: strasbourg@fondationfe.org, www.fes.de

Aims

The association's aim is to promote the democratic education of the German people and international co-operation in the spirit of democracy. Fes

– grants scholarships to German as well as foreign students and young scientists;

– sets up educational centres and provides practical civic education by means of lectures in order to foster the democratic idea and international co-operation;

– finances seminars and studies abroad;

– supports scientific research;

– promotes art and culture as elements of a living democracy.

Structures

Organs:

The Board of Directors consists of the chairman, two vice-chairmen, the executive Chairman of the Board and other members, not exceeding eleven members in total.

It is elected by the General Assembly of Members for a term of two corporate years.

The Board of Directors shall conduct the business of the association and administer its assets. It shall be responsible for all tasks unless they have been assigned by these statutes to the General Assembly of Members or the Board of Trustees.

The Board of Trustees consists of at least ten members. Members need not be members of the association. They may not simultaneously be members of the Board of Directors. It is elected by the General Assembly of Members for a term of two corporate years. It advises the Board of Directors on important affairs of the association; assists the work of the foundation; takes final decisions on disagreements.

The General Assembly of Members is held each year.

Activities

Fes organises national and international seminars and conferences; promotes social groups; and supports social minorities.

Representation

Fes has representations in twenty-nine member states: Albania, Armenia, Austria, Azerbaijan, Belgium, Bulgaria, Cyprus, Croatia, Czech Republic, Estonia, France, Germany, Georgia, Greece, Hungary, Italy, Latvia, Lithuania, "the former Yugoslav Republic of Macedonia", Poland, Portugal, Romania, Russian Federation, Slovakia, Slovenia, Spain, Turkey, Ukraine, United Kingdom..

Personalities

President: Holger Börner

Secretary General: Jürgen Burckhardt

Funding

Members' subscriptions, grants.

Opinion of the Secretary General

The Friedrich Ebert Stiftung promotes democratic education and international co-operation. It has already established active co-operation with the Secretariat of the Council of Europe in the organisation of joint conferences in the social field and on topical political issues. Through its vast Europe-wide network, it will be able to make known the activities of the Council of Europe to the European public.

As such, the Secretary General is in favour of granting consultative status to this organisation.

International Society of Technology Assessment in Health Care (Istahc)

Application for consultative status: 2 April 1999

Founded: 1985

Headquarters: 759 Square Victoria RC 4, Montreal QC, H2Y 2J7, Canada

Tel: (1) 514 844 30 33, fax: (1) 514 844 38 23, e-mail: info@istahc.org, www.istahc.org

Aims

The society's purpose is to encourage the development and use of the best medical evidence for effective health care throughout the world.

Structures

Organs:

The Executive Committee is composed of the four elected officers, and chaired by the president.

Members: Four categories of membership: individual, student, non-profit institutional, and corporate. Membership is available to persons interested in furthering the objects of the corporation

Activities

Istahc establishes partnerships throughout the world concerned with researching and teaching the clinical, economic and social implications of health technologies. Since 1985, the society has acted as a multilingual international forum for researchers and clinicians concerned with the scientific evaluation of an ever-growing range of health care technologies. These technologies include medicines, instruments and medical and surgical operations, as well as organisational, administrative and support systems in which health care is provided.

Representation

Istahc is represented in nine Council of Europe member countries: Germany, Greece, Hungary, Netherlands, Norway, Poland, Russian Federation, Spain and United Kingdom.

Personalities

President: David Banta

Executive Director: George Tombs

Funding

Grants from governments, companies and foundations, and members' subscriptions.

Opinion of the Secretary General

The evaluation of technology is today considered as an essential element in ensuring quality and containing costs. Some technology can be very costly and its benefits minimal. Proper evaluation of technology and guidelines on its appropriate use are therefore needed.

The Council of Europe has already co-operated with this society. All the lecturers at a seminar on health technology organised by the health division in 1997 were members of Istahc. A second seminar was organised jointly with Istahc in Budapest in 1998.

As such the Secretary General is in favour of granting consultative status to this organisation.

Médecins du Monde International

Application for consultative status: 16 May 2001

Founded: 1980

Headquarters: 62, rue Marcadet, 75018 Paris

Tel. (33) (0)1 44 92 14 14, fax. (33) (0)1 44 92 14 55, e-mail: international@medecinsdumonde.net, http://www.multimania.com/medecinsdumonde/international

Aims

Médecins du Monde International is an international association whose purpose is to care for the most vulnerable groups of the population when faced with crisis and exclusion, throughout the world and in the twelve countries where it has delegations.

Structures

Organs:

The association is administered by:

– the Board, composed of twelve members elected by secret ballot for a three-year term of office by the General Assembly. The Board chooses from among its members, by secret ballot, a bureau, composed of the president, two vice-presidents, the secretary general and the treasurer. It meets at least once a month;

– the Advisory Council, which meets every two months and to which are invited the officials of the regional delegations and offices.

– the General Assembly, which includes all the association's members and meets at least once a year.

Members: The membership comprises founder members, ordinary members and honorary members.

Activities

Médecins du Monde brings relief to vulnerable persons throughout the world, cares for the victims of natural disasters, war and political repression, refugees, minorities at risk, street children, drug users and those excluded from health care, and combats all diseases.

Representation

It is represented in twelve member countries: Belgium, Cyprus, France, Germany, Greece, Italy, Netherlands, Portugal, Spain, Sweden, Switzerland and United Kingdom.

Personalities

President: Bernard Grandjon

International Secretary: Alexandre Kamarotos

Funding

The association's annual receipts are made up of:

– members' contributions and subscriptions;

– grants from central governments, regions, local authorities and other public bodies.

Opinion of the Secretary General

Médecins du Monde is an international association which as well as bringing care and assistance to the most vulnerable highlights obstacles to access to care and infringements of human rights and dignity, all Council of Europe objectives.

The Secretary General therefore supports the granting of consultative status to this association.

Partners for Democratic Change

Application for consultative status: 9 September 1999

Founded: 1990 – foundation of the first national office, 1998 – foundation of the regional partnership

Headquarters: Keleti Károly str. 15/b, H – 1024 Budapest

Tel: (36-1) 3151477, 3151333, fax: (36-1) 3165721, e-mail: regional@partners.euroweb.hu

Aims

The mission of Partners for Democratic Change Foundation is the prevention and peaceful, negotiated resolution of conflicts that may arise during the transition to democracy and market economy. The basic objective is to develop conflict and change management skills and procedures essential to the success of a democratic society.

Structures

– Nine independent national centres with local legal personality;

– Regional Partnership: co-ordinating body;

– Director's Meeting: directing body, which meets twice a year;

– Board of Trustees: managing a decision-making body.

Activities

Each partner's national centre expands the field and application of conflict resolution and change management through a multi-tiered platform of priorities and programmes:

– training government, non-government, market sector leaders and community citizens in conflict and change management skills and processes (communication, negotiation, facilitation, mediation, co-operation, planning, and citizen participation);

– implementing mediation processes for specific conflicts and facilitating co-operative planning processes for specific national issues, including municipal tax restructuring, labour-management mediation systems, environmental preservation, ethnic conflict, community-police relations, and civic education;

– promoting public policies that create mediating structures and incorporate conflict and change management processes into civil society, in areas such as human rights, ethnic rights, labour, privatisation, land use planning and economic development;

– furthering academic research and study of conflict and change management, through the development of university-level courses in democratic decision making and conflict management, in law, business, psychology, and sociology curricula;

– training indigenous professionals as trainers in conflict and change management skills and processes, promoting sustainability of the field and the utilisation of conflict resolution and change management.

Representation

"Partners for Democratic Change" has centres in nine countries: Bulgaria, Croatia, Czech Republic, Georgia, Hungary, Lithuania, Poland, Romania and Slovakia.

Personalities

President: Raymond Shonholtz

Representative of Regional Partnership: Kinga Szuly

Funding

Mainly international grants, although each centre has a certain amount of private income resulting from services to market, local governmental and governmental entities.

Opinion of the Secretary General

This organisation covers a number of areas of concern to the Council of Europe, in particular minorities, local government, media, transfrontier co-operation, etc., and its project seems overall well thought-through and community oriented. The activities correspond very well to the Council of Europe's

objectives, and Partners for Democratic Change has become involved in the Organisation's Confidence-Building Measures Programme. Scope for possible co-operation can be explored. As such, the Secretary General recommends that consultative status be granted.

Simon Wiesenthal Centre – Europe

Application for consultative status: 18 January 2000

Founded: 1988 (mother organisation founded in Los Angeles in 1977)

Headquarters: 64 Avenue Marceau, F – 75008 Paris

Tel: (33) (0)1 47 23 76 37, fax: (33) (0)1 47 20 84 01, e-mail: csweurope@compuserve.com

Aims

The aim of this organisation is to conduct and maintain programmes of investigation and research into the causes of the Holocaust and contemporary social problems, with particular emphasis on new media.

Structures

Board of Trustees, International Advisory Council

Activities

The Simon Wiesenthal Centre's mission in Europe is to combat anti-Semitism, Holocaust denial, extremism, and neo-nazi activity, and to bring these issues to the attention of government leaders, members of the communities throughout Europe. It

– monitors and combats the growth of neo-nazi activity in Europe;

– organises and participates in conferences throughout Europe on themes such xenophobia and anti-Semitism in Russia, fascism, Holocaust denial, Jewish-Moslem relations, and the search for nazi gold and looted art;

– keeps a watch over the many concentration camps throughout Europe ensuring that the memory of the Holocaust and the sanctity of these sites are preserved;

– distributes educational materials to schools, universities, conferences;

– regularly addresses different organisations on issues of concern to the Wiesenthal Centre.

Representation

The SWC is represented in thirteen member states: Austria, Belgium, Czech Republic, Denmark, France, Germany, Hungary, Italy, Netherlands, Russian Federation, Spain, Switzerland, United Kingdom.

Personalities

Director for Europe: Shimon Samuels

Funding

Donations, subscriptions.

Opinion of the Secretary General

The primary role of the centre is investigation and research into the causes of the Holocaust. It also investigates and researches contemporary social problems and is engaged in the fight against racism. For this reason, the Secretary General is in favour of granting consultative status to this organisation.

Transparency International (TI)

Application for consultative status: 8 August 2000

Founded: 1993

Headquarters: Otto-Suhr-Allee 97-99, D – 10585 Berlin

Tel: (49) 30 34 38 20 0, fax: (49) 30 34 70 39 12,

e-mail: ti@transparency.org, www.transparency.org

Aims

Transparency International is a non-governmental organisation dedicated to increasing government accountability and curbing both international and national corruption.

Structures

Organs:

Board of Directors: central governing body democratically elected at the Annual General Meeting.

Advisory Council, consisting of prominent individuals of international standing, advises and assists in developing programmes.

Council on Governance Research, consisting of prominent academics and practitioners in the fields of corruption and governance, contributes to research projects and proposals supported by TI.

International Secretariat supports national chapters and implements the international agenda.

Activities

TI's activities include:

– securing the support of parties involved in international business transactions for the application of standards of conduct designed to promote transparency and accountability in such transactions and ensuring the highest level of integrity amongst all parties involved in international transactions;

– informing the general public about the manifestations and problems of corruption in international transactions, particularly through convening meetings of experts, publishing studies, issuing reports and collecting and disseminating information;

– providing assistance and expertise to parties involved in international trade, investment and economic and social development in applying the provisions of standards of conduct;

– monitoring compliance with standards of conduct, and investigating serious contravention of them.

Representation

TI is represented in thirty-two member states.

Personalities

Chairman: Peter Eigen

Funding

Donations.

Opinion of the Secretary General

Transparency International is very active in combating corruption and works closely with the Council of Europe in this area. Its experts provide valuable information on recent developments in corruption in certain countries.

The Secretary General therefore supports the granting of consultative status to this association.

World Organisation of Talented Children (Wotc)

Application for consultative status: 6 July 2001

Founded: 1992: first project, 1995: Wotc foundation

Headquarters: 24 Puskin str., 2012, Chisinau, Republic of Moldova

Tel: (373-2) 22 66 75, fax: (373-2) 22 66 75, e-mail: omct_2000@yahoo.com

Aims

The Wotc's strategic objectives are to promote the ideals, objectives and programmes of United Nations and of the Council of Europe through international activities and projects, particularly in the following areas:

– to promote a culture of peace, to support co-operation and development of people and cultures;

– to defend the rights of children;

– to protect cultural diversity and to promote intercultural dialogue;

– to promote the participation of young people in a Europe of co-operation, democracy and solidarity;

– to promote the first Council of Europe Clubs.

Structures

Organs:

General Assembly: highest authority regulating all matters that are not foreseen in the statute; elects an Executive Board composed of the president, three vice-presidents, members of the board, the executive secretary and the treasurer for a period of five years; establishes the main directions for activities; composed of delegates appointed by each active member.

Executive Board: is accountable to the General Assembly for the accomplishment of the objectives of the Wotc; applies the decisions of the General Assembly; examines, submits and recommends to the General Assembly the draft of programme and budget.

Children's Board

Secretariat

Activities

Organisation and co-ordination of the International Festival Contest of Talented Children "Little Prince" promoting intercultural dialogue; promotion in eastern Europe of young journalists through the European Conference of the Young Journalists and the first journalistic schools for children and teenagers; development of the programme Children World Forum through the project "You speak my language, I speak your language" and other projects; organisation of camps, exhibitions and meetings for talented children, creation of press-agencies by young journalists; development of the programme "Le Petit Tour d'Europe" – a caravan of the culture of peace and non-violence to promote dialogue between East and West.

Representation

The Wotc is represented by members and affiliated organisations in sixteen member states: Austria, Bulgaria, Cyprus, Germany, Hungary, Latvia, Lithuania, Moldova, Norway, Poland, Portugal, Romania, Russian Federation, Slovenia, Ukraine, United Kingdom..

Personalities

President: Renata Verejanu

Vice-presidents: Victoria Lukina (Russian Federation), Tatiana Iatsenko (Ukraine), Mariana Marzavan (Romania)

Executive Secretary: Galina Codreanu

Funding

Funding is from membership fees, donations, subsidies and sponsorships from public sources or organisations.

Opinion of the Secretary General

The World Organisation for Talented Children's aims match those of the Council of Europe, promotion of cultural diversity, the rights of children, democracy and solidarity, but works to achieve these aims amongst children and young people, the future of Europe. The organisation also aims to help in the creation of "Council of Europe Clubs" across the continent, grouping together people who share the Council's ideals to make them known to the European public.

For these reasons, the Secretary General is in favour of granting consultative status to this organisation.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Communication from the Committee of Ministers
Doc. 9212 – 21 September 2001

Recognition of the territorial integrity of Azerbaijan by Armenia

Reply to Written Question No. 396
(adopted by the Committee of Ministers on 19 September 2001 at the 765th meeting of the Ministers' Deputies)

I. Written Question No. 396 by Ms Hajiyeva (Doc. 9140)

II. Reply from the Committee of Ministers

1. The Committee of Ministers noted with interest Written Question No. 396 by Ms Hajiyeva on the recognition of the territorial integrity of Azerbaijan by Armenia.

2. Ms Hajiyeva refers to the Committee of Ministers' 108th Session of 10 and 11 May 2001. At this meeting the Committee of Ministers did indeed examine the situation in the Balkans and the Caucasus. At the close of the session, at which all its members were represented, the Committee of Ministers adopted a communiqué, paragraph 2 of which states:

3. "The Ministers reaffirmed their support for the respect for internationally recognised borders, sovereignty and territorial integrity of states throughout Europe, as well as for the other principles of international law set out in the United Nations Charter, the CSCE Helsinki Final Act and other relevant texts."

4. In adopting this sentence "One delegation said that it accepted this sentence on the understanding that there was no hierarchy between the principles of international law referred to, whether these are explicitly mentioned or not. That delegation made a statement in this respect, which is reproduced in the minutes of the meeting."

5. It follows that the Committee of Ministers has explicitly reaffirmed its support for the respect of all internationally recognised borders, the sovereignty and territorial integrity of all members of the Council of Europe, whilst equally acknowledging the value of other principles of international law. The right to self-determination of peoples and the other principles contained in the Helsinki Final Act will be equally and unreservedly applied, each of them being interpreted taking into account the others. Thus the right to self-determination should be respected, in conformity with the purposes and principles of the Charter of the United Nations and with the norms of international law, including those relating to territorial integrity of states. Consequently, this right may only be exercised following peaceful negotiations. Use of force for the purpose of acquiring territory is unacceptable and any resultant acquisition cannot be recognised as lawful.

6. The Committee of Ministers refers to paragraph 12 of the communiqué of the 108th Session quoted above. In addition, at its 761st meeting (18 July 2001, item 2.6) in the context of examination of the GT-SUIVI.AGO's report, it had again "urged the authorities of both countries to take active steps to find a peaceful solution to the Nagorno-Karabakh conflict". In this regard, the Committee of Ministers refers to the Group's report which had been transmitted to the Parliamentary Assembly.

7. The Committee of Ministers appeals to the two member states concerned to find a compromise according to the principles mentioned in paragraph 5 above and to avoid any statement in favour of a military solution or likely to strengthen enmity and hatred, in disregard of the commitments entered into by both countries when joining the Council of Europe. The Committee of Ministers is in fact convinced that a peaceful solution to this conflict is a matter of fundamental importance and great urgency, because the implementation of this joint commitment by the two countries may have a positive effect on the honouring of all their other commitments. Poverty and hatred are not fertile ground for democracy and respect for human rights, and peace is essential not only for the stability of the region and its economic development, but also for the establishment and consolidation of democracy in these countries.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Communication from the Committee of Ministers
Doc. 9213 – 21 September 2001

Freedom of expression and information in the media in Europe

Reply to Recommendation 1506 (2001)
(adopted by the Committee of Ministers on 19 September 2001 at the 765th meeting of the Ministers' Deputies)

1. The Committee of Ministers has considered Parliamentary Assembly Recommendation 1506 (2001) on freedom of expression and information in the media in Europe, has brought it to the attention of member governments and forwarded it for information to the Steering Committee on the Mass Media (CDMM) and the Commissioner for Human Rights.

2. As stated in its reply to Parliamentary Assembly Recommendation 1407 (1999) on media and democratic culture, the Committee of Ministers attaches the highest importance to the unfettered exercise of freedom of expression and information through free, independent and pluralist media, in accordance with Article 10 of the European Convention on Human Rights, and reiterates that it is essential for public authorities to establish an appropriate legal framework that ensures that this fundamental freedom can be properly exercised, whilst acknowledging at the same time the importance and value of self-regulatory measures taken by the media themselves in order to exercise their activities in a responsible manner.

3. In this context, the Committee of Ministers recalls its declarations and recommendations in the media field, in particular its Declaration on Freedom of Expression and Information of 29 April 1982.

4. Furthermore, the Committee of Ministers also recalls its replies to Parliamentary Assembly Recommendation 1497 (2001) on freedom of expression and the functioning of parliamentary democracy in Ukraine as well as Recommendation 1466 (2000) on media education.

5. Moreover, the Committee of Ministers had identified freedom of expression and information as its first theme to be considered in the context of its thematic monitoring procedure. In June 2000 it initiated a stock-taking of measures adopted in this field and took a "specific action" by requesting the Secretary General to make contacts and collect information on this theme. The results provided by the Secretary General, concerning a number of member states, were discussed in depth by the Ministers' Deputies at their monitoring meeting of June 2001. At this meeting, the Ministers' Deputies requested the Secretary General to further pursue his contacts and collect information on freedom of expression and information in all member states. The results of this new round of collection of information will be discussed by the Ministers' Deputies in 2003. On this occasion, if it is deemed appropriate, the Committee of Ministers may consider communicating its findings to the Parliamentary Assembly. In the meantime the latter will be regularly informed of new developments in this regard. The Ministers' Deputies recall that an exchange of views with the OSCE representative on freedom of the media will take place on the theme "Freedom of expression and information" on 28 September 2001.

6. In line with the spirit of Parliamentary Assembly Recommendation 1506 (2001), the Committee of Ministers emphasises the importance of a holistic approach to the protection of freedom of expression and information in the media, which comprises three levels of action:

i. firstly, the setting of standards by the Committee of Ministers through its conventions, recommendations and declarations against the background of Article 10 of the European Convention on Human Rights as interpreted by the European Court of Human Rights;

ii. secondly, specific assistance to, and co-operation with, member states for the effective implementation of these standards; and

iii. finally, a political debate on these standards and their domestic implementation, both within the organs of the Council of Europe and in society at large through, in particular, non-governmental organisations.

7. This approach is based on the specific role and expertise of the Council of Europe as a pan-European platform for the development of commonly recognised norms and values between sovereign states committed to human rights, pluralist democracy and the rule of law. In this context, it should be recalled that these standards are also used by other European and international institutions, such as the OSCE and the European Commission, in their activities concerning freedom of expression and information. The Committee of Ministers therefore reaffirms its determination to maintain a strong emphasis on this sector in the intergovernmental programme of activities.

8. The Committee of Ministers also recalls that Article 10 of the European Convention on Human Rights is the supreme standard in Europe in this field, whose respect by signatory states is supervised by the European Court of Human Rights. The European Court of Human Rights hereby exercises an indispensable and unparalleled function in the protection of freedom of expression and information in Europe.

9. As indicated above, particular emphasis has also been put by the Committee of Ministers on assistance and co-operation programmes in the media field, which are targeted and adapted to the specific needs of member states and applicant countries. The Committee of Ministers takes this opportunity to call on member states and observers with the Council of Europe as well as the European Union to consider contributing greater financial and technical resources to these programmes. The Committee of Ministers also welcomes the parallel efforts by the Parliamentary Assembly to mobilise support by national parliaments, including support for the domestic implementation of the above standards by national parliaments.

10. With respect to individual recommendations made in paragraph 16 of Parliamentary Assembly Recommendation 1506 (2001), the Committee of Ministers:

i. wishes to assure the Parliamentary Assembly that the protection of freedom of expression and information in the media is a priority for the intergovernmental work of the Council of Europe, in particular in the context of the co-operation and assistance programmes;

ii. recalls the significant protection achieved by means of the supervisory function of the European Court of Human Rights as well as the standards set by the relevant European conventions, and Committee of Ministers' recommendations and declarations;

iii. recalls also the work of its monitoring exercise, that is the request made to the Secretariat to assess the way in which intergovernmental work, co-operation activities, current and possible joint programmes with the European Commission and other forms of "common initiative" can be developed and/or readjusted to reflect priorities, as highlighted in its monitoring procedures as well as further contacts and collection of information by the Secretary General in all member states;

iv. agrees with the Parliamentary Assembly that it is necessary to ensure the effectiveness of the legislative expertise provided by the Council of Europe, notwithstanding the co-operative and non-binding nature of such expertise;

v. invites the Commissioner for Human Rights to pay particular attention to issues concerning freedom of expression and information in the media;

vi. welcomes with interest the appointment of a general rapporteur on the media by the Committee on Culture, Science and Education of the Parliamentary Assembly, assures the Parliamentary Assembly of its willingness to study ways of efficient co-operation in this respect, and notes the Parliamentary Assembly's intention to allocate specific resources for this purpose;

vii. recalls its Recommendation No. R (99) 1 on measures to promote media pluralism and the work under way under the authority of the Steering Committee on the Mass Media (CDMM) as regards the challenges to freedom of expression and information and to media pluralism and diversity stemming from globalisation and from the further development of the information society, and looks forward to the results of this work;

viii. invites the CDMM to examine and identify new areas in the media field where common policy and legal standards should be formulated through conventions, recommendations or declarations in order to guarantee freedom of expression and information, and to take account of the results of the monitoring exercise in its activities;

ix. invites the governments of member states to give due regard to the standards set by the Council of Europe concerning freedom of expression and information in respect of action in other relevant fora, in particular in the United Nations, the OSCE and the European Union.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Communication from the Committee of Ministers
Doc. 9214 – 21 September 2001

Honouring of obligations and commitments by Ukraine

Reply to Parliamentary Assembly Recommendation 1513 (2001) (adopted by the Committee of Ministers on 19 September 2001 at the 765th meeting of the Ministers' Deputies)

1. The Committee of Ministers recalls its interim reply to Recommendation 1513 (2001) on the honouring of obligations and commitments by Ukraine (adopted at its 758th meeting, 21 to 25 June 2001, item 2.6.) and wishes to inform the Assembly that the Secretariat assistance and information mission to Ukraine, referred to therein, took place from 26 to 29 August 2001. The Secretariat mission report (Document SG/Inf (2001) 27, available on the Council of Europe Internet site: www.coe.int/sg) contains a general evaluation of the honouring of every commitment undertaken by Ukraine when joining the Council of Europe, as well as specific proposals for future action in the framework of Council of Europe co-operation programmes. The Committee of Ministers took note in particular of the general conclusions and specific proposals for future action listed in paragraph 15 of the Secretariat report in which the significant progress made by Ukraine in fulfilling its formal commitments is acknowledged. It also stressed the necessity to secure proper implementation at all levels of the new democratic regulations and institutions.

2. The Committee of Ministers instructed the Secretariat to take into account the various recommendations in the preparation of future co-operation programmes of the Council of Europe with Ukraine (in particular the proposed European Commission/Council of Europe Joint Programme).

3. As regards, more specifically, sub-paragraph 10.iii of Assembly Recommendation 1513 (2001), information on the state of progress regarding implementation of the Action Plan on the Media – proposed by the Secretariat in reply to Assembly Recommendation 1497 (2001) on freedom of expression and the functioning of parliamentary democracy in Ukraine – is also included in the report of the Secretariat's assistance and information mission to Ukraine (SG/Inf (2001) 27, see in particular Appendix IV). Regarding financial resources necessary for this initiative, it is worth pointing out that, following an appeal by the Secretary General for voluntary contributions, a sum of €318 587 (out of a total provisional budget of €438 000) has already been obtained or pledged by several member states.[1] Moreover, as the Committee of Ministers indicated in its interim reply to Recommendation 1513 (2001), part of the action plan relating to training of judges (for which there is a budget of approximately €100 000) has been included in the proposed Joint Programme with the European Commission for Ukraine.

4. The Committee of Ministers will continue to follow the situation in Ukraine as regards honouring of its commitments and implementation of ongoing and proposed co-operation activities with the Council of Europe.

1. Belgium, Denmark, Hungary, Iceland, Ireland, Liechtenstein, the Netherlands, Norway, Slovakia, Switzerland and the United Kingdom.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Communication from the Committee of Ministers
Doc. 9215 – 21 September 2001

Religion and democracy

Reply to Parliamentary Assembly Recommendation 1396 (1999) (adopted by the Committee of Ministers on 19 September 2001 at the 765th meeting of the Ministers' Deputies)

The Committee of Ministers has carefully considered Parliamentary Assembly Recommendation 1396 (1999) on religion and democracy. It widely concurs with the basic premises of the recommendation.

Through practice, in particular the case-law of the European Court of Human Rights, a number of general principles have been developed concerning freedom of thought, conscience and religion, as guaranteed by Article 9 of the European Convention on Human Rights. These principles must guide the public authorities of member states in the choice of any measures they may take with regard to this freedom. In the light of those principles, the Committee of Ministers believes that the following considerations are particularly relevant to the matters raised in the Assembly's recommendation:

– freedom of thought, conscience and religion is of vital importance for the identity of believers and their conception of life, but is also equally important for atheists, agnostics, sceptics and the unconcerned; it includes the right to hold or not to hold religious beliefs, to practise or not to practise a religion and to change one's religion or belief;

– religious pluralism is an inherent feature of the notion of a democratic society and thus a key reference for determining whether or not a restriction on religious freedom is acceptable under paragraph 2 of Article 9 of the Convention; states are entitled to take action within the law if it becomes clear that a movement or association carries on, ostensibly in pursuit of religious aims, activities which are harmful to the population and contrary to the law (see also, as regards abuse of rights, Article 17 of the Convention) but the fundamental principles must be religious freedom and, in criminal law, the presumption of innocence;

– where religious pluralism gives rise to religious divisions, with attendant tensions, the public authorities' response should not be to eliminate religious pluralism, but to strive to ensure that the various groups respect each other.

With these considerations in mind, the Committee of Ministers believes that government authorities should not interfere with freedom of religion or put religious pluralism at risk. It further points out that the prohibition of discrimination contained in Article 14 of the Convention and Article 1 of Protocol No. 12 to the Convention is also relevant in this context – which means that distinctions based essentially on religion alone are not acceptable – and that the freedom enshrined in Article 9 of the Convention is guaranteed not only to citizens, but to all persons within the jurisdiction of the Contracting States.

On this basis, the Committee concurs with the Assembly that member states have a responsibility to ensure conditions conducive to the preservation of harmonious relations between religions and between the latter and other sectors of civil society. They must also ensure, respecting the principle of equality before the law, that different religions can coexist and develop peacefully (see the considerations underlying the proposals made in paragraph 13.i, iii and iv of the recommendation). This responsibility may entail taking certain measures to promote tolerance and encourage inter-religious dialogue via the media, associations or other means. It may also justify measures to protect the religious feelings of part of the population against virulent attacks by persons holding different convictions.

The Committee also concurs with the Assembly's views on the importance of education about religions (see paragraph 13.ii of the recommendation). In this connection, it would underline that measures to promote such education must also respect the basic considerations set out above, including as regards the rights of non-believers.

As concerns paragraph 14.i and ii, the Committee of Ministers informs the Assembly that it has transmitted the recommendation to the Council for Cultural Co-operation, which is pursuing activities in the field of history teaching, and that activities involving representatives of different religions as a means of promoting tolerance will be on the agenda of the colloquy "From cultural identities to a European political identity" which will be held in Strasbourg on 20 and 21 September 2001. Such activities also form part of the Council of Europe's work under the Stability Pact for South Eastern Europe.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Communication from the Committee of Ministers
Doc. 9216 – 21 September 2001

Council of Europe Human Rights Prize

Reply to Recommendation 1462 (2000)
(adopted by the Committee of Ministers on 19 September 2001 at the 765th meeting of the Ministers' Deputies)

The Committee of Ministers has carefully considered the points raised in Assembly Recommendation 1462 (2000) and takes the view that the prize is an important instrument for ensuring the visibility of the Organisation in relation to its central aim, and provides an opportunity to associate it with those who have contributed significantly to the defence of human rights.

The Committee of Ministers sees in principle much merit in some of the proposals contained in the recommendation, including that of a modest cash award.

In the light of the foregoing, the Committee has decided that a revised resolution should be drawn up to be adopted in place of Resolution (80) 1 as the legal basis for the awarding of a new-style prize. It has accordingly invited the Secretary General to present a draft. It notes that the Secretary General will explore the possibilities for attaching a certain amount of money to the prize.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Communication from the Committee of Ministers
Doc. 9217 – 21 September 2001

Situation of lesbians and gays in Council of Europe member states

Reply to Recommendation 1474 (2000)
(adopted by the Committee of Ministers on 19 September 2001 at the 765th meeting of the Ministers' Deputies)

1. The Committee of Ministers has carefully examined Recommendation 1474 (2000) on the situation of lesbians and gays in Council of Europe member states. It agrees with the Parliamentary Assembly that, regrettably, discrimination and violence against homosexuals still occur. Differentiated treatment of homosexuals under the law and in practice still exists in member states, as do contemptuous or intolerant attitudes towards them.

2. In preparing a reply to the recommendation, the Committee has requested the opinion of the European Commission against Racism and Intolerance (ECRI). The ECRI adopted its opinion – to which the Committee of Ministers generally subscribes – at its 24th meeting in March 2001 (see appendix to this reply). With regard to the proposal concerning the Council of Europe Commissioner for Human Rights, the Commissioner, when consulted, considered that the problem of discrimination on grounds of sexual orientation was already fully covered by his mandate and sufficiently important to be an integral part of the work of his office as a whole rather than being reserved for a specific appointment.

3. The Committee of Ministers stresses the importance of covering all forms of discrimination within the framework of the Council of Europe's activities and underlines in this respect the relevance of the new Protocol No. 12 to the European Convention on Human Rights (general prohibition of discrimination). Clearly a broad range of legal instruments and activities have the potential to contribute to progress in combating discrimination against lesbians and gays. In this connection, it welcomes the ECRI's proposal concerning "a wide debate within the Council of Europe as to how the Organisation as a whole might best address the various areas of discrimination".

4. With reference to paragraph 11.i of Recommendation 1474, the Committee of Ministers does not propose to re-open the debate concerning the need to include sexual orientation amongst the grounds for discrimination explicitly mentioned in Protocol No. 12 (or in Article 14 of the Convention). It recalls that careful consideration has been given to this issue by the drafters of the protocol; reference can be made to the explanations given in paragraph 20 of the protocol's explanatory report. It would, however, like to draw attention to several cases in which the Court has adopted a strict scrutiny *vis-à-vis* distinctions based on grounds not explicitly mentioned in Article 14 (see, for example, the judgment in the case of *Gaygusuz v. Austria* of 11 January 1995, Reports 1996-IV) including distinctions based on sexual orientation (for example the judgment of 21 December 1999 in the case of *Salgueiro da Silva Mouta v. Portugal*).

5. The case-law of the organs of the European Convention on Human Rights also provides a strong general incitement to all member states, beyond the specific obligation of contracting states to execute the judgments of the Court, to reform any discriminatory legislation or regulations and in this connection the Committee of Ministers refers not only to the cases mentioned in the recommendation but also, for example, to the cases of Norris against Ireland or those of Modinos and of Marangos against Cyprus.

6. Progress remains to be made in member states' domestic law and practice, which must be kept under review to ensure best standards and practice. In this regard the Committee of Ministers can mark its agreement with several of the injunctions addressed to member states in paragraph 11.iii of the recommendation. In this regard it underlines in particular the need, mentioned in sub-paragraph 11.iii.*e*, for […] measures in the areas of education and professional training to combat homophobic attitudes in certain specific circles. Homosexuality can still give rise to powerful cultural reactions in some societies or sectors thereof, but this is not a valid reason for governments or parliaments to remain passive. On the contrary, this fact only underlines the need to promote greater tolerance in matters of sexual orientation.

7. Finally, the Committee wishes to assure the Assembly that it will continue to follow the issue of discrimination based on sexual orientation with close attention.

APPENDIX

ECRI opinion on Parliamentary Assembly Recommendation 1474 (2000)

1. The ECRI examined with interest Recommendation 1474 (2000) on the situation of lesbians and gays in Council of Europe member states. It agrees with the Parliamentary Assembly that homosexuals are still too often subjected to discrimination or violence, and that the discriminatory legislation which sometimes exists and the homophobic climate that often reigns in member states lead to aggressive or contemptuous attitudes towards them. Oppression of homosexuals provides an indication of the degree of intolerance that may prevail in a society.

2. The ECRI has not discussed this issue in its work to date. The ECRI has thus far perceived its task as being to combat racism, xenophobia, anti-Semitism and related intolerance. Its action covers all measures necessary to combat violence, discrimination and prejudice faced by persons or groups of persons, in particular on grounds of race, colour, language, religion, nationality and national or ethnic origin.

3. The ECRI welcomes the adoption of Protocol No. 12 to the European Convention on Human Rights, which contains a general prohibition of discrimination and stresses the importance of covering, within the framework of the Council of Europe's activities, all forms of discrimination.

4. For this reason, the ECRI would welcome a wide debate within the Council of Europe as to how the Organisation as a whole might best address the various areas of discrimination, and expresses its readiness to participate in such a debate.

5. The ECRI recalls that its own resources are at present very limited and already insufficient for it to cover its current field of activities. It stresses therefore that any decision taken on how best to cover the issue of discrimination in a wider sense should be accompanied by the necessary financial and human resources.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Communication from the Committee of Ministers
Doc. 9218 – 21 September 2001

Parents' and teachers' responsibilities in children's education

Reply to Parliamentary Assembly Recommendation 1501 (2001) (adopted by the Committee of Ministers on 19 September 2001 at the 765th meeting of the Ministers' Deputies)

The Committee of Ministers considered Recommendation 1501 (2001) on "Parents' and teachers' responsibilities in children's education" of the Parliamentary Assembly and decided to bring it to the attention of the governments of its member states.

The development of modern society creates new challenges both for families and schools, which might create confusion as to the "division of labour" between these two social institutions. Parents, evidently, have a fundamental role to play in the education of their children and need to be involved in the whole education process, particularly at school. It is also evident that in the current state of affairs, neither parents nor teachers can transmit all the knowledge, skills and values that young people need for their proper integration into society. Communication and co-operation between them is therefore essential. On these two points, the Committee of Ministers fully shares the opinion of the Parliamentary Assembly.

Further to the Committee of Ministers' decision, Recommendation 1501 was brought to the attention of the Forum for Children and Families at its first meeting (Strasbourg, 9 to 10 April 2001) and will be one of the sources of inspiration for the forthcoming activities of this new multidisciplinary body. Activities in the area of policies for families and children take place in close contact with the International Federation for Parent Education (IFPE), which, through its presence at the Forum for Children and Families, ensures that the parenting aspect is not overlooked in the Council of Europe's various activities relating to children.

The Committee of Ministers would like to draw the Assembly's attention to the project "A secondary education for Europe", which resulted in a number of policy conclusions set out in Recommendation No. R (99) 2 of the Committee of Ministers to member states on secondary education. This recommendation emphasises the need for secondary education, in terms of structure and management, to be based on a policy of openness towards the outside world and the various members of the educational community, in particular the family.

The declaration, adopted by the European Ministers of Education at their 20th Standing Conference (Cracow, Poland, October 2000) on "Education policies for democratic citizenship and social cohesion: challenges and strategies for Europe", states that, in order to implement policies designed to promote social cohesion in a democratic country, it is necessary to increase the involvement and responsibility of parents in the education process in schools.

In the context of the Education for Democratic Citizenship project, which came to an end in September 2000, emphasis was placed on the importance of setting up procedures in schools for consulting and involving all partners in the local and regional community, including not only pupils but also parents.

At the forum organised by the Education Committee in March 2000 on the general theme of "Education and social cohesion", the committee had stressed the special attention that should be paid to the role of parents and families in the education process as a way of breaking a vicious circle of exclusion in deprived regions.

As part of its new programme "Learning and teaching in the communication society", carried out in co-operation with the Higher Education and Research Committee, the Education Committee plans to address the question of the development of new information and communication technologies, mentioned in the recommendation, and in particular the links that need to be established between the development of new information technologies in schools and at home.

As far as paragraph 10.viii of the recommendation is concerned, the Committee of Ministers shares the Assembly's concern and considers that special attention should be given to the needs and specific problems of immigrated families.

The Committee of Ministers would like to make the following comment on paragraph 10.i of the recommendation, concerning the need to improve communication and interaction between parents and educational authorities at all educational levels. This is a concern underlying all the work carried out on reform and reform strategies in relation to secondary education in the member states. This question is likely to be addressed at the 3rd Conference on Education in Prague in 2002, which will study the strategy for reforming secondary education, and more particularly the assessment and follow-up in connection with the reforms.

The opinion of the Education Committee, appended to this reply, will provide the Assembly with more detailed information on special measures to be adopted and implemented.

APPENDIX

Opinion of the Education Committee on Recommendation 1501 (2001) of the Parliamentary Assembly on parents' and teachers' responsibility in children's education

1. The Education Committee has read with interest the Parliamentary Assembly's recommendation on parents' and teachers' responsibility in children's education.

2. The committee would like to emphasise that the general philosophy on which the recommendation is based, namely that parents have a fundamental role to play in the education of their children and need to be involved in the whole education process, particularly at school, is in keeping with the committee's own approach, whether in relation to the general

policy regarding education or, more specifically, its work on the themes of education for democratic citizenship, the prevention of violence in schools, or the contribution made by education policies towards social cohesion.

3. The committee would particularly like to point out that in the context of the project "A secondary education for Europe", which resulted in a number of policy conclusions set out in Recommendation No. R (99) 2 of the Committee of Ministers to member states on secondary education, particular emphasis was placed on the need for secondary education, in terms of its structure and management, to be based on a policy of openness towards the outside world and the various members of the educational community, in particular families.

4. In the declaration adopted at their 20th Standing Conference (Cracow, Poland, October 2000) on "Education policies for democratic citizenship and social cohesion: challenges and strategies for Europe", the European Ministers of Education agreed that in order to implement policies designed to promote social cohesion in a democratic country it was necessary to increase the involvement and responsibility of parents in the education process in schools. Furthermore, in the context of the Education for Democratic Citizenship project, which came to an end in September 2000, emphasis was placed on the importance of setting up procedures in schools for consulting and involving all partners in the local and regional community, including not only pupils but also parents.

5. At the forum organised by the Education Committee in March 2000 on the general theme of "Education and social cohesion", the committee had stressed the special emphasis that should be placed on the role of parents and families in the education process as a way of breaking the often quasi-hereditary chain of exclusion in deprived regions. Dialogue with families must be used to help them to overcome their apprehension about their children's future by giving them an active role to play and by encouraging them to be more positive about their children's future.

6. In the context of the Education Committee's work on education reform strategies, many experts expressed the view, shared by the Education Committee, that parents should be involved not only in the everyday life of the school or other education establishment but also in discussions about education reform and in planning and carrying out such reform. In the same context, in order to succeed, education reform must be based on recommendations and guidelines that have been agreed by all the different players.

7. Lastly, concerning the Assembly's remark that the advent of the information society is raising unprecedented challenges for the education system and is also affecting families, the committee would like to inform the Assembly that as part of its new programme being carried out in conjunction with the Higher Education and Research Committee ("Learning and teaching in the communication society"), it plans to address the question of the development of new information and communication technologies, and in particular the links that need to be established between the development of new technologies in schools and at home. The fundamental importance of this question has often been stressed in terms of the need to protect young people from certain information conveyed, in particular, via the Internet.

8. The committee agrees in particular with the view expressed by the Assembly in paragraph 6 that there is growing confusion concerning the role which parents and schools should play in educating young people. The committee thinks that the solution to this apparent confusion lies in encouraging partnership and dialogue between these two players in the education process.

9. Concerning the Assembly's recommendations:

i. the Education Committee could consider drafting a report for the attention of the Parliamentary Assembly on the respective responsibilities of parents and teachers based on the results of the project on "Learning and teaching in the communication society";

ii. the Education Committee could propose holding a forum discussion at the 2002 plenary meeting on this theme. However, the present budgetary situation is such that it is not possible, at such short notice, to consider organising an international conference on this subject with the participation of the European Union and Unesco, although this is an idea that could also be considered on completion of the aforementioned project.

10. Concerning paragraph 10.i, the need to improve communication and interaction between parents and educational authorities at all educational levels and encourage the establishment of partnerships is a concern underlying all the work carried out on reform and reform strategies in relation to secondary education in the member states. As already stated, parents should be involved not only in the everyday life of the class and the school as a whole, but also in more general discussions, including those about the long-term future. This question will most certainly be addressed at the third conference in Prague, in 2002, on the strategy for reforming secondary education, which will focus in particular on assessment and follow-up in connection with reforms. Parental involvement in these areas is obviously a sensitive issue.

11. Concerning paragraph 10.iii and the need to promote and develop further training for parents, the committee has no plans at the moment for specific activities in this field, in so far as this question is addressed in general recommendations such as the aforementioned recommendation adopted by the European Ministers of Education at their standing conference in Cracow.

12. Concerning paragraph 10.iv and the recommendation that teachers should be made more aware of teacher-parent relations, the committee would like to point out that one of the aims of its project concerned with "Learning and teaching in the communication society" is to redefine the roles and functions of teachers and the content of their initial and continuing training. It goes without saying that the ability to establish and develop harmonious relations with parents will be one of the new roles and functions of teachers in the communication society.

13. Concerning paragraph 10.viii, particular attention is of course paid to children from underprivileged social and family backgrounds in the context of the project on education for democratic citizenship, but also to a greater extent in the project concerned with the education of Roma/Gypsy children, in respect of which the involvement of parents, and families generally, is obviously a crucial factor.

14. Concerning the Assembly's recommendations about transparency, co-operation between schools and local authorities, and the need to increase the autonomy of schools, the committee would like to point out that these issues have figured constantly in its work for many years now.

15. Concerning paragraph 11, the Education Committee has already embarked on joint projects with the Congress of Local and Regional Authorities of Europe with a view to developing local authority participation in discussions on school issues, particularly regarding the prevention of violence in schools.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Communication from the Committee of Ministers

Doc. 9219 – 21 September 2001

Situation and prospects of young people in rural areas

Reply to Parliamentary Assembly Recommendation 1530 (2001) (adopted by the Committee of Ministers on 19 September 2001 at the 765th meeting of the Ministers' Deputies)

The Committee of Ministers has considered Parliamentary Assembly Recommendation 1530 (2001) on the situation and prospects of young people in rural areas. The Committee of Ministers is aware that, unfortunately, young people in rural areas in Europe still encounter many difficulties, including social and, especially, economic ones, as a result of urbanisation and rural decline. Indeed, the Committee of Ministers agrees with the Assembly's approach that the solution might be to give young people and their representative organisations a greater say in the preparation, at both national and European levels, of both youth and rural development policies.

The Committee wishes to recall that in 1998 the Youth Directorate of the Council of Europe, in co-operation with the Parliamentary Assembly, organised a symposium entitled "Youth participation in rural development", aimed at developing an integrated approach towards rural development and youth policies, as well as enhancing and setting up new co-operation between governmental and non-governmental partners. The conclusions of this symposium served as a basis for the report of the Parliamentary Assembly on the situation and prospects of young people in rural areas.

Moreover, rural youth organisations, such as the International Movement of Catholic Agricultural and Rural Youth (Mijarc) or the European Committee for Young Farmers and 4H Clubs are partners of the youth sector and participate in the activities of this sector of the Council of Europe. For example, the above-mentioned symposium was the result of work started during a study session "Too young for rural areas?" held in 1997.

The review of national youth policies, undertaken on a regular basis by the CDEJ, could be a good tool to continue to examine the situation of young people in rural areas. It could form the basis for a thematic approach and comparative study and give an opportunity for a regional approach to common problems.

Mobility and exchanges particularly allow young people to develop their experience and knowledge as well as facilitating the sharing of information. The seminar on obstacles to youth mobility, planned for 2002, could also be a good occasion to examine the specific problems of young people from rural areas as regards mobility.

The evaluation of Recommendation No. R (94) 4 on voluntary service, which is currently being conducted, could give an opportunity to study how voluntary service is accepted and seen by young people in rural areas, how it could give them the opportunity to learn new skills and competences, etc.

The evaluation of Recommendation No. R (90) 7 on youth information and counselling, which will be undertaken in the period 2001 to 2002 in co-operation with the European Agency for Youth Information and Counselling, will give an insight into the situation regarding youth information in rural areas, in particular in eastern European countries. In addition, the symposium on "Youth, actor of social change?", which will be organised in December 2001, will study how young people in rural areas can contribute to social changes. The promotion of the charter of the Congress of Local and Regional Authorities of Europe (CLRAE) on youth participation at local and regional level should also be used as a means of encouraging young people to participate more actively in local political life in rural areas.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Communication from the Committee of Ministers
Doc. 9220 – 21 September 2001

Illegal activities of sects

Reply to Parliamentary Assembly Recommendation 1412 (1999) (adopted by the Committee of Ministers on 19 September 2001 at the 765th meeting of the Ministers' Deputies)

1. The Committee of Ministers has carefully studied Parliamentary Assembly Recommendation 1412 on illegal activities of sects. It is aware that the problems posed in Recommendation 1412, and in particular those described in paragraph 9 of the recommendation, are a serious preoccupation for many member states throughout Europe. The Committee agrees whole-heartedly with the Assembly that it is essential to ensure that the activities of these groups, be they of a religious, esoteric or spiritual nature, are in keeping with the principles of our democratic societies (see paragraph 6 of the recommendation).

2. The Committee underlines in this context that for their part, governments are under an obligation in their dealings with such groups to remain in conformity not only with Article 9 but with all the provisions of the European Convention on Human Rights and other relevant instruments protecting the dignity inherent to all human beings and their equal and inalienable rights. This entails, *inter alia*, a duty to respect the principles of religious freedom and non-discrimination.

3. For these reasons, the Committee also welcomes the recommendation's focus on activities of groups of a religious, esoteric or spiritual nature and, in particular, the Assembly's call to governments of member states that legal measures in this area should be applied *vis-à-vis* illegal practices carried out in the name of and by such groups, using ordinarily available procedures of criminal and civil law (paragraph 10.iii of the recommendation).

4. The Committee is aware that the main aim of this recommendation is to protect human dignity and the most vulnerable people, in particular the children of persons belonging to groups of a religious, esoteric or spiritual nature, and that the recommendation attaches great importance, in this framework, to providing the public with information concerning such groups. In this context, it expresses general agreement with the ideas set out in paragraph 10 as a whole.

5. Furthermore, the Committee is aware that a number of member states, in response to the call expressed in sub-paragraph 10.i of the recommendation, have either set up independent information centres or are in the process of doing so.

6. With regard to the recommendation addressed to the Committee of Ministers in sub-paragraph 11.ii, that is, that it "set up a European observatory on groups of a religious, esoteric or spiritual nature to make it easier for national centres to exchange information", the Committee considers that, for resource reasons, it is not in a position to accede to this proposal. It would add that, in order to ensure reliability and objectivity of information collected and exchanged (see paragraph 7 of the recommendation), such an institution would require substantial human and financial resources. However, the Committee of Ministers does not exclude the possibility that the Council of Europe, subject to the availability of budgetary resources, could play a facilitating role in promoting networking and exchange of information between existing national information centres. The same applies to the Assembly's proposal to include specific activities in the co-operation and assistance programmes of the Council of Europe (paragraph 11.i of the recommendation). The Committee will inform the Assembly of any initiatives that might be envisaged in this regard.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Motion for a recommendation[1]
Doc. 9221 – 22 September 2001

Events on the occasion of the G8 Summit in Genoa

presented by Mr LIPPELT and others

Six weeks after the G8 Summit in Genoa, four young German participants in the demonstrations are still held in remand prison and another one is under house arrest. On 3 September the judge in charge decided not to release them because of the imminent danger of a repetition of events during international conferences to take place in Italy in the near future.

Five of them were arrested many hours or days after the end of the demonstrations. As far as we know none of them is personally accused of any concrete violent action. Their detention is no longer justified.

They have reported that they suffered assault and battery, infringement of their rights and that they were physically forced to sign interrogation records.

Other prisoners, who were arrested at the Diaz School and in Genoa and who have now been released, have also reported grievous bodily harm, assault and battery by the police. Their reports have been independently confirmed.

Therefore there is reasonable suspicion that in many cases penal law and the European Convention for the Protection of Human Rights and Fundamental Freedoms were deliberately violated.

There is an urgent need to thoroughly investigate all violent actions connected to the G8 Summit in Genoa and to establish all responsibilities.

The Assembly of the Council of Europe expects a full investigation into the report announced by the Commission of the Italian Parliament for 20 September, established to examine the events in Genoa.

The Parliamentary Assembly recommends that the Committee of Ministers of the Council of Europe intercede for the immediate release of the persons still detained and insist on thorough investigation of the events.

Signed:

Lippelt, Germany, LDR
Bruce, United Kingdom, LDR
Chaklein, Russia, UEL
Clerfayt, Belgium, LDR
Jurgens, Netherlands, SOC
Le Guen, France, SOC
López González, Spain, SOC
Magnusson, Sweden, SOC
Michel, France, SOC
Van 't Riet, Netherlands, LDR
Shishlov, Russia, LDR
Škrabalo, Croatia, LDR
Uriarte, Spain, EPP/CD

1. Referred to the Committee on Legal Affairs and Human Rights: Reference No. 2655 (32nd Sitting, 28 September 2001).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Report
Doc. 9222 – 24 September 2001

Ad hoc Committee to Observe the Presidential Elections in Belarus (9 September 2001)

(Rapporteur: Mr GORIS, Belgium, Liberal, Democratic and Reformers' Group)

I. Introduction

1. At the invitation of the National Assembly of Belarus and further to the recommendations of the Parliamentary Assembly delegation which had visited Belarus from 31 July to 3 August to examine the political situation in the country on the eve of the presidential elections, the President of the Assembly, in consultation with the leaders of political groups, decided to observe the presidential elections in Belarus on 9 September 2001. This decision was confirmed by the Assembly's Bureau on 7 September 2001 (see Appendix I).

2. Following the suggestions of the political groups, the *ad hoc* committee was composed of:

Felice Besostri	(Italy, SOC)
Andreas Gross	(Switzerland, SOC)
Vera Squarcialupi	(Italy, SOC)
Stef Goris	(Belgium, LDR)
Vaclov Stankevič	(Lithuania, LDR)
Simone Enrico Gnaga	(Italy, EDG)
Robert Nigmatulin	(Russia, EDG)
Màrton Braun	(Hungary, EPP)
Piotr Palamarciuc	(Moldova, UEL)

Mr Sich, Ms Kostenko and Mr Ferrer provided secretarial support to the *ad hoc* committee.

3. The *ad hoc* committee at its meeting in Minsk on 6 September elected me as chairman and rapporteur. The *ad hoc* committee also decided on its deployment plan for the observation of the elections with the aim of covering as wide an area as possible of the territory of the republic. It was decided to send eight observation groups to different regions of the country, including such cities as Brest, Gomel, Grodno, Minsk and Mogilev.

4. In its observation mission the *ad hoc* committee was guided by the principles established in 2000 by the parliamentary troika (Council of Europe and OSCE Parliamentary Assemblies and the European Parliament):

– transparency of the election process;

– access of opponents to the state-run mass media, in particular electronic;

– non-discrimination of political opponents;

– meaningful functions and powers for the current parliamentary body.

These principles were considered as necessary conditions for the elections to be free and fair.

5. The committee also followed the recommendations made by the Assembly delegation composed of Mr Terry Davis, Mr Wolfgang Behrendt and Mr Svoboda, who had visited Minsk on the eve of the elections and who had expressed their concerns about such important points as:

– the membership of the electoral commissions and the right of observers to be present at all meetings of all electoral commissions, including the Central Electoral Commission;

– several presidential decrees, especially Decree No. 20, the implementation of which could negatively affect the election process;

– freedom of the press and access of candidates to the electronic media during the pre-election campaign;

– the potential for abuses in early voting and home voting;

– guarantees that domestic observers would be able to carry out their tasks in satisfactory conditions and be entitled to observe the counting of votes and receive certified copies of the election protocols.

II. The pre-election period

A. Legal framework

6. The electoral system in Belarus is regulated by the Constitution of 24 November 1996, the Electoral Code, presidential decrees and decisions of the Central Election Commission (CEC). After the adoption of the Electoral Code in February 2000 it was amended taking into account some criticisms of international experts. Nevertheless it still contains some shortcomings.

7. The President of the country and the CEC have a right to restrict the Electoral Code by their decrees. Using this opportunity the President issued three decrees, Nos. 8, 11 and 20, in which he restricted the activities of observers, introduced additional limitations on the freedom of expression, restricted the rights of political parties, potential candidates and public associations to take part in the election campaigns.

8. One of the main concerns of international observers was the composition of electoral commissions at all levels, which failed to ensure the representation of various political parties and were controlled by local administrations. The independence of electoral commissions including the CEC was not insured by the legislation. Nevertheless, many thousands of domestic observers representing the civil society had a chance to observe the elections.

9. Another controversial legal provision was the permission by Article 53 of the Electoral Code for early voting for everybody, without any justification. Early voting started six days before the 9 September and was

conducted in conditions allowing for fraud or manipulation. In many polling stations visited by the members of the *ad hoc* committee the early voting turnout was 20% to 30%, while the CEC announced only an 18% turnout.

B. Candidates

10. The CEC registered twenty-two initiative groups to collect 100 000 signatures for their candidates. On 14 August the CEC decided to register four candidates: the incumbent, President Alexandr Lukashenko; Vladimir Goncharik, the leader of the Trade Unions of Belarus; Semion Domash, the former governor of Grodno *oblast* and Sergey Gaidukevich, the leader of the Liberal Democratic Party. Later Mr Domash withdrew his candidacy in favour of the "single democratic candidate", Mr Goncharik, who promised him the post of Prime Minister in his cabinet.

11. The *ad hoc* committee met Mr Goncharik and Mr Gaidukevich during the OSCE/ODIHR briefing and regretted that Mr Lukashenko did not take part in this briefing (he was represented by Mr Cherginets, head of his initiative group). During the briefing Mr Goncharik expressed fears about electoral fraud by the incumbent president and his administration.

12. A positive feature of these elections was the possibility for voters to make their political choice between three candidates competing in the presidential elections.

C. Media

13. The incumbent president dominated election coverage on the state television channel BT, receiving 58% of the output devoted to all candidates, and on the Russian TV channels watched by a majority of prime time Belarusian viewers. State print media were equally biased in favour of Lukashenko, who received between 70% and 90% of the total coverage devoted to the candidates. Independent or non-state media were correspondingly biased in favour of the opposition candidate, Goncharik.

14. All candidates were allowed to have two thirty-minute pre-recorded speeches on state TV and the President did not use this time, given his opportunities to appear on state TV as an acting president.

15. The *ad hoc* committee had a special meeting with representatives of the mass media and NGOs in Belarus. It received complaints about government interference and intimidation of independent media that supported the opposition, by a rash of tax inspections, distribution and printing problems and even censorship, which is officially prohibited by law.

D. Campaign

16. The candidates were restricted to use only US$12 500 in funds provided by the state. No other financial contributions were allowed. The President, by his Decree No. 11, also limited candidates' possibilities for public debates, meetings and demonstrations. There was, in general, almost no visible evidence of posters. The candidates had a right to display their materials only at limited sites. Supported by state institutions the incumbent president dominated the election campaign. Local administrations ensured a public information campaign on elections which were financed by the CEC.

17. The representatives of political opposition and non-governmental organisations supporting the opposition candidate claimed that some of their members were detained and harassed by the police, their offices were searched and office equipment was confiscated.

III. Voting

A. Election day

18. As mentioned in paragraph 3, on 9 September the *ad hoc* committee split into eight teams to ensure maximum coverage of the elections. Each team visited from ten to eighteen polling stations and observed the opening of polling stations and the count of votes.

19. The general atmosphere at polling stations was calm and the voting was organised in an orderly manner. Belarus authorities distributed special posters to explain the voting process to voters.

20. It should be stressed that in the majority of polling stations visited more than 50% of voters had voted before 12 a.m. This can be explained by the traditional custom of the population to vote early in the morning and also by the possibility provided for early voting.

21. The members of the *ad hoc* committee reported on some instances of violation of the electoral process and irregularities witnessed during their observation. In particular, a police presence was reported in the majority of polling stations. The chairmen of committees explained the presence of police as a guarantee of order at the polling stations. Some chairmen of committees refused to provide observers with information on the number of voters and the number of people who voted early. At some polling stations the domestic observers claimed that they were not able to observe the whole process of voting and had to sit at the specially restricted places without the actual ability to see the ballot boxes.

22. All observers pointed out that the election process was very well organised and in accordance with legal provisions. No serious frauds were observed during the day of elections.

23. On 10 September the *ad hoc* committee held a joint press conference together with the OSCE Parliamentary Assembly, the European Parliament and the OSCE/ODIHR limited election observation mission where the Statement of Preliminary Findings and Conclusions was presented (see Appendix II).

B. The results

24. On 10 September 2001 the CEC announced the official results of the presidential elections. Of the total electorate 83.85% took part in the elections. The incumbent president of Belarus Alexandr Lukashenko was re-elected to a second term by 75.62% of the vote. Mr Vladimir Goncharik obtained 15.39% of the votes and Mr Gersey Gaidukevich received 2.48%.

C. Co-operation with other international observers

25. The Parliamentary Assembly delegation co-operated closely with the delegations of the European Parliament and the OSCE Parliamentary Assembly, in the framework of the international limited election observation mission organised by the OSCE Office for Democratic Institutions and Human Rights (ODIHR).

26. As already mentioned, the Parliamentary Assembly delegation took part in the briefing organised by the OSCE/ODIHR mission for all parliamentary delegations during which it had the opportunity to meet the presidential candidates (except Mr Lukashenko), the representatives of NGOs and mass media.

27. As chairman of our delegation I took part in several co-ordination meetings with leaders of other international delegations as a result of which a joint statement of preliminary findings and conclusions was agreed.

Conclusions

28. The Council of Europe Parliamentary Assembly *ad hoc* committee to observe the presidential elections in Belarus strongly deplores the fact that the election process it observed failed to meet the standards of the Council of Europe.

29. Repressions by the political regime against the opposition, violations of freedom of the press, undemocratic legal provisions which created favourable conditions for fraud and irregularities were the facts that proved that the Belarus authorities were not respecting democratic standards, especially during the election campaign.

30. At the same time, some positive tendencies were observed in Belarus society which constitute the basis for a democratic evolution. First of all, there is an emergence of civil society reflected in the mobilisation of thousands of domestic observers; there was also a unity of the democratic forces of the opposition during the election campaign and an active role of independent mass media.

31. The *ad hoc* committee considers that the exclusion of 10 million European citizens from the European democratic family could only hamper the development of positive trends in the process of democratic transition in Belarus. The Council of Europe is ready to work together with both the civil society and the authorities of Belarus, expecting from them true commitment and concrete steps to meet Council of Europe principles and values.

32. Primary election legislation should be improved and a provision on early voting should be changed in conformity to European standards. All restrictive provisions on international and domestic observers' activities should be removed from the legislation. The independence of the Central Electoral Commission and local commissions should be legally guaranteed.

33. Freedom of expression as a basic principle of democratic society should be respected by the state authorities. It is expected that opposition and independent mass media will in future have the same possibilities for election coverage as those of the state media, and the censorship and repressions against the mass media will not be repeated. It is further expected that during the next elections all candidates will have equal and unbiased media coverage and equal opportunities to distribute their campaign materials.

34. Finally, the Council of Europe Parliamentary Assembly observer delegation especially welcomes within the conclusions of the international observers the will to get away from the isolation of the country. The isolation policy of recent years has indeed proved not to be effective.

35. Therefore, the *ad hoc* committee recommends that the Parliamentary Assembly's Bureau should discuss its position and its strategy towards Belarus, with a view to determining what concrete steps forward should be taken in order to encourage democratic developments in this European country.

APPENDIX I

Press release

Parliamentary Assembly to observe presidential election in Belarus

Strasbourg, 4 September 2001 – The Council of Europe Parliamentary Assembly will observe the presidential election in Belarus on 9 September.

Starting in Minsk on 5 September, the nine-member delegation will meet candidates for the presidency, representatives of the Belarusian authorities, in particular the Minister for Foreign Affairs, the leadership of the parliament, the Chair of the Central Electoral Commission as well as representatives of the media and NGOs. The observation will take place in co-operation with the OSCE and the European Parliament.

The members of the delegation are:

Felice Besostri	(Italy, SOC)
Màrton Braun	(Hungary, EPP)
Simone Enrico Gnaga	(Italy, EDG)
Stef Goris	(Belgium, LDR)
Andreas Gross	(Switzerland, SOC)
Robert Nigmatulin	(Russia, EDG)
Piotr Palamarciuc	(Moldova, UEL)
Vera Squarcialupi	(Italy, SOC)
Vaclov Stankevič	(Lithuania, LDR)

The Parliament of Belarus was granted Special Guest status with the Assembly in 1992, but this was suspended in January 1997 following constitutional changes in the country. The procedure for accession of Belarus to the Council of Europe was also frozen. However, the Assembly has resolved to maintain contact with all political forces with the aim of supporting democratic developments in the country.

A final press conference will take place on Monday 10 September at 4 p.m. at the National Press Centre, ul. Oktyabrskaya 5, Minsk.

APPENDIX II

International Limited Election Observation Mission 2001 presidential election in the Republic of Belarus

Statement of preliminary findings and conclusions

Minsk, 10 September 2001 – The International Limited Election Observation Mission (ILEOM) for the 9 September

2001 presidential election in the Republic of Belarus is a joint effort of the Organisation for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and the parliamentary troika composed of the OSCE Parliamentary Assembly (OSCE PA), the Parliamentary Assembly of the Council of Europe, and the European Parliament.

Mr Kimmo Kiljunen MP (Finland), Vice-President of the OSCE PA, was designated by the OSCE Chairperson-in-Office as Special Co-ordinator for the OSCE Limited Election Observation Mission to Belarus. Mr Stef Goris MP (Belgium) leads the Parliamentary Assembly of the Council of Europe delegation. Mr Jan Wiersma MP (Netherlands) leads the European Parliament delegation. Mr Hrair Balian heads the OSCE/ODIHR Limited Election Observation Mission.

Regrettably, due to a delayed invitation by the authorities of Belarus, the OSCE/ODIHR had to limit its observation to the last three weeks of the electoral process only. The delay was in contravention of commitments as a participating state of the OSCE, formulated *inter alia* in the 1999 Istanbul Summit Declaration and the 1990 Copenhagen Document. In addition, the authorities arbitrarily denied visas to two key members of the long-term observation team.

Preliminary conclusions

The 2001 presidential election process in the Republic of Belarus represented an important opportunity to assess the development of democracy and civil society in the country. As such, this election will influence the future relations between Belarus and the international community, including the European institutions.

The ILEOM undertook its monitoring mission on the basis of international standards for conduct of democratic elections as formulated by the OSCE and the Council of Europe. The ILEOM confirmed the importance of the four criteria established in 2000 by the parliamentary troika as the benchmarks for democratic elections and the main conditions for the ongoing democratisation process in Belarus:

– transparency of the election process;
– access of opponents to the state-run mass media;
– non-discrimination of political opponents; and
– meaningful functions and powers for the parliamentary body.

There were fundamental flaws in the electoral process, some of which are specific to the political situation in Belarus, including:

– a political regime that is not accustomed to and does everything in its power to block the opposition;

– executive structures with extensive powers, including rule by presidential decree, that are not balanced with commensurate legislative controls, and that allow the arbitrary changing of the electoral environment;

– a legislative framework that still fails to ensure the independence of election administration bodies, the integrity of the voting results tabulation process, free and fair campaign conditions, and imposes excessive restrictions for campaigning and observers;

– the legal provisions for early voting do not guarantee the proper control and counting of early votes;

– an election administration system that is overly dependent on the executive branch of government from the national to the local community levels, and is partial;

– a campaign environment seriously to the disadvantage of the opposition candidates;

– a campaign of intimidation directed against opposition activists, domestic observation organisations, opposition and independent media, and a smear campaign against international observers; and

– highly biased state-controlled media and censorship against the independent print media.

During the last year and on the occasion of the 2001 presidential election, some positive features were noted in Belarus, in particular as regards the democratic awareness of the people. These changes may constitute hope for further improvement. These positive elements are the following:

– an emerging civil society mobilised and deployed many thousands of domestic observers, including those favourable to the government; it was however profoundly regrettable that a few thousand of these observers had their accreditation revoked;

– the democratic forces of the opposition were able to overcome their differences and jointly contest the election, being an expression of greater and maturing political and democratic awareness;

– with three candidates competing in the presidential election, voters in Belarus were offered a genuine political choice, although the restrictive campaign regulations and practices made it extremely difficult for the voters to be fully informed about the alternatives;

– with the help of international experts, improvements have been made in some areas of the legislative framework for elections;

– the administrative preparations were conducted well from an organisational point of view; the legal terms for the formation of electoral commissions and the registration of candidates were respected within the existing legal framework; and

– voting on 9 September was in accordance with the legal provisions and orderly.

The international community is especially concerned about explicit threats made recently by highest government representatives against the opposition and independent media and activists. Developments in this area will remain under special international scrutiny.

On the basis of these observations and without taking into account the outcome of the election, the ILEOM concludes:

– the 2001 presidential election process failed to meet the OSCE commitments for democratic elections formulated in the 1990 Copenhagen Document and the Council of Europe standards;

– the ILEOM welcomes and acknowledges the emergence of a pluralist civil society, being the foundation for the development of democratic political structures, representing all segments of the population;

– the isolation of the country is not in the best interest of the Belarus people and is not conducive to strengthening democratic development.

The ILEOM emphasised the great contribution to the process of democratic awareness made by the OSCE Advisory and Monitoring Group and its Head of Mission. This work should continue as such.

Taking into account that the development of civil society and its political structures based on grass-roots democracy represents the basis of a strategy for bringing Belarus up to European democratic standards – having its origin within Belarus society itself, the ILEOM considers that:

– the credit for those developments could not go to the current presidential leadership but to the Belarus civil society and democratic structures;

– the Belarus authorities should move to overcome the deficiencies of the electoral process and fulfil the obligations to implement the OSCE commitments and Council of Europe standards since these deficiencies cast doubt on the democratic character of the election outcome;

– the strengthening of the democratisation process must continue with a view to reintegrating Belarus and its people in the European system of standards and values.

Furthermore, the ILEOM regrets that the policy of the Belarus authorities as regards basic democratic structures and respect for fundamental human rights and values has greatly contributed to the current degree of isolation of the country and its people. The international community at its highest political level should reassess its policy towards this country bearing in mind both the existing democratic deficit as well as the positive trends indicating a more pluralistic political environment in Belarus. The democratic deficit should not result in the isolation of the people of Belarus, but rather in a renewed effort to help its democratic development.

This process of reassessment must be carried out in order to define strategies for the development of a fully functioning civil society and democratic political structures in Belarus. The institutions represented in the ILEOM are prepared to continue to give further assistance to the promotion of a constructive dialogue across the political spectrum of the civil society, and between the authorities and the international community with a view to facilitate the process of democratic transition and integration in European structures.

Preliminary findings – background

Presidential and parliamentary elections were held in the Republic of Belarus in 1994 and 1995 respectively under a new constitution adopted in 1994 providing for parliamentary democracy and political pluralism. After President Lukashenko's election in 1994, the powers of the parliament (Supreme Soviet) declined in tandem with a steady strengthening of executive powers, and a practice of governing by presidential decree. Following a referendum in 1996, the President's powers were further broadened and his term of office extended until 2001.

The 1994 Constitution was amended as proposed in the referendum despite a constitutional court ruling that the referendum was not binding. The Supreme Soviet was transformed into a bicameral parliament, consisting of a House of Representatives made up of 110 deputies and a Council of Republic consisting of 69 members. The members of the House of Representatives were chosen from among the 199 members of the Supreme Soviet of the 13th Convocation. Some of the members of parliament (MPs) refused to join the new parliament and continue to consider the 13th Supreme Soviet as the only legitimate parliament.

In 1997, the Council of Europe suspended the republic's guest status in the organisation. The OSCE Parliamentary Assembly continued to recognise the MPs from the 13th Supreme Soviet as the legitimate representatives of the country's parliament.

The October 2000 elections to the 110-seat House of Representatives were the first parliamentary elections in Belarus since the disputed referendum of 1996 and the subsequent constitutional controversy. They followed a year of intense domestic and international activity that sought to create the conditions for democratic elections.

In August 2000, the OSCE/ODIHR, the OSCE Parliamentary Assembly, the OSCE Advisory and Monitoring Group (AMG), the Council of Europe, the European Parliament, and the Interparliamentary Assembly of the Commonwealth of Independent States met in Vienna to review the conditions for democratic elections in Belarus. They concluded that the Belarus authorities had not made enough progress to justify the presence of a full election observation mission. However, the conference concluded the improvements and changes that had been made in the legal framework of the elections justified the deployment of an OSCE/ODIHR Technical Assessment Mission (TAM), excluding any observation on election day.

The TAM found that the parliamentary elections in Belarus failed to meet international standards for democratic elections, including those formulated in the 1990 Copenhagen Document of the OSCE. Despite some improvements since previous elections, the process remained flawed. Representatives of the newly elected parliament and the 13th Supreme Soviet competed for recognition by the OSCE Parliamentary Assembly. However, the OSCE PA decided to leave the Belarus parliament's seats in the assembly vacant and to reconsider the decision after the presidential election.

On 7 June 2001, the House of Representatives of Belarus called for a presidential election on 9 September 2001. In early July, another meeting convened by the OSCE Chairmanship, with the participation of the OSCE/ODIHR, the OSCE Parliamentary Assembly, the OSCE/AMG, the Council of Europe, the European Commission, the European Parliament, and the US-based National Democratic Institute (NDI) recommended that the OSCE/ODIHR establish a full observation mission for the 9 September presidential election in Belarus, including the deployment of short-term observers for election day. On 9 July, the OSCE/ODIHR communicated its intentions to observe the presidential election to the Belarus Ministry of Foreign Affairs (MFA). In subsequent communications with the MFA, the OSCE/ODIHR reiterated that it was prepared to deploy the full observation mission on 1 August.

Development of civil society

In connection with the presidential election, civil society in Belarus showed encouraging and significant signs of substantive engagement by citizens on democracy issues.

Non-governmental organisations co-operated closely in order to set up a countrywide network of independent election observers. More than 10 000 such observers were registered by the non-governmental organisations co-operating under the umbrella group "Belarus Initiative – Independent Observation". Thousands more were registered on behalf of other candidates and non-governmental organisations.

For years, several political parties of the opposition co-operated within the framework of an "Advisory Council". In 1999, they negotiated with the authorities on limited democratic reforms involving the opposition's access to the media, the functions of the parliament, a legal framework for democratic elections, and the respect of human rights. First results were achieved in November 1999, but abandoned by the authorities shortly thereafter. None the less, these events enabled the opposition to develop a political culture of co-operation and a capacity to compromise.

After in-depth discussions on the issue of participation or boycott in the parliamentary elections, the opposition divided. Nevertheless, unity was re-established in 2001 for the presidential election. Thus, a large number of political and social groups initiated the establishment of a coalition in support of a single candidate for the presidential election, and eventually achieved this goal. They agreed to introduce five candidates initially in order to ensure the registration of at least one. They also agreed that those of the five registered would then pick a single candidate to represent them and the others would withdraw their candidatures.

In conclusion, the emergence of a genuine choice for citizens and the emergence of a coalition of political and social forces constitute a strong indication for the maturing of democratic forces capable of shouldering public responsibility on all levels of government and legislation – local, regional and central.

Delayed observation and visa denials

The Belarus authorities delayed the invitation to the OSCE/ODIHR to observe the presidential election by several weeks and then further delayed issuing visas to members of the observation team. As a result, the OSCE/ODIHR could not start the deployment of the long-term team until 17 August. This prevented the OSCE/ODIHR from observing critical early phases of the election process and forced it to deploy a Limited Election Observation Mission (LEOM) rather than a standard, full, and in-depth mission.

The delayed invitation prevented the OSCE/ODIHR from fulfilling its mandate to observe the entire electoral process – "before, during and after elections" (Budapest Concluding Document, chapter VIII, paragraph 12, 1994; and Istanbul Summit Declaration, paragraph 26, 1999). The OSCE/ODIHR was prevented from observing: 1. the formation of election commissions; 2. the signature gathering for candidates; 3. the candidate registration and the complaints and appeals thereafter; and 4. the first week of a four-week election campaign and media coverage.

In addition, two members of the LEOM were denied visas and entry into the country.

The OSCE/ODIHR is aware of the sovereign right that states have to control entry into their territory. However, in order to fulfil its mandate as an independent institution, the OSCE/ODIHR must be able to determine the size, composition and duration of its election observation missions without undue interference from states.

In contrast to the delayed invitation and visa denials by the MFA, all observers of the ILEOM were promptly accredited by the Central Commission of the Republic of Belarus for Elections and the Conduct of Republican Referenda (CEC). In addition, the MFA granted all visa requests for short-term observers.

Legal framework

The Constitution of the Republic of Belarus, the Electoral Code, other legislative acts governing election-related activities, presidential decrees, and decisions of the CEC constitute the legal basis for the presidential election. The constitution provides that generally accepted principles and norms of international law supersede national laws (Article 8).

Article 79 of the Electoral Code provides that a candidate is elected if more than half of citizens included in the voter register take part and if the candidate wins more than half of the votes cast. Otherwise, a second round takes place not later than within two weeks between the two candidates with the highest votes. The same requirements apply to the second round and the process is repeated until the two conditions are met.

The Electoral Code was adopted in February 2000 and amended in July of the same year, shortly before the parliamentary election. Some shortcomings detailed in earlier OSCE/ODIHR reports were remedied, but other more fundamental flaws were not changed.

The Electoral Code may provide for democratic elections if it is not interpreted in a restrictive spirit. The CEC has the right to explain the Electoral Code and other election-related legislation for the purpose of their uniform implementation (Article 33). On 15 June 2001, the Constitutional Court, interpreting liberally the constitution's Article 80 provision for "citizen of the Republic of Belarus, permanently residing in Belarus" and acting upon a request from the CEC, ruled that there was no constitutional bar for the CEC to register the initiative group of Zenon Poznyak for the presidential election, even though Poznyak has lived abroad for the past three years.

The problematic and fundamentally flawed aspects of the legislative framework include:

– rule by presidential decree – although the constitution (Article 101, paragraph 3) generally permits the President to issue decrees in "instances of necessity and urgency", as illustrated by Decrees Nos. 8, 11, and 20, such decrees fall short of the intent of the constitutional provision when the President is also a candidate and the decrees impact on the electoral process, in particular by restricting the rights of other participants in the process – namely political parties, potential candidates, and public associations;

– insufficient provisions to ensure the integrity of the voting and no transparency during the tabulation of results – overly permissive early voting provisions; absence of separate accounting for the early and mobile voting; and the complete absence of polling station level details to substantiate the vote tabulation results at the territorial, *oblast*, and CEC levels;

– restrictive provisions for observers – a prohibition on holding press conferences until election day is over; no right to accompany result protocols during transport to higher level commissions; no right to approach the work area where ballots are handed to voters, their identification checked, the voter register marked, and no right to periodically inspect the voting booths;

– restrictions on free and fair campaigning – excessive campaign regulations that restrict candidates' ability to reach voters and that stifle public debate during the electoral process. Presidential Decree No. 11 (7 May 2001) introduced additional limitations on the freedom of expression. Thus, political parties, trade unions, and other organisations may only organise demonstrations with an expected turnout over 1 000 with prior permission from the head of *oblast* or the city of Minsk executive committee. The organising party or trade union may be disbanded for a violation of this decree;

– limited opportunities to challenge CEC decisions – the Electoral Code stipulates that only a limited number of CEC decisions may be appealed to the Supreme Court: the denial of registration of a nominated candidate, acceptance of the withdrawal of a candidate without valid cause, and the invalidation of elections. In addition, the time frame for appeals is short, for example, appeal on invalidation of elections shall be lodged with the CEC not later than the day following the elections;

– independence of electoral commissions not ensured – the code does not ensure sufficient institutional independence of the CEC and lower commissions from executive bodies. The code provides that executive authorities should support the election commission in their work (Article 38). The executive authorities have instead attempted to direct the work of the electoral commissions.

Election administration

The election is administered through a pyramid structure of election commissions, beginning with the CEC and descending down through the Territorial Election Commissions (TEC) of *oblast* and Minsk City level (7), then *rayon* (region), city and city district level (161), and thereafter to the Precinct Election Commission (PEC – polling station) level (6 753). From an organisational point of view, the preparations for the election were conducted well, respecting the legal terms for formation of the commissions, registration of candidates, and voter registration.

The Law on the Central Commission of the Republic of Belarus for Elections and Republican Referenda (30 April 1998) established the CEC as an independent body. Through its resolutions and decisions, the CEC provided for the uniform application of the Electoral Code. However, the CEC declined to issue regulations, instructions or decisions to improve some of provisions of the Electoral Code that were problematic during the parliamentary election in October 2000 – for example, early voting, tabulation of results, the rights of observers. An exception is the mobile voting process that was improved.

The LEOM received notice to attend only three out of the five meetings of the CEC held during the three weeks leading to election day. However, regular contact was maintained with the CEC and its staff. Although the election commissions have generally responded to inquiries from the LEOM, detailed information about the composition of the lower level commissions has been difficult to obtain. Based on information available for thirty out of one hundred and sixty-one territorial, *rayon*, town and town district election commissions and for all six *oblast* and Minsk City election commissions, a quantitative analysis shows almost 81% of members are closely associated with or dependent on the executive administration (the so called "vertical structures").

The CEC has provided the following information on the composition of election commissions:

– 168 TECs – 2 179 members (1 094 women – 50.02%), of which only 67 were nominated by political parties;

– 6 753 PECs – 78 407 members (50 616 women – 64.56%), of which only 172 were nominated by political parties.

The LEOM was not yet deployed when these commissions were nominated and appointed. However, from complaints filed by citizens and associations as well as from the limited statistical data presented above, it becomes clear that the appointment process can hardly be described as balanced. The Electoral Code failed to ensure the representation of various political interests in the commissions.

The Electoral Code provides for the independence of the election administration from the state and local administration (Article 11), and for clear distinction between the role of the election commissions and the supporting role of the local executive. The latter's role is limited to providing premises for the commissions and logistic support, to create conditions for the normal conduct of the campaign by candidates, etc. In order to secure better co-ordination the Electoral Code provides for the bodies appointing the commission to have a representative member (Article 35). However, instead of the prescribed supportive role, the local executives were "supervising" the work of the commissions. This "closeness" is always explained with practical and operational reasons.

Registered voters

The total number of voters registered for the election is 7 221 434 (as of 4 September). They will cast ballots in 6 753 polling stations throughout Belarus and 37 abroad. The voters are nearly evenly distributed throughout the country, with the largest region, Minsk City, only 5% greater in number of resident voters than the smallest.

The legislative provisions and CEC regulations for the compilation of voter registers do not provide comprehensive guarantees that each voter is included in the voter list of only one polling station.

The LEOM was informed by the CEC that the number of printed ballots exceeds the size of the electorate by approximately 7%. The order to the printing house was prepared on the basis of the requests of oblast and Minsk city election commissions.

Candidate registration

Initiative groups of twenty-two candidates were registered by the CEC to collect the required 100 000 signature petitions. Eventually, sixteen presented candidate petitions for approval by *rayon*, city, and city district commissions. While the failure of the Belarus authorities to invite the OSCE/ODIHR promptly prevented the LEOM from observing the entire candidate registration process, the LEOM reviewed the complaints regarding the signature gathering process and found allegations about: 1. unauthorised local officials involved in registration of signature sheets; 2. petitioning among employees of state enterprises; 3. observers not allowed to monitor the petitioning process; and 4. obstacles to petitioning. In the case of the first allegation, the CEC found for the complainant and addressed the relevant TEC. The last case was referred to the prosecutor's office. In the case of the remaining allegations, the CEC found insufficient evidence.

In the end, four candidates were registered by the CEC on 14 August: the incumbent, President Alexsandr Lukashenko; Vladimir Goncharik, the current head of the Federation of Trade Unions of Belarus; Semion Domash the former governor of Grodno *oblast*; and the leader of the Liberal Democratic Party, Sergey Gaidukevich. In keeping with an agreement forged between a broad coalition of opposition parties, associations and NGOs, Semion Domash withdrew his candidacy on 22 August in favour of Vladimir Goncharik, the joint or "single democratic candidate". Only the remaining three appeared on the ballot paper. Thus, a genuine choice is available to voters in Belarus in this election.

The controversial Presidential Decree No. 20 regarding the income and property declaration of candidates and their relatives was not used to disqualify candidates.

The campaign

The rigid restrictions imposed on candidates by the existing legal and administrative framework, together with the constitutional powers granted to the incumbent, made for a skewed political contest. Each candidate is entitled to the equivalent of approximately US$12 500 in funds provided for the campaign by the state. They are not allowed to use funds other than those contributed to the common election fund and distributed equally among candidates. Presidential Decree No. 11 further limited candidates' opportunity to organise public mass meetings with supporters.

The official campaign began immediately after candidates were registered on 14 August. In the latter stages of the campaign, a small number of events were organised, in particular by the incumbent on 4 September in Minsk (approximately 2 500 attending), and by Goncharik on 3 September, also in Minsk (approximately 3 000 attending). Both Goncharik and Gaidukevich held smaller meetings/rallies in regional centres, where in some cases the authorities turned a blind eye to the requirement of prior approval. Otherwise, there was little evidence of any substantive campaign either in Minsk or in the regions. Supported by state institutions and the state-owned mass media, candidate Lukashenko dominated the election campaign.

The tone of the campaign became increasingly fraught and negative as the electoral period approached. Goncharik repeated warnings of early-voting fraud, the danger that his campaign manager would be arrested and that his candidacy itself was in danger of being curtailed by a CEC ruling for alleged abuses of the Electoral Code. Similarly, the President threatened to expel the OSCE Advisory and Monitoring Group Head of Mission, and accused "countries with mature democracy" of an "onslaught" on Belarus, holding back economic performance. Some public statements by senior officials in the election administration structure at the very least created a perception of biased election commissions, that is to say, CEC Chairwoman Yermoshina's characterisation that any

potential defeat of the incumbent would be "a personal tragedy" for her.

During the weeks leading to the election, there was little if any visible evidence of public display of materials for mobilising supporters. Posters were restricted to a limited number of approved sites, and otherwise routinely removed either by the cleaning services or, as claimed by the opposition political parties, by members of the security forces. However, a public information campaign sponsored by the CEC featuring politically neutral posters and TV spots informed voters on election procedures.

The LEOM was also deeply concerned about the level of harassment of political opposition and domestic monitoring groups. Specific incidents of seizure of office equipment and campaign materials, frequent tax inspections, and detentions of those found in possession of materials deemed slanderous of the President were recorded. These incidents had a chilling effect on an already minimal level of public campaigning.

There was a considerable increase in the number and variety of public opinion polls immediately prior to the 30 August legal ban on the publication of opinion poll results. The polls reflected a wide divergence between information sources available for the public in the mass media. Those issued in state-owned publications, such as Narodnaya Gazeta on August 30, indicate an "assured victory of A. G. Lukashenko in the first round (65% to 70%)". Conversely, polls attributed to opposition or independent sources indicated a much closer race.

Election disputes, complaints and appeals

The Electoral Code contains various provisions recognising the right of voters, observers, as well as candidates, their proxies, and initiative groups to file complaints against violations of the Electoral Code and appeal certain decisions of election commissions. While individuals may file complaints with electoral bodies to a limited extent, not all types of complaints may be appealed to a court of law. For example, election commission decisions on complaints by observers alleging violation of the Electoral Code during elections and the vote tabulation may only be appealed to a relevant or superior election commission or to the prosecutor's office.

The LEOM has reviewed one hundred and thirty-six complaints and communications filed with the CEC. The LEOM also reviewed copies of about seventy complaints and communications filed with lower election commissions, as well as the prosecutor's office at the local, regional, and national levels prior to election day. These complaints and communications were obtained from domestic observers, human rights organisations, individual voters, candidates or their proxies, and the OSCE AMG. By 9 September, the AMG had received more than 300 complaints. In general, the complaints and communications reviewed were initiated in response to alleged violations of the Electoral Code during the formation and work of election commissions, including complaints related to the access of domestic observers, unauthorised campaigning and use of campaign materials, or issues involving the media. In virtually all cases in which the CEC responses were available to the LEOM, the CEC found either no violation or insufficient facts to warrant consideration. For the most part, the CEC responded to these complaints within the required three days or within ten days if the alleged facts required verification. Many of the CEC's responses merely cited the legal provision upon which its decision was based, seldom issuing fully reasoned decisions.

Complaints involving observer access to meetings of election commissions were routinely rejected. In a number of complaints, observers allege that election commissions failed to provide notice of sessions. The CEC found that electoral bodies had acted in accordance with the law. For example, in response to complaints in both Mogilev and Brest *oblasts* filed with the CEC on 1 and 2 August, alleging that the district election commissions violated the right of observers by not allowing them in the electoral commission sessions, the CEC ruled that observers only have the right to be present during official sessions of the election commissions, not during the processing of documents.

Early voting

Permissive legal provisions for casting early votes open the electoral process to possible manipulation. Article 53 of the Electoral Code required no justification, documentary or otherwise, for citizens to vote early. The early voting provisions extended the 9 September election to a six-day process. Early voting could take place in all polling stations across the country and in the presence of a minimum of only two election commission members, though observers could also be present. At the end of each day of early voting, no protocols were prepared, and the ballot boxes were sealed and stored overnight. However, polling stations are not provided with unique seals and no specific instructions were issued by the CEC for securing the ballot boxes overnight. At the conclusion of voting on 9 September, the early, mobile and regular polling ballot boxes are required to be opened separately, and the votes counted and noted in a working protocol. The working protocols are not available to observers. Only the totals from all boxes are entered in the final and official polling station protocols available to observers. These final protocols include no information on the total number of ballots found in each of the early, mobile and regular ballot boxes.

The ILEOM observed the early voting in more than 600 polling stations across the country where the average turnout was 18%. In Grodno *oblast*, seventeen polling stations observed had a turnout of more than 30%. At the conclusion of early voting on 8 September, the CEC announced that the turnout was 14.7%.

In almost 90% of polling stations visited by the ILEOM, the back of ballot papers had been signed in advance by commission members in violation of the Electoral Code. Domestic observers were not present in 49% of polling stations visited. In 45% of polling stations observed, unauthorised persons were present, in an overwhelming majority of cases (93%), police.

Election day and vote count

The ILEOM observed more than 1 000 polling stations on 9 September. The following comments are based on about 80% of these polling station reports processed. However at the time of writing this statement, the ILEOM had not processed narrative comments on the reports submitted.

International observers assessed the conduct of the voting "good" or "excellent" in 70% of polling stations visited. In 86% of polling stations visited, voters were asked for identification documents, voters signed the register properly in 87% of cases, and the secrecy of the voting was respected in 79%. However, group voting took place in 26% of polling stations visited, in 45% of cases the ballots were pre-signed, and in 15% of cases unauthorised persons were assisting or directing the work of commissions.

At the time of preparing this preliminary statement, the ILEOM had not processed the vote count reports submitted by observers.

Tabulation of results

The provisions of the Electoral Code for the tabulation of the results at district, *oblast* and national levels are not sufficiently transparent to allow an independent audit by voters, candidate representatives and observers. The CEC is obligated to publish only the accumulated nationwide totals,

without providing, at each of the district and *oblast* levels, detailed results by polling station to justify the totals announced. During past elections, this lack of transparency has raised questions about the integrity of the results announced. Regrettably, the authorities of Belarus declined to address this fundamental flaw in the electoral process of the country in time for the presidential election.

At the time of preparing this preliminary statement, the ILEOM did not have sufficient information to assess the actual tabulation of the results countrywide.

Mission information and acknowledgments

The OSCE/ODIHR Limited Election Observation Mission (LEOM) was established in Minsk on 17 August and shortly thereafter started monitoring the electoral process with twenty-seven experts and long-term observers deployed in the capital and seven regional centres. The LEOM includes nationals from twenty countries throughout the OSCE region – Bulgaria, Croatia, Denmark, Germany, Italy, Kyrgyzstan, Lithuania, "the former Yugoslav Republic of Macedonia", Netherlands, Poland, Romania, Russian Federation, Slovakia, Sweden, Switzerland, Tajikistan, Ukraine, Federal Republic of Yugoslavia, United Kingdom, and United States of America. On election day, the ILEOM deployed 293, including 57 from the OSCE PA, 12 from the Parliamentary Assembly of the Council of Europe, and 10 from the European Parliament, representing the political spectrum. The ILEOM monitored the polling and vote count in over 1 000 precincts throughout Belarus.

Thanks to generous voluntary contributions from participating states, the OSCE/ODIHR was able to recruit core team members and long-term observers including from participating states in transition to take part in the long-term phase of the LEOM, and forty-seven observers to take part in the short-term phase of the observation.

This statement of preliminary findings and conclusions is issued before the final certification of the results and before a complete analysis of the observation findings. The OSCE/ODIHR will issue a comprehensive report on these elections approximately one month after the completion of the process.

The ILEOM wishes to thank the OSCE Advisory and Monitoring Group (AMG) in Belarus as well as the embassies of OSCE participating states and members of the European Union and the Council of Europe for their support throughout the duration of the mission.

The ILEOM wishes to express appreciation to the Ministry of Foreign Affairs, the Central Election Commission, and other national and local authorities for their assistance and co-operation during the course of the observation.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Communication from the Committee of Ministers
Doc. 9223 – 24 September 2001

Declaration of the Committee of Ministers on the situation of political prisoners in Azerbaijan

Declaration to the Parliamentary Assembly (adopted by the Committee of Ministers on 21 September 2001 at the 765th meeting of the Ministers' Deputies)

The Committee of Ministers of the Council of Europe welcomes the news that the President of the Republic of Azerbaijan has issued on 17 August 2001 a decree pardoning eighty-nine political prisoners, sixty-six of whom have been released and twenty-three of whom have had their sentences reduced. This is a significant step forward in the development of democracy in Azerbaijan, as a result of the independent experts' report to the Secretary General, the Committee of Ministers' efforts through its Monitoring Group GT-SUIVI.AGO and the Parliamentary Assembly's monitoring procedure.

The Committee of Ministers nevertheless points out that on joining the Council of Europe Azerbaijan undertook to release or grant a new trial to all political prisoners, identified as such by the experts, some of whom are still in prison, in particular Mr Iskander Gamidov, Mr Alikram Gumbatov and Mr Raqim Gaziyev, expressly mentioned in Parliamentary Assembly Opinion No. 222 (2000). The Committee of Ministers, however, welcomes the decision of the government of Azerbaijan to grant a new trial to Mr Gamidov. It renews its request to the Azerbaijan Government to persevere in its efforts to honour its obligations to the full. It hopes that the tenth anniversary of the independence of Azerbaijan on 18 October 2001 will afford the opportunity for a further gesture of reconciliation and will provide a solution to a problem which should not exist in a Council of Europe member state.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Opinion[1]
Doc. 9224 – 24 September 2001

Right to family life for migrants and refugees

(Rapporteur: Mr MAGNUSSON, Sweden, Socialist Group)

I. Conclusions of the committee

1. The committee can express its support for the draft recommendation in the report presented by the Committee on Migration, Refugees and Demography. It nevertheless wishes to put forward the following amendments:

Amendment A

In the draft recommendation, move paragraph 11.i and make it into a new paragraph 11.iii.*a*, and replace the existing text by: "comply fully with the international legal instruments relating to the reuniting of families, particularly the provisions of the European Convention on Human Rights (ECHR) and the relevant recommendations of the Committee of Ministers".

Amendment B

In paragraph 11.iii.*c* of the draft recommendation, replace the words "and in particular include in the definition the members of the natural family and dependent relatives" with "and in particular include in the definition the partner, natural children and persons who are elderly or infirm or who are dependents for any other reason".

Amendment C

In paragraph 11.iii.*g* of the draft recommendation, replace the words "and reducing any waiting period to a maximum of twelve months" with "and restricting the duration of the family reunion authorisation procedure to a maximum of twelve months".

2. A large number of proposals made in the draft recommendation are taken from the Parliamentary Assembly's previous text, Recommendation 1327 (1997). The committee asked to produce the report thus took the view that these remained valid, including the definition given of the family concept and the recommendation that it be made possible for persons under temporary protection to benefit from the reuniting of their family.

3. The committee can agree with the request for greater humanity to be introduced into the processing of migrants' applications and into the acts and decisions of national authorities, in the absence of legal harmonisation, as well as with the need to simplify and shorten the procedures.

II. Explanatory memorandum, by Mr Magnusson

1. Mrs Aguiar's excellent report condemns the absence of harmonisation and the severity of the conditions for the reuniting of the families of migrant workers and asylum seekers, on the one hand, and, on the other, the cases in which family unity is jeopardised by the sending back to their countries of origin of illegal migrant workers and rejected asylum seekers.

2. In order for arbitrary action and decisions by the authorities to be able to be countered, legal provisions safeguarding the right to family life need to be included in national legislation. These must in the first instance draw on the most favourable relevant international legal standards, given that there is to date no harmony between the existing legal instruments, which first and foremost need to be fully applied (meaning, in our view, that an assurance is needed that the bodies which supervise application of the treaties should effectively monitor these instruments), or even between the bodies of different institutions. This is the intention of the first amendment, which seeks to amend the proposal to "step up the monitoring of member states' compliance with international legal instruments". That proposal is not accompanied in either the draft recommendation or the explanatory memorandum by any reference to the means which should be used to do so.

3. The concept of the "family", in particular, is not uniform in the different national legal systems, or even in the various international treaties, where the reuniting of families is concerned. In the light of developments in society, and for the sake of the principle of humanity, the scope of this definition should include the partner, natural children, and dependent descendants and ascendants.

4. The often demanding financial and accommodation guarantees required by the national authorities of certain states seem a serious obstacle to the aim of reuniting families, and the relevant recommendations and guidelines issued by the United Nations High Commissioner for Refugees (UNHCR) should be complied with, as rightly requested by the committee to which the report has been referred. A common minimum standard for national legislation should therefore be based on the approach advocated by the UNHCR.

5. The Community approach to immigration and asylum for which the European Union is striving will not necessarily lead to "harmonisation at the highest level", and it is legitimate to express fears about the gulf that could soon separate Community legislation as interpreted by the European Court of Justice from the case-law of the European Court of Human Rights relating to Article 8 of the ECHR.

1. See Doc. 9195, presented by the Committee on Migration, Refugees and Demography.

6. Finally, there is justification for asking the United States to recognise the principle of family reunion, and it seems offensive that a traditional country of immigration prevents families afflicted by misfortune from reuniting on its soil.

7. The purpose of the final amendment is to make clear what is meant by "waiting period", a term which does seem rather imprecise.

Reporting committee: Committee on Migration, Refugees and Demography.

Committee for opinion: Committee on Legal Affairs and Human Rights.

Reference to committee: Doc. 8985 and Reference No. 2626 of 25 June 2001.

Opinion approved by the committee on 24 September 2001.

The text will be discussed at a later date.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Opinion[1]
Doc. 9225 – 24 September 2001

Campaign against trafficking in women

(Rapporteur: Mrs WOHLWEND, Liechtenstein, Group of the European People's Party)

I. Conclusions of the committee

1. The Committee on Legal Affairs and Human Rights fully supports the draft recommendation tabled by the Committee on Equal Opportunities for Women and Men, but would like to further strengthen the text, in particular as regards the proposed elaboration of a convention on traffic in women.

II. Proposed amendments

2. The committee thus proposes the following amendments to the draft recommendation:

Amendment A

Replace sub-paragraph 10.i by the following sub-paragraph:

"to make it a criminal offence under national law to traffic women or to knowingly use the services of a trafficked woman, and to strengthen legislation and enforcement mechanisms which punish traffickers and clients of trafficked women;".

Amendment B

Replace sub-paragraph 10.viii.*g* with the following sub-paragraph:

"granting residence permits to victims of trafficking, of a permanent nature for those who are willing to testify in court and need protection, and of a temporary but renewable nature for all others on humanitarian grounds;".

Amendment C

Add at the beginning of sub-paragraph 10.ix.*a* the following text:

"extraditing or"

and add at the end of the same sub-paragraph the following text:

"and irrespective of whether there has been a complaint from that country or those countries".

1. See Doc. 9190, tabled by the Committee on Equal Opportunities for Women and Men.

Amendment D

In sub-paragraph 10.ix.*b*, replace "for clients of victims of sexual exploitation" with the following text:

"for knowingly using the services of a trafficked woman".

Amendment E

Add the following sub-paragraph after sub-paragraph 10.ix.*d*:

"providing legal assistance to victims of trafficking and considering the introduction of special rules in civil proceedings engaged by victims against their traffickers, such as lightening the burden of proof on the use of force;".

Amendment F

Replace sub-paragraph 11.ii with the following text:

"elaborate a European convention on traffic in women, open to non-member states, based on the definition of traffic in women included in Recommendation No R. (2000) 11 on action against trafficking in human beings for the purpose of sexual exploitation. This convention should:

a. focus on assistance to and the protection of victims of trafficking, by obliging the state parties to grant legal, medical, and psychological assistance to such victims, to ensure their physical safety and that of their families, and to grant special residence permits to victims on humanitarian grounds, and permanent residence permits to those willing to testify in court and in need of witness protection;

b. stipulate repressive measures to combat trafficking through harmonisation of laws especially in the penal field, and opening new channels for improved police and judicial co-operation across borders;

c. include a non-discrimination clause modelled on the one proposed by the Assembly in Opinion No. 216 (2000) on draft protocol No. 12 to the European Convention on Human Rights;

d. establish a control mechanism to monitor compliance with its provisions;

e. be submitted in its draft form to the Assembly for opinion."

III. Explanatory memorandum, by Mrs Wohlwend

1. I would like to congratulate Mrs Err on her very detailed and exhaustive report. Her views and recommendations deserve the full support of our committee.

2. Since my last report on the subject four years ago, the situation in Europe has further deteriorated. While women are still trafficked mainly for purposes of sexual exploitation, new forms of exploitation – such as domestic slavery – have unfortunately had to be added to the list. There is no doubt that traffic in women remains one of the most urgent problems which Europe has to solve.

3. The Committee of Ministers followed my recommendation made in 1997 to adopt, as a provisional measure, a recommendation dealing specifically with traffic in women: Recommendation (2000) 11. This was an important step in the right direction, and should be applauded as such. The main recommendation of the Assembly, formulated in Recommendation 1325 (1997), has, however, so far not been followed up: the elaboration of a convention on traffic in women and forced prostitution, complete with a control mechanism to monitor compliance with its provisions. In its reply to the recommendation, the Committee of Ministers declared that "the question of elaborating a draft convention could be reconsidered once the draft recommendation has been completed". It is thus very important that the Assembly re-emphasises the importance of drafting such a convention.

4. It is for this reason that I propose strengthening the draft recommendation proposed by the Committee on Equal Opportunities for Women and Men, regarding the elaboration of a convention with a control mechanism, and regarding the criminalisation of knowingly using the services of a trafficked woman, be it of a woman forced into marriage, prostitution, or domestic slavery.

Reporting committee: Committee on Equal Opportunities for Women and Men.

Committee for opinion: Committee on Legal Affairs and Human Rights.

Reference to committee: Doc. 7868 and Reference No. 2293 of 26 May 1998; Doc. 8405 and Reference No. 2388 of 26 May 1999.

Opinion approved by the committee on 24 September 2001.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Report
Doc. 9226 – 24 September 2001

Honouring of obligations and commitments by Ukraine

(Rapporteurs: Ms SEVERINSEN, Denmark, Liberal, Democratic and Reformers' Group and Mrs WOHLWEND, Liechtenstein, Group of the European People's Party)

Summary

The co-rapporteurs welcome the fact that Ukraine has recently made considerable progress in the fulfilment of its formal obligations, in particular in adopting or amending important pieces of legislation.

At the same time, they note with regret that some crucial laws listed in the obligations and commitments entered into by Ukraine are still subject to long-lasting discussions in the Rada. A key deficiency of the legal system remains the weak and inconsistent implementation and enforcement of the law.

With regard to domestic legislation and implementation of reforms, the co-rapporteurs appeal to the Ukrainian authorities to strengthen co-operation with the Council of Europe in order to ensure full compatibility of Ukrainian legislation with the Organisation's principles and standards, especially with standards guaranteed by the European Convention on Human Rights and the Strasbourg Court's case-law.

The co-rapporteurs condemn the continuing murders of journalists, aggression against and intimidation of journalists, members of parliament and opposition politicians in Ukraine. They call on the Ukrainian authorities to ensure the rule of law, to conduct their media policy in a way which will convincingly demonstrate respect for the freedom of expression in the country and to improve the legal framework for the media and the safety and working conditions of journalists.

The co-rapporteurs conclude that, although notable progress has been made since the Assembly's latest resolution on Ukraine, Ukraine is still far from honouring all obligations and commitments as a member state of the Council of Europe. They suggest therefore that the Assembly continues to pursue the monitoring procedure in respect of Ukraine in close co-operation with the Ukrainian delegation.

I. Draft resolution

1. The Parliamentary Assembly refers to its Resolutions 1179 (1999), 1194 (1999), 1239 (2001) and in particular to Resolution 1244 (2001) on the honouring of obligations and commitments by Ukraine, adopted by the Assembly on 26 April 2001.

2. In respect of Resolution 1244 (2001), the Assembly recalls the firm commitment of the Ukrainian delegation and the leaders of the parties and factions of the Rada to fulfil Ukraine's obligations and commitments, including in particular:

i. a framework act on the legal policy for the protection of human rights;

ii. a framework act on legal and judicial reform;

iii. a new criminal code and a code of criminal procedure;

iv. a new civil code and a new code of civil procedure;

v. transformation of the role and functions of the General Prosecutor's office;

vi. the completion of the interrupted ratification process of the European Charter for Regional or Minority Languages, and adequate protection for all minority groups in Ukraine.

3. With regard to these obligations and commitments, the Assembly is pleased to note that:

i. a new criminal code was adopted by the Rada on 5 April 2001, and signed by the President on 17 May 2001; it entered into force on 1 September 2001;

ii. a final draft of a new code of criminal procedure was submitted to the Rada on 23 June 2001;

iii. the first four chapters of a new civil code and a law on amendments to the existing code of civil procedure were adopted by the Rada on 21 June 2001;

iv. a new law on political parties was adopted by the Rada on 5 April 2001, signed by the President on 28 April 2001;

v. a package of ten laws ("small judicial reform") was adopted by the Rada on 21 June 2001 that stipulate amendments to existing laws – aiming to ensure the work of the judiciary and law-enforcement bodies after the termination of the so-called "transitional provisions" on 28 June 2001;

vi. a new draft law on the ratification of the European Charter for Regional or Minority Languages was submitted to the Rada on 30 August 2001.

4. With regard to the remaining commitments in the fields of domestic legislation and implementation of reforms, the Assembly urges the Ukrainian authorities to continue their efforts but also to strengthen co-operation with the Council of Europe in order to ensure full compatibility of Ukrainian legislation and practice with the Organisation's principles and standards, especially with standards guaranteed by the European Convention on Human Rights and the Strasbourg Court's case-law.

5. In this respect the Assembly urges the Ukrainian authorities to fully implement the reform of the General Prosecutor's office, in accordance with Council of Europe principles and standards, with a view to abolishing the prosecutor's supervisory functions which are incompatible with the Constitution of Ukraine and risk

undermining the independence of a rather weak judiciary.

6. The Assembly encourages Ukraine to demonstrate democratic progress by ensuring a democratic and transparent preparation for fair and free parliamentary elections next year.

7. The Assembly condemns the aggression against, intimidation and even murder of journalists, members of parliament and opposition politicians in Ukraine. It calls on the Ukrainian authorities to ensure the rule of law, to conduct their media policy in a way which will convincingly demonstrate respect for the freedom of expression in the country and to improve the legal framework for the media as well as the safety and working conditions of journalists. In particular, the Assembly urges the authorities concerned to take the measures outlined in paragraph 5 of Resolution 1244. In addition, it urges them:

i. to accelerate and complete the investigations of the disappearance and murder of Mr Heorhiy Gongadze, or initiate – if necessary – a new independent investigation in this matter;

ii. to conduct a full, transparent and impartial investigation of the murder of Mr Ihor Alexandrov and of other cases of journalists who have died in dubious circumstances;

iii. to initiate a special investigation in the case of Mr Yeliashkevich, Deputy Chairman of the Financial Committee of the Rada.

8. The Assembly welcomes the Presidential Decree of 30 August 2001 on local and regional democracy, but regrets undue dismissal and pressure put on a number of mayors and elected local representatives and urges the Ukrainian authorities to implement fully the European Charter of Local Self-Government which was ratified on 11 September 1997 and entered into force on 1 January 1998.

9. The Assembly urges the Ukrainian authorities to create appropriate conditions for national minorities, so that they can maintain and develop their culture and identity.

10. The Assembly invites the Ukrainian authorities:

i. to subordinate the State Department for Execution of Punishments to the Ministry of Justice, and to complete the transfer of different pre-trial detention centres, still under the authority of the Ministry of the Interior or the security services, also to the Ministry of Justice;

ii. to improve the conditions of detention in the country and to implement the recommendation in the reports which the European Committee for the Prevention of Torture has drawn up following its visits in 1998, 1999 and 2000.

11. In the light of the considerations above, the Assembly concludes that notable progress has been made since its April 2001 resolution on Ukraine, especially in respect of new legislation, most of which, however, has not yet been implemented. The Assembly therefore calls on the Ukrainian authorities to implement and apply firmly the new criminal code and the ratified European conventions in the field of human rights. Ukraine advances certainly on the road towards full pluralist democracy, but is still far from honouring all of its obligations and commitments as a member state of the Council of Europe. The Assembly therefore resolves to pursue the monitoring procedure in respect of Ukraine in close co-operation with the Ukrainian delegation.

II. Draft recommendation

1. The Assembly refers to its Resolution 1244 (2001) on the honouring of obligations and commitments by Ukraine.

2. In the light of the considerations stated in this resolution, the Assembly informs the Committee of Ministers that although Ukraine has made notable progress since the Assembly's Resolution 1244 (2001), especially in respect of new legislation, it is still far from honouring all of its obligations and commitments as a member state of the Council of Europe. The Assembly therefore resolves to pursue the monitoring procedure in respect of Ukraine in close co-operation with the Ukrainian delegation.

3. The Assembly recommends that the Committee of Ministers:

i. pay due attention to the position of the Parliamentary Assembly in respect of the honouring of the obligations and commitments by Ukraine;

ii. encourage the Ukrainian authorities to strengthen co-operation with the Council of Europe in order to ensure full compatibility of Ukrainian legislation and practice with the Organisation's principles and standards, especially with standards guaranteed by the European Convention on Human Rights and the Strasbourg Court's case-law;

iii. intensify the co-operation programmes between the Council of Europe and Ukraine, notably for the implementation of the action plan for the media proposed by the Secretariat, with a view to assisting the Ukrainian authorities in their efforts to accomplish the difficult transition to democracy and to secure fundamental rights and liberties, particularly as regards freedom of expression and the media;

iv. devise specific co-operation activities to assist in the implementation of the European Charter of Local Self-Government, and in strengthening the development of local democracy in Ukraine (both the legislative and regulatory framework and the training of those responsible within local self-government entities);

v. work out specific programmes for developing democratic behaviour and practices amongst the political leaders and the public at large.

III. Explanatory memorandum, by Ms Severinsen and Mrs Wohlwend

A. Introduction

1. The Assembly has already considered three reports on Ukraine's obligations and commitments since the

country's accession to the Council of Europe in November 1995. The Assembly also debated a report on reform of the institutions in Ukraine on 4 April 2000,[1] and it held a debate under urgent procedure on freedom of expression and the functioning of parliamentary democracy in Ukraine during its January 2001 part-session.[2]

2. In its Resolution 1244 adopted on 26 April 2001, the Assembly noted that "Notwithstanding a few positive steps taken by the Ukrainian authorities, notably the ratification on 4 April 2000 of Protocol No. 6 to the European Convention on Human Rights, following the ruling of the Ukrainian Constitutional Court that the death penalty is unconstitutional, the Assembly considers that the President, the Government and the Parliament (Rada) of Ukraine have failed to honour the commitments and obligations of Ukraine as a member state of the Council of Europe."

3. In its Resolution 1244, the Assembly also regretted that "its previous resolutions, in particular Resolutions 1194 (1999) and 1239 (2001), had apparently not convinced the Ukrainian authorities of the need to take without delay a number of measures to meet Ukraine's obligations and commitments as a member state." It decided therefore that "should no substantial progress in honouring these obligations and commitments be made by the opening of its June 2001 part-session, it shall consequently consider imposing sanctions against the Ukrainian parliamentary delegation in accordance with Rules 6 to 9 of its Rules of Procedure."

4. Further to a request from the Chairman of the Verkhovna Rada of Ukraine, Mr Ivan Plyusch, to postpone the debate on the follow-up given to Resolution 1244 (2001) on the honouring of obligations and commitments by Ukraine to the September 2001 part-session of the Assembly, at its meeting on 8 June 2001 in Paris – following an exchange of views on the obligations and commitments of Ukraine – the Monitoring Committee decided to ask the Bureau to remove this item from the draft order of business of the June 2001 part-session.

5. Moreover, at the Paris meeting, the Secretary General of the Council of Europe, Mr Schwimmer, informed the Monitoring Committee of the decision taken by the Ministers' Deputies the previous day, which constituted a follow-up to the Assembly's decision in April and, in particular, its Recommendation 1513 (2001) to the Committee of Ministers. In the case of Ukraine, the Committee of Ministers had decided to take special measures, making use of paragraph 4 of the 1994 Declaration for the first time. The Committee of Ministers will reply to the Parliamentary Assembly's report and make specific proposals on adjusting and stepping up the assistance and co-operation programmes before the September 2001 part-session of the Assembly.

6. At its June meeting, the Monitoring Committee also supported the Secretary General's proposal to jointly organise with the Ukrainian authorities a public conference, with the participation of both the Committee of Ministers and the Parliamentary Assembly, in order to take stock, discuss and help accelerate reform in Ukraine in the light of implementation of commitments. This high level conference could be organised in Ukraine after the September 2001 part-session of the Assembly.

7. In accordance with the decision of the Committee of Ministers, the Secretary General of the Council of Europe has sent a Secretariat delegation to Ukraine within the framework of the 1994 Declaration on compliance with commitments accepted by member states of the Council of Europe. This visit took place from 26 to 29 August 2001, and its conclusions are contained in the document SG/Inf (2001) 27 (see also the concluding remarks of this report).

8. Following the meeting on 6 September 2001 of the Monitoring Committee, the co-rapporteurs also carried out a new fact-finding visit to Ukraine from 9 to 12 September 2001 in order to collect information and to assess the progress made on the respect by Ukraine of its obligations and commitments to the Council of Europe. All these discussions have fed into the present report. Once again, the co-rapporteurs are very grateful to the Ukrainian parliamentary delegation for having organised the visit in accordance with their requests and priorities.

B. Adoption of laws and regulations – latest developments

9. As for the law on political parties, on 27 March 2000 the Verkhovna Rada of Ukraine approved the "Law of Ukraine on political parties". But, following a veto by the President, it had been referred to the Constitutional Court. A new version of the law on political parties was finally adopted by the Rada on 5 April 2001 and was also signed by the President on 28 April 2001. Further work is continuing on by-laws relating to the functioning of political parties, especially concerning financing.

10. Similarly, the new Criminal Code was adopted by the Rada on 5 April 2001, signed by the President on 17 May 2001, and entered into force on 1 September 2001. This important new piece of legislation contains, *inter alia*, no provisions on criminal responsibility for defamation. However the co-rapporteurs regret that the Council of Europe experts have never had the opportunity to examine the provisions of the new criminal code. In this context, they welcome the suggestion of Mrs Gorbunova, Deputy Minister for Justice who proposed the organisation of an international seminar on the critical issues related to the criminal code with a view to creating a more transparent system.

11. On 21 June 2001 the Rada also adopted laws and amendments to the Code of Criminal Procedure and to the laws on operative and search activity, on the police, on pre-trial detention and on administrative supervision of persons released from places of detention. On 23 June a final draft of a new code of criminal procedure was submitted to the Rada.

12. On 22 March 2001 the Rada voted (284 to 9) to pass a new bill on the introduction of a proportional party list system in parliamentary elections, taking into account twenty-three out of the thirty-eight changes proposed by President Kuchma. The bill stipulates that only parties supported by no less than 4% of voters nationwide can be represented in the Rada. This new law on elections which was adopted by a strong majority of the

1. See Docs. 8272, 8424 and 8666, Resolutions 1179, 1194 and 1244, and Recommendations 1395, 1416, 1451 and 1513.
2. See Docs. 8945 and 8946, Resolution 1239 and Recommendation 1497.

Rada (but failing to obtain the necessary two-thirds) had afterwards been vetoed by the President.

13. On 7 June 2001 the Rada passed a new version of the law on elections, providing for a new mixed system of voting; 335 members of the Rada will have to be elected on party lists and 115 in accordance with the majority system from electoral constituencies (at present the Rada is elected in equal numbers by proportional and majority election systems). Although this new election law was supported by a strong majority of the Rada, the President stated that he would veto it again on the grounds that "it would restrict the rights of citizens of Ukraine".

14. In this respect the co-rapporteurs were informed by Mr Beszmertny, representative of the President in the Rada, that there were disagreements between the Rada and the President on the modalities as to how to ensure appropriate representation of the political parties in the Rada, the length of the election campaign foreseen by the law, and other technical problems. The co-rapporteurs very much hope all the same that a new election law can be adopted before the forthcoming parliamentary elections in March 2002.

15. In order to prepare the law on the reform of the judicial system, a "council on reforms of judicial system" was established on 30 August 2000 with the aim to develop, analyse and co-ordinate the relevant draft laws. A new co-ordinated draft law on the judicial system has been submitted to the Rada for consideration. However, this co-ordinated draft law on the judiciary was rejected in its third reading by the Rada on 24 May 2001.

16. Instead, a package of ten laws ("small judicial reform") was adopted by the Rada on 21 June 2001[1] that stipulate amendments to existing laws – aiming to ensure the work of the judiciary and law-enforcement bodies after the termination of the so-called Transitional Provisions on 28 June 2001. Obviously these laws do not cover the overall reform of the judicial system required under the Assembly's Opinion No. 190, and the co-rapporteurs' exchanges with the different parties and factions in the Rada have confirmed this view. Mrs Gorbunova, Deputy Minister for Justice, also stressed that the co-ordinated law on judiciary matters was still considered to be a high priority, but the transitory situation was also helping to include in the new drafts the many divergent views on the judicial system and the directions of reform.

17. Moreover, the co-rapporteurs believe that the real value of these (in many respect transitional) changes can only be made by an assessment of how, in practice, these laws are implemented. For their part, NGOs indicated that the independence of the courts at lower levels is not always assured, and that due process is not always respected – particularly in certain cases where the security services or tax authorities have claimed a particular interest.

18. As for the new civil code, on 21 June the Rada adopted only the first three chapters of that code. Ukraine has not yet adopted a new code of civil procedure. Instead, on 21 June the Rada adopted a law on amendments to the old code of civil procedure. A draft code of civil procedure elaborated by the Working Group of the Cabinet of Ministers of Ukraine was transmitted to the cabinet on 26 April 2001 for detailed examination and approval. Following this procedure the draft code will be transmitted to the Rada. The co-rapporteurs welcome nevertheless the fact that on 6 August 2001 the draft code was forwarded to the Director General of Legal Affairs of the Council of Europe for recommendations of its experts.

19. Among the laws and regulations adopted on 21 June by the Rada, one envisages a change in the role of the General Prosecutor's office, bringing it into line with the constitution. (The new Ukrainian Constitution contained a separate chapter on the General Prosecutor's office which according to the opinion of the Venice Commission had been compatible with European standards. It was however undermined by Transitional Provision No. 9 which provided that the General Prosecutor's office continued to exercise its old functions.) Although the Rada amended the law on the General Prosecutor's office on 21 June it seems that the latter does not remove the remit of the General Prosecutor to generally supervise legality.

20. As regards public prosecution, officials explained to the co-rapporteurs that courts would exert a greater control in the activities of the General Prosecutor's office in the future; any action or investigation by the General Prosecutor's office could be appealed to the courts; and it would require prosecutors to obtain warrants from judges before launching searches and arrests (indeed a fundamental step on the road to reform). Yet, the General Prosecutor still has the general supervision of legality until the entering into force of a new law on judiciary (which is still being discussed in the Rada).

21. As Mr Pliusch, the Speaker of the Verhovna Rada, stressed to the co-rapporteurs, the mentality that everything should be decided by the General Prosecutor was now changing. Mr Pliusch was also confident that the remaining laws and regulations which form part of Ukraine's commitment to the Council of Europe will be adopted by 18 January 2002, the end of the mandate of the current parliament.

22. Another matter of concern is the European Charter for Regional or Minority Languages. In December 1999 the Rada adopted a law on the ratification of the charter which was declared unconstitutional under procedural grounds at the Constitutional Court on 12 July 2000. A new draft law on the ratification of the charter was submitted to the Rada on 30 August 2001.

23. As regards the problem of the separation of powers, the co-rapporteurs wish to mention a specific problem. On 29 May 2001 by a presidential decree "state secretaries" were appointed in the different ministries for the President's term of office (five years). Their responsibilities will include "the safeguarding of organisational,

1. These laws were: on amendments to the law on the judicial system; on amendments to the law on the Prosecutor General's office; on amendments to the Criminal Procedure Code; on amendments to the law on the status of judges; on amendments to the law on bodies of the judicial self-governance; on amendments to the law on qualification commissions, qualifying certification and disciplinary responsibility of court judges; on amendments to the laws on operative and search activity, on the militia, on pre-trial custody, on administrative supervision over persons released from places of imprisonment; on amendments to the law on the Court of Arbitrage; on amendments to the Arbitrage Procedure Code; on amendments to the Civil Procedure Code.

legal and analytical and technical work of the cabinet of ministers". The co-rapporteurs believe that this change in the structure of government will enable the President to have even more influence on executive authorities. Opposition politicians strongly criticised this mutation, and the Socialist Party asked the Constitutional Court's opinion on the constitutionality of this decree. However, in this context Mr Zlenko, Minister for Foreign Affairs stressed to the co-rapporteurs that the new institution of state secretaries represented international practice and the main aim of which was to assist the ministers in the fulfilment of their administrative tasks.

24. The co-rapporteurs also wish to report in this respect on two recent visits (17-21 July and 3-4 September 2001), of the rapporteurs of the Congress of Local and Regional Authorities of Europe (CLRAE) to Ukraine. They have examined questions related to the implementation by Ukraine of the European Charter of Local Self-Government and CLRAE Recommendation 48 (1997). The rapporteurs concluded that Ukraine still remained a highly centralised country and, in this respect, some further progress should be made in order to implement more widely the subsidiarity principle laid down in Article 4.3 of the European Charter of Local Self-Government, and to remedy a significant legislative deficit in this context. Undue dismissal and pressure put on a number of mayors and local elected representatives remained a subject of preoccupation. One major obstacle to a full implementation of the charter was the absence of a clearly defined level of local self-government.

25. The co-rapporteurs welcome the readiness of the Ukrainian authorities to honour their commitment to strengthening local and regional democracy, reflected in a decree passed on 30 August 2001 by President Kuchma, and the fact that significant action in this field is foreseen in the proposal for a Joint Programme between the Council of Europe and the European Commission for Ukraine, which is currently under consideration by the European Commission. Future co-operation programmes with Ukraine should give a high priority to the development of local democracy (both the legislative and regulatory framework and the training of those responsible within local self-government entities).

C. Freedom of expression and freedom of the media

26. In its Resolution 1244, the Assembly expressed its concern over "the murders of journalists, repeated aggression against and continuing intimidation of journalists, members of parliament and opposition politicians in Ukraine, and the frequent and serious abuses of power by the Ukrainian executive authorities in respect of freedom of expression and of assembly." Therefore the Assembly urged "the Ukrainian authorities, notably the President, to put an end to the practice of intimidation and repression of opposition politicians and the independent press, and to take all necessary measures to discourage and curb attacks and threats against journalists and other media representatives."

27. In this context the rapporteurs would like to draw attention once again to the unresolved investigation of the disappearance and murder of Heorhiy Gongadze. But this is only the most visible instance of violence against and harassment of independent journalists, politicians and other prominent Ukrainians. In the first half of 2001 only, the Institute of Mass Information registered forty-three cases of violation of journalists' rights or exertion of pressure on the media by authorities. In addition one journalist was murdered, seventy journalists were subject to attacks and intimidation attempts. There have been seven lawsuits against media and harassment of journalists.

28. Mr Oleksy Movsesyean, an employee of the Luhansk based local TV station was severely beaten on 28 August 2001, the latest in a string of attacks on journalists in Ukraine. Commenting on the incident, media NGOs informed the co-rapporteurs that local lawmakers in Luhansk previously often expressed their annoyance at the independent political coverage of the ten-year-old station which they eventually decided to liquidate in June 2001.

29. Mr Ihor Olexandrov, Director of private television and radio company TOR, who sought to expose corruption, was attacked in July 2001 and died in hospital four days later. Mr Olexandrov was the eleventh journalist killed in Ukraine in the last five years. The co-rapporteurs are upset by the claim of Mr Potebenko, General Prosecutor, who said that the killing had in no way been related to Mr Olexandrov's professional activities.

30. As for the case of Mr Gongadze, the General Prosecutor stressed that a new expertise (requested by Mrs Gongadze and supported by the international NGO "Reporters without Borders") would in no way help the investigation. The co-rapporteurs also found somewhat strange his declaration that "no one can name a single case of intimidation of journalists in Ukraine". When asked about the recent legal reforms Mr Potebenko stated that "albeit full of doubts, we have to move along with the decision of the Rada and the President to conform with European standards".

31. The co-rapporteurs also think that the recent verdict against the journalist Oleg Liachko reinforces the pervasive insecurity of journalists who criticise government officials in Ukraine. They support the repeated call by NGOs on President Kuchma to ensure that the Liachko case is reviewed by independent judicial authorities, and that politically motivated criminal prosecution of journalists cease in Ukraine.

32. The co-rapporteurs regret to be told by media NGOs that the recently established Informational Policy Council (by a presidential decree of 3 April 2001) was "only simulating action" and it had no meaningful impact on the situation of freedom of expression in Ukraine. They therefore call on the Ukrainian authorities to conduct media policy in a way which will convincingly alleviate the fears that freedom of expression in the country is under threat.

33. The co-rapporteurs indeed would like to propose that the role of the Human Rights Ombudsman be expanded to the field of the media (following for instance the Swedish example of a media ombudsman).

D. Other issues raised during the last visit of the co-rapporteurs

34. As regards the penitentiary system, the co-rapporteurs were told by the Human Rights Ombudsman, Mrs Nina Karpachova, that, on her insistence, the students unlawfully arrested following the 9 March 2001 demonstrations in Kyiv, had afterwards been released. However, the authorities ignored her appeal to change the charges against those persons considered to be responsible for the outburst of violence on 9 March, from "crime against the state", a paragraph not in use since Soviet time and which could result in eight to fifteen years' imprisonment for the demonstrators. Those persons are still in the pre-trial detention centre (SIZO) of the Ukrainian security services, awaiting court trial.

35. Mrs Karpachova also informed the co-rapporteurs of the often humiliating conditions in Ukraine's prisons, notably as regards the terrible situation of women in the Dnipropetrovsk pre-trial detention centre (SIZO) or in the Kryvyi Rih prison for women, where overcrowding remains a huge problem.

36. In this respect, the co-rapporteurs think that for the sake of transparency and as an incentive for further reforms, the Ukrainian authorities should consider declassifying the reports of the Council of Europe's Committee on the Prevention of Torture. (Ukraine has signed (2 May 1996) and ratified (24 January 1997) the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. The CPT has visited Ukraine in 1998, 1999 and 2000.)

37. At the same time the Human Rights Ombudsman stressed that the new head of the State Department for Execution of Punishments had a more humanist approach to the problems of the Ukrainian prison population. She also informed the co-rapporteurs that a presidential decree foresees the transfer of the so-called "militia holding facilities" still under the authority of the Ministry of the Interior and the pre-trial detention centres under the authority of the security services to the State Department for Execution of Punishments by the end of 2001.

38. Mrs Karpachova voiced also some concerns that the court system might be unprepared for the change foreseen by the recent legal reforms, and the new inter-relationship between the General Prosecutor's office and the courts. It should also be noted that investigators, prosecutors and judges are usually inclined to issue harsh punishments, even against people who have committed petty crimes and do not present a danger to society. Mrs Karpachova also recalled that in trials in Ukraine presided over by judges, the conviction rate is extremely high, over 90%, which might be an indication that the presumption of innocence is not systematically respected.

39. As for the preparation of the forthcoming parliamentary elections, the co-rapporteurs have been informed of a specific problem. The Rada preliminarily approved a draft law on political advertising and propaganda on 7 June 2001. According to prominent media NGOs,[1] should the draft be adopted as a law, it would pose grave dangers to the freedom of expression and the press in the upcoming election. These NGOs stressed to the co-rapporteurs that this draft law violates Article 34 of Ukraine's Constitution, as well as Article 10 of the European Convention on Human Rights, because "it restricts freedom of expression and the freedom to disseminate information but it doesn't fit any of the exceptions under which such restriction can be justified".

40. The Minister for Foreign Affairs agreed with the co-rapporteurs that the forthcoming elections should be an opportunity to demonstrate democratic progress in Ukraine, and in this context he personally invited the co-rapporteurs to observe the March 2002 elections in Ukraine.

41. Finally, the co-rapporteurs wish to report on the case of Mr Yeliashkevich which is of specific concern to the Assembly (see Doc. 9169 (4 July 2001)) on the lack of efficient legal protection in Ukraine (intimidation of Mr Yeliashkevich, member of parliament; motion for a resolution presented by Mr Eörsi and others). During their visit in Kyiv, the co-rapporteurs met Mr Yeliashkevich, Deputy Chairman of the Financial Committee of the Rada and member of parliament since 1994. He was assaulted on the evening of 9 February 2000 and as a result he suffered serious injuries. He suspects that this incident happened for political motives, as he had suggested a special investigation in the Rada into the circumstances of the last presidential elections.

42. During the last year and a half, Ukrainian law-enforcement agencies have failed to take any steps to elucidate this crime, and they intentionally misinformed the public of the nature of the MP's injuries. Mr Yeliashkevich's attempt to resolve the issue by lodging complaints on the basis of the criminal code of Ukraine with regard to the encroachment on the life and health of a member of parliament have been repeatedly refused. As for his case, Mr Potebenko, General Prosecutor, said evasively that the investigation was with the law-enforcement authorities and he could not unveil any details on that. The co-rapporteurs call on the Ukrainian authorities to initiate a special investigation into this matter.

E. Concluding remarks

43. In the light of their latest visit, the co-rapporteurs agree with the conclusions of the above-mentioned report of the Secretariat's assistance and information mission to Ukraine, which, *inter alia*, stated that "Ukraine has recently made significant progress in the fulfilment of its formal obligations, in particular in adopting or amending important pieces of legislation. However, in the absence of any specific legal expertise of these new or revised laws, it is not possible, at this stage, to confirm that these reforms meet with expectations regarding their compatibility with European norms. For this reason, the Ukrainian authorities were invited to transmit, as a matter of urgency, these texts for expertise by Council of Europe experts. It will then be essential to secure implementation of these norms at all levels of society if they are not to remain purely virtual".

44. Moreover, the co-rapporteurs note with regret that some crucial laws listed in the obligations and

1. Irex Pro-Media Ukraine Legal Defence and Education Programme, Internews Ukraine, Association of Independent Broadcasters – Equal Access.

commitments entered into by Ukraine are still subject to long-lasting discussions in the Rada. A key deficiency of the legal system remains the weak and inconsistent implementation and enforcement of the law. The low level of independence of most parts of the judiciary system is among the crucial problems.

45. Ukraine still needs to do more to honour its obligations and commitments. In view of the most recent developments, the following should be areas of priority:

– the full adoption of a new civil code and a new code of civil procedure;

– the adoption of a new code of criminal procedure;

– the adoption of a new co-ordinated law on judiciary;

– the adoption of a framework act on legal policy for the protection of human rights;

– the full implementation of the reform of the General Prosecutor's office, in accordance with Council of Europe principles and standards – with a view to abolishing the prosecutor's supervisory functions which are incompatible with the Constitution of Ukraine and as such are undermining the independence of a rather weak judiciary;

– completion of the interrupted ratification process of the European Charter for Regional or Minority Languages and adequate protection for all minority groups in Ukraine;

– subordination of the State Department for Execution of Punishments to the Ministry of Justice and completion of the transfer of different pre-trial custody centres, still under the authority of the Ministry of the Interior or the security services, to the Ministry of Justice;

– full implementation of the European Charter of Local Self-Government, and strengthening local and regional democracy in the country.

46. With regard to domestic legislation and implementation of reforms, the co-rapporteurs appeal to the Ukrainian authorities to strengthen co-operation with the Council of Europe in order to ensure full compatibility of Ukrainian legislation with the Organisation's principles and standards.

47. At the same time, the co-rapporteurs reiterate their concerns over the murders of journalists, repeated aggression against journalists, members of parliament and opposition politicians in Ukraine. They call on the Ukrainian authorities:

– to speed up the unresolved investigation of the disappearance and murder of Heorhiy Gongadze;

– to conduct a full and transparent investigation of the murder of Mr Ihor Alexandrov;

– to initiate a special investigation in the case of Mr Yeliashkevich, Deputy Chairman of the Financial Committee of the Rada;

– to conduct their media policy in a way which will convincingly alleviate the fear that freedom of expression in the country is under threat;

– to make further efforts in strengthening the rule of law in Ukraine.

48. In the light of the considerations above, the co-rapporteurs conclude that, although notable progress has been made since the Assembly's latest resolution on Ukraine, Ukraine is still far from honouring all obligations and commitments as a member state of the Council of Europe. They suggest therefore that the Assembly continues to pursue the monitoring procedure in respect of Ukraine in close co-operation with the Ukrainian delegation.

APPENDIX I

OVERVIEW OF THE OBLIGATIONS AND COMMITMENTS OF UKRAINE

OBLIGATIONS	SOURCE	MEASURES TAKEN	AUTHORITIES ARE URGED TO:
FREEDOM OF EXPRESSION (The Assembly is concerned by murders of journalists, repeated aggression against and continuing intimidation of journalists, members of parliament and opposition politicians in Ukraine, and the frequent and serious abuses of power by the Ukrainian executive authorities in respect of freedom of expression and of assembly).	Resolutions 1239 and 1244 (2001); Recommendations 1497 and 1513 (2001)	Decriminalisation of libel with the adoption of the new criminal code. No out-of-court closures of media outlets, or instances of pressure on the media through leverages of printing and distribution reported since January 2001. In January 2001 the Supreme Court of Ukraine recommended to the courts that "reasonable limits" be applied in the review of cases involving libel and defamation of character. Presidential decree on the establishment of an "Informational Policy Council" on 03/04/2001. Presidential decision to set up a working group in order to develop the concept of public service TV and radio broadcasting.	– put an end to the practice of intimidation and repression of opposition politicians and the independent press, and to take all necessary measures to discourage and curb attacks and threats against journalists and other media representatives; – improve the general framework in which the media operate, notably with the following measures: – speedy and transparent investigation into all cases of violence and death of journalists; – immediate abolition of regulations and practices allowing out-of-court closure of media outlets and termination of broadcasting; – amend the law on the National Television and Broadcasting Council in line with the expertise provided by the Council of Europe; – stop practices of pressure on the media through the leverages of printing and distribution; – ratify the European Convention on Transfrontier Television; – continue working towards the implementation of legal and other mechanisms so as to secure the free and unimpeded activity of Ukraine's mass media; – provide the democratic opposition with airtime on state television and radio channels, and equal media access to all candidates during the forthcoming parliamentary election campaign.
Separation of powers		State secretaries appointed by the President in the different Ministries.	– provide information on the *modus operandi* of this new institution.
To enact a new constitution	Opinion No. 190, 11, paragraph v.	Adoption of a new constitution on 28/06/96. The President initiated a referendum to change the constitution on 16/04/2000	– ensure that all provisions of the constitution in force in Ukraine are thoroughly respected in the implementation of the referendum results, in particular as regards any procedure aimed at amending the constitution.
Framework act on the legal policy of Ukraine for the protection of human rights		A declaration of intention on the principles of the State legal policy adopted on 17/06/99 by the Rada	– submit to the Venice Commission for opinion on issue whether the Rada's resolution could be regarded as a framework act on the legal policy, mentioned in Opinion No. 190
Framework act on legal and judicial reforms		A new co-ordinated draft law on the "judicial system" rejected in third reading by the Rada on 24/05/01 A package of 10 laws ("small judicial reform") adopted by the Rada on 21/06/01 that stipulate amendments to existing laws and regulations – aiming to ensure the work of the judiciary and law-enforcement bodies after the termination of the so-called Transitional Provisions on 28/06/01	– adopt and enact without delay

New civil code New code of civil procedure	Opinion No. 190, Article 11, paragraph v.	21/06/01 first three chapters adopted by the Rada (out of eight) 06/08/01 The text of the draft civil procedure code submitted for expertise to the Council of Europe	– complete the adoption of all chapters of the civil code – adopt and implement
New criminal code and new code of criminal procedure;		Criminal code adopted by the Rada on 05/04/2001 and signed by the President on 17/05/2001	– submit text of the criminal code for expertise to the CoE
New law on elections and a law on political parties		A law on political parties adopted by the Rada on 05/04/2001 and signed by the President on 28/04/01	– implement and mobilise Venice Commission expertise on remaining by-laws relating to the functioning of political parties, such as financing
Election law		New law on elections adopted by the Rada on 7/06/01 but vetoed by the President	– adopt new election law and settle differences between the Rada and the President before the forthcoming parliamentary elections
Change the role and functions of the Prosecutor's Office (particularly with regard to the exercise of a general control of legality)	Opinion No. 190, 11, paragraph vi.	Constitution contains separate chapter on Prosecutor General's Office which according to the opinion of the Venice Commission is compatible with European standards. It was however undermined by Transitional Provision No 9 which provided that the PGO continued to exercise its old functions. Among the laws adopted on 21/06/01 by the Rada one relates to ending the Transitional Provisions and envisages a change in the role of the Prosecutor General's Office, bringing it into line with the Constitution	– implement the new law in line with the Ukrainian Constitution and with the Council of Europe principles and standards, and with the new draft codes on criminal and civil procedure
Transfer of the responsibility for prison administration, for the execution of judgments and for the registration of entry to and exit from Ukraine to the Ministry of Justice	Opinion No. 190, 11, paragraph vii.	A presidential decree transferred the prison administration from the Ministry of the Interior to the newly created State Department for Execution of Punishments (directly responsible to the Cabinet of Ministers) on 13/03/99 A presidential decree abolished the registration of persons entering Ukraine on 15/06/01	– subordinate the State Department to the Ministry of Justice – complete the demilitarisation process of the penitentiary system – complete the transfer of pre-trial custody centres (the so-called Militia Holding Facilities (ITTs)), still under the authority of the Ministry of the Interior), and of pre-trial detention centres under the authority of the security services [SBU]
Independence of the judiciary: appointment and tenure of judges	Opinion No. 190, 11, paragraph viii.	A draft law on reforming the court system is under consideration by the Rada	– adopt and implement
Protect the status of the legal profession by new law	Opinion No. 190, 11, paragraph ix.	Introduction of the institution of ombudsman	– adopt and implement
The Constitutional Court shall be competent to decide on the compatibility of the acts of the legislative and executive authorities of the Autonomous Republic of Crimea with the constitution and laws of Ukraine	Opinion No. 190, 11, paragraph x.	The Constitution of Ukraine (1996) contains the provisions with this regard	

New non-discriminatory system of church registration and restitution of church property	Opinion No. 190, 11, paragraph xi.	Order for the State Property Fund of Ukraine (29/05/96) prohibits the privatisation of cult structures and non-cult buildings which belong to religious organisations. Two draft laws to amend the law on freedom of conscience and religious organisations submitted to the Rada on 22/05/97 and 26/01/98	– introduce non-discriminatory system of church registration (by the Ministry of Justice) and restitute the churches' property on their request;
Development of policy towards ethnic minorities on the basis of the Framework Convention for the Protection of National Minorities	Opinion No. 190, 11, paragraph xiii; 12, paragraph v.	Framework Convention ratified on 26/01/98, in force as from 01/05/98	
Ratify ECHR and Protocols 1, 2, 4, 7 and 11	Opinion No. 190, 12 paragraph i.	Ratified: 11/09/97	
Sign within one year and ratify within three years Protocol No. 6 on the abolition of the death penalty	Opinion No. 190, 12, paragraph ii.	Signed: 05/05/97 Ratified: 04/04/00	
Refrain from signing the CIS Convention on Human Rights and other relevant CIS documents	Opinion No. 190, 12, paragraph iii.	CIS Convention is not signed by Ukraine	
Ratify the European Convention for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment	Opinion No. 190, 12, paragraph iv.	Ratified on: 05/05/97 Entered into force: 01/01/97	
Sign and ratify Conventions on extradition, mutual assistance in criminal matters, sentenced persons, laundering, search, seizure and confiscation of proceeds from crime	Opinion No. 190, 12, paragraph vi.	Ratified:11/03/98 Ratified: 11/03/98 Ratified: 28/09/95 Ratified: 26/01/98	
Sign and ratify European Charter of Local Self-Government Sign and ratify European Social Charter	Opinion No. 190, 12, paragraph vii.	Ratified: 11/09/97 Signed: 02/05/96	 – conduct policy in accordance with the principles of these conventions, – ratify Social Charter
Sign and ratify European Charter for Regional or Minority Languages	Opinion No. 190, 12, paragraph vii.	Signed: 02/05/96, adopted by the Rada on 24/12/99, but this ratification was declared unconstitutional by the Constitutional Court on 12/07/00; A new draft law on ratification submitted to the Rada on 30/08/01	– finalise the interrupted ratification process on the European Charter for Regional or Minority languages – ensure adequate protection for all minority groups in Ukraine
Sign and ratify Agreement on Privileges	Opinion No. 190, 12, paragraph ix.	Ratified: 06/11/96	

APPENDIX II

Comments of the Ukrainian delegation to the overview of the obligations and commitments of Ukraine prepared by the co-rapporteurs

(Unofficial translation)

5 June 2001

To: Mrs Renate Wohlwend
Ms Hanne Severinsen
Co-rapporteurs
of the Council of Europe
Parliamentary Assembly
Monitoring Committee

Dear co-rapporteurs,

We have the honour to send to you comments and supplements to the overview of the obligations and commitments taken by Ukraine during her accession to the Council of Europe (Annex, 7 pages).

They have been prepared on the basis of information presented to the Permanent Delegation of the Supreme Rada of Ukraine to the Parliamentary Assembly of the Council of Europe by the relevant parliamentary committees as well as by the Ministry of Foreign Affairs of Ukraine and the Ministry of Justice of Ukraine.

The preparation of answers to your questions in the overview has allowed us to analyse once again activities by the state power bodies of Ukraine in the sphere of honouring of the obligations and commitments as well as to get reassurance that these are being implemented despite serious internal difficulties Ukraine is facing at this time.

In our opinion, this gives us every reason to hope for a well-balanced conclusion of the Monitoring Committee on the "Ukrainian issue".

Please, accept assurances of our highest consideration.

Borys Oliynyk
Chairman of the Permanent Delegation
of the Supreme Rada of Ukraine
to the Parliamentary Assembly of the Council of Europe
Academician of the National Academy
of Sciences of Ukraine

Oleksandr Chalyi
Permanent Representative of Ukraine
to the Council of Europe
First Deputy Minister for Foreign
Affairs of Ukraine

Comments and supplementary notes to the table on the honouring of the commitments and obligations of Ukraine as a member state of the Council of Europe

Paragraph 1

On intimidation and repression of opposition politicians and the independent press, taking all necessary measures to discourage and curb attacks and threats against journalists and other media representatives, speedy and transparent investigation into all cases of violence against and the death of journalists

Article 17 of the "Law of Ukraine on state support to mass media and the social protection of journalists" stipulates that the responsibility for committing a crime against a journalist related to the performance of his/her professional duties or impeding his/her professional activities equals the responsibility for committing the same offence against a law-enforcement officer.

The professional activities of a journalist cannot be used as grounds for his/her arrest, detention, or seizure of the materials that were collected, processed or prepared by him/her as well as of the technical means that he/she uses in his/her work.

In the case of a fine imposed in accordance with the Civil Code of Ukraine upon a journalist and a mass media body for inflicting moral (non-pecuniary) damage, they are held jointly responsible taking into account their respective share of liability.

In the case of a conflict with regard to the inflicted moral (non-pecuniary) damage between a journalist and a mass media body, on the one hand, and a government body or a local authority body or an official (officials) or an office holder (office holders), on the other hand, the court determines if there has been evil intent on the part of the journalist or the mass media body while taking into account the consequences of the use by the victim of extrajudicial (pre-judicial) opportunities to refute false information, to uphold honour and dignity as well as to settle the conflict as a whole.

Articles 19, 20 and 21 of the law state that grounds for bearing responsibility for violating this law are the direct failure to implement, or the violation of, its provisions, impeding its implementation, as well as the failure to implement, or the violation of, the provisions of other legislative acts referred to in this law.

The grounds for responsibility of government and local authority officials also include their interference in the professional, organisational and creative activities of mass media bodies and in the individual professional and creative activities of journalists, other infringements on the freedom of information activities, as well as biased decisions concerning mass media bodies and their staff when there are other co-founders.

Arbitrary action by government and local authority officials, by management of non-state organisations – founders (co-founders) of mass media entities, as well as by the management of mass media entities, and their violation of the provisions of this law can be contested, in accordance with the Civil Code of Ukraine, Civil Proceedings Code of Ukraine and the Code of Ukraine on Administrative Offences, with a view to protecting the violated or contested right, or a law-protected interest, or to settle disputes among organisations or labour disputes.

The failure by the officials and other staff members of government and local authority bodies to implement the provisions of this law and other legislative acts referred to in it entails criminal, administrative, disciplinary or other responsibility in conformity with Ukrainian legislation.

On immediate abolition of regulations and practices which allow for the closure, without judicial decision, of media outlets and the termination of broadcasting

Article 19 of the "Law of Ukraine on television and radio broadcasting" stipulates that the activities of a television or radio broadcaster can be terminated by the decision of the founder (co-founders) or by that of the court, and the latter must forward, within a ten day period, a notification about this to the National Television and Broadcasting Council in order to have the relevant changes made in the State Register.

In compliance with the "Law of Ukraine on printed mass media (the Press) in Ukraine", the issue of a printed mass media publication can be terminated by the decision of its founder (co-founders) or by that of the court.

On introduction of amendments to the "Law of Ukraine on the National Television and Broadcasting Council" in accordance with the expert assessment performed by the Council of Europe

On 31 October 2000, Mr O. Zinchenko, Chairman of the Committee of the Supreme Rada of Ukraine addressed the Secretariat of the Council of Europe with a request to provide an opinion on the "Law of Ukraine on the National Television and Broadcasting Council".

On 4 December 2000, a relevant analysis prepared by Mr K. Yakubovych, adviser to the Chairman of the National Television and Broadcasting Council of Poland, Chairman of the Steering Committee of the Council of Europe on Transfrontier Television, was sent to Mr Zinchenko.

The above-mentioned comments are currently under consideration by the Secretariat of the Supreme Rada.

On stopping practices of pressure on the media through the leverages of printing and distribution

Article 34 of the Constitution of Ukraine stipulates that everybody is guaranteed the right to freedom of thought and speech, free expression of views and convictions. Everybody has the right to freely gather, store, use and disseminate information in oral, written or other form of one's own choice.

The implementation of these rights can be limited by the law in the interests of national security, territorial integrity or public order to prevent disturbances or crimes, to protect public health, reputation or rights of other people, to prevent disclosure of confidential information or to support the authority and impartiality of justice.

Part one of Article 2 of the "Law of Ukraine on television and radio broadcasting" states that television and radio organisations of Ukraine implement in their activities the principles of objectivity, reliability of information, competence, guarantee of every citizen's rights to access to information, free expression of views and thoughts, ensuring ideological and political pluralism, adherence to the professional ethics and universally accepted moral standards by their staff.

Article 2 of the "Law of Ukraine on printed mass media (the Press) in Ukraine" stipulates that freedom of speech and free expression of one's views and convictions in the printed form are guaranteed by the Constitution of Ukraine and in accordance with this law mean the right of any citizen to freely and independently seek, receive, record, store, use and disseminate any information by means of printed media.

Printed media enjoy freedom. It is forbidden to set up and finance state bodies, institutions, organisations or offices in order to censor media.

It is not allowed to demand preliminary consent to reports and materials which are disseminated by printed media, as well as to prohibit the dissemination of reports and material by officials from state bodies, enterprises, institutions or associations of citizens except in the case when an official is the author of the information being disseminated or gave an interview.

The state guarantees the economic independence of and provides economic support for, the activities of printed media, and prevents publishers and distributors from abusing their monopoly position on the market. Actions to provide economic assistance to printed media as well as state executive bodies that perform this assistance are determined by the Cabinet of Ministers of Ukraine.

On the ratification of the European Convention on Transfrontier Television

In accordance with the instructions of the Cabinet of Ministers of Ukraine dated 22 May 2001 and the instructions of the President of Ukraine dated 28 May 2001, the concerned central executive bodies should study the European Convention on Transfrontier Television in order to ratify it and introduce the appropriate draft law.

At present the Committee on the Freedom of Speech and Information of the Supreme Rada of Ukraine has prepared and submitted to the Supreme Rada of Ukraine the draft law of Ukraine on amending some laws of Ukraine as a result of the parliamentary hearings "Problems of information activities, freedom of speech, adherence to legality and the situation of information security". The draft law is based on critical remarks and proposals expressed during the parliamentary hearings on 16 January 2001, taking into account the requirements of the Parliamentary Assembly Monitoring Committee. The purpose of the proposed changes is to improve organisational, financial and economic conditions for the activities of the mass media, to prevent pressure on mass media and journalists, to create a competitive environment and equal conditions for the activities for mass media of different forms of ownership, to improve licensing mechanisms of the television and radio organisations.

The above-mentioned committee has proposed to consider this draft law immediately. Its adoption will promote the honouring of obligations by Ukraine before the Parliamentary Assembly of the Council of Europe on the freedom of expression.

The committee is also finalising the preparation of the new version of the "Law of Ukraine on television and radio broadcasting". A set of legislative initiatives foresees, in particular, the development of the legal framework in accordance with the standards of European legislation in the field of information and creation of preconditions to ratify the European Convention on Transfrontier Television. The expert opinion of the Council of Europe on the "Law of Ukraine on the National Television and Broadcasting Council" is being taken into account during its development.

Paragraph 2

No violations of the current Constitution of Ukraine on the implementation of the results of the all-Ukrainian referendum held on 16 April 2001, in particular, as regards the procedure to introduce amendments to the constitution, have been registered.

Paragraph 3

The Permanent Delegation of the Supreme Rada of Ukraine to the Parliamentary Assembly of the Council of Europe proposed in its letter dated 7 May 2001 to the President of Ukraine to approach the Venice Commission for the official interpretation of whether the adoption of the new Constitution of Ukraine (part II whereof sets forth the rights, freedoms and obligations of the individual and the citizen) is the implementation of Ukraine's commitment pertaining to the framework act on the legal policy of Ukraine for the protection of human rights. At present, the Ministry of Foreign Affairs of Ukraine is preparing the resolution "on the basis of the state policy on human rights", adopted by the Supreme Rada of Ukraine on 17 June 1999 for forwarding it to the Venice Commission in order to receive the relevant expert opinion.

Paragraph 4

The draft law of Ukraine on the judiciary did not receive the necessary majority in the third reading and was voted down on 24 May 2001.

Currently two alternative draft laws on the judiciary have been submitted to the Supreme Rada of Ukraine:

1. the draft law of Ukraine on the judiciary submitted by the People's Deputies of Ukraine: Mr Shyshkin, Mr Havrysh, Mr Zadorozhniy, Mr Koliushko, Mr Kivalov, Mr Bandurka and identified by the President of Ukraine as urgent;

2. the draft law of Ukraine on the judiciary submitted by the People's Deputies of Ukraine: Mr Onopenko, Mr Karamzin, Mr Raikovskiy, Mr Donchenko, Mr Kosakivskiy, Mr Asadchev, Mr Syrota, Mr Sirenko.

The Committee on Legal Policy of the Supreme Rada of Ukraine has considered these draft laws of Ukraine on the judiciary system at its meetings on 22 and 25 May 2001 and adopted the decision by a majority of votes to recommend the Supreme Rada of Ukraine to adopt the first of the above-mentioned draft laws (taking into account the proposals by the authors of the second above-mentioned draft law) in the first reading.

Both draft laws were discussed at the plenary meeting of the Supreme Rada of Ukraine session on 25 May 2001. The vote on this issue will be held on 7 June 2001.

It should be noted that both draft laws address the issues of the legal framework for courts, the activities of qualification commissions of judges of Ukraine to administer justice, solve the issues related to the status of judges and activities of the judges' self-governing bodies.

Paragraph 5

On 17 May the President of Ukraine signed into law the new Criminal Code, adopted by the Supreme Rada of Ukraine on 4 April 2001.

In order to adopt the new Code of Criminal Procedure of Ukraine as soon as possible, a working group has been set up in the Supreme Rada of Ukraine, whose task is to prepare and submit the draft code for the first reading before September 2001.

Paragraph 6

The Provisional Drafting Commission on the new Civil Code is working in the Supreme Rada of Ukraine. It has considered almost 1 000 proposals and critical remarks made by the subjects of the legislative initiative and has practically finished the preparation of all the eight books of the code for the third reading. The Supreme Rada of Ukraine will consider them during the current parliamentary session.

The draft code of civil procedure of Ukraine was sent by the Ministry of Justice of Ukraine on 2 April for the consideration of the Cabinet of Ministers of Ukraine, to be subsequently submitted for consideration by the Supreme Rada of Ukraine.

Paragraph 7

The "Law on elections of Peoples' Deputies of Ukraine" was approved by the Supreme Rada of Ukraine on 24 September 1997. The "Law on elections of Peoples' Deputies of the Supreme Council of the Autonomous Republic of Crimea" was adopted on 12 February 1997 with changes and supplements introduced by the Law of Ukraine of 3 March 1998.

The "Law on elections of local Rada Deputies and village, settlement, town and city heads" was adopted on 14 January 1998.

The "Law of Ukraine on political parties" was approved by the Supreme Rada on 5 April 2001. It was signed by the President of Ukraine and enforced on 28 April 2001 when it was published.

Paragraph 8

On 24 May 2001 the draft laws on amending the Law of Ukraine, on the prosecutor's office, on amending the Criminal Procedure Code of Ukraine, on amending the Civil Procedure Code of Ukraine were included in the agenda of the 7th Session of the Supreme Rada of Ukraine. These bills envisage a change of the role and functions of the prosecutor's office according to the new Constitution of Ukraine, to the principles and standards of the Council of Europe as well as to provisions of the draft criminal procedure and civil procedure codes, in particular regarding exercising of the general control of legality and arrest sanctioning.

Paragraph 9

With the purpose of accelerating Ukraine's honouring of its obligations and commitments to the Council of Europe, the Ministry of Foreign Affairs of Ukraine has issued a Cabinet of Ministers of Ukraine instruction to the corresponding ministries and institutions to take the following urgent measures:

– the Ministry of Justice, the Ministry of Internal Affairs, the State Department for Execution of Punishments shall draft and submit to the Cabinet of Ministers of Ukraine, for the subsequent submission of it for the President's consideration, a draft decree of the President of Ukraine on delegation of the responsibility for the penitentiary system management to the Ministry of Justice of Ukraine and on the respective subordination of the State Department of Execution of Punishments;

– the Ministry of Justice and the Ministry of Internal Affairs shall draft a decree on the procedure of transfer of the passport processing service to the Ministry of Justice and to submit it for adoption by the Cabinet of Ministers of Ukraine.

Paragraph 10

Obligations and commitments mentioned here will be implemented in the new "Law of Ukraine on the judicial system".

Paragraph 20

In April 2001, in the framework of implementation of norms and principles of the European Charter of Local Self-Government ratified by Ukraine into the national legislation, the Supreme Rada of Ukraine approved the "Law on bodies of population self-organisation" (submitted to the President of Ukraine for signing) and the "Law of Ukraine on the state law experiment of local self-government development in the Town of Irpin, Kyiv *oblast*" (signed by the President of Ukraine) that had been elaborated with the assistance of governmental structures of Sweden.

Following the recommendations approved by the fifth CLRAE Session the Supreme Rada of Ukraine has passed the "Law on local state administrations" and the "Law on the status of the capital of Ukraine – the city-hero of Kyiv".

The Committee of the Supreme Rada of Ukraine on State Building and Local Self-Government is drafting the Programme of Self-Government Promotion, the "Law on the city-hero of Sevastopol" and a new version of the "Law on the status of local Rada Deputies" for submitting to the parliament for consideration.

On 16 May 2001 the respective parliamentary Committees on Social Policy and Labour approved the decision to request the President of Ukraine to commission the Cabinet of Ministers of Ukraine to submit the draft law on the European Social Charter ratification for consideration by the Supreme Rada of Ukraine.

Paragraph 22

In view of the fact that the "Law of Ukraine on ratification of the European Charter for Regional or Minority Languages, 1992" had been declared unconstitutional and invalid by the decision of 12 July 2000 of the Constitutional Court of Ukraine, on 28 May 2001 the President of Ukraine, according

to Article 7 of the "Law of Ukraine on international agreements of Ukraine", Articles 9, 4 and 3 of the Supreme Rada of Ukraine Regulations as well as at the request of members of the Permanent Delegation of the Supreme Rada of Ukraine to the Council of Europe Parliamentary Assembly and the Ministry of Foreign Affairs of Ukraine, commissioned the Ministry of Justice of Ukraine jointly with the Ministry of Foreign Affairs of Ukraine to submit within a short time period a draft law on ratification of the European Charter for Regional or Minority Languages to be submitted to the Supreme Rada of Ukraine.

Moreover, the relevant parliamentary committees on international affairs as well as on human rights, national minorities and interethnic relations are considering the draft decision of the Supreme Rada of Ukraine on provisions for honouring obligations and commitments by Ukraine to the Council of Europe, submitted by People's Deputies of Ukraine: B. Olyinik, A. Rakhanskiy, and Y. Marmazov on 17 May 2001. The draft envisages an alternative procedure of the charter ratification, namely: it is suggested that I. Plyusch, Chairman of the Supreme Rada of Ukraine, "would submit without any delay the text of the 'Law of Ukraine on ratification of the European Charter for Regional or Minority Languages, 1992' adopted by the Supreme Rada of Ukraine on 24 December 1999" for signing by L. D. Kuchma, President of Ukraine". The draft is planned to be considered at the beginning of June 2001.

Reporting committee: Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe.

Reference to committee: Resolution 1115 (1997) of 27 January 1997.

Draft resolution and draft recommendation unanimously adopted by the committee on 24 September 2001.

Members of the committee: *Mota Amaral (Chairman)*, Pollozhani, *Severinsen*, Durrieu *(Vice-Chairs), Akgönenç, Arzilli, Atkinson,* Attard-Montalto, *Bársony, Bartoš,* Begaj, *Belohorská*, Bindig, van den Brande, *Čekuolis, Christodoulides, Cilevičs*, Davis, Demetriou, *Einarsson*, Enright, *Eörsi*, Fayot, *Ferić-Vac*, Floros, Frey, *Frunda*, Gjellerod, *Glesener*, Gligoroski, Gross, Gürkan, Gusenbauer, *Haraldsson, Holovaty,* Irmer, Ivanenko, Jakič, Jansson, Jaskiernia, Jones, Jurgens, Kanelli, Kautto, Kilclooney, *Kostytsky, Landsbergis*, Van der Linden, Luís, Magnusson, *Marmazov*, Martínez-Casañ, Moeller, *Neguta*, *Olteanu*, Pollo, *Popescu, Ringstad*, Rogozin, *Sağlam*, *Sehnalová*, *Shakhtakhtinskaya*, *Slutsky*, Smorawiński, *Soendergaard, Stoyanova, Surján, Tevdoradze, Vahtre*, Vella, Weiss, *Wohlwend*, *Yáñez-Barnuevo*, Zierer.

N.B The names of those members who took part in the meeting are printed in italics.

See 30th and 31st Sittings, 27 September 2001 (adoption of the draft recommendation and draft resolution); and Recommendation 1538 and Resolution 1262.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 1[1]
Doc. 9226 – 25 September 2001

Honouring of obligations and commitments by Ukraine

tabled by MM. MARMAZOV, POPESCU, SYMONENKO, Ms MARKOVIC-DIMOVA, MM. SLUTSKY and KARPOV

In the draft resolution, paragraph 11, leave out the words "is still far from honouring" and insert the words: "has not yet honoured".

1. See 31st Sitting, 27 September 2001 (fall of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 2[1]
Doc. 9226 – 25 September 2001

Honouring of obligations and commitments by Ukraine

tabled by MM. MARMAZOV, SYMONENKO, POPESCU, Ms MARKOVIC-DIMOVA, MM. SLUTSKY and KARPOV

In the draft recommendation, paragraph 2, leave out the words "is still far from honouring" and insert the words: "has not yet honoured".

1. See 31st Sitting, 27 September 2001 (fall of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 3[1]
Doc. 9226 – 25 September 2001

Honouring of obligations and commitments by Ukraine

tabled by Ms SEVERINSEN, Mrs WOHLWEND, MM. BERGQVIST, MAGNUSSON, Mrs NABHOLZ-HAIDEGGER, MM. STANKEVIČ, McNAMARA, LLOYD, SVOBODA, HOLOVATY, Lord JUDD, MM. BEHRENDT and GROSS

In the draft resolution, at the end of paragraph 7.i, add the following words: "with the help of international experts".

1. See 31st Sitting, 27 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 4[1]
Doc. 9226 – 25 September 2001

Honouring of obligations and commitments by Ukraine

tabled by Ms SEVERINSEN, Mrs WOHLWEND, MM. BERGQVIST, MAGNUSSON, Mrs NABHOLZ-HAIDEGGER, MM. STANKEVIČ, McNAMARA, LLOYD, SVOBODA, HOLOVATY, Mrs ROUDY, Lord JUDD and Mr BEHRENDT

In the draft recommendation, after paragraph 3.ii, insert the following sub-paragraph:

"call on the Ukrainian authorities to initiate, if necessary, a new investigation into the disappearance and death of Mr Heorhiy Gongadze, and to set up an independent commission of enquiry including international investigators for this purpose, and ask the governments of the member states of the Council of Europe to propose assistance by their investigators;".

1. See 31st Sitting, 27 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 5[1]
Doc. 9226 – 25 September 2001

Honouring of obligations and commitments by Ukraine

tabled by Ms SEVERINSEN, Mrs WOHLWEND, MM. FRUNDA, GJELLEROD, HARALDSSON, Ms ŠTĚPOVÁ, MM. EÖRSI, GROSS, SOLÉ TURA and AKHVLEDIANI

In the draft resolution, after paragraph 6, insert the following paragraph:

"The Assembly resolves to send a special mission to Ukraine to follow the preparations for the next parliamentary elections which are to be held in March 2002, and declares its intention to observe their conduct;".

1. See 31st Sitting, 27 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 6[1]
Doc. 9226 – 26 September 2001

Honouring of obligations and commitments by Ukraine

tabled by MM. ZVARYCH, KOSTYTSKY, BILOVOL, LANDSBERGIS, Ms HAJIYEVA, Ms SHAKHTAKHTINSKAYA and Mr USTIUGOV

In the draft recommendation, replace paragraph 2 with the following paragraph:

"In light of the considerations stated in this Assembly Resolution 1244 (2001), the Assembly informs the Committee of Ministers that, since the adoption of Assembly Resolution 1244 (2001), Ukraine has, indeed, made substantial progress towards the honouring of its obligations and commitments before the Council of Europe. Therefore, the Assembly resolves that in the event that Ukraine should manage to fulfil the remaining commitments by the January 2002 part-session it will propose terminating the formal monitoring procedure, while continuing the ongoing dialogue with the Ukrainian authorities concerning broader problem areas that have been identified and still need to be addressed."

1. See 31st Sitting, 27 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 7[1]
Doc. 9226 – 26 September 2001

Honouring of obligations and commitments by Ukraine

tabled by MM. ZVARYCH, KOSTYTSKY, BILOVOL, Ms SHAKHTAKHTINSKAYA and Mr USTIUGOV

In the draft recommendation, delete paragraph 3.i.

1. See 31st Sitting, 27 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 8[1]
Doc. 9226 – 26 September 2001

Honouring of obligations and commitments by Ukraine

tabled by MM. ZVARYCH, KOSTYTSKY, BILOVOL, LANDSBERGIS, Ms SHAKHTAKHTINSKAYA and Mr USTIUGOV

In the draft recommendation, after paragraph 3.iii, insert the following sub-paragraph:

"refer to the governments of the member states of the Council a request for financial contributions, earmarked specifically for the Action Plan for the media in Ukraine;".

1. See 31st Sitting, 27 September 2001 (withdrawal of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 9[1]
Doc. 9226 – 26 September 2001

Honouring of obligations and commitments by Ukraine

tabled by MM. ZVARYCH, KOSTYTSKY, BILOVOL, SAĞLAM, KALKAN and Ms BURATAEVA

In the draft resolution, delete sub-paragraph 2.i.

1. See 31st Sitting, 27 September 2001 (withdrawal of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 10[1]
Doc. 9226 – 26 September 2001

Honouring of obligations and commitments by Ukraine

tabled by MM. ZVARYCH, KOSTYTSKY, BILOVOL, KALKAN, Ms SHAKHTAKHTINSKAYA and Mr SAĞLAM

In the draft resolution, replace sub-paragraph 3.iii with the following sub-paragraph:

"Four out of six chapters of a new civil code were adopted by the Rada, while a law on amendments to the existing Code of Civil Procedure was adopted by the Rada on 21 June 2001."

1. See 31st Sitting, 27 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 11[1]
Doc. 9226 – 26 September 2001

Honouring of obligations and commitments by Ukraine

tabled by MM. ZVARYCH, KOSTYTSKY, BILOVOL, KALKAN, Ms BURATAEVA and Mr SAĞLAM

In the draft resolution, paragraph 3.v, after the words "and law-enforcement bodies" insert: "in accordance with Ukraine's Constitution".

1. See 31st Sitting, 27 September 2001 (rejection of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 12[1]
Doc. 9226 – 26 September 2001

Honouring of obligations and commitments by Ukraine

tabled by MM. ZVARYCH, KOSTYTSKY, BILOVOL, KALKAN, Ms BURATAEVA, Mr SAĞLAM and Ms SHAKHTAKHTINSKAYA

In the draft resolution, paragraph 3.vi, after the words "was submitted", insert: "by President Leonid Kuchma".

1. See 31st Sitting, 27 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 13[1]
Doc. 9226 – 26 September 2001

Honouring of obligations and commitments by Ukraine

tabled by MM. ZVARYCH, KOSTYTSKY, BILOVOL, KALKAN, Ms BURATAEVA and Mr SAĞLAM

In the draft resolution, replace paragraph 5 with the following paragraph:

"In this respect the Assembly notes the recent legislation enacted by Ukraine with a view towards reforming the General Prosecutor's office in accordance with the Council of Europe's principles and standards, specifically regarding 'search and seizure' procedures and the former supervisory oversight powers of the procuracy. The Assembly urges the Ukrainian authorities to finalise this process, specifically by abolishing the prosecutor's legal overview functions."

1. See 31st Sitting, 27 September 2001 (withdrawal of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 14[1]
Doc. 9226 – 26 September 2001

Honouring of obligations and commitments by Ukraine

tabled by MM. ZVARYCH, KOSTYTSKY, BILOVOL, Ms BURATAEVA and Mr SAĞLAM

In the draft resolution, replace paragraph 7 with the following paragraph:

"The Assembly notes the recent moves by Ukraine, designed to further protect journalists, specifically the harsher punishments against those convicted of harassing and/or persecuting journalists, in the new Criminal Code. None the less, the Assembly condemns the various cases of aggression, intimidation and even murder of Ukraine's journalists. While also noting the recent measures taken by Ukraine with a view towards improving the general climate for freedom of the press, specifically the prohibition of any out-of-court closures of mass media outlets, the "de-criminalisation" of libel and slander, the creation of a special presidential council of media policy, the Assembly urges the Ukrainian authorities to continue improving the legal framework for the media and the safety and working conditions of journalists, as specified in paragraph 5 of Resolution 1244 (2001). Specifically, the Assembly calls upon the Ukrainian authorities to conduct a full, transparent and impartial investigation of the murder of Mr Ihor Alexandrov and in other cases of journalists who have died in dubious circumstances."

1. See 31st Sitting, 27 September 2001 (adoption of the amendment, as amended orally).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 15[1]
Doc. 9226 – 26 September 2001

Honouring of obligations and commitments by Ukraine

tabled by MM. ZVARYCH, KOSTYTSKY, BILOVOL, Ms BURATAEVA and Mr SAĞLAM

In the draft resolution, replace paragraph 8 with the following paragraph:

"The Assembly welcomes the Presidential Decree of 30 August on local and regional democracy as testimony to Ukraine's commitment to strive towards the full implementation of the European Charter of Local Self-Government, which was ratified on 11 September 1997 and entered into force on 1 January 1998. The Assembly further calls upon the Ukrainian authorities to continue in their efforts to decentralise power and to strengthen local self-government."

1. See 31st Sitting, 27 September 2001 (withdrawal of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 16[1]
Doc. 9226 – 26 September 2001

Honouring of obligations and commitments by Ukraine

tabled by MM. ZVARYCH, KOSTYTSKY, BILOVOL, LANDSBERGIS and GROSS

In the draft resolution, delete paragraph 9.

1. See 31st Sitting, 27 September 2001 (withdrawal of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 17[1]
Doc. 9226 – 26 September 2001

Honouring of obligations and commitments by Ukraine

tabled by MM. ZVARYCH, KOSTYTSKY, BILOVOL, Ms SHAKHTAKHTINSKAYA, MM. TOSHEV and OLIYNYK

In the draft resolution, paragraph 10.i, delete the words "to subordinate the State Department for Execution of Punishments to the Ministry of Justice, and ".

1. See 31st Sitting, 27 September 2001 (withdrawal of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 18[1]
Doc. 9226 – 26 September 2001

Honouring of obligations and commitments by Ukraine

tabled by MM. ZVARYCH, KOSTYTSKY, BILOVOL, ROGOZIN, TOSHEV and OLIYNYK

In the draft resolution, paragraph 11, delete the words " but is still far from honouring all of its obligations and commitments as a member state of the Council of Europe."

1. See 31st Sitting, 27 September 2001 (fall of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 19[1]
Doc. 9226 – 26 September 2001

Honouring of obligations and commitments by Ukraine

tabled by MM. ZVARYCH, KOSTYTSKY, BILOVOL, ROGOZIN and WILKINSON

In the draft resolution, paragraph 11, delete the word "notable" and insert the word: "substantial".

1. See 31st Sitting, 27 September 2001 (fall of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 20[1]
Doc. 9226 – 26 September 2001

Honouring of obligations and commitments by Ukraine

tabled by MM. ZVARYCH, KOSTYTSKY, BILOVOL, ROGOZIN and WILKINSON

In the draft resolution, paragraph 11, delete the words "most of which, however, has not yet been implemented".

1. See 31st Sitting, 27 September 2001 (fall of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 21[1]
Doc. 9226 – 26 September 2001

Honouring of obligations and commitments by Ukraine

tabled by MM. BILOVOL, ZVARYCH, KOSTYTSKY, Ms SHAKHTAKHTINSKAYA, Mr ROGOZIN and Ms HAJIYEVA

In the draft resolution, replace paragraph 11 with the following paragraph:

"In light of the above, the Assembly concludes that substantial progress has, indeed, been made by Ukraine since the adoption of Assembly Resolution 1244 (2001) in April of this year, particularly with respect to significant new legislation recently enacted in Ukraine. The Assembly calls upon the Ukrainian authorities to firmly apply the new Criminal Code and the ratified conventions in the field of human rights in order to further advance on the road towards pluralist democracy. Hence, the Assembly further resolves that in the event that Ukraine should ultimately honour its few remaining commitments before the Council as per Opinion No. 190 (1995) by the January 2002 part-session it will consider terminating the formal monitoring procedure regarding Ukraine, while continuing the ongoing dialogue with Ukraine within a broader monitoring framework regarding measures that may be taken in order to address some of the problem areas that were identified in the process of the monitoring procedure."

1. See 31st Sitting, 27 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 22[1]
Doc. 9226 – 26 September 2001

Honouring of obligations and commitments by Ukraine

tabled by MM. POPESCU, KOSTENKO, Ms HAJIYEVA, MM. RAKHANSKY and SEYIDOV

In the draft recommendation, paragraph 2, delete the word "notable" and insert: "substantial".

1. See 31st Sitting, 27 September 2001 (fall of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Report
Doc. 9227 – 24 September 2001

Progress report on the activities of the Joint Working Group on Chechnya

comprised of members of the Parliamentary Assembly of the Council of Europe and of the State Duma of the Federal Assembly of the Federation of Russia

**presented by Lord JUDD and Mr ROGOZIN,
Co-Chairmen of the Joint Working Group on Chechnya**

1. Introduction

In its Resolution 1240 (2001) on the "conflict in the Chechen Republic – recent developments" adopted in January 2001, the Assembly decided to set up a joint working group composed of representatives of the Parliamentary Assembly and of the State Duma (see Appendix I) to keep under constant review the progress made on the Assembly's recommendations as well as on the recommendations formulated by the State Duma following a hearing held in September 2000 in Moscow.

The Assembly's requirements of the Government of the Russian Federation, as formulated in Resolution 1227 (September 2000) and Resolution 1240 (January 2001) can be summarised as follows:

– expedite its search for a political solution to the conflict, including negotiations without pre-conditions with both civilian leaders and the Chechen military commanders;

– establish a consultative body comprised of respected Chechen leaders with the role of national reconciliation and responsibility for preparing the future self-governing status of the Chechen Republic;

– investigate all alleged mass killings of the civilian population by Russian troops, not least those reported in Alkhan-Yurt (December 1999), Staropromyslovski (January 2000) and Aldi (February 2000), and prosecute the perpetrators of these acts;

– ensure that the military prosecutor's office undertakes systematic, credible and exhaustive criminal prosecutions of those members of the federal forces implicated in war crimes and other human rights violations;

– stop all illegal practices at checkpoints, in particular harassment and extortion, while actively limiting the number of checkpoints to an absolute minimum;

– stop all illegal and arbitrary arrests and detentions and any physical or mental abuse of those held in detention;

– clarify the fate of all missing persons including public figures like Ruslan Alikhodzhiyev, former Speaker of the Parliament of the Chechen Republic;

– restore an effective judiciary in the Chechen Republic;

– accelerate the issue of identity documents;

– provide compensation for the loss and destruction of property during the conflict;

– speed the return of refugees and displaced people to their own homes and, in the meantime, ensure their full rights, security and dignity inside the Chechen Republic and elsewhere in the Russian Federation including Moscow;

– limit its law-enforcement operations in the Chechen Republic to what is absolutely necessary for the protection of its forces, local authorities and the population;

– ensure freedom of movement of the civilian population in the Chechen Republic;

– ensure maximum freedom of movement for the media in the Chechen Republic;

– grant access to those international humanitarian organisations and NGOs willing to commence operations in the Chechen Republic where the security of their staff can be ensured.

2. Activities of the Joint Working Group (JWG) between January and September 2001

– During this period, the JWG held the following meetings:

– Moscow 21 and 22 March 2001 (see conclusions in Appendix II);

– Prague 24 and 25 May 2001 (see conclusions in Appendix III);

– Strasbourg 29 June 2001 (see conclusions in Appendix IV);

– Moscow 13 and 14 September 2001;

– Strasbourg, 21 and 22 September 2001.

Two progress reports on the activities of the JWG were presented to the Bureau of the Assembly in April 2001 and in June 2001 and became public documents in the form of an appendix to the Bureau's progress reports during the respective periods.

At its first meeting, the JWG decided to deal with the following three priority subjects in 2001:

– finding a political solution to the conflict;

– respect for human rights;

– a humanitarian situation.

3. Finding a political solution to the conflict

In its January 2001 resolution, the Assembly:

– stressed that without a political solution, which is acceptable to the majority of the Chechen people, there

cannot be any lasting stability in the Chechen Republic; and that only an elected Chechen government can provide a sustainable basis for civilian order to take the place of the predominant influence of the military;

– called on the highest Russian authorities to give firm, unequivocal and public assurances that the Chechen people will be able freely to elect their own political representatives who will be accountable to them;

– called on the Russian authorities to take prompt intermediate action in this respect, for example by establishing a consultative body comprised of respected Chechen leaders with the role of national reconciliation and responsibility for preparing the future self-governing status of the Chechen Republic.

The JWG stressed that a solution should not be imposed on the people of Chechnya and that a wider consultation with Chechen representatives on any proposal for a political solution is necessary.

Accordingly, the JWG has started the consultations with Chechen representatives, which included:

– the consultation on 25 May 2001 in Prague with three Chechen representatives – one of Mr Kadyrov's administration, one of Mr Maskhadov and one of the Chechen diaspora in Russia;

– the consultation on 14 September 2001 in Moscow with a cross-section of Chechen representatives (politicians, business people, civil society representatives, intellectuals);

– the consultation on 21 and 22 September 2001 in Strasbourg to which again a cross-section of Chechens (see Appendix V) was invited from amongst those who are prepared to commit themselves to a peaceful solution and the renunciation of violence. All participants were invited to submit their proposals for a political solution to be discussed at this consultation. The JWG endeavoured to invite a genuine cross-section of Chechens, from inside and outside the Russian Federation, from Chechnya itself and from Ingushetia, as well as representatives of Mr Maskhadov. The JWG greatly regretted that in the event Mr Maskhadov issued a statement barring his representatives from participating.

At the Prague meeting, the Duma members of the JWG proposed a political solution based on the creation of a Chechen "public consultative body", whose main tasks would be as follows: to prepare a draft constitution of the Chechen Republic, to prepare new elections in Chechnya and to supervise the activities of the Chechen administration.

The only other written proposal was presented by Mr Visaev, proposing to convene a large "All Peoples National Congress" of Chechens, which should elect a "Public Council" with some executive powers and prepare new elections.

In the opinion of the co-chairmen, the most significant outcome of the consultation was that Chechens representing various political backgrounds started to talk with each other and despite their bitterness and disagreements were able to agree on certain points.

Firstly, the Chechen participants in the consultation agreed unanimously that everything possible has to be done in order to stop the violence in Chechnya.

Secondly, they supported in principle the establishment of a public consultative body in which the people of Chechnya could freely formulate and express their position with regard to the situation in the republic and its future. Nobody objected to the principle that this body should include the widest possible cross-section of political and public elements in Chechen society and represent different views regarding the ways in which to stop the conflict. The composition and working agenda of this body remain to be discussed.

Thirdly, a number of Chechen representatives emphasised that the Chechen people themselves must be much more active in the search for a solution. They also advocated the idea that law-enforcement agencies should be composed mostly of Chechens who should be responsible for establishing order.

The political process is still obviously far from being sufficiently strong. However, the consultation may hopefully have sown the seeds for future solutions. At least, the readiness of people with opposing views to talk to each other is encouraging. Also encouraging is the intention of the Chechen representatives to form a working body to prepare for the holding of a larger-scale gathering of a cross-section of Chechen public activists to move ahead towards the formation of a truly representative body.

In this regard, the JWG regrets the decision of Mr Maskhadov to bar his representatives from taking part (although representatives of NGOs clearly sympathising with Maskhadov and recognising him as president did participate) thus missing an opportunity to become engaged in a dialogue with his compatriots. During the discussion the view was strongly expressed by some that it was essential to continue to encourage representatives of Mr Maskhadov to join the deliberations.

The part played by the Chechens reflects the position of the JWG that any solution and decisions concerning the future of Chechnya must be found and made by the people of Chechnya and Russia, and that the role of the Parliamentary Assembly of the Council of Europe is to assist and facilitate.

At the conclusion of the meeting the Secretary General of the Parliamentary Assembly of the Council of Europe who had chaired the meeting at the request of the co-chairmen summarised the view expressed by the JWG members during the consultation as being that a political solution can only be achieved if the following processes are pursued simultaneously:

– stopping the violence;

– decrease in the number of Russian federal forces;

– cessation of all human rights violations, investigation of crimes committed in Chechnya and bringing to justice those who committed them;

– confidence-building measures in relations between the federal centre and the population of Chechnya;

– steps towards the establishment of a Chechen public consultative body with a view to making suggestions for the future of the republic;

– intensification of the social and economic reconstruction of Chechnya (including strict control over the financial means, material resources and humanitarian aid).

The JWG is now one of the few international platforms, if not the only one, where politically meaningful and sufficiently practical discussions on a political solution are currently taking place.

It should be repeated once again – there cannot be any lasting improvements of the situation in the Chechen Republic, in any field, without the existence of civilian Chechen authorities, which are generally recognised and respected by the population.

The JWG underlines that all progress on a political solution is closely linked to general conditions of security, respect for human rights, completion and results of criminal investigations, continued withdrawal of the army, improvement in the humanitarian situation and progress on reconciliation.

Russian members of the JWG have drawn attention to the statement made by the President of the Russian Federation, V. Putin, during his visit to the North Caucasus when he declared that "... we are ready for contacts with anybody. But, of course, only on condition that the Constitution of the Russian Federation is strictly observed and covers the territory of all the subjects of the Russian Federation, including Chechnya, which is one of them" and "on condition of obligatory and unconditional immediate disarmament of all bandit formations and extradition to the federal forces of all odious bandits whose hands are bathed in the blood of the people of Russia".

4. Human rights situation

In its Resolution 1240 (2001), the Parliamentary Assembly called upon the newly created Joint Working Group to provide it, before the April 2001 part-session, with a detailed list and the current status of all criminal investigations by military and civilian prosecutors into crimes against the civilian population committed by servicemen and members of the special police forces in the Chechen Republic. Such a list was furnished by the Russian military and civilian prosecutor's offices and internal affairs agencies by mid-April 2001. It was submitted to the Bureau of the Assembly, and distributed – as a confidential document – to the members of the Assembly.

During its meeting in Prague on 24 and 25 May 2001, the JWG examined and discussed the list, and noted that the list would be updated to contain detailed information on the current stage of the investigations into the most serious crimes, in particular on the alleged mass killings mentioned in the Assembly's resolutions, the disappearance of Mr Alikhodzhiyev, former Speaker of the Chechen Parliament, and the new mass graves discovered in the vicinity of the Khankala military base.

Unfortunately, by the third meeting of the JWG on 29 June 2001, no such update was submitted. The JWG thus decided to urge the Russian authorities concerned to present to the Parliamentary Assembly in September 2001 convincing evidence that progress is being made on the investigations into crimes against the civilian population committed by servicemen and members of special police forces in Chechnya, in particular regarding the cases of alleged mass killings and the disappearance of Mr Alikhodzhiyev.

The JWG visited Moscow on 13 and 14 September 2001, and was given the opportunity to discuss this particular problem at a meeting with the General Prosecutor, Mr Ustinov and others. While the General Prosecutor informed the JWG that some investigations into the most serious crimes had been reopened and that some cases had been concluded, detailed evidence of progress was not available at the meeting. At the same time, the JWG was informed, for example, that the investigation into the disappearance of Mr Alikhodzhiyev could not proceed until Mr Maskhadov could be interrogated by the prosecutors responsible for the file. However, Mr Ustinov undertook to ensure that three representatives of his office would be present in Strasbourg during the September parliamentary part-session of the Parliamentary Assembly, and that a more detailed progress report would be provided in time for that session. The JWG stressed that what was needed was not another report on the processes put in place, but a report on the outcome from these processes.

Due to security concerns, the JWG was unable to follow through with its planned visit to Chechnya in mid-September 2001. Thus, the JWG was unable to gather first-hand information of the human rights situation. However, the JWG has taken note of the public statement by the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on Chechnya (see Appendix VI), and the concern expressed by the Chairman of the Committee of Ministers and the President of the Parliamentary Assembly made in its wake. The JWG has also followed with concern reports of new human rights abuses on the ground and allegations concerning the Russian authorities' lack of willingness properly to investigate allegations of past abuses, made by various agencies (including the Council of Europe's experts working in Mr Kalamanov's office), NGOs, and the press.

According to the latest data (of 7 September 2001) supplied to the Joint Working Group by the General Prosecutor's office, the prosecutor's office dealt with 393 criminal cases concerning crimes committed against the civilian population in Chechnya in general since the beginning of the anti-terrorist operation in the Chechen Republic. The total number of investigations conducted since April 2001 increased by sixty-four cases.

According to this data, the military prosecutor's office considered 100 out of 393 criminal cases of crimes allegedly committed by servicemen against the civilian population in the Chechen Republic. The military prosecutor's office completed the investigation of thirty-eight criminal cases. Thirty-one of these cases

were referred to courts among which seven concerned murders, one concerned rape, and seven concerned the theft of property.

Fifteen servicemen, including two officers, were convicted by military court. Two of these servicemen were sentenced for nine and twelve years for violent assaults; one serviceman was sentenced to eleven years of imprisonment for murder.

Thirty-one criminal proceedings were instituted against Ministry of the Interior staff. Nine cases were submitted to the court.

The prosecutor's office insists that it has responded to the evidence of possible violations of law by servicemen during the so-called "mop-up" operations in Kurtchaloy district, and in Assinovskaya and Sernovodsk of the Sunzhinsky District of the Chechen Republic. The prosecutor's office explained that preliminary investigations have shown that during these special operations the action of the federal servicemen and the militiamen, in some cases, was indeed excessive. Three criminal cases were opened on the complaints of the local residents and the head of the district administration concerning the events in Kurtchaloy, and criminal cases were opened with regard to the violation of the rights of residents in Assinovskaya and Sernovodsk involving illegal deprivation of freedom, deliberate infliction of damage to property and the exceeding of official powers, including infringement on the rights of village militiamen and prosecutors to fulfil their duties.

The General Prosecutor of the Russian Federation informed the members of the JWG that in order to prevent violations of the rights of citizens he issued an order on 25 July 2001 "on increasing supervision over respect for the rights of citizens during check-up of their registration at the places of permanent residence or stay in the Chechen Republic". Under this order prosecutors are instructed to be present at the premises of local administrations in villages during special operations and to supervise the legality of actions by the military and officers of the Ministry of the Interior, including the legality of detentions. Prosecutors are also obliged, the JWG was told, to ensure that the military commandant's office, the departments of the interior, local administration leaders, and – if necessary – religious leaders and local elected representatives are notified of operations.

The chief military prosecutor issued an instruction, JWG members were told, to start collection, registration and analysis of complaints on actions by servicemen affecting the civilian population, as well as to investigate this information together with the Ministry of Defence of the Russian Federation, the Ministry of the Interior and the Special Representative of the President of the Russian Federation in the Chechen Republic.

The JWG was told that instructions on international humanitarian law have been included in training programmes for the personnel of military units as well as in study programmes of military education institutions. Representatives of the International Committee of the Red Cross are involved in the education process.

5. Others matters

a. Humanitarian situation

The JWG met with representatives of the United Nations High Commissioner for Refugees (UNHCR) and NGOs to inquire about the humanitarian situation of the people in Chechnya and of the internally displaced people in Ingushetia.

The JWG planned to visit Chechnya and the camps of internally displaced people in September 2001. The State Duma prepared a programme and made all necessary organisational arrangements for that visit to take place on 14 to 16 September 2001. Unfortunately, as already indicated, given the uncertain security situation following the recent terrorist attacks in the United States, the Duma decided, upon the advice of the security services, to postpone the visit.

According to the information received from the UNHCR, there are still some 150 000 internally displaced people in Ingushetia. Some new arrivals have been reported recently. From the humanitarian point of view, the situation may possibly have stabilised. However the living conditions remain dire and very precarious. The camps need urgently to be prepared for winter and tuberculosis is becoming a serious problem. According to the UNHCR, the unsatisfactory security situation in Chechnya is the main factor, which prevents the displaced from returning to their homes. Other factors are the lack of housing and unemployment in Chechnya.

Meanwhile, the population in Chechnya itself seems to be in an even more difficult situation. At present, international organisations may be present there, as well as some NGOs, but their legal position is unclear and no international organisations have staff residing in the territory.

The JWG has the firm intention to pursue its work in this field after the September session.

b. Economic and social situation

On 14 September in Moscow, some JWG members, including both co-chairmen, met with Mr Yelagin, Minister in charge of social and economic reconstruction of Chechnya. He recognised that the reconstruction efforts are severely hindered by the security concerns and the restrictions to freedom of movement. Nevertheless, he said that the civilian sector had started to function and it was becoming a realistic alternative to fighting. At present, he claimed, 172 000 pensioners were receiving their pensions and 393 000 families child allowances. Electricity and gas supplies, he said, are being restored and public transport is starting to operate. His three main preoccupations were: unemployment, lack of housing and lack of security.

While the JWG took note of Mr Yelagin's statement, it can obviously make an objective evaluation of the situation only after a visit to the region.

6. Conclusions

The JWG has now been working for six months. The situation is still complex and substantial changes remain to be achieved.

However, while it is too early to speak about substantial, tangible improvements, some positive changes of attitudes must be noted. The meetings of the JWG with the highest Russian representatives in the key areas, such as the Head of the Federal Security Service and the General Prosecutor have become fora where progress can be honestly assessed and criticism expressed. The JWG is thus thereby exerting continuing political pressure for positive change.

With regard to a political solution, the JWG has now succeeded in initiating consultations with at least some Chechens; and this has potentially opened a new chapter. But, again, a lot more work is obviously necessary if this process is to produce applicable and largely acceptable proposals.

APPENDIX I

Joint Working Group on Chechnya of the Parliamentary Assembly of the Council of Europe and the State Duma

The Parliamentary Assembly

Lord Judd, Political Affairs Committee (United Kingdom, SOC), Co-Chairman

Rudolf Bindig, Committee on Legal Affairs and Human Rights (Germany, SOC)

Mats Einarsson, Vice-Chairman of the Committee on Migration, Refugees and Demography (Sweden, UEL)

Lili Nabholz-Haidegger, Committee on Legal Affairs and Human Rights (Switzerland, LDR)

Michael Spindelegger, Committee on Legal Affairs and Human Rights (Austria, EPP/CD)

László Surján, Political Affairs Committee (Hungary, EPP/CD)

Lara Margret Ragnarsdóttir, Political Affairs Committee (Iceland, EDG)

The State Duma

Dmitry Rogozin, Leader of the Russian delegation to the Parliamentary Assembly, Chairman of the Duma's External Relations Committee, (People's Deputies), Co-Chairman

Valentin Nikitin, Chair of the Duma's Chechnya Committee (Agro-industrial Faction)

Andrei Nikolaev, Chair of the Duma's Defence Committee (People's Deputies)

Eduard Vorobiev, Deputy chair of the Duma's Defence Committee (Union of Right Forces)

Hapisat Gamzatova, Member of the Russian delegation to the Assembly, Member of the Duma's Chechnya Committee (Communist Party)

Nikolay Kovalev, Member of the Russian delegation to the Assembly (Motherland – All Russia)

Ashot Sarkissian, Member of the Duma's Chechnya Committee (Unity)

Leonid Slutsky, Member of the Russian delegation to the Assembly (Liberal Democratic Party of Russia)

Nickolay Chaklein, Member of the Russian delegation to the Assembly (Russian Regions)

Alexander Shishlov, Member of the Russian delegation to the Assembly (Yabloko)

APPENDIX II

Conclusions of the first meeting of the JWG

The Joint Working Group on Chechnya, composed of members of the Parliamentary Assembly of the Council of Europe and of the Russian State Duma, held its first meeting in Moscow on 21 to 22 March 2001.

1. Elected its co-chairmen, Mr Rogozin and Lord Judd.

2. Agreed on its working methods:

– it will hold at least two more meetings in 2001;

– adopt decisions after each meeting by consensus;

– regularly inform the Parliamentary Assembly and the State Duma on its activities;

– prepare a comprehensive report by the end of the current year.

3. The group decided that, within its mandate of keeping under constant review the progress made on the Assembly's recommendations as well as on the recommendations formulated by members of the State Duma following the hearing in September 2000, it will select priorities, concentrate on the most important issues and try to make suggestions on the most effective ways of implementing the recommendations.

4. The members of the group emphasise that the group will work as a single co-operative body and, by establishing this unique mechanism of co-operation between the State Duma and the Parliamentary Assembly, pursue the goal of facilitating the normalisation of the situation in the Chechen Republic by promoting dialogue between parliamentarians and with the executive branch as well as contacts of governmental bodies with NGOs.

5. At its first meeting, the Joint Working Group (JWG) concentrated on the human rights situation in the Chechen Republic with its principle objective being to present to the Parliamentary Assembly, before its April part-session, "a detailed list of all criminal investigations by military and civilian prosecutors into crimes against civilian population committed by servicemen and members of special police forces in the Chechen Republic including their current status" as provided by Resolution 1240. The Joint Working Group also agreed to analyse, in close co-operation with the working group mentioned in paragraph 13 below, the follow-up given by military and civilian prosecutors to complaints transmitted by Mr Kalamanov's office and NGOs.

6. It was agreed that the key to a normalisation of the situation in the Chechen Republic and the full observance of human rights on its territory lies in the progress made in finding a political settlement of the conflict, and the JWG decided to devote its second meeting to the discussion of possible steps towards a political solution to the conflict with a view to working out specific suggestions to the highest ranking Russian authorities.

7. The JWG agreed to concentrate, at its third meeting, to be held in October 2001, on the humanitarian situation in the Chechen Republic.

8. The group agreed to hold these meetings in Moscow or at other locations in Europe. It will also carry out visits to the region.

9. The group agreed that the media and NGOs access to the Chechen Republic must improve and will urge the competent authorities to take measures on this issue.

10. The group agreed that it is important to intensify the dialogue and a regular exchange of information between the NGOs and the authorities and in this respect it agreed that hearings on missing persons in Chechnya should be organised by the State Duma Commission on Chechnya as soon as possible.

11. The JWG agreed that all documented allegations of human rights violations should be thoroughly investigated and to recommend to the General Prosecutor the appointment of a member of his staff who would be responsible for maintaining contacts with NGOs and who would inform the Joint Working Group on the follow-up given to their reports.

12. It agreed to recommend to Mr Kalamanov that he continue and further expand his good co-operation with NGOs, and in particular with the Russian NGO "Memorial" in Grozny and in other Chechen towns by, *inter alia*, helping it to continue the secure running of its offices on the ground.

13. It also agreed to support the proposal of the Council of Europe Human Rights Commissioner to create a working group composed of representatives of the prosecutor's office and of Mr Kalamanov's office to follow up the action taken on the transmitted complaints.

14. The group expresses satisfaction with the open and constructive nature of the meetings with the representatives of the Russian authorities.

APPENDIX III

Conclusions of the JWG meeting in Prague on 24 to 25 March 2001

As regards a political solution to the conflict

– the meeting enabled the JWG to obtain a better understanding of the positions of the different players regarding a political solution;

– the JWG agreed that the establishment of a consultative body of Chechen representatives, which was also called for by the Parliamentary Assembly in its January 2001 resolution, could be an essential part of a political solution;

– the JWG stressed that a solution should not be imposed on the people of Chechnya and emphasised the necessity to create trust and reconciliation;

– the JWG agreed that the discussions on a political solution are closely linked to the improvement of the security and human rights situation in Chechnya;

– the JWG agreed that a wider consultation with Chechen representatives on any proposal for a political solution would be necessary;

– the JWG agreed to continue its discussions on the route to a political solution at its next meeting to be held on 29 June 2001 in Strasbourg. The Duma members of the JWG will present a firm proposal based on the Prague discussions.

As regards human rights issues

The JWG noted that:

– the list of criminal cases involving crimes committed by federal servicemen against the civilian population submitted to the Parliamentary Assembly during the April 2001 part-session would be made available to Mr Kalamanov's office;

– according to the information received by the Russian members of the JWG, the prosecutor's office and Mr Kalamanov's office working group checked the list of complaints on allegedly unlawful acts committed by servicemen against the civilian population. It was established that Mr Kalamanov's office received complaints from more than 2 000 Chechens on 616 such cases. A short summary of these cases was given to the prosecutor's office to verify the follow-up to them. It turned out that 234 criminal cases and 382 operative-and-search cases were opened on complaints coming from Mr Kalamanov's office;

– the list would be updated to contain detailed information on the current stage of the investigations into the most serious crimes, in particular on the alleged mass killings in Alkhan-Yurt (December 1999), Staropromyslovski (January 2000) and Aldi (February 2000); the disappearance of Mr Alikhodzhiyev, former Speaker of the Chechen Parliament, and the new mass graves discovered in the vicinity of the Khankala military base;

– the Council of Europe had offered to facilitate the provision of expert and material assistance in the field of forensic investigations.

APPENDIX IV

Joint Working Group on Chechnya between the Parliamentary Assembly of the Council of Europe and the State Duma of the Russian Federation

Conclusions of the 3rd meeting of the Joint Working Group (Strasbourg, 29 June 2001)

The Joint Working Group agreed:

1. to organise a visit to Chechnya and the North Caucasus region from 13 to 16 September 2001. The agenda of this visit will include:

– the human rights situation in Chechnya and the progress made in the investigations into crimes committed in Chechnya;

– the humanitarian situation of displaced people;

– a political discussion, with a cross-section of representatives of the Chechen society, on a political solution to the conflict;

2. to organise a two-day consultation on 21 and 22 September 2001 in Strasbourg on a political solution to the conflict. A wide-ranging representation of Chechens (totalling around twenty persons), who are prepared to commit themselves to a peaceful solution and to the renunciation of violence, will be invited to this consultation. The participants will discuss the proposal of a political solution submitted by the Duma members and discussed by the JWG, as well as proposals from other participants, on the condition that any proposals to be considered will be submitted at least ten days before the beginning of the meeting;

3. to urge the Russian authorities concerned to present to the Parliamentary Assembly in September 2001 convincing evidence that progress is being made on the investigations into crimes against the civilian population committed by service-

men and members of special police forces in Chechnya, in particular the cases of alleged mass killings and the disappearance of Mr Alikhodjiyev.

APPENDIX V

Consultation on a political solution to the conflict in Chechnya (Strasbourg, 21-22 September 2001)

(Names of those who participated in the meeting are printed in bold)

NB: Titles are those given by the representatives themselves

Invited on the proposal of the Parliamentary Assembly Co-Chairman

Mr Ruslan Badalov, Chairman of the Movement "Chechen Committee to Save the Nation", Chairman of the Chechen Olympic Committee

Mr Vaha Bajaev, Chairman of the Association of Prisoners of Filtration Camps

Mrs Lipkan Basayeva, Chairperson of the Union of Women of Chechnya (Nazran, Ingushetia)

Mr Seilam Beshaev, 1st Vice-Chairman of the Chechen Parliament

Mr Ousman Ferzaouli, Chechen Ambassador in Denmark

Mr Akhiad Idigov, Chairman of the Foreign Relations Committee of the Chechen Parliament,

Mr Ali Jounousov, Chairman of the Association of Lawyers

Mr Ruslan Kutaev, Chairman of the Association of the Russian-Chechen Friendship

Mr Akhmad Shsabazov, Chechen diasporas, initiators of a proposal for setting-up a "Congress of the Chechen People"

Mr Said Teps Deni, Chairman of the Congress of the Chechen Diaspora in Russia

Mr Mate Tsikhesachvili, Commission for the Search for Missing Persons

Mr Vagap Tutakov, Member of the Chechen Parliament

Mr Ali Chalidovich Visaev, Chechen businessman

Invited on the proposal of the Russian Co-Chairman

Mr Sherip Usamovich Alikhadziev, Head of the Administration of Shalinski District, Chairman of the Council of Heads of Administrations of Cities and Districts of the Chechen Republic

Mr Alslambek Aslakhanov, Deputy, State Duma

Mr Shamil Aminovich Beno, Former Representative of the Chechen Republic in Moscow

Mr Zaindi Choltaev, Member of the Co-ordinating Council of Chechen Cultural and Public Organisations

Mr Vakha Dakalov, Member of the Co-ordinating Council of Chechen Civic and Cultural Societies, Deputy of the Supreme Council of Chechen-Ingush Republic (1988-1991) Member of Parliament of Chechen Republic (1996, 1997)

Mr Taous Djabrailov, First Assistant of the Head of Administration of the Chechen Republic

Mrs Isita Magamedovna Gayribekova, Head of the Administration of Nozhai Urtovski District of the Chechen Republic

Mr Bislan Saidievich Gantamirov, Senior federal inspector of the Southern Federal District

Mrs Malika Gezimieva, former head of the administration Gudermes

Mr Kanta Khamzatovich Ibragimov, Writer, Doctor of Economics, Professor

Mr Letcha Makhmudovich Iliasov, Director of the "LAM" Research Centre of the Chechen Culture

Mr Letcha Magomadov, Chairman of the Political Council of "Edinstvo" Party in the Chechen Republic

Mr Said-Khamzat Makhmudovich Nunuev, Deputy of the Supreme Soviet of the Chechen Republic (1996), Counsellor of the International Community of Writers' Union

Mr Ziyaudin Terloev, Co-Chairman of the Union of Chechen Entrepreneurs, member of Expert Council of the State Duma Commission on Chechnya

Mr Akhmar Gapurovich Zavagaev, Member of the Federation Council of the Federal Assembly of the Russian Federation

Mr Shaid Zhamaldaev, Chairman of the Consultative Council of the Chechen Republic

APPENDIX VI

European Committee for the Prevention of Torture: public statement concerning the Chechen Republic

Strasbourg, 10 July 2001 – The Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has issued today the attached public statement concerning the Chechen Republic of the Russian Federation.

The public statement is prompted by the Russian authorities' failure to co-operate with the CPT in relation to two issues:

i. the carrying out of a thorough and independent inquiry into events in a detention facility at Chernokozovo during the period December 1999 to early February 2000;

ii. action taken to uncover and prosecute cases of ill-treatment of persons deprived of their liberty in the Chechen Republic in the course of the current conflict.

To date, the CPT has visited the North Caucasian region of the Russian Federation on three occasions: 26 February to 4 March 2000, 20 to 27 April 2000, and 19 to 23 March 2001. The preliminary observations made by the CPT delegation which carried out the first visit were published on 3 April 2000, with the authorisation of the Russian authorities. The publication of other CPT documents setting out the committee's findings in the North Caucasian region has so far not been authorised by the Russian authorities.

The CPT's public statement concerning the Chechen Republic is made under Article 10, paragraph 2, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Article 10.2 provides that if a party to the convention "fails to co-operate or refuses to improve the situation in the light of the committee's recommendations, the committee may decide, after the party has had an opportunity to make known its views, by a majority of two-thirds of its members to make a public statement on the matter."

This is the third time in eleven years that the CPT has used its power under the convention to make a public statement.

The CPT was set up under the 1987 European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Forty-one of the forty-three member states of the Council of Europe are bound by the convention: Albania, Andorra, Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, the Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, "the former Yugoslav Republic of Macedonia", Turkey, Ukraine and the United Kingdom.

The CPT is composed of persons from a variety of backgrounds: lawyers, medical doctors, police and prison experts, persons with parliamentary experience, etc. The committee's task is to examine the treatment of persons deprived of their liberty. For this purpose, it is entitled to visit any place where such persons are held by a public authority and to interview those persons in private. The committee may formulate recommendations to strengthen, if necessary, their protection against torture and inhuman or degrading treatment or punishment.

Further information about the CPT may be obtained from:

the CPT's Internet site: www.cpt.coe.int;

The Council of Europe Press Department:

Sabine Zimmer: tel. +33/(0)3 88 41 25 97; Cathie Burton: tel. +33/(0)3 88 41 28 93;

fax +33/(0)3 88 41 27 90; e-mail pressunit@coe.int;

CPT secretariat: tel. +33/(0)3 88 41 39 39;
fax: +33/(0)3 88 41 27 72; e-mail cptdoc@coe.int

Public statement concerning the Chechen Republic of the Russian Federation (issued on 10 July 2001)

Since the beginning of the current conflict in the Chechen Republic, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has visited the North Caucasian region on three occasions. For the last eighteen months, the committee has striven to maintain a constructive and sustained dialogue with the Russian authorities on various issues related to the treatment of persons deprived of their liberty in that part of the Russian Federation. Following an exchange of detailed correspondence in May and June 2001, it has become clear that this dialogue has reached an impasse on at least two issues of great concern to the CPT.[1] Those issues relate to:

1. events in the early stages of the conflict in a detention facility located at Chernokozovo, a village in the north-west of the Chechen Republic;

2. action taken to uncover and prosecute cases of ill-treatment of persons deprived of their liberty in the Chechen Republic in the course of the conflict.

1. The information gathered by the CPT during its visits to the North Caucasian region in late February/early March and in April 2000 strongly indicated that many persons were physically ill-treated in a detention facility at Chernokozovo during the period December 1999 to early February 2000. Ever since the beginning of March 2000, the CPT has been urging the Russian authorities to carry out a thorough and independent inquiry into events at this detention facility during that period. To date, an inquiry of the kind requested by the CPT has not been carried out and the Russian authorities have now made it clear that they have no intention of organising such an inquiry. A particularly disturbing aspect of the Russian authorities' current position is their contention that no facilities intended for accommodating detainees were established by public authorities in the area of Chernokozovo during the period referred to by the CPT.

It is an indisputable fact that a detention facility operated at Chernokozovo during the period December 1999 to early February 2000, prior to the formal setting up in that village of a pre-trial establishment (SIZO No. 2) by a Ministry of Justice order dated 8 February 2000. The CPT's delegation interviewed many persons who stated that they had been held in a detention facility at Chernokozovo during that period. Numerous Russian officials (prosecutors, investigators, custodial staff) met by the delegation confirmed that the establishment designated as from 8 February 2000 as SIZO No. 2 had prior to that date been used as a detention facility. The CPT is in possession of a copy of the medical journal of the establishment covering the period 8 November 1999 to 12 February 2000, in which the day by day arrival of detainees (and any injuries they bore) was recorded; the staff who completed that journal referred to the establishment first as an "IVS" (temporary detention facility) and at a later stage as a "temporary reception and distribution centre". The Russian authorities have themselves, in earlier correspondence, provided to the CPT written statements signed by officers attesting to the fact that they worked in the detention facility during the period December 1999 to early February 2000 as well as written statements signed by persons who certified that they were held at Chernokozovo during that period.

The Russian authorities' contention that no detention facilities were established by public authorities at Chernokozovo during the period in question (and that, as a result, an inquiry of the kind requested can serve no purpose) is clearly untenable and constitutes a failure to co-operate with the CPT.

2. Quite apart from the specific question of the detention facility at Chernokozovo, the information gathered by the CPT's delegation in the course of its February/March and April 2000 visits indicated that a considerable number of persons deprived of their liberty in the Chechen Republic since the outset of the conflict had been physically ill-treated by members of the Russian armed forces or law enforcement agencies. In the report on those two visits, the CPT recommended that the Russian authorities redouble their efforts to uncover and prosecute all cases of ill-treatment of persons deprived of their liberty in the Chechen Republic in the course of the conflict. The committee made a number of remarks of a practical nature intended to clarify the precise form those efforts might take. More generally, the CPT stressed that it was essential for the Russian authorities to adopt a proactive approach in this area.

The response of the Russian authorities to this key recommendation was very unsatisfactory. No concrete information was provided as regards the action taken by the Russian authorities – and in particular by the prosecutorial services – to step up inquiries into the treatment of persons deprived of their liberty by members of the Russian armed forces or law-enforcement agencies and to bring to justice those responsible for ill-treatment.

As was stressed in a letter sent to the Russian authorities on 10 May 2001, the CPT's concerns in this regard are all the greater given that in the course of the committee's most recent visit to the Chechen Republic, in March 2001, numerous credible and consistent allegations were once again received of severe ill-treatment by federal forces; in a number of cases, those allegations were supported by medical evidence. The CPT's delegation found a palpable climate of fear; many people who had been ill-treated and others who knew about such offences were reluctant to file complaints to the authorities. There was the fear of reprisals at local level and a general sentiment that, in any event, justice would not be done. It was emphasised to the Russian authorities that they must spare no effort to overcome this deeply disturbing state of affairs.

1. The CPT reserves the right to publish that exchange of correspondence if this were to become appropriate.

In its letter of 10 May 2001, the CPT called upon the Russian authorities to provide a full account of action taken to implement the above-mentioned recommendation. In that connection, it requested details of measures apparently envisaged to reinforce the different prosecutorial services involved in investigating allegations of ill-treatment, to improve co-operation between those services, and to ensure a better follow-up of complaints of unlawful actions by military forces and law enforcement agencies. The CPT also made proposals designed to reinforce the support provided to the criminal justice system by the forensic medical services in the Chechen Republic. Further, the CPT requested up-to-date information from both the Chechen Republic prosecutor's office and the military prosecutor's office concerning cases which involve allegations of ill-treatment of persons deprived of their liberty in the Chechen Republic. More specifically, the CPT asked for a detailed account of progress made concerning the criminal investigation into the deaths of those persons (apparently fifty-three in number) whose bodies were found on a datcha estate not far from Khankala in February 2001. According to the information gathered during the March 2001 visit, there were clear indications on some of the bodies that the deaths were the result of summary executions; further, certain of the bodies had been identified by relatives as those of persons who had disappeared following their detention by Russian forces. The CPT underlined that this case could be seen as a test of the credibility of the criminal justice system *vis-à-vis* events in the Chechen Republic.

In their reply forwarded on 28 June 2001, the Russian authorities indicate that they are not willing to provide the information requested or to engage in a discussion with the CPT on the matters indicated above; they assert that such matters do not fall within the committee's purview under the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Such an approach is inconsistent with the object and purpose of the international treaty establishing the CPT and can only be qualified as a failure to co-operate with the committee.

It is axiomatic that one of the most effective means of preventing ill-treatment of persons deprived of their liberty lies in the diligent examination by the relevant authorities of all complaints of such treatment brought before them and, where appropriate, the imposition of a suitable penalty. This will have a very strong deterrent effect. Conversely, if the relevant authorities do not take effective action upon complaints referred to them, those minded to ill-treat persons deprived of their liberty will quickly come to believe that they can act with impunity. It is therefore not only legitimate but even essential that the CPT, a body set up with a view to strengthening the protection of persons deprived of their liberty from torture and other forms of ill-treatment, take a direct interest in the activities of the authorities empowered to conduct official investigations and bring criminal charges in cases involving allegations of ill-treatment.

In the light of the Russian authorities' reply, it is also necessary to recall what is meant in Article 2 of the convention by the expression "any place within [a state's] jurisdiction where persons are deprived of their liberty by a public authority". Such a place may be a formally established and recognised detention facility; it may also be a railway carriage, a van, a shed, a garage, a warehouse, or any other improvised facility used by members of a public authority for the purpose of depriving someone of their liberty. The CPT's mandate and its powers under the convention cover the treatment of persons while they are deprived of their liberty in any such place.

The CPT is fully aware of the extremely difficult and perilous circumstances confronting the Russian authorities as a result of the conflict in the Chechen Republic and has kept those circumstances constantly in mind. The CPT is also aware that grave crimes and abuses have been committed by combatants opposing the Russian forces; those acts should be strongly condemned. However, state authorities must never allow their response to such a situation to degenerate into acts of torture or other forms of ill-treatment; to refrain from resorting to such acts – and to take active steps to stamp them out when they emerge – is one of the hallmarks of a democratic state.

In ratifying the major human rights instruments of the Council of Europe, the Russian Federation has demonstrated that it subscribes to the above-mentioned principle. Bearing that in mind, the CPT calls upon the Russian authorities to work in a constructive manner with the committee in the context of its activities in the Chechen Republic. The Russian authorities have always shown good co-operation as regards security and transport arrangements during the CPT's visits to the Chechen Republic; the same level of co-operation should apply as regards the action taken upon the committee's findings and recommendations.

The CPT regrets that it was found necessary to make this public statement. The committee hopes that it will stimulate the efforts of both parties – acting in co-operation – to strengthen the protection of persons deprived of their liberty in the Chechen Republic from torture and inhuman or degrading treatment or punishment. The CPT remains fully committed to continuing its dialogue with the Russian authorities.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Report[1]
Doc. 9228 – 24 September 2001

Democracies facing terrorism

(Rapporteur: Mr DAVIS, United Kingdom, Socialist Group)

I. Draft resolution

1. The members of the Parliamentary Assembly of the Council of Europe and the 800 million Europeans whom it represents were horrified by the recent terrorist attacks against the United States of America.

2. The Assembly conveys its deepest sympathies to the American people and to the families of the victims, including citizens of other countries.

3. The Assembly condemns in the strongest possible terms these barbaric terrorist acts against innocent civilians. It considers these attacks as a crime that violates the most fundamental human right: the right to life.

4. The Assembly calls on the international community to give all necessary support to the Government of the United States of America in dealing with the consequences of these attacks and in bringing the perpetrators to justice, in line with existing international anti-terrorist conventions and United Nations Security Council resolutions.

5. The Assembly regards the new International Criminal Court as an appropriate institution to consider terrorist acts.

6. The Assembly welcomes, supports and shares the solidarity shown by members of the international community, which has not only condemned these attacks, but also offered to co-operate in an appropriate response.

7. These attacks have moved terrorism to a new level and require a new kind of response. This terrorism does not recognise borders. It is an international problem to which international solutions must be found based on a global political approach. The world community must show that it will not capitulate to terrorism, but that it will stand more strongly than before for democratic values, the rule of law and the defence of human rights and fundamental freedoms.

8. The Assembly considers these terrorist actions to be crimes rather than acts of war. Any actions either by the United States acting alone or as a part of a broader international coalition, must be in line with existing United Nations anti-terrorist conventions and Security Council resolutions and must focus on bringing the perpetrators, organisers and sponsors of these crimes to justice, instead of inflicting a hasty revenge.

9. There can be no justification for terrorism. At the same time, the Assembly believes that long-term prevention of terrorism must include a proper understanding of its social, economic, political and religious roots. If these issues are properly addressed, it will be possible to seriously undermine the grass root support for and recruitment of terrorist networks.

10. The Assembly supports the idea of elaborating and signing at the highest level an international convention on combating international terrorism which should contain a comprehensive definition of international terrorism as well as specific obligations for participating states to prevent acts of terrorism on a national and global scale and to punish their organisers and executors.

11. The recent terrorist acts appear to have been undertaken by extremists who have used violence with a view to provoking a serious clash between the West and the Islamic world.

12. If military action is part of a response to terrorism, the international community must clearly define its objectives and should avoid targeting civilians. Any action should be taken in conformity with international law and with the agreement of the United Nations Security Council. The Assembly therefore welcomes the Security Council Resolution 1368 (2001), which expresses the Council's readiness to take all necessary steps to respond to the attacks of 11 September 2001 and to combat all forms of terrorism in accordance with its responsibilities under the United Nations Charter.

13. The Assembly emphasises that any action to prevent or punish terrorist acts must not discriminate on ethnic or religious grounds and must not be directed against any religious or ethnic community.

14. The Assembly believes that international action against terrorism can only be effective if it is carried out with the broadest possible support. It calls for close co-operation on a pan-European level as part of a global effort and calls on the European Union and the Commonwealth of Independent States (CIS) to co-operate closely with the Council of Europe in this regard.

15. The Assembly expresses support for the proposal to establish an international anti-terrorist mechanism within the United Nations to co-ordinate and promote co-operation between states in dealing with international terrorism.

16. The Assembly recalls its report on terrorism of 1984, as well as Recommendation 1426 (1999) on European democracies facing up to terrorism. It reiterates the proposals made in this recommendation and instructs its relevant committees to update them if necessary.

17. The Assembly calls on the Council of Europe member states to:

i. stand firmly united against all acts of terrorism, whether they are state sponsored or perpetrated by isolated groups or organisations, and show a clear will and readiness to fight against them;

1. Referred to Political Affairs Committee and, for opinion, to the Committee on Legal Affairs and Human Rights: Reference No. 2629 (25th Sitting, 24 September 2001).

ii. introduce economic and other appropriate measures against countries offering safe havens to terrorists or providing financial and moral support to them;

iii. concentrate their efforts on improving judicial co-operation and police co-operation and on the identifying and seizing of funds used for terrorist purposes in the spirit of the International Convention for the Suppression of the Financing of Terrorism;

iv. review the scope of the existing national legal provisions on the prevention and suppression of terrorism;

v. ensure that appropriate domestic measures exist to prevent and counteract the financing of terrorists and terrorist organisations;

vi. lift their reservations to all existing conventions dealing with terrorism;

vii. renew and generously resource their commitment to pursue economic, social and political policies designed to secure democracy, justice, human rights and well-being for all people throughout the world;

viii. give urgent consideration to amending and widening the Rome Statute to allow the remit of the International Criminal Court to include acts of international terrorism;

ix. reaffirm their commitment to the status of the United Nations Security Council as the ultimate authority for approving international military action.

II. Draft recommendation

1. The Parliamentary Assembly refers to its Resolution 1258 (2001) on democracies facing terrorism.

2. It strongly condemns all forms of terrorism as a violation of the most fundamental human right: the right to life.

3. It takes note of the declaration by the Committee of Ministers of 12 September 2001 and welcomes its decision of 21 September 2001 to include the fight against terrorism in the agenda for the 109th Session of the Committee of Ministers (7 and 8 November 2001).

4. The Assembly regards the new International Criminal Court as an appropriate institution to consider the international acts of terrorism.

5. It urges the Committee of Ministers to:

i. ask those member states who have not yet done so to sign and ratify the existing relevant anti-terrorist conventions, especially the International Convention for the Suppression of the Financing of Terrorism;

ii. invite member states to lift their reservations to anti-terrorist conventions which hinder international co-operation;

iii. ensure the full implementation of all existing Council of Europe conventions in the penal field;

iv. make it possible for Observer states to accede to the European Convention on the Suppression of Terrorism at its 109th Ministerial Session, and invite them, as well as those member states who have not yet signed and/or ratified this convention, to do so at this session;

v. establish immediate, concrete and formal co-operation with the European Union, on the basis of the Council of Europe's values and legal instruments, in order to guarantee coherence and efficiency in Europe's action against terrorism;

vi. reconsider the basis of international co-operation in criminal matters in Europe, in order to find new and more effective means of co-operation which take account of present-day realities and needs;

vii. as regards the European Convention on the Suppression of Terrorism, remove as a matter of urgency Article 13, which grants contracting states the right to make reservations which can defeat the purpose of the convention by enabling the states to refuse extradition for offences otherwise extraditable;

viii. give urgent consideration to amending and widening the Rome Statute to allow the remit of the International Criminal Court to include acts of international terrorism;

6. It reiterates its Recommendation 1426 (1999) on European democracies facing up to terrorism and calls on the Committee of Ministers to provide a more substantial reply to it as a matter of urgency.

III. Explanatory memorandum, by Mr Davis

1. The rapporteur does not consider it necessary to present a memorandum to support the draft resolution and the draft recommendation. The facts around the recent terrorist attacks are well known to everyone.

2. Nevertheless, the rapporteur considers it to be useful to include several documents (which are mentioned in the text of the draft resolution and draft recommendation) as appendices.

APPENDIX I

Committee of Ministers' decision of 21 September 2001[1]

APPENDIX II

Conclusions and plan of action of the Extraordinary European Council meeting (21 September 2001)[2]

APPENDIX III

Recommendation 1426 (1999)
European democracies facing up to terrorism[2]

1. See Council of Europe website, http://cm.coe.int.
2. See European Council website, http://ue.eu.int/en

APPENDIX IV

**European democracies facing up to terrorism
Reply from the Committee of Ministers
to Recommendation 1426 (1999)
of the Parliamentary Assembly, adopted on 18 July 2001
at the 761st meeting of the Ministers' Deputies[1]**

APPENDIX V

Press release – The Council of Europe decides to strengthen its fight against terrorism

Strasbourg, 12 September 2001

1. The Committee of Ministers of the Council of Europe condemns with the utmost force the terrorist attacks of unprecedented violence committed against the American people, to whom it expresses sympathy and solidarity.

These crimes do not strike only the United States but affect us all. These barbaric acts violate human rights, in particular the right to life, democracy and the search for peace.

Such monstrous acts demand resolute reaction from all states committed to uphold civilised values.

The Council of Europe, which unites the continent around these values, has a particular interest and responsibility to contribute to such a reaction.

2. The Committee of Ministers decides to hold a special meeting on 21 September with the following agenda:

i. strengthening of the fight against terrorism, using the specific expertise and instruments of the Council of Europe, and improving the mechanisms and means for co-operation with other international organisations and the Observer states;

ii. inviting the member states to give increased effectiveness to the existing pan-European co-operation, for example, to accede, where they have not done so, to conventions on mutual assistance in criminal matters;

iii. examining the scope for updating the European Convention on the Suppression of Terrorism;

iv. the inclusion of the fight against terrorism in the Council of Europe's integrated project on the struggle against violence in everyday life in a democratic society.

1. See European Council website, http://ue.eu.int/en

APPENDIX VI

**Resolution 1368 (2001) of 12 September 2001
of the United Nations Security Council[1]**

APPENDIX VII

**European Convention on the Suppression of Terrorism
(ETS No. 90) and chart of signatures and ratifications[2]**

APPENDIX VIII

**International Convention for the Suppression
of the Financing of Terrorism
and chart of signatures and ratifications[2]**

Reporting committee: Political Affairs Committee.

Reference to committee: request for an urgent debate, Reference 2629 of 24 September 2001.

Draft resolution and recommendation unanimously adopted by the committee on 24 September 2001

Members of the committee: *Davis (Chairman), Jakič, Baumel, Toshev (Vice-Chairmen), Adamia,* I. Aliyev *(alternate: Seyidov), Arzilli,* Atkinson *(alternate: Jones),* Azzolini *(alternate: Provera),* Bakoyianni, *Bársony*, Behrendt, Berceanu, *Bergqvist*, Bianco *(alternate: Danieli)*, *Björck*, Blaauw *(alternate: van der Linden), Bühler, Čekuolis, Clerfayt,* Daly, *Demetriou*, Derycke, Diáz de Mera *(alternate: Solé Tura)*, Dokle, *Dreyfus-Schmidt*, Durrieu, *Ferić-Vac*, Frey, *Fyfe, Gjellerod*, Glesener, *Gligoroski, Gross, Gönül,* Hornhues, *Hovhannisyan*, *Hrebenciuc*, Irtemçelik, Ivanenko, Iwiński, *Karpov, Kautto, Kilclooney of Armagh*, Kotsonis, Krzaklewski, Loufti, Martínez-Casañ *(alternate: Puche), Medeiros Ferreira, Mota Amaral, Mutman,* Naudi Mora, Neguta, Němková, Neuwirth, *Ojuland, Oliynyk,* Paegle, *Prisàcaru*, Prusak, *de Puig*, *Ragnarsdóttir*, *Ranieri*, *Rogozin*, Schieder, *Schloten*, Spindelegger, *Štěpová*, *Surján*, Thoresen *(alternate: Simonsen)*, Timmermans *(alternate:Zwerver)*, Udovenko, Vakilov, Vella, Weiss, *Wielowieyski*, Wohlwend, Zacchera *(alternate: de Zulueta),* Zuiganov.

N.B. The names of the members who took part in the meeting are printed in italics.

See 28th Sitting, 26 September 2001 (adoption of draft resolution and draft recommendation); and Resolution 1258 and Recommendation 1534.

1. See United Nations website: www.un.org.
2. See Council of Europe website: www.coe.int.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 1[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by MM. VANOOST, CLERFAYT, Van den BRANDE, Ms ZWERVER and Mr GORIS

In the draft resolution, move paragraph 13 to the end of paragraph 11.

1. See 28th Sitting, 26 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 2[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by Ms HERCZOG, MM. BÁRSONY, LOTZ, GABURRO, NARO, Ms BELOHORSKÁ, Mr TKÁČ, Ms KELTOŠOVÁ, Ms FRIMANNSDÓTTIR and Mr GJELLEROD

In the draft recommendation, after paragraph 5.v, add a new sub-paragraph as follows:

"ask member states to review their education programmes in order to enhance the role of democratic values, as children and the younger generation are often used by the terrorists to achieve their aims;".

1. See 28th Sitting, 26 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 3[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by Mr JANSSON on behalf of the Committee on Legal Affairs and Human Rights

In the draft resolution, paragraph 2, replace "American people" by: "people of the United States".

1. See 28th Sitting, 26 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 4[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by Mr JANSSON on behalf of the Committee on Legal Affairs and Human Rights

In the draft resolution, paragraph 5, replace "an appropriate institution" by: "the appropriate institution".

1. See 28th Sitting, 26 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 5[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by Mr JANSSON on behalf of the Committee on Legal Affairs and Human Rights

In the draft resolution, after paragraph 17.vi, add a new sub-paragraph as follows:

"provide access to bank accounts for the authorities responsible for investigating international crime and terrorist networks in particular".

1. See 28th Sitting, 26 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 6[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by Mr JANSSON on behalf of the Committee on Legal Affairs and Human Rights

In the draft resolution, paragraph 14, after "(CIS)", add the words: "and the OSCE".

1. See 28th Sitting, 26 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 7[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by Mr JANSSON on behalf of the Committee on Legal Affairs and Human Rights

In the draft resolution, in the second sentence of paragraph 16, after the word "Recommendation", add the words:

"including the principle *aut dedere aut judicare* (either extradite or try),"

1. See 28th Sitting, 26 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 8[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by Mr JANSSON on behalf of the Committee on Legal Affairs and Human Rights

In the draft resolution, at the end, add the following new paragraph:

"The Assembly invites the member states of the United Nations to amend their Charter so that it may also address crises other than those arising between states.".

1. See 28th Sitting, 26 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 9[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by Mr JANSSON on behalf of the Committee on Legal Affairs and Human Rights

At the end of the draft resolution, add the following new paragraph:

"The Assembly requests that the present resolution be transmitted to the Congress and to the President of the United States and to the Secretary General of the United Nations.".

1. See 28th Sitting, 26 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 10[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by Mr JANSSON on behalf of the Committee on Legal Affairs and Human Rights

In the draft recommendation, paragraph 4, replace "an appropriate institution" by: "the appropriate institution".

1. See 28th Sitting, 26 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 11[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by Mr JANSSON on behalf of the Committee on Legal Affairs and Human Rights

In the draft recommendation, paragraph 5.v, after "European Union", add the words: "and the OSCE".

1. See 28th Sitting, 26 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 12[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by Mr JANSSON on behalf of the Committee on Legal Affairs and Human Rights

In the draft recommendation, after paragraph 5.vi, add the following sub-paragraph:

"extend the terms of reference of the Committee of Experts on the Criminalisation of Acts of a Racist or Xenophobic Nature Committed Through Computer Networks (PC-RX) to terrorist messages and the decoding thereof".

1. See 28th Sitting, 26 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 13[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by Mr JANSSON on behalf of the Committee on Legal Affairs and Human Rights

In the draft recommendation, at the end of paragraph 5, add the following new sub-paragraph:

"propose the setting up of an international criminal tribunal to judge terrorists pending the establishment of the International Criminal Court with appropriate powers".

1. See 28th Sitting, 26 September 2001 (rejection of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 14[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by Mr JANSSON on behalf of the Committee on Legal Affairs and Human Rights

In the draft recommendation, after paragraph 5, add the following new paragraph:

"The Assembly recommends that the Committee of Ministers examine, in co-operation with the European Union bodies, the modalities for extending the European arrest warrant to all Council of Europe member states in the field of the fight against terrorism.".

1 . See 28th Sitting, 26 September 2001 (adoption of the amendment, as amended orally).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 15[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by MM. ROSETA, van der LINDEN, SURJÁN, LINTNER, Ms AGUIAR, Ms FERNÁNDEZ-CAPEL, MM. AGRAMUNT, HERRERA, Lord KILCLOONEY, MM. MLADENOV, MARTÍNEZ CASAÑ, TOSHEV, CESÁRIO and Ms STOYANOVA

In the draft recommendation, after paragraph 5.iii, add the following new sub-paragraph:

"request those member states that have not done so to sign and ratify, as rapidly as possible, the Treaty of Rome, which provides for the establishment of the International Criminal Court".

1. See 28th Sitting, 26 September 2001 (adoption of the amendment, as amended orally).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 16[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by MM. SURJÁN, LINTNER, Ms AGUIAR, MM. AGRAMUNT, HERRERA, ROSETA, CESÁRIO, MARTÍNEZ CASAÑ, Ms STOYANOVA, MM. MLADENOV, TOSHEV and DEMETRIOU

In the draft recommendation, paragraph 5.iv, after the word "Observer", add the following: "and non-member".

1. See 28th Sitting, 26 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 17[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by MM. SURJÁN, LINTNER, Ms AGUIAR, MM. AGRAMUNT, HERRERA, ROSETA, CESÁRIO, MARTÍNEZ CASAÑ, Ms STOYANOVA, MM. MLADENOV, TOSHEV and DEMETRIOU

In the draft recommendation, after paragraph 5.viii, add the following sub-paragraph:

"review the relevant existing conventions in the light of the recent events and declare terrorism and all forms of support for it to be crimes against humanity".

1. See 28th Sitting, 26 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 18[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by Ms FERNÁNDEZ-CAPEL, MM. van der LINDEN, SURJÁN, LINTNER, Ms AGUIAR, Lord KILCLOONEY, MM. AGRAMUNT, HERRERA, CESÁRIO, ROSETA, MLADENOV, MARTÍNEZ CASAÑ, Ms STOYANOVA, MM. TOSHEV and DEMETRIOU

In the draft resolution, paragraph 11, delete the words: "appear to".

1. See 28th Sitting, 26 September 2001 (rejection of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 19[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by Ms FERNÁNDEZ-CAPEL, MM. van der LINDEN, SURJÁN, LINTNER, Ms AGUIAR, Lord KILCLOONEY, MM. AGRAMUNT, HERRERA, CESÁRIO, ROSETA, MLADENOV, MARTÍNEZ CASAÑ, Ms STOYANOVA, MM. TOSHEV and DEMETRIOU

In the draft resolution, paragraph 11, after the word "extremists", insert: "and the countries behind them".

1. See 28th Sitting, 26 September 2001 (rejection of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 20[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by Ms FERNÁNDEZ-CAPEL, MM. van der LINDEN, SURJÁN, LINTNER, Ms AGUIAR, Lord KILCLOONEY, MM. AGRAMUNT, HERRERA, CESÁRIO, ROSETA, MLADENOV, MARTÍNEZ CASAÑ, Ms STOYANOVA, MM. TOSHEV and DEMETRIOU

In the draft resolution, at the start of paragraph 17.v, insert the words: "take the necessary steps to".

1. See 28th Sitting, 26 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 21[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by MM. MARTÍNEZ CASAÑ, van der LINDEN, SURJÁN, LINTNER, Lord KILCLOONEY, Ms AGUIAR, Ms FERNÁNDEZ-CAPEL, MM. AGRAMUNT, HERRERA, ROSETA, DEMETRIOU, MLADENOV, TOSHEV and Ms STOYANOVA

In the draft resolution, paragraph 3, delete the words "against innocent civilians".

1. See 28th Sitting, 26 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 22[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by MM. MARTÍNEZ CASAÑ, van der LINDEN, SURJÁN, LINTNER, Lord KILCLOONEY, Ms AGUIAR, Ms FERNÁNDEZ-CAPEL, MM. AGRAMUNT, HERRERA, ROSETA, DEMETRIOU, MLADENOV, TOSHEV and Ms STOYANOVA

In the draft resolution, paragraph 7, leave out the words "moved terrorism to a new level and require" and insert: "shown clearly the real face of terrorism and the need for".

1. See 28th Sitting, 26 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 23[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by MM. MARTÍNEZ CASAÑ, van der LINDEN, SURJÁN, LINTNER, Lord KILCLOONEY, Ms AGUIAR, Ms FERNÁNDEZ-CAPEL, MM. AGRAMUNT, HERRERA, ROSETA, DEMETRIOU, MLADENOV, TOSHEV and Ms STOYANOVA

In the draft resolution, delete the first sentence of paragraph 9 and insert it at the beginning of paragraph 8.

1. See 28th Sitting, 26 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 24[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by MM. van der LINDEN, SURJÁN, LINTNER, Lord KILCLOONEY, Ms AGUIAR, Ms FERNÁNDEZ-CAPEL, MM. AGRAMUNT, HERRERA, ROSETA, CESÁRIO, MLADENOV, DEMETRIOU, MARTÍNEZ CASAÑ, TOSHEV and Ms STOYANOVA

In the draft resolution, paragraph 14, after the words "pan-European level", insert the words: "especially with the European Parliament".

1. See 28th Sitting, 26 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 25[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by MM. van der LINDEN, SURJÁN, LINTNER, Lord KILCLOONEY, Ms AGUIAR, Ms FERNÁNDEZ-CAPEL, MM. AGRAMUNT, HERRERA, ROSETA, CESÁRIO, MLADENOV, DEMETRIOU, MARTÍNEZ CASAÑ, TOSHEV and Ms STOYANOVA

In the draft resolution, after paragraph 16, add a new paragraph as follows:

"The Assembly resolves to invite parliamentarians to a conference to evaluate the new situation, to strengthen democratic systems in Europe and to fight against terrorism".

1. See 28th Sitting, 26 September 2001 (rejection of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 26[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by Mr AGRAMUNT, Ms FERNÁNDEZ-CAPEL, MM. PADILLA, HERRERA and FERNÁNDEZ AGUILAR

In the draft resolution, paragraph 10, lines 2 and 3, delete the word "international" before the word "terrorism" and likewise in paragraphs 15 and 17.viii.

1. See 28th Sitting, 26 September 2001 (adoption of the amendment, as amended orally).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 27[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by Mr CILEVIČS, Ms ZWERVER, Mrs BURBIENĖ, MM. CONNOR, EINARSSON, Ms AGUIAR, Ms BUŠIĆ, MM. SOENDERGAARD, TUDOSE, Mrs VERMOT-MANGOLD and Mr MUTMAN

In the draft resolution, after paragraph 13, insert the following paragraph:

"The Assembly expresses its conviction that introducing additional restrictions on freedom of movement, including more hurdles for migration and for access to asylum, would be an absolutely inappropriate response to the rise of terrorism, and calls upon all member states to refrain from introducing such restrictive measures."

1. See 28th Sitting, 26 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 28[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by MM. ROGOZIN, SLUTSKY, OLIYNYK, POPESCU and RUSTAMYAN

In the draft recommendation, paragraph 5.v, after the words "with the European Union", add the words: "and the Commonwealth of Independent States (CIS)".

1. See 28th Sitting, 26 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 29[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by MM. SCHIEDER, LAAKSO, Ms OJULAND, MM. CHAPMAN, BEHRENDT, BÁRSONY and JAKIČ

In the draft resolution, after paragraph 17, insert the following new paragraph:

"18. The Assembly furthermore instructs its Bureau to ensure that, in the follow-up to this resolution, there is appropriate co-operation and co-ordination between the Parliamentary Assembly and the European Parliament, involving also the respective competent committees of each institution."

1. See 28th Sitting, 26 June 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 30[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by MM. WILSHIRE, HANCOCK, WILKINSON, CHAPMAN and AKÇALI

In the draft resolution, paragraph 9, delete "its social, economic, political and religious roots. If these issues are properly addressed, they may seriously undermine the grass root support for and recruitment of terrorist networks" and insert: "the human race's capacity for hatred."

1. See 28th Sitting, 26 June 2001 (adoption of the amendment, as amended orally).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 31[1]
Doc. 9228 – 25 September 2001

Democracies facing terrorism

tabled by Mr AGRAMUNT, Ms FERNÁNDEZ-CAPEL, MM. PADILLA, HERRERA, and FERNÁNDEZ AGUILAR

In the draft recommendation, paragraph 4, delete the word "international" before the word "terrorism" and likewise in paragraph 5.viii.

1. See 28th Sitting, 26 September 2001 (the amendment was withdrawn).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Report[1]
Doc. 9229 – 25 September 2001

Contribution to the joint debate on the OECD and the world economy

(Rapporteur: Ms MIKAELSSON, Sweden, Group of the Unified European Left)

1. The report by the Committee on Economic Affairs and Development (Doc. 9171) already covers certain aspects of OECD activities in fields coming within the ambit of the Committee on Environment and Agriculture. However, in view of the importance of these areas and their growing significance in the OECD's work, our committee deems it appropriate to devote this contribution to a discussion of the related issues. In doing so, it will not confine itself solely to activities undertaken in 2000 but will also refer to more recent developments.

Sustainable development

2. To satisfy sustainability requirements, economic development must be geared to preserving the possibility for future generations to benefit from sufficient resources, a clean environment and favourable economic and social conditions. For the well-being of humankind, which is the very purpose of development, social and environmental considerations are of the same importance as economic growth. However, economic agents frequently tend to regard these as secondary aspects compared with short-term economic concerns. At the same time, when conceiving environmental and social policies, decision makers sometimes take insufficient account of their economic implications.

3. The OECD's work on sustainable development, which has been stepped up considerably in recent years, is aimed at devising an action strategy integrating economic, environmental and social policies with a view to enhancing well-being.

4. In this context the OECD has conducted a series of multidisciplinary studies with the objective of analysing, from the sustainability standpoint, economic, social and environmental trends in the organisation's member states, and also worldwide, and recommending public policy directions conducive to consistent action in favour of the transition to sustainable development.

5. This work has led to the publication of a policy report "Policies to enhance sustainable development", submitted to the meeting of the OECD Council at ministerial level in May 2001. This report has the merit of addressing not only the major principles underlying the sustainable development concept (which are constantly evolving), but also and above all the means at public authorities' disposal for putting those principles into practice. The focus is on the economy-environment link, which is still insufficiently taken into consideration when reaching economic decisions. This link should be brought to the fore, *inter alia*, through application of a price system reflecting the global cost of use of resources and environmental degradation.

6. Among the fields entailing specific risks for sustainable development, the OECD pays particular attention to climate change and management of natural resources.

Climate change

7. The Assembly held an emergency debate on the problem of climate change and the international community's efforts to reverse this trend in June 2001 (Resolution 1243 (2001)). The OECD urges its members to bring their national policies more into line with objectives concerning climate change and proposes a number of economic measures they can take with that goal in mind.

8. OECD activities in this area would seem to be compromised for the time being – at least in part – by the United States' attitude with regard to the Kyoto Protocol. Yet, had the dangers posed by climate change not been so serious, this problem could simply have been regarded as a textbook example of the need for an economy-environment interface and for the integration of long-term environmental objectives in short- and medium-term economic decisions.

9. Although the Conference of Parties (COP 6.5) held in Bonn in July 2001 succeeded in reaching a compromise that saves the Kyoto process from failure, the United States' refusal to commit itself undermines the effectiveness of the protocol mechanisms and jeopardises the hoped-for results. What is more, states remaining outside the protocol would not have to bear the costs of its implementation and would therefore enjoy a comparative economic advantage, while at the same time benefiting from the fruits of the efforts made by participating states.

10. The Assembly should therefore continue to monitor the Kyoto process, in particular lending it a parliamentary dimension, and pursue, in co-operation with other partners, including the OECD, its efforts to ensure the entry into force and broadest possible application of the Kyoto Protocol.

Environmental protection

11. Safeguarding and managing environmental resources is an essential element of the sustainable development concept and is therefore of particular relevance to the OECD's work in this field. In this connection, the adoption of an "Environmental Strategy for the First Decade of the 21st Century" in May 2001 by the OECD environment ministers was an important step forward.

12. Based on a study of trends in environment-related problems and implementation of policies intended to solve those problems, the strategy identifies a number of objectives that should help to make environmental policies more operational and cost-effective. For each objective the OECD suggests action to be taken at national

1. See Doc. 9171.

level by OECD countries, criteria for measuring progress achieved and further work that could be done within the organisation.

13. One of the strategy objectives constitutes a response to excess exploitation of the global environment as a result of current production and consumption habits and is aimed at maintaining the integrity of ecosystems through the rational management of natural resources, with particular emphasis on climate change, fresh water and biodiversity.

14. Another strategy objective derives from the fact that, despite some environmental improvements resulting from the application of appropriate policies and cleaner technologies, the volume effect of increases in production and consumption has a negative net impact in terms of environmental degradation. To find a way out of this deadlock it is necessary to decouple environmental pressures from economic growth, so as to ensure that, while continuing to satisfy human needs, ongoing economic growth goes hand in hand with enhanced environmental conditions. The crucial economic sectors here are agriculture, transport and energy.

15. Among the primary objectives for greater integration of environmental concerns in all policy areas, mention must be made of efforts to enhance consideration of the social and environmental interface and the consequences of environmental improvement or degradation for social conditions and the quality of life, including in terms of costs.

16. The strategy also addresses the issue of international environmental governance and management of the environmental effects of globalisation. In particular, environmental aspects should be taken into account in international management of trade and investment matters.

The OECD Forum on Sustainable Development and the New Economy

17. The transition to sustainable development necessitates not only that the relevant principles be made part and parcel of sectoral policies, but also that a major change take place in traditional production and consumption patterns and individual and collective behaviour. The commitment and support of various components of society (policy makers, economic agents, professional organisations, trade unions, individuals) are absolutely essential to the achievement of sustainability objectives.

18. In this connection, the holding, in May 2001, of an OECD forum on sustainable development and the new economy must be hailed. The forum has become a major event in the organisation's activities and brings together business, trade union and civil society representatives to hold discussions with ministers and heads of international organisations.

19. The issues raised at this forum were consonant with the concerns addressed at the conference What Lifestyles for the Third Millennium? organised by the Committee on Environment and Agriculture in Santorini in June 2001. This type of debate, involving participants from a variety of backgrounds, helps to raise awareness of sustainable development challenges among decision makers and the public and should take place on a more regular basis at all levels of society.

Agriculture

20. In recent years, the main aspects of agriculture dealt with by the OECD have been the liberalisation of agricultural trade (reduction of production support, trade negotiations within the WTO framework) and the multifunctional nature of agriculture (rural development, protection of the environment). Other matters of priority for the establishment of sustainable agriculture are under examination, such as the management of agricultural resources (especially water), biotechnology and food safety. Another subject under consideration is the development of the agricultural sector in emerging and transition economies, particularly in the countries of central and eastern Europe.

21. The traditional agriculture and agricultural policies familiar to us need to be updated, and, in this context, the Ministers for Agriculture of OECD member states have undertaken to reform agricultural policy.

22. Agricultural policy goals are diverse and may appear to be difficult to reconcile. But ministers have stressed the intrinsic complementarities between goals. In 1999 the OECD Council meeting at ministerial level recognised: "the multifunctional characteristics of the sector; the need to ensure that agro-food policies are targeted, transparent, cost effective and avoid distortion of production and trade; and the long-term objective of substantial progressive reductions in support and protection resulting in fundamental reform".

23. Where fisheries are concerned, another area covered by OECD activities, the OECD is also working on the implications of a transition to sustainable and responsible fishing. The ministers have highlighted both the importance of efficient and sustainable management of fish stocks and the relationship between such management and trade. The transition needs to be made, with a view to the sustainability of resources and the liberalisation of the fish markets.

24. The setting up of sustainable systems of agricultural production and fishery management is therefore the main aim of the OECD's activities. The results of its work appear in several recent reports, on "Agro-environmental indicators", on "Improving the environmental performance of agriculture", on "The transition to responsible fisheries: economic and policy implications".

25. Among the OECD's periodic reports on the agricultural sector, the one on "Agricultural policies in OECD countries: monitoring and evaluation 2001" notes that the upward trend of recent years in agricultural support has fallen off slightly, although such support remains high and is not compatible with the long-term objectives of agricultural policy reform and the liberalisation of agricultural trade. As for food safety, many governments have made it their top priority, which can easily be understood after the two big crises of BSE and foot and mouth disease.

26. Reference may also be made to the 2000 report on "Agricultural policies in emerging and transition economies", which looks at the effects on emerging and transition economies of the reforms carried out in the fields of market access, export competition and domestic support. The 2001 report looks particularly at non-tariff measures as obstacles to international trade. What

is more, the OECD has already published individual studies of the agricultural policies of ten countries of central and eastern Europe: the Czech Republic, Hungary, Poland, Estonia, Latvia, Lithuania, the Russian Federation, Bulgaria, Romania and Slovenia.

27. All these efforts can themselves be viewed in the wider medium-term context of the "OECD agricultural outlook 2001-2006" report, which describes market trends and the prospects for agricultural products in the years ahead.

28. The Assembly holds the work of the OECD in the sectors of agriculture, food and fisheries in high esteem, at least their analytical and technical parts. But these activities are mainly conducted for member states' governments, so they do not necessarily reflect the views of the citizens, consumers and professionals concerned. Similarly, certain members of the Assembly voice different opinions about the priorities and objectives set by the OECD.

29. Broadly speaking, however, OECD priorities and those of the Assembly coincide. Both have recently stressed the sustainability of resources and food safety. It is true that the Assembly's membership and function make it closer, and surely more sensitive, to European citizens' concerns and demands, and that it cannot always react from a medium-term viewpoint.

30. The other side of the coin is that medium-term programming, while it reduces the cyclical risks, might well lose sight of certain immediate views which, while they may conflict with some necessary measures or policies, are very closely related to our citizens' day-to-day problems. The Assembly cannot fail to act on this by rapidly addressing recommendations to governments about such topical subjects.

31. As far as certain worries in the agricultural sphere that are shared by the OECD and the Council of Europe are concerned, such as protection of the environment, management of natural resources, rural development and multifunctionality, the Assembly has to some extent responded by merging into a single "Committee on Environment and Agriculture" activities and responsibilities that were the field of action of two separate committees until the end of the year 2000.

32. Another example of the Assembly's ability to respond might be that of the speedy accession of most of the countries of central and eastern Europe, enabling action to be taken on these countries' needs, and on those of their populations in particular. Of course, membership of the Assembly is restricted to European countries, including most of the countries of central and eastern Europe (whereas, among these, only the Czech Republic, Hungary, Poland and Slovakia are members of the OECD).

33. The OECD, on the other hand, has a number of non-European member states (Australia, Canada, Korea, New Zealand, Japan, Mexico and the United States), for which agriculture and fisheries are important sectors, and which have specific interests to defend, many diverging from those of the European countries.

34. Thus it is not surprising that the Assembly's political position on these issues does not necessarily coincide with that of the OECD, which has to allow for interests of a more contradictory nature. In the same way that the analysis of problems and setting of priorities may frequently be similar (sustainability, multifunctionality of agriculture, food safety), the proposed solutions can be far removed from each other, for the OECD applies more economic criteria (reduction of support for the sector, liberalisation of markets), while the Assembly takes more account of non-commercial concerns (the environment, social policy, ethical issues).

35. The enlarged Assembly debate on OECD activities gives both organisations' parliamentary delegations an opportunity to compare their respective positions and to exchange arguments so as to reach a compromise acceptable to all in the proposals in the resolution adopted by the enlarged Assembly.

36. However, the Assembly wishes to emphasise certain matters to which it gives priority, and to which it would like the OECD to give even greater attention.

37. The Assembly advocates sustainable development both in the environmental sphere and in agriculture and fisheries. Reform of these sectors, under way in numerous European countries, must do more than meet criteria of economic and financial efficiency in the framework of a global market. The Assembly has the political will to reply to the needs of the populations of Europe.

38. In this respect, it attaches importance to the policies needed to preserve natural resources and biodiversity, to promote multifunctional agriculture or responsible fishing taking account of the social needs of the sectors concerned, to pursue rural development that takes into consideration the needs of the people who live in the countryside and to ensure food safety through a policy designed primarily to protect consumers' health.

39. On the subject of the continuation of the reform of the agro-food sector in the countries of central and eastern Europe, the Assembly supports the adjustments still needed to make these sectors efficient and competitive, especially within the framework of membership of the European Union for certain of these countries. Clearly, large investments and rationalisation measures are still necessary, but these entail social risks which must be avoided at any price. Nor should productivity improvements be sought through production arrangements which fail to take account of the need to safeguard the environment.

40. The Assembly urges the OECD to continue its activities in the areas mentioned, carrying on with its analytical studies of countries or products, but taking still further its study of the new trends emerging in the agro-food sector (multifunctionality, sustainability, food safety, biotechnologies, and so on) and maintaining the present priority for transition economies. It is the duty of the OECD and the Assembly, as these developments continue, to offer advice to member states' governments, but also, and especially, to listen attentively to the wishes and concerns voiced by the citizens of our countries.

Committee for report: Committee on Economic Affairs and Development (Doc. 9171).

Committee for contribution: Committee on Environment and Agriculture.

Reference to committee: Standing mandate.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Communication from the Committee of Ministers
Doc. 9230 – 25 September 2001

Situation in Belarus

Reply to Recommendation 1441 (2000)
(adopted by the Committee of Ministers on 21 September 2001 at the 765th *bis* meeting of the Ministers' Deputies)

1. The Committee of Ministers follows developments in Belarus, in close co-operation with the Parliamentary Assembly.

2. The Committee of Ministers keeps Council of Europe activities open for Belarus, which it still considers as an applicant state for membership. It invites Belarusian experts to observe those steering committees in which they express an interest. The Belarusian representative in Strasbourg attends GR-EDS meetings whenever Belarus is discussed. Co-operation activities give priority to support for civil society and independent media.

3. The Committee of Ministers upholds a strict respect for the statutory conditions for membership. It is for the Belarusian authorities to take the steps that would allow the Assembly to lift the suspension of the Special Guest status.

4. The Committee of Ministers supports the parliamentary troika, a symbol and a working tool of the European Parliament, the Parliamentary Assembly of the Council of Europe and of the OSCE Parliamentary Assembly in support of democracy in Belarus. Since the establishment of the troika, the Committee of Ministers regularly exchanges views with the Assembly representatives in the troika.

5. The Committee of Ministers stands ready to help with the democratisation process in Belarus, in the light of the conclusions of the International Limited Election Observation Mission for the 2001 presidential election and of the four criteria established by the parliamentary troika. It would welcome in this respect an early consideration by the Belarusian Parliament of its own functions and powers.

6. As far as the proposal in paragraph 15.iv is concerned, the Committee of Ministers could consider it in the light of the developments in the democratisation process. In the meantime, the embassy of the country representing the chairmanship of the Committee of Ministers will act as a Council of Europe contact point in Belarus.

7. The Committee of Ministers is in favour of a constructive dialogue within civil society in Belarus and between the authorities and the international community with a view to facilitating the process of democratic transition.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Communication from the Committee of Ministers
Doc. 9231 – 25 September 2001

Situation in "the former Yugoslav Republic of Macedonia"

Reply to Parliamentary Assembly Recommendation 1528 (2001) (adopted by the Committee of Ministers on 21 September 2001 at the 765th *bis* meeting of the Ministers' Deputies)

The Committee of Ministers has been following very closely the unfolding of events in the country ever since the outbreak of the crisis in the spring of 2001 and has kept this item regularly on its agenda. Following the adoption of Parliamentary Assembly Recommendation 1528 (2001) on 28 June 2001 on the situation in "the former Yugoslav Republic of Macedonia" calling on the Committee of Ministers to intensify its co-operation programmes in a number of areas and to assist the authorities in the organisation of a reliable population census, the Committee of Ministers would like to inform the Parliamentary Assembly of the following:

– At their 759th meeting on 4 July 2001 (item 3.1.*b*) the Deputies agreed to bring Parliamentary Assembly Recommendation 1528 (2001) to the attention of their governments.

– At their 761st meeting on 18 July 2001 (item 2.1.*a*) the Deputies authorised the Secretariat to participate, in co-operation with the European Commission, in the international monitoring and observation of the census of the population, households and dwellings in "the former Yugoslav Republic of Macedonia" and agreed to the Council of Europe's contribution to this joint effort (approximately €200 000).

– With the signing of the Framework Agreement concluded at Ohrid and signed at Skopje on 13 August 2001 by the President and the leaders of the four coalition parties and witnessed by the Special Representative of the European Union and the Special Representative of the United States, a series of constitutional, legislative and administrative reforms were required in a number of areas of direct concern to the Council of Europe.

– This led to the elaboration of a package of measures, containing a series of concrete activities designed to contribute to the implementation of the Framework Agreement by re-orienting existing programmes, in particular within the Stability Pact, and by proposing new activities in the areas of competence of the Organisation. The content of the proposed activities and its possible implementation was reviewed by the Secretariat with all of the OSCE institutions concerned and in the presence of a EU representative in a thorough exchange of information held in Vienna on 30 August 2001.

– At their 762nd meeting of 5 September 2001 (item 2.1.*a*) the Deputies authorised the Secretariat, in close consultation with the authorities and in co-operation with other international partners, to pursue the planning of an initial package of measures and to implement those already agreed to by the authorities, namely in the fields of local government, international observation of the population census (now postponed to 1 to 15 April 2002) and projects undertaken within the Stability Pact. Furthermore, the Secretariat has been instructed to carry out a needs assessment mission in Skopje in order to define possible additional measures in close co-operation with the authorities. This Secretariat needs assessment mission is planned for mid-October, after the National Assembly has adopted the package of constitutional and legislative reforms. The Committee of Ministers has also decided upon the deployment of a programme co-ordinator in Skopje in order to secure proper co-ordination with the various competent authorities and the international organisations/institutions active in the country.

– On 14 September 2001, the EU Special Representative, Mr François Léotard, in a letter addressed to the Secretary General, requested the Council of Europe to appoint a resident expert in Skopje, in order to chair a working group on legislative reform. This request is under consideration by the Committee of Ministers.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Opinion
Doc. 9232 – 25 September 2001

Democracies facing terrorism

(Rapporteur: Mr JANSSON, Finland, Liberal, Democratic and Reformers' Group)

I. Conclusions

The Committee on Legal Affairs and Human Rights supports the draft resolution and draft recommendation tabled by the Political Affairs Committee. However, it would like to table some amendments aimed mainly at reinforcing the legal measures.

II. Proposed amendments

Amendment A

In the draft resolution, in paragraph 2, replace "American people" by "people of the United States".

Amendment B

In the draft resolution, in paragraph 5, replace "an appropriate institution" by "the appropriate institution".

Amendment C

In the draft resolution, after paragraph 17.vi, add a new sub-paragraph worded as follows:

"to provide access to bank accounts for the authorities responsible for investigating international crime and terrorist networks in particular".

Amendment D

In the draft resolution, in paragraph 11, replace the words "to whom violence has been used" by "who have used violence".

Amendment E

In the draft resolution, in the second sentence of paragraph 14, after "(CIS)", add the words "and the OSCE".

Amendment F

In the draft resolution, in the second sentence of paragraph 16, after the word "recommendation", add the words "including the principle *aut dedere aut judicare* (either extradite or try)".

1. See Doc 9228.

Amendment G

At the end of the draft resolution, add a new paragraph worded as follows:

"The Assembly invites the member states of the United Nations to amend their Charter so that it may also address crises other than those arising between states."

Amendment H

At the end of the draft resolution, add the following new paragraph:

"Decides to transmit the present resolution to the Congress and to the President of the United States and to the Secretary General of the United Nations".

Amendment I

In the draft recommendation, in paragraph 4, replace "an appropriate institution" by "the appropriate institution".

Amendment J

In the draft recommendation, in paragraph 5.v, after "European Union", add "and the OSCE".

Amendment K

In the draft recommendation, after paragraph 5.vi, add the following sub-paragraph:

"extend the terms of reference of the Committee of Experts on the Criminalisation of Acts of a Racist or Xenophobic Nature Committed through Computer Networks (PC-RX) to terrorist messages and the decoding thereof."

Amendment L

In the draft recommendation, at the end of paragraph 5, add the following new sub-paragraph:

"pending the creation of the International Criminal Court with appropriate powers, propose to set up an international criminal tribunal to judge terrorists".

Amendment M

In the draft recommendation, after paragraph 5, add the following new paragraph:

"It recommends that the Committee of Ministers examine, in co-operation with the European Union bodies, the modalities for extending the European arrest warrant to all Council of Europe member states in the field of the fight against terrorism."

III. Explanatory memorandum, by Mr Jansson

1. Almost exactly two years ago the Parliamentary Assembly held a debate on the subject with which we are dealing today, except that at the time it was restricted to the European democracies. However, this

debate did in fact concern just the problem we are tackling today, namely democracy (in the singular) facing terrorism. The Assembly debate carefully avoided any mention of fighting terrorism, thus shunning warlike language in order to show that it was more concerned to analyse the causes of this phenomenon and find ways of preventing it.

2. The question is whether the number of victims killed and injured and the symbols targeted in the attacks committed on 11 September 2001 in the United States of America have altered the nature of the phenomenon.

3. There is great emotion, and great compassion for the victims, around the globe. However, we should not overlook the isolated expressions of joy that emerged. They were an indication of all the suffering and frustrations which no doubt partially fuelled the 11 September attacks.

4. While we can in no way justify barbaric acts, we must attempt to identify their causes in order to find remedies.

5. This is what the Assembly did in 1998. In October 1998 it prepared the way for the debate held two years ago by organising a conference, as suggested by its rapporteur, Mr López Henares. It spent three days analysing all the different aspects of the terrorist phenomenon with the help of academic, political, judicial, police and media specialists. The main conclusion of this conference was that terrorism is above all the enemy of democracy, and that while it is utterly unjustifiable, democracies should on no account abandon their fundamental principles, namely compliance with the law, the law-based state and human rights, in seeking to protect themselves. If the democracies depart from these principles they will be doing what the terrorists expect. Democracies must use reason to counter the irrationality driving the people behind these acts, their organisers and perpetrators. Democracy must keep a cool head.

6. Recommendation 1426 (1999) adopted by the Assembly in the wake of the conference embodied all the desired rationality. Setting civilisations against each other, talking of a clash of civilisations, reducing the world to a Manichean opposition between good, represented by the west, and evil, represented by the rest of the world, and demonising Islam, can only lead to deadlock.

7. How are we to react? This is the question facing us today. Other organisations have already adopted positions, although they have left many questions unanswered.

8. For instance, Resolution 1368 adopted on 12 September 2001 by the United Nations Security Council "recognises the right to individual or collective self-defence". What does this mean? Does it authorise a declaration of war? By whom? By all member states? Against whom? This shows that the Charter of the United Nations is perhaps no longer adapted to new situations. It would thus be advisable to amend the Charter so that it can also address crises other than those arising between states.

9. As Rapporteur for the Committee on Legal Affairs and Human Rights I can subscribe to the draft resolution and draft recommendation tabled by the Rapporteur for the Political Affairs Committee. I think he found the appropriate moderate tone, and the stress he laid on using the resources available to the Council of Europe has my wholehearted backing.

10. As chairperson of the committee that tabled the report on the International Criminal Court (and by the way I deplore the fact that this body needs a further sixty ratifications before it can be set up) I would like to propose setting up an international criminal tribunal to try terrorists.

11. However, the terrorists must be arrested before they can be brought to court, and extradition procedure is slow. This is what drove the European Union to introduce a number of measures to facilitate the prosecution of terrorists, notably by deciding to create a European arrest warrant. Such an arrest warrant would obviously seem fairly practicable in the Schengen Area, but it ought to be extended to cover the whole European environment of the Council of Europe.

12. Furthermore, no state should be able to refuse to co-operate with the judges responsible for investigating terrorists on the grounds of banking secrecy, as sometimes happens, thus making their work impossible or at least extremely slow and arduous.

13. Lastly, given that terrorists use such technological resources as the Internet to transmit terrorist or encoded messages, the committee of experts working on crime in cyberspace should also be mandated to investigate these specific forms of criminality.

14. I also consider it important to notify the American Congress and the President of the United States of the texts to be adopted by the Assembly. I would therefore propose mentioning that fact in the resolution.

Reporting committee: Political Affairs Committee.

Committee for opinion: Committee on Legal Affairs and Human Rights.

Reference to committee: request for urgent debate, Reference No. 2629 of 24 September 2001.

Opinion approved by the committee on 25 September 2001.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Parliamentary questions for oral answer
Doc. 9233 – 25 September 2001

Discussion of the communication on the activities of the Committee of Ministers

1. Mr McNamara,

Noting that the publication at the beginning of July of the report of the European Commission against Racism and Intolerance (ECRI) on Germany gave rise to some violent attacks in the press against ECRI and its work and that some articles, printed in well-known newspapers, rather than dealing with the substance of the report, spread rumours concerning the internal discussions within ECRI, provided inaccurate information about its working methods, and attacked some ECRI members on a personal level, *inter alia*, on the grounds of their nationality,

To ask the Chairman of the Committee of Ministers what measures the Committee of Ministers intends to take in cases where independent human rights bodies of the Council of Europe like ECRI come under such attacks, especially when the latter are directed to individual members, notably on the basis of their nationality, and to strengthen ECRI's activity and to ensure that adequate follow-up is given to the recommendations contained in its country-by-country reports.

2. Mr Hovhannisyan,

Considering the background of the already conducted elections to the local self-government bodies in Nagorno-Karabakh;

Recalling the quite tough statement made on 24 August this year of which the Chairman was one of the authors;

Noting that today there are civil persons elected to the local bodies and as a mayor;

Recalling also the point of view of the President of the Parliamentary Assembly expressed during its last visit to the region;

Bearing in mind the resolution of the Ministerial Council of the OSCE dated March 1992 which said "…elected and other representatives of Nagorno-Karabakh will be invited to participate in the Minsk Conference",

To ask the Chairman of the Committee of Ministers how these elections could be judged to hamper the peace process in respect of the Nagorno-Karabakh conflict.

3. Mr Kostytsky,

To ask the Chairman of the Committee of Ministers what consideration the Committee of Ministers has given to the issue of migration across the eastern border with Russia.

4. Mr Clerfayt,

Considering that since 1996 the European Court of Human Rights has repeatedly found Turkey to be in violation of the obligation to bring an arrested person promptly before a judge (Article 5, paragraph 3 of the European Convention on Human Rights);

Noting that Turkey has not complied with these judgments, since Turkish law still permits the detention of apprehended persons in ordinary circumstances for seven days, without automatically bringing them before a judge;

Stressing that Turkey is the only country which, despite numerous European Court judgments and repeated demands within the Committee of Ministers, continues to violate Article 5 of the European Convention on Human Rights, a provision of fundamental importance for the rule of law and protection against arbitrary conduct,

To ask the Chairman of the Committee of Ministers what urgent action the Committee intends to take to ensure that Turkey changes its relevant legislation without further delay so as comply with the European Court's judgments.

5. Mr Roseta,

Referring to the case of *Matos e Silva v. Portugal*, on which the European Court of Human Rights ruled in its judgment of 16 September 1996;

Noting that at the sitting of the Parliamentary Assembly on 4 April 2000, in reply to one of his questions (Question No. 12), the Chairman of the Committee of Ministers stated that the Committee of Ministers would strive to persuade the Portuguese Government to adopt the necessary practical measures to give full effect to the judgment of the European Court of Human Rights and to cease the violations of the Convention found by the Court, particularly of Article 1 of Protocol No. 1;

Observing, however, that the Portuguese Government has taken no action since then to resolve this eighteen-year-long dispute, meaning that the situation is unchanged since April 2000,

To ask the Chairman of the Committee of Ministers to bring pressure to bear on the Portuguese Government to adopt once and for all the practical measures required to fully eradicate all the effects of the violations found by the Court.

6. Mr Gross,

Noting that the basic idea of democracy is that those who are concerned by politics should also be able to express their preferences through the ballot box, and that the participation in parliamentary elections is therefore essential for the expression of the true democratic will of a society, the legitimacy of its authorities and to show the dedication of the people to democracy and the democratic process;

Considering the fact that Poland has a particularly rich civic culture,

To ask the Chairman of the Committee of Ministers what conclusions he has drawn for the other new democracies from the fact that for the third time since the beginning of the transition in Poland, less than 50% of its citizens participated in the national elections of last weekend.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Report
Doc. 9234 – 25 September 2001

Situation in "the former Yugoslav Republic of Macedonia"

(Rapporteur: Mr JAKIČ, Slovenia, Liberal, Democratic and Reformers' Group)

Summary

The report reaffirms the validity of the principles which are the foundation of Resolution 1255 (2001) on the situation in "the former Yugoslav Republic of Macedonia" adopted by the Assembly on 28 June 2001 and recalls the conclusions of the *ad hoc* committee of the Assembly, which visited Macedonia[1] in July 2001, specifying that the measures and the recommendations which figure in this resolution must be implemented without further delay.

Reaffirming that the solution to the conflict in Macedonia[1] can only be a peaceful one, the Political Affairs Committee welcomes the Framework Agreement which was concluded in August 2001 and considers that this agreement gives satisfaction to the Assembly's previous demands. The parliament is invited to approve the constitutional amendments and the legislative modifications which emanate from this agreement within the agreed timeframe.

Similarly, the report underlines that the presence of international observers as well as an armed international force would facilitate the normalisation of the situation and the return of displaced people, and that neighbouring countries must co-operate with Macedonia[1] to help it surmount the crisis.

The Committee of Ministers of the Council of Europe is invited to participate actively in the international community's efforts which are in favour of the implementation of the Framework Agreement.

I. Draft resolution

1. The Parliamentary Assembly recalls its Resolution 1255 (2001) on the situation in "the former Yugoslav Republic of Macedonia"' adopted on 28 June 2001. It reaffirms the validity of the principles on which this text was based, in particular the full respect for the sovereignty and territorial integrity of Macedonia,[1] respect for the rights of all citizens and ethnic groups, the condemnation of the armed action by ethnic Albanian extremist groups and the call for their complete disarmament as well as the condemnation of all extremist violence in general.

2. In conformity with this resolution, the Political Affairs Committee established an *ad hoc* committee, which visited Macedonia[1] from 16 to 19 July 2001. The Assembly takes note of the statement made by this *ad hoc* committee at the end of its visit, which concluded that the measures and recommendations contained in Resolution 1255 (2001) were justified and should be implemented without further delay.

3. The Assembly reiterates its firm belief that there is no other solution to this conflict than a peaceful one. Consequently, it expresses its serious concern that violent activities are still ongoing and that the tension and feelings of insecurity among the population remain high, in particular in the north-western part of the country. In this connection, it condemns recent bomb attacks in Skopje as well as the destruction by extremists, on both sides, of churches, mosques and other buildings.

4. The Assembly welcomes the signature, on 13 August 2001 in Skopje, of the Framework Agreement, which aims at securing the future of Macedonia's[1] democracy and permitting the development of closer and more integrated relations between the Republic of Macedonia[1] and the Euro-Atlantic community.

5. The Assembly considers that measures foreseen by this agreement give satisfaction to the Assembly's previous demands and correspond to the Council of Europe's generally accepted standards. Accordingly, it calls on all political forces to declare their support for the agreement and to work towards its implementation, in particular the approval of the resulting constitutional amendments and legislative modifications by the parliament in accordance with the agreed schedule.

6. The Assembly considers that the Macedonian executive power should co-operate actively with the parliament and civil society during the implementation of this agreement.

7. The Assembly is also seriously preoccupied with the situation of internally displaced persons and calls for adequate security and confidence-building measures to be introduced in order to ensure their safe and sustainable return. It is also preoccupied by the humanitarian situation of the people affected by the conflict, both those who are displaced and those who remain in the villages which have been damaged by military activities, and calls for increased assistance to those people, in co-operation with international humanitarian organisations.

8. The Assembly considers that as soon the collection of weapons has been successfully concluded, a smooth transition from the end of the Nato operation "Essential Harvest", foreseen on 26 September 2001, towards the presence of international observers and of an armed international force at the invitation of the Government of Macedonia[1] would be beneficial for the normalisation of the situation and for the return of internally displaced persons.

9. Neighbouring countries must provide Macedonia[1] with all possible co-operation and assistance to help it to

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overcome the present crisis and, especially, to act resolutely to prevent all arms supplies from reaching the extremists.

10. The Assembly calls on the Government of Macedonia[1] to fully co-operate with the Council of Europe as regards the adoption and the realisation of the programmes aimed at assisting the country in the implementation of the Framework Agreement.

11. At the same time, the financial support of the international community for the reconstruction efforts as well as for the planned administrative reforms remain a key element in the successful implementation of the agreement.

12. The Assembly asks its Political Affairs Committee to follow the political developments in the country and to report back to it when necessary. At the same time, it calls on its Monitoring Committee to intensify the post-monitoring dialogue with Macedonia[1] and urges the Macedonian authorities to fully co-operate in this process.

II. Draft recommendation

1. The Parliamentary Assembly refers to its Resolution 1255 (2001) on the situation in "the former Yugoslav Republic of Macedonia".

2. It takes note of the reply of the Committee of Ministers to its Recommendation 1528 (2001) on the situation in "the former Yugoslav Republic of Macedonia" adopted on 28 June 2001.

3. The Assembly takes note of the proposals for the Council of Europe's contribution to the implementation of the Framework Agreement and urges member states to provide sufficient financial resources for these and other programmes for Macedonia.[1]

4. In this connection, the Assembly recommends to the Committee of Ministers give priority in the assistance programmes to the following areas:

i. confidence building measures;

ii. the reform of local self-government;

iii. education, in particular help to the South East University.

5. The Assembly calls on the Committee of Ministers to take an active part in the efforts of the international community in favour of the implementation of the agreement in the framework of the recently established civilian implementation co-ordination mechanism and, in particular, take the lead in overseeing the most urgent legislative reforms.

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III. Explanatory memorandum, by Mr Jakič

1. Introduction

1. In Resolution 1255 (2001) on the situation in "the former Yugoslav Republic of Macedonia" adopted by the Parliamentary Assembly on 28 June 2001, the Assembly strongly condemned the action of the armed ethnic Albanian extremist groups and asked them to disarm immediately. While welcoming the creation of the government of national unity and the efforts of the President of Macedonia[1] to solve the crisis, the Assembly asked the Macedonian Government to take a series of urgent measures, including constitutional ones, concerning, in particular, the use of the Albanian language, the improvement of education in Albanian, mainly at university level, and adequate representation of ethnic Albanians in public institutions. The Assembly also asked for, among other matters, a declaration of amnesty for those rebels who lay down their arms and have not committed war crimes.

2. The resolution called upon the Political Affairs Committee to establish immediately a small *ad hoc* committee to travel to the region and to report back to the Assembly's part-session in September. In conformity with this decision, an *ad hoc* committee composed of Mr Andreas Gross (Switzerland, SOC), Mr Luchezar Toshev (Bulgaria, PPE/CD), Mr Stef Goris (Belgium, LDR), Mr Dmitry Rogozin (Russia, EDG), Mr Andrei Neguta (Moldova, EUL) and myself, as chairman of this *ad hoc* committee, visited Macedonia from 16 to 19 July 2001.

3. We met with the President of Macedonia, the Speaker of the Parliament, members of the parliamentary groups and of the Macedonian delegation to the Parliamentary Assembly, the Minister for Local Self-Government, the State Secretary for Foreign Affairs, the Ombudsman and his deputy, representatives of ethnic minorities and of the civil society, as well as with Mr François Léotard, Special Representative of the European Union in Skopje, Council of Europe ambassadors and a representative of the United Nations High Commissioner for Refugees (UNHCR). We visited Tetovo and the villages of Aracinovo, Lesok and Neprosteno and met representatives of the local authorities there, as well as those of the municipality of Skopje.

4. When meeting President Trajkovski, the delegation expressed the hope that he would be able to come to speak before the Parliamentary Assembly, if possible during the September debate on this report.

5. I should like to thank, on behalf of the *ad hoc* committee, the Macedonian authorities and, in particular, the parliament and the Macedonian parliamentary delegation to the Council of Europe, for their assistance in organising this visit in the spirit of openness and co-operation and at very short notice. I should also like to thank the Ambassador of Slovenia in Skopje for having organised the meeting with Mr Léotard and the Council of Europe ambassadors.

1. The use in the text of the term "Macedonia" is for descriptive purposes and the convenience of the reader: it does not prejudge the position of the Assembly on the question of the name of the state.

6. As the background of the conflict was already described in my June report to the Assembly (Doc. 9146), I will concentrate in this explanatory memorandum on the July visit and the events which followed.

2. Political background of the visit

7. The delegation visited Macedonia at a point when the conclusion of an agreement between the Macedonian and ethnic Albanian party leaders was expected. Nevertheless, as I will explain below, this did not happen and at the moment when we were leaving the country, the cease-fire, in force since the beginning of July, was being frequently violated.

8. It was surprising and, frankly, very disappointing to hear some political representatives declare that, if the negotiations failed, there would be no other way than to solve the current crisis by force. In the light of the parliamentary elections to be held at the beginning of the next year, political parties tend to adopt a more nationalistic language, hoping to position themselves as the best "defenders" of the rights of their community. As a matter of fact, we were told that there were no "mixed" political parties which will include both Macedonians and ethnic Albanians.

9. In this connection, the delegation stated clearly that war could not be a policy option and that if the current round of the negotiations failed, that political dialogue must continue. Without the slightest irony, the saying "better bad talks than a good war" fully applies here.

10. This is even more true because after several days spent in Macedonia we are convinced that the absolute majority of the citizens of Macedonia wish to live together in a peaceful and stable country. That is why, in our final statement, the delegation underlined the responsibility of the politicians in Macedonia to maintain the peace in their country and called on them to show political courage to make the compromises necessary to reach an agreement, and to explain such an agreement to the citizens. Calling for war is an irresponsible act which cannot find support in the Council of Europe Parliamentary Assembly.

11. It is also worth mentioning that several of our interlocutors referred to the negative role of some public opinion-makers who were inciting to hatred and extremist attitudes. It is certainly an issue which should be followed further by the Council of Europe.

3. Negotiations on a political solution to the crisis

a. *At the time of the visit*

12. According to the President and the Prime Minister of Macedonia, at the time of the visit the negotiations substantially advanced and an agreement was reached on a lot of contentious points, including the preamble to the constitution, the role of the Orthodox Church, the local self-government, a special parliamentary voting procedure (within the majority necessary to approve a law, a majority of the minority is necessary for the approval of constitutional amendments and some specific laws), etc.

13. On the question of the language, it was proposed that the Albanian language should become a second official language to be used in the regions where at least 20% of the population is of Albanian origin (according to the agreed text, in any region where a minority language is spoken by at least 20% of the population, this language becomes an official language together with the Macedonian language). An agreement was also found on the use of documents in other official languages and in court proceedings.

14. The implementation of the agreement will require numerous changes to the constitution. It is seen as a compromise between the conception of a state based on individual rights (position of principle of the Macedonian parties) and the conception of a state based on ethnic communities' rights (position of principle of the ethnic Albanians). As a compromise, the ethnic Albanians have accepted the unitary character of the state and consider that it is a major concession on their part not to push for federal or cantonal state arrangements. At the same time, the Macedonian parties have accepted to grant significant specific rights to minorities.

15. Nevertheless, at the time of the visit, the negotiations were in deadlock because of the disagreements on the status of the Albanian language and the local police force. The delegation understood that the demands, which the Macedonian parties considered as unacceptable, were the following:

– to give the Albanian language the status of an official language in the whole territory of Macedonia and not only in regions with at least a 20% minority presence;

– to give a large autonomy to the local police forces, which should reflect the ethnic composition of a given municipality (which could lead, in some cases, to a 100% ethnically "clean" local police force), and whose chiefs would be locally appointed and thus largely independent from the central authorities.

16. The delegation was surprised that the parliament was not better informed about the ongoing negotiations. It should be recalled that the deal concluded between the political party's leaders must obtain a two-thirds majority in the parliament. I certainly understand that, for the sake of efficiency, the number of those involved in the negotiations must remain limited, but an open parliamentary debate on a political solution to the crisis could have given useful indications to the negotiators with regard to the sentiments of the elected representatives of the people.

17. I consider that the involvement of international representatives, in particular Mr François Léotard, Special Representative of the European Community, and Mr John Pardew, Special Representative of the United States President, has been beneficial to the dialogue. I therefore welcome the reassurances given by President Trajkovski in his statement on 25 July that "only relations of partnership with the international community could lead towards re-establishment of peace and stability in the Republic of Macedonia". He appreciated the efforts of Mr. Léotard and MrPardew and welcomed the involvement of Nato.

18. In this connection, the delegation found very useful the presence in Skopje of an expert of the Venice Commission, who was providing legal advice during the

negotiation process. I believe that this kind of assistance is very helpful and must continue.

b. *Recent developments*

19. After the visit, at the beginning of August, an agreement was finally reached on these two remaining issues. The Albanian language was given official status alongside the Macedonian language in the areas where at least 20% of the population are Albanian speakers. The local police will stay under government control, but the number of ethnic Albanians in the police force will substantially increase within two years.

20. The final signature of the agreement was first postponed on 8 August, after the killing of ten soldiers by ethnic Albanian extremists, but the so-called Framework Agreement was finally concluded in Skopje on 13 August 2001.

21. The Framework Agreement aims to "promote the peaceful and harmonious development of civil society while respecting the ethnic identity and the interests of all Macedonian citizens". It outlines a set of basic principles such as the complete and unconditional rejection of violence to pursue political aims, the territorial integrity of the state, the multi-ethnic character of Macedonia's society as well as the participation of all citizens in the democratic life and development of the country.

22. The agreement further aims to secure the democratic future of the country by emphasising specific measures, *inter alia* disarmament and the complete cessation of the hostilities, the development of local competencies, along with the reinforcement of locally elected representatives or provisions on education and use of languages in the country. The end of the implementation period of specific amendments to the constitution has been set within forty-five days, consequently ending on 26 September 2001.

23. The Nato operation "Essential Harvest" was officially launched on 22 August and successfully started up on 27 August. The thirty-day mission which involves the sending of up to 3 500 Nato troops, including logistical support, aims to disarm ethnic Albanian groups and destroy their weapons.

4. Field visits

24. The delegation visited the town of Tetovo (mostly inhabited by ethnic Albanians), where it met with the city council. Out of twenty-three members of this council, sixteen were from ethnic Albanian political parties and seven from Macedonian political parties. The Mayor, ethnic Albanian, was very critical of the current law on local self-government, which, he claimed, gives extremely limited powers to the local authorities (mostly in the field of the infrastructures, water supply and sewage). A new law, now in preparation, must change this situation in favour of local self-government. His municipality had sent suggestions on this draft law.

25. As regards the conflict, he believes that the majority of the population does not want the crisis to continue and hopes that an agreement will be reached. He said, however, that the political demands of the Albanian political parties and the National Liberation Army (NLA) are identical.

26. He also declared that the ethnic Albanians did not vote for the 1991 Macedonian Constitution, because they believed that they had even more rights under the 1974 Yugoslav Constitution. The current crisis is the result of the failure of the authorities to solve, during the last ten years, the problem of the rights of the ethnic Albanians. During the Kosovo crisis, the latter proved that they wanted a unified Macedonia and that they did not support military solutions.

27. With regard to the language question, he underlined that, at present, the Albanian language can officially be used on the premises of the local self-government bodies. Nevertheless, most competences remain directly within the ministries in Skopje and their local branches in the regions, which work exclusively in Macedonian. This situation, he said, was clearly unacceptable.

28. He also explained that during 1991 to 1994, several proposals had been submitted to the government with a view to opening a faculty within the framework of Skopje University to train teachers in the Albanian language. The authorities did not react to these proposals. In 1994, Tetovo University was established, but it has not been recognised by the authorities.

29. On the proposal of Mr van der Stoel, High Commissioner on National Minorities of the OSCE, the South East University should open on 1 October. Professors should be of both Albanian and Macedonian origin and the government should contribute to financing this university. The mayor considered that the Tetovo University could later join the South East University.

30. A representative of a Macedonian party stressed that the conflict cannot be solved through the use of arms and that the dialogue on interethnic relations must continue. He declared that the decisions to reform the law on local government and to open the South East University had already been taken a long time ago, but it had not prevented the crisis from escalating in February 2001. He said that the non-Albanian population did feel safe in Tetovo and the surrounding area and that the ethnic Albanian armed extremists are ethnically cleansing some villages, and have set up checkpoints on the roads.

31. Furthermore, the delegation visited the villages of Aracinovo, Lesok and Neprosteno. The last two villages are situated in the vicinity of Tetovo. Lesok is an ethnic Macedonian village. It is on the "front line" with the armed extremists – as a matter of fact, the delegation could clearly see armed men on the hillside behind the village. We were told that the extremists were all around the village, which had already been attacked twice. A few days after our visit, Lesok was occupied for a certain time by the ethnic Albanian extremists. Most of the inhabitants have left and the ancient Orthodox church in Lesok has been destroyed.

32. Neprosteno is a village which is one-quarter ethnic Macedonian and three-quarters ethnic Albanian. According to the mayor, co-operation between the two communities had been quite good before the crisis began (the mayor is ethnic Macedonian, his deputy is ethnic Albanian). Nevertheless, there are no mixed marriages in the village, which seems to be a general pattern in Macedonia. At present, there are almost no contacts between the two parts of the village. The delegation also

wanted to speak to the ethnic Albanians local representatives. Unfortunately, it turned out to be impossible to establish contacts with them. According to the mayor, people happened to be taken hostage by the armed extremists. Insecurity is high.

33. The village of Aracinovo is situated about eight kilometres from Skopje. Mostly populated by ethnic Albanians (90%), it was occupied by the ethnic Albanians extremists in June 2001. The Macedonian army shelled the village and many houses were destroyed or damaged. The inhabitants had mostly left the village before the shelling had begun. The rebels finally withdrew under the terms of an agreement facilitated by the international community. Now the village is nearly empty, with mostly old people living there. Even though the authorities and the UNHCR told us that the preparations for the return of the population have started, the people in the village were clearly in need of more humanitarian help. I should like to draw attention to the humanitarian situation of the people affected by the conflict, both those who are displaced and those who have stayed in the villages which have been damaged by military activities. Assistance, both from government and international sources, to these people must be intensified as a matter of urgency.

5. Position of other ethnic minorities with regard to the current conflict

34. The delegation met with representatives of other ethnic minorities living in Macedonia, namely Turk, Roma, Vlach, Serb and Bosnian. Their main preoccupation, apart from the fear of being drawn into a civil war, was that the rights of their minority should not suffer as a result of the future arrangements based on the agreement between the two main communities.

35. I consider it highly important to ensure that the rights of all minorities are guaranteed in all Macedonia. The improvement in the position of one minority must not be made at the expense of the others. By being granted more rights in the areas where they are in a majority, the ethnic Albanians must now feel more responsible for the protection of the rights of all other people living in these regions.

6. Reform of local self-government

36. The delegation met with the Minister for Local Self-Government, who informed them about the ongoing reform of local self-government launched two years ago. The reform will be based on four basic laws:

– the law amending the current law on self-government (a draft is now being discussed in government);

– the law on local finance (now being drafted);

– the law on the city of Skopje (now being drafted);

– the law on the territorial division of Macedonia (now being drafted).

These laws should come into force in 2002 and give powers to the local authorities in about twenty new areas of action.

7. Conclusions

37. After the visit, I am more than ever convinced that the recommendations formulated in the June resolution are justified and that the recommended measures must be taken and implemented without further delay. In this respect, the delegation noted with satisfaction that progress has been clearly accomplished on nearly all requirements contained in Resolution 1255 (2001). The agreement, which has been reached, seems to give satisfaction to the Assembly's demands.

38. The crucial question will now be the necessary endorsement of the agreement by the parliament and its implementation. In this respect, our Assembly must clearly state that we, as an international human rights organisation, consider that the measures agreed between the political leaders correspond to Council of Europe standards and that we see this agreement as a unique chance to achieve a peaceful solution to the conflict. This opportunity must not be missed.

39. On the other hand, we must do our best to contribute to the implementation of the agreement. I took note, with great interest, of the proposals for the co-operation programmes in "the former Yugoslav Republic of Macedonia" discussed in the Rapporteur Group for Democratic Stability (GR-EDS) of the Committee of Ministers. Some activities (that is, local government, international observation of the population census and Stability Pact projects) of the initial package of activities have already been agreed upon with the authorities concerned, and more are envisaged in other areas of expertise of the Council of Europe.

40. The Council of Europe's expertise may certainly be useful in many areas, but, as for myself, I should like to put emphasis on the following three concrete issues:

– develop and implement confidence building measures;

– help to accelerate the reform of local self-government;

– promote education, and in particular, help to the South East University.

41. On these issues, action should be taken immediately as they have a direct impact on the political situation in Macedonia.

42. Furthermore, we must encourage the creation of a favourable regional context for the implementation of the Framework Agreement. The neighbouring countries must intensify their action to prevent armed ethnic Albanian extremists from receiving support from abroad.

43. Concerning humanitarian issues, however, the situation remains seriously preoccupying in some parts of the country. On 12 September, the Red Cross indicated that there are some 76 000 internally displaced persons. The UNHCR says that the total number of returnees stands at approximately 50 000 (without mountain crossings). Over 32 000 persons remain displaced in Kosovo. Concerning security, worrying clashes between government troops and ethnic Albanian extremist groups, using heavy weapons, have been reported and confirmed near Tetovo on 16 September 2001.

44. I am convinced that there is no solution to the conflict other than a peaceful one and that these actions are counter-productive to the process which has been agreed upon by all parties and which was started-up by the Framework Agreement on 13 August 2001. Moreover, the creation of a secure environment accompanied by appropriate confidence building measures is a precondition for a safe and sustainable return of all refugees.

45. As I declared above, all the principles formulated in Resolution 1255 (2001) remain valid, mainly our support for the territorial sovereignty of Macedonia, the respect for the rights of all itizens and ethnic groups, the condemnation of the armed action by ethnic Albanian extremist groups and of all extremist violence in general. A lot has been achieved since June. We must now work together to transform the words of the agreement into a real life scenario.

Reporting committee: Political Affairs Committee.

Reference to committee: Reference No. 2622 of 25 June 2001 and Resolution 1255 (2001).

Draft resolution adopted by the committee on 24 September 2001 with one abstention.

Draft recommendation unanimously adopted by the committee on 24 September 2001.

Members of the committee: *Davis (Chairman), Jakič, Baumel, Toshev (Vice-Chairmen), Adamia, I. Aliyev,* Arzilli, *Atkinson*, Bakoyianni, *Bársony*, Behrendt, Berceanu, *Bergqvist*, Bianchi, *Björck*, Blaauw *(alternate: van der Linden), Bühler, Čekuolis, Clerfayt,* Daly, *Demetriou*, Derycke, Díaz de Mera *(alternate: López González),* Dokle, *Dreyfus-Schmidt*, Durrieu, Evangelisti, *Ferić-Vac*, Frey, *Fyfe, Gjellerod,* Glesener, *Gligoroski*, *Gross*, Gül, Hornhues, *Hovhannisyan*, Hrebenciuc, Irtemçelik, Ivanenko, Iwiński, *Karpov*, *Kautto, Kilclooney of Armagh*, *Kirilov*, Kotsonis, Krzaklewski, Martínez-Casañ, *Medeiros Ferreira*, Mota Amaral, *Mutman*, *Naudi Mora, Neguta,* Němková, Neuwirth, *Ojuland*, Oliynyk, *Prisàcaru*, Prusak, *de Puig,* Ragnarsdóttir, *Rogozin, Schieder, Schloten,* Selva, Spindelegger, Squarcialupi, Štěpová, *Surján*, Thoresen, Timmermans *(alternate: Zwerver),* Udovenko, Vakilov *(alternate: Seyidov)*, Vella, Weiss *(alternate: Švec),* Wielowieyski, Wohlwend, Zuiganov, N. ... *(alternate: Paegle).*

N.B. The names of the members who took part in the meeting are printed in italics.

See 30th Sitting, 27 September 2001 (adoption of the draft recommendation and draft resolution); and Recommendation 1537 and Resolution 1261.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 1[1]
Doc. 9234 – 25 September 2001

Situation in "the former Yugoslav Republic of Macedonia"

tabled by Ms ZWERVER, Mr GROSS, Ms JONES, Ms van 't RIET and Ms HERCZOG

In the draft resolution, paragraph 8, after the words "armed international force", insert the words: "with a mandate from the United Nations".

1. See 30th Sitting, 27 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 2[1]
Doc. 9234 – 26 September 2001

Situation in "the former Yugoslav Republic of Macedonia"

tabled by Mr GLIGOROSKI, Ms MARKOVIC-DIMOVA, Ms MARKOVSKA, Mr TOSHEV, Ms STOYANOVA and Mr BUDIŠA

In the draft resolution, paragraph 3, delete the last sentence and insert:

"In this connection it condemns the recent bomb attacks in Skopje as well as the destruction of homes, the forced displacement of citizens, the burning of their houses and plundering by terrorists and extremists, as well as the desecration and destruction of churches, mosques and other buildings."

1. See 30th Sitting, 27 September 2001 (adoption of the amendment, as amended orally).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 3[1]
Doc. 9234 – 26 September 2001

Situation in "the former Yugoslav Republic of Macedonia"

tabled by Mr GLIGOROSKI, Ms MARKOVIC-DIMOVA, Ms MARKOVSKA, Mr TOSHEV, Ms STOYANOVA, MM. BUDIŠA and ŠKRABALO

In the draft resolution, after paragraph 3, insert the following new paragraph:

"Joining the fight of the democratic world against terrorism everywhere, the Assembly considers that terrorism represents the greatest evil of humankind, the consequences of which have been deeply and tragically felt in the Republic of Macedonia, and expresses its readiness to co-operate and join with all member states in activities for combating terrorism."

1. See 30th Sitting, 27 September 2001 (rejection of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 4[1]
Doc. 9234 – 26 September 2001

Situation in "the former Yugoslav Republic of Macedonia"

tabled by Mr GLIGOROSKI, Ms MARKOVIC-DIMOVA, Ms MARKOVSKA, Mr TOSHEV, Ms STOYANOVA, MM. MLADENOV, BUDIŠA and ŠKRABALO

In the draft resolution, paragraph 5, replace the words "generally accepted" with the word: "highest".

1. See 30th Sitting, 27 September 2001 (rejection of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 5[1]
Doc. 9234 – 26 September 2001

Situation in "the former Yugoslav Republic of Macedonia"

tabled by Mr GLIGOROSKI, Ms MARKOVIC-DIMOVA, Ms MARKOVSKA, Mr TOSHEV, Ms STOYANOVA, MM. MLADENOV, BUDIŠA and ŠKRABALO

In the draft resolution, at the end of paragraph 5, add the following: "and through the regular parliamentary procedure".

1. See 30th Sitting, 27 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 6[1]
Doc. 9234 – 26 September 2001

Situation in "the former Yugoslav Republic of Macedonia"

tabled by Mr GLIGOROSKI, Ms MARKOVIC-DIMOVA, Ms MARKOVSKA, Mr TOSHEV, Ms STOYANOVA, MM. MLADENOV, BUDIŠA and ŠKRABALO

In the draft resolution, paragraph 7, after the word "internally" in the first line, insert the words: "and forcibly".

1. See 30th Sitting, 27 September 2001 (rejection of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 7[1]
Doc. 9234 – 26 September 2001

Situation in "the former Yugoslav Republic of Macedonia"

tabled by Mr GLIGOROSKI, Ms MARKOVIC-DIMOVA, Ms MARKOVSKA, Mr TOSHEV, Ms STOYANOVA, MM. BUDIŠA and ŠKRABALO

In the draft resolution, paragraph 7, replace the word "military" in line 5 with the words: "terrorist, military and other".

1. See 30th Sitting, 27 September 2001 (rejection of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 8[1]
Doc. 9234 – 26 September 2001

Situation in "the former Yugoslav Republic of Macedonia"

tabled by Mr GLIGOROSKI, Ms MARKOVIC-DIMOVA, Ms MARKOVSKA, Mr TOSHEV, Ms STOYANOVA, MM. MLADENOV, BUDIŠA and ŠKRABALO

In the draft resolution, paragraph 7, after the words "assistance to those people", insert the words: "especially for rebuilding their destroyed homes".

1. See 30th Sitting, 27 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 9[1]
Doc. 9234 – 26 September 2001

Situation in "the former Yugoslav Republic of Macedonia"

tabled by Mr GLIGOROSKI, Ms MARKOVIC-DIMOVA, Ms MARKOVSKA, Mr TOSHEV, Ms STOYANOVA, MM. MLADENOV, BUDIŠA and ŠKRABALO

In the draft resolution, after paragraph 7, insert the following new paragraph:

"The Assembly considers that the crisis in the Republic of Macedonia necessitates the increased involvement of Unmik and Kfor to control the borders with Macedonia, particularly in order to prevent illegal activities".

1. See 30th Sitting, 27 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 10[1]
Doc. 9234 – 26 September 2001

Situation in "the former Yugoslav Republic of Macedonia"

tabled by Mr GLIGOROSKI, Ms MARKOVIC-DIMOVA, Ms MARKOVSKA, Mr TOSHEV, Ms STOYANOVA, MM. MLADENOV and BUDIŠA

In the draft resolution, after paragraph 7, insert the following new paragraph:

"Having in mind that the crisis in the Republic of Macedonia has spilled over from Kosovo, the Assembly considers it important to establish a special control over the activities of the Kosovo Protection Corps."

1. See 30th Sitting, 27 September 2001 (rejection of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 11[1]
Doc. 9234 – 26 September 2001

Situation in "the former Yugoslav Republic of Macedonia"

tabled by Mr GLIGOROSKI, Ms MARKOVIC-DIMOVA, Ms MARKOVSKA, Mr TOSHEV, Ms STOYANOVA, MM. MLADENOV, POLLOZHANI, BUDIŠA and ŠKRABALO

In the draft resolution, paragraph 11, after the word "support" insert the words: "without delay".

1. See 30th Sitting, 27 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 12[1]
Doc. 9234 – 26 September 2001

Situation in "the former Yugoslav Republic of Macedonia"

tabled by Mr. GLIGOROSKI, Ms MARKOVIC-DIMOVA, Ms MARKOVSKA, Mr TOSHEV, Ms STOYANOVA, MM. MLADENOV, POLLOZHANI, BUDIŠA and ŠKRABALO

In the draft resolution, paragraph 11, after the word "agreement" add the words: "and for reaching lasting stability".

1. See 30th Sitting, 27 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 13[1]
Doc. 9234 – 26 September 2001

Situation in "the former Yugoslav Republic of Macedonia"

tabled by Mr. GLIGOROSKI, Ms MARKOVIC-DIMOVA, Ms MARKOVSKA, Mr TOSHEV, Ms STOYANOVA, MM. MLADENOV, BUDIŠA and ŠKRABALO

In the draft resolution, at the end of paragraph 11, add the following sentence:

"In the current situation it is necessary once again for the member states of the Council of Europe to investigate fully and to block funds and assets which are used for financing the terrorist and extremist activities in the Balkans and throughout the world".

1. See 30th Sitting, 27 September 2001 (rejection of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 14[1]
Doc. 9234 – 26 September 2001

Situation in "the former Yugoslav Republic of Macedonia"

tabled by Mr GLIGOROSKI, Ms MARKOVIC-DIMOVA, Ms MARKOVSKA, Mr TOSHEV, Ms STOYANOVA, MM. MLADENOV, POLLOZHANI, BUDIŠA and ŠKRABALO

In the draft recommendation, after paragraph 3, insert the following new paragraph:

"In order to accelerate the reconstruction of the destroyed homes in Macedonia and the return of the refugees and forcibly displaced persons, the Assembly recommends that the Council of Europe Development Bank be engaged to propose concrete and urgent programmes for that purpose."

1. See 30th Sitting, 27 September 2001 (adoption of the amendment, as amended orally).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 15[1]
Doc. 9234 – 26 September 2001

Situation in "the former Yugoslav Republic of Macedonia"

tabled by Mr GLIGOROSKI, Ms MARKOVIC-DIMOVA, Ms MARKOVSKA, Mr TOSHEV, Ms STOYANOVA, MM. MLADENOV, BUDIŠA and ŠKRABALO

In the draft recommendation, after paragraph 4.iii, add the following new sub-paragraph:

"return of the forcibly displaced persons and refugees to their homes".

1. See 30th Sitting, 27 September 2001 (adoption of the amendment, as amended orally).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 16[1]
Doc. 9234 – 26 September 2001

Situation in "the former Yugoslav Republic of Macedonia"

tabled by Mr GLIGOROSKI, Ms MARKOVIC-DIMOVA, Ms MARKOVSKA, Mr TOSHEV, Ms STOYANOVA, MM. MLADENOV, BUDIŠA and ŠKRABALO

In the draft recommendation, after paragraph 4, insert the following new paragraph:

"The Assembly asks the Committee of Ministers to inform the United Nations Security Council and to recommend to Unmik and Kfor that they enhance the control measures on the borders with Macedonia in order to prevent arms trafficking and arms supplies to the Albanian extremist groups in Macedonia."

1. See 30th Sitting, 27 September 2001 (adoption of the amendment, as amended orally).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 17[1]
Doc. 9234 – 26 September 2001

Situation in "the former Yugoslav Republic of Macedonia"

tabled by MM. ATKINSON, POLLOZHANI, GORIS, TEPSHI, KOÇI, Lord KILCLOONEY, MM. GROSS and SAĞLAM

In the draft resolution, at the end of paragraph 3, add the following words: "and calls for an immediate dissolution of all paramilitary structures."

1. See 30th Sitting, 27 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 18[1]
Doc. 9234 – 26 September 2001

Situation in "the former Yugoslav Republic of Macedonia"

tabled by MM. ATKINSON, POLLOZHANI, GORIS, KOÇI, TEPSHI, Lord KILCLOONEY, MM. GROSS and SAĞLAM

In the draft resolution, at the end of paragraph 8, add the sentence:

"The Assembly also reiterates its call for an amnesty to be declared for all those who have not committed war crimes."

1. See 30th Sitting, 27 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 19[1]
Doc. 9234 – 26 September 2001

Situation in "the former Yugoslav Republic of Macedonia"

tabled by MM. ATKINSON, POLLOZHANI, GORIS, ĶOÇI, TEPSHI, Lord KILCLOONEY, MM. GROSS and SAĞLAM

In the draft recommendation, at the beginning of paragraph 4.ii, insert the words: "legislative reforms, in particular".

1. See 30th Sitting, 27 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 20[1]
Doc. 9234 – 26 September 2001

Situation in "the former Yugoslav Republic of Macedonia"

tabled by MM. ATKINSON, POLLOZHANI, GORIS, ĶOÇI, TEPSHI, Lord KILCLOONEY, MM. GROSS and SAĞLAM

In the draft recommendation, at the end of paragraph 4.ii, insert the words: "and their implementation."

1. See 30th Sitting, 27 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Amendment No. 21[1]
Doc. 9234 – 26 September 2001

Situation in "the former Yugoslav Republic of Macedonia"

tabled by MM. GROSS, OLTEANU, GJELLEROD, LAAKSO, JURGENS, Ms SHAKHTAKHTINSKAYA, MM. CILEVICS and POLLOZHANI

In the draft resolution, after paragraph 2, insert the following new paragraph:

"The Assembly is alarmed by the fact that too many members of the two main communities in Macedonia do not seem to be ready to live together in a common state. Therefore it calls for more direct involvement of the Council of Europe in community work to support all those who want to establish the social, cultural and political conditions necessary to maintain the integrity of the country in the interest of all citizens living there."

1. See 30th Sitting, 27 September 2001 (adoption of the amendment).

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Written Question No. 397
Doc. 9235 – 26 September 2001

Statements by Azerbaijan on solving the Nagorno-Karabakh conflict by military means

presented by Mr HOVHANNISYAN

On 25 January 2001 Armenia and Azerbaijan became members of the Council of Europe.

Upon joining the Organisation they have made accession commitments to be implemented and followed unabated.

One of the most important obligations undertaken by both countries is the commitment to find only a peaceful solution to the Nagorno-Karabagkh conflict.

To the regret and great concern of Armenian and the international community as well, Azerbaijan officials at the highest level, including President H. Aliev, Defence Minister S. Abiev and Minister of National Security N. Abbasov have, during recent months, made belligerent statements on different occasions aiming to resolve the situation with a military solution to the Nagorno-Karabakh conflict.

Mr Hovhannisyan requests the Committee of Ministers to invite the Republic of Azerbaijan:

– to refrain from statements that call for a military solution to the Nagorno-Karabakh conflict and seriously endanger the peace process;

– to fully respect its obligations to find a negotiated peaceful solution to the Nagorno-Karabakh conflict.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Written Question No. 398
Doc. 9236 – 26 September 2001

Turkey's blockade of Armenia

presented by Mr HOVHANNISYAN

Despite recognising the independence of Armenia in January 1992, Turkey has refused to establish normal interstate relations with Armenia; in April 1993, Turkey unilaterally froze all relations with this neighbouring country and began to implement a total blockade policy against it.

That blockade continues to this day, inflicting great damage on Armenia's economy and undermining the socio-economic situation in the country.

Turkey's blockade of Armenia also has repercussions for other Council of Europe member states in the region.

Today, at a time when the issue of stability and security in Europe is of major importance, this blockade policy pursued, without grounds, by Turkey, threatens regional stability and seriously hampers the development of co-operation.

Finally, that blockade by one Council of Europe member state of another runs contrary to the aims set forth in the Statute of the Council of Europe and constitutes an unacceptable act on the part of a candidate country for European Union membership.

Mr Hovhannisyan asks the Committee of Ministers

To persuade the Turkish authorities to cease without delay their policy of blockading Armenia.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Motion for a recommendation[1]
Doc. 9237 – 26 September 2001

Rights to education of refugees and displaced people in Azerbaijan in the context of future development in the field of education in Europe

presented by Mr R. HUSEYNOV and others

The independence of Azerbaijan, gained ten years ago, created opportunities for substantial development in the field of education with a view to implementation of the European and international standards and establishment of active co-operation with advanced European educational centres. However, the past twelve years of war and aggression hampered the development of the educational system in Azerbaijan.

As the result of military aggression by Armenia against Azerbaijan, 616 secondary schools, 234 pre-school centres, twelve vocational schools, five technical schools, one university, three university branches and three vocational school branches on the occupied territories remain demolished. The damage incurred has been estimated at about US$1.5 billion. The occupation has resulted in the forced displacement of about 20 000 employees in the field of education and about 130 000 pupils and students.

Today, in forty-eight regions of Azerbaijan there are 702 solely refugee secondary schools, including thirty located in the tent camps. About 90 000 pupils go to these schools, in which 12 206 teachers and instructors take care of their education and fostering.

Other internally displaced pupils have been placed in schools throughout the country. However, this led to artificially increased numbers of pupils in classes, thus negatively affecting the quality of education throughout the country.

Being deeply concerned with the existing problems in the field of education faced by refugees, the Parliamentary Assembly herein strongly urges the Committee of Ministers to pay the necessary attention to the respective matter.

Signed:

Huseynov R., Azerbaijan, EPP/CD
Akgönenç, Turkey, EDG
Aliyev I., Azerbaijan, EDG
Cerrahoğlu, Turkey, EDG
Duka-Zólyomi, Slovakia, EPP/CD
Frey, Switzerland, LDR
Gibuła, Poland, SOC
Haupert, Luxembourg, EPP/CD
Kalkan, Turkey, EDG
Kilclooney, United Kingdom, EPP/CD
Loutfi, Bulgaria, LDR
Marshall, United Kingdom, SOC
Martínez Casañ, Spain, EPP/CD
Mestan, Bulgaria, LDR
Mutman, Turkey, SOC
Rigoni, Italy, EPP/CD
Sağlam, Turkey, EPP/CD
Seyidov, Azerbaijan, EDG
Tanik, Turkey, EDG
Telek, Turkey, EDG
Tepshi, Albania, EPP/CD
Valleix, France, EDG
Velikov, Bulgaria, NR

1. This motion has not been discussed in the Assembly and commits only the members who have signed it.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Motion for a resolution[1]
Doc. 9238 – 26 September 2001

Gender-balanced representation in the Assembly

presented by Ms ZWERVER and others

1. The Assembly recalls that the realisation of equal opportunities for women and men is a necessary condition for the functioning of a democratic society.

2. The examination of representation in the political institutions of the Council of Europe member countries has shown that women are very under-represented and this under-representation is reflected in the composition of national delegations to the Parliamentary Assembly.

3. In this respect the Assembly supports the proposals of the Gender Partnership Group of the Inter-Parliamentary Union presented at the last IPU Conference in Havana to amend the Union's Statutes in order to remedy the weak participation of women in IPU conferences and in the Union's governing bodies and standing committees.

4. The Gender Partnership Group proposes, in particular, three amendments to the Union's Statutes suggesting sanctions against those delegations which fail to include at least one woman among their members. Those delegations will automatically be reduced by one member and the number of votes to which they are entitled at the conference will also be diminished.

5. The results of the consultations with the Union's members about these amendments have shown the firm support for these measures by IPU member countries.

6. In the light of this initiative the Assembly proposes to change the Assembly Rules of Procedure with a view to ensure the gender balance principle in the work of the Assembly and consequently recommends:

– to introduce a new paragraph after paragraph 6.2 of Rule 6 (Credentials) proposing to ensure a fair gender representation in national delegations, insisting on a minimum 30% representation of women in each delegation. If this rule is not respected the Assembly shall not ratify the credentials of this delegation (new paragraph proposed to 7.1). As of now there are five national delegations composed exclusively of male parliamentarians;

– to amend Rule 45.1 on bureaux of committees by including the following sentence: "The principle of gender equality should be respected in the composition of the Bureau";

– to include in Rule 49 on the reports of committees a provision stipulating that all reports prepared by the committees should take gender dimension into consideration and this should be reflected in all resolutions, recommendations and orders.

Signed:

Zwerver, Netherlands, SOC
Aguiar, Portugal, EPP/CD
Akhvlediani, Georgia, LDR
Cryer, United Kingdom, SOC
Err, Luxembourg, SOC
Fyfe, United Kingdom, SOC
Herczog, Hungary, SOC
Holovaty, Ukraine, LDR
Keltošová, Slovakia, EDG
Manukyan, Armenia, UEL
Marmazov, Ukraine, UEL
Oliynyk, Ukraine, UEL
Schicker, Austria, SOC
Stankevič, Lithuania, LDR

1. This motion has not been discussed in the Assembly and commits only the members who have signed it.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Motion for a resolution[1]
Doc. 9239 – 27 September 2001

Armenian-Azerbaijan (Nagorno-Karabakh) conflict

presented by Mr I. ALIYEV and others

1. Armenia and Azerbaijan have been fully-fledged members of the Council of Europe since 25 January 2001. Adopting these countries into the European family the Assembly was aware of the hard and bloody conflict between them; but the desire to assist them in the solution to this problem was one of the major factors to support Azerbaijan and Armenia while they stepped into the Council of Europe.

2. Along with it, the Assembly certifies that the conflict around the Nagorno-Karabakh has not been submitted for a discussion either at any committee or at the Assembly as a whole during more than a half-year period after Azerbaijan and Armenia entered the Council of Europe. Even the intensification of negotiations within the framework of the OSCE Minsk Group did not bring any advancement to the solution of the said conflict.

3. Realising the importance of this problem in the South Caucasus and also taking into consideration the fact that the continuation of the confrontation may lead to destabilisation of the whole Caucasian region, the Assembly considers that:

a. the time has come to discuss the Armenian-Azerbaijan conflict around Nagorno-Karabakh and to refer it clearly and impartially to the Council of Europe which will serve to consolidate peace among the peoples of Armenia and Azerbaijan, and consequently to establish stability of the Caucasus as well as in Europe as a whole;

b. the Political Affairs Committee of the Parliamentary Assembly should hold discussions on this issue with the aim of submitting a report on the results gained to the Assembly.

Signed:

Aliyev I., Azerbaijan, EDG
Akçali, Turkey, EDG
Akgönenç, Turkey, EDG
Akhvlediani, Georgia, LDR
Aliyev G., Azerbaijan, EDG
Bársony, Hungary, SOC
Baumel, France, EDG
Belohorská, Slovakia, EDG
Bilovol, Ukraine, EDG
Cerrahoğlu, Turkey, EDG
Chapman, United Kingdom, EDG
Chikhradze, Georgia, EPP/CD
Clerfayt, Belgium, LDR
Fyfe, United Kingdom, SOC
Gönül, Turkey, EPP/CD
Haack, Germany, SOC
Hajiyeva, Azerbaijan, EPP/CD
Hoeffel, France, EPP/CD
Huseynov R., Azerbaijan, EPP/CD
Jones, United Kingdom, SOC
Judd, United Kingdom, SOC
Kalkan, Turkey, EDG
Keltošová, Slovakia, EDG
Kovalev S., Russia, LDR
Kroupa, Czech Republic, EPP/CD
Landsbergis, Lithuania, EDG
Lībane, Latvia, LDR
Lloyd, United Kingdom, SOC
Martínez Cazañ ,Spain, EPP/CD
Marty, Switzerland, LDR
McNamara, United Kingdom, SOC
Němcová, Czech Republic, EDG
Olteanu, Romania, SOC
Palečková, Czech Republic, EDG
Popescu, Ukraine, SOC
Rogozin, Russia, EDG
Sağlam, Turkey, EPP/CD
Sehnalová, Czech Republic, SOC
Seyidov, Azerbaijan, EDG
Shakhtakhtinskaya, Azerbaijan, EDG
Şimonsen, Norway, LDR
Škrabalo, Croatia, LDR
Stankevič, Lithuania, LDR
Telek, Turkey, EDG
Tepshi, Albania, EPP/CD
Tevdoradze, Georgia, EDG
Tkáč, Slovakia, EDG
Vakilov, Azerbaijan, EDG
Wilkinson, United Kingdom, EDG
Wilshire, United Kingdom, EDG

1. This motion has not been discussed in the Assembly and commits only the members who have signed it.

PARLIAMENTARY ASSEMBLY
OF THE COUNCIL OF EUROPE

Motion for a recommendation[1]
Doc. 9240 – 27 September 2001

Guaranteeing rights of Ukrainian national minorities

presented by Mr KOSTYTSKY and others

Our modern-day society is characterised by the revival of Ukrainian self-awareness, the formation of a network of national institutions and positive developments in the field of national education and culture in neighbouring countries.

But Ukrainian minorities still face a number of serious problems. Ukrainian language and culture are threatened with extinction under a systematic policy of assimilation and prohibition of the teaching of Ukrainian language and traditions.

The Ukrainian national minorities are alarmed by the closure or discontinuation of Ukrainian educational institutions, publications and television programmes.

In some countries Ukrainians have suffered the destruction of a number of historic sites, depriving them of their past.

Ukrainian national minorities have a right to freedom of religion but they are often unable to attend Orthodox and Greek Catholic churches because there are none in their region.

In the light of the above and in the interests of ensuring that all existing international agreements on minority rights are taken into account,

The Assembly recommends that the Committee of Ministers:

Conduct a study of the state of education for Ukrainian minorities in neighbouring countries with a view to taking steps to protect those minorities, implementing resources for the protection of Ukrainian educational institutions, mass media and television, and fostering the revival of the Orthodox and Greek Catholic faiths.

Signed

Kostytsky, Ukraine, EPP/CD
Cilevičs, Latvia, SOC
Gross, Switzerland, SOC
Karpov, Ukraine, EDG
Knight, United Kingdom, EDG
Landsbergis, Lithuania, EDG
McNamara, United Kingdom, SOC
Mota Amaral, Portugal, EPP/CD
Oliynyk, Ukraine, UEL
Solé Tura, Spain, SOC
Zvarych, Ukraine, EDG

1. This motion has not been discussed in the Assembly and commits only the members who have signed it.

PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

Motion for a resolution[1]
Doc. 9241 – 27 September 2001

A joint committee of the Parliamentary Assembly of the Council of Europe and the European Parliament

presented by Mr van der LINDEN and others

The Parliamentary Assembly of the Council of Europe:

a. considering that, in part, the European Union and the Council of Europe have political responsibilities and take initiatives in the same European countries concerning the same political issues;

b. noting that this could result in overlapping and wasted effort, time and financial resources through lack of communication and co-ordination;

c. bearing in mind that a number of states which are candidates for European Union membership are already members of the Council of Europe;

d. referring to the monitoring procedure and the activities of the monitoring committee set up for that purpose by the Council of Europe Parliamentary Assembly, and the valuable information this procedure could provide to the European Parliament as well as to the European Commission and the Council of Ministers of the European Union;

e. noting the clear desire of both institutions to co-ordinate their activities and work more closely together;

f. realising that this communication and co-ordination can only be achieved if, as one means of co-operation, members of both the Parliamentary Assembly of the Council of Europe and the European Parliament meet regularly and therefore create a specific parliamentary body where members of both parliamentary institutions can meet and discuss and co-operate on matters directly;

g. referring to a similar request from members of the European Parliament,

Concludes by proposing to colleagues in the European Parliament the setting up of a joint committee of both assemblies that will discuss initiatives, exchange information and promote co-ordination to avoid overlapping and wasting effort, time and other resources as far as possible, and to take joint initiatives in a number of European countries.

Signed:

Van der Linden, Netherlands, EPP/CD
Adamczyk, Poland, EPP/CD
Ąnusz, Poland, EPP/CD
Čekuolis, Lithuania, LDR
Eörsi, Hungary, LDR
Gaburro, Italy, NR
Kosakivsky, Ukraine, NR
Krzaklewski, Poland, EPP/CD
Krzyzanowska, Poland, EPP/CD
Roseta, Portugal, EPP/CD
Smereczyńska, Poland, EPP/CD
Smorawiński, Poland, EPP/CD
Van den Brande, Belgium, EPP/CD
Von der Esch, Sweden, EPP/CD
Wójcik, Poland, EPP/CD

1. Referred to the Political Affairs Committee: Reference No. 2656 (32nd Sitting, 28 September 2001).

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DOCUMENTS 9155-9241

COUNCIL OF EUROPE – PARLIAMENTARY ASSEMBLY – 2001 ORDINARY SESSION – 24-28 SEPTEMBER 2001

ISBN 92-871-4739-6

2001
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