

COUNCIL  
OF EUROPE



CONSEIL  
DE L'EUROPE

COMMITTEE OF MINISTERS

CONFIDENTIAL  
CM/Del/Concl (77) 264

**CONCLUSIONS**  
**OF THE 264<sup>th</sup> MEETING**  
**OF THE MINISTERS' DEPUTIES**  
**HELD IN STRASBOURG FROM 11 TO 19 JANUARY 1977**



STRASBOURG



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The 264th meeting of the Deputies was Chaired by Mr M N Kambalouris, Deputy for the Minister for Foreign Affairs of Greece, The Session on 10 January 1977 opened at 4 p.m. with Mr S O hEideain, Vice-Chairman, in the Chair.

PRESENT

AUSTRIA	Mr O.	Maschke
	Mrs E.	Tekusch
	Mrs H.	Keller
BELGIUM	Mr J.	Bouha
	Mr F.	Hintjens
CYPRUS	Mr C.N.	Pilavachi
DENMARK	Mr P.A.	von der Hude
	Mr M.J.	Bützow
FRANCE	Mr A.	Féquant
	Mr J.	Videlier
FEDERAL REPUBLIC OF GERMANY	Mr C.H.	Lüders
	Mr H.	Meincke
	Mr M.	Vorwerk
GREECE	Mr N.	Kambalouris, <u>Chairman</u>
	Mr G.	Sioris
	Mr P.	Caracassis
	Mr T.	Camilieris
ICELAND	Mr S.	Björnsson
IRELAND	Mr S.	Ó hEideain, <u>Vice-Chairman</u>
	Mr M.	Flynn
	Mr M.	Reid
ITALY	Mr G.	Cornaggia Medici
	Mr V.	Rapolla
	Mr L.	Pivano



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LUXEMBOURG

Mr P. Mertz  
Mr F. Bremer

MALTA

-

NETHERLANDS

Mr C.W. van Boetzelaer van Asperen  
Mr P. Lagendijk

NORWAY

Miss K. Ohm  
Mr K. Paus

PORTUGAL

Mr L. de Oliveira Nunes

SWEDEN

Mr B. Åkerrén  
Mr M. Åberg

SWITZERLAND

Mr A. Wacker  
Mr R. Serex

TURKEY

Mr S. Günver  
Mr O. Akbel  
Mr Y. Mihçioğlu  
Miss A. Berkem

UNITED KINGDOM

Mr P.M. Foster  
Mr G. Lee  
Mr A. Mallia Testaferrata

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In the absence of a Representative of Malta, the Chairman informed the Committee of his intention to request the Maltese delegation in writing to convey the congratulations of the Committee of Ministers to Mr Anton Buttigieg, a former member of the Assembly, on his election as President of the Republic of Malta.

On behalf of the Committee, he welcomed Mr Flynn, member of the Political Directorate of the Irish Foreign Ministry, who was attending the present meeting. He also welcomed Mrs E Tekusch, who was replacing Mr E Staffelmayer, Deputy Permanent Representative and Consul General of Austria.

The Chairman said that the Secretary General had informed him of the promotion to grade A6 of the Secretary of the Committee of Ministers, Mr P Leuprecht.

The Secretary General said that the staff member who had served as Deputy Secretary to the Committee of Ministers had been transferred to the Private Office.

The Secretary of the Committee recalled that no decision had been approved ad referendum at the 263rd meeting.

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At the end of the meeting, the Chairman of the Committee, the Representative of Cyprus, the Secretary General and the Director of Political Affairs bade farewell to Mr S O hEideain, Vice-Chairman of the Committee, who was leaving his present post.

The Chairman spoke particularly of the moderation and efficiency with which the Vice-Chairman had always carried out his duties. He greatly regretted the departure of Mr O hEideain, the more so because this was the time when he would normally be taking office as Chairman of the Committee.

The Vice-Chairman, in turn, thanked the Chairman warmly on behalf of the Committee on the occasion of the termination of his term of office. This was the second time that Mr Kambalouris had assumed this difficult task. During his term as Chairman, the longest in the history of the Council of Europe, Mr Kambalouris had directed the Committee's proceedings with energy and enthusiasm. Two words which Greece first taught the world, democracy and philosophy, had always characterised the Chairman's approach to his duties.

The Secretary General endorsed the words of the Vice-Chairman and expressed his gratitude to the Chairman for his judgement and for his efforts in serving the interests of the Council of Europe as a whole.

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Item I

\*I.

ADOPTION OF THE AGENDA

Referring to Item III (Situation in Cyprus), the Representative of Turkey said that his Government's position on this question remained unchanged as regards both the substance and the procedure.

Decision

The Deputies adopted the agenda of their 264th meeting as it appears in Appendix I to these Conclusions, including the addition under item XXVII (New building) of sub-item (b) (Inauguration) and under item XXXIII (Other business) of sub-items (a) to (c).

## II.

COMMITTEE OF MINISTERSPreparation of the 59th Session  
(Concl(76)263/II)

The Deputies resumed discussion of the preparation for the 59th Session of the Committee of Ministers on the basis of a draft annotated provisional agenda prepared by the Secretariat (Notes No. 1834).

Progress of European Co-operation

The Representative of Sweden said that his Minister hoped that there would be an exchange of views on the report that she would present in her capacity as Chairman of the EFTA Council (CM(77)24). It would be a particularly appropriate occasion for doing so, since the EFTA summit meeting would take place at the end of May. Also by 1 July 1977 there would be a free trade for industrial goods in Western Europe, and EFTA had played an important role in this achievement of benefit to all member States of the Council of Europe.

The Representative of Austria agreed that it would be important to study the EFTA Report carefully and to comment on it.

The Secretary General, while recognising that the Tindemans Report should not constitute a separate sub-item, stressed that it would be most appropriate for the Foreign Ministers of the non-Nine to comment on the proposals it contains.

The Representative of Switzerland said that his authorities regretted that the three reference documents, in particular the report of the Secretary General, would not be issued in good time.

Implementation of the Final Act of Helsinki

The Representative of Denmark suggested that the United Kingdom Secretary of State for Foreign and Commonwealth Affairs should introduce this item in his capacity as Chairman of the political co-operation machinery since the Nine had dealt with this subject in that forum rather than in the Council of Ministers.

The Representative of the United Kingdom said that his Minister preferred to introduce the item in his capacity as President of the Council of Ministers of the European Communities.

United Nations

The Representative of the Federal Republic of Germany doubted whether he would still be able to circulate a written version of the introduction his Minister intended to give before the session. Federal Minister Genscher intended only to start by talking about the general trends in the last UN General Assembly in 1976. Then he would call on the Ministers' Deputies to hold more thorough-going exchanges of information

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Item II

and opinion (possibly in the presence of experts) on topics on the agenda of the coming General Assembly; there was not the least intention to co-ordinate the standpoints of the member States of the Council of Europe. The Minister might mention specific topics as examples; however, he certainly did not mean the Foreign Ministers to take decisions on a long list of such topics.

The Representative of Cyprus said that an evaluation of trends at the 31st Session of the United Nations General Assembly could hardly take place without special reference to individual items on the agenda.

The Representative of Austria did not think it necessary for the Ministers to give a special mandate to the Deputies, since a decision to discuss items on the agenda of the United Nations had already been taken. He accordingly proposed a modification to the annotated provisional agenda.

The Representative of the United Kingdom was of the opinion that the Ministers should not engage in drawing up a list of items to be discussed at a future meeting of the Deputies since in the past this had proved a complicated and time consuming exercise. The exact choice of items should be left to the Deputies.

Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law

The Representative of Switzerland explained the intentions of his Minister concerning this item. (These are set out in the annotated agenda in Appendix II).

The Representative of France, recalling his position stated at the last meeting, said that he was not in favour of a debate taking place on the introductory statement by the Head of the Federal Political Department.

The Representative of the Federal Republic of Germany supported the French suggestion. At any rate, he felt that it would be better to take up the wish of the Swiss delegation as a separate sub-item included under "Other business".

The Representative of Turkey supported the views expressed by his French and German colleagues and said that his Minister would not participate in the discussion. He thought it a dangerous precedent for such an item to be placed on the Ministers' agenda since it would leave the way open for many other conferences to be discussed in this manner, no matter what their subject matter.

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Item II

The Representative of Sweden explained that the foremost expert on the Conference in his country was preparing an intervention on this matter for the attention of his Minister. He was in favour of maintaining a separate item.

The 1977 Budget of the Council of Europe

The Representative of Italy said that his Minister was unlikely to make a detailed commentary on the 1977 Budget but would use it as a starting point for a general statement on the subject.

Preparation of the Colloquy

The Representative of the Federal Republic of Germany regretted that, in accordance with the wish of the President of the Assembly, the agenda of the Colloquy contained only one political question (Follow-up to CSCE) and two technical questions (Paris Office and Television Studio). This time a great many Foreign Ministers would be taking part in this discussion with parliamentarians. He asked whether it would not be possible to enrich the agenda by including another political item, for instance "New Developments in Spain". Thanks to the good relations of the parliamentarians with Spain, they might offer a lot of interesting new information.

The Representative of France did not consider it desirable that the Ministers should propose discussion of Spain in the Colloquy. A detailed debate could not take place and there was a risk of giving the parliamentarians false hopes on the information that the Ministers could give.

The Chairman said the discussion need not centre on a political evaluation of the situation in Spain. What was important was how the expression of democratic solidarity was to be made by the Council of Europe towards the new Spain.

Decision

The Deputies approved the provisional agenda and annotated provisional agenda for the 59th Session of the Committee of Ministers as they appear in Appendix II to these Conclusions.

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Item III

III.

SITUATION IN CYPRUS  
(Concl(76)262/IX)

No delegation wished to make a statement under this item.

## IV.

MEDIUM-TERM PLANModalities for the first revision of the Plan

(Concl(76)263/V, CM(76)250)

The Representative of the Netherlands and many other delegations said that no thoroughgoing recasting of the first Medium-Term Plan was called for, rather an adjustment to deal with any urgent problem cases.

The Head of Plan and Programme Division remarked that this view corresponded to that of the Secretariat as set out in CM(76)250.

The Representative of the Federal Republic of Germany proposed that the steering committees should be asked for their views in the first six months of 1977. The Secretary General should then prepare his proposals for revision by the Autumn; the Deputies would examine them briefly and then consult the Assembly in January 1978. The final adoption could take place in April 1978 at Deputy level. The preparation of the 1979 annual programme of activities could be taken up by the Secretariat on the basis of the draft forwarded to the Assembly in January 1978.

The Head of Plan and Programme Division said that the Secretariat had submitted a revised timetable involving consultation of the steering committees only from September 1977, in response to the desire expressed by several delegations at the 262nd meeting that the establishment of the new structures should be completed first. As two important ad hoc committees of experts had been authorised not to meet before the Autumn, the German timetable did not appear feasible.

The Chairman noted that the question whether the revised text should be adopted by the Committee at Deputy or Ministerial level should be left open until nearer the time.

The Representative of Italy made the following statement:

"The Italian delegation agrees with the views that have been expressed with regard to the need to simplify the arrangements for the review of the Plan. It approves the proposed timetable.

Where the procedure for consulting the Assembly is concerned, the Italian authorities take the view that the proposed simplification adequately meets operational requirements.

For the purpose of simplification, the Italian authorities consider that the Opinion of the Assembly - which it is proposed to replace by an invitation to the Assembly to make a recommendation to the Committee of Ministers along the lines of document CM(76)250 - could be taken as read whenever the observers of the Assembly who take part in the work of the committees have not expressed an opinion contrary to that of the Committee. The Assembly could then formally adopt its Opinion, thereby speeding up the procedure.



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Such a solution is obviously feasible only if the Assembly is authorised to allow its members to participate as observers in the work of all the Steering Committees in accordance with the formula indicated by this Delegation at the 263rd meeting of the Deputies".

The Representative of the United Kingdom considered that the procedure proposed by the Secretariat did not provide for sufficient control by the Committee and accordingly proposed an intermediate exchange of views in the Committee in June on the Secretariat's proposals before they were transmitted to the steering committees. This should not be a detailed examination of texts but a preliminary screening of a political nature. He also suggested that the Assembly should be asked to offer comments and suggestions at an early stage, so that they too could be given preliminary consideration by the Deputies in June, before being passed to the Steering Committees, for their comments. Thus when the latter reported back in the Spring of 1978, the Deputies would have all the elements on which to take decisions.

The Representative of Austria supported the British proposal but stressed that the whole procedure was exceptional and would not constitute a precedent, an opinion which the Committee endorsed.

The Head of the Plan and Programme Division said in reply to the proposals of the Representative of the United Kingdom, that the Secretariat's proposed procedures and timetable took account of the provisions of Resolutions(74)33 and (76)3, in particular with regard to the powers of the Secretary General and the Steering Committees in matters of planning. He feared that the procedure proposed by the United Kingdom delegation would have the effect of restricting the new powers which the Committee of Ministers wished to confer on the Steering Committees by the introduction of the new structures. Referring to the concern for economy expressed by certain delegations, he observed that:

a. the preparation and review of the Medium-Term Plan were not at present associated with any budgetary evaluation of objectives; in the system set up by Resolution(74)33, such budgetary evaluation took place yearly, and the appropriations were decided when the annual programmes of activities were adopted;

b. an increase in the number of objectives up to the end of 1980 would be unrealistic in view of the fact that any adjustments proposed would apply only to the last two years of the five-year period.

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Item IV

With regard to the proposed timetable, the Head of the Plan and Programme Division said in answer to questions that he had doubts as to whether it would be possible to present the documents containing the proposed amendments to the Plan within the required time limits, partly because of the work at present in progress on the structures of the subsidiary organs of the Steering Committees, the review of the 1977 programme of activities by the Steering Committees and the preparation of the 1978 programme; and partly because of the delay in settling the arrangements for the review. He understood that the decision to schedule the preliminary examination of the Secretary General's proposals by the Deputies for the month of June amounted to a firm agreement to discuss this point at the June meeting so as not to delay the discussion of these proposals by the Steering Committees.

The Representative of the Federal Republic of Germany stated that the British proposal, which would apparently be supported by a certain majority, clearly had the great advantage of presenting the most simple procedure. But nevertheless, it was curious that the Assembly would first be asked to present their proposals for adjustments to the Medium-Term Plan and afterwards these proposals would be presented to the Steering Committees for their opinion. The normal way would be to ask the Steering Committees first for their proposals for adjustment and afterwards to present these to the Assembly for its opinion (after the Deputies had discussed them). But as the procedure of this first revision would not constitute a precedent, he would not object.

This view was shared by the Representative of Austria.

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When the decisions were adopted no special provision was made for the revision of the Plan in Field III by the CCC or its successors, as suggested by the Secretariat.

The Representative of Switzerland said that all the eight fields should be treated in the same manner in the revision of the Plan, whereas the Representative of the Federal Republic of Germany preferred a flexible interpretation of the decision.

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Item IV

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Decisions

The Deputies

- i. requested the Chairman to transmit to the President of the Assembly a letter the text of which is reproduced in Appendix IV to these Conclusions;
- ii. adopted the following timetable for the review of the Medium-Term Plan 1976-80;

Phase 1: From January 1977 to May 1977

- a. Preparation by the Secretary General of preliminary proposals for adjustment of the Medium-Term Plan 1976-1980 on the terms stated under 2(b): "scope of review" of CM(76)250.
- b. Consultation of the Assembly (see decision (i) above and Chairman's letter to the President of the Assembly appended to these Conclusions).

Phase 2: June 1977

Preliminary consideration by the Deputies of proposals of the Assembly and of the Secretary General to be submitted to the Steering Committees and certain ad hoc Committees of experts with planning functions.

Phase 3: From September 1977 to the end of April 1978

Consultation of the Steering Committees and, where appropriate, ad hoc Committees of Experts, pursuant to paragraph 8 of Appendix I to Resolution(76)3, on the basis of the proposals of the Secretary General, the proposals and views of the Assembly transmitted by the Deputies, and comments by the Deputies at their June meeting.

Phase 4: Between June and November 1978

Adoption of revised text by the Committee of Ministers.

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Item V

V.

PORTUGAL

Projects to be financed by the Special Fund  
(Concl(76)263/XVII, CM(76)271 and Add)

Several delegations announced that they were able to approve as they stood the projects referred to in document CM(76)271 and Addendum.

The Representative of France had no objection to the proposed programme. However, it was to be hoped that the appropriations made previously would be wholly used up before releasing, even in part, the new appropriation allocated to the Fund. He drew attention to the need to remain within the ceiling of FF 1 million in accordance with the decision taken by the Deputies at their 256th meeting.

The Deputy Director of Political Affairs recapitulated the figures he had given at the 263rd meeting (item XVII of the Conclusions). The total estimated cost of the new projects was 1,400,000 FF. The liquidities available - account being taken of existing commitments - amounted to 1,336,000 FF in round figures. If the whole of the programme were to be carried out at the estimated cost, a shortfall of 64,000 FF would result. Obviously, however, the Fund's managers would ensure, as in the past, that the total amount appropriated to the Fund would in no circumstances be exceeded.

On the other hand, it was desirable that the appropriation of 1,000,000FF should be released in its entirety, in order to enable the Secretariat to prepare the implementation of the new projects in conjunction with the Portuguese authorities.

The Representative of Belgium recalled the terms of the decision taken on this subject at the 263rd meeting, and said that the release of the appropriations should be considered as automatic as soon as the programme of new activities was approved.

This view was shared by the Representative of Portugal who undertook, in common with the Secretariat, to keep the Committee informed of the implementation and merits of the projects approved. He also informed the Committee that the Portuguese authorities had just sent the Secretariat the draft legislation on radio and television in Portugal, for an opinion.

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Decisions

The Deputies

- i. approved the projects mentioned in document CM(76)271 and Addendum;
- ii. released in consequence, the appropriation of 1,000,000FF voted under Sub-head 134 of the 1977 general budget as an endowment to the Special Fund;
- iii. took note of the Secretariat statement according to which it would inform the Committee of Ministers at regular intervals of progress in the implementation of the programme and ensure that the total endowment of the Fund is not exceeded under any circumstances.

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Item VI

\*VI.

CONTROL OF THE MANUFACTURE AND TRADE OF ARMS

Recommendation 794

and

Resolution 642

(Concl(76)262/VIII, CM(76)285 and CM(77)7)

The Secretary of the Committee presented the draft reply (CM(76)285) to Recommendation 794, which reflected the views expressed during the Deputies' discussion of this question at their previous meeting (item VIII).

The Representative of the United Kingdom said that his delegation had submitted an alternative draft reply (CM(77)7). If this found insufficient support in the Committee he would be prepared to accept a reply on the lines of the new Secretariat draft.

The Representatives of the Federal Republic of Germany and the Netherlands, for their part, accepted the whole of the draft; on the other hand, the Representative of Austria submitted certain amendments, one of which was that the reference to "absence of a consensus" should disappear.

The Representative of France said that his authorities would prefer as brief a text as possible. Like the Representative of the United Kingdom, he did not wish the text to give the wrong impression, that there was a serious likelihood of further action being taken in the Committee of Ministers.

The new text proposed by the Representative of France received the approval of the Representative of Belgium.

At a later stage in the discussion, following a negative vote on the United Kingdom's draft reply, an indicative vote was taken on the Secretariat's revised and amended text, with the following result: 11 votes for, 0 against and 4 abstentions.

This vote was transformed into a definitive vote.

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Item VI

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Decision

The Deputies adopted the following reply to Recommendation 794:

"The Committee of Ministers has studied with attention Recommendation 794 on the Control of the Manufacture and Trade of Arms and recognised its humanitarian spirit. A number of governments intend to study further paragraphs 4(i) and (ii) and their implications. Other governments consider, particularly in the light of the reception given to previous initiatives in the United Nations, that any action they might take on these paragraphs could not lead to practical results. The Committee of Ministers has therefore sent the text of the Recommendation to member governments for their attention."

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Item VII

VII.

ADMISSION OF OBSERVERS FROM NON-EUROPEAN INTERNATIONAL GOVERNMENTAL  
ORGANISATIONS IN STEERING COMMITTEES AND AD HOC COMMITTEES  
OF EXPERTS  
(Concl(76)263/IV, CM(76)141 rev. and CM(77)9)

The Deputy Director of Political Affairs pointed out that ICEM, an organisation with which co-operation was particularly close, should be included in section B.5 (Advisory Committee). Further, the Secretariat would like the Deputies at their next meeting also to consider the cases of two organisations which, strictly speaking, were NGOs, or rather organisations with special status, whose contribution to the Council of Europe's work in various fields was very substantial. These were the International League of Red Cross Societies and Interpol. These two items would be set out in an addendum to CM(77)9, and the Secretariat requested the Committee to waive the four-week rule in respect of this addendum.

The representative of Plan and Programme Division observed that two corrections should be made to Decision CM/1/010177 (Concl(76)263/IV, Appendix V) concerning the specific terms of reference of working parties, viz:

- a. Annex 6 to Decision CM/1/010177 concerning the European Public Health Committee (CDSP), under point 10 (Observers):
  - delete the entry UN/ECE;
- b. Annex 7 to Decision CM/1/010177 concerning the European Committee for the Conservation of Nature and Natural Resources (CDSN), under point 10 (Observers):
  - add Liechtenstein.

The Representative of Switzerland drew the Committee's attention to the fact that Resolution(74)4, to which document CM(77)9 referred, dealt with relations between the secretariats of international organisations; the admission of observers to intergovernmental committees was a different matter entirely.

Decision

The Deputies agreed to discuss CM(77)9 and Addendum at their 265th meeting (February 1977).



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Item VIII

VIII.

31 APPLICATIONS BY EAST AFRICAN ASIANS AGAINST THE UNITED KINGDOM  
Decision to be taken under Article 32 of the European Convention  
on Human Rights  
(Concl(76)259/XV, CM(76)263)

The Head of the Directorate of Human Rights recalled that at their 259th meeting the Ministers' Deputies had agreed to resume their discussion of this item in the light of a Secretariat memorandum. This memorandum, drafted by the Directorate of Human Rights and contained in Document CM(76)263, gave a brief outline of the case, the proposals of the European Commission of Human Rights, a summary of the discussion at previous meetings of the Ministers' Deputies, and proposals by the Secretariat regarding the procedure to be followed. The Secretariat suggested in particular that the Deputies should continue discussing the "general interest" element, especially in the light of the periodic reports of the United Kingdom Representative on the measures taken by the United Kingdom to implement the proposals of the Commission, continue discussing the 31 applications by considering separately the questions relating to Article 3 and those relating to Articles 8 and 14 of the Convention, and fix a date for a vote to be taken in accordance with Article 32 of the Convention.

The Representative of Switzerland said that in his opinion it would be pointless for the Deputies to continue discussing the "general interest" element, since the periodic reports presented to date by the United Kingdom Representative were satisfactory and should constitute a definite conclusion.

The Representative of the Federal Republic of Germany shared the opinion of the Swiss Representative and recalled his statement on the matter at the 246th meeting, to the effect that account must be taken of political considerations, not least of which was the fact that the United Kingdom government had to face the consequences of the policies pursued by countries in Eastern Africa which had recently become independent and cope with a massive influx of people with different social and cultural traditions. However, the report of the European Commission of Human Rights on these cases had been adopted in December 1973, and a decision on the cases ought to be taken at one of the forthcoming meetings.

The Representative of Sweden emphasised the importance of the "general interest" element in this case.

The Representative of Belgium, supported by the Representative of the Netherlands, said that in the opinion of his authorities it would be

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useful for the Committee to take cognizance of the report which might be made by the United Kingdom Representative on the steps taken by the United Kingdom to implement the proposals which the European Commission of Human Rights had made regarding these cases.

The Representative of the United Kingdom said that this would be the fourth progress report made by his delegation at roughly six monthly intervals. The forecasts that the situation looked likely to resolve itself were being borne out by the facts. The number of vouchers available to heads of families remained at 5,000 a year which meant that about 20,000 persons could be admitted to the United Kingdom for settlement. As to the particular problem of United Kingdom passport holders (UKPHs) in East Africa, there were no longer any queues for entry certificates in Kenya, Tanzania or Malawi. During 1976, 600 heads of families in Kenya and 300 heads of families in Tanzania had declined entry certificates when they had been offered. Although it would be premature to conclude that the problem was resolved, because pressures might increase if there were a change in the political situation, it was fair to say that it was now well in hand in the sense that UKPHs wishing to settle in the United Kingdom could do so without delay.

The Head of the Directorate of Human Rights reminded the meeting that, in respect of the Commission's opinion regarding violation of Article 3 of the Convention, the Representatives of Austria, France and the United Kingdom had stated at previous meetings that they did not share the Commission's view. It would be desirable also to discover the positions of the other delegations concerning the Commission's opinion, first on Article 3 and secondly on Articles 8 and 14.

The Representative of the Federal Republic of Germany said the German authorities had studied the Commission's report very closely. He shared the Commission's view that refusal of the right of entry into one's own country could constitute violation of Article 3, even if Protocol No. 4 had not been ratified by the State in question. Article 3 of the Convention and Article 3(4) of Protocol No. 4 were independent of each other. Despite that, however, the German authorities were unable to agree with the Commission's conclusion that Article 3 of the Convention had been violated in the case of 25 applicants. There had perhaps been some measure of discrimination for a short time, but it had not been unduly severe and it was therefore not possible to describe it as degrading treatment. Nor did the German authorities share the Commission's view that Articles 8 and 14 had been violated in certain cases.

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The Representative of Austria recalled that the Deputies had been informed that a great many applications similar to those in question had been filed with the European Commission of Human Rights, but their examination had been postponed pending the outcome of proceedings in respect of the 31 applications. This attitude of the Commission was perhaps understandable, but not however justified from a juridical point of view. The temporary lack of a decision on the part of this Committee should not prevent the Commission from continuing its activity in these cases.

The United Kingdom Representative said that he did not wish to give the impression of wanting to spin out consideration of the case indefinitely. With the Committee's indulgence the United Kingdom delegation had been able to give a series of progress reports which had, he hoped, demonstrated his government's sincerity and success in dealing with a very difficult administrative problem having many of the features of a refugee problem. As to future procedure he was in the hands of the Committee. If it wished, he would be glad to make a further progress report at the next meeting, though there might not in fact be much to add. And if the Committee thought it was time to look more closely at the specific points in the Commission's report with a view to deciding its attitude to them, the United Kingdom delegation would not oppose this.

Decision

The Deputies agreed to resume discussion of this item at their meeting in May 1977 and, in particular, to continue on that occasion the discussions on the 31 applications by considering separately the questions relating to Article 3 and those relating to Article 8 and Article 14 of the European Convention of Human Rights, it being understood that the United Kingdom Representative would be ready as necessary to open the discussion with a further report on the "general interest" element.

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IX.

JUDGEMENTS OF THE EUROPEAN COURT OF HUMAN RIGHTS  
ON THE CASE OF "ENGEL AND OTHERS"

Application of Article 54 of the European Convention  
on Human Rights

(Concl(76)260/XI, Letter HD/C30 of 28 July 1976,  
Letter HD/C59 of 30 November 1976 and CM(76)282)

The Representative of the Netherlands made the following statement:

"In its judgement of 8 June 1976 in the case of Engel and Others, the European Court of Human Rights ruled that in the case of Mr Engel, his provisional strict arrest constituted a violation of Article 5(1) of the Convention, and that in the case of MM De Wit, Dona and Schul there had been violation of Article 6(1) of the Convention owing to the fact that the Supreme Military Court had heard their case in closed session.

These cases were tried in the Netherlands in the course of 1970 and 1971. On 1 November 1974, Netherlands legislation on military discipline was amended, since when there has been no provision - as, moreover, the European Court noted in paragraphs 13, 24, 63 and 64 of its judgement - for penalties which, according to the criteria mentioned by the Court itself, can be regarded as a constituting deprivation of liberty within the meaning of Article 5, or for any other penalties such that the procedure under which they may be enforced can be regarded as criminal proceedings according to the Court's interpretation of this term. Provisional arrest, strict arrest and assignment to a disciplinary unit were abolished by this amendment.

Consequently, violations of Articles 5 and 6 of the Convention of the kind found by the Court cannot occur under the legislation currently in force. The Netherlands Government therefore considers it unnecessary to take any other legislative measures.

In a letter to all the Ministers of the government, the Minister of Justice has drawn his colleagues' attention to the content of the Court's judgement, with a request that they take account of it when making any new regulations on matters of discipline.

In accordance with the judgement of the Court of 23 November 1976 concerning the application of Article 50 of the European Convention in the case in question, the sum of 100 Netherlands florins was paid to Mr Engel's lawyer."

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The Head of the Directorate of Human Rights recalled that in accordance with the rules concerning the application of Article 54 of the European Convention on Human Rights, the Secretariat would prepare a draft resolution for a future meeting of the Deputies, in the light of the "Golder" case which constituted a precedent for the present case. The statement by the Representative of the Netherlands would be appended to the draft Resolution.

The Representative of the Netherlands said that he would shortly indicate to the Secretariat that part of his statement which could be appended to the draft Resolution for publication.

Decision

The Deputies agreed to resume discussion of this case at their 267th meeting (March 1977) on the basis of the draft Resolution which would be prepared by the Secretariat in accordance with Rule 4 of the "Rules concerning the application of Article 54 of the European Convention on Human Rights".

X.

COMMITTEE OF EXPERTS ON HUMAN RIGHTS  
Voting procedures under Article 32 of the European Convention  
(Concl(76)260/X, CM(76)70 item 10, and CM(76)254)

The Representative of the Federal Republic of Germany said that his country's authorities shared the views expressed by the Secretariat in document CM(76)254 and the opinion given by the Committee of Experts on Human Rights in its report (document CM(76)70, item 10), namely that the procedure before the Committee of Ministers terminated once the vote stipulated in Article 32(1) of the European Convention had taken place. Any other solution would require an amendment of Article 32, but the German authorities were not prepared to envisage such an amendment for the time being. In the opinion of the Representative of the Federal Republic of Germany the memorandum of 13 October, CM(76)254 contained a mistake in paragraph 4:

"The Committee of Experts considered that the opinion according to which the procedure has terminated requires unanimity since it leads to the conclusion of the procedure concerned."

In the report of the Expert Committee in CM(76)70, item 10, it was only said that the Committee of Experts had a unanimous opinion as to their proposal (draft resolution). They were not of the view that after a vote, taken on the question of a violation of human rights by a two thirds majority, another decision, requiring unanimity, would be necessary to terminate the procedure.

The Representative of Italy said that the Italian authorities approved the opinion of the Committee of Experts on Human Rights whose members had concluded unanimously, although for different reasons, that if the two-thirds majority required by Article 32(1) were not reached, no further action could be taken on the case in question, which meant that consideration of the case should be removed from the agenda of the Committee of Ministers. However, in view of the observations made at previous meetings, and in order to ensure more effective protection of human rights, he suggested that the Steering Committee for Human Rights be instructed to re-examine all the provisions contained in Article 32 for the purpose of removing any ambiguity and forestalling any undesirable effects on the "credibility" of the Committee of Ministers' action in safeguarding human rights.

The Representative of Ireland recalled the statement he had made at the 258th meeting and emphasised that, in the opinion of the Irish authorities, a two-thirds majority must be required to establish either violation or non-violation. The compromise suggested by the Committee of Experts was hardly satisfactory. He suggested that the question be either deferred to a future meeting, or re-examined by the Steering Committee for Human Rights. It was possible that the opinion of the minority or majority of experts might undergo a change in the meantime.

The Representative of France said that he was able to agree with the opinion presented by the Committee of Experts, but only subject to the reservations he had made at the 258th meeting.

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The Representative of Denmark said that the Danish authorities approved the opinion of the Committee of Experts on Human Rights.

The Representative of Switzerland thought that it would not be advisable, in view of the differences of view, to take action on the opinion of the Committee of Experts, and suggested that no decision be taken by the Deputies on this subject.

The Representative of the United Kingdom recalled that at the 260th meeting of the Deputies, the Representatives of Austria, Belgium, Denmark, France, the Federal Republic of Germany, Italy, Luxembourg, the Netherlands, Norway, Sweden, Switzerland, Turkey and the United Kingdom had stated that their Governments were prepared to approve the opinion of the Committee of Experts on Human Rights.

In reply to questions from the Representatives of the Federal Republic of Germany, Turkey and the United Kingdom, the Head of the Directorate of Human Rights stated that the problem under review arose only in cases where the two-thirds majority required to establish whether the Convention had or had not been violated was not obtained. Article 32 did not make specific provision for the situation that arose out of a vote in which no majority could be discerned. To settle this matter, two divergent interpretations had been put forward by the Committee of Experts. Although these two interpretations were not mutually compatible, the Committee of Experts was of the opinion that the procedure could be considered as having terminated once the vote had taken place.

The fact that no two-thirds majority had been obtained should therefore be duly noted and two conclusions drawn: that no further action be taken on the case in question, and that the examination of the case be removed from the agenda of the Committee of Ministers. This view had been regarded as a compromise which was not incompatible with the two contradictory opinions expressed within the Committee of Experts. The Experts and the Secretariat agreed that the opinion of the Committee of Experts must be approved unanimously in order to become a rule specifying the powers of the Committee of Ministers under Article 32. In substance, this opinion advocated a rule for the application of the text of a convention, and this, under international law, required the unanimous agreement (explicit or tacit) in the Committee of Ministers. Alternatively, the Committee of Ministers could confine itself to taking note of the opinion and considering its content as being solely a model proposal; in which case, the opinion would serve in the event of a situation arising in the future where the two-thirds majority was not reached. There would seem to be no need to refer this question again to the Steering Committee for Human Rights, since the Experts had already given an opinion and there was little likelihood of any different compromise being found.

The United Kingdom Representative said he understood the opinion of the Head of the Human Rights Directorate as follows: to approve the recommendations of the expert committee as a guide to future practice required unanimity in the Committee of Ministers. But to apply the recommended practice in any particular future case, unanimity would not be required. The Head of the Directorate of Human Rights confirmed that this was so.

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In reply to a question from the Representative of Turkey, the Head of the Directorate of Human Rights said that, when the Committee of Ministers was examining a particular case in accordance with Article 32, a vote establishing that the two-thirds majority had not been reached terminated the case once and for all, and there could be no question of another vote or another majority.

In reply to a question from the Representatives of Italy and Turkey the Head of the Directorate of Human Rights recalled that at the 260th meeting, the Deputies had instructed the Committee of Experts on Human Rights to re-examine the rules adopted by the Committee of Ministers for the application of Article 32 of the Convention and to suggest how they could be improved should this prove necessary in the course of their examination. The opinion of the Committee of Experts on Human Rights on voting procedures under Article 32 of the Convention, as set out in document CM(76)70, was a completely separate question from that of the rules for the application of Article 32 by the Committee of Ministers.

The Representatives of Austria and the Netherlands said that in their opinion, a simple majority would suffice to approve the opinion of the Committee of Experts. Such approval would not have the effect of a real interpretation or formal revision of the Convention, but would be simply an acknowledgement of the facts leading to the case being removed from the agenda of the Committee of Ministers.

The Representative of Ireland considered that the adoption of the opinion required unanimity.

The Representative of Sweden stated that his authorities considered it essential to determine the legal effect of what the Committee of Ministers might decide about the interpretation of Article 32 of the European Convention on Human Rights. Unanimity would only be required if the Committee's decision were to be binding. As the Committee would certainly prefer to reserve its freedom to choose between different options in all future cases, it would not be desirable to take a binding decision on the procedural question. At this stage it would be sufficient to decide that the existing text might be a guideline for the future. This required no unanimity and strictly speaking it would be sufficient to record that a certain number of delegations were in favour of it being applied in the future, while another number of delegations disagreed with this view.



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The Representative of France said that the Committee of Ministers should simply take note of the opinion of the Committee of Experts. The opinion would then be a useful guide to the Committee of Ministers in the event of a situation arising where the two-thirds majority required by Article 32 was not reached. He recalled that the Committee of Experts had itself indicated in its opinion that the Committee of Ministers was free to add other elements to the model resolution if it saw fit to do so, since the latter was presented as an example only.

An indicative vote on the suggestion by the Representative of the Federal Republic of Germany that the Deputies should approve the opinion of the Committee of Experts gave the following results: 11 votes in favour, 3 against and 3 abstentions.

An indicative vote on the suggestion by the Representative of France that the Deputies take note of the opinion of the Committee of Experts gave the following results: 11 votes in favour, 3 against and 3 abstentions.

An indicative vote on the suggestion by the Representative of Sweden that the Secretariat be requested to prepare a document containing the views expressed by the Deputies, for the purpose of identifying a common denominator, gave the following results: 5 votes in favour, 4 against and 8 abstentions.

A final vote on the suggestion by the Representative of France that the Deputies take note of the opinion of the Committee of Experts on Human Rights gave the following results: 14 votes in favour, 2 against and 1 abstention.

Decision

The Deputies took note of the opinion of the Committee of Experts on Human Rights as it is formulated under item 10 of the report of the 45th meeting (CM(76)70), it being understood that the draft Resolution contained therein is to be considered as a model.

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XI.

ELECTION OF A MEMBER TO THE EUROPEAN COMMISSION OF HUMAN RIGHTS  
(IN RESPECT OF AUSTRIA)  
(CM(76)274)

In accordance with the provisions of Articles 19(a), 20, 21 and 22 of the European Convention on Human Rights, the Chairman called for a secret ballot which gave the following result:

Mr Felix Ermacora: 16

Mr Klaus Berchtold: 0

Mr Theo Öhlinger: 0

Decisions

The Deputies,

- i. in accordance with Article 21 of the European Convention on Human Rights, re-elected Mr Felix Ermacora member of the European Commission of Human Rights;
- ii. in consequence adopted Resolution(77)2 as it appears in Appendix V to these Conclusions.

\*XII.

DRAFT EUROPEAN CONVENTION RELATING TO FOREIGN CORRESPONDENTS  
(Concl(74)237/IX(a), CM(74)67, 166, CM(76)257 and Add.)

The Representative of Italy said that his authorities approved of the proposal to refer this question to the Steering Committee for Human Rights. He confirmed his authorities' position in the matter, as stated in the Addendum to CM(76)257, and expressed the hope that it might be possible, in the course of this re-examination by the Steering Committee, for the problem of reciprocity to be re-considered in the sense desired by Italy.

The Representative of Austria, seconded by the Swedish Representative, said that the Austrian authorities were anxious that the Convention be opened for signature as soon as possible. As regards the question of reciprocity, the Austrian authorities maintained their position, namely that the inclusion of a reciprocity clause in the Convention would be incompatible with the European Convention on Human Rights. He was against referring the matter to the Steering Committee for Human Rights.

The Representatives of Belgium and the United Kingdom endorsed the Austrian position concerning the inclusion of a reciprocity clause in the draft Convention. They were not opposed, however, to referring the matter to the Steering Committee for Human Rights.

The Representatives of the Federal Republic of Germany, Ireland, the Netherlands and Switzerland approved the Secretariat's proposal to refer the whole question to the Steering Committee for Human Rights for consideration.

The Head of the Directorate of Human Rights said that the Steering Committee for Human Rights could finalise the draft Convention and explanatory report. Provisions such as those of Articles 2, 5 and 13 and the preamble to the Convention could be improved. An effort could also be made to work out a compromise between those countries which were in favour of a reciprocity clause and those which were against such a clause. He recalled that in October 1974 two delegations were opposed to opening the Convention for signature precisely on account of this question of reciprocity. In the event of the Committee of Ministers deciding to refer the matter to the Steering Committee for Human Rights, the Directorate of Human Rights was prepared to submit to the said Steering Committee proposals for improving the draft Convention.

Decision

The Deputies adopted Decision No CM/5/110177 as it appears in Appendix VI to these Conclusions.

\*XIII.

REFUGEESAssembly Recommendations 773, 775 and 787Action to be taken by the Committee of Ministers  
(Concl(76)262/VII, CM(76)264)

The Director of Legal Affairs recalled that the Committee of Ministers had instructed the Secretariat to undertake a study of the issues raised in the two Recommendations, 773 and 775. This study (CM(76)264) also took Recommendation 787 into account. Without wishing to go into the technical aspects of the question at the present time, the Director of Legal Affairs pointed out that the instruments envisaged by the Assembly could take the form of conventions.

From the procedural angle, the Committee of Ministers could either instruct a committee of experts to prepare one or more draft agreements or ask the Secretariat to prepare a preliminary draft, the Committee of Ministers deciding subsequently what action should be taken.

The Representative of Italy said that, in the opinion of the Italian authorities, when considering the possibility of reinforcing the system for protecting refugees based on the Geneva Convention of 28 July 1951, account must be taken of the outcome of the forthcoming Geneva Conference on Territorial Asylum, at which the Council of Europe would be represented. Accordingly, the Italian authorities believed that the Committee of Ministers should examine the question in the light of the results of the Geneva talks, ie after 4 February next.

The Representative of Sweden supported the statement of the Italian Representative.

The Representative of Switzerland took a similar view, and said it would be premature to discuss the issues raised by the three Assembly recommendations at the present juncture. The situation of de facto refugees was a matter which to some extent overlapped the subject to be tackled in Geneva by the United Nations Conference on Territorial Asylum from 10 January to 4 February 1977. It would therefore be more sensible to await the outcome of that conference, and see what atmosphere had prevailed at it, before looking at the substance of document CM(76)264. The Swiss authorities would therefore favour postponing this matter until a Deputies' meeting in the spring. For the time being, the Deputies could simply give an interim reply to the Assembly.

The Representative of Belgium did not think it was necessary to await the outcome of the Geneva Conference. The Council of Europe ought to take an initiative in this matter which would enable it to find a specifically European solution to the problem. This would also foster consultation among the member States of the Council of Europe in any world-level negotiations. The Belgian authorities were in favour of including this question in the Medium-Term Plan and of the meeting of a committee of experts.

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The Representative of France supported the positions of Italy, Switzerland and Sweden. It would be unrealistic for the Council of Europe to try to win a race against the United Nations.

The Representative of the Federal Republic of Germany said that his authorities were in favour of an international agreement on the matter covered by Recommendation 775. He reminded the meeting that the Federal Republic received a very large number of refugees and that, furthermore, a draft agreement was already in existence between the Benelux countries and the Federal Republic concerning the right of refugee workers to return home. On the other hand, the German Government was opposed to an agreement on de facto refugees (Recommendation 773). Legalisation of the situation of all persons unlawfully resident on German territory would create insoluble human and social problems. Moreover, such a measure would inevitably encourage illegal immigration. For all these reasons, the German authorities were not in favour of convening a committee of experts.

The Representative of Austria said that Recommendation 787 on harmonisation of eligibility practice was broadly acceptable to his government. Indeed, most of the proposals were in keeping with the manner in which the Geneva Convention of 1951 was implemented and with Austrian legislation on asylum.

However, neither the law on asylum nor Austrian legislation governing administrative procedures gave voluntary agencies dealing with refugees the right to a hearing by the competent authority on the same terms as the applicant in the procedure to decide on his eligibility as a refugee. Certainly, the applicant himself was better placed to provide the requisite information on his personal situation and the reasons for his request for asylum. That was why the competent Austrian authorities saw no need to amend the legislation to give voluntary agencies the status of parties to the procedure in question. Such a change would be contrary to the requirements of procedural rapidity and efficiency.

The Representative of the United Kingdom said his authorities had no objection in principle to the work proposed being put in hand. Should the Committee of Ministers envisage the drafting of an agreement, the draft should in their view be prepared by a committee of experts.

The Representative of the Netherlands felt that Recommendations 773 and 775 both raised complex issues which deserved thorough investigation. It would be necessary to convene a committee of experts, not to draft an agreement at the present stage but to consider the expediency of such a draft agreement, bearing in mind differences between States in respect of legislation and practice.

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The Representative of Ireland had no objection in principle. However, he wished to refer to the expression used in paragraph 5 of Recommendation 773, where mention was made of an "invitation" to member governments. It was important not to attach undue weight to this expression, because all the issues raised in the Recommendation were matters for the sovereign authority of the States.

In reply to the Representative of France, the Representative of Belgium wished to point out that in his Government's view it was not a matter of a race against the United Nations. But no one knew what the outcome of the Geneva talks would be, and the member States of the Council of Europe could make an effort to harmonise their positions now.

The Representative of Norway felt it would be premature to take a decision at the present juncture, because of the Geneva Conference and the complexity of the questions raised by the Assembly Recommendations. Their examination should be deferred until the April or May meetings.

The Representative of Switzerland said that if the Secretariat envisaged dealing with the situation of de facto refugees by means of an agreement on the application of the amended Convention of 28 July 1951 on the status of refugees, the primary purpose of such an instrument should be to harmonise eligibility practice. In this connection, he pointed out that most of the points mentioned on pages 7 and 8 of document CM(76)264 were already implemented in Switzerland. The point was not to adopt standard rules of procedures but above all to apply in a more effectively liberal manner the criteria governing recognition of the status of refugees, in accordance with Article 1 of the Convention of 28 July 1951 on the Status of Refugees. The Swiss authorities would not go so far as to recommend a European eligibility procedure or the automatic recognition of decisions taken by other contracting states.

Regarding the transfer of responsibility for refugees moving lawfully from one member State of the Council of Europe to another (Recommendation 775), Switzerland also felt that an agreement might be more easily reached in the Council of Europe.

Regarding the action to be taken by the Committee of Ministers, the Swiss Government would opt for one agreement covering both questions, the over-riding aim still being the broadest possible application of the definition of refugee as given in Article 1 of the 1951 Convention. The establishment of a more or less comparable status to that under the Convention would seem to be inexpedient for de facto refugees, even if they were not described in these terms.

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The Representative of Sweden was not opposed to the idea of dealing with all three recommendations together. He supported the view expressed by the Secretariat in paragraph 15 of document CM(76)264: the expression "de facto refugee" should be avoided, and a flexible agreement supplementing the 1951 Convention should be drawn up.

The Chairman stressed that this was a problem of very great humanitarian importance. He could understand those delegations which were in favour of promoting the Council of Europe's role in this sphere, but the United Nations was already engaged on the work and it was to be hoped that the Geneva Conference would bear fruit. For this reason, the Committee of Ministers ought to await the outcome of that conference. It could subsequently decide to convene a committee of experts or ask the Secretariat to summarise the existing position and submit proposals.

The Director of Legal Affairs said the Secretariat was fully prepared to draw up a draft interim reply to the Assembly Recommendations for the Committee of Ministers. He pointed out the disadvantages of postponing work on this matter. In particular, he stressed that the United Nations Conference was dealing with only one aspect of the problem; there were, of course, overlaps with the Assembly Recommendations, but the two approaches were not wholly identical. Further, while hoping that the conference would have every success, one must not anticipate its outcome. Accordingly, the reply to the Assembly should be presented in positive terms: the Committee of Ministers recognised the interest of the question raised in the three recommendations and congratulated the Assembly on drawing attention to this human problem. But, by reason of the very complexity of the issue, and also bearing in mind the Geneva Conference, the Committee of Ministers was not able to give a definite reply at this stage. The Geneva Conference should not be given as the only reason for postponing the matter until a later meeting.

Decisions

The Deputies

i. adopted the following additional interim reply to Recommendations 773, 775 and 787:

"The interim replies which the Committee of Ministers has already given to the Assembly to Recommendations 773 and 775 (see the Addendum to Doc. 3760) mentioned the fact that the Secretariat has been instructed to make a detailed preliminary study of the problems raised by those Recommendations. The Committee of Ministers has since received the study in question, which also has a bearing on the field covered by Recommendation 787.

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The Committee of Ministers realises that the subject-matter of these Recommendations is of great interest, and is grateful to the Assembly for having highlighted a problem of extreme humanitarian importance.

However, in view of the vast complexity of this problem, and the fact that the United Nations Conference on Territorial Asylum has been taking place in Geneva since 10 January, the Committee of Ministers is not yet in a position to give a definitive reply as to the right attitude to adopt with regard to these Recommendations";

ii. agreed to resume consideration of Recommendations 773, 775 and 787 at their meeting in April 1977.



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\*XIV.

SHORT-TERM TREATMENT OF YOUNG OFFENDERS  
OF LESS THAN 21 YEARS

Follow-up to Resolution(66)25  
(Concl(76)262/XV, CM(76)226 and Add I, II and III)

The Director of Legal Affairs recalled that certain governments had expressed the wish to submit contributions for addition to document CM(76)226. This additional information had been reproduced in the addenda to the document. As to the action to be taken, the next step would be to authorise the Secretariat to prepare a revised version of this document; the revised version would not remain confidential, but could be communicated to the ECCP, for instance, and to certain non-governmental organisations active in this field.

The Representative of Sweden said that some recent legislative reforms had been passed in his country in connection with the short-term treatment of young offenders. In 1974, the special establishments for protective supervision had been abolished. Protective supervision of young offenders (18 to 21 years of age) could be carried out in normal institutions and could also be combined with a fine. The Swedish authorities considered that this system was a practical and reasonable alternative to sentences involving deprivation of liberty.

The Representative of Belgium said that he was ready to take note of the Secretariat document and approved the proposed arrangements for publicising it.

The Representative of the United Kingdom said that he had had no instructions on this precise point of publicity, but doubted whether his authorities would have any objection.

The Representative of Belgium thought that most of the information concerned was public. There had been precedents in the case of a study on human rights. In any event, the Secretariat document should be circulated to government bodies only.

The Chairman said that the Secretariat would not take the initiative in distributing the document, but would do so only on request.

The Director of Legal Affairs understood that some governments did not wish certain information to be too widely publicised. But he explained that it would be stated on the cover page of the synoptic version that it was a document prepared by the Secretariat on the basis of information supplied by the member States. It would be a Secretariat study, and the Secretariat would assume full responsibility for it, and none of the information in it would be placed between quotation marks.

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Decisions

The Deputies

- i. took note of the report contained in document CM(76)226 and Addenda I - III;
- ii. authorised the Secretary General to prepare, under his own responsibility, a consolidated document on the basis of information contained in the report, which could be made available to Committees of Intergovernmental Experts and other competent authorities, upon request.

XV.

COUNCIL OF EUROPE CONVENTIONS AND AGREEMENTS  
Written Question No 189 by Mr Margue  
(CM(76)265)

The Representative of the Federal Republic of Germany recalled that the problem of the legal significance, value and effects of the declarations made some months before by the Turkish delegation and considered as reservations, regarding the ratification of certain Conventions of the Council of Europe, had been decided under his Chairmanship after a very long discussion. The decision taken at that time had been based on the legal conception of the French delegation. One delegation concerned had voted against this decision. But now unanimity was required for a reply to be given to a parliamentarian. If this question was to be answered correctly, this could be done only by informing Mr Margue of the legal conception originally presented by France. He asked the delegation concerned whether it would be prepared to follow this line in the reply. At any rate, he warned the Committee against taking up the whole political and legal dispute again.

The Representative of France suggested that the reply to Written Question No 189 might be drafted along the following lines:

"Only Contracting Parties to a convention (or agreement) are competent to adopt a position on the reservations they wish to make to the application of particular clauses in the said Convention (or agreement). It is for each member State of the Council of Europe, and for no one else, to inform the depositary of the texts of conventions and agreements of any objections they wish to make to the Turkish reservations, but it not for the Committee of Ministers as a body to assess the significance and effects of those reservations."

The Representative of the Federal Republic of Germany seconded the French proposal.

The Representatives of Cyprus and Austria thought it was not possible at the present time to decide on the French Representative's proposal. The discussion should be adjourned so that the governments could scrutinise the text, and resumed at the February meeting.

The Representative of Luxembourg asked whether a reply would not then be too late, since the question had been put to the Committee of Ministers in October 1976.

The Representative of Turkey stressed that Question No 189 had not been put to Turkey but to the Committee of Ministers. It was therefore inappropriate for him to make a statement on behalf of the Turkish Government. However, in view of the Luxembourg Representative's comment, he wished to inform the Committee that he had spoken to Mr Margue at length in December 1976 and explained to him the reasons why he would find it very difficult to give his agreement to the text of a written reply. Mr Margue had been entirely satisfied with those explanations. In addition, it would also be very difficult to arrive at a text satisfactory both to Turkey and to Cyprus, and thus to reach the unanimity required for its adoption.

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In the light of these explanations, the Representative of Luxembourg said he favoured postponing the discussion.

Decision

The Deputies agreed to revert to this item at their 265th meeting (February 1977).

\*XVI.

DRAFT EUROPEAN CONVENTION ON THE PROTECTION OF INTERNATIONAL WATERCOURSES  
AGAINST POLLUTION  
(Concl(76)259/XXII, CM(76)151)

The Director of Legal Affairs explained why the Secretariat was not yet in a position to present its paper on the problem of the co-existence of the draft Convention with international obligations arising out of other relevant instruments. Quite recently, in December 1976, a new agreement had been concluded in Bonn on protection of the Rhine against chemical pollution. It was also necessary to examine the Paris Convention on pollution from landbased sources and the Barcelona Convention on the protection of the Mediterranean. Thus the question was much more complex than a year ago when the European Communities Directive was the only instrument besides the Convention. This was why the Secretariat was proposing that examination of this item should be postponed until the Deputies' 267th meeting in March.

The Director of Legal Affairs also pointed out that other problems of a different kind had emerged. One of them was the wish expressed by governments to embark on bilateral negotiations before the future Convention entered into force. This applied to France and Belgium on the one hand, and to the Federal Republic of Germany and the Netherlands on the other. Moreover, certain governments wished to make amendments or attach further appendices to the draft. Other governments, however, wished to keep the draft as it was because of its underlying complementarity with other international instruments.

The Director believed, finally, that it would not be advisable at this stage to take a decision on one or other of the hypotheses he had mentioned without the Committee of Ministers having an opportunity to examine a consolidated paper now being prepared by the Secretariat.

The Representative of Ireland recalled the interest his government had in this matter and was pleased to note that the Committee of Ministers would receive a report shortly.

The Representative of Belgium reminded the meeting that the idea that derogations would be necessary in the interests of France had been accepted. Belgium had opened bilateral negotiations in order to determine what they should be, but they had been delayed by questions of competence, the French authorities having argued that it was a matter for the Tripartite Commission (Belgium, France and Luxembourg). Bilateral negotiations would be reopened shortly.

The Representative of France said that his government considered it was up to Belgium to take the initiative. In order to obviate this kind of misunderstanding, the negotiation of bilateral arrangements and of the draft European Convention needed speeding up as much as possible. To that end, France suggested re-convening the Committee of Experts as soon as possible to examine the draft as a whole.

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The Director of Legal Affairs thought it would be premature to take a decision at this stage, before examining the consolidated report the Secretariat was preparing. The Committee of Experts ought not to meet on 9 February as planned but after the Deputies' March meeting.

The Chairman and the Representative of Luxembourg favoured the idea of waiting for the Secretariat's paper.

The Director of Legal Affairs added that the Secretariat also envisaged cancelling the meetings of the groups of technical experts until the whole question had been reviewed by the Committee of Ministers.

Decisions

The Deputies

- i. agreed to resume consideration of this item at their 267th meeting (March 1977);
- ii. decided that the meeting of the Committee of Technical Experts scheduled for February 1977 should be postponed until after the matter had been considered at the 267th meeting.

XVII.

TORTURE IN THE WORLD  
Recommendation 768

(Concl(76)262/XIX, CM(76)187 and 294)

The Representative of Sweden gave a summary of a statement his authorities had instructed him to make, the full text of which is as follows:

"In the text proposed by the Secretariat it is stated that extradition to a country which is not a member State of the Council of Europe and in which there would be the danger of torture or other inhuman treatment, might result in a violation of the principle laid down in Article 3, paragraph 2 of the European Convention on Extradition as well as of the principle of Article 3 of the European Convention on Human Rights. It is added that extradition could therefore be refused as inconsistent with international obligations.

This, in our view, is a very doubtful conclusion. Let us suppose that a member State of the Council of Europe has concluded an extradition treaty with a State which is not a member State of the Council of Europe and in which there is a danger of torture in a given case. If the extradition treaty itself provides no basis for refusing extradition in such a case, it is hardly possible to maintain that extradition can be refused as inconsistent with obligations under the European Convention on Human Rights to which the State which requests extradition is not a party.

This is in fact a case of conflicting treaty obligations and the State from which extradition is requested will necessarily have to violate its obligations either under the extradition treaty concluded with the non-member State or under the European Convention on Human Rights.

On the other hand, it is reasonable to assume that no State which is a party to the European Convention on Human Rights has undertaken any other treaty obligations which are in conflict with its obligations under the European Convention on Human Rights and that therefore the said conflict will not arise in practice.

Consequently, we consider that in the reply to the Recommendation of the Assembly the Committee of Ministers should not state that extradition to a non-member State can be refused because of inconsistency with the European Convention on Human Rights. We therefore propose the deletion of the words "and could therefore be refused as inconsistent with international obligations". The correct argument is contained in the following sentence which says that "it must ... be assumed that member States have not made any undertakings in respect of extradition which are inconsistent with their obligations under ... Article 3" of the Convention on Human Rights.

Finally, as regards the three alternatives in the Secretariat's proposal I believe that the first alternative ("the authority which takes the decision whether or not to grant extradition") is preferable, since it takes into account the differences in the national legal systems and does not take it for granted that extradition cases should be examined by a judicial body."

After further delegations had reported their preferences with regard to the three alternatives for the third sentence of the third paragraph of the draft reply (CM(76)294), the Representative of Belgium, in the interests of achieving unanimity, proposed the formula which was adopted as it appears below.

The Representative of Ireland took the opportunity to stress the great importance which his authorities attached to the matter under discussion. Assembly Recommendation 768 was a modest document on a very important subject.

#### Decision

The Deputies adopted the following reply to Recommendation 768:

"The Committee of Ministers has discussed the substance of Recommendation 768 (1976), having regard inter alia to the opinion of the European Committee on Crime Problems (ECPP) on the advisability of taking action on the proposals made therein.

In respect of paragraph 9(a) of the Recommendation, the Committee of Ministers is in agreement that the implementation of the European Convention on Extradition has to be seen in the light of the general commitment which all member States have made under the terms of the Statute to respect human rights. This, of course, includes the obligation to avoid any form of inhuman treatment.

In respect of paragraph 9(b) of the Recommendation, it is pointed out that extradition to a country which is not a member State of the Council of Europe and in which there would be the danger of torture or other inhuman treatment might result in a violation not only of the principle laid down in Article 3, paragraph 2 of the European Convention on Extradition but also that of Article 3 of the European Convention on Human Rights. It must therefore be assumed that member States have not made any undertakings in respect of extradition which are inconsistent with their obligations under the said Article 3. Moreover, the authorities which, according to the practice in each member State, are called upon to give an opinion or decide on the question of whether or not to grant extradition consider all aspects of the case, including those which have caused the concern of the Assembly. The Committee of Ministers is therefore confident that the solution to the problem raised by the Assembly is to be found in practice rather than in a revision of existing agreements. It also doubts the advisability of making proposals for such revisions within the Council of Europe, in particular at a time when the problems of torture are being considered at world level.



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As to the suggestion concerning the practice followed by certain non-member States in the matter of expulsion, the Committee feels that such a study falls outside the mandate of the ECCP. If such a study is considered to be desirable, action might be more appropriately taken at world level, in particular as any follow-up to such a study would have to extend, to be effective, beyond the purely regional limits of the Council of Europe.

For these reasons the Committee does not consider further action on its part to be advisable."

The Representatives of Belgium, Denmark, the Federal Republic of Germany, Italy, Luxembourg, the Netherlands, Norway, and Switzerland approved the above reply ad referendum.

\*XVIII.

COMMITTEE OF EXPERTS FOR IDENTITY DOCUMENTS AND  
MOVEMENT OF PERSONS

Report of the 11th meeting  
(Strasbourg, 25-28 October 1976)

(CM(76)280)

The Director of Legal Affairs thought it was not necessary at present to analyse document CM(76)280 in detail. Since 1 January 1977 the Committee of Experts had been an ad hoc committee, in other words it reported direct to the Committee of Ministers. Moreover, it had to adapt its structure to the requirements of Resolution(76)3. As for the working party which was to meet in February, its job would be to prepare the plenary meeting in Wiesbaden.

The Representative of Belgium thought that committees should not meet away from Strasbourg except when necessary, which did not seem to be the case, since the "electronic passports" referred to in the notes on the agenda did not figure in this Committee's terms of reference. He accordingly questioned whether the Committee of Ministers could confine itself to "taking note" of the meeting outside Strasbourg.

The Representative of the Netherlands said his government was in favour of the various actions listed in the "points submitted to the Committee of Ministers". He proposed the following changes to the text of the "Action section in the Notes on the agenda:

"the Deputies:

- i. approved ...
- ii. took note ...
- iii. took note....".

The Representative of France supported the view of the Belgian Representative. On this point the Committee of Ministers was faced with a fait accompli, since the decision had already been taken. His government accepted the draft resolution in Appendix III to document CM(76)280.

The Representative of Luxembourg approved the three decisions the Deputies were asked to take. He emphasised that according to Article 35 of Resolution(76)3, it was not the Committee of Ministers but the Secretary General who could decide to convene a committee outside Strasbourg.

The Representatives of Italy, the Federal Republic of Germany, Norway and Iceland were in favour of any action proposed by the ad hoc Committee of Experts and approved the three points (i), (ii) and (iii).

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After the Chairman had reminded the meeting of the substance of the relevant parts of Resolution(76)3, and Article 35 in particular, the Director of Legal Affairs proposed a form of wording for the Deputies' decisions on this item, which, after subsequent minor modifications was adopted as set out below. He stressed that the Secretary General's decision referred to in decision (iii) could, like any other decision, be discussed by the Committee of Ministers to which he was responsible. However, it should also be remembered that the electronics centre in Wiesbaden was the only one of its kind in Europe.

The Representative of Switzerland approved all three points. His country would be represented in Wiesbaden by a delegation. He stressed the need for the Working Party's conclusions to be sent to capitals as early as possible (at least three weeks before the Wiesbaden meeting).

The Representative of Cyprus said that the meeting outside Strasbourg was justified by quite exceptional circumstances. It was therefore appropriate to amend the draft decision along the lines suggested by the Director of Legal Affairs.

The Representative of Belgium said that he had realised from the remarks of the Director of Legal Affairs that there was a mistake in Notes No. 1852 and that there was in fact a direct link between the work of the Committee of Experts and the equipment of the Wiesbaden Centre. In that case he could agree to the need for the Committee to meet there and thought that the Committee of Ministers was empowered to judge whether such a need existed. He accordingly proposed the following wording:

"The Deputies, noting the need to convene the meeting of the Committee of Experts in Wiesbaden as an exception,

- i. took note of the intention ...
- ii. authorised the Committee of Experts to create a working party ...
- iii. took note of the report ...".

The Director of Legal Affairs reminded the meeting that the present wording of Resolution(76)3 was the outcome of lengthy discussions. Where the place of committee meetings was concerned, the Secretary General did not have discretionary powers; his powers were circumscribed by Article 35, and in particular he had to give reasons for his decision. The Committee of Ministers could always challenge him, but on the other hand it could not act on his behalf.

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The Representatives of Ireland and Greece supported this interpretation and the proposed text of the decisions.

The Representative of Cyprus thought it would be inexpedient to embark upon a discussion of Resolution(76)3 at this juncture.

Decisions

The Deputies

- i. approved the proposal of the ad hoc Committee of Experts for Identity Documents and Movement of Persons to appoint a working party consisting of five experts which would meet for three days in February 1977;
- ii. took note of the report of the 11th meeting of the Committee of Experts (GM(76)280) as a whole;
- iii. took note of the information provided by the Secretariat, that the Secretary General had, in accordance with Article 35 of Resolution (76)3, authorised the ad hoc Committee to hold its next four-day plenary meeting in Wiesbaden, in March 1977. This authorisation, which was exceptional, had been given in view of the interest which a visit to the Computer Centre of the Wiesbaden "Bundeskriminalamt" will present to the Committee in connection with its work on searches for missing persons as well as the benefit which it will gain there in continuing its own work.

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Item XIX

\*XIX.

SOCIAL COMMITTEE

42nd Session (Strasbourg, 27 September - 1 October 1976) Meeting Report  
(CM(76)256 and Add. I and II)

The Representatives of Italy, the Netherlands and the Federal Republic of Germany expressed approval of all the Social Committee's proposals.

The Representative of the United Kingdom said that, his delegation could accept the draft Resolution on the employment of women, subject to the general interpretation expressed in paragraph 23 and the specific reservations recorded in paras. 51, 52 and 56 of Addendum II to CM(76)256.

The Representative of Sweden stated that the Swedish Government had entrusted a working group with the task of drafting legislation against discrimination against either of the two sexes. If and when such legislation was promulgated, it would provide for cases of alleged discrimination to be referred to a court or to an ombudsman for decision. Thus the Swedish reservation in CM(76)256, Add II para 46, would no longer be relevant and he had consequently been instructed to lift it.

The Representative of Switzerland proposed that the full title of ILO Convention No 103 concerning maternity protection be mentioned in the preamble of the Resolution on the employment of women (Appendix II of Addendum II to CM(76)256).

Decisions

The Deputies

- i. took note of the interim and final activity reports (Add. I and II to CM(76)256) and in particular of the fact that the Committee envisages deferring the completion date for activities 6.20.1 and 6.10.2 to 1980;
- ii. adopted Resolution(77)1 on Women's Employment as it appears in Appendix VII to these Conclusions;
- iii. took note of the report of the 42nd session of the Social Committee (CM(76)256) as a whole.

\*XX.

INSTITUTION OF AN INTERNATIONAL MEDICAL CREDIT CARDRecommendation 792  
(Concl(76)262/XXIV)

The Secretariat representative drew the attention of the Deputies to the need to request the opinion of the European Public Health Committee and the Steering Committee for Municipal and Regional questions on the matters relating to medical information and to notification of the parents of the victim (paragraph 8(d) of Recommendation 792). The reason was that these were not social security matters. The Deputies would thus have knowledge of the opinion of these committees in the course of 1977 before the proposals of the Steering Committee for Social Security concerning the possible introduction of an international medical card, were referred to them.

Decision

The Deputies adopted the following reply to Recommendation 792:

"A working party of the Committee of Experts on Social Security, concerned with the 'simplification of administrative relations between institutions in the event of sickness occurring during a temporary stay in the territory of a member State other than the competent State', began a study in 1976 of certain matters referred to in (a), (b), (c) and (d) of paragraph 8(i) of Recommendation 792. This activity should be completed by the end of 1977. One of the solutions discussed by the working party concerns the introduction of an international health card. As regards the other questions which fall outside social security as such, health particulars and notification of close relatives of persons suffering mishaps, the Committee of Ministers has decided to forward for an opinion the relevant provisions of the Recommendation to the European Public Health Committee and the Steering Committee for Regional and Municipal Matters.

However, the idea of drawing up a European Convention (paragraphs 8(i) and 8(ii)) is still under examination (Activity 4.34.1 in the 1977 work programme). The Committee of Ministers will shortly be considering this question in the light of proposals which the Steering Committee for Social Security is to make on the substance and implementation of the 1977 work programme.

In those circumstances the Committee of Ministers has referred Recommendation 792 to the Steering Committee for Social Security for consideration."

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Item XXI(a)

\*XXI.

EUROPEAN SOCIAL CHARTER

a.

Spreading the procedure for supervising the implementation  
of the Social Charter over a longer period  
(CM(76)258)

The Director of Economic and Social Affairs said the Deputies were invited to decide on simplification of the machinery for supervising the implementation of the European Social Charter. After briefly recapitulating the positions of the different bodies responsible for this supervision, he drew attention to the Secretariat's proposals (CM(76)258), concerned mainly with revision of the form for implementation of the accepted provisions of the Charter (Article 21) and with a decision of principle by the Deputies on the application of Article 22 of the Charter.

The Representative of Italy said the appropriate authorities were in favour of implementing the machinery for supervising the unaccepted provisions of the Charter as soon as possible. On the other hand, they considered that the Governmental Committee's proposal to spread the supervision of the accepted provisions over six years was not in conformity with the Charter. The authorities in question felt that it might be helpful to use a simplified form for all reports except the first one.

The Representative of Switzerland was in favour of the Governmental Committee's proposals (Appendix A to CM(76)258), and found those of the Committee of Independent Experts (Appendix B) acceptable in so far as they were in line with the former. He set store by a decision on the part of the Deputies to transmit to the Committee of Independent Experts the reports adopted by the Governmental Committee on the basis of Article 27 of the Charter.

The Representative of France pointed out that the machinery for supervising the implementation of the Charter could be simplified by revising the relevant form, but without entailing any revision of the Charter itself. Moreover, no decision should be taken by the Deputies on the implementation of Article 22 of the Charter until they were in receipt of the draft form now being prepared by the Governmental Committee.

The Representative of Sweden was in favour of simplifying the supervision machinery, and to that end was able to accept the proposal of the Governmental Committee, or alternatively that of the Secretariat.

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The Austrian Representative underlined that the Austrian authorities were in favour of the Governmental Committee's proposal to spread the supervision of the Social Charter over a period of six years.

The Secretariat representative pointed out that it was desirable, twelve years after the Charter had entered into force, to adopt a position, if only of principle, on the implementation of Article 22. Revision of the form would not lead to revision of the Charter, but it would perhaps be advisable to transmit to the Assembly any drafts which might be referred to the Deputies before the end of 1977. Moreover, it was desirable to inform the Assembly that the Deputies had looked into the problem. The other questions relating to the implementation of the Social Charter which had been left in abeyance (Point II.7.C of CM(76)258) had meanwhile been resolved satisfactorily or else were covered by the decisions below, and there was therefore no need to revert to them.

The Chairman put to the vote decision (i) below, which was adopted unanimously. Decision (ii) below was taken by 14 votes in favour and 1 against, with no abstentions.

Decisions

The Deputies,

- i. invited the Governmental Committee to continue examining possible ways of simplifying the system for supervising the implementation of accepted provisions of the Charter (Article 21) by revising the form adopted for this purpose;
- ii. decided to implement Article 22 (Report on provisions not accepted) on the understanding that this decision would not take effect until the Committee of Ministers had received the relevant draft form, when they would decide "in respect of which provisions such reports shall be requested";
- iii. authorised reports adopted by the Governmental Committee in pursuance of Article 27 of the Charter to be forwarded automatically to the Committee of Independent Experts.



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Item XXI(b)

b. Proposals of the Governmental Committee on  
the European Social Charter concerning changes to be made  
in the machinery for supervision of the Social Charter  
Assembly Opinion No. 76  
(Concl(76)260/III(a))

Decision

The Deputies instructed the Secretariat to inform the Assembly on the decisions under item XXI(a) by a reference in the Statutory Report.

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Item XXII

\*XXII.

EUROPEAN YOUTH CENTRE  
Membership of the Advisory Committee for 1977  
(CM(76)284)

The Representative of France wished to know the reasons for the changes proposed by the Secretary General to the list of INGYO invited to meetings of the Advisory Committee in 1976.

The Representative of Belgium was similarly preoccupied.

The Director of the Centre said that the list had already been slightly amended the previous year in response to the wish of the Committee itself, which wanted the various international non-governmental youth organisations with consultative status to be able to take part in meetings of the Advisory Committee. Such changes must obviously be made prudently and ensure an even balance between the youth organisations and their respective tendencies. In his view, the proposals made by the Secretary General answered these requirements. Where the JECI was concerned, that organisation had not given entire satisfaction as regards the last courses it had held; this was all the more regrettable since it was the only young students' organisation to be represented on the Advisory Committee to date, although, from the point of view of its size and leanings, it was in no way representative of young students as a whole. Naturally it would not be pleased at not being represented on the Advisory Committee in 1977, but it would certainly understand the reasons for the decision taken since its shortcomings had been mentioned and criticised in the Advisory Committee itself.

The Representatives of the Federal Republic of Germany, the United Kingdom and Norway endorsed the list proposed by the Secretary General.

The Representatives of France and Belgium said that in view of explanations given by the Director of the Centre they could approve the list as well.

Decision

The Deputies approved the list of international non-governmental youth organisations which the Secretary General proposes in CM(76)284 to invite to meetings of the Advisory Committee of the European Youth Centre in 1977.

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Item XXIII

\*XXIII.

SCIENCE AND THE FUTURE OF MAN IN EUROPEAN SOCIETY

(Outcome of the 4th Parliamentary and Scientific Conference  
Florence 12-14 November 1975)

Recommendation 789 together with Orders Nos 359 and 360  
(Concl(76)260/III(b))

The Representative of Austria announced that the Austrian authorities were able to accept Recommendation 789 as a whole, on the understanding that the follow-up to the 4th Parliamentary and Scientific Conference was to take place within the framework of the existing institutions.

The Representative of France said that his government was strongly opposed to the creation of a "trans-disciplinary centre of reflection" as called for by the Assembly in paragraph 6(B) of the Recommendation. There were already two international organisations of a scientific character, namely the European Science Foundation and the International Institute for Applied Systems Analysis (IIASA).

Decisions

The Deputies

- i. adopted Decision No CM/6/180177 as it appears in Appendix VIII to these Conclusions;
- ii. transmitted the general declaration and recommendations of the 4th Parliamentary and Scientific Conference to the Committee of Senior Officials responsible for preparing sessions of the Standing Conference of European Ministers of Education, inviting the committee to include these texts in the file for the ad hoc Conference on Attitudes to the Study of Science and Technology;
- iii. invited delegations which so wished to send to the Secretariat their written comments on any other operative part of Recommendation 789 by 31 March 1977;
- iv. agreed to resume examination of this item at their meeting in May 1977 on the basis of a document prepared by the Secretariat containing delegations' comments;
- v. took note of Order No. 359 on the 5th Parliamentary and Scientific Conference and of Order No. 360 on the exercise in scientific co-operation.

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Item XXIV

\*XXIV.

EUROPEAN SPACE AGENCY

Recommendation 790  
(Concl(76)262/XXXIII, CM(76)290)

The Representative of the Federal Republic of Germany, supported by the Representative of the United Kingdom, suggested deleting the last paragraph of the reply in document CM(76)290 and replacing it by the text presented by the German delegation. This amendment would have the advantage of shortening the text and bringing it closer to the operative clauses of Recommendation 790.

The Representative of Belgium wondered whether it was wise to omit any reference to the Committee of Experts on the Mass Media. At the same time he thought that it might be useful to make the space aspects of this work clear.

Answering this question, the Director of Legal Affairs considered it advisable to recall, in the reply to Recommendation 790, that the Committee of Experts was responsible for studying the implications of the mass media for the legislative policies of member States of the Council of Europe. He suggested retaining the first sentence of the last paragraph of the Secretariat's draft reply, and adding a reference to sound and picture transmission by satellite.

The Representative of France said that his authorities were concerned about the possibility that the exchanges of views in the Committee of Experts might overlap to an extent with those held in the United Nations specialised agencies in which the same experts generally took part.

The Representative of Switzerland recalled his authorities' view, repeatedly expressed in the past, that it was not advisable to organise annual meetings of the ESA Council at ministerial level. The Agency was in no way a political institution but a technical body whose field of activity was confined to the development and exploitation of space technology. Ministerial meetings were justified chiefly in the event of political and financial upheaval. If they were to take place annually, the impression might be gained, wrongly, that there was a permanent state of crisis. The Committee had not taken up the foregoing Swiss suggestion, at least in substance, in its reply to Recommendation 727.

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decision

The Deputies adopted the following reply to Recommendation 790:

"The Committee of Ministers, having examined Recommendation 790 on the European Space Agency (ESA), considers that the reply it gave to Recommendation 765 on the same subject in the Statutory Report (Addendum to Doc. 3760) covers the points raised. Its position has not in general changed, but it would like to give the following additional information.

With regard to paragraph 12(i) of the recommendation, the Swedish Government ratified the ESA Convention in April 1976. The ratification process is well advanced for several other governments and is likely to be completed in 1977.

As for paragraph 12(ii), the Committee would like to point out that, since the reply to Recommendation 765 was approved, the Rules of Procedure of the ESA have been finally adopted but no specific provision is included concerning the frequency of ministerial meetings. Many governments continue to attach importance to the 'as required' concept of these meetings and are not in favour of their taking place on a regular annual basis.

With regard to paragraph 12(iii), the Committee refers to the ESA International Relations Advisory Group (IRAG) whose task is to advise the ESA Council on the concerting of the policies of the member States with respect to other national and international organisations and institutions. In this regard, the Committee recalls moreover that, in the Council of Europe, a Committee of Experts on the mass media is mandated to hold exchanges of views and information on the mass communication media and to study the problems to which these - including the transmission of sound and pictures by satellite - give rise from the point of view of the legislation of the Council of Europe member States."

The Representatives of Sweden and Turkey approved the foregoing reply ad referendum.

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Item XXV

XXV.

AD HOC CONFERENCE OF EUROPEAN MINISTERS WITH RESPONSIBILITY FOR CULTURAL  
AFFAIRS  
(Oslo, 15-17 June 1976)  
Follow-up  
(Concl(76)262/XXVIII, CM(76)186 and 249)

The Representative of the Federal Republic of Germany said that he could take note of all the Resolutions adopted at the last ad hoc Conference of European Ministers with responsibility for Cultural Affairs, it being understood that none of the proposals contained in those Resolutions went beyond the framework of the Medium-Term Plan.

The Representative of Belgium recalled that Resolution No 6 on European Cultural Co-operation was concerned with structures and had no bearing at all on the Medium-Term Plan.

The Representative of France recalled that Resolution No 6 had already been discussed several times by the Committee (Concl(76)259/XLV(c) and Concl(76)260/XXV).

The Representative of France, supported by the Representatives of Belgium, Switzerland and Norway, thought that before the Committee gave an opinion on a text as complex as Resolution 624, to which paragraphs 3(a) and (b) of Recommendation 781 referred, these texts should be transmitted to the CCC for opinion.

The Representative of the United Kingdom, on the other hand, considered it unnecessary to ask the CCC's opinion on paragraph 3(b) of Recommendation 781, since sub-objective 11.4.1 figured already in the Medium-Term Plan ("Evaluation and appreciation of the role of the artist in the development of society and his economic situation"). It was for the CCC to carry out this part of the Plan in the most appropriate manner. Since certain members of the Assembly were also members of the CCC and could therefore make whatever methodological suggestions they liked at CCC meetings, why did the Committee of Ministers need to act as an intermediary? The proposed procedure was just a waste of time and paper.

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Decisions

The Deputies

- i. took note of the eight resolutions adopted by the ad hoc Conference of European Ministers with Responsibility for Cultural Affairs (CM(76)186);
- ii. adopted Decision No CM/7/190177 as it appears in Appendix IX to these Conclusions;
- iii. adopted the following interim reply to Recommendation 781.

"Following a discussion on Recommendation 781 on Council of Europe action for the future of the performing arts, and Resolution 624 on the Democratic Renewal of the Performing Arts, to which Recommendation 781 refers, the Committee of Ministers decided to transmit both texts to the CGC for opinion".

XXVI.

AD HOC COMMITTEE OF GOVERNMENT ADMINISTRATIVE EXPERTS ON STAFF REGULATIONS  
Progress report  
(CM(76)267 and Add. I and II, CM(77)5 and 15)

This item was discussed in restricted session. The Deputies, however, asked the Secretariat to include a brief summary of the discussion in the main body of the Conclusions rather than issue a confidential addendum.

1. Progress Report of the ad hoc Committee

The Secretary General said that he had nothing to add at the present stage to the observations he had circulated in CM(77)5.

The Representative of Switzerland paid tribute to the work of the ad hoc Committee and said that its proposals, if adopted, would redress certain abuses that had arisen over the years. His authorities were therefore in favour of the draft amendment to Articles 6-9 of the Staff Regulations. However, he had certain amendments to propose, mainly of a drafting nature, which he would communicate in writing.

The Representatives of Italy and the Netherlands said that they also had comments which they would make in writing.

The Representatives of France and the United Kingdom said that they had received instructions to support all the proposals made by the ad hoc Committee, but pointed out that their authorities had not yet had an opportunity to examine the amendments proposed by Italy and the Federal Republic of Germany or the observations made by the Secretary General and the Staff Committee.

The Representative of the Federal Republic of Germany said that his government appreciated highly the proposals made by the ad hoc Committee, and could agree to the general conception of the ideas. He would send the Secretariat in writing a few suggestions for minor amendments.

The Chairman, speaking in his capacity as Representative of Ireland, said that his authorities also admired the work of the ad hoc Committee and could accept its proposals. There were, however, certain points made by the Secretary General in his observations that had value. In particular, delegations should not trespass upon his prerogatives and should avoid excessive bilateral negotiation when senior posts were to be filled. In addition he welcomed the remarks made in paragraph 4 of his observations concerning the advancement of staff from category B to category A, and welcomed the expression of his intention with regard to this matter.



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2. Recommendation 780

No delegation questioned the principle of consulting the Assembly on the envisaged new staff regulations. The discussion on Recommendation 780 centred on the question of timing, as regards the appropriate moment at which to commence the consultation procedure (see decision (ii) below).

Decisions

The Deputies

- i. invited those delegations which wished to do so to submit written observations on the progress report of the ad hoc Committee of Government Administrative Experts on Staff Regulations and its Appendices (CM(76)267) by Thursday, 10 February 1977 at the latest;
- ii. agreed in principle to seek the opinion of the Assembly on this matter, as soon as the Committee of Ministers has formed a majority view on the proposals of the ad hoc Committee;
- iii. agreed to take an interim decision on these proposals and adopt a reply to Assembly Recommendation 780, at their 267th meeting (March 1977).

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XXVII.

COUNCIL OF EUROPE NEW BUILDING

a. State of advancement of the construction  
of the building

(Concl(76)263/XVI(a))

The Secretary General reported, on the first day of the meeting, on the expected state of preparedness of the new building for the various events scheduled to take place during the week 24-28 January 1977. He commented in particular on the intensive activity taking place on the site and involving more than 400 workmen and 25 cleaners.

The Chairman proposed, and the Deputies agreed, that those delegations which wished to do so should hold an informal meeting in the Committee of Ministers' room in the new building at 10 am on Friday, 21 January 1977 in order to test the installations. This occasion would not be used for the transaction of the normal business of the Committee of Ministers.

The Head of Technical Services Division in reply to a point raised by the Representative of France, said that the intensity and quality of the lighting in the Committee of Ministers' room had proved to be inadequate, and steps were being taken to correct the situation before the 59th Session. If further measures were required they would be taken after the session. He also gave details concerning the offices set aside for ministerial and parliamentary delegations in the new building.

b. Inauguration

(Concl(76)263/XVI(b), CM(76)244 and Add I and II,  
286 and CM(77)20)

The Secretary General announced that Mr Roy Jenkins, President of the Commission of the European Communities, had said that he would come to the Inauguration Ceremony on 28 January 1977, and wished to speak. If this was agreed the order of speakers at the ceremony would be: the Secretary General of the Council of Europe, the Mayor of Strasbourg, the President of the Commission of the European Communities, the President of the European Parliament, the President of the Council of Europe Assembly, the Chairman of the Committee of Ministers of the Council of Europe, and the President of the French Republic.

The Deputies then proceeded to a further consideration of the arrangements for the ceremony and the other events taking place during the same week.

With regard to the question of inviting the Speaker and Clerk of the Cyprus Parliament to the Inauguration Ceremony, the Chairman distributed to delegations copies of a letter sent to him by the President of the Assembly on 10 January 1977. The text of this letter is reproduced as Appendix X to these Conclusions.

The Representative of the Netherlands said that the letter from the President of the Assembly raised a difficult point for many delegations as it drew a kind of division in the circle of member States, which had no legal basis. The Deputies had expressed the opinion that invitations should be sent to the Parliaments of all member States; they knew of only one Cyprus Parliament and had felt that it should be invited. In his letter, the President of the Assembly had alluded to the possibility of an invitation being sent by the Committee of Ministers, in which case the Assembly requested that its President should not be mentioned in the invitation. He asked what were the views of other delegations on this possibility.

The Representative of Ireland thought that it was very regrettable that the Deputies should find themselves in the position they were in. There seemed to be no doubt as to the principle involved - there had even been votes in the Committee on the status of Cyprus. If it were not possible to issue an invitation in the normal way in the name of both organs, the Irish delegation could accept the compromise solution suggested by the President of the Assembly.

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The Representative of Turkey pointed out that in Cyprus at present each of the two communities had its own Parliamentary Chamber. The reason for this was that the 15 Turkish-Cypriot Parliamentarians had been dismissed in 1963 by President Makarios. It could not be accepted that the resulting assembly comprised only of Greek-Cypriots was either representative or legal. Most of the member governments were at present making great efforts to obtain a resumption of the inter-communal talks and to find a solution to the problem. If the Committee of Ministers were to address an invitation to the Greek Cypriot Chamber only, it would be turning its back on the Turkish-Cypriot Chamber.

Both Mr Kiprianou and Mr Örek were very distinguished political leaders, and if the Deputies wanted to make a gesture, they could make a compromise one which would follow the Assembly's conception of the Cyprus Parliament, by inviting both persons in their individual capacity as distinguished guests. It would be a matter of great symbolic significance to have the two parliamentarians side by side here in Strasbourg at the Inauguration Ceremony. If discussion in the Committee of Ministers was to be sincere and based on confidence, the Committee must accept realities; one reality that could not be ignored was the existence of the Turkish-Cypriot community.

The Representative of Cyprus said that, as the Deputies already knew, from the point of view of international law the notion of the recognition of a State was one and indivisible. It was not possible to recognise one organ of a State and not another, nor was it possible to recognise that a State had two Parliaments. The Committee of Ministers had voted on the question of the recognition of Cyprus, and if a State was recognised, it was clear that its Parliament was also recognised. In his letter, the President of the Assembly said that the Cyprus Parliament was not fully representative, and this was true; part of the population of Cyprus was not represented in Parliament. But had the Assembly looked into why this was so? Had they noticed that a large part of Cyprus was under foreign military occupation? Also, had the Assembly looked into the representivity of the Parliaments of all of the other member States? Did they all include representatives of all minorities? Mr Czernetz referred in his letter to Article 13 of the Statute and was correct to say that the decision was for the Committee of Ministers. He said that he would respect Mr Czernetz's opinion if he did not wish to sign an invitation to the Cyprus Parliament, but the Deputies could vote on the question of whether it should be the decision of the Committee of Ministers to send its own invitation.

The Representative of Turkey said that it was important to distinguish between recognition of an administration and recognition of a Parliament. The Assembly had long debated the question of the representivity of the Cyprus Parliament, and its conclusions were well known. He formally moved that the proposal he had made be put to the vote. As his proposal went further than that made by Mr Pilavachi, it should be voted first in accordance with the Rules of Procedure.

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The Representative of Cyprus said that the Turkish proposal should be rejected as being inconsistent with the decision of the Committee of Ministers that there was only one State of Cyprus. To decide now that it had two Parliaments would be a political error of the highest order.

The Representative of Turkey pointed out that he had not proposed that the two persons concerned be invited as the Speakers of the Parliaments of their respective communities, but in their individual capacities and as distinguished European guests.

The Representative of the United Kingdom said that to his mind the only possibility open to the Deputies was to choose between two alternatives. Either they could decide that the Committee of Ministers should invite Mr Kiprianou on its own account in his capacity as Speaker of the Cyprus Parliament, or they could take the line, without prejudice to the Committee's opinion as conveyed to the Assembly, that no invitation could be sent except by agreement between both organs.

The Representative of Switzerland said that his position remained as reported in December.

The Chairman put to the vote the Turkish proposal that Mr Kiprianou and Mr Örek should be invited as distinguished guests. The result was as follows: 1 in favour, 0 against and 17 abstentions.

The Chairman put to the vote the Cypriot proposal that the Speaker and Clerk of the Cyprus Parliament be invited by the Committee of Ministers. The result was as follows: 13 in favour, 1 against and 3 abstentions.

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When the text of the decision below was presented for formal adoption, the Representative of Turkey asked for his opposition to it to be recorded.

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During the discussion on the Inauguration Ceremony, the Secretary General took the opportunity to report the latest situation (as it was on 11 January 1977) concerning gifts to decorate the new building, and the Secretary of the Committee said that he had received a letter from the acting Permanent Representative of Malta informing him that the Maltese government had decided to present such a gift, the nature of which would be specified later.

Following a statement by the Clerk of the Assembly in connection with the state of advancement of the wall decoration designed by the Israeli artist Mr Agam as the gift of the Knesset to the new building, the Representative of Turkey said that the provisions of the law on the protection of the Turkish Flag required due respect to the proportions of the flag and wanted to know to what extent these proportions had been respected in the work of Mr Agam.

In reply to the Representative of Turkey, the Clerk of the Assembly said that he had seen the work of Mr Agam in Paris and was in a position to give an assurance on the matter raised by the Turkish Representative.

Decision

The Deputies asked the Chairman of the Committee of Ministers to invite, on behalf of the Committee, the Speaker and the Clerk of the Cyprus Parliament to attend the ceremony to inaugurate the new building.

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XXVIII.

CO-ORDINATING COMMITTEE OF GOVERNMENT BUDGET EXPERTS

133rd Report  
(CM(76)248 and 277 and CM(77)6)

The Secretary General made the following statement:

"The current Council of Europe staff salaries were fixed by reference to the cost-of-living at 31 December 1975.

Any adjustment to these salaries was conditional on the introduction of a new procedure to replace the one abolished by the Councils of the Co-ordinated Organisations when they approved the 123rd Report of the Co-ordinating Committee.

This new procedure is the subject of the Co-ordinating Committee's 133rd Report of 9 November 1976. The preparation of this report involved considerable difficulties, and the Secretaries General of the Co-ordinated Organisations are very apprehensive about the possible results of the application of these recommendations. However, as stated in document CM(77)6 attached to the file submitted to the Committee of Ministers for a decision, the OECD Council, after several deliberations has finally approved the 133rd Report while amending or interpreting certain recommendations in a way calculated to allay somewhat the fears of the Secretaries General and their staffs. I therefore hope that the Committee of Ministers of the Council of Europe will approve the Co-ordinating Committee's 133rd Report in the same terms as those of the OECD Council's decision.

The new procedure resulting from the 133rd Report will be applied for the first time in the salary review which is to take effect on 1 July 1976. However, this review will take about two or three months to prepare, and so the Co-ordinating Committee felt able to recommend to the Councils of the Co-ordinated Organisations in its 135th Report of 16 December 1976 (1) that the staffs of the Co-ordinated Organisations should be granted an advance on the review of 1 July 1976. For categories B and C this advance would be equal to 100% of the cost-of-living increase during the first half of 1976, and for categories A and L to 60% of the increase. It would of course be effective from 1 July 1976 and would relate to the cost-of-living increase during the period 1 January to 30 June 1976.

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(1) which has just been distributed to the Committee of Ministers as CM(77)4 - see item XXXIII(a) below.

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Accordingly, at that date the purchasing power of staff in categories B and C would have been preserved, whereas for categories A and L there would have been a further drop in the standard of living and it will be remembered that these two categories were granted only 80% of the price index rise when a cost-of-living adjustment was made in respect of the second half of 1975. This is naturally a disturbing situation which bears out the apprehension expressed by the Secretaries General concerning the implications of the 133rd Report.

However, I would ask the Committee of Ministers to approve the Co-ordinating Committee's 135th Report without any further delay, as has already been done by the Councils of OECD, WEU and the European Space Agency."

The Representative of the Federal Republic of Germany said that his authorities favoured a speedy decision on the Co-ordinating Committee's 133rd Report, which had been under discussion by that Committee for several months. The Governments wanted to apply the same pay regulations in all of the Co-ordinated Organisations, and for this reason it would not be appropriate for the Deputies now to spend time re-examining the ground already covered by the Co-ordinating Committee. His delegation could support the adoption of a decision based on the same wording as adopted by the OECD Council.

The Representative of Belgium seconded this proposal.

The Representative of France said that the French delegation approved the compromise adopted on 17 December 1976 by the OECD Council, the 2 essential components of which were the following:

- deletion of the last 4 words of Article 5(b) of the annexe to the 133rd report of the Co-ordinating Committee;
- possibility of disregarding the ceiling defined in Article 6, in particular if the figures finally selected by the European Communities proved to be higher.

The French delegation was therefore prepared to adopt a statement similar to that contained in paragraphs (b), (d), and (e) of the OECD Council's decision of 17 December 1976.



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The Representative of the Netherlands said that when this matter was discussed by the OECD Council, the Netherlands delegation had reported that the Netherlands authorities were prepared to follow the great majority of member countries to delete the last four words of the English version of Article 5(b) of the Annex to the 133rd Report of the Co-ordinating Committee in order not to block a unanimous decision.

However, they reserved the right, when using the criteria of the 133rd report for the adjustment of remuneration of the staff of the Co-ordinated Organisations in Categories A and L, to interpret Article 5(b) in the following way: When comparing the trends of net salary levels of international civil servants to those of national civil servants, the real development of more or less equal net salaries irrespective of grade comparisons have to be taken into account as an element of information and assessment in order to establish parallelism.

The Representative of Belgium associated himself with this statement.

At the request of the Deputies, and after obtaining authorisation from the OECD, the Secretariat distributed copies of the Minutes of the 431st Meeting of the OECD Council (17 December 1976) at which the decision had been taken on the 133rd Report, together with draft decisions for adoption by the Deputies based on the wording of the OECD decision. The vote on the draft decisions as they appear below was carried unanimously.

Consultation of the Staff Committee

During the discussion of this item, the question arose as to whether to consult the Staff Committee on the 133rd Report.

The Secretary of the Committee pointed out that the Staff Committee had not made a specific request to be heard on the item at present under discussion, but the General Meeting of staff held in December 1976 had expressed the desire for contacts to be established with the Committee of Ministers on the question of salaries. He suggested that the Chairman might have a meeting with the Chairman of the Staff Committee at which he could report the state of advancement of the Deputies discussion on the 133rd Report (and on the 135th report (item XXXIII(a) below)), and ask whether, in the circumstances, the Staff Committee would be interested in being heard on the matter at the present meeting.

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After the Deputies had approved this procedure, and a meeting between the Chairman of the Deputies and the Chairman, Vice-Chairman and a member of the Staff Committee had taken place in the Secretary General's office in his presence, the Chairman reported that the representatives of the Staff Committee had said that they would not consider a hearing to be of value at the stage reached, in particular because of the urgency of the matter and the desire of the staff to see a decision reached as soon as possible. The Staff Committee did not fully approve the recommendations made in the 133rd Report. They did however appreciate the proposal that they be consulted on it, and asked for their thanks to be conveyed to the Deputies.

Decisions

The Deputies, having regard to the 133rd report of the Co-ordinating Committee of Government Budget Experts (CM(76)277, Appendix II), the observations of the Secretary General and the Staff Committee (CM(77)6) and having heard the statement by the Secretary General during their consideration of the present item of the agenda:

- i. decided to approve the procedure for adjusting the remuneration of staff of the Co-ordinated Organisations as set out in the annex to the 133rd report of the Co-ordinating Committee, subject to the deletion of the last four words of Article 5(b);
- ii. noted the statements made by delegations at the present meeting, including those with regard to Article 5(b) and Article 6 of the procedure for adjusting the remuneration of staff of the Co-ordinated Organisations;
- iii. agreed that, if circumstances judged by the Committee of Ministers to be exceptional arise, it could invite the Co-ordinating Committee to formulate proposals derogating, on an ad hoc basis, from the ceiling established in Article 6;
- iv. agreed that, in applying Chapter III of the procedure for adjusting the remuneration of staff of the Co-ordinated Organisations, the comparisons made with the public sector would be based on as complete information as possible concerning the real net salaries paid to public sector officials with comparable functions.

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XXIX.

MEMBERSHIP OF THE BOARD OF AUDITORS

Appointment of a new member for a period of six years commencing

1 January 1977

(Concl(76)263/XV, CM(76)192 and Add.)

The Representative of Luxembourg announced that his delegation withdrew the candidature of Mr François Goerens.

The Deputies proceeded to a secret indicative ballot confined to the two remaining candidates, which gave the following result:

Dr. Gicala: 6

Mr Treider: 11

Blank ballot: 1

Decision

The Deputies, in accordance with the second paragraph of Article 80 of the Financial Regulations, appointed Mr Bjørn TREIDER (Norway) to be a member of the Board of Auditors for a period of 6 years commencing 1 January 1977, to replace Mr Pierre SENECHAL.

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XXX.

PARIS OFFICE  
(Concl(76)263/XIV)

Decisions

The Deputies

i. decided to set up a working party composed of the Permanent Representatives of the Netherlands, Sweden and Turkey, with the following terms of reference:

"To study the question of the continuing need to maintain the Paris Office including whether any essential purposes at present fulfilled by the Office could be more economically served by other means";

ii. asked the Working Party to indicate at their 265th meeting (February 1977) the date at which it would be able to present its final report.

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\*XXXI.

COUNCIL OF EUROPE BUDGETS

Reply to Assembly Opinions Nos. 75, 77 and 79  
(Concl(76)263/XIV, CM(76)216, and CM(77)8)

The Representative of Norway proposed that it would be more logical in the final sentence of the second paragraph of the draft reply proposed by the Secretariat (CM(77)8), to refer to Norway before France. In fact, it had been the Norwegian offer of loan facilities to finance the construction of the extension to the European Youth Centre which had led the French Government to make its offer of a grant towards the same purpose.

The Representative of Switzerland, supported by the Representatives of France, the Federal Republic of Germany and Italy, recalled that in general the Committee of Ministers was not obliged to reply to Assembly Opinions, but on financial matters, with which the Opinions under discussion were concerned, more specific considerations had to be taken into account, and a reply was normally given. Moreover, the document containing the Secretariat's draft reply had been issued only on 14 January 1977, which meant that his authorities had not had an opportunity to consider it prior to the present discussion.

He therefore proposed that the Deputies defer consideration of this item until later. The Representative of Switzerland added that, as the 1977 budget had been discussed and adopted at ambassadorial level, the reply to the Assembly Opinions should also be considered at that level.

The representative of the Office of the Clerk of the Assembly said that the Assembly normally expected to receive the Committee of Ministers' reply to its budgetary Opinions at its January part-sessions. In the circumstances, however, he felt sure that the Assembly's Committee on the Budget and the Intergovernmental Work Programme would be content in January to learn from the Secretariat what decisions had been taken during the adoption of the 1977 budget. On the other hand, the Committee on the Budget would be meeting again in March, on a date not yet set, and at that meeting it would be drawing-up the first draft of the Assembly's Opinion on the 1978 budget. It would certainly wish to have received by then the Committee of Ministers' reply to Assembly Opinions Nos 75, 77 and 79.

Decision

The Deputies agreed to resume consideration of the draft reply to these Opinions (CM(77)8) at their 265th meeting (February 1977), time permitting, with a view to its adoption before the March 1977 meeting of the Assembly's Committee on the Budget and Intergovernmental Work Programme.

XXXII.

PREPARATION OF FORTHCOMING MEETINGS

Referring to the item "Situation in Cyprus" on the agenda for the 265th meeting, the Representative of Turkey announced that his government's position on the matter remained unchanged from the point of view both of substance and of procedure.

The Chairman invited the Deputies to decide at their 265th meeting (February 1977) on the desirability of arranging on 18 March (see decision (ii) below) a meeting between the Deputies, assisted by senior officials specialising in CSCE matters, and parliamentarians from the Council of Europe member States who would be attending the Colloquy of Parliamentarians scheduled for 25 and 26 March 1977 in Vienna.

The Director of Education and of Cultural and Scientific Affairs pointed out that the Committee of Senior Officials instructed to prepare the next Standing Conference of European Ministers of Education was encountering difficulties over the date for that Conference, which was to take place in Strasbourg. The Committee was anxious to avoid a clash with a meeting of the European Parliament or of the Deputies. However, the Deputies had not fixed the dates of their meetings beyond March 1977.

The Chairman noted that the Committee was not opposed to the holding of the next Standing Conference of European Ministers of Education from 27 June to 1 July.

The Representative of Belgium proposed the inclusion on the agenda for the 265th meeting of the question of catering and refreshment facilities at the Council of Europe following the entry into service of the new building.

Decisions

The Deputies

- i. approved the draft agenda for their 265th meeting as it appears in Appendix III to these Conclusions;
- ii. agreed that their exchange of views and information on the implementation of the Final Act of the Conference on Security and Co-operation in Europe would take place on 17 and 18 March 1977, with the participation of specialist senior officials from national administrations

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XXXIII.

OTHER BUSINESS

- a. Advance to staff on the review of remuneration to take effect from 1 July 1976 under the new adjustment procedure

135th Report of the Co-ordinating Committee of Government Budget Experts (CM(77)4)

The Director General of Administration and Finance pointed out that the Notes on the Agenda for this item contained draft decisions for adoption by the Deputies which concerned the technical implementation of the 135th Report following its approval by the Committee.

The Representative of the Federal Republic of Germany said that his authorities wished for a quick decision as to the implementation of the 135th Report, that is, that an advance should be granted immediately. But they maintained their former position that only items mentioned in the 135th Report were ripe for decision. Other problems such as allowance for children or the adjustment of pensions were not mentioned in the report. The question of all allowances would be negotiated in the next meeting of the Co-ordinating Committee. The adjustment of pensions should be decided on in the context of the general review of salaries. If the Committee took a decision on these two points not contained in the 135th Report, this would mean that those Governments were no longer following the agreement taken by their representatives in the Co-ordinating Committee. According to this agreement, adjustment of salaries and pensions in all their details should only be decided on within the Co-ordinated Organisations after the Co-ordinating Committee had reached an agreed solution, which was then passed to the Co-ordinated Organisations as a recommendation. His authorities would regret, for instance, if, in the Council of Europe, the allowance for children were to represent 100% of the index increase, whatever the grade of the beneficiary, whilst in the OECD a distinction would be made as to the grade of the beneficiary (60% in the case of A and L children and 100% for B and C).

The Representative of Belgium shared these views.

The Director General and the Head of Establishment Division explained that the allowance for children and other dependent persons was paid at a flat rate regardless of grade; it was therefore only fair that any adjustment in respect of it should also be made regardless of grade. This was also the line followed by OECD. With regard to pensions, the new co-ordinated scheme was now in operation in several of the other Co-ordinated Organisations and it provided for automatic cost-of-living adjustment to pensions whenever a similar adjustment was made to salaries. However, the new scheme was not yet in operation in the Council of Europe which therefore continued to pay pensions on the basis of the existing Council of Europe scheme. This scheme, unlike the co-ordinated one, did not allow for automatic cost-of-living adjustments to pensions at the same time as salaries, but, in accordance with its Article 43, required a decision by the Committee of Ministers on each occasion. In the past, the Committee had always, without exception, decided in favour of a cost-of-living adjustment to pensions whenever it had agreed to a cost-of-living adjustment to salaries. To do otherwise in this case would mean that Council of Europe pensioners would be treated less favourably than the pensioners of the other Co-ordinated Organisations who enjoyed the automatic adjustment. Furthermore, as the pensions adjustment was automatic under the co-ordinated scheme, there was no need for the Co-ordinating Committee to include a reference to pensions in its 135th Report, and as the Council of Europe scheme was unique to that organisation, there was no question of the Co-ordinating Committee ever making recommendations regarding cost-of-living adjustments to pensions paid under the scheme.

The Chairman called for indicative followed by final votes on the various elements on which the Deputies had to decide. The result of the final votes on the 3 main elements were as follows:

- Approval of the 135th Report (decision (i) below)

15 for; 0 against; 0 abstentions

- Allowance for children and dependent persons (decision (ii))

10 for (of which 4 ad referendum); 1 against; 5 abstentions (of which 1 ad referendum)

- Cost-of-living adjustment to pensions (decision (iv))

12 for (of which 2 ad referendum); 1 against; 4 abstentions.

The Chairman explained that the votes cast ad referendum on decision (ii) meant that the decision could not be implemented until they had been confirmed. The reference to decision (ii) in decision (iii) would therefore remain in square brackets, i.e. a part of decision (iii) could not be implemented until decision (ii) was confirmed. On the other hand, the two votes cast ad referendum in respect of decision (iv) were not necessary to obtain the majority required for its adoption, and the decision could therefore be implemented immediately.

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At the close of the meeting, the Representative of Norway said that she had learned that OECD had not taken a decision similar to decision (ii) below. It was therefore likely that she would be unable to confirm her ad referendum vote, but would oppose the decision.

Decisions

The Deputies

- i. approved the 135th report of the Co-ordinating Committee of Government Budget Experts (CM(77)4, Appendix II), ie they approved the award, with effect from 1 July 1976 and under the conditions set out in the 135th report of the Co-ordinating Committee, of an ad hoc cost-of-living advance on the 1 July 1976 General Review of Salaries based on the 6.9 point increase in the cost-of-living for staff serving in France and the 4.9 point increase for staff serving in Belgium, and payable at the following rates: 60% of the rise in the cost-of-living index for categories A and L and 100% of the rise in the cost-of-living index for categories B and C;
- ii. decided that, for the allowance for children and other dependent persons, the advance shall represent 100% of the index increase whatever the grade of the beneficiary;
- iii. accepted the unfreezing, to the extent required for implementation of decisions (i) [and (ii)] above, of the appropriations entered under Sub-heads 11 and 88 of the 1976 and 1977 General Budgets and Sub-head 4 of each of the Partial Agreement budgets for those financial years;
- iv. approved in accordance with Article 43 of the Council of Europe Pension Scheme Regulations, an adjustment, with effect from 1 July 1976, to current pensions, deferred pensions and service pensions converted from disablement pensions (pending the conversion of these pensions into pensions payable under the rules for the co-ordinated pensions scheme) based on the 6.9 point increase in the cost-of-living index in France in the first half of 1976 and payable at the following rates:
  - 100% in the case of pensions lower than the salary attaching to grade A2, step 1;
  - 60% in the case of pensions equal to or higher than the salary attaching to grade A2, step 1;

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v. took note of the fact that the cost in 1976 and 1977 of implementing decision (iv) above was covered by the appropriation under Sub-head 10 of the Pensions Budgets (Adjustment of benefits) for those years.

The Representatives of Denmark, Norway, Portugal and Sweden approved, and the Representative of Belgium abstained on Decision (ii) above ad referendum.

The Representatives of Belgium and Sweden approved Decision (iv) above ad referendum.

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b.

Election of a judge to the European Court of  
Human Rights in respect of Sweden

Nomination of candidates  
(Add. III to CM(76)255)

Decision

The Deputies agreed, in accordance with Article 39 of the Convention for the Protection of Human Rights and Fundamental Freedoms, to forward to the President of the Assembly the list of candidates and their biographical notes submitted by the Swedish Government and set out in Addendum III to CM(76)255.

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c. Third meeting of the Informal Working Group of Ministers  
responsible for Sport

(Strasbourg, 7-8 February 1977)

(Concl(76)255/XXVII(f), CM(75)119)

Decision

The Deputies authorised the Secretary General to provide secretarial services for the third meeting of the Informal Working Group of Ministers responsible for Sport (Strasbourg, 7-8 February 1977).

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APPENDIX I

AGENDA OF THE 264th MEETING OF  
THE MINISTERS' DEPUTIES

(Strasbourg, Monday 10 January 1977 at 4 pm)

- 
- \*1. Adoption of the agenda  
(Notes No. 1833 of 10.1.77)

Political and general policy questions

2. Committee of Ministers - Preparation of the 59th Session  
(Concl(76)263/II)  
(Notes No. 1834 of 6.1.77)
3. Situation in Cyprus - (Concl(76)262/IX)  
(Notes No. 1843 of 30.12.76)
4. Medium-term Plan - Modalities for the first revision of  
the Plan - (Concl(76)263/V, CM(76)250)  
(Notes No. 1844 of 6.1.77)
5. Portugal - Projects to be financed by the Special Fund  
(Concl(76)263/XVII, CM(76)271 and Add)  
(Notes No. 1845 of 5.1.77)
- \*6. Control of the manufacture and trade of arms - Recommendation  
794 and Resolution 642 - (Concl(76)262/VIII, CM(76)285  
and CM(77)7 of 7.1.77)  
(Notes No. 1842 of 15.12.76 and Add of 7.1.77)

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\*It was agreed that the items marked with an asterisk be dealt with in accordance with the procedure agreed under item XL (para 1 of the decisions) of the agenda of the 243rd meeting and set out in Appendix XI to the Conclusions of that meeting. (NB. This procedure concerns only the internal conduct of the Deputies' meeting in Strasbourg).

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7. Admission of observers from non-European international governmental organisations in steering committees and ad hoc committees of experts - (Concl(76)263/IV, CM(76)141 rev. and CM(77)9 of 12.1.77)(Notes No. 1846 of 7.1.77)

Human Rights

8. 31 Applications by East African Asians against the United Kingdom - Decision to be taken under Article 32 of the European Convention on Human Rights - (Concl(76)259/XV, CM(76)263) (Notes No. 1838 of 7.12.76)
9. Judgements of the European Court of Human Rights on the case of "Engel and Others" - Application of Article 54 of the European Convention on Human Rights - (Concl(76)260/XI, Letter HD/C30 of 28 July 1976, Letter HD/C59 of 30 November 1976 and CM(76)282) (Notes No. 1835 of 3.12.76)
10. Committee of Experts on Human Rights - Voting procedures under Article 32 of the European Convention - (Concl(76)260/X, CM(76)70 item 10, and CM(76)254) (Notes No. 1836 of 3.12.76)
11. Election of a member to the European Commission of Human Rights (in respect of Austria) - (CM(76)274 of 16.12.76) (Notes No. 1839 of 13.12.76)
- \*12 Draft European Convention relating to Foreign Correspondents (Concl(74)237/IX(a), CM(74)67, 166, CM(76)257 and Add.) (Notes No. 1837 of 22.12.76)

Legal Questions

- \*13. Refugees - Assembly Recommendations 773, 775 and 787 - Action to be taken by the Committee of Ministers - (Concl(76)262/VII, CM(76)264) (Notes No. 1847 of 3.1.76)
- \*14. Short-term treatment of young offenders of less than 21 years - Follow-up to Resolution(66)25 - (Concl(76)262/XV, CM(76)226 and Add. I and II of 30.12.76 and III of 13.1.77) (Notes No. 1848 of 3.1.77)
15. Council of Europe Conventions and Agreements - Written Question No. 189 by Mr Margue - (CM(76)265) (Notes No. 1849 of 3.1.77)

- \*16. Draft European Convention on the protection of international watercourses against pollution - (Concl(76)259/XXII, CM(76)151) (Notes No. 1850 of 3.1.77)
- 17. Torture in the World - Recommendation 768 - (Concl(76)262/XIX, CM(76)187 and 294 of 21.12.76) (Notes No. 1851 of 3.1.77)
- \*18. Committee of experts for identity documents and movement of persons - Report of the 11th meeting (Strasbourg, 25-28 October 1976) - (CM(76)280) (Notes No. 1852 of 3.1.77)

Economic and Social Questions

- \*19. Social Committee - 42nd Session (Strasbourg, 27 September - 1 October 1976) Meeting Report - (CM(76)256 and Add. I and II) (Notes No. 1853 of 5.1.77)
- \*20. Institution of an international medical credit card - Recommendation 792 - (Concl(76)262/XXIV) (Notes No. 1854 of 7.1.77)
- \*21. European Social Charter
  - a. Spreading the procedure for supervising the implementation of the Social Charter over a longer period - (CM(76)258) (Notes No. 1841 of 22.12.76)
  - b. Proposals of the Governmental Committee on the European Social Charter concerning changes to be made in the machinery for supervision of the Social Charter - Assembly Opinion No. 76 - (Concl(76)260/III(a)) (Notes No. 1855 of 22.12.76)

Youth

- \*22. European Youth Centre - Membership of the Advisory Committee for 1977 - (CM(76)284) (Notes No. 1840 of 8.12.76)

Education and Cultural and Scientific Affairs

- \*23. Science and the future of man in European Society (outcome of the 4th Parliamentary and Scientific Conference - Florence 12-14 November 1975) - Recommendation 789 together with Orders Nos. 359 and 360 - (Concl(76)260/III(b)) (Notes No. 1856 of 6.1.77)
- \*24. European Space Agency - Recommendation 790 - (Concl(76)262/XXXIII, CM(76)290 of 14.12.76) (Notes No 1857 of 30.12.76)
- 25. Ad hoc Conference of European Ministers with responsibility for Cultural Affairs - (Oslo, 15-17 June 1976) - Follow-up - (Concl(76)262/XXVIII, CM(76)186 and 249) (Notes No. 1793 of 26.10.76)

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Administrative Questions

26. Ad hoc Committee of Government administrative experts on staff regulations - Progress report - (CM(76)267 and Add. I and II of 5.1.76, CM(77)5 of 10.1.77 and CM(77)15 of 12.1.77) (Notes No. 1858 of 11.1.77)
27. Council of Europe new building -
  - a. State of advancement of the construction of the building - (Concl(76)263/XVI(a)) (Notes No. 1859 of 5.1.77)
  - b. Inauguration - (Concl(76)263/XVI(b), CM(76)244 and Add I and II, 286 and CM(77)20 of 12.1.77)
28. Co-ordinating Committee of Government Budget Experts - 133rd Report - (CM(76)248 and 277 and CM(77)6 of 10.1.77) (Notes No. 1860 of 11.1.77)
29. Membership of the Board of Auditors - Appointment of a new member for a period of six years commencing 1 January 1977- (Concl(76)263/XV, CM(76)192 and Add) (Notes No. 1861 of 7.1.77)
30. Paris Office - (Concl(76)263/XIV) (Notes No. 1862 of 5.1.77)
- \*31. Council of Europe budgets - Reply to Assembly Opinions Nos.75, 77 and 79 - (Concl(76)263/XIV, CM(76)2, 16 and CM(77)8 of 14.1.77) (Notes No. 1863 of 7.1.77)
32. Preparation of forthcoming meetings (Notes No. 1864 of 18.1.77)
33. Other business
  - a. Advance to staff on the review of remuneration to take effect from 1 July 1976 under the new adjustment procedure - 135th Report of the Co-ordinating Committee of Government Budget Experts - (CM(77)4 of 4.1.77) (Notes No. 1865 of 11.1.77)
  - b. Election of a judge to the European Court of Human Rights in respect of Sweden - Nomination of candidates (CM(76)255 Add III) (Notes No. 1871 of 13.1.77)
  - c. Third meeting of informal working group of Ministers responsible for Sport - Strasbourg, 7-8 February 1977) (Notes No. 1872 of 13.1.77)



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APPENDIX II  
(item II)

A.

PROVISIONAL AGENDA

of the 59th Session of the Committee of Ministers,  
to be held on Thursday 27 January 1977 at 10.00 am  
at the Council of Europe, Palais de l'Europe,  
Strasbourg (1)

- 
1. Adoption of the agenda
  2. Progress of European co-operation
  3. Implementation of the Final Act of Helsinki
  4. United Nations
  5. Diplomatic Conference on the Re-affirmation and Development of International Humanitarian Law
  6. Dates and place of forthcoming meetings
  7. Other business
    - a. The 1977 Budget of the Council of Europe
  8. Preparation of the Colloquy
  9. Press Communiqué

- 
- (1) Postal address : Council of Europe  
67006 Strasbourg Cedex - France
- Telephone : (88) 61.49.61
- Telegram : Europa Strasbourg
- Telex : Strasbourg 870943

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B.

ANNOTATED PROVISIONAL AGENDA  
FOR THE 59th SESSION OF THE COMMITTEE OF MINISTERS  
(Strasbourg, 27 January 1977)

The Chairman intends to declare the Session open promptly at 10 am.

1. Adoption of the agenda

The Chairman sent a telegram to his ministerial colleagues on 17 January 1977 (CM(77)27) giving some indications on his intentions concerning the conduct of the meeting.

2. Progress of European co-operation

This item will be introduced by the Rt. Hon. Anthony CROSLAND, United Kingdom Principal Secretary of State for Foreign and Commonwealth Affairs, in his capacity as President of the Council of Ministers of the European Communities. A statement will be made by Mrs Karin SÖDER, the Swedish Minister of Foreign Affairs on behalf of the EFTA Council. The Secretary General of the Council of Europe will present a brief report. The written reports of the President of the Council of Ministers of the European Communities, of the Chairman of the EFTA Council and of the Secretary General of the Council of Europe appear in CM(77)28, 24 and 29 respectively. These reports will not be read out during the discussion.

Assembly Recommendation 793 on the Tindemans Report and the Council of Europe is included in the Ministers' files.

3. Implementation of the Final Act of Helsinki

Introductory statements will be made by the Chairman and by the Rt. Hon. Anthony CROSLAND, United Kingdom Secretary of State for Foreign and Commonwealth Affairs in his capacity as President of the Council of Ministers of the European Communities.

The Deputies suggest that the discussion on this item should consist of a further exchange of views on the implementation of the Final Act of the Helsinki Conference in the light, in particular, of the discussions held by the Deputies with the assistance of specialised senior officials from national administrations.

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4. United Nations

The Foreign Minister of the Federal Republic of Germany, Mr Hans-Dietrich GENSCHER, will introduce this item. He is interested in a broad exchange of views at this meeting of the Ministers, concentrating on evaluation of the most important trends in the last General Assembly. In the view of the German Ministers, the discussion should enable the Ministers' Deputies to develop further their exchanges of views, with the possible participation of UN experts from the foreign ministries of member States, concerning items on the agenda of the United Nations relating to foreign policy which are of special interest to the democratic countries of Europe.

The Secretariat has prepared a short document on the previous discussions by the Ministers' Deputies on items on the agenda of the UN General Assembly (CM(77)30).

5. Diplomatic Conference on the Re-affirmation and Development of International Humanitarian Law

Mr Pierre GRABER, Head of the Federal Political Department of Switzerland, intends to make the following points in his introductory statement:

- a. to state what remains to be done at the last session of the Conference which will start in the Spring and to underline the importance of the work;
- b. to ask for the help of his ministerial colleagues which would involve, in particular, giving appropriate instructions to their national delegations;
- c. to make clear that, as Chairman of the Conference, he welcomes any criticisms, suggestions or remarks about the future work of the Conference and will make use of them to achieve the greatest amount of co-operation possible.

6. Dates and place of forthcoming meetings

The Deputies propose that the Ministers confirm the date of 27 April 1977 for the 60th Session of the Committee of Ministers. They suggest 24 November 1977 for the 61st Session. Both Sessions would be held in Strasbourg.

7. Other business

a. The 1977 Budget of the Council of Europe

This item has been placed on the agenda at the request of the delegation of Italy.

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8. Preparation of the Colloquy

The Colloquy will take place on 28 January 1977, opening at 10 am, in the same room as the meeting of the Committee of Ministers.

The theme for the Colloquy will be "Follow-up to the Final Act of Helsinki."

There will be an exchange of views under "Other Business" on the future of the Paris office, the television studio in the new building and the question of the date of the first Colloquy after the inauguration of the new building.

The President of the Assembly will be the Chairman of the Colloquy and the outgoing Chairman will act as leading spokesman of the Committee of Ministers.

9. Press Communiqué

The Communiqué will be prepared by a drafting group comprising the Permanent Representatives of Switzerland and the United Kingdom, assisted by the Director of Political Affairs and the Director of Press and Information.

C.

PROGRAMME FOR THE 59th SESSION OF THE COMMITTEE OF MINISTERS  
AND THE INAUGURATION CEREMONY FOR THE PALAIS DE L'EUROPE

(Strasbourg, 27-28 January 1977)

Thursday 27 January

9.30 am	Signing of Conventions
10.00 am	Opening of meeting
1.00 pm	Lunch at Hôtel Sofitel (host: Mr D BITSIOS Chairman of the Committee of Ministers)
3.00 pm	Resumption of meeting
about 5.15 pm	Press conference given by the Chairman of the Committee of Ministers (projection room)
about 6.30 pm	End of meeting
7.00 pm	Reception in honour of the Minister for Foreign Affairs of Austria (host: Permanent Representative of Austria)
8.30 pm	Dinner at the Château des Rohan (host: Mr G KAHN-ACKERMANN, Secretary General of the Council of Europe)

Friday 28 January

10.00 am	Colloquy between Committee of Ministers and members of the Assembly
1.00 pm	Lunch at the Hôtel de Ville (host: Mr P. PFLIMLIN, Mayor of Strasbourg)
4.00 pm (*)	Inauguration of the Palais de l'Europe
5.30 pm	Reception at the Palais de l'Europe (hosts: Dr G FITZGERALD, Chairman of the Committee of Ministers and Mr K CZERNETZ, President of the Assembly)

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(\*) See invitation cards concerning the time at which seats should  
be taken in the Assembly Chamber

APPENDIX III

DRAFT AGENDA OF THE 265th MEETING OF  
THE MINISTERS' DEPUTIES

(Strasbourg, Monday 14 February 1977 at 4 pm)

- 
- \*1. Adoption of the agenda  
(Notes No. 1873 of ...)

Political and general policy questions

2. Committee of Ministers - Follow-up to the 59th Session and preparation of the 60th Session  
(Notes No. 1874 of ...)
3. Consultative Assembly
- \* a. Texts adopted by the Standing Committee (Paris, 6-7 December 1976)  
(Notes No. 1875 of ...)
- \* b. Texts adopted at the 3rd part of the 28th Ordinary Session (Strasbourg, 24-28 January 1977)  
(Notes No. 1876 of ...)
- \* c. Parliamentary Questions for oral answer by the Chairman of the Committee of Ministers - (SG/D(77)...) (Notes No. 1877 of ...)
- d. Statement by the President of the Assembly  
(Notes No. 1878 of ...)
4. Situation in Cyprus - (Concl(76)264/III)  
(Notes No. 1879 of ...)
5. Working methods of the Ministers' Deputies - Report of the Deputies' Working Party - (Concl(76)260/XXV, CM(77)25 of 19.1.77)  
(Notes No. 1880 of ...)

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- \* It was agreed that the items marked with an asterisk be dealt with in accordance with the procedure agreed under item XL (paragraph 1 of the decisions) of the agenda of the 243rd meeting and set out in Appendix XI to the Conclusions of that meeting. (NB This procedure concerns only the internal conduct of the Deputies' meeting in Strasbourg).

NB In accordance with the deadline rules for the despatch of reference documents and Notes on the agenda, the time-limits were 17 January 1977 and 4 February 1977 respectively.

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6. Structures, Terms of Reference and Working Methods of Committees  
Implementation of Resolution(76)3 - (Concl(76)263/IV)
  - a. Assembly participation in intergovernmental committees  
of experts - (CM(76)195, 217 and ...)  
(Notes No. 1881 of ...)
  - b. Partial Agreement Committees - (CM(76)141 rev. Addendum,  
CM(77)26 of 19.1.77)  
(Notes No. 1882 of ...)
  - c. Admission of observers from non-european international  
governmental organisations to steering committees and  
ad hoc committees of experts - (Concl(77)264/VII, CM(76)141rev,  
CM(77)9 and Add of ...)  
(Notes No. 1883 of ...)

Human Rights

- \*7. Committee of Experts on Human Rights - Report of the 46th  
meeting (Strasbourg, 13-17 December 1976) - (CM(77)11)  
(Notes No. 1883 of ...)
- \*8. Colloquy of the Council of Europe on freedom of information  
and the duty for the public authorities to make available  
information - (Graz, 21-23 September 1976) - Report -  
(Concl(76)254/XI, CM(77)1 and Corr of 18.1.77)  
(Notes No. 1884 of ...)
9. Judgement of the European Court of Human Rights on the "Kjeldsen,  
Busk Madsen and Pedersen" case - (Letter HD/C61 of 19 December  
1976, CM(76)291)  
(Notes No. 1868 of ...)
10. Judgement of the European Court of Human Rights on the "Handyside"  
case - (Letter HD/C62 of 14 December 1976, CM(76)292)  
(Notes No. 1869 of ...)
11. de Geillustreerde Pers. N.V. against the Netherlands - Decision  
to be taken under Article 32 of the European Convention on  
Human Rights - (Letter HD/C50 of 30 September 1976)  
(Notes No. 1866 of 5.1.77)
12. Cyprus against Turkey - Application Nos. 6580/74 and 6950/75  
Decision to be taken under Article 32 of the European Convention  
on Human Rights on the report of the European Commission  
of Human Rights - Letter HD/C47 of 31 August 1976  
(Notes No. 1867 of ...)

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Legal Questions

- \*13. European Committee on Legal Co-operation (CCJ) - Report of the 26th meeting (Strasbourg, 6-10 December 1976) - (CM(77)14 and Add. I and II)  
(Notes No. 1886 of ...)
- \*14. Committee of Experts on Mass Media - Report of the second meeting (Strasbourg, 15-17 December 1976) - (CM(76)298)  
(Notes No. 1887 of ...)
- 15. Control of the sale and possession of firearms in order to combat violence - Written Question No. 190 by Mr Farr  
(CM(76)295)  
(Notes No. 1888 of ...)
- 16. Council of Europe Conventions and Agreements - Written Question No. 189 by Mr Margue - (Concl(77)264/XV, CM(76)265)  
(Notes No. 1889 of ...)

Economic and Social Questions

- 17. Conference of European Ministers of Social Security - Preparation and organisation of the Conference - (Concl(76)262/XXI)  
(Notes No. 1890 of ...)
- \*18. European Public Health Committee - Report of the 18th Session (Strasbourg 23-26 November 1976) - (CM(77)2 and Add I, II and III)  
(Notes No. 1891 of ...)
- 19. European Convention on Social Security - Greek and Portuguese Annexes to the Convention and to the Supplementary Agreement (CM(77)...)   
(Notes No. 1892 of ...)

Local Authorities and the Environment

- \*20. Conference of European Ministers with responsibility for Local Government (Athens, 25-27 November 1976) - Follow-up (Concl(76)262/XLIV(b), CM(77)12)  
(Notes No. 1893 of ...)
- \*21. Conclusions of the 2nd European Symposium on Frontier Regions (Innsbruck, 11-13 September 1975) - Recommendation 784 - (Concl(76)262/XXXIV)  
(Notes No. 1894 of ...)



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- \*22. European Conference of Ministers responsible for Regional Planning (Bari, 21-23 October 1976) - Follow-up - (CM(77)19 of 18.1.77)  
(Notes No. 1895 of ...)
- \*23. Committee on Co-operation in municipal and regional matters 11th Plenary Session (Strasbourg, 18-21 October 1976) - Report (CM(77)3 and Add)  
(Notes No. 1896 of ...)
- \*24. European Committee for the Conservation of Nature and Natural Resources - Report of the 15th Session (Strasbourg, 25-29 October 1976) - (CM(77)10 and Add. I, II and III)  
(Notes No. 1897 of ...)
- 25. Ministerial Conference on the Environment - Committee of Senior Officials - 1st meeting (Strasbourg, 2 and 3 December 1976) - (CM(77)13)  
(Notes No. 1898 of ...)

Press and Information

- 26. Installation of a television studio in the new building - (Concl(76)263/XVIII, CM(76)147, 189 and Add I and II, CM(76)260 para. 75, CM(76)297 and CM(77)...)   
(Notes No. 1899 of ...)

Administrative Questions

- 27. Paris Office - (Concl(77)264/XXX)  
(Notes No. 1900 of ...)
- [ 28. Council of Europe Budgets - Reply to Assembly Opinions Nos. 75, 77 and 79 - (Concl(77)264/XXXI, CM(77)8 and Add of ...)   
(Notes No. 1901 of ...)]
- 29. Palais de l'Europe - (Concl(77)264/XXVII)  
(Notes No. 1902 of ...)
- 30. Preparation of forthcoming meetings  
(Notes No. 1903 of ...)
- 31. Any other business.

APPENDIX IV  
(Item IV)

LETTER TO THE PRESIDENT OF THE ASSEMBLY  
FROM THE CHAIRMAN OF THE MINISTERS' DEPUTIES

The instrument which provides the framework of planning and programming on the intergovernmental side, Resolution(74)33, provides for a biennial review of the Medium-Term Plan in the following terms:

"The Plan shall cover a period of five years and shall be reviewed every two years in the light of political developments, progress in European co-operation and achievements within the framework of the Council of Europe during the intervening period".

The Committee of Ministers has accordingly decided to set in motion the first review of the first Medium-Term Plan 1976-80 of the Council of Europe so that any necessary adjustments can enter into force for the last two years of the Plan. Recognising that the Assembly will be interested in this revision it considered that the Assembly should be given an early opportunity to make comments and suggestions which can then be given their due weight in the revisory process.

I should be most grateful if you could make available the Assembly's views, comments, and suggestions by May 1977, so that the Committee of Ministers can have a brief exchange of views on them along with the first suggestions of the Secretary General at its June meeting. It will then transmit the dossier to the Steering Committee and some of the ad hoc Committees of Experts for thorough technical examination in the Autumn of this year and the Spring of 1978.

The Committee is of the opinion that no thoroughgoing recasting of the Plan is called for. The scope of the review is to examine the current plan and its implementation in the light of the criteria laid down in Resolution(74)33, and on this basis to effect any necessary amendments, additions and deletions to the objectives of the Plan. If additional objectives are proposed, then possible compensating deletions will be sought, in view of the current financial limitations which are being forced on the Council of Europe's programmes by the present economic situation.

When the Assembly draws up its opinion the Committee assumes that it will take into account recommendations adopted since January 1976 and those which are envisaged for adoption. It also considers that the Assembly's contribution will be most valuable in the political aspects of the review. Nonetheless it hopes that the considerations set out in the previous paragraph will be borne in mind.

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APPENDIX V  
(item XI)

RESOLUTION(77)2

ELECTION OF A MEMBER OF THE EUROPEAN COMMISSION IN RESPECT OF AUSTRIA

(Adopted by the Committee of Ministers on 18 January 1977,  
at the 264th meeting of the Ministers' Deputies)

The Committee of Ministers,

HAVING REGARD to Articles 19(a), 20, 21 and 22 of the Convention for the Protection of Human Rights and Fundamental Freedoms;

CONSIDERING that the term of office of the member of the European Commission of Human Rights elected in respect of Austria expired on 15 December 1976;

HAVING REGARD to the list of candidates drawn up by the Bureau of the Consultative Assembly in accordance with the rules laid down in Article 21, paragraph 1, of the Convention from nominations by the Representatives to the Assembly of Austria transmitted to the Committee of Ministers by the President of the Assembly in a letter dated 10 December 1976 (CM(76)274);

HAVING VOTED by secret ballot,

DECLARED Mr Felix Ermacora re-elected member of the European Commission of Human Rights for the period ending 17 May 1984.

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APPENDIX VI  
(item XII)

Decision No CM/5/110177

ad hoc terms of reference

1. Name of relevant committee: STEERING COMMITTEE FOR HUMAN RIGHTS (CDDH);
2. Source of terms of reference: Committee of Ministers;
3. Completion date: March 1978;
4. Terms of reference:  
  
to finalise the draft European Convention relating to foreign correspondents and the explanatory report, in the light of governments' comments and on the basis of a general memorandum to be prepared by the Secretariat;
5. Other committee to be informed of terms of reference: -

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APPENDIX VII  
(Item XIX)

RESOLUTION(77)1

ON WOMEN'S EMPLOYMENT

(adopted by the Committee of Ministers on 11 January 1977  
at the 264th meeting of the Ministers' Deputies)

The Committee of Ministers,

CONSIDERING that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose, among other things, of facilitating their social progress;

TAKING INTO ACCOUNT international instruments whose object is to promote equality of treatment of men and women, and in particular those adopted within the framework of the Council of Europe;

HAVING EXAMINED the degree of application of the International Labour Convention No 103 concerning maternity protection;

CONCERNED that, despite its general recognition, the principle of non-discrimination between men and women is not fully implemented by legislations and is often misapplied in practice owing to a number of prejudices;

CONSIDERING that women's right to work should be recognised and ensured;

AWARE OF THE FACT THAT it is urgent to take measures to improve the position of women at work as well as public opinion and the attitude of public authorities, employers, workers and their organisations towards women's employment;

REALISING that it is desirable to promote an increased awareness on the part of women of the need to make full use of their right to education and vocational training and, at the same time, to reconsider the roles traditionally assigned to men and women in society;

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RECOGNISING that education, whose aim is to provide every human being with the means to achieve autonomy by developing personality and achieving vocational aspirations, is for women as important as it is for men;

CONSIDERING that the measures to be taken with regard to education and training must be accompanied by career information and school and vocational guidance, all the more necessary because they must neutralise social attitudes;

CONCERNED to promote equality of treatment for men and women in connection with access to work, free choice of occupation or type of job and advancement in employment;

DESIRING to improve the situation of women at work, among other things, through the elimination of those restrictive measures which were based on a concern of protection and which are no longer justified today;

WISHING to contribute to the implementation of the principle of equal pay for men and women for the same work or for work to which equal value is attributed;

CONCERNED to ensure for women at work social security treatment not less favourable than that received by men at work;

BELIEVING that an effective improvement in the situation of women at work cannot be achieved without taking into account family responsibilities of men and women;

CONSIDERING that any action, in order to be effective, should be based on a thorough knowledge of the social and economic role of women;

RECOMMENDS that the governments of member States

- create the conditions in which women can fully exercise their right to work,
- intensify their efforts to ensure men and women equal access de facto as well as de jure to all levels of education, training and at all levels of qualification and responsibility in employment,
- take, in accordance with their national circumstances and legal systems, the necessary measures to secure the application of the principle of equal pay and to promote the implementation of the principle of equality of treatment for men and women as far as the other working conditions are concerned,

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- place special emphasis on the preparation of women for working life so as to allow the widest possible development of their aptitudes and their complete integration into the world of work,
- take appropriate measures in order to make it possible to reconcile the demands of a job with family responsibilities of men as well as women workers;
- encourage further research into the practical problems relating to women at work in order to assist the solution of these problems,
- take all steps they consider necessary in co-operation with employers' and workers' organisations and other bodies to promote the achievement of the following aims:

I. PREPARATION FOR WORKING LIFE

A. Education

1. Education should be organised in such a way as to give all young persons the same educational opportunities with teaching suitable to the differing abilities of pupils, but without differentiation based on sex.
2. Co-education should be encouraged in establishments providing education at all levels, whether optional or compulsory, general or vocational, including teachers' training.
3. Education should aim at increasing young persons' awareness of the change in the respective roles of women and men in society and at preparing them to assume their future roles and responsibilities within the family, at work and in the community as equal partners.
4. Textbooks used in schools should not convey an outdated picture of the roles of men and women in the family, in working life and in society.
5. Teachers should receive a training enabling them effectively to combat prejudice as well as to acquire a sufficient knowledge of the world of work to allow them to give information about schooling and occupation.

B. Educational and vocational guidance

1. Educational and vocational guidance should begin well in advance of the completion of compulsory education for girls as well as for boys and should be regarded as a continuous process.

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2. Guidance services should have the task of and the means for providing information on training courses, on job description and employment opportunities, as well as on prospects for occupational advancement.

3. Guidance services should eschew the traditional patterns which distinguish between jobs for men and women. They should also encourage young people to take full advantage of possible career opportunities irrespective of them being still considered masculine or feminine.

4. The general public should be provided, by all appropriate means, with information designed to assist in the eradication of prejudices about the place of women and men at work.

To this end special emphasis should be placed on

- combatting the stereotyped concepts of the respective roles of men and women in working life and in society at large,
- giving examples of successful careers and professional achievements by women, particularly in careers and jobs which are not traditionally feminine.

C. Vocational training

1. Access to vocational training wherever provided should not be affected by considerations based on sex.
2. Further or higher vocational training should be accessible to women on the same terms as to men, so as to afford them equal access to executive and managerial posts,
3. Vocational training establishments should have adequate facilities to receive and, if need be, board persons of both sexes.
4. Persons attending vocational training courses should be eligible for grants and other benefits irrespective of sex and marital or family status.

II. EMPLOYMENT

A. Access to work

1. Recruitment of workers should be determined by their qualifications and not by their sex and any discriminatory practices should be discouraged.
2. Any provisions contrary to the principle of equal treatment with regard to access to employment should be revised when the concern of protection on which they were based is no longer justified.



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3. Employers should be urged to adapt work premises, including premises intended for training, and to equip posts of work to suit the needs of all their staff whenever the absence of such arrangements might imply a hindrance to women's employment.

4. Employment services should be organised in such a way as to provide services for women equal with those for men. To this effect offers of employment should not systematically make mention of sex, and placing officers should be able to submit applicants to vacancies without regard to their sex.

5. The provision of jobs in the framework of any economic policy should endeavour to correct imbalances in job opportunities for available men and women workers.

B. Conditions of pay

1. The principles of equal pay for men and women means, for the same work or for work to which equal value is attributed, the elimination of all discrimination on grounds of sex with regard to all aspects and conditions of remuneration.

In particular, where a job classification system is necessary for determining pay, this system should be based on the same criteria for both men and women.

All discrimination between men and women arising from laws, regulations or administrative provisions which is contrary to the principle of equal pay, should be abolished.

The necessary measures should be taken to ensure that provisions appearing in collective agreements, wage scales, wage agreements or individual contracts of employment which are contrary to the principle of equal pay shall be, or may be declared, null and void or may be amended.

2. Implementation of the principle of equal pay presupposes the existence of a right to bring a claim to enforce compliance with that principle.

C. Working conditions

1. A person's sex and marital or family status should not prejudice occupational advancement, and equality of career opportunities should be encouraged by all possible means, such as the following:

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- women should be present on committees dealing with recruitment and promotion of staff,
  - women should have access to the whole range of continuous training, notably training for senior positions and re-training, and should be encouraged to undergo such training for access to senior positions,
  - women should be considered in the same way as men in connection with job rotation.
2. Employers should be encouraged to place women at all responsibility levels according to the same criteria as those followed for men.
  3. In case of dismissal, the criteria taken into account for women workers should not be different from those envisaged for and applied to men workers.
  4. Maternity justifies protective measures for women, related to the physical aspects of pregnancy and childbirth, hence they should have the right to leave with pay or income maintenance, which should neither break the work contract nor cause loss of acquired seniority.
  5. Women should be encouraged to participate in trade union activities and in joint negotiations, especially those relating to collective agreements and agreements at work or undertaking level.

D. Social security

1. In the matter of social security, women workers should enjoy treatment not less favourable than that from which men workers benefit, as much in respect of subjection to a scheme as of right to benefits, whether such rights are personal or derived.
2. In cases of maternity, women workers should receive benefits at least in conformity with the standards laid down by the Protocol to the European Code of Social Security.

III. RECONCILIATION OF FAMILY RESPONSIBILITIES WITH OCCUPATIONAL ACTIVITIES

A. Working hours

1. Working hours should be made more flexible in order to provide for the needs of workers, particularly those with family responsibilities.
2. Opportunities for part-time work for men and women should be developed in accordance with national and local circumstances. Those who work part-time should benefit from advantages connected with full-time employment in an equitable way.

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3. Consideration should be given to granting special leave to either the father or the mother to look after a baby or young child or in the case of illness of children or dependants.

B. Facilities

1. Child care facilities for children of pre-school and school age, home-help services, especially those intended for the care of young children and invalid or sick dependants, collective household services as well as other facilities making it easier to reconcile family responsibilities and occupational activities should be developed.

2. These facilities may be provided by institutional or non-institutional methods. The times when they are available should be arranged to suit parents' work obligations, and they should be staffed or supported by qualified personnel in adequate numbers.

3. In town planning and the drawing up of building programmes provisions for such services and facilities should be an integral part.

4. The possibility should be envisaged of relieving parents with low incomes of the expenses incurred for child care.

C. Re-entry to the world of work

1. Special attention should be given to measures intended to facilitate the re-entry into the world of work of women who have interrupted their employment because of family responsibilities.

2. The following measures should be envisaged to this end:

- providing women with services giving them guidance on all the aspects of re-entry to occupational activity,

- offering women beginning to work at a comparatively advanced age or returning to work after a relatively long absence refresher courses and re-training easily accessible and provided at times compatible with family life,

- extending training and re-training programmes to women who wish to enter or re-enter occupational activity.

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APPENDIX VIII  
(item XXIII)

DECISION No. CM/6/180177

Ad hoc terms of reference

1. Name of relevant committee: Council for Cultural Co-operation
2. Source of terms of reference: Committee of Ministers
3. Completion date: end of 1977
4. Terms of reference:
  - a. give an opinion on paragraph 15A of Recommendation 789;
  - b. give an opinion on paragraphs 10 and 26 of Recommendation 789 and, in particular, on the practical need at this stage to address a recommendation to member governments on the proposals contained therein.
5. Other committees to be informed of terms of reference: -

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APPENDIX IX  
(item XXV)

DECISION No CM/7/190177

Ad hoc terms of reference

1. Name of relevant committee: Council for Cultural Co-operation
2. Source of terms of reference: Committee of Ministers
3. Completion date: End of 1977
4. Text:
  - a. to give an opinion on the principles set out in Resolution 624 on the democratic renewal of the performing arts;
  - b. to give an opinion on the expediency of the Council of Europe investigating, in collaboration with the EEC, UNESCO and the Nordic Council, the social status of performing artists in Europe and the means of assuring them normal conditions of employment (paragraph 3(b) of Recommendation 781 on Council of Europe Action for the Future of the Performing Arts).
5. Other committee or committees to be informed of terms of reference: -

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APPENDIX X  
(item XXVII(b))

Letter from the President of the Assembly to the Chairman  
of the Ministers' Deputies

Paris, 10 January 1977

Sir,

At its meeting in Paris on 10 January 1977, the Bureau of the Assembly considered your letter dated 13 December 1976, stating that the Ministers' Deputies took the view that "the Speakers and Clerks of all Council of Europe member States' parliaments, without exception, should be invited" to attend the opening of the new building.

As you confirmed when we spoke on the telephone, the question at issue is whether or not an invitation should be sent to the Speaker and Clerk of the Cypriot Parliament.

Generally speaking, the members of the Bureau were of the opinion that the criteria on which relations between governments are based are not necessarily the same as those governing relations between parliaments.

In the case in point, without wishing to deny the existence of parliamentary institutions in Cyprus, the Bureau took note of the fact that for the moment there was no parliament that represented the whole population.

The Parliamentary Assembly is more sensitive to this abnormal situation than is the Committee of Ministers, as can be seen from the fact that the Cypriot delegation has not participated in its activities, precisely because of this state of affairs, since 1965.

The Assembly has repeatedly made representations and presented "ad hoc" proposals to the leaders of both communities, both before and after the troubles of July 1974, in an endeavour to ease the situation, but so far to no avail. It will continue its efforts until it has the satisfaction of once more welcoming into its midst the representatives of both communities on the island.

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Such is the unswerving policy of the Assembly, and the Bureau feels that it is not in its power to adopt a different course. It thus has no alternative but to confirm its previous decision and oppose the dispatch of an invitation to the Speaker and the Clerk of the Cypriot Parliament on behalf of the President of the Assembly.

Should the Committee of Ministers decide, despite the agreement between the two organs to arrange the opening ceremony jointly, to invite the two persons in question, taking advantage of the provisions of Article 13 of the Statute, the Parliamentary Assembly, although directly concerned in this case, requests that its President should not be mentioned in the invitation.

I would make the further point that all the members of the Bureau, without exception, found it extremely saddening to have to adopt such a position, which is based solely on the principle that parliamentary institutions must be representative - a principle to which we have at all times remained entirely loyal, since it is the very foundation of the Parliamentary Assembly and the inspiration for the whole of its activity in the international sphere.

Please accept, Sir, the assurance of my high consideration.

Karl Czernetz

