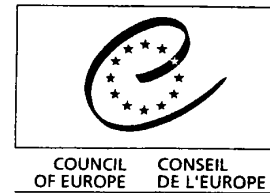


Parliamentary Assembly
Assemblée parlementaire



Doc. 10405 Part 1
20 January 2005

**Progress report of the Bureau of the Assembly and of the
Standing Committee
(8 October 2004 – 24 January 2005)**

Covering the period from 8 October 2004 to 9 January 2005

Bureau of the Assembly
Rapporteur: Mr Peter Schieder, Austria, Socialist Group

1. INTRODUCTION

1. The Bureau met on 8 October in Strasbourg, on 23 November in Warsaw and on 13 December in Paris. The Standing Committee met on 23 November in Warsaw.

2. FUNCTIONING OF THE ASSEMBLY

A. PROGRESS REPORT OF THE BUREAU OF THE ASSEMBLY AND OF THE STANDING COMMITTEE (8 OCTOBER 2004 - 25 JANUARY 2005)

2. On 4 October, the Bureau appointed Mr Schieder (Austria, SOC) as rapporteur.

B. 4th PART OF THE 2004 ORDINARY SESSION (4-8 OCTOBER 2004) – FOLLOW-UP TO THE TEXTS ADOPTED

- **Resolution 1402 (2004) on the political situation in the Chechen Republic: measures to increase democratic stability in accordance with Council of Europe standards**

3. On 8 October, the Bureau took note that the Assembly instructed its Political Affairs Committee "to establish a Round Table for the organisation of an exchange of views with political parties and politicians from the Chechen Republic and the federal authorities of Russia" and that the Secretary General of the Assembly would check with the Committee if such a round table could be held before the end of 2004.

- **Current affairs debate on "Georgian-Russian relations"**

4. On 8 October, the Bureau invited the parliamentary delegations of Georgia and Russia to agree on joint proposals for a dialogue and, in the absence of such proposals, decided to come back to the follow-up to this debate during a Bureau meeting in January 2005.

C. 1st PART OF THE 2005 ORDINARY SESSION (24-28 JANUARY 2005)

5. On 8 October, the Bureau decided to postpone the invitation to Mr Fatos Nano, Prime Minister of Albania, until after the parliamentary elections in Albania in 2005.

6. On 23 November, the Bureau:

- adopted the draft agenda;
- procedure concerning the adoption of the draft recommendation on the 3rd Summit by the Political Affairs Committee: agreed to apply, by analogy, the procedure used for the preparation of OECD reports;
- took note of the interest of the Ministers for Foreign Affairs of France and Italy to participate in the debate on the Third Summit.

7. On 13 December, the Bureau:

- up-dated the draft agenda;
- drew up the draft order of business;
- took note of the request to hold an urgent debate on "Prospects for peace in the Middle East";
- agreed to seize the Committee on Legal Affairs and Human Rights and the Committee on Migration, Refugees and Population for oral opinions on the report by the Committee on Equal Opportunities for Women and Men on the draft Convention on action against trafficking in human beings;
- authorised the derogations to the deadlines for adopting the opinion on the draft specific legal instrument for the prevention of terrorism by the Committee on Legal Affairs and Human Rights and the opinion on the draft Convention on action against trafficking in human beings by the Committee on Equal Opportunities for Women and Men;
- agreed to invite the Kosovo Ombudsperson, Mr Marek Nowicki, to take part in the debate on the protection of human rights in Kosovo;
- decided not to follow the request by the Chairman of the Committee on Economic Affairs and Development to invite a guest speaker to take part in the debate on the reports to be presented by this Committee on Friday 28 January 2005;
- agreed on the following items for the agenda of the Joint Committee: Third Summit of the Council of Europe, Council of Europe draft conventions under preparation as well as the situation of the imprisoned medical staff in Libya.

D. MEETING OF THE BUREAU AND THE STANDING COMMITTEE IN WARSAW (23 NOVEMBER 2004)

8. On 8 October, the Bureau:

- took note of the draft agenda and the draft programme;
- agreed that a Polish guest-speaker could address the Standing Committee during one of the debates on the draft agenda.

9. On 23 November, the Bureau:

- recommended that the Standing Committee hold a current affairs debate on the situation in Belarus as requested by the Polish Parliamentary Delegation and asked Mr Iwinski, Chairman of that delegation, to open the debate;
- following the requests by the Croatian and Slovenian Parliamentary Delegations, proposed that the debate on "Repayment of the deposits of foreign exchange made in the offices of the Ljubljanska Banka not on the territory of Slovenia, 1977-1991" be postponed until the next meeting of the Standing Committee¹.

10. On 23 November, the Standing Committee:

- heard a welcome address by Mr Józef Oleksy, Speaker of the Sejm,
- held an exchange of views with Mr Włodzimierz Cimoszewicz, Chairperson of the Committee of Ministers and Minister for Foreign Affairs of Poland;
- ratified the credentials of new members of the Assembly submitted by the delegations of Belgium, France, Germany, Greece, Monaco and the Netherlands;
- ratified the changes in the composition of general Assembly committees in respect of the delegations of France, Germany, Greece, the Netherlands and "the former Yugoslav Republic of Macedonia";
- took note of the appointment of Mr Schieder (Austria, SOC) as rapporteur for the progress report of the Bureau and the Standing Committee in January 2005;
- took note of the agenda adopted by the Bureau for the January 2005 Part-Session of the Parliamentary Assembly (24-28 January 2005);
- held an exchange of views on the observation of the two rounds of the Presidential elections in Ukraine (31 October and 21 November 2004) by an ad hoc committee of the Bureau (Rapporteur: Mr Christodoulides, Cyprus, UEL);
- held a current affairs debate on the situation in Belarus and endorsed a statement by the President (Appendix I);
- decided that the next meeting of the Standing Committee will be held in Paris (France) on Friday 18 March 2005.

11. On 13 December, the Bureau was informed by the Secretary General of the Assembly about the follow-up to be given by Committees to the texts adopted and to the current affairs debate on Belarus.

E. ADOPTED TEXTS

12. On 23 November, the Standing Committee adopted, on behalf of the Parliamentary Assembly, the following texts:

Recommendation 1684 (2004)	on the Implementation of decisions of the European Court of Human Rights;
Recommendation 1685 (2004)	on Persons unaccounted for as a result of armed conflicts or internal violence in the Balkans;
Recommendation 1686 (2004)	on Human mobility and right to family reunion;
Recommendation 1687 (2004)	on Combating terrorism through culture;

¹ At its meeting on 23 November, the Standing Committee did not follow this proposal.

Recommendation 1688 (2004)	on Diaspora cultures;
Recommendation 1689 (2004)	on Hunting and Europe's environmental balance;
Resolution 1408 (2004)	on the Situation in Western Sahara;
Resolution 1409 (2004)	on the Parliamentary Contribution to the implementation of the Stability Pact in South-East Europe;
Resolution 1410 (2004)	on the Repayment of the deposits of foreign exchange made in the offices of the Ljubljanska Banka not on the territory of Slovenia, 1977-1991;
Resolution 1411 (2004)	on the Implementation of decisions of the European Court of Human Rights;
Resolution 1412 (2004)	on Progress of the Assembly's monitoring procedure;
Resolution 1413 (2004)	on Avoiding electricity blackouts in Europe;
Resolution 1414 (2004)	on Persons unaccounted for as a result of armed conflicts or internal violence in the Balkans.

F. REFERENCES AND TRANSMISSIONS TO COMMITTEES

13. On 8 October, the Bureau approved the following proposals²:

a. References to committees

➤ **Doc. 10272**

Motion for a recommendation presented by Mr van der Linden and others

The Third Summit, to the Political Affairs Committee, *for report*, and to the Committee on Legal Affairs and Human Rights, to the Committee on Economic Affairs and Development, to the Committee on Migration, Refugees and Population, to the Committee on Culture, Science and Education and to the Committee on Equal Opportunities for Women and Men, *for opinion*

➤ **Doc. 10280**

Motion for a recommendation presented by Mrs de Zulueta and others

The image of migrants, refugees and asylum seekers in the media, to the Committee on Migration, Refugees and Population, *for report*

➤ **Doc. 10289**

Motion for a resolution presented by Mr Čilevičs and others

Ratification of the Framework Convention for the Protection of National Minorities by the Council of Europe member states, to the Committee on Legal Affairs and Human Rights, *for report*

➤ **Doc. 10290**

Motion for a recommendation presented by Mr Crema and others

Sustainable development of the Adriatic: co-operation between local and regional authorities, to the Committee on the Environment, Agriculture and Local and Regional Affairs, *for report*

➤ **Doc. 10307**

Motion for a recommendation presented by Mr Dees and others

HIV/AIDS in Europe, to the Social, Health and Family Affairs Committee, *for report (it being understood that the report will take into consideration the world-wide dimension and consequences of HIV/AIDS)*

² The Assembly ratified these references on 8 October 2004.

➤ **Doc. 10314**

Motion for a resolution presented by Mrs Saks and others

Situation of Fenno-Ugric and Samoyed peoples, to the Committee on Culture, Science and Education, *for report at the Standing Committee*

➤ **Doc. 10316**

Motion for a recommendation presented by Mr Cubreacov and others

Education in the Transdnestrian region of the Republic of Moldova, to the Committee on Culture, Science and Education, *for report*, and to the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee), *for opinion*

➤ **Doc. 10317**

Motion for a resolution presented by Mr Platvoet and others

Sexual assaults linked to "date-rape drugs", to the Committee on Equal Opportunities for Women and Men, *for report*, and to the Social, Health and Family Affairs Committee, *for opinion*

➤ **Doc. 10318**

Motion for a recommendation presented by Mr Jarab and others

Media and terrorism, to the Committee on Culture, Science and Education, *for report*

➤ **Doc. 10234**

Motion for a resolution presented by Mr Kocharyan and others

The restriction of the use of firearms in peacetime within the member states of the Council of Europe, to the Committee on Legal Affairs and Human Rights, *for report at the Standing Committee*

b. Requests to extend references

➤ **Doc. 9248 Ref. no 2665 of 8 November 2001 – validity: 8 November 2004**

Motion for a recommendation

Genetically modified organisms (GMOs), extended up to the end of 2004

c. Requests to modify references

➤ **Doc. 10243**

Motion for a resolution presented by Mr Pourgourides and others

Enforced disappearances, to the Committee on Legal Affairs and Human Rights, *for report (instead of for information)*

14. On 23 November, the Standing Committee ratified the following references and modifications of references proposed by the Bureau:

a. References to committees:

Reference No. 3012

Motion for a resolution presented by Mr Kirilov and others on serious human rights violations in Libya-inhuman treatment of Bulgarian medical staff (Doc. 10057): reference to the Committee on Legal Affairs and Human Rights *for report*;

Reference No. 3013

Motion for a resolution presented by Mrs Hägg and others on Aramaic-the language of Jesus (Doc. 10323): transmission to the Committee on Culture, Science and Education *for information*;

Reference No. 3014

Motion for a resolution presented by Mr R. Huseynov and others on the European Journalism University (Doc. 10324): reference to the Committee on Culture, Science and Education *for report*;

- Reference No. 3015** **Motion for a recommendation presented by Mr Evin and others on the situation of ageing persons in Europe (Doc. 10325):** reference to the Social, Health and Family Affairs Committee *for report* and to the Committee on Migration, Refugees and Population *for opinion*;
- Reference No. 3016** **Motion for a resolution presented by Mr Ilaşcu and others on the withdrawal of military forces of the Russian Federation from the Eastern districts (Transnistria) of the Republic of Moldova (Doc. 10326):** to the Monitoring Committee to take it into account in the preparation of its monitoring report on Russia;
- Reference No. 3017** **Motion for a recommendation presented by Mr R. Huseynov and others on the expediency of the establishment of the Council of Europe museum (Doc. 10329):** transmission to the Committee on Culture, Science and Education *for information*;
- Reference No. 3018** **Motion for a resolution presented by Mrs Severinsen and others on launching a new inquiry into the murder of the Ukrainian journalist Georgiy Gongadze (Doc. 10330):** to the Monitoring Committee to take it into account in the preparation of its monitoring report on Ukraine;
- Reference No. 3019** **Motion for a resolution presented by Mr Olteanu and others on the violation of conventional commitments in the environment sphere by Ukraine (Doc. 10331):** transmission to the Committee on the Environment, Agriculture and Local and Regional Affairs *for information*;
- Reference No. 3020** **Motion for a recommendation presented by Mr Hunault and others on a European prisons charter (Doc. 10332):** reference to the Committee on Legal Affairs and Human Rights *for report* and to the Social, Health and Family Affairs Committee *for opinion*;
- Reference No. 3021** **Motion for a resolution presented by Mrs de Zulueta and others on the Assembly rules on current affairs and urgent debates (Doc. 10335):** reference to the Committee on Rules of Procedure and Immunities *for report*;
- Reference No. 3022** **Motion for a resolution presented by Mr Jonas and others on the ethical conduct of European companies (Doc. 10336):** transmission to the Committee for Economic Affairs and Development *for information*;
- Reference No. 3023** **Motion for a resolution presented by Mr Ilaşcu and others on the intervention of Ukraine in the internal affairs of the Republic of Moldova by politically and economically supporting the separatist regime in Transnistria (Doc. 10339):** transmission to the Political Affairs Committee and to the Monitoring Committee, *for information*;
- Reference No. 3024** **Motion for a resolution presented by Mr Cosarciuc and others on the situation of human rights and the functioning of democracy in Moldova (Doc. 10340):** to the Monitoring Committee to take into account in the preparation of its monitoring report on Moldova;

- Reference No. 3025** **Motion for a resolution presented by Mr Sasi and others on Europe's interest in the continued economic development of Russia (Doc. 10343):** reference to the Committee on Economic Affairs and Development *for report*;
- Reference No. 3026** **Motion for a resolution presented by Mrs Bilgehan and others on respect for the principle of equality in civil law (Doc. 10344):** reference to the Committee on Equal Opportunities for Women and Men *for report*;
- Reference No. 3027** **Motion for a recommendation presented by Baroness Hooper and others on the cultural diversity of the Northern Caucasus (Doc. 10345):** reference to the Committee on Culture, Science and Education *for report*;
- Reference No. 3028** **Motion for a recommendation presented by Mr Högmark and others on E-waste and its consequences for the environment (Doc. 10347):** reference to the Committee on the Environment, Agriculture and Local and Regional Affairs *for report at the Standing Committee*;
- Reference No. 3029** **Motion for a resolution presented by Mr Mimica and others on "Outsourcing" and economic development in Europe (Doc. 10348):** reference to the Committee on Economic Affairs and Development *for report*;
- Reference No. 3030** **Motion for a recommendation presented by Mr Sudarencov and others on the Conservation and use of the landscape potential of Europe (Doc. 10352):** reference to the Committee on the Environment, Agriculture and Local and Regional Affairs *for report at the Standing Committee*;
- Reference No. 3031** **Request for an opinion from the Committee of Ministers on the Draft Convention against money laundering and the financing of terrorism (Doc. 10356):** reference to the Committee on Legal Affairs and Human Rights *for report*, and to the Committee on Economic Affairs and Development *for opinion*;
- Reference No. 3032** **Request for an opinion from the Committee of Ministers on the draft specific legal instrument for the prevention of terrorism (Doc. 10357):** reference to the Committee on Legal Affairs and Human Rights *for report*.
- Reference No. 3033** **Motion for a recommendation presented by Mr Gülçiçek and others on the situation of Turkish migrant workers in Europe (Doc. 10358 rev.):** reference to the Committee on Migration, Refugees and Population *for report at the Standing Committee* and to the Social, Health and Family Affairs Committee *for opinion*;
- b. Modification of references:
- Reference No. 3034** **Motion for a recommendation presented by Mr van der Linden and others on the Third Summit (Doc. 10272):** reference also to the Social, Health and Family Affairs Committee *for opinion* (Modification of Ref. No. 3001 of 8 October 2004);

Reference No. 3035

Motion for a resolution presented by Mr Högmark and others on the need to find lasting solutions to reducing unemployment in Europe (Doc. 9975): reference to the Committee on Economic Affairs and Development *for report* and to the Committee on Equal Opportunities for Women and Men *for opinion* (Modification of Ref. No. 2900 of 25 November 2003).

15. On 23 November, the Standing Committee took note of the decisions of the Bureau on the following texts:

- **Motion for a resolution presented by Mrs Hägg and others on mercenaries (Doc. 10322):** consultation of the Committee on Legal Affairs and Human Rights for an opinion to the Bureau on the follow-up to be given;
- **Motion for a resolution presented by Mr Ilaşcu and others on the liberation of political prisoners from Tiraspol – Andrei Ivantoc and Tudor Petrov-Popa (Doc. 10327):** consultation of the Committee on Legal Affairs and Human Rights for an opinion to the Bureau on the follow-up to be given;
- **Motion for a resolution presented by Mr Ilaşcu and others on strengthening the measures of solving the Transnistrian conflict (the Republic of Moldova) by changing the negotiations format and the military pacification forces in the region (Doc. 10238):** no further action.

16. On 13 December, the Bureau approved the following proposals:

a. References to committees:

➤ **Doc. 10361**

Motion for a recommendation presented by Mr Korobeynikov and others Strategic principles and practical aspects regarding investment in the Russian economy, to the Committee on Economic Affairs and Development, to be taken into account in the preparation of the report on "Europe's interest in the continued economic development of Russia"

➤ **Doc. 10362**

Motion for a recommendation presented by Mr Cilevičs and others The OSCE guidelines on the use of minority languages in the broadcast media and the Council of Europe standards, need to enhance co-operation and synergy, to the Committee on Legal Affairs and Human Rights, *for report*, and to the Committee on Culture, Science and Education, *for opinion*

b. Extension of references:

➤ **Doc. 9510**

Motion for a resolution presented by Mr Cilevičs and others The plight of the deported Meskhetian population

Ref. 2755 of 3 September 2002 – Validity: 31 December 2004 (extended by the Bureau on 24 May 2004): extended until 28 January 2005.

G. PETITIONS

17. On 13 December, following the proposals of the Committee on Legal Affairs and Human Rights on the Petition on the effects of the non-ratification by Belgium of the Council of Europe Framework Convention on the Protection of National Minorities, the Bureau:

- referred the main question raised in the petition to this Committee to be dealt with in its report on the "ratification of the Council of Europe Framework Convention on the Protection of National Minorities by the Council of Europe member states";

- as regards the issue of the division of an electoral constituency, considered that the petition was not admissible because the complaint was neither substantiated, nor of legitimate interest to the Assembly and there was a possibility of using local remedies.

H. MEETINGS OF THE STANDING COMMITTEE AND OF THE BUREAU IN 2005

18. On 23 November, the Bureau approved the dates of the meetings in 2005 (Appendix II).

I. ARMENIA, AZERBAIJAN AND GEORGIA

- **Meeting of the President of the Assembly with the Chairmen of the parliamentary delegations of Armenia, Azerbaijan and Georgia (Strasbourg, 6 October 2004)**
19. On 8 October, the Bureau took note of the information note prepared by the Secretariat.

J. CYPRUS

- **Implementation of paragraph 6 of Resolution 1376 (2004) on Cyprus**
20. On 8 October, the Bureau took note that the President had informed Mr Christodoulides, Chairman of the parliamentary delegation of Cyprus, and Mr Nami, elected representative of the Turkish Cypriot community, about the Bureau's decision of 4 October 2004.

K. LIECHTENSTEIN

- **Dialogue with the Parliament of Liechtenstein**
21. On 8 October, the Bureau took note of the information by the President on his visit to Liechtenstein on 27 September 2004 and his meeting in Strasbourg on 1 October 2004, of his proposals on the modalities of this dialogue and agreed to come back to this matter at its next meeting on the basis of written proposals prepared by the Secretariat.
22. On 23 November, the Bureau approved the modalities for the dialogue contained in the memorandum prepared by the Secretariat and set up an ad hoc committee to conduct this dialogue composed of two members of the Political Affairs Committee, two members of the Committee on Legal Affairs and Human Rights, two members of the Monitoring Committee and, if necessary, additional members from the Bureau to guarantee that all political groups of the Assembly are represented in it.

L. CZECH REPUBLIC

- **Post-monitoring dialogue with the Czech Republic**
23. On 23 November, the Bureau took note of the memorandum approved by the Monitoring Committee and of the conclusion of that Committee that it was not necessary to re-open the monitoring procedure in accordance with Resolution 1115 as no further clarification or enhanced co-operation is necessary (Appendix III).

M. DEADLINE FOR TABLING AMENDMENTS DURING PART-SESSIONS

24. On 8 October, the Bureau decided to come back to this matter at its next meeting on the basis of a proposal prepared by the Secretariat.
25. On 13 December, the Bureau:
- took note of the memorandum prepared by the Secretariat of the Assembly;
 - asked the Committee on the Rules of Procedure and Immunities to draw up (under Rule 65.2) a report on the amendment of the Rule 34.5 with respect to the deadline for tabling amendments;

- until such a report is approved, decided to apply a new deadline which would be 23 and a half hours, i.e. 10.30 am and 3.30 pm for debates taking place on Wednesday, Thursday and Friday, except for urgent debates.

N. COMPOSITION OF THE MONITORING COMMITTEE

26. On 8 October, the Bureau:

- approved the following modifications proposed by political groups to be submitted to the Assembly: SOC (new members: Mr Batet Lamana and Mr Bartumeu Cassany), EPP/CD (new member: Mr Nemeth), EDG (new members: Mr Vojir and Mr Dobelis), LDR (new member: Mrs Tevdoradze), UEL (new member: Mr Platvoet);
- decided to discuss the question of the increase of the number of seats of the Monitoring Committee at one of its next meetings (Resolution 1356 (2003)).

27. On 13 December, the Bureau:

- took note of the memorandum prepared by the Secretariat on the proposal for an increase in the number of seats (Resolution 1356 (2003));
- decided to increase the number of seats of the Monitoring Committee to 83, subject to the approval of the Assembly.

O. NUMBER OF SEATS IN THE COMMITTEE ON EQUAL OPPORTUNITIES FOR WOMEN AND MEN

28. On 23 November, the Bureau took note of the request of this Committee to increase the number of its seats to 83 and referred this request to the Committee on the Rules of Procedure and Immunities under Rule 65.2.

P. TERMS OF REFERENCE OF ASSEMBLY COMMITTEES

29. On 23 November, the Bureau took note of the memorandum prepared by the Secretariat on the instruction of the President of the Assembly and referred it as amended to the Committee on the Rules of Procedure and Immunities with a view to preparing a report and a draft resolution on the revision of the terms of reference of general Assembly committees.

Q. VISITS OF RAPORTEURS

30. On 23 November, the Bureau authorised Mr Jonas, rapporteur of the Committee on Economic Affairs and Development on "The World Bank and the IMF: Promoting fairness and good governance in a global economy", to carry out a fact-finding mission to the headquarters of the two institutions in Washington.

31. On 13 December, following a specific request from the World Bank, the Bureau exceptionally authorised Mr Kirilov, Chairman of the Committee on Economic Affairs and Development, to join Mr Jonas, rapporteur of this Committee on "The World Bank and the IMF: Promoting fairness and good governance in a global economy", during his fact-finding mission to the headquarters of the two institutions in Washington.

R. MEETINGS ELSEWHERE THAN IN STRASBOURG AND PARIS AND AUTHORISATION FOR MEMBERS' OFFICIAL VISITS

- **Meetings elsewhere than in Strasbourg and Paris**

32. On 8 October, the Bureau:

- authorised the following meetings:

- Ad hoc Sub-Committee "on the sustainable development of the Adriatic region" (of the Committee on the Environment, Agriculture and Local and Regional Affairs), Termoli (Italy), 8-9 November 2004;
 - Sub-committee on Tourism Development (of the Committee on Economic Affairs and Development), Rhodes (Greece), 18-19 November 2004;
 - Committee on Rules of Procedure and Immunities, Stockholm (Sweden), 10-11 December 2004;
 - Committee on Culture, Science and Education, Mexico & Oaxaca, 16-18 January 2005;
 - Committee on Economic Affairs and Development, London (United Kingdom), 20-21 January 2005;
- did not approve the request of the Political Affairs Committee to meet in Warsaw (Poland) on 24 November 2004;
- following the request of the Committee on the Environment, Agriculture and Local and Regional Affairs, authorised an ad hoc sub-committee composed of the Committee Chairman, the Chairman of the Sub-Committee on Sustainable Development and the rapporteur on "Global warming: beyond Kyoto" to attend part of the 10th Conference of the Parties (COP-10) to be held in Buenos Aires on 6-17 December 2004 (without secretariat participation);
- agreed to examine the Ruling on meetings of Committees and Sub-Committees of the Assembly elsewhere than in Strasbourg and Paris at a forthcoming meeting on the basis of a Secretariat proposal.
33. On 13 December, the Bureau authorised the meeting of the Committee on Economic Affairs and Development in Antalaya (Turkey) on 23-24 May 2005.
- **Appointment of Assembly representatives for official activities**
34. On 8 October, the Bureau appointed representatives for the following official activities:
- Session of the Parliamentary Assembly of the Black Sea Economic Cooperation (PABSEC) (23-25 November 2004, Antalya): Mr Kirilov, Mr Högmark;
 - Monaco World Summit (27-29 October 2004, Monaco): Mr Pullicino Orlando;
 - Conference on the Integrated Project "Making Democratic Institutions Work" (17-19 November 2004, Barcelona): Mr Gross, Mr Mercan, Mr Severin and Mr Wielowieyski.
35. On 23 November, the Bureau appointed representatives for the following official activities:
- 3rd meeting of Cetinje Parliamentary Forum (28-30 November 2004, Cetinje, Montenegro): Mr Jakic;
 - 23rd Session of the Baltic Assembly and the 10th Baltic Council (17-19 December 2004, Riga, Latvia): Mr Elo³;
 - 24th Plenary Session of the Interparliamentary Assembly of the CIS Member States (4 December 2004, St-Petersburg, Russia): Mr Cekuolis.
36. On 13 December, the Bureau took note that Mr Bartumeu Cassany, rapporteur of the Committee on Legal Affairs and Human Rights on the draft Council of Europe specific legal instrument on the prevention of terrorism, will participate as an observer in meetings of the CODEXTER.

³ Mr Elo subsequently informed the Bureau on 13 December 2004 that he was unable to attend.

3. RELATIONS WITH THE COMMITTEE OF MINISTERS AND OTHER BODIES OF THE COUNCIL OF EUROPE

A. EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN AND DEGRADING TREATMENT OR PUNISHMENT (CPT)

37. On 8 October, the Bureau:

- drawing up of the list of candidates in respect of Iceland and Italy: took note of the recommendations of the Committee on Legal Affairs and Human Rights and drew up the lists of candidates in the following order:
 - Iceland: 1. Dr Hauksson; 2. Ms Hreidarsdottir, 3. Mrs Thorkelsdottir
 - Italy: 1. Mr Palma, 2. Mr Maisto, 3. Mr Marchesi
- took note of the 14th General Report on the activities of the CPT;

38. On 23 November, the Bureau invited the Parliaments of Austria, Bulgaria, Croatia, Denmark, France, Georgia, Germany, Hungary, Liechtenstein, Luxembourg, Moldova, the Netherlands, Norway, Slovenia, Spain, Sweden, Switzerland and the United Kingdom to put forward candidates for the seats which will become vacant in 2005.

B. ELECTION OF A JUDGE TO THE EUROPEAN COURT OF HUMAN RIGHTS WITH RESPECT TO SERBIA AND MONTENEGRO

39. On 23 November, the Bureau took note that the Committee of Ministers has transmitted the list of candidates to the Assembly.

C. NORTH-SOUTH CENTRE

40. On 13 December, the Bureau approved the draft co-operation agreement as amended (Appendix IV).

4. EXTERNAL RELATIONS AND POLITICAL ISSUES

A. BELARUS

41. On 8 October, the Bureau took note:

- of the letters from the Chairmen of the Committee on Legal Affairs and Human Rights and of the Committee on Culture, Science and Education;
- of the President's letter to the Chairman of the Committee of Ministers and of his reply confirming that Mr Sivakov, Minister of Sport of Belarus, will not participate in the 10th Conference of European Ministers responsible for Sport;
- that the President had asked the Venice Commission to prepare an opinion on the constitutionality of the referendum on 17 October 2004 and that he would send this opinion to all Bureau members and to international institutions concerned immediately when transmitted to him.

B. SITUATION OF THE IMPRISONED INTERNATIONAL MEDICAL TEAM IN LIBYA

42. On 8 October, the Bureau:

- took note of the information by Mr Eörsi and thanked him for his work;
- took note of the memorandum prepared by the secretariat;

- decided to come back to the motion for a resolution on this matter (Doc. 10057) at its next meeting⁴.

5. RELATIONS WITH OTHER INTERNATIONAL INSTITUTIONS

A. **PARLIAMENTARY TROIKA ON THE STABILITY PACT (CONFERENCE ON THE "FIGHT AGAINST ORGANISED CRIME IN SOUTH EASTERN EUROPE", SOFIA, 11-12 NOVEMBER 2004)**

43. On 8 October, the Bureau approved the list of the Ad Hoc Committee to participate in this Conference, it being understood that members could not be replaced, and appointed Mr Lloyd, Vice-President of the Assembly, as Chairman.

44. On 23 November, the Bureau was informed by Mr Lloyd, Chairperson of the ad hoc Committee, on the outcome of the Conference.

B. **PAN-AFRICAN PARLIAMENT**

45. On 8 October, the Bureau decided to discuss a draft working agreement between the Assembly and the Pan-African Parliament at its next meeting.

46. On 13 December, the Bureau approved the draft co-operation agreement, on the understanding that the implementation of this agreement will be under the authority of the Bureau (Appendix V).

C. **INTER-PARLIAMENTARY ASSEMBLY OF THE COMMONWEALTH OF INDEPENDENT STATES (IPA CIS)**

47. On 13 December, the Bureau agreed to the proposal by the Inter-Parliamentary Assembly of the Commonwealth of Independent States (IPA CIS) to join the Conference dedicated to the 60th anniversary of the victory of the anti-Hitler coalition in the World War II on 15 April 2005 in St. Petersburg as a co-organiser.

6. OBSERVATION OF ELECTIONS

A. **PARLIAMENTARY ELECTIONS AND REFERENDUM IN BELARUS (17 OCTOBER 2004)**

48. On 8 October, the Bureau took note that the Assembly had not been invited to observe these elections and it would not observe them.

49. On 23 November, the Bureau was informed of the assessment made by OSCE/ODIHR of these elections and of the opinion of the Venice Commission on the referendum.

B. **REFERENDUM IN "THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA" (7 NOVEMBER 2004)**

50. On 8 October, the Bureau decided to set up an ad hoc Committee of five members (one from each political group) to observe this referendum, subject to receiving an invitation.

51. On 23 November, the Bureau took note of the report by the ad hoc Committee (Appendix VI).

C. **PRESIDENTIAL ELECTION IN UKRAINE (31 OCTOBER 2004, 21 NOVEMBER, 26 DECEMBER)**

52. On 8 October, following the request of the Monitoring Committee, the Bureau agreed to increase the number of the ad hoc Committee members from 30 to 40 (SOC: 14, EPP/CD: 12, LDR: 6, EDG: 6, UEL: 2) and encouraged Assembly members to seek accreditation to observe these elections in the polling stations set up in their respective countries for Ukrainians living abroad.

⁴ On 13 December, the Bureau agreed to add this item to the agenda of the Joint Committee.

53. On 23 November, the Bureau took note of the report of the ad hoc Committee on the 1st round of the election.

54. On 13 December, the Bureau:

- was informed by the President about his correspondence in connection with this election, including his exchange of letters with the Speaker of the Ukrainian Parliament;
- was informed about the visit of the Secretary General of the Council of Europe to Kyiv and agreed to have an exchange of views with him on this matter at its next meeting;
- decided to postpone to its next meeting the consideration of the report of the ad hoc Committee which observed the 2nd round of the election;
- decided to set up an ad hoc Committee to observe the repeated 2nd round of the election (26 December 2004), consisting of members of the ad hoc Committee which observed the first round on 31 October and the second round on 21 November, and other interested Assembly members proposed by political groups;
- appointed Mr Iwinski (SOC) Chairperson and rapporteur of this ad hoc Committee;
- agreed to invite the newly elected President of Ukraine to address the Assembly during the 2005 January part-session, provided that the election is recognised as free and fair.

D. ELECTION OF THE PRESIDENT OF THE PALESTINIAN AUTHORITY (9 JANUARY 2005)

55. On 23 November, the Bureau:

- decided to set up an ad hoc Committee composed of 10 members (3 SOC, 2 EPP/CD, 2 LDR, 2 EDG, 1 UEL) to observe this election including, if possible, the preparations for this election;
- asked the political groups to propose their candidates as soon as possible with a view to appointing members of this ad hoc committee at the next Bureau meeting.

56. On 13 December, the Bureau:

- approved the list of members of the ad hoc Committee to observe this election;
- appointed Lord Kilclooney (EPP/CD) as Chairperson and rapporteur of this ad hoc Committee;
- subject to sufficient security conditions and to the agreement of the Central Electoral Commission of the Palestinian Authority, agreed to increase the number of the members of this ad hoc Committee from 10 to 15.

7. OTHER MATTERS

A. COMMEMORATION OF THE 60TH ANNIVERSARY OF THE LIBERATION OF AUSCHWITZ (27 JANUARY 2005)

57. On 8 October, the Bureau set up a working group composed of Mr Eörsi, Mr van der Linden and Mr de Puig to prepare proposals to the Bureau for the commemoration in the Assembly during the January 2005 part-session.

58. On 23 November, the Bureau:

- took note of the memorandum prepared by the Secretary General of the Assembly on the basis of the proposals by Mr Eörsi, Mr van der Linden and Mr de Puig;

- approved the proposals for the commemoration in the Assembly's debating chamber on 27 January 2005, decided to invite, subject to their availability, Mr Imre Kertész, Mrs Simone Veil and Mr Elie Wiesel to address the Assembly on this occasion and asked the Secretary General of the Assembly to propose an arrangement for associating a representative of Poland to this commemoration;
- authorised an exhibition proposed by the Speaker of the Knesset in front of the debating chamber during the January 2005 part-session, as well as exhibitions by other groups of victims of the death camps, if they so wish;
- took note that Mrs Leni Fischer, Honorary President of the Assembly, will participate in the commemoration in Cracow and Auschwitz on 27 January 2005;
- invited the Secretary General of the Council of Europe to examine what follow-up should be given to the proposal for a memorial stone at the headquarters of the Council of Europe contained in the Motion for a resolution on "the anniversary of "Oswiecim" ("Auschwitz") liberation" (Doc. 10232 rev.).

59. On 13 December, the Bureau:

- was informed by the Secretary General of the Assembly about his contacts concerning the availability of the speakers for the ceremony in the Assembly;
- asked him to continue these contacts and to also check the availability of Mr Szewach Weiss, former Speaker of the Knesset, and Mr Elio Toaff, former Chief Rabbi of Rome;
- agreed to invite Mr Bartoszewski, Poland's former Minister for Foreign Affairs and Chairman of the Council for the Protection of the Memory of Combat and Martyrdom, to address the Assembly in the framework of this ceremony.

B. EUROPEAN CONFERENCE OF PRESIDENTS OF PARLIAMENTS IN 2006

60. On 23 November, following the contacts between the Secretary General of the Assembly and the Secretaries General of the Estonian and Finnish Parliaments as well as the Russian parliamentary delegation, the Bureau was informed of the proposal of the Estonian Parliament to hold this Conference on 31 May 2006 in Tallinn which would allow participants to take part in the celebrations of the 100th anniversary of the Finnish Parliament in Helsinki on 1 June 2006.

C. MEMBERSHIP EX OFFICIO OF THE IMMEDIATE PAST PRESIDENT IN THE POLITICAL AFFAIRS COMMITTEE (RULE 18.3)

61. On 8 October, the Bureau took note that the President did not intend to make use of this rule at the end of his mandate and asked the Committee on the Rules of Procedure and Immunities to analyse practical implications of this Rule and inform the Bureau accordingly.

D. INTERNATIONAL INSTITUTE FOR DEMOCRACY

62. On 8 October, the Bureau took note of the decisions taken at the Institute's General meeting on 6 October 2004 and decided to come back to this matter at its next meeting.

63. On 23 November, the Bureau:

- took note of the conclusions of the report of the Council of Europe Internal Auditor;
- decided to resign from the Institute;
- agreed to examine the Assembly's legal obligations with respect to the debts of the Institute at its next meeting, subject to receiving the necessary information.

64. On 13 December, the Bureau:

- took note of the letter of the President of the Assembly to the Chairman of the Governing Board of the Institute announcing, in conformity with the Bureau's decision on 23 November 2004, the Assembly's resignation from the Institute;
- in addition to the grant of 10.000,- euros already allocated to the Institute for 2004, decided to allocate to the Institute an additional grant of 20.490,- euros (thus bringing the Assembly's grant for 2004 to the level of the 2003 grant), under the following conditions:
 - this additional grant must be used exclusively to cover first-ranking liabilities of the Institute such as salaries and employer's contributions;
 - any amount of this grant, which is not used for the above-mentioned purpose, must be returned to the Assembly.

E. INFORMATION

65. On 23 November, the Bureau heard the information given by the President of the Assembly, by the Secretary General and the Deputy Secretary General of the Council of Europe and by the Secretary General of the Assembly.

66. On 13 December, the Bureau heard the information by the President of the Assembly and the Secretary General of the Assembly and noted the written information by the Secretary General and the Deputy Secretary General of the Council of Europe.

APPENDIX I

Council of Europe Parliamentary Assembly Standing Committee Meeting - Warsaw, 23 November 2004

Statement by PACE President on the situation in Belarus

Some 10 million Belarusians are living in the centre of Europe, but for more than a decade, President Lukashenko has kept them increasingly separated from Europe – separated not only from their European neighbours, but also separated from the common European values and standards of human rights, democracy and the rule of law.

President Lukashenko extended his first term of office from five to seven years by disregarding the democratic goals of the Constitution of Belarus through a manipulative referendum in 1996, which has prompted the Parliamentary Assembly to suspend Belarus' Parliament special guest status. Through another flawed referendum last month, he abolished the constitutional limitation on consecutive terms of office of the President and thus opened the door to stay in power at least until 2011. The Venice Commission, in its recent opinion on the referendum - prepared at the Assembly's request - has clearly described its illegal character, both under Belarusian law and as judged against the Council of Europe's standards.

Lukashenko has established an authoritarian power structure, through which he strictly controls the government, the National Assembly of Belarus, the courts and the prosecutors, the educational institutions, the media, the economy, the trade unions. Civil society groups such as the Belarusian Helsinki Committee have been largely shut down, or are strongly under pressure. Belarusians who do not consent to this control face serious harassment by the state apparatus: they often lose their jobs, are spied on by the KGB of Belarus, are detained or beaten up by police, have administrative or fiscal sanctions imposed upon them, or may even be victims of forced disappearances. Two reports prepared by Mr Pourgourides (Cyprus, EPP/CD) adopted by the Assembly in April, one investigating the fate of four prominent missing persons, and concluding that high representatives of the regime were involved in the disappearances or in the ensuing cover-up, the other highlighting the oppression of independent media in Belarus, show that the Assembly is following very closely the situation in the country.

The Council of Europe has been set up in order to ensure greater unity in Europe on the basis of common values. The situation in Belarus, as we can see every day, blocks the fulfillment of the very mission of the Council of Europe. Several member and observer states and the European Union (EU) have already taken concrete steps. It is therefore time to reconsider the Assembly's position vis-à-vis Belarus and recommend to the Committee of Ministers as well as to all governments of member and observer states to:

1. follow the example of the EU and the USA and declare as *personae non gratae* the state officials presumed to have been involved in the disappearance of persons opposing the regime, or in the cover-up of responsibilities;
2. reduce their official contacts with representatives of the Lukashenko regime to a mere working level, i.e. Ambassadors should not be accredited and Ministers should not be received;
3. develop programmes of support for civil society, for youth education in human rights and democracy, and for free media in Belarus.

I invite the Assembly's Political Affairs Committee and its Sub-Committee on Belarus in particular to develop further the already existing co-operation with opposition politicians and civil society of Belarus by drawing up an action plan, and the Committee on Legal Affairs and Human Rights to continue following closely the human rights situation in this country.

AS/Bur (2004) 86
17 November 2004

Bureau of the Assembly

STANDING COMMITTEE AND BUREAU MEETINGS IN 2005

Preliminary proposals for dates⁵

Monday 10 January, 9.30 am, Vienna	Bureau
Monday 24 January, 8.30 am, Strasbourg (part-session)	Bureau
Friday 28 January, 8.30 am, Strasbourg (part-session)	Bureau
Friday 18 March, 8.30 am, Paris	Bureau
Friday 18 March, 11 am, Paris	Standing Committee
Monday 25 April, 8.30 am, Strasbourg (part-session)	Bureau
Friday 29 April, 8.30 am, Strasbourg (part-session)	Bureau
Friday 27 May, 8.30 am, Lisbon	Bureau
Friday 27 May, 11 am, Lisbon	Standing Committee (CM Chairmanship)
Monday 20 June, 8.30 am, Strasbourg (part-session)	Bureau
Friday, 24 June, 8.30, Strasbourg (part-session)	Bureau
Friday 9 September, 8.30 am, Monaco	Bureau
Friday 9 September, 11 am, Monaco	Standing Committee
Monday 3 October, 8.30 am, Strasbourg (part-session)	Bureau
Friday, 7 October, 8.30 am, Strasbourg (part-session)	Bureau
Friday 25 November, 8.30 am, Bucharest	Bureau
Friday 25 November, 11 am, Bucharest	Standing Committee (CM Chairmanship)
Monday 12 December, 9.30, Paris	Bureau

⁵ The dates of the meetings planned outside Strasbourg and Paris are subject to a formal agreement by the Parliament of the country concerned

APPENDIX III

Confidential

AS/Mon (2004) 32
13 September 2004
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**COMMITTEE ON THE HONOURING OF OBLIGATIONS AND COMMITMENTS BY
MEMBER STATES OF THE COUNCIL OF EUROPE (MONITORING COMMITTEE)**

Post-monitoring dialogue with the Czech Republic

Information memorandum by the Chair

I. INTRODUCTION

1. The Czech republic joined the Council of Europe on 30 June 1993, pursuant to the Assembly Opinion No. 174 (1993) and to Committee of Ministers resolution (93) 32. A monitoring procedure was opened in June 1995. Two years later, on 22 September 1997, the Assembly adopted Recommendation 1338, in which it decided to close the monitoring procedure in respect of the Czech Republic. At the same time, it resolved to pursue its dialogue with the Czech authorities on a number of issues referred to in paragraph 7 of the Recommendation, or on other issues arising from the obligations of the Czech Republic as a member State of the Council of Europe.

2. At its meeting on 4 May 2000, the Monitoring Committee agreed to start implementing the post-monitoring dialogue in respect of the Czech Republic along the lines agreed by the Bureau of the Assembly on 6 March 2000 (AS/Mon (2000)16). Accordingly, the Czech authorities were invited to provide written comments on the follow-up to the recommendations by the Assembly as stipulated in Recommendation 1338 (1997), in particular regarding the issues related to the implementation of the citizenship law, amendments to the criminal code and new legislation in regard to aliens; legislation regarding the Supreme Administrative Court and the "higher units" of territorial self-government; policies and programmes against racism, xenophobia and anti-semitism; registration of religious groups and the law on civil service and lustration.

3. These comments were presented by the Chairperson of the Czech delegation on 8 July 2000 (AS/Mon (2000) 29) and taken note of by the Committee at its meeting on 22 January 2001. The latter were then incorporated into a draft memorandum (AS/Mon (2001) 28) which the Committee approved on 6 November 2001, instructing the then Chair Mr Mota Amaral to seek complementary information on the following subjects (Chair's letter of 17 November 2001 to Mrs Stepova):

- *government supervision over attitudes and actions by local officials in charge of implementing the Citizenship Law;*
- *amendments to Article 57 of the Criminal Code and other restrictions to expulsion from the territory of the Czech Republic*
- *incorporation of UNHCR comments to the drafts of the Aliens Act and the Asylum Act;*
- *steps taken since 8 July 2000 to combat racism and discrimination;*
- *progress made in respect of new legislation on registration of religious groups*
- *lustration act and follow-up to Recommendations Nos R (2000) 6 and 10 regarding public officials*
- *measures taken since 8 July 2000 to guarantee the independence of public service broadcasting*

4. After a silence on behalf of the Czech authorities for more than two years, during which also the chairmanship of the Committee had changed, and in order to obtain supplementary information and observe the progress in implementation of paragraph 7 of Recommendation 1338 (1997), I decided to pay a visit to the country from 8 to 11 May 2004 to examine the possibility of terminating of the post-monitoring dialogue with the Czech Republic.

5. I noted indeed a substantial progress, as witnessed by the various concrete steps taken since 2001, and in particular within in the context of accession to the European Union, the achievements of which I heartily congratulate the Czech authorities for. The accession to the European Union on 1 May 2004 has certainly opened a new and promising phase in the country's development as a full-fledged democracy that guarantees all its residents their rights and dignity.

6. I sincerely thank the Czech parliamentary delegation secretariat and the Council of Europe Information Centre in Prague who made a great effort to accommodate my requests, including the

extension of the visit to meet with the Roma Community in Ostrava as well as two centres for asylum seekers in Frydek-Mistek and Zastavka u Brna. I am grateful for the co-operation I received from the Czech authorities, the Czech parliamentary delegation to the PACE, the diplomatic representatives in Prague and the different NGOs alike (see the programme attached).

7. I thank the Czech parliamentary delegation for providing a comprehensive written contribution on the seven questions referred to in paragraph 3, published in a separate committee document (AS/Mon (2004) 29). I have fully taken account on them in preparing this memorandum. In addition, members of the Monitoring Committee will be able to study this important contribution alongside with this report at its meeting on 15 September 2004.

8. My observations during the visit to the Czech Republic also largely fall in line with the recommendations presented in various other recent reports on the Czech Republic such as the European Commission's Comprehensive monitoring report on the Czech Republic's preparations for membership and the European Parliament's report on it, the fifth periodic report of the UN Committee on the Elimination of Racial Discrimination regarding the implementation of the International convention on the Elimination of All Forms of Racist Discrimination, the 2003 annual report of the International Helsinki Federation for Human Rights on the Czech Republic, the report of the European Commissioner for Human Rights, Mr Alvaro Gil-Robles, on his visit to the Czech Republic from 24 to 26 February 2003 and the third report of the European Commission against Racism and Intolerance (ECRI) on the Czech Republic, adopted on 5 December 2003.

II. ISSUES REFERRED TO IN PARAGRAPH 7 OF RECOMMENDATION 1338 (1997)

i. and ii. Implementation of the Citizenship Law

9. The explanatory memorandum of Recommendation 1338 (1997) recommended a) a more flexible approach in the application of the law to former citizens of Czechoslovakia who had been living permanently on the territory of the Czech Republic from the date of the split of former Czechoslovakia (31 December 1992), and b) a stricter government supervision over attitudes and actions of local officials. Since its adoption, the Citizenship Law of 1993 has been amended twice: on 2 September 1999 (Act No. 194/1999) and on 29 October 2003.

10. I note with satisfaction that these amendments have introduced the possibility of dual citizenship as well as an alternate procedure for various categories of Slovak citizens through which they can acquire Czech citizenship by declaration without having to submit criminal record extracts or attestations of loss of Slovak citizenship. This alternate procedure, stipulated in Paragraph 18a of the amended Citizenship Law, has resolved the difficulties in acquiring Czech citizenship of a great proportion of Roma that have been residing without interruption on the territory of the Czech Republic since 31 December 1992. Nevertheless, many Roma who have temporarily left the country to seek employment or asylum abroad or who fail to prove permanent place of residence, a clean criminal record or possession of capital equivalent to twice the minimum monthly wages (i.e. 160,000 CZK), continue to encounter difficulties and often fall under the mercy of local officers that play a crucial role in accepting and processing applications for citizenship.

11. As commented in the contribution paper of 23 June 2004, the Czech authorities have no legal authority to exercise supervision over the activities of local public officials charged with implementing the Citizenship Act. The Ministry of Interior may interfere in the decision-making process during appeal proceedings, during renewal of proceedings or during out-of-appeal proceedings where the decision-making body of the first level is a regional authority; however,

legal opinions adopted by the Ministry of Interior concerning individual provisions of the Act are not binding for the subordinate public administration bodies.

12. Within the above-described legal context, it is to be recommended that the Czech authorities resolve the remaining difficulties by adopting a more flexible approach towards the Roma who were citizens of the former Czechoslovakia and have been long-term residents on the Czech territory, yet who have temporarily left the country to apply for asylum elsewhere or lived in sub-standard conditions that have not allowed registration of permanent residence.

iii. Amendments to the Criminal Code in regard to expulsion and new legislation in regard to aliens

13. In the last few years, Czech legislation has undergone significant amendments in the field of asylum and immigration. Concerning amendments to the Criminal Code with regard to expulsion, the much-criticized Section 57 of the Criminal Code (No. 140/1961) has been modified by Acts No. 256/2001 and No. 265/2001, which have introduced the assumption of impunity. According to the new Code, a court will no longer order punishment by expulsion if a) the nationality of the offender cannot be ascertained; b) the offender has been granted asylum; c) the offender has a long-term residence permit in the Czech Republic, social ties and work whereas punishment by expulsion would be contrary to family reunification interest; and d) there is a danger that in the country into which the offender is to be expelled, he will be persecuted because of his race, nationality, membership in a certain social group, political, religious beliefs, or if expulsion would expose the offender to torture, inhuman or degrading treatment of punishment.

14. From a traditionally transit country, the Czech Republic has increasingly become a country of destination. It has seen an important wave of migration from the territories of the former Soviet Union, notably from Chechnya, Ukraine, Moldova and Georgia, as well as from the Balkan countries, Asia and Afghanistan. For the purpose of preventing economic migrants seeking to remain in the Czech Republic or illegally migrate to other countries, the Czech authorities have adopted amendments to the Asylum Act (No. 2/2002 Col.), in force since 1 February 2002, which have considerably tightened the conditions and legal regulations of the asylum policy. The latter include foreigners being placed in detention centres for 180 days upon their arrival (whereas earlier they were released as soon as they had filed an asylum claim), withholding for a period of 12 months the possibility for asylum seekers to work in the country, and limiting the provision of financial assistance to those staying outside the residential centres for asylum seekers to three months. Given that both the asylum and appeal procedures take a minimum of two years, even after the 12 months have passed, asylum seekers remain in a vulnerable position as their visas are reportedly only extended for two months at a time. This situation makes it almost impossible to leave the premises of a reception centre during the whole application procedure, which in its turn contributes to an even greater isolation of asylum seekers, increases the psychological strain and prevents the refugees' integration in Czech society.

15. The recent amendments have also restricted repeated asylum applications: after a rejection, a new asylum claim can generally be considered only in two years' time. On the other hand, the amendments have established an independent judicial second instance body, giving the administrative court competence to review asylum appeal cases (since 1 January 2003).

16. Overall, the result of the new Asylum Act has been a deterioration of the rights of asylum seekers, which is also reflected in a significant drop in the number of asylum requests. While in 2001, 18,000 demands were submitted, in 2002 the number dropped to 8,000 and to 11,000 in 2003. According to the Ministry of Interior, only 2 to 3% of these requests have been accepted.

17. Two types of asylum centres exist in the Czech territory: detention centres with strict regime (altogether 5 establishments) and residential centres with free regime. The first, with carceral conditions, caters mostly for unidentifiable persons illegally residing in the country who request asylum after having been taken into police custody. Until the beginning of this year, the detainees in these establishments were living in virtually prison-like conditions, which was strongly criticised by many international bodies, including the European Commissioner of Human Right and the ECRI. However, the Residence of Aliens Act No. 222/2003 Coll. has abolished this procedure since 1 January 2004, limiting the carceral conditions for extreme cases of aggressivity, violence or contagious diseases. Nor does the law any longer allow holding juvenile applicants in such centres. According to the law, those residents in strict regime centres that have submitted asylum requests are supposed to be transferred to residential camps; however, as I was told by several detainees and was also confirmed by the Deputy Ombudsman, this is very often not the case.

18. During my visit in May, I visited two detention centres: one of strict regime in Frydek-Mistek and another one of free regime (residential centre) in Zastavka u Brna. Whereas the centre in Frydek-Mistek is the newest of the five strict-regime centres with technical conditions conforming to European standards and run by competent personnel, its residents nevertheless suffer from severe limitations on movement and contact with the outside world. Also, although in principle entitled to legal aid by competent NGOs, many detainees indicated that they were not aware of the possibility of obtaining legal advice.

19. This problem needs to be resolved quickly. According to a representative of the Czech Bar Association, 95 to 99 per cent of asylum seekers do not receive any legal aid. In most of the cases, they are not aware of their rights and have virtually no access to information on who to contact for such assistance. For financial reasons, attorneys are often not interested in defending asylum cases. They also lack training on asylum and human rights issues. Although the competent NGOs have obtained an easier access to asylum establishments, unless their services are specifically requested by an applicant, they have no right to interfere.

20. The asylum seekers in residential centres are affected by the same lack of legal aid and access to information. However, what struck me most in the centre in Zastavka u Brna was the segmentation of the human chain dealing with asylum seekers, which puts the latter under an additional psychological pressure besides their already miserable destiny and bleak future outlook, considering the frail chances of their application being successful. Though the management of the establishment provides competently for its residents' basic daily needs, there seems to be a total ignorance and concern for the state of procedure of the residents' requests as there appears to be no communication between the different levels of administration of the centre, the Ministry of Interior or appeal courts.

21. In short, the Czech Republic will have to improve the amount of information provided to refugees on their legal rights as well a more humane approach in the procedure. This would demand a lot of responsibility and a much greater investment by the state into awareness-raising and training of responsible civil servants and the judiciary towards issues of asylum and human rights in general.

22. The Czech authorities should also be encouraged to ratify the European Agreement on Transfer of Responsibility for Refugees (signed in April 2000) and the Council of Europe Convention on the Participation of Foreigners in Public life at local level (signed in June 2000).

iv. ***"Higher units' of territorial self-government and Supreme Administrative Court***

23. The reform of territorial public administration and the process of decentralisation to the regional and local level have been nearly completed with the setting up of 14 new regions (replacing the 8 former regions or "kraje") on 1 January 2000 and the abolition of the 73 districts ("okresy") on 1 January 2003 by transforming them to 205 newly-established municipalities. The 14 regions have received considerable powers notably in the areas of education, health care, territorial planning and environment. Many state administration powers such as the state welfare system, issuance of building permits, management of construction proceedings, landscape protection, management of forests, waste, small trades, etc have been transferred to the municipalities.

24. In line with Act No. 347/1997, which came into force on 1 January 2000, regional self-government is provided through directly elected regional assemblies. These assemblies elect the regional Presidents and Councils, both executive bodies of the Region. At the local municipality level, the elected municipal assemblies elect municipal councils and mayors. The officials of regional and municipal authorities are governed by the Act on Officials of the Territorial Self-Government Units adopted in June 2002.

25. However, the transfer of competencies has reportedly not been very smooth, with many of the old structures still in place. Though the first regional elections took place in November 2002, it is apparently still often difficult for the public to distinguish an elected person from a local civil servant. Also the financial reform accompanying the creation of new administrative structures has not advanced enough as the resources from the regional budgets for the territorial self government to assume their new autonomy have not been defined yet⁶.

26. As regards the Czech judicial system, the Supreme Administrative Court was established in January 2003. It has two instances: regional administrative tribunals and the Supreme Administrative Court which acts as appeal court in administrative cases and aims at ensuring the citizens' right of appeal against public actions.

v. ***Policies and programmes against racism, xenophobia and anti-semitism***

27. I sincerely welcome the recent amendment of Article 10 of the Czech Constitution, according to which all international treaties promulgated and ratified by the Czech Republic have become directly binding and have precedence over domestic law.

28. The Czech Republic is party to a number of international conventions and agreements governing the issues of racism and xenophobia, including the European Framework Convention for the Protection of National Minorities (1998), the United Nations Convention on the Elimination of All Forms of Racial Discrimination (2000), the International Covenant on Civil and Political Rights (ICCPR) (2000), the European Union Directive 2000/43/EC on "implementing the principle of equal treatment between persons irrespective of racial or ethnic origin"⁷, the EU Directive 2000/78/EC "establishing a general framework for equal treatment in employment and occupation"; the European Convention on Nationality (2004). The Czech Government has also attached great importance to the critical views of the European Commission against Racism and Intolerance (ECRI), of the Advisory Committee of the Framework Convention for the protection of National

⁶ The European Commission Comprehensive monitoring report on the Czech Republic's preparations for membership (2004), p. 12

⁷ This directive, which established an obligatory transposition into the domestic law of all EU member states by 19 June 2003, provides a very detailed menu as to the content, scope and limits of laws banning racial discrimination on ethnic or race grounds; however, it opens possibilities for unequal treatment on grounds of nationality

Minorities and of the Council of Europe Commissioner for Human Rights⁸, which have all issued comprehensive reports that advise on effective methods on combating extremism, racism and xenophobia in the country.

29. The Czech Republic has signed but not ratified the European Charter for Regional or Minority Languages (signed 9 November 2000), the revised European Social Charter (signed on 4 November 2000) and Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms (signed on 4 November 2000).

30. The Czech Republic has not yet signed the European Convention on the Legal Status of Migrant Workers, the International Convention on the Protection of the Rights of All Migrant Workers and the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.

31. The Czech authorities have made considerable legislative efforts in very short time to improve the implementation of criminal and public law provisions aimed at combating extremism and racially motivated crimes. Besides the measures described in the contribution paper of 23 June 2003 (AS/Mon (2004) 29), various amendments have been made to the Criminal Code adopted in 2002, aimed at strengthening provisions against racially motivated crimes, as well as to the Civil Procedure Code reversing the burden of proof from the victim to the alleged offender.

32. Furthermore, a number of advisory bodies have been created dealing with the issues of human rights and more specifically the rights of national minorities, involving different relevant state actors that work in cooperation with civil society organisations. These include the Inter-Ministerial Commission for Combating Extremism, Racism and Xenophobia, the Government Council for the Affairs of the Roma Community, the Government Human Rights Council and the Government Council for National Minorities. Besides, in the last two years, the government has also established two new institutions: the office of the Government Commissioner for Human Rights and the office of the Public Protector of Rights (Ombudsman) (governed by Act No. 349/1999), whose mission is to protect individuals against the actions of public authorities and institutions, whenever they violate the law or the principles of rule of law, as well as against the inaction of such authorities and institutions.

33. As a result of the public administration reform, a function of the Roma coordinator has been created at each Regional Office in January 2003. All 14 coordinators have already been appointed. Their existence is expected to greatly improve the communication between the government authorities and local governments concerning policies designated for the Roma community.

34. The Czech government has also put much effort into improving the awareness and special training of police and prison officers in fighting racially motivated violence. Over 140 police officers have undergone specific human rights education and training in confidence-building measures for collaboration with minority communities.

35. Regardless of these measures, reports of racially motivated ill-treatment and violence and incitement to hatred have continued unabated. It is difficult to get a clear picture of the scope of the problem as a number of such crimes go unreported or those that are reported are often not classified as such, and those that are classified as racially motivated are grouped together with other extremist crimes in available statistics⁹. Yet from the discussions with state officials, members of parliament, the Human Rights Ombudsman and the Government Commissioner for

⁸ Second Report submitted by the Czech Republic pursuant to article 25, paragraph 1 of the FCPNM (received on 2 July 2004), ACFC/SR/II(2004)007, p.8

⁹ ECRI's Third report on the Czech Republic, CRI (2004) 22, p.9

Human Rights, various human rights NGOs and representatives of the Roma community, I became aware of the following persisting concerns that prevent finding an effective solution to the problem of discrimination and xenophobia in Czech society:

- absence of a comprehensive Anti-Discrimination Act and flaws in national legislation;
- problems of implementation of anti-discrimination policies
- absence of a single independent body tasked with monitoring racial equality possessing sanctioning authority;
- alleged continuation of ill-treatment and discrimination against the Roma by law enforcement officials, especially the police and lack of effective legal protection and remedies for victims of discrimination
- extremely low level of awareness by public officials at local level and the mainstream population in general towards the issues of discrimination and xenophobia; absence of these issues from the political agenda of political parties;
- persisting discrimination of marginalised groups in areas of social services, housing, employment, public accommodation and the judicial system, notably concerning the Roma community.

Absence of a comprehensive Anti-Discrimination Act and flaws in national legislation

36. Though the existing Czech legislation prohibits and penalises manifestations of discrimination, the anti-discrimination clauses remain scattered across a large body of legislation. Besides, regardless of the dearth of specific legal provisions prohibiting discrimination, few effective remedies exist for victims of racial discrimination. Because of these limitations, the Czech Republic needs to urgently establish a comprehensive anti-discrimination legislation covering all spheres of life. In September 2003, the Cabinet approved a draft version of a General Draft Law on Equal Treatment and Protection against Discrimination (further referred to as the Comprehensive Anti-Discrimination Act), which was to comprehensively protect against all forms of discrimination. It included a definition of both indirect and direct discrimination and a provision to establish an independent body, the Centre for Equal Treatment, to provide conciliation services to victims and independent services to assist victims of discrimination. However, a certain hesitation and a general lack of coordination within the governmental network have been preventing the final draft from being completed and submitted to parliament. From my discussions with the President of the Constitutional Court, I gathered that the current government is opting for the repartition of anti-discrimination laws to sectoral legislation (employment, Penal Code, social aid, commercial inspection, etc.) rather than the introduction of a comprehensive act. Furthermore, the President of the Chamber of Deputies indicated that the draft law remained far from being put on the parliament's agenda.

37. According to some Czech authorities, the introduction of comprehensive anti-discrimination tools in the Czech Republic is associated with the implementation of EU Council Directive 2000/43/EC. However, regrettably, the European Union itself does not provide comprehensive and adequate law in the area of the ban on all discrimination. The above Directive concerns mostly the matters relating to employment and access to employment, identifying cases where differences in treatment are legitimate, provides the legal framework for the application of affirmative action and describes the remedies available to victims of discrimination. Furthermore, while providing a rather detailed menu as to the content, scope and limits of laws banning racial discrimination on ethnic or race grounds, it opens possibilities for unequal treatment on grounds of nationality, which is not in conformity with the international law ban on all forms of discrimination as is stipulated in article 1 (1) of the International Convention on the Elimination of All Forms of Racial Discrimination.

38. In the ardent belief that only a comprehensive law can find unique comprehension by all parties concerned and effectiveness in implementation, I urge the Czech authorities to promptly complete their efforts with regard to the comprehensive anti-discrimination law, incorporating in the new law a clear definition of the term that would involve all internationally acknowledged forms of discrimination, and subsequently to ensure its effective enforcement at all levels.

Problems of implementation of anti-discrimination policies

39. As a result of the territorial administration reform and decentralisation, the government authorities have less power over local governments. In practice this means that the enforcement of governmental policies such as the Roma integration concept, is becoming rather more difficult. For example, the Municipalities Act (No. 128/2000) effectively precludes the supervising authority from checking the observation of civil, commercial and labour laws in areas falling within municipal competence. As a consequence, no device, including the supervision of a higher authority, can be used as an effective tool for protection¹⁰. Thus the extent and quality of measures against social exclusion in Roma communities will in the future vary greatly from municipality to municipality or from region to region.

Absence of an independent body tasked with monitoring racial equality possessing sanctioning authority

40. Despite the considerable number of advisory bodies and human rights authorities, there exists no independent body specifically tasked with monitoring racial equality in the Czech Republic. In spite of much discussion, there are no apparent plans to establish such body either. The various advisory Councils have no authority, nor do they even have a guaranteed operating budget. An Ombudsman's Office to deal with the public defence of rights was created in December 2000; however, this office does not specifically deal with discrimination matters. It can act only in situations where the municipalities exercise competences transferred from government bodies. In addition, the office's utility is seriously curtailed by its lack of direct sanctioning authority. While it may propose corrective measures, the office does not provide private individuals with a legal remedy against discriminatory establishments, nor can it provide independent legal services to victims of discrimination¹¹. The fact that the Ombudsman does not have local branches or the resources to effectively cover the whole territory further diminishes the control that this body can exert upon local authorities.

Alleged continuation of ill-treatment and discrimination against the Roma by law enforcement officials, especially the police, and lack of effective legal protection and remedies for victims of discrimination

41. The persistent occurrence of acts of violence against the Roma community and the alleged reluctance by the police to investigate and prosecute such crimes is of serious concern. Because of prevalent stereotypes and biased attitudes towards the Roma, the latter are extremely vulnerable to degrading and inhumane treatment at the hands of police and prison staff. As reported by ECRI as well as by several NGOs, the investigation of crimes of torture committed by police or prison authorities continue not to be properly investigated, and perpetrators are hardly ever brought to justice. The victims of such crimes often continue to be treated as the perpetrators

¹⁰ Second report submitted by the Czech Republic pursuant to article 25, para.1 of the FCPNM, ACFC/SR/II(2004)007, p. 54

¹¹ Comments to the Report of the Czech Republic on performance of the obligation arising from the convention on the elimination of all forms of racial discrimination submitted by the Counseling Centre for Citizenship/Civil and Human Rights (Poradna), July 2003, p.3-4.

of crimes with little credibility given to their testimony. Regrettably, police investigators are often insufficiently trained in identifying racially-motivated crimes based on other factors besides the use of racist language during the course of the crime, resulting in racially-motivated crimes being underreported.

42. While acknowledging the many initiatives taken by the Czech authorities in the field of training and education of the police, these efforts should be stepped up so as to put an end to discriminatory practices. Prompt and impartial investigation is paramount in countering discriminatory attitudes and practices. As long as similar practices persist among the law-enforcement bodies, there is little hope that stereotype attitudes would change among the mainstream population or any confidence could be built up between the police and the marginalised communities.

43. In addition, adequate mechanisms should be put in place that would encourage victims of racial ill-treatment to lodge complaints. Such mechanisms could include independent contact points, recruiting police officers from minority or other vulnerable groups or appointing members of these groups as advisors or liaison officers to the police at local level.

44. It is also to be recommended that the investigation of complaints in respect of the police be conducted and overseen by a body independent of the police and the Ministry of the Interior.

45. Further, effective legal protection and remedies are generally lacking for victims of discrimination, notably for the Roma community, which makes it extremely difficult for them either to defend themselves against criminal charges or to seek to vindicate their rights through the judicial system. Although formal legal representation is given to every defendant for whom such representation is legally required, the quality of this legal assistance is highly variable. It is therefore recommendable to diversify targeted training programmes for judges and other public officials working with the Roma and other vulnerable groups.

Low level of awareness by public officials at local level and the mainstream population in general towards the issues of discrimination and xenophobia; absence of these issues from the political agenda of political parties

46. Notwithstanding the number of annually conducted anti-racism campaigns and the broad population targeted by them, negative attitudes towards minorities and refugees persist among public officials, in the media and among the general public.

47. The latest ECRI report stresses that the majority of local authorities seem not to be motivated to take actions to improve the situation of vulnerable groups such as Roma as such actions are reportedly not popular with local communities and can be very costly. Some local leaders attempt rather to reap political gains through exploiting racism in their communities. This is all the more worrisome as local authorities have been given jurisdiction over most fields of life influencing the daily existence of Roma communities.

48. Such discriminatory behaviour, combined with the state's inability to ensure local implementation of national policies is outright unacceptable and requires setting up additional means of supervising municipal actions, including the establishment of special regulatory bodies to ensure that municipal officers act in line with Constitutional guarantees of equality and non-discrimination.

Pervasive discrimination in areas of social services, housing, education and employment, notably concerning the Roma community

49. For impoverished or marginalised groups of society, in particular Roma, access to appropriate housing, employment and education social, health and financial services remain severely limited. It is important to stress that segregation as such is today not prohibited by Czech law, only prohibited through international treaties.

50. Roma are particularly vulnerable to eviction from housing. Municipalities often tailor ostensibly neutral criteria for housing, such as requirements for employment, permanent residence, or "moral credit", in such a way as to disadvantage Roma as much as possible. Municipal administrations are also reported to exploit Roma in order to force them to move. Together with housing companies and gas and electricity firms, they impose exorbitant fines on poor families when they are late in paying services. There have been cases reported where families have been forced to pay a fine three times the sum due in order to avoid the threat of eviction. Only to find themselves evicted in any case to the *holobyty*, housing for evictees and for people unable to pay rent. The net result of this situation has been an overall "ghettoisation", whereupon the Roma have been moved to the outskirts of cities, living in cramped quarters with shared sanitary facilities. Furthermore, municipalities' refusal to consider *holobyty's* as "apartments" for residency purposes has resulted in many Roma being denied permanent residency status, which is, however, vital for citizenship applications as well as for receiving social benefits or often for finding work.

51. Another form of segregation applied to the Roma community is the maintenance of a segregated educational system through coercing the Roma into attending "special schools" for the mentally handicapped. According to the government data, up to 75% of Roma children are educated at special schools. The highest estimates maintain that the population of the Czech Republic is 5% Roma; however, more than 50% of the pupils enrolled in special schools nationwide are Roma. The placements in these schools hinder further education and participation in society. This leads to a vicious cycle where it is extremely difficult for Roma to improve their lives and find employment. Again, no legal provisions exist with regard to discrimination in education. Though the state has recently taken a number of positive steps such as providing "zero grade" (preparatory) courses at pre-school level, through individual programmes facilitating the graduates of special schools to apply for admission to secondary schools or hiring Roma teaching assistants, the failure of the Czech government to adopt a comprehensive policy aimed at the desegregation of the school system has meant that to date there has been virtually no change in the situation of Roma children in the Czech school system.

52. 70% to 90% of Roma are estimated to be unemployed, as compared to the national average estimated at 9%¹². Racial discrimination in employment is often disguised by the fact that the Roma are less educated, and, thus, are not qualified for employment. Despite the recent amendment to the Labour Law, which has made such practices illegal, discrimination in employment (both in direct and indirect forms) remains widespread. The amended law has failed to define racial discrimination, making its elimination quasi-impossible. On the other hand, the updated national Roma Integration Policy Concept, approved by the government in March 2003, envisages some specific measures directed at improving unemployment among members of the Roma community. It suggests offering advantages to entities supporting "affirmative action" and employing "persons difficult to place on the labour market" such as tax reductions, payment of a fixed sum for each such person employed or special treatment during public procurement. Unfortunately no information is available on the success of implementation of these measures.

¹² Data of 2002 quoted in the International Helsinki Foundation's 2003 Annual report on Human Rights Violations

53. Another widespread problem among the poor and unemployed Roma seems to be a widescale practice of usury within their own community. Municipal authorities, although required by the Law on Social Services to provide interest-free loans, in practice refuse to provide such loans. When faced with financial crisis, Roma are frequently forced to borrow from money-lenders who charge exorbitant interest rates – often as high as 100 percent per week. These usurers frequently use threats and violence to make families repay their loans.

54. Though I thoroughly condemn the frequent cases of arbitrary practices of local officials, the problem of usury lies very much in the internal structure and traditions of the Roma community. Instead of resorting to passivity and inertia as it seems to be largely the case today, it would be first and foremost up to the Roma community itself to resolve the problem from inside. No state should be expected to pay social benefits in support of a criminal system which is not denounced collectively by its victims. Because of very little trust between Roma and the police forces and the intra-community law of silence, the usury cases get very seldom reported to law enforcement bodies. On the other hand, in Ostrava where the practice of usury is widespread among its 20,000 Roma population, I met with two courageous young Roma police assistants who had broken the law of silence and started collaborating with the police against usury. With their help, a Roma Police Assistant Project has been created in Ostrava in 2003, with an aim to assist (potential) victims through regular patrolling and counselling by Roma police assistants who themselves are also former victims. Although civil society in the Czech Republic in general seems to be still in its infancy and grass-roots projects involving municipal institutions, Roma councillors and non-governmental organisation (NGOs) are only barely starting, I was also pleased to learn that the UNHCR has helped a local NGO called *Life Together* to set up an Emergency Social Fund, an interest-free loan project for many destitute families in order to prevent usury. The same organisation also provides counselling to people who have been evicted from their flats, the homeless, victims of violence, crime and usury.

55. Roma remain terribly underrepresented in state and municipal institutions. As a result, there is little or no trust between Roma and these institutions. However, different attempts to create a Roma party as a political force have never worked out in the country. Even the number of Roma living in the territory of the Czech Republic is very difficult to establish. According to the last national census in 2001, around 12,000 Roma live in the Czech Republic whereas it is estimated that in reality there are around 200,000 Roma in the country. Many of the specific Roma problems could be tackled with much wider-scale attention at national level if the Roma community was themselves more organised and manifesting their identity. Given the dispersed nature of the different Roma communities around the country, active Roma representatives should be encouraged to integrate into existing political structures in different regions where their concentration among local population is high.

56. Finally, I fully align myself with the opinion of Mr Gil-Robles, Council of Europe Commissioner for Human Rights, that *“only co-ordinated efforts carried out in the context of an overall plan and addressing first and foremost the multiple problems of access to employment, housing and education will make it possible to break out of the relentless spiral in which the roma/Gypsy community of the Czech Republic has been trapped all too long. It is indispensable that the regional authorities realise the specificity of this community’s needs and cater for them by allocating the necessary resources”*¹³.

¹³ Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights on his visit to the Czech Republic from 24 to 26 February 2003, CommDH(2003)10

vi. Registration of religious groups

57. Paragraph 6 iv of Recommendation 1338 (1997) identified the membership threshold for registration of religious groups as one of the principal issues for dialogue with the Czech authorities.

58. As is recalled in the contribution by the Czech delegation of 23 June 2004, religious rights and freedoms in the Czech Republic are guaranteed at the highest level by the Charter of Fundamental Rights and Freedoms, which is an indivisible part of the Czech constitution and which contains all provisions of international conventions covering this area. The guaranteed level of religious freedom is also respected by the Act on Freedom of Religious Faith and Position of Churches and Religious Societies (No. 3/2002), which entered into force on 7 January 2002.

59. Section 10, paragraph 2 c) of the Act has lowered the threshold of registering religious associations from 10,000 to 300 signatures, thus giving access to a legal entity status for churches and religious societies with smaller numbers of followers.

60. The 300 signatures may seem an excessive number if compared to the right of non-religious associations to be registered on the basis of three members (according to Act on Association of Citizens – No. 83/1990); however, it is noteworthy that registered religious organisations in the Czech society enjoy a specially privileged position. All registered churches, are financed from public funds, including the salaries of the clergy. The registered groups also have the right to teach at schools and visit prisons and army quarters. Thus the higher threshold could be justified.

61. At the same time, Section 5 of the Act prevents the registration and restricts the activities of dangerous religious sects whose influence would potentially have a manipulative effect on people and especially the youth. This provision also allows to prosecute individuals that take part in the activities of such unregistered churches and religious societies.

vii. Lustration and law on the civil service

62. The Czech Republic adopted a new Civil Service Act in May 2002 (No. 218/2002), which has been a great step forward in providing specific legal framework for its central state administration officials, aiming at creating an independent, transparent, stable, professional and non-political public administration. The Act should also improve professional standards through the introduction of open recruitment procedures and training methods, through the establishment of an independent Institute of State Administration in 2001. However, due to the significant financial burden that the reform entails, the Czech Parliament adopted a proposal in July 2003 to postpone its entry into force to 1 January 2005. Its implementation will be further delayed by the provision which sets forth a transitional period up to two years from the entry into force.

63. The Act of Lustration (No. 451/1991), the objective of which was to prevent access to important positions to individuals who had betrayed democratic values, is still in force with the exception of the provisions in the act which were found unconstitutional by the Constitutional Court in 1992. Section 17, Paragraph 1d of the new Civil Service Act also stipulates that one of the requirements that candidates for public office must fulfil is the requirement of integrity.

III. CONCLUSIONS AND RECOMMENDATIONS

64. The Czech Republic has made important progress in recent years in remodelling its politics, economy and society. I appreciated the openness as well as critical and self-critical attitude towards carrying out the necessary reforms that I encountered during the meetings that I held with government officials and various state institutions in Prague in May. These exchanges of views have convinced me that the authorities truly seek to improve and to implement legislation regarding the above fields.

65. On formal grounds, practically all commitments pertaining to the remaining issues of Recommendation 1338 (1997) have been fulfilled. Nevertheless, some important shortcomings still persist in areas referred to in the various paragraphs of the memorandum, which are not denied by state authorities. Some of the adopted laws, notably those affecting the lives of the marginalised groups of society, are implemented with difficulties or reluctance at local level. The administrative reform in the Czech Republic has benefited decentralisation of the country, yet it seems to have resulted in another extreme whereupon the state has lost its supervisory role in implementing national policies in such crucial areas as asylum policies or fight against discrimination and racism.

66. Most other issues pertaining to racism and discrimination are, however, to a large extent similar to problems faced elsewhere in western and central Europe and will continue to be tackled through the EU directives and programmes as well as through specific international instruments that the Czech Republic has adhered to, which are closely monitored by various competent organisations: EU, UN, OSCE, Council of Europe.

67. With regard to the fulfilment of its obligations and commitments as member state of the Council of Europe, the Czech authorities should continue to work towards short and long-term improvements in the various areas underlined in the chapters of the present memorandum as well as in the recent reports by ECRI and the Office of the Commissioner of Human Rights. They are called upon to:

- i. exert additional efforts to combat racial intolerance and xenophobia by proceeding without further delays to adopt a comprehensive anti-discrimination law that would encompass all forms of racism and provide for the necessary structures and means for the functioning of the body that would be in charge of its enforcement, as well as a control authority;
- ii. urgently put in place additional financial means for the transfer of competences to communities. In addition, define the modalities of supervising municipal actions to ensure that they act in accordance with Constitutional guarantees of equality and non-discrimination;
- iii. create an independent competent body or alternatively broaden the mandate of the office of the Ombudsman that would be tasked with monitoring racial and ethnic equality by local authorities. To this end, establish local agencies of the Ombudsman or similar competent institutions.
- iv. take measures to establish an effective, reliable and independent complaint system to undertake prompt and impartial investigations into all denunciations of ill-treatment or torture by the police or other public officials, including allegations of racially motivated violence by non-state actors, and to sanction the perpetrators of acts of violence with racial connotation.
- v. ensure the provision of free legal aid to victims of discrimination without means as well as to all asylum seekers.

- vi. enhance the efforts to offer targeted training to the police, the judiciary and local public officers pertaining to the issues of human rights and in particular implementation of legislation concerning racial discrimination. In addition, step up specialised training of the the judiciary in the field of asylum law and increase the number of judges dealing with asylum appeals.
- vii. intensify co-ordinated efforts under a comprehensive plan for access of Roma to housing, employment, mainstream education and financial services with a view to combating their exclusion and social marginalisation. Make full use of the resources offered by the EU for that purpose.
- viii. review and humanise legislation and policies with regard to asylum-seekers and migrants; improve the general climate of prevention of discrimination against persons of foreign origin; provide for better integration of accommodation centres into local communities as well as for possibilities for asylum seekers to find employment and receive language training; and increase the opportunities for asylum seekers to participate in the local society during the examination of their asylum applications.
- ix. ratify the European Convention on the Legal status of Migrant Workers, the Convention on the Participation of Foreigners in Public Life, the Revised Social Charter, the European Charter for Regional and Minority Languages and Protocol No. 12 to the ECHR as soon as possible.

68. I have confidence in the Czech authorities' will and capacity to continue to take action on the above and further recommendations by different organisations, including the various specialised Council of Europe bodies such as the ECRI, the CPT, the Advisory Committee of the Framework Convention of Protection of National Minorities and the Office of the Commissioner of Human Rights. In this belief, I deem it timely and desirable to propose to the Bureau of the Assembly to close the post-monitoring dialogue with the Czech authorities.

**COMMITTEE ON THE HONOURING OF OBLIGATIONS AND COMMITMENTS BY MEMBER
STATES OF THE COUNCIL OF EUROPE
(MONITORING COMMITTEE)**

**Programme of the visit of Mrs Josette Durrieu, Chair of the Monitoring Committee,
to the Czech Republic
7 – 11 May 2004**

Delegation:

Mrs Josette Durrieu, Chair of the Committee (France, Socialist Group)
Ms Ivi-Triin Odrats, co-secretary of the Committee

FRIDAY 7 MAY 2004

22:30 Arrival of Mrs Durrieu by flight AF4904 from Paris CDG
Settling in hotel "U Pava"

SATURDAY 8 MAY 2004

9:15 Arrival of Ms Odrats by flight OK 877 from Tallinn

10:00 – 11:30 Briefing with Mrs Durrieu, Chairperson of the Committee and Rapporteur

12:50 Meeting with the interpreters in front of the hotel U Páva

13:00 Departure to Ostrava

17:00 Visit of an **aliens' detention centre** in Frýdek-Místek, Beskydská 2061 -
Frýdek-Místek

*The delegation will be accompanied by Mr. Petr Lachnit, member of the Czech Delegation to the
Parliamentary Assembly of the Council of Europe*

19:30 Arrival at hotel Imperial**** in Ostrava

20:00 Dinner with Mr. **Petr Lachnit**

SUNDAY 9 MAY 2004

9:00 - 12:00 **Meetings with representatives of the Roma/ gypsy community and NGOs
dealing with Human Rights / visit to the Roma community**

12:15 - 13:00 Lunch

13:00 Departure from Ostrava

15:00 – 16:00 Slavkov u Brna (Austerlitz)
Visit of a museum "Mohyla míru" (Tumulus of Peace) and the battlefield of
Austerlitz

17:00 Visit of an **asylum seekers' residence centre**

19:00 Arrival to hotel Royal Ricc****

MONDAY 10 MAY 2004

The delegation will be accompanied by Mr Miloš Melčák, member of the Monitoring Committee to the Parliamentary Assembly of the Council of Europe

9:30 – 10:30 Meeting with **Mrs. Anna Šabatová**, Deputy Ombudsman of Human Rights

11:00 – 12:00 Meeting with **Mr. Pavel Rychetský**, President of the Constitutional Court

12:10 – 13:30 Lunch

13:30 Departure to Prague

16:45 – 18:15 Meeting with **NGOs representatives**

19:30 Dinner with the Czech delegation to the Parliamentary Assembly to the Council of Europe
Restaurant Ada, Hoffmeister hotel

TUESDAY 11 MAY 2004

The delegation will be accompanied by Mr Miloš Melčák, member of the Monitoring Committee to the Parliamentary Assembly of the Council of Europe

8:45 – 9:30 Meeting with **Mrs. Věra Jeřábková**, Director of the Department of Human Rights, Ministry of Foreign Affairs of the Czech Republic

10:00 – 10:45 Meeting with **Mr. Petr Pithart**, President of the Senate of the Parliament of the Czech Republic

11:00 – 11:45 Meeting with **Mrs. Jitka Gjuríčová**, Director of the Department of Prevention of Criminality, Ministry of Interior of the Czech Republic

12:00 – 14:45 Lunch with **H.E. Mr. Joël de Zorzi**, French Ambassador in the Czech Republic and **Mr. Vladimír Jirousek**, President of the Czech Bar Association, with the participation of **Mr. Jan Jařab**, State Commissioner of Human Rights and Deputy President of the Czech Bar Association
Embassy of France

15:15 – 15:45 Press conference with representatives of media

16:00 – 16:30 Meeting with **Mr. Lubomír Zaorálek**, President of the Chamber of Deputies of the Parliament of the Czech Republic

18:05 Departure of Mrs Durrieu by flight AF 4905 to Paris CDG

APPENDIX IV

AS/Bur (2004) 95 rev
1 December 2004

Bureau of the Assembly

Draft Co-operation agreement between the Parliamentary Assembly of the Council of Europe and the European Centre for Global Interdependence and Solidarity (North-South Centre)

I. Aim of the agreement

1. The aim of this agreement is to enhance co-operation between the Parliamentary Assembly of the Council of Europe and the European Centre for Global Interdependence and Solidarity, referred to hereafter as the "North South Centre", while fully respecting their respective competences as stated in the Statute of the Council of Europe and Resolution (93) 51 on the European Centre for Global Interdependence and Solidarity¹⁴.

II. Institutional links

2. The Parliamentary Assembly is institutionally represented in the organs of the North-South Centre. Two of the 27 members of the Executive Council are members of the Parliamentary Assembly and designated by its Bureau for a period of two years¹⁵.

3. Those Assembly Committees which have a specific mandate concerning the North-South Centre in their newly adopted terms of references follow the activities of the North-South Centre and report to the Bureau at least once a year.

III. General co-operation

4. The Parliamentary Assembly reaffirms its support to the priority aims of the North-South Centre, namely to provide a framework for European co-operation to raise public awareness of global interdependence issues on the one hand, and to promote policies of solidarity complying with the Council of Europe's aims and principles, on the other hand.

5. With a view to broadening the mandate of the Organisation by maintaining partnerships and sharing values with Europe's neighbouring countries, the Parliamentary Assembly considers it important to consolidate the dialogue and partnership between continents and to continue encouraging the North-South debate among the Council of Europe member States.

¹⁴ Resolution (93) 51 confirming the continuation of the European Centre for Global Interdependence and Solidarity, adopted by the Committee of Ministers on 21 October 1993 at the 500th meeting of the Minister's Deputies

¹⁵ The Executive Council meets twice a year, in spring and autumn, and is composed of eight representatives of the member states, six NGO representatives, four local and regional authority representatives, four parliamentarians, three leading personalities from the South, the representative of the Secretary General of the Council of Europe and a European Commission representative.

6. The Parliamentary Assembly and its committees will therefore make increased use of the expertise and know-how of the North-South Centre, so as to take advantage of its role of think-tank on North-South issues and interface between the Council of Europe and the South in order to generate new ideas and proposals for constructive relations.

7. The Parliamentary Assembly will, within the Council of Europe, promote the North-South Centre's position, to act as a catalyst and facilitator of North-South dialogue, as a centre of competence and a valuable source of information and expertise on issues of global interdependence and solidarity.

IV. Parliamentary co-operation in the framework of the North-South Centre

8. The Parliamentary Assembly considers that parliamentary co-operation at a global level strengthens the Council of Europe's main aims: to defend human rights, parliamentary democracy and the rule of law and to promote awareness of a European identity based on shared values and cutting across different cultures.

9. The Parliamentary Assembly therefore will promote the involvement of parliamentarians in the outreach of the North-South Centre and its programme of activities, mainly in the areas of trans-Mediterranean co-operation and Europe-Africa dialogue.

IV. Practical co-operation

10. The Parliamentary Assembly and its committees will make use of the North-South Centre's ability to provide firsthand information and analyses on issues falling within its competence.

11. The Parliamentary Assembly and its committees will make use of the North-South Centre's ability, through its quadrilogue¹⁶ network and its pool of experts, to assist the Assembly in identifying experts on North-South issues if meetings, hearings or conferences are organised in the framework of the preparation of reports.

12. The Bureau of the Parliamentary Assembly will, when proposing to refer to a committee a motion on an issue concerning the areas covered by the North-South Centre's mandate, include in the same reference to the Committee the proposal to consult and to co-operate with the North-South Centre.

13. The Executive Council of the North-South Centre may submit proposals to the Bureau of the Parliamentary Assembly concerning possible guest speakers from the South in the Parliamentary Assembly when North-South issues are to be dealt with on its agenda.

14. Upon request, members of the Executive Council of the North-South Centre can be included in the mailing lists for non-confidential documents of the Assembly

15. The Parliamentary Assembly will, through its representatives in the Executive Council, propose laureates to the jury of the North-South Prize, which is awarded annually.

¹⁶ The North-South Centre understands the 'quadrilogue' as a unique co-management system, the combination of four partners from political institutions and civil society - governments, parliaments, local and regional authorities and NGOs - who take part in running the North-South Centre as members of its decision-making bodies.

V. Final provision

16. This Co-operation Agreement enters into force on the day of signature. It may be amended by mutual consent or suspended or annulled by either one of the parties.

Done in Strasbourg on

President of the Parliamentary Assembly

Chairman of the Executive Council of the
North-South Centre

Secretary General of the Parliamentary
Assembly

Executive Director of the North-South
Centre

APPENDIX V

AS/Bur (2004) 96
1 December 2004

Bureau of the Assembly

Draft Co-operation agreement between the Parliamentary Assembly of the Council of Europe (PACE) and the Pan African Parliament of the African Union (PAP)

I. Aim of the Agreement

1. The aim of the agreement is to enhance co-operation between PACE and PAP, while fully respecting their respective competencies. In view of their common concerns and complementarity at intercontinental level, the two institutions agree to establish a political dialogue, particularly with a view to promoting on the African continent the principles of parliamentary democracy, the rule of law and respect for human rights and fundamental freedoms.
2. The PAP will encourage the competent authorities to make use of the possibilities to sign, ratify or accede to the relevant Council of Europe conventions, which are open to non-member states, as well as the expertise offered by the European Commission for Democracy through Law ("Venice Commission") and by the North-South Centre.
3. In particular, the PAP and the PACE will endeavour to encourage the competent African authorities to introduce a moratorium on executions and abolish the death penalty.

II. Reciprocal Representation

4. The PACE and the PAP will invite each other to be represented at their respective statutory plenary meetings. The Presidents will be invited, at appropriate intervals, to address each other's sessions.
5. The same arrangements will apply to ad hoc meetings, such as conferences, symposia and other events, organised by PACE or PAP.

III. Joint Activities

6. Based on their respective mandates, the PACE and the PAP may jointly organise, or associate their organisations in, specific events which fall in areas of common concern, notably parliamentary democracy, rule of law, human rights and North-South relations.

IV. Working Arrangements

7. At the request of the PAP, the PACE will provide expertise on parliamentary practice and procedure.

8. The PACE and the PAP will exchange official documentation, including orders of business of statutory meetings, memoranda, resolutions and recommendations, on a regular basis.
9. Documents of mutual interest may be sent to members of the two Organisations. When appropriate the PACE and the PAP may submit written communications on subjects under consideration in the other's Assembly.
10. Officials of PACE and PAP secretariats will meet for consultations at suitable intervals to strengthen cooperation between the two Organisations and enhance coordination.
11. The PACE agrees to include traineeships in these arrangements.

V. Final Provision

12. This Co-operation Agreement enters into force on the day of its signature by both parties. It may be amended by mutual consent, or suspended or annulled by either one of the parties.

Done in Strasbourg on

Done in Midrand on

President of the Parliamentary Assembly
(PAP)

President of the Pan African
Parliament of the African Union

Secretary General of the Parliamentary
Assembly

Secretary General of the
Pan African Parliament of the
African Union (PAP)

APPENDIX VI

AS/Bur/MK (2004) 1
18 November 2004

Bureau of the Assembly

AD HOC COMMITTEE FOR THE OBSERVATION OF THE REFERENDUM IN "THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"¹⁷

Report on the referendum observation mission presented by Mr Zekeriya Akçam (LDR, Turkey), chair and rapporteur of the ad hoc Committee

I. INTRODUCTION

1. At its meeting on 8 October 2004, the Bureau of the Assembly decided to set up a five-member ad hoc committee (one from each political group) to observe the referendum to be held in the country, subject to an invitation from the authorities. Such an invitation was granted shortly after.

2. The delegation composed of Mr Zekeriya Akçam (Turkey) from the LDR Group, elected on 6 November 2004 as Chair and Rapporteur of this ad hoc committee, and Mrs Fátima Aburto (Spain), representing the Socialist Group. It was accompanied by Mr David Čupina, from the Monitoring Committee Secretariat. The programme of the delegation is appended.

3. The ad hoc committee acted as part of the international Election Observation Mission (EOM) from the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), and a delegation from the Council of Europe's Congress of Local and Regional Authorities headed by Mr Sean O'Brien (Ireland). It was briefed by the former for two-hours. The ad hoc committee members would like to express thanks to the Chairperson of the parliamentary delegation of "the former Yugoslav Republic of Macedonia"¹⁸ to the Assembly, Mrs Petrova-Mitevaska, for her hospitality.

4. On election day the ad hoc committee constituted a single "flying" team to observe the voting and vote counting in different regions of special interest: Tetovo, Kičevo, Struga, Ohrid and Skopje (Đorče Petrov). The joint press release of the observation mission is attached as Appendix 2.

¹⁷ Turkey recognises 'the former Yugoslav Republic of Macedonia' under its constitutional name.

¹⁸ In this document, the term "Macedonia" is used for descriptive purposes and for readers' convenience, without prejudice to the Assembly's position on the name of the state.

II. Political and legal context

5. It was the second time in the Assembly's history that one of its delegation observed a national referendum, the last occasion was in 1998 for Latvia's referendum on the amendments on the law on citizenship. Moreover, at that time the referendum coincided with legislative elections.

6. In August 2004, the Parliament of "the Former Yugoslav Republic of Macedonia" adopted the Law on Territorial Organisation, as a last part of the "Ohrid Framework Agreement" package of 2001, which ended troubles in the country. This law establishes new municipal districts by merging some municipalities, thus reducing the number of municipalities from the current 123 to 84. As a result of the law, the modification of municipal boundaries in the case of two municipalities, that is, Kičevo and Struga, will change their ethnodemographic composition. In addition, wherever a minority represents 20% of the population of a municipality (according to the 2002 census), its language *de facto* reaches an official status within the boundaries of this municipality (this will notably be the case in greater Skopje for the Albanian language).

7. The Government having disregarded the results of local referenda conducted prior to the establishment of the law, the World Macedonian Congress (hereinafter WMC) took the initiative to collect signatures to call for a referendum to be held to oppose the law referred to above. The collection of signatures took place over six months, from February to August 2004, in designated places of the Ministry of Justice; although slow at the beginning, the process intensified with the politicisation of the issue, at a speed that permitted to collect in the end a number of signatures well over the required legal threshold of 150,000. Once the signatures had been validated by the State Election Committee (SEC), they were submitted to the Speaker of Parliament which convoked the legislative additional referendum, in accordance with the law¹⁹. The date set was 7 November.

8. The question the voters had to decide upon was whether they wanted to have the 123 municipalities created by the law on the establishment of the municipalities of 1996 or not. In the case of a winning "yes", the immediate consequence would have been the effective repeal of the 2004 law on territorial organisation. That is why the European Union and its member states publicly opposed the referendum. In a more astute manner, the United States decided on 4 November to recognise the country under its constitutional name of "Republic of Macedonia", to the great satisfaction of the people, as this would prevent them challenging the completion of the package necessary for the country's integration into other Euro-atlantic structures.

9. The country's integration into these structures has been a priority of all governments' foreign policy. With this in mind, the majority called for the abstention with the slogan "Europe needs Macedonia", while the opposition party of VMRO-DPMNE called for the voters to say "yes". The minorities' parties either advocated abstention or did not take a stand.

10. According to the law, the referendum is only valid if there is a turnout of 50% plus one of the eligible voters. Of these, 50% plus one need to vote yes for the result to be positive. The decision taken by such a referendum is binding. Following the recognition by the United States of the "Republic of Macedonia", many observers expected on the eve of the referendum it will not fulfil the first compulsory requirement, which amounted to more than 854,000 voters.

¹⁹ The legislative framework for the referendum was extremely complex and was criticised by the OSCE/ODIHR EOM for being "outdated". It suffices here to give reference to the statement of preliminary findings and conclusions adopted jointly by the OSCE/ODIHR, the CoE Parliamentary Assembly and the CoE Congress for further detail.

11. The accuracy of the voter's list was once again questioned notably by the OSCE/ODIHR EOM, which made a similar observation during the presidential election of 2004: election which was not observed by the Assembly.

12. Early voting was permitted for the military, persons serving a prison sentence or held in custody, and for internally displaced persons (IDPs) following the troubles. It took place on 6 November in 39 specially organised polling stations. Observations of early voting gave the impression it went smoothly, only a low turnout was reported. The results were counted at the same time as the results of the 7th voting.

13. The Law on Referendum of 1998 provided for the inclusion of only two members for each electoral board, which may have created problems in large polling stations, but the provision was overruled by a decision of the SEC authorising the electoral boards to entrust their normal deputies with the task of replacing electoral boards' members in case of absence²⁰.

14. The setting-up of the election boards, the distribution of electoral material and the arrangements for the referendum suffered no delay. No complaints were filed on the technical aspects of the referendum.

III. The campaign

15. The campaign was very low-key. As already seen, the governmental parties played on the abstention, which in the end paid off, while the VMRO-DPMNE (Internal Macedonian Revolutionary Party – Democratic Party for Macedonian National Union) supported the referendum and a "yes" vote. Allegedly, the VMRO-DPMNE did not oppose further Euro-atlantic integration, but rather the way the law on territorial organisation was decided. Smaller parties also supported the "yes", as well as the initiator of the referendum, the WMC.

16. The only issue worth mentioning here is that since there was no official campaign (no legislative provisions exist for the campaign regulation of such referendums), the observers were only subjected to conjectures, especially regarding the campaign financing and disclosure. In fact, anyone could take part in the campaign.

17. The declarations made by the international community during the referendum campaign related above infuriated some, and this question was raised by representatives of the press at the 8 November press conference. The recognition of the "Republic of Macedonia" by the United States completely dominated the discussions on the last day of the campaign and of course even during the official campaign silence (one day prior to the referendum).

IV. The media

18. Media coverage was in general well balanced in presenting the two options for the referendum, and the amount of coverage was sufficient for voters to make an informed choice. Both camps advertised for their choice in both the electronic and printed media. The Open Society Institute (OSI) openly campaigned against the referendum in the printed media, which is quite unusual.

²⁰ With the notable exception of the voting right and the right to signature.

19. The issues at stake in the slogans were the move of the country towards further Euro-atlantic integration or backwards, or the risk of deterioration of inter-community relations. These issues almost completely overshadowed the specific issue which the referendum was about.

20. The editorial line of some printed newspapers clearly reflected a choice, either pro- or anti-referendum in the case of Albanian newspapers.

V. Observation of the voting

21. The voting took place in an unprecedented calm and peaceful atmosphere, with a generally low turnout. A turnout of 0% was registered in polling stations of the Albanian-speaking area. Only in Struga did the delegation witness a relatively high turnout, although even there a difference was felt between polling stations according to the ethnodemographic lines of the voters' lists.

22. No incidents were reported. The United States Embassy had issued warnings to its observers not to go to Struga because of potential tensions in the municipality. But the team was given a warm welcome and, as a rule, and contrary to what was pre-supposed, polling station staff appreciated the presence of foreign observers.

23. Access to certain polling stations in Struga could have posed difficulties, had the polling station officers not regulated the flow of voters in a very orderly manner. The polling stations themselves turned out to be small and cramped.

24. There were observers in every polling station visited. However, there was an obvious confusion among the observers accredited by the WMC. Since political parties were unable to monitor the referendum process, they looked for other means to accredit their observers, and the VMRO-DPMNE did it through this organisation for instance.

25. One single incident was reported to the team in Struga by an observer, who immediately added that the polling station officers had turned away the person who wanted to vote for the second time.

26. In order to avoid double voting, voters' fingers were sprayed with a special ink that glowed in ultra-violet light. The vote was transparent and the secrecy of the vote respected.

27. In anticipation of the future law, the SEC printed ballot papers in the languages of minorities where they represented 20% or more of the municipality population. Posters with voting instructions were printed in minority languages as well. Only the forms used for the referendum day were printed solely in Macedonian.

28. The ad hoc committee was impressed by the professionalism shown by the polling station officers, particularly during vote counting.

VI. Conclusion

29. The voting took place in a very calm atmosphere for the very first time since the country's transition to democracy. It is worth noting this, as the referendum created a some tension in relations between communities in certain places of the country.

30. The voting took place in conformity with international democratic standards and principles, and the government must be complimented for having allowed the voters to express their right to vote.

31. On 8 November, the SEC announced that the referendum had failed, as the first prerequisite condition had not been fulfilled. The nationwide turnout was announced to be at 26,24%. This caused great satisfaction and relief in the European Union and in the United States.

32. The political behaviour of the voters proved they were able to make a free and informed choice. They voted for a tolerant society, which respects the identity and rights of others than the majority. The impression gathered by the delegation during its visit was of a now peaceful and resolutely forward-looking country.

VII. Expectations

33. The members of the ad hoc committee consider that the referendum was very well organised and its results largely contributed to the process of the country's integration into the Euro-atlantic structures. The last piece of the Ohrid Framework Agreement can now be implemented, paving the way to municipal elections next year.

34. However, they do feel that there is room for improvement in the referendum law and in the editing of the voters' list and expect that the quality of the voters' list be improved to make them adequate.

35. The members of the ad hoc committee are confident and expect the future municipal elections to be as successful.

36. At the time of writing, the government of "the former Yugoslav Republic of Macedonia" had resigned. It is of the utmost importance that the government can pursue the task of reform after the referendum's results.

37. In the light of the above, the ad hoc committee wishes the Monitoring Committee to pursue its fruitful post-monitoring dialogue.

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10 November 2004

**AD HOC COMMITTEE FOR THE OBSERVATION OF THE
REFERENDUM IN "THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"²¹**

7 November 2004

PROGRAMME

Friday, 5 November 2004

Arrival of the PACE delegation
All members of the PACE delegation are welcomed at the airport and provided with transport to:

*Holiday Inn Skopje
Vasil Adzilariski 2
Skopje, MK-1000
Tel: 389-2-3292929
Fax: 389-2-3115503*

Saturday, 6 November 2004

Holiday Inn, Parliament of the Republic of Macedonia and OSCE/ODIHR premises

- 09:30 Ad Hoc Committee meeting; election of the Head of Delegation
- 10:00 Briefings by the OSCE/ODIHR Election Observation Mission
- 13:00 Official lunch at the invitation of the Chairperson of the National Delegation of 'the former Yugoslav Republic of Macedonia' to the PACE, Mrs Petrova-Mitevka
- 20:00 Meeting with the OSCE/ODIHR Election Observation Mission

Sunday, 7 November 2004

Observation of the Referendum in Tetovo, Kičevo, Struga, Ohrid and Skopje

Monday, 8 November 2004

Council of Europe Information Office, OSCE/ODIHR premises and Holiday Inn

- 08:30 Ad Hoc Committee Meeting
- 09:30 Meeting with the OSCE/ODIHR Election Observation Mission
- 14:00 Joint Press Conference

Departure of Mrs Aburto and Mr Ćupina

Tuesday, 9 November 2004

Departure of Mr Akçam, Head of Delegation

²¹ Turkey recognises 'the former Yugoslav Republic of Macedonia' under its constitutional name.

Referendum generally consistent with international standards for electoral processes

SKOPJE, 8 November 2004 – The 7 November referendum in the Former Yugoslav Republic of Macedonia, was generally consistent with OSCE and Council of Europe standards for democratic electoral processes. The referendum day and preceding campaign were conducted in an overall calm and orderly manner. The limited cases of reported procedural or other irregularities did not appear to challenge the overall integrity of the process, concluded the International Observation Mission to the Referendum, which published its preliminary findings today, based on the work of some 200 international observers.

The mission was deployed by the OSCE Office for Democratic Institutions and Human Rights, (OSCE/ODIHR) and joined by representatives from the Council of Europe's Parliamentary Assembly and its Congress of Local and Regional Authorities of Europe. The referendum was called in reference to legislation, which establishes new municipal boundaries throughout the country.

"I welcome the fact that the referendum took place without incident and that voters were able to base their choice on overall balanced media coverage, although it focused more on the broader political issues rather than the fundamental question of the referendum," said Ambassador Friedrich Bauer, Head of the OSCE/ODIHR mission. "However, the referendum was characterized by certain problems, which mainly related to incomplete, and in some cases outdated, legislation as well as inaccurate voter lists."

"The referendum was an opportunity to confirm the maturity and self-confidence of all the people of this country for the consolidation of democracy. The political behavior of citizens showed that they were able to make an informed choice. We look forward to seeing this replicated in future elections," said Zekeriya Akcam, Head of the CoE Parliamentary Assembly delegation.

Sean O'Brien, Head of the CoE Congress delegation, added: "The voting process was transparent and the secrecy of the vote was largely respected. We believe that further training of officials would alleviate some procedural irregularities that we observed."

The observation mission received reports of alleged intimidation, which reflect a certain atmosphere of suspicion and mistrust. This was reinforced by the perception that anyone going to the polling station was seen to be voting in favor of the referendum.

The referendum was noteworthy for several accomplishments. The State Election Commission operated in an efficient and consensual manner, and its decision to print the ballot papers in languages of all ethnic groups that comprise more than 20% of that particular municipality was commendable.

Shortcomings included the incomplete legislation and its interpretation, in particular the decision not to apply existing campaign regulations in the context of the referendum. The accuracy of voter lists was again questioned; however political parties did not make use of their legal right to review the lists.

On referendum day, observers reported that the voting was generally administered in an orderly and efficient manner. However, there were limited observed instances of polling stations that either failed to open on schedule or closed early, and isolated cases of reported intimidation and ballot stuffing. Instances of inattention to procedural details were observed during counting and tabulation of votes.

